

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

RAMADAN TAJADEEN SHABAZZ,

Petitioner

v.

UNITED STATES OF AMERICA

Respondent

APPENDIX

INDEX TO APPENDICES

Appendix A Judgment and Opinion of Fifth Circuit

Appendix B Judgment of the United States District Court for the Eastern District of Michigan

Appendix C Judgment and Revocation of Sentence from the United States District Court for the Northern District of Texas

APPENDIX A

August 03, 2020KAREN MITCHELL
APPEALS DISTRICT COURT**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**United States Court of Appeals
Fifth Circuit**FILED**

July 10, 2020

Lyle W. Cayce
ClerkNo. 19-10896
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

RAMADAN TAJEDEEN SHABAZZ,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:19-CR-143-1-A

Before KING, DENNIS, and GRAVES, Circuit Judges.

PER CURIAM:*

Ramadan Tajedeen Shabazz, previously convicted of wire fraud, appeals the mandatory revocation of his supervised release pursuant to 18 U.S.C. § 3583(g) and his 24-month revocation sentence. We affirm.

First, Shabazz argues that the admission of out-of-court statements at his revocation hearing violated his due process rights under the Confrontation Clause. Our review of this unpreserved issue is for plain error. *See Puckett v.*

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Case 4:19-cr-00143-A Document 59 Filed 08/03/20 Page 2 of 3 PageID 812
No. 19-10896

United States, 556 U.S. 129, 135 (2009). Accordingly, Shabazz must show (1) a forfeited error, (2) that is “clear or obvious, rather than subject to reasonable dispute,” and (3) that affected his substantial rights. *Id.* If he does that, we have the discretion to correct the error and should do so “only if the error seriously affects the fairness, integrity or public reputation of judicial proceedings.” *Id.* (internal quotation marks, citation, and alteration omitted). Shabazz pleaded true to the allegation that he violated a special condition of his supervised release by failing to comply with urinalysis drug screening; therefore, the district court was statutorily mandated to revoke his supervised release. *See* § 3583(g)(3). Because the revocation of supervised release was supported by substantial evidence besides the alleged hearsay testimony, Shabazz cannot show that the putative error affected his substantial rights, and his argument cannot survive plain error review. *See Molina-Martinez v. United States*, 136 S. Ct. 1338, 1343 (2016); *United States v. Hughes*, 237 F. App’x 980, 981 (5th Cir. 2007).¹

Next, Shabazz argues that his statutory-maximum revocation sentence is substantively unreasonable because the district court undervalued the advisory range of imprisonment set forth in policy statement U.S.S.G. § 7B1.4 and considered two stale convictions that were not counted for purposes of calculating his original criminal history score. He acknowledges that this court reviews the substantive reasonableness of a revocation sentence under the plainly unreasonable standard, *United States v. Sanchez*, 900 F.3d 678, 682 (5th Cir. 2018), but seeks to preserve for further review his argument that revocation sentences should instead be reviewed for “unreasonableness.”

¹ While unpublished opinions issued on or after January 1, 1996, are not precedential, they may be treated as persuasive authority. *See* 5th Cir. R. 47.5.4; *Ballard v. Burton*, 444 F.3d 391, 401 n.7 (5th Cir. 2006).

Case 4:19-cr-00143-A Document 59 Filed 08/03/20 Page 3 of 3 PageID 813
No. 19-10896

The district court considered and rejected § 7B1.4, determining that the applicable 18 U.S.C. § 3553(a) factors required a harsher sentence, and was required to do no more. *See United States v. Headrick*, 963 F.2d 777, 782 (5th Cir. 1992). Moreover, we have routinely affirmed statutory-maximum revocation sentences imposed in excess of the advisory policy range. *See United States v. Warren*, 720 F.3d 321, 332 (5th Cir. 2013). Shabazz therefore has not shown an abuse of discretion on the part of the district court. *See Sanchez*, 900 F.3d at 682.

Finally, Shabazz argues that § 3583(g) is unconstitutional in light of *United States v. Haymond*, 139 S. Ct. 2369 (2019), because it does not require a jury determination of guilt beyond a reasonable doubt. Our review is for plain error. *See Puckett*, 556 U.S. at 135. The Supreme Court's decision in *Haymond* addressed the constitutionality of § 3583(k), and the plurality opinion specifically declined to "express a view on the mandatory revocation provision for certain drug and gun violations in § 3583(g)." 139 S. Ct at 2382 n.7 (plurality opinion). The application of § 3583(g) therefore was not plain error. *See United States v. Badgett*, 957 F.3d 536 (5th Cir. 2020).

