

APP, A

APP, A

United States Court of Appeals
for the Fifth Circuit



No. 20-40458

A True Copy
Certified order issued Mar 12, 2021

Tyler W. Clegg
Clerk, U.S. Court of Appeals, Fifth Circuit

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

NATHANIEL HOWARD THOMAS,

Defendant—Appellant.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 4:98-CR-14-27

CLERK'S OFFICE:

Under 5TH CIR. R. 42.3, the appeal is dismissed as of March 12, 2021, for want of prosecution. The appellant failed to timely file his sufficient brief.

No. 20-40458

LYLE W. CAYCE
Clerk of the United States Court
of Appeals for the Fifth Circuit

Rebecca L. Leto

By: _____
Rebecca L. Leto, Deputy Clerk

ENTERED AT THE DIRECTION OF THE COURT

APP B

APP, B

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

January 28, 2021

#07052-078

Mr. Nathaniel Howard Thomas
1404 Parker Road, E.
Plano, TX 75074

No. 20-40458 USA v. Nathaniel Thomas
USDC No. 4:98-CR-14-27

Dear Mr. Thomas,

On January 21, 2021, this Court denied the motion to file your brief in present form and returned the deadline for filing your brief to February 1, 2021. Previously, General Order 2020-7 would extend incarcerated pro se deadlines in 30-day increments upon the expiration of the current deadline. However, General Order 2021-3 entered on January 22, 2021, rescinds the previous order.

In light of entry of General Order 2021-3, we are updating your appellant's brief deadline to February 12, 2021. However, we will no longer automatically extend your deadline. You must resolve your current deadline or seek additional time by motion. Failure to comply by the expiration of your deadline will result in the dismissal of your appeal pursuant to 5TH CIR. R. 42.3.

Sincerely,

LYLE W. CAYCE, Clerk

Rebecca L. Leto

By:

Rebecca L. Leto, Deputy Clerk
504-310-7703

cc: Ms. Terri Lynn Hagan
Mrs. Jan Mason
Ms. Heather Harris Rattan
Mr. Bradley Elliot Visosky
Ms. Ruth Weese

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

January 21, 2021

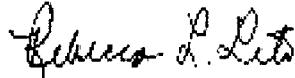
MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 20-40458 USA v. Nathaniel Thomas
USDC No. 4:98-CR-14-27

The court has taken the following action in this case: appellant's motion to file brief in present form is denied. Appellant's brief remains due on or before February 1, 2021 and must follow the requirements and format set forth in **FED. R. APP. P. 28 AND 32**.

Sincerely,

LYLE W. CAYCE, Clerk



By: _____
Rebecca L. Leto, Deputy Clerk
504-310-7703

Ms. Terri Lynn Hagan
Mr. David O'Toole
Ms. Heather Harris Rattan
Mr. Nathaniel Howard Thomas
Mr. Bradley Elliot Visosky

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

January 20, 2021

#07052-078
Mr. Nathaniel Howard Thomas
1404 Parker Road, E.
Plano, TX 75074

No. 20-40458 USA v. Nathaniel Thomas
USDC No. 4:98-CR-14-27

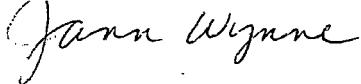
Dear Mr. Thomas,

Your motion cannot be handwritten, pursuant to **FED. R. APP. P. 32**. You must submit a sufficient motion within 10 days from the date of this letter.

Once typed, the motion must also contain a certificate of compliance, pursuant to **Fed. R. App. P. 32(g)(1) and 27(d)(2)(A)**.

Sincerely,

LYLE W. CAYCE, Clerk



By:

Jann M. Wynne, Deputy Clerk
504-310-7688

cc: Ms. Terri Lynn Hagan
Ms. Heather Harris Rattan
Mr. Bradley Elliot Visosky

APP C

APP C

United States Court of Appeals for the Fifth Circuit

ORDER General Docket No. 2021-3

General Order 2020-7 instructed the clerk's office to extend deadlines for incarcerated pro se filers in 30-day increments because procedures put in place to respond to COVID-19 by the Federal Bureau of Prisons, Louisiana Department of Public Safety & Corrections, Mississippi Department of Corrections, and the Texas Department of Criminal Justice prevented or delayed the ability of incarcerated filers to meet filing deadlines. Conditions in these facilities no longer require a blanket extension of deadlines. Accordingly, the court hereby rescinds the provision of General Order 2020-7 that directed the clerk to extend deadlines in 30-day increments. The clerk will advise incarcerated pro se filers previously granted extensions of this action and establish future deadlines in accordance with Federal Rules of Appellate Procedure or Fifth Circuit Local Rules.

All previous changes ordered in General Docket Nos. 2020-3, 2020-4, 2020-5, 2020-6 remain in effect.

Dated this 22nd day of January 2021.



PRISCILLA R. OWEN
*Chief Judge, United States Court of Appeals
for the Fifth Circuit*

United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA

v.

NATHANIEL HOWARD THOMAS

§
§
§
§
§

Criminal Action No. 4:98-CR-14
(Judge Jordan)

**MEMORANDUM ADOPTING REPORT AND
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the above-referenced criminal action, the Court having heretofore referred the request for the revocation of Defendant's supervised release to the United States Magistrate Judge for proper consideration. The Court has received the Report and Recommendation of the United States Magistrate Judge pursuant to its order. Defendant having waived allocution before the Court as well as his right to object to the report of the Magistrate Judge, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct.

