

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

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IN THE  
SUPREME COURT OF THE UNITED STATES

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GARLAND GUILLORY,  
*Petitioner,*  
v.

UNITED STATES OF AMERICA,  
*Respondent.*

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

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APPENDIX

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA CRIMINAL ACTION  
VERSUS NO. 17-242  
GARLAND GUILLORY SECTION "S"

TRANSCRIPT OF THE SENTENCING  
HELD ON JANUARY 21, 2021, BEFORE  
THE HONORABLE MARY ANN VIAL LEMMON,  
UNITED STATES JUDGE

## APPEARANCES:

For the Government: ANDRE' JONES, ESQ.  
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New Orleans, LA 70130

For the Defendant: JERROD THOMPSON-HICKS, ESQ.  
Federal Public Defender  
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New Orleans, LA 70130

Reported By: Sandra T. Minutillo, CCR  
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(504) 589-7781

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1 THE COURT: Due to extenuating  
2 circumstances caused by the COVID-19 pandemic, we're  
3 conducting this sentencing via video conference. I  
4 would like to first establish that both the defendant  
5 and his counsel are connected and we can all hear  
6 these proceedings and that they waive personal  
7 appearance for sentencing.

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: And counsel for Mr. Guillory?

13 MR. THOMPSON-HICKS: Yes, your Honor. I  
14 discussed with Mr. Guillory his right to be present.  
15 Due to the extenuating circumstances, he indicated he  
16 wishes to waive his personal appearance.

24 Is there any reason why sentence should  
25 not be imposed at this time?

1 MR. JONES: No reason from the  
2 government.

3 MR. THOMPSON-HICKS: No reason on behalf  
4 of the defendant.

5 THE COURT: okay. The presentence  
6 investigation report has been prepared pursuant to  
7 Rule 32 of the Federal Rules of Criminal Procedure and  
8 I've read it and considered it and I've allowed  
9 comment by the defendant and his counsel and the  
10 government.

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: And have you had the  
15 opportunity to discuss it with your attorney?

16 THE DEFENDANT: Yes, ma'am.

22 There being no objections to the probation  
23 officer's recommended finding of facts, I adopt the  
24 recommended finding of facts contained in the  
25 presentence investigation report.

1                   After consulting the guidelines, I find that  
2 the applicable guideline ranges are as follows:

3                   A total offense level of 31; a criminal history  
4 category of six indicating 188 to 235 months  
5 imprisonment; at least four years of supervised  
6 release; a 30-thousand to five-million-dollar fine for  
7 cost of imprisonment and supervision; and a hundred  
8 dollars special assessment fee.

9                   I understand that you are seeking a downward  
10 variance based on the fact that your offense level and  
11 your corresponding guideline range have been enhanced  
12 by your status as a career offender.

13                   You contend that prior criminal convictions are  
14 eight and 20 years old and stem in part from your drug  
15 addiction.

16                   Is there anything else that you wish to say on  
17 this issue?

18                   MR. THOMPSON-HICKS: Well, your Honor. I  
19 would make the point that in implementing the career  
20 offender's statute and enhancement, my -- I'm sorry.  
21 I'm having a hard time. There's some other sound  
22 coming in.

23                   In reviewed the case law and the  
24 legislative history, it indicates clearly that a  
25 defendant like Mr. Guillory has who no history of

1 violence, none of his convictions involve firearms in  
2 any case or this case, it was not necessarily intended  
3 for a career offender and that's reflected in the  
4 sentencing across the country.

5 A sentence below the guidelines for a  
6 defendant like Mr. Guillory is well within the  
7 standard of sentencing.

8 THE COURT: Does the government have  
9 anything to say?

10 MR. JONES: Just very briefly, your  
11 Honor. Obviously there is a sentencing -- There is a  
12 career offender enhancement in the guidelines for a  
13 reason and I believe that Mr. Guillory obviously fits  
14 the category of criteria for that career offender  
15 provision.

16 He does have the requisite prior  
17 offenses. I would also note that the instant offense  
18 for which he's being sentenced today is really a  
19 continuation of that criminal history. He had a  
20 history of parole revocations indicating that his  
21 offenses were continuously committed while on parole  
22 or probation for a previous offense and this is a  
23 continuation of that, your Honor.

24 So I think that, if there is any reason  
25 or example for a career offender, this would be one.

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THE COURT: Thank you. Does the defendant have anything to day?

THE DEFENDANT: No, ma'am.

THE COURT: Thank you.

In considering 3553 in imposing sentence, I'm required to consider the nature and the circumstances of this offense and the history and characteristics of this defendant in order to impose a sentence that is sufficient, but not greater than necessary to reflect the seriousness of the offense, to promote respect for the law, to provide just punishment, to provide adequate deterrence to criminal conduct, to protect the public from further crimes of the defendant and to provide the defendant with the needed educational or vocational training, medical care, or other correctional treatment.

