

Exhibit 1

Combined Records

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL NO. 3:19CV335-MOC
(3:18CR40-MOC)

AMOS LAMAR BURCH,)
)
Petitioner,)
)
vs.)
)
UNITED STATES OF AMERICA,)
)
Respondent.)
)

**GOVERNMENT'S RESPONSE TO PETITIONER'S MOTION TO VACATE,
SET ASIDE, OR CORRECT SENTENCE**

Amos Lamar Burch has moved to vacate, correct, or set aside his sentence pursuant to 28 U.S.C. § 2255, arguing that he received ineffective assistance of counsel and that he is entitled to relief under the First Step Act. The United States respectfully requests that this Court deny the motion because Burch cannot show deficient performance and prejudice, and his assertion that he is eligible for relief under the First Step Act is waived, procedurally barred, and without merit.

BACKGROUND AND PROCEDURAL HISTORY

In October 2017, Burch sold an undercover officer cocaine base. Doc. No. 25, ¶ 18 (PSR). Three days later, Burch contacted the undercover officer, offering to sell a firearm. PSR ¶ 19. The undercover officer agreed and bought a Beretta, 20-gauge shotgun from Burch. *Id.* In early November 2017, Burch contacted

ineffective assistance or prosecutorial misconduct. *Id.* ¶¶ 19–20. The factual basis for his plea was based only his conduct on November 8, 2017. Doc. No. 15. The magistrate judge conducted a guilty plea hearing, during which Burch affirmed that he understood and agreed to the terms of his plea agreement, including the waiver of his appellate and post-conviction rights, Doc. No. 16, ¶¶ 25–28. The magistrate judge accepted Burch's guilty plea, finding that he made it knowingly and voluntarily. *Id.* at 4.

A probation officer issued a PSR, recommending that Burch be sentenced at a total offense level of 21, a criminal history category of IV, and an advisory guidelines range of 57 to 71 months of imprisonment. PSR ¶¶ 36, 48, 72. The United States objected, arguing that Burch's prior aggravated manslaughter conviction should be considered a crime of violence. PSR addnm. 18–19. Burch also filed objections and argued that he should receive a downward departure or variance based on the age of one of his prior convictions. *Id.* at 19–20.

This Court adopted the PSR without change and sentenced Burch to 57 months of imprisonment. Doc. Nos. 28–29. The Court ordered Burch remanded to the custody of the United States Marshal. Doc. No. 28, at 2. Judgment was entered on January 4, 2019. *Id.* at 1.

On January 23, 2019, Burch pleaded guilty in state court to possession of a firearm by a felon. Civ. Doc. No. 3-1, at 5–8. This offense occurred on February 11, 2018, when officers found Burch with a firearm after stopping his car. The state court sentenced Burch to 19 to 32 months of imprisonment. Civ. Doc. No. 1, at 35–

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counsel's unprofessional errors, the result of the proceeding would have been different." *Id.* at 694. "A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Id.* It is not sufficient to show the mere "possibility of prejudice." *Satcher v. Pruett*, 126 F.3d 561, 572 (4th Cir. 1997) (quoting *Murray v. Carrier*, 477 U.S. 478, 494 (1986)). In considering the prejudice prong, a court "can only grant relief under . . . *Strickland* if the 'result of the proceeding was fundamentally unfair or unreliable.'" *Sexton v. French*, 163 F.3d 874, 882 (4th Cir. 1998) (quoting *Lockhart v. Fretwell*, 506 U.S. 364, 369 (1993)). If a petitioner fails to conclusively demonstrate prejudice, the reviewing court need not consider whether counsel's performance was deficient. *United States v. Terry*, 366 F.3d 312, 315 (4th Cir. 2004). To establish ineffective assistance of counsel at sentencing, a petitioner must show that but for counsel's deficient performance, there is a reasonable probability that he would have received a lower sentence. See *Royal v. Trombone*, 188 F.3d 239, 249 (4th Cir. 1999).

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Burch's allegations largely relate to his state court proceedings. Because Burch was in state custody prior to appearing in federal court, the state retained custody over him, and he served his state sentence first. See *United States v. Evans*, 159 F.3d 908, 911-12 (4th Cir. 1998) (recognizing "the state retains primary jurisdiction over the prisoner, and federal custody commences only when the state authorities relinquish the prisoner on satisfaction of the state obligation"). Burch's allegations of ineffective assistance of counsel by his state court attorney and that his state court plea agreement was breached are not properly before this Court. See

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Civ. Doc. No. 1, at 7; Civ. Doc. No. 3-1, at 4. He must pursue such claims before the state courts or, if he believes he is improperly in state custody, through a motion pursuant to 28 U.S.C. § 2254.

And Burch's claim of ineffective assistance by his federal attorney lacks merit. Burch argues in conclusory fashion that he received ineffective assistance of counsel because his federal attorney "did not raise the issue about my state plea offer" at sentencing. Civ. Doc. No. 1, at 7. This is insufficient to establish deficient performance or prejudice. *See United States v. Dyess*, 730 F.3d 354, 359–60 (4th Cir. 2013) (holding it was proper to dismiss § 2255 claims based on vague and conclusory allegations). Additionally, at the time of his federal sentencing, Burch had not yet accepted the plea, been convicted, or been sentenced for his state charge.

Accordingly, any failure by counsel to raise a potential state plea offer and possible

future conviction at sentencing was within the wide range of reasonable

professional assistance. Counsel was not required to highlight additional criminal

conduct by the defendant. Moreover, the conduct underlying Burch's state charge

involved ^{related} ~~separate~~ conduct stemming from a traffic stop that occurred after Burch

was indicted on the federal charges relating to his sale of drugs and firearms to an

undercover officer. Because it was not clear under these circumstances whether his

state offense involved relevant conduct, see U.S.S.G. § 5G1.3(c), Burch also cannot

show deficient performance even if counsel failed to raise this issue at sentencing.

This conduct was not objectively unreasonable, but rather fell within prevailing

professional norms.

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Burch also cannot show prejudice because it is entirely speculative whether this Court would have found the federal and state offenses related and would have imposed a sentence to run concurrently with respect to any future anticipated state conviction and sentence. See Cheever v. United States, 2019 WL 1746139, at *4 (S.D. Cal. 2019) (holding "A movant under § 2255 cannot satisfy *Strickland's* prejudice requirement under § 5G1.3 because the Court's discretion leaves open a possibility, not a 'reasonable probability' that the sentencing judge would have imposed a concurrent sentence"), *appeal filed*, No. 19-55484 (9th Cir. 2019); *Brown v. United States*, 2016 WL 1296188, at *5 (W.D. Va. 2016) (holding speculation that court would have imposed concurrent sentences is insufficient to establish prejudice under *Strickland*); *Dorsey v. Clarke*, 2016 WL 1626583, at *3 (E.D. Va. 2016) (recognizing "an attorney does not render ineffective assistance for failing to move for sentences to be impose concurrently where such a decision lies within the court's discretion"); *United States v. Alvarez*, 184 F. App'z 876, 881 (11th Cir. 2006) (holding petitioner failed show prejudice where his contention that court would have imposed a concurrent sentence was based on speculation). Additionally, Burch does not allege, nor is there any evidence to support, a claim that Burch would have received a shorter federal sentence had the Court recommended that a potential future state sentence run concurrently. Thus, he also cannot show prejudice with respect to the sentence this Court imposed, because he has not shown that any recommendation with respect to a potential future state sentence would have lowered the federal sentence that he received. See *Royal*, 188 F.3d at 249. Any

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such impacts would be collateral to the sentence this Court imposed. *See* § 2255 (providing relief to sentences imposed in violation of the Constitution or laws of the United States). Because Burch has not shown deficient performance or prejudice, his claim of ineffective assistance of counsel should be denied.

