

A P P E N D I X

APPENDIX

Decision of the Court of Appeals for the Eleventh Circuit, <i>United States v. Matthew Pryor</i> , Case No. 16-10806 (11th Cir. August 5, 2020)	A-1
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[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 16-10806
Non-Argument Calendar

D.C. Docket No. 1:15-cr-20404-BB-1

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MATTHEW LEE PRYOR,

Defendant-Appellant.

Appeals from the United States District Court
for the Southern District of Florida

(August 5, 2020)

Before WILSON, MARTIN, and ANDERSON, Circuit Judges.

PER CURIAM:

Matthew Pryor appeals his total 600-month sentence for assaulting a federal officer with a deadly weapon in violation of 18 U.S.C. § 111(a) and (b); possessing

and discharging a firearm during a crime of violence in violation of 18 U.S.C. § 924(c)(1)(A)(iii); carjacking in violation of 18 U.S.C. § 2119(1); brandishing a firearm during a crime of violence in violation of 18 U.S.C. § 924(c)(1)(A)(ii); and possessing a firearm as a felon in violation of 18 U.S.C. §§ 922(g)(1) and 924(e)(1). Pryor raises two arguments on appeal. First, he says he should benefit from Section 403 of the First Step Act of 2018, which changed the sentencing scheme for a defendant's second § 924(c) conviction. Second, he requests remand to the district court for reconsideration of his career offender status in light of Amendment 798 to the Sentencing Guidelines. After careful review, we affirm Pryor's convictions and sentence and deny his request for remand to the district court.

I.

Pryor pled guilty to all charges against him in October 2015. Before sentencing, Pryor's presentence investigation report ("PSR") determined he was a "career offender" under the U.S. Sentencing Guidelines. The PSR based Pryor's career offender status on three prior "violent" felony convictions: two Florida convictions for burglary of a dwelling and one Florida conviction for resisting an officer with violence.

The PSR also found Pryor was subject to two mandatory consecutive sentences for his two § 924(c) convictions under 18 U.S.C. § 924(c)(1)(A) and (C).

The first § 924(c) conviction prescribed a mandatory consecutive sentence of at least 10 years under § 924(c)(1)(A)(iii), and the second § 924(c) conviction mandated a 25-year consecutive sentence under § 924(c)(1)(C)(i).

Pryor objected to his career offender designation. He argued that Johnson v. United States, 576 U.S. ___, 135 S. Ct. 2551 (2015), which invalidated the residual clause of the Armed Career Criminal Act, also applied to the similar residual clause in the Sentencing Guidelines' career offender provision at U.S.S.G. § 4B1.2(a)(2). Pryor argued his previous burglary convictions no longer qualified as crimes of violence under § 4B1.2(a)(2), and thus he could not be adjudicated a career offender. However, Pryor acknowledged that his claim was foreclosed by United States v. Matchett, 802 F.3d 1185 (11th Cir. 2015), which held that Johnson did not invalidate the career offender guideline's residual clause. See id. at 1195–96. Citing Matchett, the district court overruled Pryor's objection to career offender status.

Pryor was sentenced in January 2016. He received 180-month terms on both the carjacking and assault charges and a 120-month term for the felon-in-possession charge, all running concurrently. He also received a mandatory consecutive term of 120-months for the first § 924(c) charge of carrying a firearm during a crime of violence, and another mandatory consecutive term of 300-months for the second § 924(c) charge. Pryor's total sentence was 600-months

incarceration. The government timely appealed this judgment, and Pryor cross-appealed. The government dismissed its cross-appeal in December 2018.

While Pryor's appeal was pending, Congress passed the First Step Act of 2018, Pub. L. 115-391. As relevant here, the Act revised the § 924(c) sentencing scheme. It changed the language of § 924(c)(1)(C) to impose a consecutive mandatory 25-year sentence for a second § 924(c) conviction only if a prior § 924(c) conviction was already finalized. Pub. L. 115-391, § 403. In simple terms, the Act did away with the 25-year consecutive sentence requirement for defendants charged with a first and second § 924(c) violation in the same prosecution. See id.

II.

We review de novo the interpretation of a criminal statute. United States v. Hernandez, 906 F.3d 1367, 1370 (11th Cir. 2018). Likewise, we review de novo the district court's determination of career offender status under the Sentencing Guidelines. United States v. Whitson, 597 F.3d 1218, 1220 (11th Cir. 2010) (*per curiam*).

