

Appendix A

Cleate Wilson
8:22-cr-217-VMC-CPT

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

UNITED STATES OF AMERICA

Case Number: 8:22-cr-217-VMC-CPT

v.

USM Number: 50086-018

CLEATE WILSON

Sara Lenore Mieczkowski, AFPD

JUDGMENT IN A CRIMINAL CASE

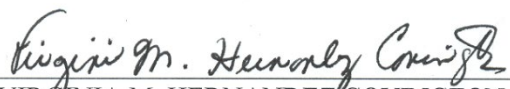
Defendant pleaded guilty to Counts One and Two of the Indictment. Defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
18 U.S.C. § 111(a)(1)	Knowingly and Forcibly Assaulting, Intimidating, or Interfering with a Federal Employee While in the Performance of their Official Duties	May 5, 2022	One
18 U.S.C. §§ 922(g)(1) and 924(a)(2)	Felon in Possession of a Firearm and Ammunition	May 5, 2022	Two

Defendant is sentenced as provided in the following pages of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

IT IS ORDERED that Defendant must notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, Defendant shall notify the Court and United States Attorney of any material change in Defendant's economic circumstances.

Date of Imposition of Judgment: December 16, 2022


VIRGINIA M. HERNANDEZ COVINGTON
UNITED STATES DISTRICT JUDGE

December 16, 2022

Cleate Wilson
8:22-cr-217-VMC-CPT

IMPRISONMENT

Defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of **SEVENTY-EIGHT (78) MONTHS**. This term consists of a 12-month term as to Count One and a 78-month term as to Count Two, all such terms to run concurrently. The terms of imprisonment imposed by this judgment shall run consecutively with the defendant's term of imprisonment imposed pursuant to the judgment in Docket Number 8:15-cr-184-T-30AEP, Middle District of Florida.

The Court recommends to the Bureau of Prisons that the defendant:

1. Be confined at FCI Coleman;
2. Receive mental health counseling;
3. Receive vocational training in heating ventilation and air-conditioning;
4. Receive vocational training in barbering;
5. Take computer classes;
6. Be evaluated by the Bureau of Prisons for appropriate vocational training at the facility of confinement.

Defendant is remanded to the custody of the United States Marshal.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By: _____
Deputy U.S. Marshal

Cleate Wilson
8:22-cr-217-VMC-CPT

SUPERVISED RELEASE

Upon release from imprisonment, Defendant will be on supervised release for a term of **THREE (3) YEARS**. This term consists of a 1-year term as to Count One and a 3-year term as to Count Two, all such terms to run concurrently.

MANDATORY CONDITIONS

1. Defendant shall not commit another federal, state or local crime.
2. Defendant shall not unlawfully possess a controlled substance.
3. Defendant shall refrain from any unlawful use of a controlled substance. Defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
4. Defendant shall cooperate in the collection of DNA as directed by the Probation Officer.

Defendant shall comply with the standard conditions that have been adopted by this court (set forth below).

Defendant shall also comply with the additional conditions on the attached page.

Cleate Wilson
8:22-cr-217-VMC-CPT

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, Defendant shall comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by Probation Officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. Defendant shall report to the Probation Office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the Probation Officer instructs you to report to a different Probation Office or within a different time frame. After initially reporting to the Probation Office, Defendant will receive instructions from the court or the Probation Officer about how and when Defendant must report to the Probation Officer, and Defendant must report to the Probation Officer as instructed.
2. After initially reporting to the Probation Office, you will receive instructions from the court or the Probation Officer about how and when Defendant shall report to the Probation Officer, and Defendant shall report to the Probation Officer as instructed.
3. Defendant shall not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the Probation Officer.
4. Defendant shall answer truthfully the questions asked by your Probation Officer
5. Defendant shall live at a place approved by the Probation Officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), Defendant shall notify the Probation Officer at least 10 days before the change. If notifying the Probation Officer in advance is not possible due to unanticipated circumstances, Defendant shall notify the Probation Officer within 72 hours of becoming aware of a change or expected change.
6. Defendant shall allow the Probation Officer to visit you at any time at your home or elsewhere, and Defendant shall permit the Probation Officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. Defendant shall work full time (at least 30 hours per week) at a lawful type of employment, unless the Probation Officer excuses you from doing so. If you do not have full-time employment Defendant shall try to find full-time employment, unless the Probation Officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), Defendant shall notify the Probation Officer at least 10 days before the change. If notifying the Probation Officer at least 10 days in advance is not possible due to unanticipated circumstances, Defendant shall notify the Probation Officer within 72 hours of becoming aware of a change or expected change.
8. Defendant shall not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, Defendant shall not knowingly communicate or interact with that person without first getting the permission of the Probation Officer.
9. If you are arrested or questioned by a law enforcement officer, Defendant shall notify the Probation Officer within **72 hours**.
10. Defendant shall not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. Defendant shall not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the Probation Officer determines that you pose a risk to another person (including an organization), the Probation Officer may require you to notify the person about the risk and Defendant shall comply

Cleate Wilson
8:22-cr-217-VMC-CPT

with that instruction. The Probation Officer may contact the person and confirm that you have notified the person about the risk.

