

No. ____

IN THE
SUPREME COURT OF THE UNITED STATES

JEREMY BERNARD HARRISON,

Petitioner

v.

UNITED STATES OF AMERICA

Respondent

APPENDIX

INDEX TO APPENDICES

Appendix A Judgment and Opinion of Fifth Circuit

Appendix B Judgment and Sentence of the United States District Court for the Northern District of Texas

APPENDIX A

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

July 20, 2018

Lyle W. Cayce
Clerk

No. 17-11308
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JEREMY BERNARD HARRISON,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:14-CR-5-1

Before REAVLEY, GRAVES, and HO, Circuit Judges.

PER CURIAM:*

Jeremy Bernard Harrison appeals the revocation of his supervised release and his sentence of ten months of imprisonment and 26 months of supervised release. He argues that the district court erred by giving him the opportunity to allocute after revocation of his supervised release but before sentencing. He concedes, however, that his argument is foreclosed by circuit precedent, and he raises the issue to preserve it for further review.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

The Government has filed an unopposed motion for summary affirmance; in the alternative, it requests an extension of time to file its brief. The Government asserts that the parties are in agreement that, under circuit precedent, Harrison's argument is foreclosed. Summary affirmance is proper, where among other instances, "the position of one of the parties is clearly right as a matter of law so that there can be no substantial question as to the outcome of the case." *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969).

This court has held that a district court does not plainly err by giving a defendant the opportunity to allocute after revocation but before being sentenced. *United States v. Brooker*, 858 F.3d 983, 987-88 (5th Cir.), *cert. denied*, 138 S. Ct. 346 (2017). One panel of this court may not overrule the decision of a prior panel in the absence of en banc consideration or a superseding Supreme Court decision. *United States v. Lipscomb*, 299 F.3d 303, 313 n.34 (5th Cir. 2002).

In view of the foregoing, the Government's motion for summary affirmance is GRANTED. The Government's alternative motion for an extension of time to file a brief is DENIED. The judgment of the district court is AFFIRMED.

APPENDIX B

Page 1 of 3 PageID 162

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED

OCT 19 2017

CLERK, U.S. DISTRICT COURT
By _____ Deputy

IN THE UNITED STATES DISTRICT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

UNITED STATES OF AMERICA

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VS.

NO. 4:14-CR-005-A

JEREMY BERNARD HARRISON

JUDGMENT OF REVOCATION AND SENTENCE

Came on to be heard, as contemplated by Fed. R. Crim. P. 32.1, the motion of United States of America to revoke the term of supervised release imposed on defendant, JEREMY BERNARD HARRISON. After having considered the grounds of the government's motion, defendant's admissions, statements by and on behalf of defendant, and argument of counsel, the court has determined that the term of supervised release imposed on defendant should be revoked and that defendant should be sentenced to a term of imprisonment of 10 months and to serve a 26-month term of supervised release upon discharge from prison.

The court finds and concludes that:

- (a) Defendant was given, in a timely manner, written notice of his alleged violations of the term of supervised release upon which the motion to revoke is based;
- (b) The motion to revoke the term of supervised release was served on defendant in a timely manner prior to the hearing;

(c) There was a disclosure to defendant, and his attorney, of the evidence against defendant; and

(d) The hearing was held within a reasonable time.

Other findings and conclusions of the court were stated by the court into the record at the hearing. The court adopts all such findings and conclusions as part of this judgment.

In reaching the conclusions and making the determinations and rulings announced at the hearing, and as stated in this judgment, the court considered all relevant factors set forth in 18 U.S.C. § 3553(a) that are proper for consideration in a revocation context.

The court ORDERS, ADJUDGES, and DECREES that the term of supervised release, as provided by the judgment in a criminal case imposed and signed June 27, 2014, be, and is hereby, revoked; and

The court further ORDERS, ADJUDGES, and DECREES that defendant, JEREMY BERNARD HARRISON, be, and is hereby, committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 10 months, to be served consecutive to any other sentence he may receive for conduct occurring prior to this date, to be followed by a term of supervised release of 26 months.

The court further ORDERS, ADJUDGES, and DECREES that, while on supervised release, defendant shall comply with the same conditions as set forth in the judgment in a criminal case signed and imposed June 27, 2014, except that standard condition of supervision number 4 is amended to read as follows:

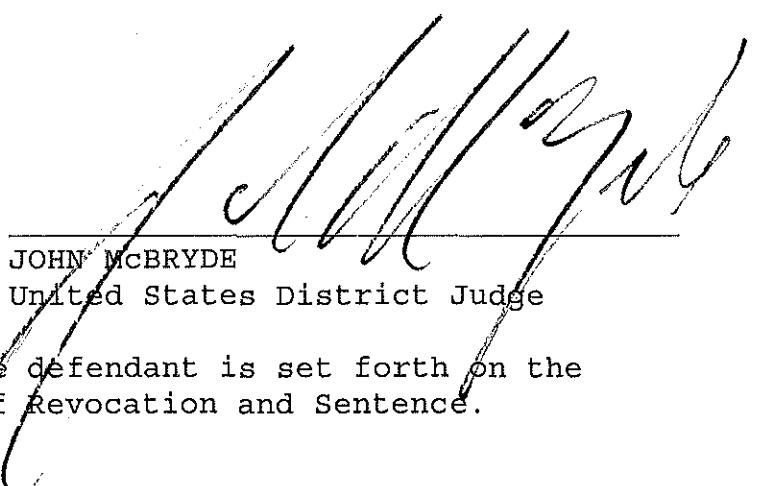
The defendant shall not leave the judicial district in which he is being supervised without permission of the Court or U.S. Probation Officer.

The court hereby directs the probation officer to provide defendant with a written statement that sets forth all the conditions to which the term of supervised release is subject, as contemplated and required by Title 18 United States Code section 3583(f).

The defendant is ordered into the custody of the United States Marshal.

The date of imposition of the sentence provided by this judgment is October 19, 2017.

SIGNED October 19, 2017.


JOHN McBRYDE
United States District Judge

Personal information about the defendant is set forth on the attachment to this Judgment of Revocation and Sentence.