

Appendix A

**United States Court of Appeals
for the Fifth Circuit**

United States Court of Appeals
Fifth Circuit

FILED

June 21, 2021

Lyle W. Cayce
Clerk

No. 20-11112
Summary Calendar

UNITED STATES OF AMERICA,

- 0000 0000

versus

ROBERT EARL RAMSEUR,

! 0000 0000

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:19-CR-89-1

Before WIENER, SOUTHWICK, and DUNCAN, Circuit Judges.

PER CURIAM:*

Robert Earl Ramseur appeals from the sentence imposed following his bench trial conviction for failure to surrender for service of sentence and being a felon in possession of a firearm. The district court sentenced

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.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. 20-11112

Ramseur to a below-guidelines term of 44 months of imprisonment and 3 years of supervised release.

Ramseur first argues that the district court erred by increasing his sentence under U.S.S.G. § 3C1.1 for obstruction of justice without a specific finding that his presentation of false testimony was willful. Because Ramsey did not object to the obstruction adjustment on the same ground he now raises on appeal, we will review this issue for plain error only. See *United States v. Huerta*, 182 F.3d 361, 366 (5th Cir. 1999).

We have held there is a “requirement that the district court find that the defendant ‘willfully’ obstructed or attempted to obstruct justice.” *United States v. Greer*, 158 F.3d 228, 239 (5th Cir. 1998). In this case, the district court found that Ramsey’s testimony at his bench trial was not credible and that he “did not tell [the] truth in his testimony.” Moreover, the presentence report (“PSR”) contained more specific findings, which the district court adopted in its statement of reasons, that Ramsey committed perjury and willfully obstructed justice. We have held that a district court’s adoption of the PSR’s adequate findings may support an obstruction adjustment. See *United States v. Perez-Solis*, 709 F.3d 453, 469–71 (5th Cir. 2013). In any event, Ramsey cannot show reversible error based solely on the lack of a specific finding by the district court regarding willfulness. See *Huerta*, 182 F.3d at 366.

Ramsey next challenges a special condition for supervised release that the district court imposed. That condition states: “The defendant shall not incur new credit charges or open additional lines of credit without approval of the probation officer unless the probation officer makes a determination that the defendant has fully satisfied the restitution obligation in Case No. 3:16-CR-065-N.” The case referenced in this condition involves Ramsey’s prior convictions for willfully assisting the preparation of false

No. 20-11112

income tax returns. See *United States v. Ramseur*, 830 F. App'x 737, 737 (5th Cir. 2020).

For the first time on appeal, Ramseur challenges this condition on the ground that the district court overstepped its bounds by imposing a condition that is contingent on the repayment of restitution in a separate case. Because he did not object on this basis when he had the opportunity to do so at sentencing, we review this challenge for plain error only. See *United States v. Diggles*, 957 F.3d 551, 559–60 (5th Cir.) (en banc), cert. denied, 141 S. Ct. 825 (2020). The Government acknowledges that the district court's imposition of this condition in reference to another case is not specifically countenanced in U.S.S.G. § 5D1.3(d)(2) (policy statement), but it correctly argues that Ramseur has failed to show reversible error in this regard. Ramseur's lack of authority supporting his challenge fails to establish clear or obvious error. See *United States v. Segura*, 747 F.3d 323, 330 (5th Cir. 2014). Moreover, because Ramseur is subject to this condition in his amended judgment for preparing false tax returns, he cannot show that the imposition of this condition in the instant case affected his substantial rights or merits the exercise of this court's discretion. See *Puckett v. United States*, 556 U.S. 129, 135 (2009).

The district court's judgment 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

June 21, 2021

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW

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

No. 20-11112 USA v. Ramsey
USDC No. 3:19-CR-89-1

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 **5TH CIR. R. 35**, **39**, and **41** govern costs, rehearings, and mandates. **5TH 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 **5TH 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. **5TH 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

Christina Rachal

By: _____
Christina C. Rachal, Deputy Clerk

Enclosure(s)

Mr. Stephen S. Gilstrap
Mr. Starling Marshall McCallum
Ms. Leigha Amy Simonton

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

DALLAS DIVISION

ORIGINAL

UNITED STATES OF AMERICA	
VS	
ROBERT EARL RAMSEUR	3:19-CR-89-M(001)

ORDER SETTING TERMS OF SUPERVISED RELEASE

It is hereby ORDERED that the above-named defendant, while on a term of supervised release, comply with the mandatory and standard conditions recommended by the U.S. Sentencing Commission in U.S. Sentencing Guidelines § 5D1.3(a) and 5D1.3(c), as well as the following special conditions, all of which are incorporated herein by reference:

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must 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, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must 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, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.