13. Defendant shall follow the instructions of the Probation Officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. Probation Officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature: _____

Date: _____

Cleate Wilson
8:22-cr-217-VMC-CPT

ADDITIONAL CONDITIONS OF SUPERVISED RELEASE

1. Defendant shall participate in a substance abuse program (outpatient and/or inpatient) and follow the Probation Officer's instructions regarding the implementation of this court directive. Further, Defendant shall contribute to the costs of these services not to exceed an amount determined reasonable by the Probation Office's Sliding Scale for Substance Abuse Treatment Services. During and upon completion of this program, Defendant is directed to submit to random drug testing.
2. Defendant shall submit to a search of your person, residence, place of business, any storage units under Defendant's control, computer, or vehicle, conducted by the United States Probation Officer at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. You shall inform any other residents that the premises may be subject to a search pursuant to this condition.
3. Defendant shall cooperate in the collection of DNA, as directed by the Probation Officer.

Cleate Wilson
8:22-cr-217-VMC-CPT

CRIMINAL MONETARY PENALTIES

Defendant must pay the following total criminal monetary penalties under the schedule of payments set forth in the Schedule of Payments.

<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment</u>	<u>JVTA Assessment</u>
\$125.00	N/A	WAIVED	N/A	N/A

SCHEDULE OF PAYMENTS

Having assessed Defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

Special Assessment shall be paid in full and is due immediately.

Unless the Court has expressly ordered otherwise in the special instructions above, if this judgment imposes a period of imprisonment, payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the Clerk of the Court, unless otherwise directed by the Court, the Probation Officer, or the United States attorney.

Defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTA assessment, and (9) penalties, and (10) costs, including cost of prosecution and court costs.

FORFEITURE

Defendant shall forfeit to the United States those assets previously identified in the Order of Forfeiture, that are subject to forfeiture. **[SEE ORDER ATTACHED]**

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

v.

Case No. 8:22-cr-217-VMC-CPT

CLEATE WILSON

PRELIMINARY ORDER OF FORFEITURE

The defendant pleaded guilty to, and was adjudged guilty of, the offense charged in count two of the indictment — violation of 18 U.S.C. § 922(g)(1).


The United States moves under 18 U.S.C. § 924(d)(1), 28 U.S.C. § 2461(c), and Rule 32.2(b)(2), Federal Rules of Criminal Procedure, for a preliminary order forfeiting the defendant's interest in an H&K 9mm firearm (S/N: 214-034358) and 9mm ammunition, seized on or about May 5, 2022.

Accordingly, it is **ORDERED** that the motion of the United States is **GRANTED**.

It is **FURTHER ORDERED** that, pursuant to 18 U.S.C. § 924(d)(1), 28 U.S.C. § 2461(c), and Rule 32.2(b)(2), Federal Rules of Criminal Procedure, the assets described above are **FORFEITED** to the United States of America for disposition according to law.

The Court retains jurisdiction to complete the forfeiture and disposition of the assets sought by the government.

DONE and **ORDERED** in Tampa, Florida, on this day 12, of
October 2022.


VIRGINIA M. HERNANDEZ COVINGTON
UNITED STATES DISTRICT JUDGE

Copies to:
All Parties/Counsel of Record

Appendix B

[DO NOT PUBLISH]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 22-14332

Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CLEATE WILSON,

Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of Florida

D.C. Docket No. 8:22-cr-00217-VMC-CPT-1

Before WILSON, JORDAN, and LAGOA, Circuit Judges.

PER CURIAM:

Cleate Wilson appeals his conviction for possession of a fire-arm by a convicted felon. He contends that 18 U.S.C. § 922(g)(1) is unconstitutional under the Second Amendment and exceeds Congress' powers under the Commerce Clause. We affirm.

Mr. Wilson recognizes that we've upheld 18 U.S.C. § 922(g)(1) against a Second Amendment challenge, *see United States v. Rozier*, 598 F.3d 769, 770 (11th Cir. 2010), but argues that the Supreme Court's decision in *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1 (2022), has abrogated our precedent. We have, however, recently rejected this exact contention. *See United States v. Dubois*, 94 F.4th 1284, 1291-93 (11th Cir. 2024).

As for the Commerce Clause challenge, it is foreclosed by our precedent. We have "held that . . . § 922(g) is constitutional under the Commerce Clause." *United States v. Longoria*, 874 F.3d 1278, 1283 (11th Cir. 2017) (citing *United States v. McAllister*, 77 F.3d 387, 391 (11th Cir. 1996)). We have also rejected as-applied challenges to § 922(g), holding that the government proves a "minimal nexus" to interstate commerce where it demonstrates that the fire-arm was manufactured outside of the state where the offense took place and, thus, necessarily traveled in interstate commerce. *See United States v. Wright*, 607 F.3d 708, 715-16 (11th Cir. 2010).

AFFIRMED.