AFFIRMED.

APPENDIX B

UNITED STATES DISTRICT COURT

Eastern District of Michigan

UNITED STATES OF AMERICA

v.

RAMADAN TAJEDEEN SHABAZZ

JUDGMENT IN A CRIMINAL CASE

Case Number: 2:14-CR-20339-01

USM Number: 35198-086

William Swor

Defendant's Attorney

THE DEFENDANT:

 pleaded guilty to count(s) 2s of the First 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:

Title & Section	Nature of Offense	Offense Ended	Count
18 U.S.C. § 1343	Wire Fraud	4/22/2014	2s

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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) 1, 2, & 3 of the Indictment; 1s & 3s of the Superseding 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.

7/22/2016

Date of Imposition of Judgment

s/Denise Page Hood

Signature of Judge

Denise Page Hood, U.S. District Judge

Name and Title of Judge

8/26/2016

Date



DEFENDANT: RAMADAN TAJEDEEN SHABAZZ

CASE NUMBER: 2:14-CR-20339-01

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of:

60 months to run concurrent with 14-CR-20550-01.

While in custody, the defendant shall participate in the Inmate Financial Responsibility Program. The Court is aware of the requirements of the program and approves of the payment schedule of this program and hereby orders the defendant's compliance.

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

That the defendant be placed in a facility as close as possible to Fort Worth, Texas

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 _____

a _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: RAMADAN TAJEDEEN SHABAZZ

CASE NUMBER: 2:14-CR-20339-01

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

3 years.

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 in a manner and frequency directed by the court or probation officer;
- 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: RAMADAN TAJEDEEN SHABAZZ
CASE NUMBER: 2:14-CR-20339-01

SPECIAL CONDITIONS OF SUPERVISION

Due to the defendant's past drug history, the following condition are ordered:

1. The defendant shall participate in a program approved by the Probation Department for substance abuse, which program may include testing to determine if the defendant has reverted to the use of drugs or alcohol. If necessary.
2. The defendant shall take all medications as prescribed by a physician whose care he is under, including a psychiatrist, in the dosages and at the times proposed. If the defendant is prescribed a medication, he shall take it, and the defendant shall not discontinue medications against medical advice.
3. The defendant shall provide the United States Probation Officer, within 7 (seven) days of release from the custody of the Bureau of Prisons, a written report, in a form the USPO directs, listing each and every prescription medication in the Defendant's possession, custody, or control. The list shall include, but not be limited to, any prescription medication that contains a controlled substance and encompasses all current, past, and outdated or expired prescription medications in a Defendant's possession, custody, or control at the time of the report.
4. The defendant/offender shall notify the United States Probation Officer (USPO) immediately (ie. within no later than 72 hours) if the defendant/offender receives any prescription for medication containing a controlled substance during the period of supervised release. The defendant/offender shall provide the USPO such documentation and verification as the USPO may reasonably request and in a form the USPO directs.

Due to the defendant's personal history and the characteristics of the instant offense, the following condition is ordered:

5. The defendant shall participate in a program approved by the U.S. Probation Department for treatment of gambling addictions, if necessary. The defendant shall pay the costs of such treatment if deemed ineligible for state funding.
6. The defendant is prohibited from entering the premises of any gambling casinos or other places where gambling activity is conducted, such as horse tracks, bingo parlors, dog races/fights, etc., whether legal or illegal. The defendant is prohibited from engaging in any gambling activity, games of chance, lotteries or wagering of any kind, including computer gambling and stock trading, and from being in the presence of anyone engaging in this activity.
7. The defendant shall not incur any new credit charges or open additional lines of credit without the approval of the probation officer, unless the defendant is in compliance with the payment schedule.
8. The defendant shall provide the probation officer access to any requested financial information.
9. The defendant shall make monthly installment payments on any remaining balance of the restitution and special assessment at a rate and schedule recommended by the probation department and approved by the Court.

DEFENDANT: RAMADAN TAJEDEEN SHABAZZ

CASE NUMBER: 2:14-CR-20339-01

CRIMINAL MONETARY PENALTIES

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

<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS \$ 100.00	\$ 0.00	\$ 81,830.90

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>
Mr. Check Cashing 20511 Dequindre Street Detroit, MI 48234-1259	\$3,610.00	\$3,610.00	
All American Check Cashing 2860 US-80 Pearl, MS 39208	\$17,605.50	\$17,605.50	
College Point Check Checking 1830 College Point Boulevard College Point, NY 11356	\$13,667.00	\$13,667.00	
Discount Check Cashing 2802 North Lafayette Road Suite 22 Indianapolis, IN 46222	\$14,671.45	\$14,671.45	
Cashland 3625 South Ererson Avenue Beech Grove, IN 46107-3348	\$14,671.45	\$14,671.45	
We Cash It 5052 North State Street, Jackson, MS 39206	\$17,605.50	\$17,605.50	
TOTALS	\$ 81,830.90	\$ 81,830.90	

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: RAMADAN TAJEDEEN SHABAZZ
CASE NUMBER: 2:14-CR-20339-01

ADDITIONAL TERMS FOR CRIMINAL MONETARY PENALTIES

The Court waives the imposition of a fine, the costs of incarceration and the costs of supervision due to the defendant's lack of financial resources.