II. Burch is not eligible for relief under The First Step Act.

Burch's contention that he is entitled to relief under the First Step Act is without merit. First, as Burch concedes, he was sentenced on December 17, 2018, prior to the Act's December 21, 2018, effective date. *See* Civ. Doc. No. 1, at 9. More importantly, the Act alters the predicate convictions that trigger enhanced penalties for certain controlled substance offenses. Because Burch pleaded guilty to being a felon in possession of a firearm, not a controlled substance offense, the First Step Act does not apply to him.

Additionally, Burch waived challenges to his sentence as part of his plea agreement, *see United States v. Lemaster*, 403 F.3d 216, 220 (4th Cir. 2005), and this claim is procedurally barred because Burch did not raise it on direct appeal, *see Bousley v. United States*, 523 U.S. 614, 621–22 (1998); *United States v. Bowman*, 267 F. App'x 296, 299 (4th Cir. 2008). Therefore, this claim should be dismissed as waived, procedurally barred, and without merit.

CONCLUSION

For the foregoing reasons, the United States respectfully requests that this Court deny Burch's motion.

RESPECTFULLY SUBMITTED this 24th day of September, 2019.

R. ANDREW MURRAY
UNITED STATES ATTORNEY

s/Elizabeth M. Greenough

Elizabeth M. Greenough, N.Y. Bar No. 2667905

Assistant United States Attorney

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Charlotte, NC 28202

Telephone: 704-344-6222

Fax: 704-344-6229

Email: Elizabeth.Greenough@usdoj.gov

CERTIFICATE OF SERVICE

I certify that I caused to be served a copy of the above response upon the Petitioner by U.S. Mail at the following address listed on his most recent filing:

Amos L. Burch
PID #245665
Mecklenburg County Jail
P.O. Box 34429
Charlotte, NC 28234

This 24th day of September, 2019.

s/Elizabeth M. Greenough
Assistant United States Attorney
USAO Charlotte, NC

AMOS LAMAR BURCH, Petitioner, vs. UNITED STATES OF AMERICA, Respondent.
UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA,
CHARLOTTE DIVISION
2020 U.S. Dist. LEXIS 160005
3:19-cv-335-MOC,3:18-cr-40-MOC-DSC-1
September 1, 2020, Decided
September 1, 2020, Filed

Counsel {2020 U.S. Dist. LEXIS 1} Amos Lamar Burch, Petitioner, Pro se,
Wrightstown, NJ.

For USA, Respondent: Elizabeth Margaret Greenough, LEAD

ATTORNEY, U.S. Attorney's Office, Charlotte, NC USA.

Judges: Max O. Cogburn Jr., United States District Judge.

Opinion

Opinion by: Max O. Cogburn Jr.

Opinion

ORDER

THIS MATTER is before the Court on Petitioner's *pro se* Motion to Vacate, Set Aside or Correct Sentence under 28 U.S.C. § 2255, (Doc. No. 1). Also pending are Petitioner's Letters that were docketed as a Motion to Amend/Correct, (Doc. No. 3), and a Motion to Appoint Counsel, (Doc. No. 7).

I. BACKGROUND

Petitioner was charged in the underlying criminal case with: Count (1), distributing and possession with intent to distribute a mixture and substance containing a detectable amount of cocaine base; and Counts (2)-(3), possession of a firearm by a convicted felon. (3:18-cr-40 ("CR"), Doc. No. 3).

Petitioner pleaded guilty to Count (3) pursuant to a written Plea Agreement. (CR Doc. No. 14). The Plea Agreement sets forth Petitioner's sentencing exposure and provides that Petitioner is aware the Court will consider the advisory sentencing guidelines in determining a sentence which has not yet been determined and any estimate of a likely sentence is a prediction rather than a promise; {2020 U.S. Dist. LEXIS 2} the Court has the final discretion in imposing any sentence up to the statutory maximum and is not bound by recommendations or agreements by the United States. (CR Doc. No. 14 at 2). The parties agreed that: the plea is timely; notwithstanding any other recommendation in the Plea Agreement; the offense involved 3-7 firearms, so a 2-level enhancement is applicable; and the offense involved a firearm that was stolen so a 2-level enhancement is applicable. The parties remained free to argue their respective positions regarding any other specific offense characteristics, reductions, and enhancements to the offense level, and either party may seek a departure or variance. The Plea Agreement provides that there is a factual basis for the plea, that Petitioner read and understood the written Factual Basis and that objections waived unless explicitly reserved. (CR Doc. No. 14 at 4). The Plea Agreement acknowledges the rights that Petitioner was waiving by pleading guilty, including the right to be tried by a jury, to be assisted by counsel at trial, to confront

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and cross-examine witnesses, and not to be compelled to incriminate himself (CR Doc. No. 14 at 5). The Plea Agreement contains a waiver{2020 U.S. Dist. LEXIS 3} of Petitioner's appellate and post-conviction rights, except for claims of ineffective assistance of counsel or prosecutorial misconduct. (CR Doc. No. 14 at 5). The written Factual Basis provides that Petitioner knowingly possessed firearms after having been previously convicted of a crime punishable by imprisonment exceeding one year. (CR Doc. No. 15)

The Presentence Investigation Report (PSR) scored the base offense level 20, two levels were added because the offense involved 3-7 firearms, and two more levels were added because a firearm was stolen. (CR Doc. No. 25 at ¶¶ 27, 28). No Chapter Four enhancements were applied. (CR Doc. No. 25 at ¶ 22). Three levels were deducted for acceptance of responsibility, resulting in a total offense level of 21. (CR Doc. No. 25 at ¶¶ 34-36). The PSR's criminal history section scored six criminal history points and two more points were added because the instant offense was committed while on parole in new Jersey, resulting in a total criminal history score of eight and criminal history category of IV. (CR Doc. No. 25 at ¶¶ 46-48). "Pending charges" include possession of a firearm by felon 18 CRS204871, Mecklenburg County District Court. (CR Doc. {2020 U.S. Dist. LEXIS 4} No. 25 at ¶ 50). This resulted in a total offense level of 21 and a criminal history category of IV with a guideline imprisonment range of 57 to 71 months, and supervised release for between one and three years. (CR Doc. No. 25 at ¶ 72, 75). → See

The Court adopted the PSR without change and denied Petitioner's motion for departure or variance. See (CR Doc. No. 29). In a Judgment entered on January 4, 2019, the Court sentenced Petitioner to 57 months' imprisonment for Count (3) followed by three years of supervised release and dismissed Counts (1) and (2) on the Government's Motion. (CR Doc. No. 28).

