

No. __-_____

IN THE SUPREME COURT OF THE UNITED STATES

CHRISTOPHER BENJAMIN BLANTON,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

PETITION FOR A WRIT OF CERTIORARI

APPENDIX

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APPENDIX A

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

No. 18-11440
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

August 28, 2019

Lyle W. Cayce
Clerk

Consolidated with 18-11442

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

CHRISTOPHER BENJAMIN BLANTON,

Defendant-Appellant

Appeals from the United States District Court
for the Northern District of Texas
USDC No. 4:14-CR-225-1
USDC No. 4:15-CR-53-1

Before KING, GRAVES, and WILLETT, Circuit Judges.

PER CURIAM:*

Christopher Benjamin Blanton, who had been convicted previously of possession of a firearm by a felon and conspiracy to commit burglary, violated the terms of his supervised release by, among other things, failing to seek mental health treatment and obtaining codeine through a fraudulent

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 18-11440
c/w No. 18-11442

prescription. The district court revoked his terms of supervised release and sentenced him above the guidelines ranges of 5 to 11 months of imprisonment to consecutive terms of 18 months of imprisonment. Blanton appeals the sentences imposed by the district court.

Revocation sentences are generally reviewed under 18 U.S.C. § 3742(a)'s "plainly unreasonable" standard. *United States v. Miller*, 634 F.3d 841, 843 (5th Cir. 2011). Under this standard, "we evaluate whether the district court procedurally erred before we consider the substantive reasonableness of the sentence imposed under an abuse-of-discretion standard." *Id.* (internal quotation marks and citation omitted).

Blanton argues that the district court imposed procedurally unreasonable sentences because it offered an inadequate explanation for imposing the sentences. However, after hearing arguments and considering the evidence introduced at the sentencing hearing, the district court stated that the guidelines range was inadequate and explained that the sentences would protect the public and deter Blanton from further criminal activity. It emphasized the history and characteristics of Blanton, specifically his continued use of illegal controlled substances. The district court stated its consideration of the policy statements in Chapter Seven of the Sentencing Guidelines. Therefore, the district court considered the 18 U.S.C. § 3553(a) sentencing factors and sufficiently explained its reasons for imposing the consecutive 18-month sentences. *See Rita v. United States*, 551 U.S. 338, 356-57 (2007); *United States v. Whitelaw*, 580 F.3d 256, 261-62 (5th Cir. 2009).

In addition, Blanton argues that the district court imposed substantively unreasonable sentences. He asserts that the sentences: (1) fail to account for his addiction and availability of drug abuse treatment as an alternative to

No. 18-11440
c/w No. 18-11442

incarceration; (2) erroneously relied on his need for rehabilitation; and (3) represent a clear error in the balancing of sentencing factors.

The district court acknowledged Blanton's addiction to controlled substances at the sentencing hearing but nevertheless emphasized that the sentences were necessary to address his history and characteristics, protect the public, and deter him from further criminal activity. In addition, the district court did not rely on Blanton's need for rehabilitation when sentencing him. In fact, it acknowledged that reliance on such a factor was impermissible. *See Tapia v. United States*, 564 U.S. 319, 335 (2011). Finally, in light of the district court's consideration of the arguments, evidence, and Chapter Seven policy statements, Blanton has not shown that the district court erred in its balancing of sentencing factors.

Blanton has not demonstrated that the district court failed to consider any significant factors, gave undue weight to any improper factors, or clearly erred in balancing the sentencing factors. *See United States v. Warren*, 720 F.3d 321, 332 (5th Cir. 2013). Thus, he has failed to show that his sentences are substantively unreasonable. *See id.*

The judgments of the district court are AFFIRMED.

APPENDIX B

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 18-11440

Consolidated with 18-11442

UNITED STATES OF AMERICA,

Plaintiff - Appellee

v.

CHRISTOPHER BENJAMIN BLANTON,

Defendant - Appellant

Appeals from the United States District Court
for the Northern District of Texas

ON PETITION FOR REHEARING

Before KING, GRAVES, and WILLETT, Circuit Judges.

PER CURIAM:

IT IS ORDERED that the petition for rehearing is DENIED. *See United States v. Aguirre*, 776 F. App'x 866, 867 (5th Cir. 2019).

ENTERED FOR THE COURT:

/s/ James E. Graves, Jr.

UNITED STATES CIRCUIT JUDGE

APPENDIX C

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
Fort Worth Division

UNITED STATES OF AMERICA

**JUDGMENT IN A CRIMINAL CASE
UPON REMAND
FOR RESENTENCING**

v.

