

APPENDIX A

JUDGMENT OF THE FIFTH CIRCUIT COURT OF APPEALS

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
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NEW ORLEANS, LA 70130

November 26, 2019

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 19-40030 USA v. Marcus Williams
USDC No. 1:12-CR-31-1

Enclosed is an order entered in this case.

Sincerely,

LYLE W. CAYCE, Clerk

Christina A. Gardner

By:

Christina A. Gardner, Deputy Clerk
504-310-7684

Ms. Terri Lynn Hagan
Mr. Bradley Elliot Visosky
Mr. Marcus Rashawn Williams

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 19-40030

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARCUS RASHAWN WILLIAMS, also known as Nuk, also known as Sealed1, also known as Nook,

Defendant - Appellant.

Appeal from the United States District Court for the
Eastern District of Texas

ON PETITION FOR REHEARING

Before CLEMENT, ELROD, and OLDHAM, Circuit Judges.

PER CURIAM:

IT IS ORDERED that appellant's motion for leave to file petition for rehearing out of time is GRANTED. IT IS FURTHER ORDERED that the petition for rehearing is DENIED.



UNITED STATES CIRCUIT JUDGE

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

September 27, 2019

Lyle W. Cayce
Clerk

No. 19-40080
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

MARCUS RASHAWN WILLIAMS, also known as Nuk, also known as Sealed1,
also known as Nook,

Defendant-Appellant

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:12-CR-31-1

Before CLEMENT, ELROD, and OLDHAM, Circuit Judges.

PER CURIAM:*

Nearly six years after the entry of judgment on his convictions for conspiracy to distribute and possess with intent to distribute cocaine and conspiracy to launder monetary instruments, Marcus Rashawn Williams filed a pro se notice of appeal seeking direct review of his sentence under 18 U.S.C. § 3742(a)(1). He previously appealed the same convictions.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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's motion for summary dismissal of the appeal as untimely is GRANTED. *See United States v. Hernandez-Gomez*, 795 F.3d 510, 511 (5th Cir. 2015). The alternative motion for an extension of time to file the appellee's brief is DENIED as unnecessary. The appeal is DISMISSED.

APPENDIX B
JUDGMENT AND COMMITMENT
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

UNITED STATES DISTRICT COURT

for the

EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

United States of America

v.

MARCUS RASHAWN WILLIAMS

)

Case No: 1:12-CR-31(1)

USM No: 72042-279

Date of Original Judgment: 3/4/2013

Date of Previous Amended Judgment: (Use Date of Last Amended Judgment if Any) Wayne Dickey
Defendant's AttorneyORDER REGARDING MOTION FOR SENTENCE REDUCTION
PURSUANT TO 18 U.S.C. § 3582(c)(2)

Upon motion of the defendant the Director of the Bureau of Prisons the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion, and taking into account the policy statement set forth at USSG §1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable,

IT IS ORDERED that the motion is:

DENIED. GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of 235 months is reduced to 188 months.

(Complete Parts I and II of Page 2 when motion is granted)

This order is subject to the prohibition contained in U.S.S.G. § 1B1.10(b)(2)(C). Moreover, imposition of this Order shall be stayed until November 1, 2015, or ten (10) days after the order date, whichever is later. So, if the term of imprisonment is less than the amount of time the defendant has already served, or will have served on the effective date of this order, then the sentence is reduced to "time served."

This term of 188 months as to each of Counts 1 and 2, shall be served CONCURRENTLY with each other in addition to CONCURRENTLY with any term imposed in #F0917312, 145th Judicial District Court, Nacogdoches, Texas.

Verified through EDES 12-11-2015

LATONYA

HANNAH

Digitally signed by LATONYA HANNAH
DN: c=US, o=U.S. Government, ou=Dept of
Justice, ou=BOP, cn=LATONYA HANNAH,
0.9.2342.19200300.100.1.1=15001003016655
Date: 2015.12.11 14:27:39 -06'00'

Except as otherwise provided, all provisions of the judgment dated 3/4/2013 shall remain in effect.

IT IS SO ORDERED.

So ORDERED and SIGNED this 20 day of November, 2015.



Ron Clark, United States District Judge

This page contains information that should not be filed in court unless under seal.
(Not for Public Disclosure)

DEFENDANT: Marcus Rashawn WilliamsCASE NUMBER: 1:12-cr-31(1)

DISTRICT: Eastern District of Texas

I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)Previous Total Offense Level: 36Amended Total Offense Level: 34Criminal History Category: IIICriminal History Category: IIIPrevious Guideline Range: 235 to 293 months Amended Guideline Range: 188 to 235 months**II. SENTENCE RELATIVE TO THE AMENDED GUIDELINE RANGE**

The reduced sentence is within the amended guideline range.

The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a substantial assistance departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.

The reduced sentence is above the amended guideline range.

III. ADDITIONAL COMMENTS

United States District Court

EASTERN DISTRICT OF TEXAS

Beaumont

UNITED STATES OF AMERICA

V.

MARCUS RASHAWN WILLIAMS

JUDGMENT IN A CRIMINAL CASE

Case Number: 1:12CR00031-001

USM Number: 72042-279

Robert Jones

Defendant's Attorney

THE DEFENDANT:

 pleaded guilty to count(s) 1 and 2 of the Superseding Indictment. pleaded nolo contendere to count(s) _____ which was accepted by the court. was found guilty on count(s) _____ after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
21 USC § 846	Conspiracy to Distribute and Possess With Intent to Distribute 5 Kilograms or More of Cocaine	04/26/2012	1
18 USC § 1956(h)	Conspiracy to Launder Monetary Instruments	04/26/2012	2

The defendant is sentenced as provided in pages 2 through 8 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

 The defendant has been found not guilty on count(s) _____ Count(s) Remaining in Original Indictment is are dismissed on the motion of the United States.