Petitioner filed the instant § 2255 Motion to Vacate on July 11, 2019. (Doc. No. 1). He argues that: (1) counsel was ineffective with regards to his plea offer in state court; and (2) Petitioner is eligible for relief under the First Step Act.

In his Motion to Amend/Correct, Petitioner clarifies that he accepted his federal plea first; that the state violated federal law, 18 U.S.C. § 3585(a); and that he was resentenced in his state case to 14-26 months on a Motion for Appropriate Relief. (Doc. No. 3). In his Motion to Appoint Counsel, Petitioner asks how to go about getting a lawyer. (Doc. No. 7).

The Government filed{2020 U.S. Dist. LEXIS 5} a Response to Petitioner's § 2255 Motion to Vacate arguing that: (1) the allegation of ineffective assistance is too vague and conclusory to support relief, counsel's performance was not deficient for failing to address a state sentence that was not yet entered, and any challenge to the state proceedings is not cognizable on § 2255 review; and (2) the First Step Act does not apply to Petitioner, and such a claim has been waived and is procedurally defaulted from § 2255 review.

II. SECTION 2255 STANDARD OF REVIEW

A federal prisoner claiming that his "sentence was imposed in violation of the Constitution or the laws of the United States, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack, may move the court which imposed the sentence to vacate, set aside or correct the sentence." 28 U.S.C. § 2255(a).

Rule 4(b) of the Rules Governing Section 2255 Proceedings provides that courts are to promptly examine motions to vacate, along with "any attached exhibits and the record of prior proceedings . . ." in order to determine whether the petitioner is entitled to any relief on the claims set forth therein. After examining the record in this matter, the Court finds that the{2020 U.S. Dist. LEXIS 6}



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arguments presented by Petitioner can be resolved without an evidentiary hearing based on the record and governing case law. See Raines v. United States, 423 F.2d 526, 529 (4th Cir. 1970).

III. DISCUSSION

(1) Ineffective Assistance of Counsel

The Sixth Amendment to the U.S. Constitution guarantees that in all criminal prosecutions, the accused has the right to the assistance of counsel for his defense. See U.S. Const. Amend. VI. To show ineffective assistance of counsel, Petitioner must first establish deficient performance by counsel and, second, that the deficient performance prejudiced him. See Strickland v. Washington, 466 U.S. 668, 687-88, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984). The deficiency prong turns on whether "counsel's representation fell below an objective standard of reasonableness ... under prevailing professional norms." Id. at 688. A reviewing court "must apply a 'strong presumption' that counsel's representation was within the 'wide range' of reasonable professional assistance." Harrington v. Richter, 562 U.S. 86, 104, 131 S. Ct. 770, 178 L. Ed. 2d 624 (2011) (quoting Strickland, 466 U.S. at 689).

Petitioner appears to suggest that counsel should have asked the Court to address his sentence on pending state charges at the time of his federal sentencing.¹ This claim is too vague and conclusory to support relief as Petitioner fails to allege what actions reasonable counsel would have taken that had a reasonable probability of resulting in a more favorable outcome in his federal case. See {2020 U.S. Dist. LEXIS 7} generally United States v. Dyess, 730 F.3d 354 (4th Cir. 2013) (vague and conclusory allegations contained in a § 2255 petition may be disposed of without further investigation by the district court). This claim is also too speculative to support relief as Petitioner had not yet been convicted or sentenced on state charges at the time of his federal sentencing and he fails to explain what specific actions reasonable counsel would have taken with regards to a state sentence that had not yet been imposed. Id. Moreover, to the extent that Petitioner is attempting to challenge the sentence in his state criminal proceedings, such a claim is not cognizable on § 2255 review. See generally 28 U.S.C. § 2254. Therefore, Petitioner's claim of ineffective assistance of counsel will be denied.

(2) First Step Act

The First Step Act of 2018, which became effective December 21, 2018, made retroactive certain provisions of the Fair Sentencing Act of 2010. Pub. L. No. 115-391, 132 Stat. 5194 (2018). The relevant provisions of the First Step Act apply to "a covered offense," which means "a violation of a Federal criminal statute, the statutory penalties for which were modified by section 2 or 3 of the Fair Sentencing Act of 2010 ..., that was committed before August 3, 2010." United States v. Jackson, 952 F.3d 492, 495 (4th Cir. 2020) (quoting § 404(a), 132 Stat. at 5222). The Fair Sentencing Act "reduced the statutory {2020 U.S. Dist. LEXIS 8} penalties for cocaine base offenses" to "alleviate the severe sentencing disparity between crack and powder cocaine." United States v. Peters, 843 F.3d 572, 575 (4th Cir. 2016).

The First Step Act does not apply to Petitioner because it went into effect after Petitioner was sentenced and, in any event, it applies to drug offenses and not the weapons offense to which Petitioner pleaded guilty.

This claim was also waived by Petitioner's knowing and voluntary guilty plea, which expressly waived Petitioner's post-convictions rights except for claims of prosecutorial misconduct or ineffective assistance of counsel. See generally United States v. Willis, 992 F.2d 489, 490 (4th Cir. 1993) ("a guilty plea constitutes a waiver of all nonjurisdictional defects, including the right to contest the factual merits of the charges."); United States v. Marin, 961 F.2d 493, 496 (4th Cir. 1992) (an

appellate waiver is generally enforceable where the waiver was knowingly and voluntarily made); United States v. Lemaster, 403 F.3d 216, 220 (4th Cir. 2005) (the Fourth Circuit does not distinguish between the enforceability of a waiver of direct-appeal rights from a waiver of collateral-attack rights in a plea agreement).

Moreover, this claim is procedurally defaulted from § 2255 review. "Habeas review is an extraordinary remedy and will not be allowed to do service for an appeal." Bousley v. United States, 523 U.S. 614, 621, 118 S. Ct. 1604, 140 L. Ed. 2d 828 (1998) ("the voluntariness and intelligence of a guilty plea can be{2020 U.S. Dist. LEXIS 9} attacked on collateral review only if first challenged on direct review.") (internal citations omitted). In order to collaterally attack a conviction or sentence based upon errors that could have been but were not pursued on direct appeal, a petitioner must show cause and actual prejudice resulting from the errors of which he complains or he must demonstrate that a miscarriage of justice would result from the refusal of the court to entertain the collateral attack. See United States v. Frady, 456 U.S. 152, 167-68, 102 S. Ct. 1584, 71 L. Ed. 2d 816 (1982). Actual prejudice is then shown by demonstrating that the error worked to petitioner's "actual and substantial disadvantage," rather than just creating a possibility of prejudice. Murray v. Carrier, 477 U.S. 478, 494, 106 S. Ct. 2639, 91 L. Ed. 2d 397 (1986). In order to demonstrate that a miscarriage of justice would result from the refusal of the court to entertain the collateral attack, a petitioner must show actual innocence by clear and convincing evidence. See Murray, 477 U.S. at 496.