CHRISTOPHER BENJAMIN BLANTON

Case Number: 4:15-CR-00053-Y(1)

John P. Bradford, assistant U.S. attorney

Erin Leigh Brennan, attorney for the defendant

On April 15, 2015, the defendant, Christopher Benjamin Blanton, entered a plea of guilty to count one of the two-count indictment. Accordingly, the defendant is adjudged guilty of such count, which involves the following offense:

<u>TITLE & SECTION</u>	<u>NATURE OF OFFENSE</u>	<u>OFFENSE CONCLUDED</u>	<u>COUNT</u>
18 U.S.C. §§ 2118(d) & 2	Conspiracy to Commit Pharmacy Burglary and Aiding and Abetting	July 19, 2014	One

The defendant is sentenced as provided in pages two through four of this judgment. The sentence is imposed pursuant to Title 18, United States Code §3553(a), taking the guidelines issued by the United States Sentencing Commission pursuant to Title 28, United States Code § 994(a)(1), as advisory only.

On April 26, 2017, the United States Court of Appeals for the Fifth Circuit vacated the sentence imposed on November 12, 2015, and remanded the case for resentencing. The following sentence is imposed in response to and in compliance with the ruling of the court of appeals.

The defendant shall pay immediately a special assessment of \$100.00 for count one of the two-count indictment.

The defendant shall notify the United States attorney for this district within thirty 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.

Original sentence imposed November 12, 2015.

Resentenced on September 7, 2017.



TERRY R. MEANS
UNITED STATES DISTRICT JUDGE

Signed September 11, 2017.

Judgment in a Criminal Case

Defendant: Christopher Benjamin Blanton

Case Number: 4:15-CR-00053-Y(1)

Judgment -- Page 2 of 4

IMPRISONMENT

The defendant, Christopher Benjamin Blanton, is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a term of 46 months on count one of the two-count indictment. This sentence shall run concurrently with the sentence imposed in case no. 4:14-CR-225-Y in this Court, for an aggregate sentence of 46 months; and concurrently with any sentence imposed in the 297th Judicial District Court, Tarrant County, Texas, in case nos. 1404879, 1404850, and 1404851; and in cases F15-2377-367 and F15-2378-367 in the 367th Judicial District Court, Denton County, Texas.

The Court recommends that the defendant be incarcerated at a facility in Yazoo City, MS, or Atlanta, GA, if possible.

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

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of three years on count one of the two-count indictment. This sentence shall run concurrently with the sentence imposed in case no. 4:14-CR-225-Y (1) in this Court.

While on supervised release, in compliance with the standard conditions of supervision adopted by the United States Sentencing Commission, the defendant shall:

- (1) not leave the judicial district without the permission of the Court or probation officer;
- (2) report to the probation officer in a manner and frequency directed by the Court or probation officer;
- (3) answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- (4) support the defendant's dependents and meet other family responsibilities;
- (5) work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- (6) notify the probation officer within seventy-two (72) hours of any change in residence or employment;
- (7) refrain from excessive use of alcohol and 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;
- (8) not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- (9) not associate with any persons engaged in criminal activity and not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- (10) permit a probation officer to visit the defendant at any time at home or elsewhere and permit confiscation of any contraband observed in plain view by the probation officer;
- (11) notify the probation officer within seventy-two (72) hours of being arrested or questioned by a law enforcement officer;
- (12) 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) notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement, as directed by the probation officer.

In addition the defendant shall:

Judgment in a Criminal Case

Defendant: Christopher Benjamin Blanton

Case Number: 4:15-CR-00053-Y(1)

Judgment -- Page 3 of 4

not commit another federal, state, or local crime;

not possess illegal controlled substances;

not possess a firearm, destructive device, or other dangerous weapon;

cooperate in the collection of DNA as directed by the probation officer;

report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Federal Bureau of Prisons;

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;

pay any remaining balance of restitution in the amount of \$49,946.99, as set out in this judgment;

refrain from incurring new credit charges or opening additional lines of credit without approval of the probation officer unless the probation officer makes a determination that the defendant is in compliance with the payment schedule;

participate in mental health treatment services as directed by the probation officer until successfully discharged, which services may include prescribed medications by a licensed physician, with the defendant contributing to the costs of services rendered (copayment) at a rate of at least \$25 per month; and

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 (copayment) at the rate of at least \$25 per month.

FINE/RESTITUTION

The Court does not order a fine or costs of incarceration because the defendant does not have the financial resources or future earning capacity to pay a fine or costs of incarceration.