III.

A.

Pryor argues he should benefit from the First Step Act and be resentenced without a 25-year mandatory minimum sentence for his second § 924(c) violation.

The government responds that the First Step Act does not apply to Pryor because he was sentenced by the district court almost three years before the Act was passed and the Act is not retroactive.

At the time Pryor was sentenced in January 2016, 18 U.S.C. § 924(c)(1)(C) provided for a 25-year mandatory minimum consecutive sentence if a defendant had “a second or subsequent conviction under [§ 924(c)].” § 924(c)(1)(C) (2012). This subsection imposed the mandatory minimum on a defendant who was convicted of two § 924(c) violations in a single prosecution, as Pryor was. See Deal v. United States, 508 U.S. 129, 132, 113 S. Ct. 1993, 1996 (1993).

In December 2018, Congress enacted the First Step Act, Pub. L. No. 115-391. Section 403 of the Act is titled “Clarification of Section 924(c) of Title 18, United States Code.” Section 403 amended 18 U.S.C. § 924(c)(1)(C) to impose the 25-year minimum sentence only if “a violation of this subsection [§ 924(c)] occurs after a prior conviction under this subsection has become final.” See § 403(a) (emphasis added); 18 U.S.C. § 924(c)(1)(C). Under this new language, Pryor’s two simultaneous § 924(c) convictions would not warrant a 25-year mandatory minimum consecutive sentence.

Section 403(b) of the First Step Act explains that the Act applies to “Pending Cases” for “any offense that was committed before the date of the Act, if a sentence for the offense has not been imposed as of such date of enactment.” Pub.

L. No. 115-391, § 403(b). Pryor’s crime was committed before the Act was passed in 2018. Pryor acknowledges that he was sentenced nearly three years before the Act was passed. Nevertheless, he says the First Step Act applies to his sentence. He primarily reasons that his sentence has not been “finally imposed” within the meaning of Section 403(b), because his direct appeal is still pending and his sentence has not yet been affirmed. Br. of Appellant at 9–10. The government says the First Step Act does not apply to Pryor. The government maintains that a sentence is “imposed” by the district court when it pronounces the defendant’s term of imprisonment and enters his judgment of conviction.

Our Court recently resolved this issue in United States v. Smith, ___ F.3d. ___, 2020 WL 4355560 (11th Cir. July 30, 2020). We held that “a sentence is ‘imposed’ for purposes of § 403(b) [of the First Step Act] when it is pronounced in the district court.” Id. at *12. Because Pryor’s sentence was imposed by the district court before the passage of the First Step Act, he cannot receive First Step Act relief. Therefore, we affirm his enhanced sentence under 18 U.S.C. § 924(c)(1)(C).

B.

Pryor also seeks a remand of his case for reconsideration of his career offender status in light of Amendment 798 to the Sentencing Guidelines’ career

offender provisions. See U.S.S.G. App. C, amend. 798 (Aug. 1, 2016). We conclude that Pryor is not eligible for this relief.

Amendment 798 changed the career offender provisions of the Sentencing Guidelines by removing burglary of a dwelling from Guidelines § 4B1.2(a)(2)’s enumerated offenses and eliminating § 4B1.2(a)(2)’s residual clause defining a “crime of violence.” See U.S.S.G. App. C, amend. 798. By eliminating the residual clause of § 4B1.2(a)(2), Amendment 798 responded to the Supreme Court’s ruling in Johnson, which held unconstitutional the Armed Career Criminal Act’s identically worded residual clause. See U.S.S.G. App. C, amend. 798 (citing Johnson, 135 S. Ct. at 2563).

Under Amendment 798, Pryor would no longer be considered a career offender. His career offender status was based on at least two Florida burglary convictions and one Florida conviction for resisting an officer with violence. Without the burglary convictions as enumerated offenses and without the residual clause, Pryor would have only one felony conviction to support his career offender status. See U.S.S.G. § 4B1.1(a) (requiring “at least two prior felony convictions” for career offender status).