It is ordered that the 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, the defendant must notify the court and United States attorney of material changes in economic circumstances.

3/4/2013

Date of Imposition of Judgment



Signature of Judge

RON CLARK

U.S. DISTRICT JUDGE

Name and Title of Judge

3/12/13

Date

DEFENDANT: MARCUS RASHAWN WILLIAMS
CASE NUMBER: 1:12CR00031-001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of: 235 months.

This imprisonment term of 235 months as to each of Counts 1 and 2, shall be served CONCURRENTLY with each other in addition to CONCURRENTLY with any term in #F0917312, 145th Judicial District Court, Nacogdoches, TX.

The court makes the following recommendations to the Bureau of Prisons:

SEE CONTINUATION PAGE

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

The defendant shall surrender to the United States Marshal for this district:

at _____ a.m. p.m. on _____
 as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

before 2 p.m. on _____
 as notified by the United States Marshal.
 as notified by the Probation or Pretrial Services Office.

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 UNITED STATES MARSHAL

DEFENDANT: MARCUS RASHAWN WILLIAMS
CASE NUMBER: 1:12CR00031-001

Continuation page

The Court recommends that the defendant be placed in a federal facility as close as possible to Woodlands, TX or Little Rock, AR, to facilitate family visitation, if eligible.

The Court recommends that the defendant be allowed to participate in the 500 hour (RDAP) substance abuse treatment program, if eligible.

DEFENDANT: MARCUS RASHAWN WILLIAMS
CASE NUMBER: 1:12CR00031-001**SUPERVISED RELEASE**

Upon release from imprisonment, the defendant shall be on supervised release for a term of 5 years.

This supervised release term of 5 years consists of 5 years as to Count 1 and 3 years as to Count 2, to be served CONCURRENTLY.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The 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.

The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)

The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)

The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)

The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which he or she resides, works, is a student, or was convicted of a qualifying offense. (Check, if applicable.)

The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) 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 probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) 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; and
- 13) 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.

DEFENDANT: MARCUS RASHAWN WILLIAMS
CASE NUMBER: 1:12CR00031-001

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SPECIAL CONDITIONS OF SUPERVISION

The defendant shall provide the probation officer with access to any requested financial information for purposes of monitoring efforts to obtain and maintain lawful employment and income.

The defendant shall participate in a program of testing and treatment for substance abuse, under the guidance and direction of the U.S. Probation Office, until such time as the defendant is released from the program by the probation officer.

DEFENDANT: MARCUS RASHAWN WILLIAMS
CASE NUMBER: 1:12CR00031-001

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

<u>TOTALS</u>	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
	\$ 200.00	\$ 0.00	\$ 0.00

The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>

<u>TOTALS</u>	\$ <u>0.00</u>	\$ <u>0.00</u>
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Restitution amount ordered pursuant to plea agreement \$ _____

The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

The court determined that the defendant does not have the ability to pay interest and it is ordered that:

the interest requirement is waived for the fine restitution.

the interest requirement for the fine restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: MARCUS RASHAWN WILLIAMS
CASE NUMBER: 1:12CR00031-001

SCHEDULE OF PAYMENTS

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

A Lump sum payment of \$ 200.00 due immediately, balance due
 not later than _____, or
 in accordance C, D, E, or F below; or

B Payment to begin immediately (may be combined with C, D, or F below); or

C Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or

D Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or

E Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or

F Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to: the U.S. District Court, Fine & Restitution, 1910 E SE Loop 323 No 287, Tyler, TX 75701

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

Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

The defendant shall pay the cost of prosecution.
 The defendant shall pay the following court cost(s):
 The defendant shall forfeit the defendant's interest in the following property to the United States:

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

DEFENDANT: MARCUS RASHAWN WILLIAMS
CASE NUMBER: 1:12CR00031-001

DENIAL OF FEDERAL BENEFITS
(For Offenses Committed On or After November 18, 1988)

FOR DRUG TRAFFICKERS PURSUANT TO 21 U.S.C. § 862

IT IS ORDERED that the defendant shall be:

ineligible for all federal benefits for a period of 5 years

ineligible for the following federal benefits for a period of _____
(specify benefit(s))

OR

Having determined that this is the defendant's third or subsequent conviction for distribution of controlled substances, IT IS ORDERED that the defendant shall be permanently ineligible for all federal benefits.

FOR DRUG POSSESSORS PURSUANT TO 21 U.S.C. § 862(b)

IT IS ORDERED that the defendant shall:

be ineligible for all federal benefits for a period of _____

be ineligible for the following federal benefits for a period of _____
(specify benefit(s))

successfully complete a drug testing and treatment program.

perform community service, as specified in the probation and supervised release portion of this judgment.

Having determined that this is the defendant's second or subsequent conviction for possession of a controlled substance, IT IS FURTHER ORDERED that the defendant shall complete any drug treatment program and community service specified in this judgment as a requirement for the reinstatement of eligibility for federal benefits.

Pursuant to 21 U.S.C. § 862(d), this denial of federal benefits does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility. The clerk is responsible for sending a copy of this page and the first page of this judgment to: