

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

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IN THE  
SUPREME COURT OF THE UNITED STATES

\_\_\_\_\_  
TERROL DEBAUN TRAVIS,

*Petitioner*

v.

UNITED STATES OF AMERICA

*Respondent*

\_\_\_\_\_  
On Petition for Writ of Certiorari  
to the United States Court of Appeals  
For the Fifth Circuit

\_\_\_\_\_  
PETITION FOR A WRIT OF CERTIORARI

\_\_\_\_\_  
PETITIONER'S APPENDIX

\_\_\_\_\_  
Adam Nicholson  
*Assistant Federal Public Defender*

Federal Public Defender's  
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## APPENDIX A

# United States Court of Appeals for the Fifth Circuit

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No. 20-10408  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

December 1, 2020

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

TERROL DEBAUN TRAVIS,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:19-CR-270-1

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Before HIGGINBOTHAM, JONES, and COSTA, *Circuit Judges*.

## J U D G M E N T

This cause was considered on the record on appeal and the briefs on file.

IT IS ORDERED and ADJUDGED that the judgment of the District Court is AFFIRMED.

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

December 1, 2020

Lyle W. Cayce  
Clerk

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No. 20-10408  
Summary Calendar

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UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

TERROL DEBAUN TRAVIS,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:19-CR-270-1

---

Before HIGGINBOTHAM, JONES, and COSTA, *Circuit Judges*.

PER CURIAM:\*

Terrol Debaun Travis appeals the sentence imposed after his guilty plea conviction for possession of a firearm by a felon. He maintains that the district court erred by applying the provisions of the Armed Career Criminal Act (ACCA), 18 U.S.C. § 924(e), and imposing enhanced punishment. He

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\* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

No. 20-10408

contends that, for purposes of the ACCA, his prior convictions in Texas for possession with intent to deliver a controlled substance and for aggravated assault with a deadly weapon do not constitute predicate offenses.

Travis asserts that his conviction in Texas for possession with intent to deliver a controlled substance does not qualify as a “serious drug offense” under the ACCA because the statute of conviction can be violated by an offer to sell. However, as he admits, his claim is foreclosed. *See United States v. Cain*, 877 F.3d 562, 562-563 (5th Cir. 2017); *United States v. Vickers*, 540 F.3d 356, 364-65 (5th Cir. 2008).

He also argues that his conviction in Texas for aggravated assault with a deadly weapon is not a “violent felony” under the ACCA because the crime can be committed with a mens rea of recklessness and does not require the use, attempted use, or threatened use of physical force. His challenge, as he acknowledges, is foreclosed. *See United States v. Torres*, 923 F.3d 420, 425-26 (5th Cir. 2019); *United States v. Gracia-Cantu*, 920 F.3d 252, 253-54 (5th Cir.), *cert. denied*, 140 S. Ct. 157 (2019); *United States v. Gomez Gomez*, 917 F.3d 332, 333-34 (5th Cir. 2019), *petition for cert. filed* (U.S. July 19, 2019) (No. 19-5325).

The Government has filed an unopposed motion for summary affirmance and, alternatively, requests an extension of time to file its brief. Because the issues presented on appeal are foreclosed, summary affirmance is proper. *See Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969).

Thus, the Government’s motion for summary affirmance is GRANTED, the Government’s alternative motion for an extension of time to file a brief is DENIED, and the judgment of the district court is AFFIRMED.

***United States Court of Appeals***

FIFTH CIRCUIT  
OFFICE OF THE CLERK

LYLE W. CAYCE  
CLERK

TEL. 504-310-7700  
600 S. MAESTRI PLACE,  
Suite 115  
NEW ORLEANS, LA 70130

December 01, 2020

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW

Regarding: Fifth Circuit Statement on Petitions for Rehearing  
or Rehearing En Banc

No. 20-10408 USA v. Terrol Travis  
USDC No. 4:19-CR-270-1

Enclosed is a copy of the court's decision. The court has entered judgment under Fed. R. App. P. 36. (However, the opinion may yet contain typographical or printing errors which are subject to correction.)

Fed. R. App. P. 39 through 41, and 5<sup>TH</sup> Cir. R. 35, 39, and 41 govern costs, rehearings, and mandates. **5<sup>TH</sup> Cir. R. 35 and 40 require you to attach to your petition for panel rehearing or rehearing en banc an unmarked copy of the court's opinion or order.** Please read carefully the Internal Operating Procedures (IOP's) following Fed. R. App. P. 40 and 5<sup>TH</sup> Cir. R. 35 for a discussion of when a rehearing may be appropriate, the legal standards applied and sanctions which may be imposed if you make a nonmeritorious petition for rehearing en banc.