However, Pryor cannot benefit from Amendment 798. This Court has held that Amendment 798 does not apply retroactively to defendants sentenced before it took effect. See United States v. Martin, 864 F.3d 1281, 1283 (11th Cir. 2017)

(per curiam). We are bound by this precedent unless it is overruled by this Court sitting en banc or by the Supreme Court. Smith v. GTE Corp., 236 F.3d 1292, 1300 n.8 (11th Cir. 2001). Pryor was sentenced in January 2016, and the Amendment went into effect on August 1, 2016. As a result, Amendment 798 does not change Pryor's career offender status.

Pryor asks us to follow the First Circuit's decision in United States v. Godin, 522 F.3d 133 (1st Cir. 2008) (per curiam). Godin remanded a case for resentencing so the district court could consider the persuasive effect of a non-retroactive, newly enacted amendment to the Sentencing Guidelines. Id. at 134–36. The district court in Godin did not consider this amendment at sentencing, because the amendment had not yet been proposed. See id. at 134.

Pryor's case stands in contrast to Godin. The district court in Pryor's case considered the proposed Amendment 798 and its persuasive effect on Pryor's career offender status. At sentencing, Pryor's attorney told the court, “[T]he Sentencing Commission just eliminated the residual clause from Career Offender, and that’s going to go into effect on August 1st.” Counsel explicitly asked the district court for “a variance . . . because [applying career offender status] conflicts with the Sentencing Commission.” The government conceded that “[t]here is a basis for the Court to consider a variance because of the actions of the Sentencing Commission.” After considering these arguments, the district court sentenced

Pryor as a career offender under the residual clause of Guidelines § 4B1.1. The district court relied on this Court's decision in Matchett, which held the residual clause in the career offender guideline was not unconstitutionally vague. See 802 F.3d at 1196; see also Beckles v. United States, 580 U.S. ___, 137 S. Ct. 886, 897 (2017) (affirming Matchett's holding).

The sentencing court already considered Pryor's Amendment 798 arguments and chose to sentence him as a career offender. Godin does not therefore support remand in his case. Cf. United States v. Alexander, 553 F.3d 591, 593 (7th Cir. 2009) (denying remand under Godin because the defendant had the chance to argue for a reduced sentence using a proposed guideline amendment, but he "failed to draw the sentencing judge's attention to the proposal"). We must affirm Pryor's designation as a career offender and therefore decline to remand his case.

AFFIRMED.

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

For rules and forms visit
www.ca11.uscourts.gov

August 05, 2020

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 16-10806-EE
Case Style: USA v. Matthew Pryor
District Court Docket No: 1:15-cr-20404-BB-1

This Court requires all counsel to file documents electronically using the Electronic Case Files ("ECF") system, unless exempted for good cause. Non-incarcerated pro se parties are permitted to use the ECF system by registering for an account at www.pacer.gov. Information and training materials related to electronic filing, are available at www.ca11.uscourts.gov. Enclosed is a copy of the court's decision filed today in this appeal. Judgment has this day been entered pursuant to FRAP 36. The court's mandate will issue at a later date in accordance with FRAP 41(b).

The time for filing a petition for rehearing is governed by 11th Cir. R. 40-3, and the time for filing a petition for rehearing en banc is governed by 11th Cir. R. 35-2. Except as otherwise provided by FRAP 25(a) for inmate filings, a petition for rehearing or for rehearing en banc is timely only if received in the clerk's office within the time specified in the rules. Costs are governed by FRAP 39 and 11th Cir.R. 39-1. The timing, format, and content of a motion for attorney's fees and an objection thereto is governed by 11th Cir. R. 39-2 and 39-3.

Please note that a petition for rehearing en banc must include in the Certificate of Interested Persons a complete list of all persons and entities listed on all certificates previously filed by any party in the appeal. See 11th Cir. R. 26.1-1. In addition, a copy of the opinion sought to be reheard must be included in any petition for rehearing or petition for rehearing en banc. See 11th Cir. R. 35-5(k) and 40-1 .

Counsel appointed under the Criminal Justice Act (CJA) must submit a voucher claiming compensation for time spent on the appeal no later than 60 days after either issuance of mandate or filing with the U.S. Supreme Court of a petition for writ of certiorari (whichever is later) via the eVoucher system. Please contact the CJA Team at (404) 335-6167 or cja_evoucher@ca11.uscourts.gov for questions regarding CJA vouchers or the eVoucher system.

For questions concerning the issuance of the decision of this court, please call the number referenced in the signature block below. For all other questions, please call Elora Jackson, EE at (404) 335-6173.