DEFENDANT: RAMADAN TAJEDEEN SHABAZZ
CASE NUMBER: 2:14-CR-20339-01

SCHEDULE OF PAYMENTS

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

A Lump sum payment of \$ 100.00 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 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.

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.

REFER TO PAGE 8

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: RAMADAN TAJEDEEN SHABAZZ
CASE NUMBER: 2:14-CR-20339-01

ADDITIONAL DEFENDANTS AND CO-DEFENDANTS HELD JOINT AND SEVERAL

Case Number

**Defendant and Co-Defendant Names
(including defendant number)**

Total Amount

**Joint and Several
Amount**

**Corresponding Payee,
if appropriate**

Ramadam Tajedeen Shabazz, 14-CR-20339-01	\$81,830.90	\$81,830.90	Refer to page 5
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Catherine Taliercio, 14-CR-20339-02	\$81,830.90	\$81,830.90	Refer to page 5
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All Others, if convicted later

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APPENDIX C

FILED

AUG - 2 2019

CLERK, U.S. DISTRICT COURT

By _____ Deputy

UNITED STATES OF AMERICA

§

§

VS.

§

NO. 4:19-CR-143-A

§

RAMADAN TAJEDEEN SHABAZZ

§

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, **RAMADAN TAJEDEEN SHABAZZ**. After having considered the grounds of the government's motion, the evidence presented, statements of 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 24 months and to serve a 12-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 July 22, 2016, and signed August 26, 2016, in Case Number 2:14-CR-20339-01 in the United States District Court for the Eastern District of Michigan (the "underlying judgment") be, and is hereby, revoked; and

The court further ORDERS, ADJUDGES, and DECREES that defendant, **RAMADAN TAJEDEEN SHABAZZ**, be, and is hereby, committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 24 months, to be followed by a term of supervised release of 12 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 underlying judgment, except that standard condition of supervision number 1 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 probation officer.

And, defendant shall also comply with the additional conditions that:

1. The defendant shall participate in a program (inpatient and/or outpatient) approved by U.S. Probation Office for treatment of narcotic, drug, or alcohol dependency, which will include testing for the detection of substance use or abuse. The defendant shall abstain from the use of alcohol and/or all other intoxicants during and after completion of treatment. The defendant shall contribute to the cost of services rendered in an amount of at least \$25 per month.
2. The defendant shall pay the balance owed on his restitution obligation of \$81,830.90. Restitution is payable immediately, but non-payment will not be a violation of defendant's conditions of supervised release so long as defendant pays as provided below. All restitution payments shall be made by defendant to the Clerk of the U.S. District Court, 501 West 10th Street, Room 310, Fort Worth, Texas 76102, for disbursement to the victims named in the underlying judgment.
3. If, upon commencement of the term of supervised release, any part of the \$81,830.90 remains unpaid, the defendant shall make payments on such unpaid amount at the rate of at least \$200 per month, the first such

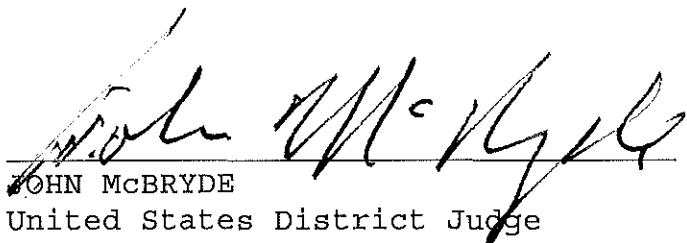
payment to be made no later than 60 days after the defendant's release from confinement and another payment to be made on the same day of each month thereafter until the restitution amount is paid in full. any unpaid balance of the restitution ordered by this judgment shall be paid in full 60 days prior to the termination of the term of supervised release.

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 remanded to the custody of the United States Marshal.

The date of imposition of the sentence provided by this judgment is August 2, 2019.

SIGNED August 2, 2019.


JOHN McBRYDE
United States District Judge

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