8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must 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. You must not act or make any 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 you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.
14. The defendant must not commit another federal, state or local crime.
15. The defendant must not unlawfully possess a controlled substance.
16. The defendant must cooperate in the collection of DNA as directed by the probation officer.
17. The mandatory drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse.
18. The defendant shall not incur new credit charges or open additional lines of credit without approval of the probation officer unless the probation officer makes a determination that the defendant has fully satisfied the restitution obligation in Case No. 3:16-CR-065-N.
19. The defendant shall pay any remaining balance of restitution as set out in the Judgment filed in 3:16-CR-065-N.
20. The defendant shall provide to the probation officer complete access to all business and personal financial information.
21. The defendant shall participate in mental health treatment services as directed by the probation officer until successfully discharged. These services may include medications


Robert Earl Ramseur
Page 3

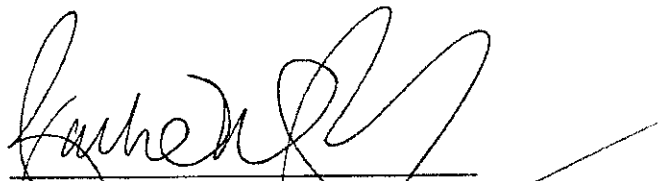
prescribed by a licensed physician. The defendant shall contribute to the costs of services rendered (copayment) at a rate of at least \$25 per month.

Defendant

Signed

Date

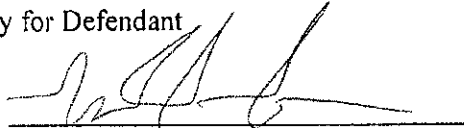

10/27/20


BARBARA M. G. LYNN
CHIEF JUDGE

Attorney for Defendant

Signed

Date


10-27-2020

Date Conditions Imposed: 10/27/20

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

UNITED STATES OF AMERICA

v.

ROBERT EARL RAMSEUR
Defendant.

§ **JUDGMENT IN A CRIMINAL CASE**

§

§

§ Case Number: **3:19-CR-00089-M(1)**§ USM Number: **53900-177**§ **Starling Marshall McCallum**

§ Defendant's Attorney

THE DEFENDANT:

<input type="checkbox"/>	pleaded guilty to count(s)	
<input type="checkbox"/>	pleaded guilty to count(s) before a U.S. Magistrate Judge, which was accepted by the court.	
<input type="checkbox"/>	pleaded nolo contendere to count(s) which was accepted by the court	
<input checked="" type="checkbox"/>	was found guilty on count(s) after a plea of not guilty	Counts 1 and 2 of the Superseding Indictment, filed August 28, 2019.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section / Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 USC § 3146(a)(2), (b)(1)(A)(i) and 3147(1) Failure to Surrender for Service of Sentence and Committing an Offenses on Release	01/25/2019	1s
18 USC § 922(g)(1), 924(a)(2) and 3147(1) Felon in Possession of Firearm and Committing an Offense on Release	01/25/2019	2s

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- ☐ The defendant has been found not guilty on count(s)
- ☒ **The original Indictment is dismissed on the motion of the United States.**

It is ordered that the defendant must notify the United States attorney for this district within 30 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. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

October 27, 2020

Date of Imposition of Judgment

Signature of Judge

BARBARA M. G. LYNN
CHIEF UNITED STATES DISTRICT JUDGE

Name and Title of Judge

November 2, 2020

Date

DEFENDANT: ROBERT EARL RAMSEUR
CASE NUMBER: 3:19-CR-00089-M(1)

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

TWENTY (20) MONTHS on Count 1s, TWENTY (20) MONTHS on Count 2s to run consecutively, and a FOUR (4) MONTH penalty enhancement to run consecutively, for a total aggregate sentence of FORTY-FOUR (44) MONTHS.

This sentence shall run consecutive to the 25-day term of imprisonment sentenced in Case No. 004-88899-2015, in Collin County Court at Law No. 4, and the 64-month term of imprisonment sentenced in Case No. 3:16-CR-065-N, U.S. District Court for the Northern District of Texas, Dallas Division.

- ☒ The court makes the following recommendations to the Bureau of Prisons:
The Court recommends that the defendant be allowed to serve his sentence in the Fort Worth area.
The Court recommends that the defendant receive mental health treatment while incarcerated.