The defendant is ordered to make restitution in the amount of \$49,946.99, which is to be paid jointly and severally with codefendants Hylon Joshua Alford-Solomon (1), James Richard Wooden (2), Christopher Allen Williams Jr. (3), Kenneth Wayne Tolbert (4), and Kendrick Dwight Marshall (5), in case no. CR-14-348-R, in the Western District of Oklahoma. Restitution shall be paid to the U.S. district clerk, 501 West 10th Street, Room 310, Fort Worth, Texas 76102, for disbursement to:

Walmart Company
Attn: James Saenz
Asset Projection Manager
6611 North Beltline Road, Suite 200
Irving, Texas 75063

Restitution is due and payable immediately, but if, upon commencement of the term of supervised release, any part of the \$49,946.99 in restitution ordered by this judgment remains unpaid, the defendant shall make payments on such unpaid balance at the rate of at least \$250 per month, the first such payment to be made no later than 60 days after the defendant's release from confinement and another payment to be made on the same day of each month thereafter until the restitution is paid in full.

Judgment in a Criminal Case

Defendant: Christopher Benjamin Blanton

Case Number: 4:15-CR-00053-Y(1)

Judgment -- Page 4 of 4

This payment schedule does not affect the enforceability of the restitution order and the continuing obligation of Christopher Benjamin Blanton to pay restitution in full as soon as possible. Nothing in this order shall be construed to limit the ability of the United States Attorney's Office to fulfill its statutory obligation to enforce restitution under the Federal Debt Collection Procedures Act, 28 U.S.C. § 3001, *et seq.*, or under any other statutory provision, during supervision or after release.

However, no restitution shall be payable during incarceration from funds deposited into the defendant's inmate trust account or paid to the defendant for work performed during incarceration.

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 marshal

APPENDIX D

United States District Court

Northern District of Texas
Fort Worth Division

UNITED STATES OF AMERICA

**JUDGMENT IN A CRIMINAL CASE
for revocation of supervised release**

v.

CHRISTOPHER BENJAMIN BLANTON

Case number: 4:15-CR-053-Y (1)
John P. Bradford, assistant U.S. attorney
Cody Cofer, attorney for the defendant

On October 23, 2018, a hearing was held, at which time the Court determined that the defendant, Christopher Benjamin Blanton, had violated his conditions of supervised release. Accordingly, the defendant is adjudged guilty of such violations, which involve the following conditions:

CONDITION	NATURE OF VIOLATION	VIOLATION CONCLUDED
Standard condition no. 7 and additional conditions	Failing to refrain from the use of any narcotic or controlled substance	August and September 2018
Additional condition	Failing to participate in mental health treatment services as directed	August and September 2018

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

The defendant shall notify the United States attorney for this district within thirty (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.

Sentence imposed October 23, 2018.



TERRY R. MEANS
UNITED STATES DISTRICT JUDGE

Signed October 25, 2018.

IMPRISONMENT

The defendant, Christopher Benjamin Blanton, is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a term of 18 months, pursuant to USSG § 7B1.4(a), p.s. This sentence shall run consecutively to the sentence imposed this day in case no. 4:14-CR-225-Y (01) in this Court. No term of supervised release shall follow defendant's release from custody.

The Court recommended that the defendant be incarcerated at a facility in Fort Worth, Texas, if possible, and that he receive drug treatment, if available.

The 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 marshal

APPENDIX E

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
Fort Worth Division

UNITED STATES OF AMERICA

**JUDGMENT IN A CRIMINAL CASE
UPON REMAND
FOR RESENTENCING**

v.

CHRISTOPHER BENJAMIN BLANTON

Case Number: 4:14-CR-00225-Y(1)

John P. Bradford, assistant U.S. attorney

Erin Leigh Brennan, attorney for the defendant

On April 15, 2015, the defendant, Christopher Benjamin Blanton, entered a plea of guilty to count one of the one-count indictment. Accordingly, the defendant is adjudged guilty of such count, which involves the following offense:

<u>TITLE & SECTION</u>	<u>NATURE OF OFFENSE</u>	<u>OFFENSE CONCLUDED</u>	<u>COUNT</u>
18 U.S.C. § 922(g)(1)	Felon in Possession of a Firearm	May 18, 2014	One

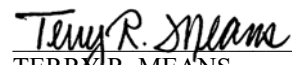
The defendant is sentenced as provided in pages two through three of this judgment. The sentence is imposed pursuant to Title 18, United States Code §3553(a), taking the guidelines issued by the United States Sentencing Commission pursuant to Title 28, United States Code § 994(a)(1), as advisory only.

On April 26, 2017, the United States Court of Appeals for the Fifth Circuit vacated the sentence imposed on November 12, 2015, and remanded the case for resentencing. The following sentence is imposed in response to and noncompliance with the ruling of the court of appeals.

The defendant shall pay immediately a special assessment of \$100.00 for count one of the one-count indictment.

The defendant shall notify the United States attorney for this district within thirty 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.

Original sentence imposed November 12, 2015.
Resentenced on September 7, 2017.


