

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

GARLAND GUILLORY,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

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

APPENDIX

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1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF LOUISIANA

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

6
7 TRANSCRIPT OF THE SENTENCING
8 HELD ON JANUARY 21, 2021, BEFORE
9 THE HONORABLE MARY ANN VIAL LEMMON,
10 UNITED STATES JUDGE

11 APPEARANCES:

12
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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.

8 Have you executed the waiver form
9 provided to you and do you waive physical presence,
10 Mr. Guillory?

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.

17 THE COURT: This sentencing has been
18 continued five times since it was originally set to
19 take place nine months ago. I find that sentencing in
20 this case cannot be further delayed without serious
21 harm to the interest of justice and I accept the
22 defendant's waiver of personal appearance and the
23 sentencing will go forward by video.

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.

11 Mr. Guillory, have you received a copy of
12 the presentence investigation report?

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.

17 THE COURT: Okay. Neither the defendant
18 nor the government has filed an objection to the
19 presentence report, but I have received a motion for
20 downward variance from the defendant and I'll take
21 that up shortly.

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.

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

3 THE DEFENDANT: No, ma'am.

4 THE COURT: Thank you.

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

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

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

23 THE DEFENDANT: No, ma'am.

24 THE COURT: Does counsel have anything to
25 say?

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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.

4 Mr. Guillory will be able to receive some
5 drug treatment in BOP. He does have a supportive
6 family when he returns home.

7 The sentence of 15 years is significantly
8 beyond any sentence that he's ever served and so I
9 would, again, reurge that motion and ask the Court to
10 consider a lower sentence.

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.

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

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United States Court of Appeals
for the Fifth Circuit

No. 21-30050



A True Copy
Certified order issued Jun 21, 2021

Lyfe W. Cayce
Clerk, U.S. Court of Appeals, Fifth Circuit

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

GARLAND GUILLORY,

Defendant—Appellant.

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

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

PER CURIAM:

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