Petitioner failed to raise his First Step Act claim on direct appeal and he has not attempted to demonstrate cause and prejudice or actual innocence. Therefore, even if this claim was not waived, it would be procedurally defaulted from § 2255 review.

For all of these reasons, Petitioner's Fair Sentence Act claim will be dismissed and denied.{2020 U.S. Dist. LEXIS 10}

(3) Pending Motions

Petitioner has filed a Motion to Amend/Correct in which he makes factual allegations and to which he appends documents for the Court's review. The Motion will be granted to the extent that the Court has considered the arguments and documents filed by Petitioner.

Petitioner has also filed a Motion seeking the appointment of counsel. There is no constitutional right to the appointment of counsel in a § 2255 proceeding. See Pennsylvania v. Finley, 481 U.S. 551, 555, 107 S. Ct. 1990, 95 L. Ed. 2d 539 (1987). In § 2255 actions, the appointment of counsel is governed by the Rules Governing § 2255 Proceedings, Rules 6(a) and 8(c), which mandate the appointment of counsel where discovery is necessary or if the matter proceeds to an evidentiary hearing. The Court may also appoint counsel to a financially eligible petitioner if justice so requires. See 18 U.S.C. § 3006A(a)(2)(B). No discovery or evidentiary hearing is required in the instant case and Petitioner has failed to demonstrate that justice requires the appointment of counsel. Therefore, Petitioner's Motion will be denied.

IV. CONCLUSION

For the foregoing reasons, the Motion to Vacate is dismissed and denied. Petitioner's Motion to Amend/Correct is granted as stated in this Order and the Motion to Appoint Counsel is denied.

IT IS, THEREFORE, ORDERED that:

1. The Motion to Vacate, Set Aside{2020 U.S. Dist. LEXIS 11} or Correct Sentence under 28 U.S.C. § 2255, (Doc. No. 1), is **DISMISSED** with prejudice and **DENIED**.

2. Petitioner's Motion to Amend/Correct, (Doc. No. 3), is **GRANTED** as stated in this Order.

3. Petitioner's Motion to Appoint Counsel, (Doc. No. 7), is **DENIED**.

4. **IT IS FURTHER ORDERED** that pursuant to Rule 11(a) of the Rules Governing Section 2254 and Section 2255 Cases, this Court declines to issue a certificate of appealability. See 28 U.S.C. § 2253(c)(2); Miller-El v. Cockrell, 537 U.S. 322, 338, 123 S. Ct. 1029, 154 L. Ed. 2d 931 (2003) (in order to satisfy § 2253(c), a petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong); Slack v. McDaniel, 529 U.S. 473, 484, 120 S. Ct. 1595, 146 L. Ed. 2d 542 (2000) (when relief is denied on procedural grounds, a petitioner must establish both that the dispositive procedural ruling is debatable and that the petition states a debatable claim of the denial of a constitutional right).

Signed: September 1, 2020

/s/ Max O. Cogburn Jr.

Max O. Cogburn Jr.

United States District Judge

Footnotes

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Petitioner argues that "me and Mr. Johnson spoke about my state plea offer before my federal sentence [and] Mr. Johnson didn't raise the issue about my state plea offer on 12-17-18!" (Doc. No. 1 at 4).

Exhibit 6

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MECKLENBURG COUNTY ARREST PROCESSING CENTER						ARREST SHEET	
OFFICER INFORMATION							
Officer: GIBBONS, M.							
Officer Code	Last Name	First Name	Officer Type	Arrest #			
P4001	GIBBONS	M	Arresting	1744567			
SUBJECT INFORMATION							
Last Name		First Name		Middle Name	Suffix		
BURCH		AMOS		LAMAR			
Date of Birth	Estimated?	Age	Emancipated?	Gender	Race		
4/19/1983	No	34	No	Male	BLACK		
Ethnicity	SSN	SSN Source		Allen Number	Prior ICE Hold		
Non Hispanic					No		
Occupation		Height	Weight	Hair Color			
		6' 9"	219	Black			
Eye Color		Driver's License Number		Driver's License State			
BROWN		24416709		North Carolina			
Driver's License Expiration Date		Driver's License Source		Driver's License Class			
4/19/2025 12:00:00 AM		DMV DL/ID CARD		OPERATORS LICENSE NUMBER			
Birth City		Birth State		Birth Country			
		New Jersey		United States of America (USA)			
Military?		Military Branch		Military Discharge Date			
No							
Gang							
Gang Member	Gang Name	Gang Street Name			Person's Mark		
CONTACT INFORMATION							
Addresses							
Address Type	Street Number	Address	City	State	County	Zip	
Home	3118	DECAPOLIS DR	CHARLOTTE	NC		28215	
Phone Numbers				Emails			
Phone Type	Phone	Phone Extension	Email Type	Email			

MECKLENBURG COUNTY ARREST PROCESSING CENTER			ARREST SHEET	
DWI Related Arrest	Domestic Violence Hold	Domestic Violence Arrest	Victim Rights	
No	No	No	No	
Traffic Related Arrest	Finger Prints Required	Domestic Violence Original		
No	Yes	No		
Arrest Place Type	Arrest location	Impaired	Cooperative	
Street/Highway	800 CHARLOTTETOWNE AVE CHARLOTTE, NC 28204	No	Yes	
Use of Force	Weapon Possession	Weapon Type	Other Details	
	Yes	Firearm		
DNA Collected	DNA Collected By	DNA Collection Method	Arrest Number	
No			1744587	
Additional Information				
NCIC HIT ATTACHED FEDERAL DETAINER WITH US MARSHALL				
OFFICER INFORMATION				
Officer: GIBBONS, M				
VICTIM/WITNESS INFORMATION				
P4001	GIBBONS	M	Arresting	
Charge Code	Complainant	Victim	Witness	Subpoena Required
6224	Yes	No	Yes	REQUIRED FOR EACH TRIAL SETTING
Officer: MEDRANO, K				
Officer Code	Last Name	First Name	Officer Type	
P3335	MEDRANO	K	Assisting	
Charge Code	Complainant	Victim	Witness	Subpoena Required
6224	No	No	Yes	REQUIRED FOR EACH TRIAL SETTING
Currently no information to display				
PID/SID				
PID/SID				
SID	PID		Check Digit	
POST MAGISTRATE REVIEW				
Currently no information to display				

Exhibit 7

MECKLENBURG COUNTY ARREST PROCESSING CENTER				ARREST SHEET	
Other Information					
School Name		School Address			
School Phone Type	School Phone Number		School Phone Extension		
Employer Name	Employer Address Type		Employer Address		
Employer Phone Type	Employer Phone Number		Employer Phone Extension		
VEHICLE INFORMATION					
Currently no information to display					
PROCESS INFORMATION					
Process - Magistrate Order					
Sequence Id	Process Type	Complaint Number	Original Complaint Number		
1214546	Magistrate Order	180211131006			
Citation Number	SHP Code	Citation Validation Char	Citation Type		
Road Type	Business Route	Unpaved	Highway		
Accident	License Plate State	License Plate Number	Vehicle Type		
Charges					
Charge Code	Statute Code	Charge Type	Class	PTR Excluded	
5224	14-415.1	F	G, H	Y	
NIBR	UCR	Charge Description			
520 - Weapon Law Violations	160100 - Carrying Concealed Weapon/Firearms	POSSESSION OF FIREARM BY CONVICTED FELON			
WARRANTS					
Currently no information to display					
ARREST DETAILS INFORMATION					
Arrest Date	Offense Start Date	Offense Start Time	Offense End Date		
2/11/2018 1:25 PM	2/11/2018	1:20 PM	2/11/2018		