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Djuanna H. Clark
Phone #: 404-335-6151

OPIN-1 Ntc of Issuance of Opinion

A-2

UNITED STATES DISTRICT COURT
Southern District of Florida
Miami Division

UNITED STATES OF AMERICA**JUDGMENT IN A CRIMINAL CASE****v.**Case Number: **15-20404-CR-BLOOM-001**USM Number: **07928-104****MATTHEW LEE PRYOR**Counsel For Defendant: **Robert Berube, AFPD**Counsel For The United States: **Ignacio Vazquez, AUSA**Court Reporter: **Yvette Hernandez****The defendant pleaded guilty to counts 1, 2, 3, 4 and 5.**

The defendant is adjudicated guilty of these offenses:

<u>TITLE & SECTION</u>	<u>NATURE OF OFFENSE</u>	<u>OFFENSE ENDED</u>	<u>COUNT</u>
18 U.S.C. § 111(a)(1) and (b)	Assault on a federal officer with deadly and dangerous weapons	05/19/2015	1
18 U.S.C. § 924(c)(1)(A)(iii)	Possession of a firearm in furtherance of a crime of violence	05/19/2015	2
18 U.S.C. § 2119(1)	Carjacking	05/19/2015	3
18 U.S.C. § 924(c)(1)(A)(ii)	Possession of a firearm in furtherance of a crime of violence	05/19/2015	4
18 U.S.C. §§ 922(g)(1) and 924(e)(1)	Possession of a firearm by a convicted felon	05/19/2015	5

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

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.

Date of Imposition of Sentence: **1/26/2015**


Beth Bloom
United States District Judge

Date: January 27, 2016

DEFENDANT: **MATTHEW LEE PRYOR**
CASE NUMBER: **15-20404-CR-BLOOM-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 **600 months**. This term consists of 180 months as to each of counts 1 and 3 and 120 months as to count 5, to be served concurrently; and 120 months as to count 2 and 300 months as to count 4, both terms to run consecutively with the terms of imprisonment imposed as to counts 1, 3 and 5.

The court makes the following recommendations to the Bureau of Prisons: That the defendant be designated to a facility in the northeast part of the United States.

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

DEPUTY UNITED STATES MARSHAL

DEFENDANT: **MATTHEW LEE PRYOR**
CASE NUMBER: **15-20404-CR-BLOOM-001**

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of **5 years**. This term consists of 5 years as to counts 1-5 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 defendant shall cooperate in the collection of DNA as directed by the probation officer.

The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.

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 fifteen 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: **MATTHEW LEE PRYOR**
CASE NUMBER: **15-20404-CR-BLOOM-001**

SPECIAL CONDITIONS OF SUPERVISION

Employment Requirement - The defendant shall maintain full-time, legitimate employment and not be unemployed for a term of more than 30 days unless excused for schooling, training or other acceptable reasons. Further, the defendant shall provide documentation including, but not limited to pay stubs, contractual agreements, W-2 Wage and Earnings Statements, and other documentation requested by the U.S. Probation Officer.

Mental Health Treatment - The defendant shall participate in an approved inpatient/outpatient mental health treatment program. The defendant will contribute to the costs of services rendered (co-payment) based on ability to pay or availability of third party payment.

Permissible Search - The defendant shall submit to a search of his/her person or property conducted in a reasonable manner and at a reasonable time by the U.S. Probation Officer.

Substance Abuse Treatment - The defendant shall participate in an approved treatment program for drug and/or alcohol abuse and abide by all supplemental conditions of treatment. Participation may include inpatient/outpatient treatment. The defendant will contribute to the costs of services rendered (co-payment) based on ability to pay or availability of third party payment.

DEFENDANT: MATTHEW LEE PRYOR

CASE NUMBER: 15-20404-CR-BLOOM-001

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	\$500.00	\$0.00	\$0.00

The determination of restitution is deferred until **FRIDAY, MARCH 25, 2016 at 11:00 a.m.** in Miami, 400 North Miami Avenue, Courtroom 10-2. 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 attached list of 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>
TBD	TBD	TBD	TBD

Restitution with Imprisonment - It is further ordered that the defendant shall pay restitution in the amount of **AMOUNT DEFERRED**. During the period of incarceration, payment shall be made as follows: (1) if the defendant earns wages in a Federal Prison Industries (UNICOR) job, then the defendant must pay 50% of wages earned toward the financial obligations imposed by this Judgment in a Criminal Case; (2) if the defendant does not work in a UNICOR job, then the defendant must pay a minimum of \$25.00 per quarter toward the financial obligations imposed in this order. Upon release of incarceration, the defendant shall pay restitution at the rate of 10% of monthly gross earnings, until such time as the court may alter that payment schedule in the interests of justice. The U.S. Bureau of Prisons, U.S. Probation Office and U.S. Attorney's Office shall monitor the payment of restitution and report to the court any material change in the defendant's ability to pay. These payments do not preclude the government from using other assets or income of the defendant to satisfy the restitution obligations.