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

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at ☐ a.m. ☐ p.m. on

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

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 UNITED STATES MARSHAL

DEFENDANT: ROBERT EARL RAMSEUR
CASE NUMBER: 3:19-CR-00089-M(1)

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: **ONE (1) YEAR as to Count 1s and THREE (3) YEARS as to Count 2s, to run concurrently.**

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall 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.

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must 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.
 - ☒ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. ☐ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. ☒ You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. ☐ You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

DEFENDANT: ROBERT EARL RAMSEUR
CASE NUMBER: 3:19-CR-00089-M(1)

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must 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, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must 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, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must 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. You must not act or make any 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 you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature _____

Date _____

DEFENDANT: ROBERT EARL RAMSEUR
CASE NUMBER: 3:19-CR-00089-M(1)

SPECIAL CONDITIONS OF SUPERVISION

The defendant shall not incur new credit charges or open additional lines of credit without approval of the probation officer unless the probation officer makes a determination that the defendant has fully satisfied the restitution obligation in Case No. 3:16-CR-065-N.

The defendant shall pay any remaining balance of restitution as set out in the Judgment filed in 3:16-CR-065-N.

The defendant shall provide to the probation officer complete access to all business and personal financial information.

The defendant shall participate in mental health treatment services as directed by the probation officer until successfully discharged. These services may include medications prescribed by a licensed physician. The defendant shall contribute to the costs of services rendered (copayment) at a rate of at least \$25 per month.

DEFENDANT: ROBERT EARL RAMSEUR
 CASE NUMBER: 3:19-CR-00089-M(1)

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the Schedule of Payments page.

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
TOTALS	\$200.00	\$.00	\$.00	\$.00	\$.00

- ☐ The determination of restitution is deferred until *An Amended Judgment in a Criminal Case (AO245C)* will be entered after such determination.
- ☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

- ☐ Restitution amount ordered pursuant to plea agreement \$
- ☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the Schedule of Payments page may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- ☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:
- | | | |
|---|-------------------------------|--|
| <input type="checkbox"/> the interest requirement is waived for the | <input type="checkbox"/> fine | <input type="checkbox"/> restitution |
| <input type="checkbox"/> the interest requirement for the | <input type="checkbox"/> fine | <input type="checkbox"/> restitution is modified as follows: |

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.

** Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22

*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: ROBERT EARL RAMSEUR
CASE NUMBER: 3:19-CR-00089-M(1)

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A ☐ Lump sum payments of \$ _____ due immediately, balance due
☐ not later than _____, or
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal 20 (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:
It is ordered that the Defendant shall pay to the United States a special assessment of \$200.00 for Counts 1s and 2s, which shall be paid immediately. Said special assessment shall be paid to the Clerk, U.S. District Court.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- ☐ Joint and Several
See above for Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.
- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTA assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

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

July 13, 2021

Ms. Karen S. Mitchell
Northern District of Texas, Dallas
United States District Court
1100 Commerce Street
Earle Cabell Federal Building
Room 1452
Dallas, TX 75242

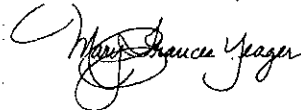
No. 20-11112 USA v. Ramseur
 USDC No. 3:19-CR-89-1

Dear Ms. Mitchell,

Enclosed is a copy of the judgment issued as the mandate and a copy of the court's opinion.

Sincerely,

LYLE W. CAYCE, Clerk



By:
Mary Frances Yeager, Deputy Clerk
504-310-7686

cc: Mr. Stephen S. Gilstrap
Mr. Robert Earl Ramseur
Ms. Leigha Amy Simonton

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

August 10, 2021

#53900-177
Mr. Robert Earl Ramseur
FCI Texarkana
4001 Leopard Drive, P.O. Box 7000
Texarkana, TX 75505-0000

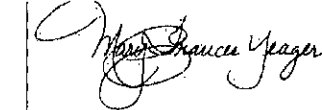
No. 20-11112 USA v. Ramseur
USDC No. 3:19-CR-89-1

Dear Mr. Ramseur,

In response to your letter dated August 1, 2021, please be advised that per FRAP 40.4 Time for Filing: The clerk must **receive** a petition for rehearing within the time prescribed in FED. R. APP. P. 40(a). Mail time is not allowed for a rehearing. Therefore, the rehearing was untimely.

Sincerely,

LYLE W. CAYCE, Clerk



By: _____
Mary Frances Yeager, Deputy Clerk
504-310-7686

cc: Mr. Stephen S. Gilstrap
Ms. Leigha Amy Simonton

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

UNITED STATES OF AMERICA)

vs.)