MECKLENBURG COUNTY ARREST PROCESSING CENTER

ARREST SHEET

DCI SUMMARY

OUTC Probation Violation

Warrant

X

Governor's Warrant

OFA-FTA

OFA-FTC

OFA-GJI

Visual

X

Visual Traffic

NARRATIVE

On 11 February 2018 at approximately 1320 hours I was on patrol in marked vehicle PDA882. I was conducting a check of the area on Charlottetown Ave near Cherry St when I observed an SUV in the roadway with its hazard lights activated and three people were standing around it. I activated my emergency equipment and pulled in behind the vehicle, a 2003 Ford Explorer, bearing NC Registration PHJ1138. I ran the information in DCI and received a NCIC hit for the registered owner, the defendant, Mr. Amos Burch. I checked arrest records and found a photograph of Mr. Burch and saw he was one of the individuals on scene putting gas in the tank. I approached Mr. Burch and obtained his drivers license to confirm his identity. Dispatch confirmed the warrant.

While on scene, one of the individuals with Mr. Burch informed Officer Medrano the defendant had placed a firearm in his vehicle when he saw my patrol car turning around. A search of the vehicle revealed a semiautomatic Ruger P90 with serial number 66245677 was under the drivers seat. The Ford Explorer was registered to the defendant.

A search of records indicated the defendant had been convicted of Common Law Robbery on 29 November 2001.

The defendant was arrested for possession of a firearm by a convicted felon.

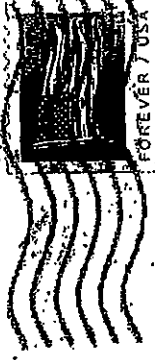
I, Officer M. L. L. L. L. L. code# 4001 of LA 07, am presenting sworn oral testimony to the Magistrates' Office, seeking the above charges against Amos Burch.

Officer's Signature [Signature]

Date 2/11/18

MUGSHOT

Photo Unavailable



5W19 Bottom
TRENTON NJ 0865
11 FEB 2020 PM 6 L

SBT 295426-D

AMOS LEANOR BURCH #512771
MSCE
P.O. Box 866
Wrightstown NJ 08562

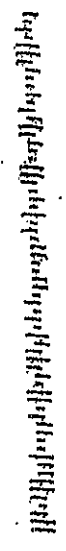
Frank G. Johns / Clerk of Court
United States District Court
Room 168, Charles R. Jones Federal Building
401 W. Trade St.
Charlotte, NC 28202

RECEIVED
CHARLOTTE, NC

FEB 18 2020

Clerk, US District Court
Western District of NC

28202-161543



FILED: December 16, 2021

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 20-7521
(3:18-cr-00040-MOC-DSC-1)
(3:19-cv-00335-MOC)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

AMOS LAMAR BURCH

Defendant - Appellant

TEMPORARY STAY OF MANDATE

Under Fed. R. App. P. 41(b), the filing of a timely petition for rehearing or rehearing en banc stays the mandate until the court has ruled on the petition. In accordance with Rule 41(b), the mandate is stayed pending further order of this court.

/s/Patricia S. Connor, Clerk

FILED: January 19, 2022

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 20-7521
(3:18-cr-00040-MOC-DSC-1)
(3:19-cv-00335-MOC)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

AMOS LAMAR BURCH

Defendant - Appellant

O R D E R

The court denies the petition for rehearing.

Entered at the direction of the panel: Judge Motz, Judge Thacker, and Judge
Harris.

For the Court

/s/ Patricia S. Connor, Clerk

FILED: November 19, 2021

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 20-7521
(3:18-cr-00040-MOC-DSC-1)
(3:19-cv-00335-MOC)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

AMOS LAMAR BURCH

Defendant - Appellant

J U D G M E N T

In accordance with the decision of this court, a certificate of appealability is denied and the appeal is dismissed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 20-7521

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

AMOS LAMAR BURCH,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at
Charlotte. Max O. Cogburn, Jr., District Judge. (3:18-cr-00040-MOC-DSC-1;
3:19-cv-00335-MOC)

Submitted: November 18, 2021

Decided: November 19, 2021

Before MOTZ, THACKER, and HARRIS, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Amos Lamar Burch, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Amos Lamar Burch seeks to appeal the district court's order denying relief on his 28 U.S.C. § 2255 motion. The order is not appealable unless a circuit justice or judge issues a certificate of appealability. *See* 28 U.S.C. § 2253(c)(1)(B). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). When the district court denies relief on the merits, a prisoner satisfies this standard by demonstrating that reasonable jurists could find the district court's assessment of the constitutional claims debatable or wrong. *See Buck v. Davis*, 137 S. Ct. 759, 773-74 (2017). When the district court denies relief on procedural grounds, the prisoner must demonstrate both that the dispositive procedural ruling is debatable and that the motion states a debatable claim of the denial of a constitutional right. *Gonzalez v. Thaler*, 565 U.S. 134, 140-41 (2012) (citing *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)).

We have independently reviewed the record and conclude that Burch has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED

FILED: January 27, 2022

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 20-7521
(3:18-cr-00040-MOC-DSC-1)
(3:19-cv-00335-MOC)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

AMOS LAMAR BURCH

Defendant - Appellant

M A N D A T E

The judgment of this court, entered November 19, 2021, takes effect today.

This constitutes the formal mandate of this court issued pursuant to Rule
41(a) of the Federal Rules of Appellate Procedure.

/s/Patricia S. Connor, Clerk

(3:18-cr-00040-MOC-DSC-1)

3:19-cv-00335-MOC

Case No. 20-7521

(1st Amend Right)

Petition For A Rehearing

See I have a material factual legal matter that was overlooked and the conflict was not addressed.

The District Attorney Mis-lead the Judge why she was underneath and I assert of what I stand on see exhibit documents (Elizabeth Greenough abuse exercising power why I was bringing forth a 2255 motion that was filed in Charlotte, NC District

4th Circuit. [My right was in violation of ~~protection clause~~ of the Pass I assert the District Attorney Elizabeth Greenough committed perjury ain't this fruit of the poisonous tree,

I was never pulled over in a traffic stop, I ran out of gas put my hazard lights on, in a traffic stop you either get pulled over for running a red light, stop sign or your tail light is out, a tag is outdated and speeding, and I

assert that I Mr. Burch. In the exhibit where officer M. Gibbon's said I observe a vehicle with the hazard lights on so how can he pull me over also on video wouldn't the officer have a footage or a camera in his car that he pulled me over you can look at the video! In my 2255 motion I had the lack of knowledge about merit as pro-se how can I know, I never went to law school

and by getting shipped everywhere as a indigent person basically is Anti-shuttling, all because my lawyer was ineffective assistance by not raising a error before I was sentence about my time running concurrently United States vs. Smith "If he would had raised the error it would been fixed!"

Attached Dockets

Send a notice it was

Filed in future reference

UNITED STATES DISTRICT COURT

Western District of North Carolina

UNITED STATES OF AMERICA

V.

AMOS LAMAR BURCH

) **JUDGMENT IN A CRIMINAL CASE**
) (For Offenses Committed On or After November 1, 1987)
)
)
) Case Number: DNCW318CR000040-001
) USM Number: 34153-058
)
) W. Kelly Johnson
) Defendant's Attorney

THE DEFENDANT:

- ☒ Pled guilty to count(s) 3.
☐ Pled nolo contendere to count(s) which was accepted by the court.
☐ Was found guilty on count(s) after a plea of not guilty.

ACCORDINGLY, the court has adjudicated that the defendant is guilty of the following offense(s):

Title and Section	Nature of Offense	Date Offense Concluded	Counts
18:922(g)(1) and 924(a)(2)	Unlawful Possession of One or More Firearms by Convicted Felon	11/8/2017	3

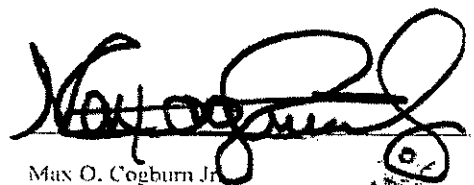
The Defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984, United States v. Booker, 125 S.Ct. 738 (2005), and 18 U.S.C. § 3553(a).

- ☐ The defendant has been found not guilty on count(s).
☒ Count(s) 1,2 (is)(are) dismissed on the motion of the United States.

IT IS ORDERED that the Defendant shall 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 monetary penalties, the defendant shall notify the court and United States attorney of any material change in the defendant's economic circumstances.

Date of Imposition of Sentence: 12/17/2018

Signed: January 4, 2019



Max O. Cogburn Jr.
United States District Judge

Defendant: Amos Lamar Burch
Case Number: DNCW318CR000040-001

Judgment- Page 2 of 7

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of FIFTY-SEVEN (57) MONTHS.

☒ The Court makes the following recommendations to the Bureau of Prisons:

1. Placed in a facility as close to Charlotte, NC as possible, consistent with the needs of BOP.
2. Participation in any available educational and vocational opportunities, specifically carpentry.
3. Participation in the Federal Inmate Financial Responsibility Program.
4. Participation in any available mental health treatment programs as may be recommended by a Mental Health Professional.
- See* 5. Participation in any available substance abuse treatment program and if eligible, receive benefits of 18:3621(e)(2).

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

☐ The Defendant shall surrender to the United States Marshal for this District:

- ☐ As notified by the United States Marshal.
- ☐ At _ on _.

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

- ☐ As notified by the United States Marshal.
- ☐ Before 2 p.m. on _.
- ☐ As notified by the Probation 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 Marshal

Defendant: Amos Lamar Burch
Case Number: DNCW318CR000040-001

Judgment- Page 3 of 7

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of THREE (3) YEARS.

☐ The condition for mandatory drug testing is suspended based on the court's determination that the defendant poses a low risk of future substance abuse.

CONDITIONS OF SUPERVISION

The defendant shall comply with the mandatory conditions that have been adopted by this court.

1. The defendant shall not commit another federal, state, or local crime.
2. The defendant shall not unlawfully possess a controlled substance.
3. 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 (unless omitted by the Court).
4. ☐ The defendant shall 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. The defendant shall cooperate in the collection of DNA as directed by the probation officer (unless omitted by the Court).

The defendant shall comply with the standard conditions that have been adopted by this court and any additional conditions ordered.

1. The defendant shall report to the probation office in the federal judicial district where he/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. The defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer.
3. The defendant shall not leave the federal judicial district where he/she is authorized to reside without first getting permission from the Court or 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. The probation officer shall be notified in advance of any change in living arrangements (such as location and the people with whom the defendant lives).
6. The defendant shall allow the probation officer to visit him/her at any time at his/her home or elsewhere, and shall permit the probation officer to take any items prohibited by the conditions of his/her supervision that the probation officer observes.
7. The defendant shall work full time (at least 30 hours per week) at lawful employment, unless excused by the probation officer. The defendant shall notify the probation officer within 72 hours of any change regarding employment.
8. The defendant shall not communicate or interact with any persons engaged in criminal activity, and shall not communicate or interact with any person convicted of a felony unless granted permission to do so by the probation officer.
9. The defendant shall notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer.
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 any agreement with a law enforcement agency to act as a confidential informant without 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. The probation officer may contact the person and make such notifications or confirm that the defendant has notified the person about the risk.
13. The defendant shall refrain from excessive use of alcohol and shall not unlawfully purchase, possess, use, distribute or administer any narcotic or controlled substance or any psychoactive substances (including, but not limited to, synthetic marijuana, bath salts) that impair a person's physical or mental functioning, whether or not intended for human consumption, or any paraphernalia related to such substances, except as duly prescribed by a licensed medical practitioner.
14. The defendant shall participate in a program of testing for substance abuse if directed to do so by the probation officer. The defendant shall refrain from obstructing or attempting to obstruct or tamper, in any fashion, with the efficiency and accuracy of the testing. If warranted, the defendant shall participate in a substance abuse treatment program and follow the rules and regulations of that program. The probation officer will supervise the defendant's participation in the program (including, but not limited to, provider, location, modality, duration, intensity) (unless omitted by the Court).
15. The defendant shall not go to, or remain at any place where he/she knows controlled substances are illegally sold, used, distributed, or administered without first obtaining the permission of the probation officer.
16. The defendant shall submit his/her person, property, house, residence, vehicle, papers, computers (as defined in 18 U.S.C. § 1030(e)(1)), or other electronic communications or data storage devices or media, or office, to a search conducted by a United States Probation Officer and such other law enforcement personnel as the probation officer may deem advisable, without a warrant. The defendant shall warn any other occupants that such premises may be subject to searches pursuant to this condition.
17. The defendant shall pay any financial obligation imposed by this judgment remaining unpaid as of the commencement of the sentence of probation or the term of supervised release in accordance with the schedule of payments of this judgment. The defendant shall notify the court of any changes in economic circumstances that might affect the ability to pay this financial obligation.
18. The defendant shall provide access to any financial information as requested by the probation officer and shall authorize the release of any financial information. The probation office may share financial information with the U.S. Attorney's Office.
19. The defendant shall not seek any extension of credit (including, but not limited to, credit card account, bank loan, personal loan) unless authorized to do so in advance by the probation officer.
20. The defendant shall support all dependents including any dependent child, or any person the defendant has been court ordered to support.
21. The defendant shall participate in transitional support services (including cognitive behavioral treatment programs) and follow the rules and regulations of such program. The probation officer will supervise the defendant's participation in the program (including, but not limited to, provider, location, modality, duration, intensity). Such programs may include group sessions led by a counselor or participation in a program administered by the probation officer.
22. The defendant shall follow the instructions of the probation officer related to the conditions of supervision.

