

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

NYAMBUI JOE GIPSON,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

APPENDIX

/s/ Christopher A. Curtis

JASON HAWKINS
Federal Public Defender
Northern District of Texas
TX State Bar No. 00759763
525 Griffin Street, Suite 629
Dallas, TX 75202
(214) 767-2746
(214) 767-2886 Fax

Christopher A. Curtis **
Assistant Federal Public Defender
Northern District of Texas
TX State Bar No. 05270900
819 Taylor Street, Room 9A10
Fort Worth, TX 76102
(817) 978-2753
(817) 978-2753

INDEX TO APPENDICES

Appendix A Order of Fifth Circuit, CA No. 20-11208, dated June 22, 2021,
United States v. Gipson.

Appendix B Judgment and Sentence of the United States District
Court for the Northern District of Texas, entered November 19, 2020.
United States v. Gipson, Dist. Court 4:20-CR-00142-P.

APPENDIX A

United States Court of Appeals
for the Fifth Circuit

No. 20-11208

United States Court of Appeals
Fifth Circuit

FILED
June 22, 2021

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

NYAMBUI JOE GIPSON,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:20-CR-142-1

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

PER CURIAM:

IT IS ORDERED that Appellee's opposed motion to dismiss the appeal is GRANTED.

IT IS FURTHER ORDERED that Appellee's alternative motion to extend time to file brief of Appellee for thirty (30) days from the denial of motion to dismiss appeal is DENIED as moot.

APPENDIX B

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF TEXAS

Fort Worth Division

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

v.

NYAMBUI JOE GIPSON

Case Number: 4:20-CR-00142-P(01)

U.S. Marshal's No.: 60509-177

Aisha Saleem for Nancy Larson,

Assistant U.S. Attorney

John Stickney, Attorney for the Defendant

On July 29, 2020 the defendant, NYAMBUI JOE GIPSON, entered a plea of guilty as to Count One of the Indictment filed on June 17, 2020. Accordingly, the defendant is adjudged guilty of such Count, which involves the following offense:

Title & Section

18 U.S.C. §§ 922(g)(1) and 924(a)(2)

Nature of Offense

Possession of a Firearm by a Convicted Felon

Offense Ended

12/16/2019

Count

One

The defendant is sentenced as provided in pages 2 through 5 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.

The defendant shall pay immediately a special assessment of \$100.00 as to Count One of the Indictment filed on June 17, 2020.

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.

Sentence imposed November 19, 2020.



MARK T. PITTMAN
U.S. DISTRICT JUDGE

Signed November 20, 2020.

Judgment in a Criminal Case
Defendant: NYAMBUI JOE GIPSON
Case Number: 4:20-CR-00142-P(1)

Page 2 of 5

IMPRISONMENT

The defendant, NYAMBUI JOE GIPSON, is hereby committed to the custody of the Federal Bureau of Prisons (BOP) to be imprisoned for a term of **Ninety-Six (96) months** as to Count One of the Indictment filed on June 17, 2020. This sentence shall run concurrently with any future sentence which may be imposed in Case No. 1624279D, 372nd Judicial District Court, Tarrant County, which is related to the instant offense; and consecutive to Case Nos. 1624252, Tarrant County Criminal Court No. 9; 1624283D, 372nd Judicial District Court, Tarrant County, and a parole revocation pending in Case No. F-1214150-I, Criminal District Court 2 of Dallas County, which are not related to the instant offense.

The Court recommends to the Bureau of Prisons that the defendant be given credit for time served since his incarceration on December 16, 2019, that he be allowed to participate in the Residential Drug Treatment Program, if eligible, as well as any Vocational Training including, but not limited to, automobile mechanics and CDL certification. The Court further recommends to the BOP that the defendant be housed at a facility as close to Fort Worth, Texas, 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 (3) years** as to Count One of the Indictment filed on June 17, 2020.

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

- 1) The defendant shall report to the probation office in the federal judicial district where he or she is authorized to reside within 72 hours of release from imprisonment, unless the probation officer instructs the defendant to report to a different probation office or within a different time frame;
- 2) After initially reporting to the probation office, the defendant will receive instructions from the court or the probation officer about how and when to report to the probation officer, and the defendant shall report to the probation officer as instructed;
- 3) The defendant shall not knowingly leave the federal judicial district where he or she is authorized to reside without first getting permission from the court or the probation officer;
- 4) The defendant shall answer truthfully the questions asked by the probation officer;
- 5) The defendant shall live at a place approved by the probation officer. If the defendant plans to change where he or she lives or anything about his or her living arrangements (such as the people the defendant lives with), the defendant shall notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, the defendant shall notify the probation officer within 72 hours of becoming aware of a change or expected change;

Judgment in a Criminal Case

Page 3 of 5

Defendant: NYAMBUI JOE GIPSON

Case Number: 4:20-CR-00142-P(1)

- 6) The defendant shall allow the probation officer to visit the defendant at any time at his or her home or elsewhere, and the defendant shall permit the probation officer to take any items prohibited by the conditions of the defendant's supervision that he or she observed in plain view;
- 7) The defendant shall work full time (at least 30 hours per week) at a lawful type of employment, unless the probation excuses the defendant from doing so. If the defendant does not have full-time employment, he or she shall try to find full-time employment, unless the probation officer excuses the defendant from doing so. If the defendant plans to change where the defendant works or anything about his or her employment (such as the position or the job responsibilities), the defendant shall notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, the defendant shall notify the probation officer within 72 hours of becoming aware of a change or expected change;
- 8) The defendant shall not communicate or interact with someone the defendant knows is engaged in criminal activity. If the defendant knows someone has been convicted of a felony, the defendant shall not knowingly communicate or interact with that person without first getting the permission of the probation officer;
- 9) If the defendant is arrested or questioned by a law enforcement officer, the defendant shall notify the probation officer within 72 hours;
- 10) The defendant shall not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed , or was modified for, the specific purpose of causing bodily injury or death to another person, such as nunchakus or tasers);
- 11) The defendant shall not act or make an agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court;
- 12) If the probation officer determines that the defendant poses a risk to another person (including an organization), the probation officer may require the defendant to notify the person about the risk and the defendant shall comply with that instruction. The probation officer may contact the person and confirm that the defendant has notified the person about the risk; and,
- 13) The defendant shall follow the instructions of the probation officer related to the conditions of supervision.

In addition the defendant shall:

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 U.S. probation officer;

Judgment in a Criminal Case

Page 4 of 5

Defendant: NYAMBUI JOE GIPSON

Case Number: 4:20-CR-00142-P(1)

refrain from any unlawful use of a controlled substance. You must 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;

participate in an approved program for domestic violence;

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 an outpatient 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.

FORFEITURE

Pursuant to 18 U.S.C. §982(a)(1) and 28 U.S.C. § 2461(c), it is hereby ordered that the defendant's interest in the following property is condemned and forfeited to the United States: a Smith & Wesson, model SD40VE, .40-caliber pistol, bearing Serial No. FY4200, and all ammunition found with the firearm.

Judgment in a Criminal Case
Defendant: NYAMBUI JOE GIPSON
Case Number: 4:20-CR-00142-P(1)

Page 5 of 5

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