) PRESENTENCE INVESTIGATION REPORT

) Docket No.: 0539 3:19-CR-089-M(01)

ROBERT EARL RAMSEUR)

Prepared for: The Honorable Barbara M. G. Lynn
Chief U.S. District Judge

Prepared by: Angela French
U.S. Probation Officer
Fort Worth, TX
817-900-1862
angela_french@txnp.uscourts.gov

Assistant U.S. Attorney
Christopher Stokes
1100 Commerce Street, 3rd Floor
Dallas, TX 75242
214-659-8676
christopher.stokes@usdoj.gov

Defense Counsel (Appointed)
Starling Marshall McCallum
3838 Oak Lawn Avenue, Suite 1124
Dallas, TX 75219
214-871-2719
m.mccallum@sbcglobal.net

Sentence Date: April 15, 2020

Offense: **Count 1 of the two-count Superseding Indictment:** Failure to Surrender for Service of Sentence and Committing an Offense on Release, 18 U.S.C. §§ 3146(a)(2) & (b)(1)(A)(iii) & 3147(1), Not more than 2 years imprisonment, \$250,000 fine, a Class E felony.

Count 2 of the two-count Superseding Indictment: Felon in Possession of Firearm, 18 U.S.C. §§ 922(g)(1), 924(a)(2) & 3147(1), Not more than 10 years imprisonment, \$250,000 fine, a Class C felony.

There are no remaining counts of the Superseding Indictment to be dismissed. At sentencing, the government will move to dismiss the Indictment.

Date Offense Concluded: January 25, 2019

Release Status: Arrested by deputies with the U.S. Marshals Service on January 25, 2019; detained.

Detainers: Collin County, Texas, Sheriff's Office

Date Report Prepared: February 6, 2020

1 any other receipt of money shall be paid toward the unpaid
2 balance within 15 days of receipt.

3 And I will waive interest on the unpaid balance.

4 The supervised release shall be conditioned on the
5 standard conditions provided by the Sentencing Commission as
6 well as the following additional conditions:

7 1. The defendant shall not commit another federal,
8 state, or local crime.

9 2. The defendant shall not unlawfully possess a
10 controlled substance.

11 3. The defendant shall cooperate in the collection of
12 DNA.

13 4. The defendant shall refrain from any unlawful use of
14 a controlled substance. The defendant shall submit to one
15 drug test within 15 days of release and at least two periodic
16 drug tests thereafter.

17 5. The defendant shall not employed in any fiduciary
18 capacity or any position allowing access to credit or
19 personal financial information of others, unless the
20 defendant's employer is fully aware of the offense of
21 conviction and with the approval of the probation officer.

22 6. The defendant shall not be employed by, affiliated
23 with, own or control or otherwise participate, directly or
24 indirectly in the business of tax preparation or insurance
25 without the probation officer's approval.

1 7. The defendant shall not enter into any
2 self-employment while under supervision without the prior
3 approval of the probation officer.

4 8. The defendant shall not incur new credit charges or
5 open additional lines of credit without approval of the
6 probation officer, unless the probation officer makes a
7 determination that the defendant has satisfied the
8 restitution obligation.

9 9. The defendant shall not maintain more than one
10 business or one personal checking account and shall not open,
11 maintain, or be a signatory on, or otherwise use any other
12 financial institution account without the prior approval of
13 the probation officer.

14 10. The defendant shall pay restitution as previously
15 indicated.

16 11. The defendant shall provide to the probation
17 officer any access to all business and personal financial
18 information.

19 12. The defendant shall participate in mental health
20 treatment services as directed by the probation officer until
21 successfully discharged. These services may include
22 medications prescribed by a licensed physician.

23 The defendant shall contribute to the cost of services
24 rendered at a copayment rate of at least \$10 per month.

25 Having stated the court's sentence, is there any further

1 objection or comment or request for recommendation?

2 MS. KNIGHT: Yes, Your Honor.

3 For record purposes we object to the substantive
4 reasonableness of the sentence.

5 We would ask the court to allow Mr. Ramseur to
6 self-report at a designated facility after the holidays, Your
7 Honor.

8 His sisters are here and specifically asked me to make
9 that request of the court.

10 THE COURT: Any objection?

11 MR. REVESZ: No, Your Honor.

12 THE COURT: Then I will direct the defendant to
13 report to the designated institution on or before 11:00
14 o'clock a.m. on Monday, January 21st.