ADDITIONAL CONDITIONS:

23. The defendant shall participate in a mental health evaluation and treatment program and follow the rules and regulations of that program. The probation officer, in consultation with the treatment provider, will supervise the defendant's participation in the program (including, but not limited to provider, location, modality, duration, and intensity). The defendant shall take all mental health medications as prescribed by a licensed health care practitioner.

Defendant: Amos Lamar Burch
Case Number: DNCW318CR000040-001

Judgment- Page 5 of 7

CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the Schedule of Payments.

ASSESSMENT	FINE	RESTITUTION
\$100.00	\$0.00	\$0.00

☐ The determination of restitution is deferred until. An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.

FINE

The defendant shall pay interest on any fine or restitution of more than \$2,500.00, unless the fine or restitution is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the Schedule of Payments may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

☒ The court has determined that the defendant does not have the ability to pay interest and it is ordered that:

☒ The interest requirement is waived.

☐ The interest requirement is modified as follows:

COURT APPOINTED COUNSEL FEES

☐ The defendant shall pay court appointed counsel fees.

☐ The defendant shall pay \$0.00 towards court appointed fees.

Defendant: Amos Lamar Burch
Case Number: DNCW318CR000040-001

Judgment- Page 6 of 7

SCHEDULE OF PAYMENTS

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

- A ☐ Lump sum payment of \$0.00 due immediately, balance due
 ☐ Not later than _____
 ☐ In accordance ☐ (C), ☐ (D) below; or
- B ☒ Payment to begin immediately (may be combined with ☐ (C), ☒ (D) below); or
- C ☐ Payment in equal Monthly (E.g. weekly, monthly, quarterly) installments of \$50.00 to commence 60 (E.g. 30 or 60) days after the date of this judgment; or
- D ☒ Payment in equal Monthly (E.g. weekly, monthly, quarterly) installments of \$ 50.00 to commence 60 (E.g. 30 or 60) days after release from imprisonment to a term of supervision. In the event the entire amount of criminal monetary penalties imposed is not paid prior to the commencement of supervision, the U.S. Probation Officer shall pursue collection of the amount due, and may request the court to establish or modify a payment schedule if appropriate 18 U.S.C. § 3572.

Special instructions regarding the payment of criminal monetary penalties:

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court costs:
- ☒ The defendant shall forfeit the defendant's interest in the following property to the United States as set forth in the Consent Order document 18 entered 5/15/2018:

Unless the court has expressly ordered otherwise in the special instructions above, if this judgment imposes a period of imprisonment payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalty payments are to be made to the United States District Court Clerk, 401 West Trade Street, Room 210, Charlotte, NC 28202, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program. All criminal monetary penalty payments are to be made as directed by the court.

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

Defendant: Amos Lamar Burch
Case Number: DNCW318CR000040-001

Judgment- Page 7 of 7

STATEMENT OF ACKNOWLEDGMENT

I understand that my term of supervision is for a period of _____ months, commencing on _____.

Upon a finding of a violation of probation or supervised release, I understand that the court may (1) revoke supervision, (2) extend the term of supervision, and/or (3) modify the conditions of supervision.

I understand that revocation of probation and supervised release is mandatory for possession of a controlled substance, possession of a firearm and/or refusal to comply with drug testing.

These conditions have been read to me. I fully understand the conditions and have been provided a copy of them.

(Signed) _____ Date: _____
Defendant

(Signed) _____ Date: _____
U.S. Probation Office/Designated Witness

THE FIRST STEP ACT OF 2018: Earned Time Credits

Sentencing Resource Counsel for the Federal Public and Community Defenders (updated Nov. 2019)

Important Dates

January 2020: BOP to post full list of approved programs on www.bop.gov

January 15, 2020: BOP to complete initial risk and needs assessment for each prisoner and "begin" to assign programming

January 15, 2022: BOP must provide evidence-based recidivism reduction programs or productive activities for all inmates.

See 18 U.S.C. § 3621(h); Dep't of Just., *The First Step Act of 2018: Risk and Needs Assessment System*, at 71.

Incentives

- 1) Phone & visitation privileges
 - 2) Transfer closer to home
 - 3) Additional rewards developed by BOP (commissary, email, preferred housing units, etc.)
 - 4) Earned Time Credits (ETCs)
- See 18 U.S.C. § 3632(d)(1) - (4)

Acquiring "Earned Time Credits" (ETCs)

Eligible persons: earn 10 days of ETCs for "every 30 days of successful participation in evidence-based recidivism reduction programming or productive activities"

Persons in min/low risk categories who, "over 2 consecutive assessments" have not increased their risk category shall earn "an additional 5 days of time credits for every 30 days of successful participation in evidence-based recidivism reduction programming or productive activities"

Persons who "successfully participate" in programming shall receive reassessments "not less often than annually." Persons in medium/high risk categories who are less than 5 years from release shall receive more frequent reassessments.

See 18 U.S.C. § 3632(d)(4), (6)

Using "Earned Time Credits" (ETCs)

ETCs can be used when accumulated credits are equal to remainder of prison term.

Pre-release custody (home confinement or RRC):

- (1) Min/Low risk for last 2 reassessments; or
- (2) Warden approval after determining (a) no danger to society; (b) good-faith effort to lower recidivism risk through programming; and (c) unlikely to recidivate

Supervised released (not to exceed 12 months):

- (1) Min/Low risk for last reassessment; or
- (2) Warden approval after determining (a) no danger to society; (b) good-faith effort to lower recidivism risk through programming; and (c) unlikely to recidivate

See 18 U.S.C. § 3624(g)

Ineligible for ETCs

If "serving a sentence for a conviction" under any of the following:

- 18 U.S.C. § 32
- 18 U.S.C. § 33
- 18 U.S.C. § 36
- 18 U.S.C. § 81
- 18 U.S.C. § 111(b)
- 18 U.S.C. § 113(a)(1), (7), (9)
- 18 U.S.C. § 115, except threats
- 18 U.S.C. § 116
- 18 U.S.C. § 117
- Ch. 10 (biological weapons)
- Ch. 11B (chemical weapons)
- 18 U.S.C. § 361
- 18 U.S.C. § 551
- 18 U.S.C. § 751
- 18 U.S.C. § 793
- 18 U.S.C. § 794
- Ch. 39 (explosives), except § 836
- 18 U.S.C. § 842(p) if weapon of mass destruction
- 18 U.S.C. § 844(3), (b), (i)
- 18 U.S.C. § 871
- 18 U.S.C. § 879
- 18 U.S.C. § 924(c)
- 18 U.S.C. § 1030(a)(1)
- 18 U.S.C. § 1091
- Ch. 51 (homicide) except §§ 1112, 1118 (att. mansl.), 1116, 1122
- Ch. 55 (kidnapping)
- Ch. 77 (slavery/peonage) except §§ 1593 - 1596
- 18 U.S.C. § 1751
- 18 U.S.C. § 1791
- 18 U.S.C. § 1792
- 18 U.S.C. § 1841(a)(2)(C)
- 18 U.S.C. § 1992
- 18 U.S.C. § 2113(e)
- 18 U.S.C. § 2118(c)
- 18 U.S.C. § 2119
- Ch. 105 (sabotage) except § 2152
- Ch. 109A (sex abuse)
- 18 U.S.C. § 2250
- 18 U.S.C. § 2251
- 18 U.S.C. § 2251A
- 18 U.S.C. § 2252
- 18 U.S.C. § 2252A
- 18 U.S.C. § 2260
- 18 U.S.C. § 2288
- 18 U.S.C. § 2284
- 18 U.S.C. § 2291 if sub. risk of death/SBI
- Ch. 119B (terrorism)
- 18 U.S.C. § 2340A
- 18 U.S.C. § 2381
- 18 U.S.C. § 2442
- 18 U.S.C. § 3559(c)(2)(F) if +1 year imprisonment and if certain prior convictions
- 42 U.S.C. § 2077(b)
- 42 U.S.C. § 2122
- 42 U.S.C. § 2131
- 42 U.S.C. § 2274
- 42 U.S.C. § 2276
- 42 U.S.C. § 2284
- 49 U.S.C. § 50123(b) if sub. risk of death/SBI
- 21 U.S.C. § 841(b)(1)(A-C) if death/SBI resulted
- 8 U.S.C. § 1326(b)(1), (2)
- 8 U.S.C. § 1397
- 8 U.S.C. § 1328
- 50 U.S.C. § 4611 et seq.
- 50 U.S.C. § 1705
- 50 U.S.C. § 3121
- 21 U.S.C. §§ 841(b)(1)(A)-(B) or 960(b)(1)-(2) if for fentanyl/analog