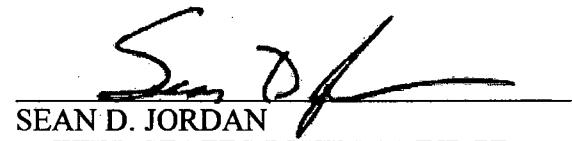
It is therefore **ORDERED** that the Report and Recommendation of United States Magistrate Judge is **ADOPTED** as the opinion of the Court.

It is further **ORDERED** that Defendant's supervised release is hereby **REVOKEOKED**.

It is further **ORDERED** that Defendant be committed to the custody of the Bureau of Prisons for a term of twelve (12) months of imprisonment, with no term of supervised release to follow.

The Court also recommends that Defendant be housed in a Bureau of Prisons facility in Fort Worth, if appropriate.

So ORDERED and SIGNED this 9th day of July, 2020.



SEAN D. JORDAN
UNITED STATES DISTRICT JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA, §
§
Plaintiff, §
v. §
§
NATHANIEL HOWARD THOMAS, §
§
Defendant. §
§
CRIMINAL ACTION NO. 4:98-CR-14

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Now before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on June 12, 2020, to determine whether Defendant violated his supervised release. Defendant was represented by Brian O'Shea. The Government was represented by Marisa Miller.

Nathaniel Howard Thomas was sentenced on October 16, 1998, before The Honorable Paul Brown of the Eastern District of Texas after being found guilty of the offenses of Conspiracy to Possess Controlled Substances with the Intent to Distribute and Conspiracy to Distribute Controlled Substances, a Class A felony; Possession with Intent to Distribute Cocaine Base and Distribution of Cocaine Base, a Class C felony; and Distribution of a Controlled Substance within 1,000 Feet of a Playground, a Class B felony. These offenses carried a statutory maximum imprisonment term of not less than 10 years imprisonment or more than Life; not more than 20 years imprisonment; and not less than 1 year or more than 40 years imprisonment, respectively. The guideline imprisonment range, based on a total offense level of 35 and a criminal history category of IV, was 235 to 293 months. Nathaniel Howard Thomas was subsequently sentenced

to 235 months followed by a 5, 3, and 6 year term of supervised release, respectively, subject to the standard conditions of release, plus special conditions to include financial disclosure, drug testing and treatment, and a \$500 special assessment. The defendant's motion for a sentence reduction was granted on August 15, 2008, and his sentence was reduced to 188 months. On November 7, 2011, Nathaniel Howard Thomas completed his period of imprisonment and began service of the supervision term. On July 3, 2013, the defendant's term of supervision was revoked, and he was sentenced to 12 months imprisonment followed by a 60-month term of supervised release. The defendant commenced the term of supervision June 17, 2015. On February 10, 2020, this case was reassigned to The Honorable Sean D. Jordan, U.S. District Judge for the Eastern District of Texas.

On September 17, 2015, the U.S. Probation Officer executed a Petition for Warrant or Summons for Offender Under Supervision [Dkt. 1380, Sealed]. The Petition asserted that Defendant violated three (3) conditions of supervision, as follows: (1) the defendant shall not commit another federal, state, or local crime; (2) the defendant shall reside in a residential reentry center or similar facility, in a prerelease component for a period of 180 days to commence immediately, and shall observe the rules of that facility. Should the defendant obtain a residence approved by the probation officer during the 180 day placement, the defendant shall be released; (3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.

The Petition alleges that Defendant committed the following acts: (1) On September 4, 2015, the defendant was unsuccessfully discharged from Volunteers of America Residential Reentry Center, Hutchins, Texas, for failing to be present at the approved address in which he submitted for leave. As a result of the discharge from placement, the defendant ceased to be a

resident of Hutchins, Texas this date; however, the defendant failed to notify Hutchins Police Department Sex Offender Registration Unit of this change of address. To date, the defendant has not informed law enforcement, via the Department of Public Safety-State of Texas Sex Offender Registry, of a current address. As such, the defendant is committing a state crime; (2) On September 4, 2015, the defendant was unsuccessfully discharged from Volunteers of America Residential Reentry Center, Hutchins, Texas, due to a rule infraction. The defendant failed to reside in a residential reentry center and observe the rules of that facility; (3) On September 8, 2015, th[e probation] officer instructed the defendant to apply for residency and remain at The Bridge Homeless Shelter, Dallas, Texas, until a stable residence could be verified and obtained. The defendant failed to successfully apply and become a resident of The Bridge Homeless Shelter as instructed by the probation officer.

Prior to the Government putting on its case, Defendant entered a plea of true to allegation 2 of the Petition. The Government dismissed allegations 1 and 3. Having considered the Petition and the plea of true to allegation 2, the Court finds that Defendant did violate his conditions of supervised release.

Defendant waived his right to allocute before the District Judge and his right to object to the report and recommendation of this Court.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant's supervised release be revoked and that he be committed to the custody of the Bureau of Prisons to be imprisoned for a term of twelve (12) months of imprisonment, with no term of supervised release to follow.

The Court also recommends that Defendant be housed in a Bureau of Prisons facility in Fort Worth, if appropriate.

SIGNED this 7th day of July, 2020.



Christine A. Nowak
UNITED STATES MAGISTRATE JUDGE