* 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.

**Assessment due immediately unless otherwise ordered by the Court.

DEFENDANT: **MATTHEW LEE PRYOR**
CASE NUMBER: **15-20404-CR-BLOOM-001**

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 \$500.00 due immediately.

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 clerk of the court.

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

This assessment/restitution is payable to the CLERK, UNITED STATES COURTS and is to be addressed to:

U.S. CLERK'S OFFICE
ATTN: FINANCIAL SECTION
400 NORTH MIAMI AVENUE, ROOM 08N09
MIAMI, FLORIDA 33128-7716

The assessment/restitution is payable immediately. The U.S. Bureau of Prisons, U.S. Probation Office and the U.S. Attorney's Office are responsible for the enforcement of this order.

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

<u>CASE NUMBER</u> <u>DEFENDANT AND CO-DEFENDANT NAMES</u> <u>(INCLUDING DEFENDANT NUMBER)</u>	<u>TOTAL AMOUNT</u>	<u>JOINT AND SEVERAL</u> <u>AMOUNT</u>
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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.

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Jun 4, 2015

STEVEN M. LARIMORE
CLERK U.S. DIST. CT.
S.D. OF FLA. - MIAMI

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
15-20404-CR-BLOOM/VALLE
CASE NO.

18 U.S.C. § 111(a)(1) and (b)
18 U.S.C. § 2119(1)
18 U.S.C. § 924(c)(1)(A)(ii) and (iii)
18 U.S.C. § 922(g)(1)
18 U.S.C. § 924(e)(1)
18 U.S.C. § 924(d)(1)
18 U.S.C. § 982(a)(5)

UNITED STATES OF AMERICA

v.

MATTHEW LEE PRYOR,

Defendant.

INDICTMENT

The Grand Jury charges that:

COUNT 1

On or about May 19, 2015, in Miami-Dade County, in the Southern District of Florida,
the defendant,

MATTHEW LEE PRYOR,

did forcibly assault, resist, oppose, impede, intimidate, and interfere with "D.B.," an officer of the United States and of an agency in a branch of the United States Government designated in Title 18, United States Code, Section 1114, that is, a Special Deputy United States Marshal, while "D.B." was engaged in and on account of the performance of his official duties, and in the commission of the offense did use a deadly and dangerous weapon, in violation of Title 18, United States Code, Sections 111(a)(1) and (b).

COUNT 2

On or about May 19, 2015, in Miami-Dade County, in the Southern District of Florida,
the defendant,

MATTHEW LEE PRYOR,

did knowingly possess a firearm in furtherance of a crime of violence, an offense for which the defendant may be prosecuted in a court of the United States, that is, a violation of Title 18, United States Code, Section 111, as charged in Count 1 of this Indictment, in violation of Title 18, United States Code, Section 924(c)(1)(A).

Pursuant to Title 18, United States Code, Section 924(c)(1)(A)(iii), it is further alleged that the firearm was discharged.

COUNT 3

On or about May 19, 2015, in Miami-Dade County, in the Southern District of Florida,
the defendant,

MATTHEW LEE PRYOR,

with the intent to cause death and serious bodily harm, did take a motor vehicle that had been transported, shipped, and received in interstate and foreign commerce, that is, a 2011 Nissan Rogue, from the person and presence of another, by force, and violence, and by intimidation, in violation of Title 18, United States Code, Section 2119(1).

COUNT 4

On or about May 19, 2015, in Miami-Dade County, in the Southern District of Florida,
the defendant,

MATTHEW LEE PRYOR,

did knowingly possess a firearm in furtherance of a crime of violence, an offense for which the

defendant may be prosecuted in a court of the United States, that is, a violation of Title 18, United States Code, Section 2119(1), as charged in Count 3 of this Indictment, in violation of Title 18, United States Code, Section 924(c)(1)(A).

