

No. \_\_\_\_\_

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IN THE  
SUPREME COURT OF THE UNITED STATES

\_\_\_\_\_  
JASON MOODY,

*Petitioner*

v.

UNITED STATES OF AMERICA

*Respondent*

\_\_\_\_\_  
APPENDIX

\_\_\_\_\_

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## APPENDIX A

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

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No. 18-10361  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

January 30, 2019

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JASON MOODY,

Defendant-Appellant

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:17-CR-208-1

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Before REAVLEY, JONES, and HIGGINSON, Circuit Judges.

PER CURIAM:\*

Jason Moody pleaded guilty to being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1) and was sentenced to the statutory maximum term of imprisonment of 120 months and three years of supervised release. Moody argues that the preponderance of the evidence did not support the district court's finding that the \$9,253 in cash seized represented the proceeds of drug trafficking.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Following *United States v. Booker*, 543 U.S. 220 (2005), sentences are reviewed for reasonableness in light of the sentencing factors in 18 U.S.C. § 3553(a). *United States v. Mares*, 402 F.3d 511, 519-20 (5th Cir. 2005). Pursuant to *Gall v. United States*, 552 U.S. 38, 51 (2007), this court engages in a bifurcated review process of the sentence imposed by the district court. *United States v. Delgado-Martinez*, 564 F.3d 750, 752 (5th Cir. 2009). First, this court considers whether the district court committed a “significant procedural error,” such as miscalculating the advisory guideline range. *Id.* Here, Moody challenges his sentence for procedural error only related to the quantity of drugs used to calculate his offense level. The district court’s calculation of the quantity of drugs involved in an offense is a factual determination reviewed for clear error. *United States v. Betancourt*, 422 F.3d 240, 246 (5th Cir. 2005).

In estimating drug quantity, a district court’s finding need not be limited to the actual quantities of drugs seized. *United States v. Medina*, 161 F.3d 867, 876 (5th Cir. 1998). A district court may convert cash into drug quantities based upon a determination that the cash represented proceeds of drug transactions. *See United States v. Johnston*, 127 F.3d 380, 403 (5th Cir. 1997); *see also* § 2D1.1, comment. (n.5).

The district court converted the \$9,253 cash seized from Moody’s home and/or turned in by his mother to drug quantities based on the facts in the presentence report (PSR) showing that \$3,909 of the cash was found on Moody’s bed next to a stash of methamphetamine; the fact that Moody asked his mother to retrieve the cash hidden in his drawer (\$5,345) which the police had apparently missed due to his having a “decoy” safe; the fact that his employment as a seasonal boat mechanic made it unlikely that the money came from his employment and that he was thousands of dollars in debt,

negating the possibility that the money was savings; and the fact that his text messages showed that he was dealing in large quantities of methamphetamine for substantial amounts.

The district court's factual finding that the reliable evidence in the PSR supported the conversion of the cash seized to drug-quantity amounts was plausible in light of the record as a whole and was not clearly erroneous. *See Betancourt*, 422 F.3d at 246.

AFFIRMED.

## APPENDIX B





The defendant is remanded to the custody of the United States Marshal.

SUPERVISED RELEASE

The court further ORDERS that, upon release from imprisonment, the defendant shall be on supervised release for a term of three (3) years and that while on supervised release, the defendant shall comply with the following conditions:

1. The defendant shall not commit another federal, state, or local crime.
2. The defendant shall not unlawfully possess a controlled substance.
3. The defendant shall cooperate in the collection of DNA as directed by the U.S. Probation Officer, as authorized by the Justice for All Act of 2004.
4. The defendant shall refrain from any unlawful use of a controlled substance, submitting to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as directed by the probation officer pursuant to the mandatory drug testing provision of the 1994 crime bill.
5. The defendant shall participate in a program approved by the probation officer for treatment of narcotic or drug or alcohol dependency that will include testing for the detection of substance use, abstaining from the use of alcohol and all other intoxicants during and after completion of treatment, contributing to the costs of services rendered at the rate of at least \$25 per month.
6. The defendant shall also comply with the Standard Conditions of Supervision as hereinafter set forth.

Standard Conditions of Supervision

1. The defendant shall report in person to the probation office in the district to which the defendant is released within seventy-two (72) hours of release from the custody of the Bureau of Prisons.
2. The defendant shall not possess a firearm, destructive device, or other dangerous weapon.
3. The defendant shall provide to the U.S. Probation Officer any requested financial information.
4. The defendant shall not leave the judicial district where the defendant is being supervised without the permission of the Court or U.S. Probation Officer.
5. The defendant shall report to the U.S. Probation Officer as directed by the court or U.S. Probation Officer and shall submit a truthful and complete written report within the first five (5) days of each month.

6. The defendant shall answer truthfully all inquiries by the U.S. Probation Officer and follow the instructions of the U.S. Probation Officer.
7. The defendant shall support his dependents and meet other family responsibilities.
8. The defendant shall work regularly at a lawful occupation unless excused by the U.S. Probation Officer for schooling, training, or other acceptable reasons.
9. The defendant shall notify the probation officer at least ten (10) days prior to any change in residence or employment.
10. The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician.
11. The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
12. The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the U.S. Probation Officer.
13. The defendant shall permit a probation officer to visit him at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the U.S. Probation Officer.
14. The defendant shall notify the probation officer within seventy-two (72) hours of being arrested or questioned by a law enforcement officer.
15. The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
16. As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

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 18 U.S.C. § 3583(f).

FINE

The court did not order a fine because the defendant does not have the financial resource or future earning capacity to pay a fine.

FORFEITURE

Pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c), it is hereby ordered that defendant's interest in the following property is condemned and forfeited to the United States: one Smith & Wesson, Model SD40VE, .40-caliber pistol, serial number HFU1795, including any ammunition, magazines, and/or accessories recovered with the firearm(s).

STATEMENT OF REASONS

The "Statement of Reasons" and personal information about the defendant are set forth on the attachment to this judgment.

Signed this the 25th day of May, 2018.



\_\_\_\_\_  
JOHN McBR YDE  
UNITED STATES DISTRICT JUDGE

RETURN

I have executed the imprisonment part of this Judgment as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Defendant delivered on \_\_\_\_\_, 2018 to \_\_\_\_\_  
at \_\_\_\_\_, with a certified copy of this Judgment.

United States Marshal for the  
Northern District of Texas

By \_\_\_\_\_  
Deputy United States Marshal