15 MS. KNIGHT: Thank you, Your Honor.

16 THE COURT: I'm required to advise the defendant
17 regarding his rights to appeal.

18 You have the right to request to appeal at no cost. If
19 you do not have sufficient funds for the appeal and you may
20 request the clerk of court to prepare and file a notice of
21 appeal on your behalf. With very few exceptions any notice
22 of appeal must be filed within 14 days of entry of formal
23 written judgment.

24 Having advised Mr. Ramseur regarding his rights to
25 appeal, is there anything else we need to take up this

1 morning with regard to Mr. Ramseur?

2 MS. KNIGHT: Not from the defense, Your Honor.

3 THE COURT: Then the defendant is excused and
4 counsel may be excused if you have nothing further with us
5 today.

6 MS. KNIGHT: Thank you, Your Honor.

7 Thank you, Ms. Moore.

8 (End of proceedings.)

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**DEPARTMENT OF
VETERANS AFFAIRS**

FORT WORTH, OPC
2201 S. E. Loop 820
Mail Stop: ROI-FW
Ft. Worth, TX 76119

DATE: 1/18/2019
In Reply Refer To: ROI-FW
SSN: 3410

**ROBERT EARL RAMSEUR
2320 NORTH HOUSTON ST
APT 1206
DALLAS, TX 75219**

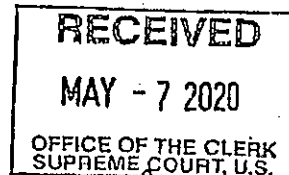
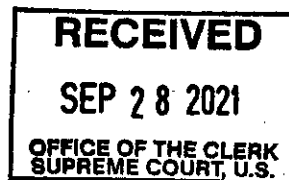
RE: ROI Plus Request for ROBERT EARL RAMSEUR

Dear MR RAMSEUR:

This individually identifiable information is privileged. Its confidentiality should be maintained along with appropriate security safeguards to protect against individual harm (identity theft), embarrassment, or inconvenience.

Sincerely,

Paulette R. Dickens, Supervisor, R.O.I.



A large, stylized handwritten signature in black ink, appearing to be "MF".

Prepared by: MARION FRANCIS - Release of Information

How to Protect Your Brain From Injury

By Beth McQuiston

Football season is in full swing, which means concussions are on the minds of players and fans. But traumatic brain injuries, including concussions, aren't a problem only for athletes who play contact sports. Each year at least 69 million people world-wide suffer a traumatic brain injury.

Considering how precious our brains are to our health and well-being, we should be monitoring them as conscientiously as we do our hearts or joints. If we find out we have high cholesterol, we generally do something about it. Yet too many people let blows to the head go unevaluated, despite the potentially dire long-term consequences.

More than 4.8 million people go to the emergency room for brain injuries in the U.S. each year. The number of people who actually sustain concussions is likely much higher;

experts estimate that half of concussions go unreported. That is in part because people tend not to recognize the symptoms of concussion, which include blurred vision, headaches, dizziness and nausea.

A direct blow isn't the only source of trauma, and it's crucial to know the symptoms.

The two most common causes of traumatic brain injuries are slip-and-fall accidents, which account for more than half of all incidents, and motor-vehicle accidents. Only 3% of concussions are sports-related. And it isn't only a blow to the head that can cause a concussion; whiplash can also cause a brain injury. These invisible injuries can have long-lasting side effects. While

many brain injuries are minor and require only rest and recuperation, moderate and severe head injuries can lead to complications, including seizures and memory problems.

Anyone who suffers a concussion is significantly more vulnerable to another brain injury. The results include "second-impact syndrome," which involves increased neurological damage and, in rare cases, death. It is crucial for people to know the status of their brain after a potential injury, so they can take steps to keep this precious organ safe and thriving.

Diagnosing traumatic brain injuries is becoming more sophisticated each year. Doctors no longer rely solely on physical examinations or patients self-reporting their symptoms. They can use CT scans to check for evidence of brain injuries. The Food and Drug Administration also recently approved a blood test developed by my company, Abbott.

The i-STAT TBI plasma test can tell doctors if proteins highly correlated with brain injury are in the blood. Soon, this portable test could be used to help evaluate quickly if someone suffered a brain injury.

Blood tests like these are key tools to help evaluate concussion, especially given the limits of CT scans. They missed 64% of people with the highest levels of injury-correlated proteins that were picked up by a more sensitive MRI test, according to research published in *Lancet Neurology*.

We routinely monitor our blood pressure and cholesterol and, when something is wrong, we take medication or change our diet and exercise more. We should be just as mindful of our brain health—if not more so.

Dr. McQuiston is a neurologist and medical director of diagnostics for Abbott, which makes the i-STAT test.