Pursuant to Title 18, United States Code, Section 924(c)(1)(A)(ii), it is further alleged that the firearm was brandished.

COUNT 5

On or about May 19, 2015, in Miami-Dade County, in the Southern District of Florida, the defendant,

MATTHEW LEE PRYOR,

having been previously convicted of a crime punishable by imprisonment for a term exceeding one year, did knowingly possess a firearm and ammunition in and affecting interstate and foreign commerce, in violation of Title 18, United States Code, Sections 922(g)(1) and 924(e)(1).

FORFEITURE ALLEGATIONS

1. The allegations of this Indictment are re-alleged and by this reference fully incorporated herein for the purpose of alleging forfeiture to the United States of America of certain property in which the defendant, **MATTHEW LEE PRYOR**, has an interest.

2. Upon conviction of a violation of Title 18, United States Code, Section 2119, the defendant shall forfeit to the United States any property, real or personal, which represents or is traceable to the gross proceeds obtained, directly or indirectly, as a result of such violation, pursuant to Title 18, United States Code, Section 982(a)(5).

3. Upon conviction of a violation of Title 18, United States Code, Section 922(g)(1) or 924, or any violation of any other criminal law of the United States, the defendant shall forfeit to the United States any firearm or ammunition involved in or used in the commission of such

violation, pursuant to Title 18, United States Code, Section 924(d)(1).

All pursuant to Title 18 United States Code, Sections 924(d)(1) and 982(a)(5), and the procedures set forth in Title 21, United States Code, Section 853.

A TRUE BILL

FOREPERSON


WIFREDO A. FERRER
UNITED STATES ATTORNEY


IGNACIO J. VAZQUEZ, JR.
ASSISTANT UNITED STATES ATTORNEY

UNITED STATES OF AMERICA

CASE NO. _____

vs.

CERTIFICATE OF TRIAL ATTORNEY*

MATHEW LEE PRYOR,

Defendant.

_____ /

Superseding Case Information:

Court Division: (Select One)

X Miami Key West
 FTL WPB FTP

New Defendant(s) Yes No X
Number of New Defendants
Total number of counts

I do hereby certify that:

1. I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.
2. I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.
3. Interpreter: (Yes or No) No
List language and/or dialect _____
4. This case will take 10 days for the parties to try.
5. Please check appropriate category and type of offense listed below:

(Check only one)

- I 0 to 5 days
II 6 to 10 days
III 11 to 20 days
IV 21 to 60 days
V 61 days and over

X

(Check only one)

Petty
Minor
Misdem.
Felony X

6. Has this case been previously filed in this District Court? (Yes or No) No

If yes:
Judge:

Case No. _____

(Attach copy of dispositive order)

Has a complaint been filed in this matter? (Yes or No) Yes

If yes:

Magistrate Case No.

15-mj-2691-O'Sullivan

Related Miscellaneous numbers:

Defendant(s) in federal custody as of

Defendant(s) in state custody as of

Tennessee 5/21/2015

Rule 20 from the District of

Is this a potential death penalty case? (Yes or No) No

7. Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to October 14, 2003? Yes No X

8. Does this case originate from a matter pending in the Central Region of the U.S. Attorney's Office prior to September 1, 2007? Yes No X


IGNACIO J. VAZQUEZ, JR.
ASSISTANT UNITED STATES ATTORNEY
FLA BAR NO. 16275

*Penalty Sheet(s) attached

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: MATTHEW LEE PRYOR

Case No: _____

Count #: 1

Assault on a Federal Officer with Deadly and Dangerous Weapon

Title 18, United States Code, Section 111(a)(1) and (b)

*Max. Penalty: 20 Years' Imprisonment

Counts #: 2 and 4

Firearm Possession in Furtherance Of A Crime Of Violence

Title 18, United States Code, Section 924(c)(1)(A)(ii) and (iii)

*Max. Penalty: Life Imprisonment

Count #: 3

Carjacking

Title 18, United States Code, Section 2119(1)

*Max. Penalty: 15 Years' Imprisonment

Count #: 5

Firearm Possession by a Convicted Felon

Title 18, United States Code, Sections 922(g) and 924(e)(1)

*Max. Penalty: Life Imprisonment

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**