TERRY R. MEANS
UNITED STATES DISTRICT JUDGE

Signed September 11, 2017.

Judgment in a Criminal Case

Defendant: Christopher Benjamin Blanton

Case Number: 4:14-CR-00225-Y(1)

Judgment -- Page 2 of 3

IMPRISONMENT

The defendant, Christopher Benjamin Blanton, is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a term of 46 months on count one of the one-count indictment. This sentence shall run concurrently with the sentence imposed in case no. 4:15-CR-053-Y (1) in this Court, for an aggregate sentence of 46 months; and concurrently with any sentence imposed in the 297th Judicial District Court, Tarrant County, Texas, in case nos. 1404879, 1404850, and 1404851; and in cases F15-2377-367 and F15-2378-367 in the 367th Judicial District Court, Denton County, Texas.

The Court recommends that the defendant be incarcerated at a facility in Yazoo City, MS, or Atlanta, GA, if possible.

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

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of three years on count one of the one-count indictment. This sentence shall run concurrently with the sentence imposed in case no. 4:15-CR-053-Y (1) in this Court.

While on supervised release, in compliance with the standard conditions of supervision adopted by the United States Sentencing Commission, the defendant shall:

- (1) not leave the judicial district without the permission of the Court or probation officer;
- (2) report to the probation officer in a manner and frequency directed by the Court or probation officer;
- (3) answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- (4) support the defendant's dependents and meet other family responsibilities;
- (5) work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- (6) notify the probation officer within seventy-two (72) hours of any change in residence or employment;
- (7) refrain from excessive use of alcohol and 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;
- (8) not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- (9) not associate with any persons engaged in criminal activity and not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- (10) permit a probation officer to visit the defendant at any time at home or elsewhere and permit confiscation of any contraband observed in plain view by the probation officer;
- (11) notify the probation officer within seventy-two (72) hours of being arrested or questioned by a law enforcement officer;
- (12) 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) notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement, as directed by the probation officer.

In addition the defendant shall:

not commit another federal, state, or local crime;

not possess illegal controlled substances;

Judgment in a Criminal Case

Defendant: Christopher Benjamin Blanton

Case Number: 4:14-CR-00225-Y(1)

Judgment -- Page 3 of 3

not possess a firearm, destructive device, or other dangerous weapon;

cooperate in the collection of DNA as directed by the probation officer;

report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Federal Bureau of Prisons;

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;

refrain from incurring new credit charges or opening additional lines of credit without approval of the probation officer unless the probation officer makes a determination that the defendant is in compliance with the payment schedule;

participate in mental health treatment services as directed by the probation officer until successfully discharged, which services may include prescribed medications by a licensed physician, with the defendant contributing to the costs of services rendered (copayment) at a rate of at least \$25 per month; and

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 (copayment) at the rate of at least \$25 per month.

FINE/RESTITUTION

The Court does not order a fine or costs of incarceration because the defendant does not have the financial resources or future earning capacity to pay a fine or costs of incarceration.

Restitution is not ordered because there is no victim other than society at large.

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 marshal

APPENDIX F

United States District Court

Northern District of Texas
Fort Worth Division

UNITED STATES OF AMERICA

**JUDGMENT IN A CRIMINAL CASE
for revocation of supervised release**

v.

CHRISTOPHER BENJAMIN BLANTON

Case number: 4:14-CR-225-Y (1)
John P. Bradford, assistant U.S. attorney
Cody Cofer, attorney for the defendant

On October 23, 2018, a hearing was held, at which time the Court determined that the defendant, Christopher Benjamin Blanton, had violated his conditions of supervised release. Accordingly, the defendant is adjudged guilty of such violations, which involve the following conditions:

CONDITION	NATURE OF VIOLATION	VIOLATION CONCLUDED
Standard condition no. 7 and additional conditions	Failing to refrain from the use of any narcotic or controlled substance	August and September 2018
Additional condition	Failing to participate in mental health treatment services as directed	August and September 2018

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

The defendant shall notify the United States attorney for this district within thirty (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.

Sentence imposed October 23, 2018.



TERRY R. MEANS
UNITED STATES DISTRICT JUDGE

Signed October 25, 2018.

IMPRISONMENT

The defendant, Christopher Benjamin Blanton, is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a term of 18 months, pursuant to USSG § 7B1.4(a), p.s. This sentence shall run consecutively to the sentence imposed this day in case no. 4:15-CR-053-Y (01) in this Court. No term of supervised release shall follow defendant's release from custody.

The Court recommended that the defendant be incarcerated at a facility in Fort Worth, Texas, if possible, and that he receive drug treatment, if available.

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

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at _____, with a certified copy of this judgment.

United States marshal

BY _____
deputy marshal