Direct Criminal Appeals. 5<sup>TH</sup> Cir. R. 41 provides that a motion for a stay of mandate under Fed. R. App. P. 41 will not be granted simply upon request. The petition must set forth good cause for a stay or clearly demonstrate that a substantial question will be presented to the Supreme Court. Otherwise, this court may deny the motion and issue the mandate immediately.

Pro Se Cases. If you were unsuccessful in the district court and/or on appeal, and are considering filing a petition for certiorari in the United States Supreme Court, you do not need to file a motion for stay of mandate under Fed. R. App. P. 41. The issuance of the mandate does not affect the time, or your right, to file with the Supreme Court.

Court Appointed Counsel. Court appointed counsel is responsible for filing petition(s) for rehearing(s) (panel and/or en banc) and writ(s) of certiorari to the U.S. Supreme Court, unless relieved of your obligation by court order. If it is your intention to file a motion to withdraw as counsel, you should notify your client promptly, **and advise them of the time limits for filing for rehearing and certiorari.** Additionally, you MUST confirm that this information was given to your client, within the body of your motion to withdraw as counsel.

Sincerely,

LYLE W. CAYCE, Clerk

A handwritten signature in cursive script, appearing to read "Lyle W. Cayce".

By: \_\_\_\_\_

Nancy F. Dolly, Deputy Clerk

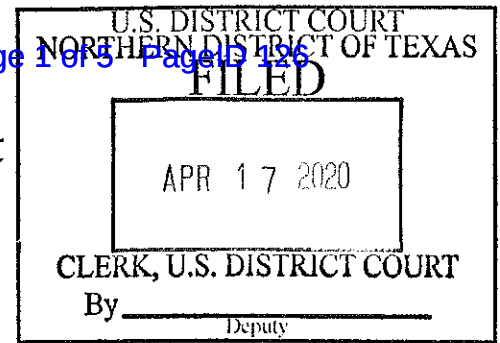
Enclosure(s)

Mr. Adam Nicholson

Ms. Leigha Amy Simonton



## APPENDIX B

**United States District Court**Northern District of Texas  
Fort Worth Division

UNITED STATES OF AMERICA §

v. §

Case Number: 4:19-CR-270-A(01)

TERROL DEBAUN TRAVIS §

**JUDGMENT IN A CRIMINAL CASE**

The government was represented by Assistant United States Attorney Michael Levi Thomas. The defendant, TERROL DEBAUN TRAVIS, was represented by Federal Public Defender through Assistant Federal Public Defender George Howard Lancaster, Jr.

The defendant pleaded guilty on November 1, 2019 to the one count Indictment filed on September 18, 2019. Accordingly, the court ORDERS that the defendant be, and is hereby, adjudged guilty of such count involving the following offense:

<u>Title &amp; Section / Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count</u>
18 U.S.C. §§ 922(g)(1), and 924(a)(2) and (e) Felon in Possession of Firearm	July 9, 2019	1

As pronounced and imposed on April 17, 2020, the defendant is sentenced as provided in this judgment.

The court ORDERS that the defendant immediately pay to the United States, through the Clerk of this Court, a special assessment of \$100.00.

The court further ORDERS that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence address, or mailing address, as set forth below, until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court, through the clerk of this court, and the Attorney General, through the United States Attorney for this district, of any material change in the defendant's economic circumstances.

**IMPRISONMENT**

The court further ORDERS that the defendant be, and is hereby, committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 262 months. This sentence shall be served consecutively to any unserved sentences in Case Nos. 1567306D, 1567309D and 1567737D in the 372<sup>nd</sup> Judicial District Court, Tarrant County, Texas, Case Nos. 0864580D; 0904227D; 0904230D; 0904226D; 0921347D in the 213<sup>th</sup> Judicial District Court, Tarrant County, Texas, and Case No. 1322926D in the Criminal District Court No. 3 of Tarrant County, Texas. This sentence shall be served concurrently with any unserved sentence imposed in Case No. 1608014D in the 372<sup>nd</sup> Judicial District Court, Tarrant County, Texas.

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

SUPERVISED RELEASE

The court further ORDERS that, upon release from imprisonment, the defendant shall be on supervised release for a term of five (5) years and that while on supervised release, the defendant shall comply with the following conditions of supervised release:

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

Standard Conditions of Supervision

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

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

The court hereby directs the probation officer to provide defendant with a written statement that sets forth all the conditions to which the term of supervised release is subject, as contemplated and required by 18 U.S.C. § 3583(f).

FINE

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

STATEMENT OF REASONS

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

Signed this the 17th day of April, 2020.



JOHN McBRYDE  
UNITED STATES DISTRICT JUDGE

RETURN

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

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

Defendant delivered on \_\_\_\_\_, 2020 to \_\_\_\_\_  
at \_\_\_\_\_, with a certified copy of this Judgment.

United States Marshal for the  
Northern District of Texas

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