I find that in this case that the sentencing range prescribed by the guidelines meets these goals; therefore, a downward variance is not warranted.

Mr. Guillory, do you have anything to say in mitigation before I impose sentence?

THE DEFENDANT: No, ma'am.

THE COURT: Does counsel have anything to say?

1 MR. THOMPSON-HICKS: Well, your Honor,  
2 I'll note my objection to the Court for not honoring  
3 my motion for downward variance.

11 THE COURT: Thank you. Does the  
12 government have anything further to say?

13 MR. JONES: No, your Honor.

14 THE COURT: Pursuant to the Sentencing  
15 Reform Act of 1984, taking the guidelines into account  
16 and finding them to be appropriate as they apply to  
17 this case and considering the provisions of 3553, it's  
18 the judgment of this Court that the defendant be  
19 hereby committed to the custody of the United States  
20 Bureau of Prisons for a term of 188 months.

21 As required by 3353.1, I specifically  
22 find that a sentence of 188 months reflects the  
23 seriousness of the offense, protects the public from  
24 further crimes that you may commit and promotes  
25 respect for the law.

1                   It is the finding of this Court that you  
2 are unable to pay a fine, so I will not impose a fine.

3                   Upon release from imprisonment, you shall  
4 be placed on supervised release for a term of five  
5 years. Within 72 hours of release from the Bureau of  
6 Prisons, you shall report in person to the probation  
7 office in the district to which you are released.

8                   While on supervised release, you should  
9 not commit any Federal, state, or local crimes and you  
10 shall be prohibited from possessing a firearm,  
11 ammunition, destructive device, or any other dangerous  
12 weapon.

13                  You shall not possess a controlled  
14 substance. You shall cooperate in the collection of a  
15 DNA sample and you shall comply with all the other  
16 standard conditions of supervised release, including  
17 the following special conditions:

18                  Based on your history of substance abuse,  
19 the drug abuse treatment and/or testing condition.

20                  Based on your lack of education and  
21 training, to be equipped for more suitable employment,  
22 you shall complete a high school equivalency exam.

23                  Whoever has a dog, please mute your  
24 button.

25                  To assist the defendant with pro-social

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1 decision-making skills, you shall participate in an  
2 approved cognitive behavioral therapeutic treatment  
3 program and you shall abide by all supplemental  
4 conditions of treatment. You shall contribute to the  
5 cost of this program to the extent that you're deemed  
6 capable by the probation officer.

7                   Based on the nature of the offense and  
8 the defendant's criminal history, you shall submit  
9 your person, residence, office, or vehicle to a search  
10 conducted by a probation officer at a reasonable time  
11 in a reasonable manner based upon reasonable suspicion  
12 that contraband or evidence of a violation of a  
13 condition of supervision may exist.

14                   Failure to submit to a search may be  
15 grounds for revocation. You shall warn any other  
16 residents of the premises that they may be subject to  
17 searches pursuant to this condition.

18                   Also, you are to pay the United States a  
19 special assessment fee of one hundred dollars.

20                   I have considered the guideline range and  
21 find it to be appropriate in this case. The guideline  
22 range exceeds 24 months and I find no reason to depart  
23 from the guidelines.

24                   In your plea agreement, you waived your  
25 right to appeal except under limited circumstances.

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1 You should consult with your attorney about the nature  
2 and extent of an appeal.

3 Under Rule Four of the Federal Rules of  
4 Appellate Procedure, you have ten days after the entry  
5 of either the judgment or the order being appealed or  
6 the filing of the government's notice of appeal. I  
7 also advise you that, if you are unable to pay your  
8 appellate costs, you have the right to ask to proceed  
9 on appeal without payment of costs.

10 At this time I'll remand you to the  
11 custody of the United States Marshal and wish you good  
12 luck. Thank you.

13 \* \* \* \* \*

14 C E R T I F I C A T E

15  
16 I, Sandra T. Minutillo, hereby certify this 22nd  
17 day of February, 2021, that the foregoing transcript  
18 is a true and correct transcript to the best of my  
19 understanding of the proceeding in Criminal Matter  
20 17-242, *United States versus Garland Guillory*, before  
21 the Honorable Mary Ann Vial Lemmon, Judge for United  
22 States District Court for the Eastern District of  
23 Louisiana.

24 /s/ Sandra T. Minutillo

25 

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SANDRA T. MINUTILLO, CCR  
Official U.S. Court Reporter

OFFICIAL TRANSCRIPT

# United States Court of Appeals for the Fifth Circuit



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No. 21-30050

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A True Copy  
Certified order issued Jun 21, 2021

*Tyke W. Cayce*

Clerk, U.S. Court of Appeals, Fifth Circuit

UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

GARLAND GUILLORY,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Eastern District of Louisiana  
USDC No. 2:17-CR-242-1

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Before DENNIS, SOUTHWICK, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:

IT IS ORDERED that Appellant's unopposed motion for summary  
affirmance is GRANTED.