Court-found Ineligibilities:

- 21 U.S.C. §§ 841(b)(1)(A)-(B) or 960(b)(1)-(2) if heroin and court finds role enhancement
- 21 U.S.C. §§ 841(b)(1)(A)-(B) or 960(b)(1)-(2) if meth and court finds role enhancement
- 21 U.S.C. §§ 841(b)(1)(A)-(B) or 960(b)(1)-(2) for any drug if court finds offense involved fentanyl/analog and role enhancement

Deportable persons: ineligible to apply time credits if subject to a final order of removal under any provision of the INA

See 18 U.S.C. § 3632(d)(4)(D)-(E)

CUMAD 540*23 *
PAGE 002 OF 002 *

SENTENCE MONITORING
COMPUTATION DATA
AS OF 12-15-2021

* 12-15-2021
* 07:21:54

REGNO...: 34153-058 NAME: BURCH, AMOS LAMAR

-----CURRENT COMPUTATION NO: 010 -----

COMPUTATION 010 WAS LAST UPDATED ON 12-14-2021 AT PSC AUTOMATICALLY
COMPUTATION CERTIFIED ON 12-14-2021 BY DESIG/SENTENCE COMPUTATION CTR

THE FOLLOWING JUDGMENTS, WARRANTS AND OBLIGATIONS ARE INCLUDED IN
CURRENT COMPUTATION 010: 010 010

DATE COMPUTATION BEGAN.....: 12-17-2018
TOTAL TERM IN EFFECT.....: 57 MONTHS
TOTAL TERM IN EFFECT CONVERTED...: 4 YEARS 9 MONTHS
EARLIEST DATE OF OFFENSE.....: 11-08-2017

JAIL CREDIT.....: FROM DATE THRU DATE
02-11-2018 12-16-2018

TOTAL PRIOR CREDIT TIME.....: 309
TOTAL INOPERATIVE TIME.....: 0
TOTAL GCT EARNED AND PROJECTED...: 256
TOTAL GCT EARNED.....: 162
STATUTORY RELEASE DATE PROJECTED: 02-28-2022
ELDERLY OFFENDER TWO THIRDS DATE: 04-12-2021
EXPIRATION FULL TERM DATE.....: 11-11-2022
TIME SERVED.....: 3 YEARS 10 MONTHS 5 DAYS
PERCENTAGE OF FULL TERM SERVED...: 80.9
PERCENT OF STATUTORY TERM SERVED: 94.9

PROJECTED SATISFACTION DATE.....: 02-28-2022
PROJECTED SATISFACTION METHOD...: GCT REL

REMARKS.....: DCB IS DATE INMATE RELEASED FROM STATE SENTENCE INTO EXCLUSIVE
FEDERAL CUSTODY. 12-14-2021: UPDATED PURSUANT TO BARDEN. C/JWC.

G0000 TRANSACTION SUCCESSFULLY COMPLETED

Proof of Release
Sent to new address

By: Am L. L. L.

CUMAD 540*23 *
PAGE 001 *

SENTENCE MONITORING
COMPUTATION DATA
AS OF 12-15-2021

* 12-15-2021
* 07:21:54

REGNO...: 34153-058 NAME: BURCH, AMOS LAMAR

FBI NO.....: 519446LB1 DATE OF BIRTH: 04-19-1983 AGE: 38
ARS1.....: CUM/A-DES
UNIT.....: UNIT B QUARTERS.....: B07-223U
DETAINERS.....: NO NOTIFICATIONS: NO

HOME DETENTION ELIGIBILITY DATE: 09-09-2021

THE FOLLOWING SENTENCE DATA IS FOR THE INMATE'S CURRENT COMMITMENT.
THE INMATE IS PROJECTED FOR RELEASE: 02-28-2022 VIA GCT REL

-----CURRENT JUDGMENT/WARRANT NO: 010 -----

COURT OF JURISDICTION.....: NORTH CAROLINA, WESTERN DISTRICT
DOCKET NUMBER.....: DNCW318CR000040-001
JUDGE.....: COGBURN
DATE SENTENCED/PROBATION IMPOSED: 12-17-2018
DATE COMMITTED.....: 04-05-2021
HOW COMMITTED.....: US DISTRICT COURT COMMITMENT
PROBATION IMPOSED.....: NO

	FELONY ASSESS	MISDMNR ASSESS	FINES	COSTS
NON-COMMITTED..:	\$100.00	\$00.00	\$00.00	\$00.00

RESTITUTION....: PROPERTY: NO SERVICES: NO AMOUNT: \$00.00

-----CURRENT OBLIGATION NO: 010 -----

OFFENSE CODE....: 136 18:922(G) FIREARMS,GUN CNTL
OFF/CHG: 18:922(G) (1) & 924(A) (2) UNLAWFUL POSSESSION OF ONE OR MORE
FIREARMS BY CONVICTED FELON

SENTENCE PROCEDURE.....: 3555 PLRA SENTENCE
SENTENCE IMPOSED/TIME TO SERVE.: 57 MONTHS
TERM OF SUPERVISION.....: 3 YEARS
DATE OF OFFENSE.....: 11-08-2017

G0002 MORE PAGES TO FOLLOW . . .

CUMAD 542*22 *
PAGE 001 OF 001 *

SENTENCE MONITORING
GOOD TIME DATA
AS OF 12-15-2021

* 12-15-2021
* 07:22:11

REGNO....: 34153-058 NAME: BURCH, AMOS LAMAR
ARS 1....: CUM A-DES
COMPUTATION NUMBER...: 010
LAST UPDATED: DATE.: 12-14-2021
UNIT.....: UNIT B
DATE COMP BEGINS....: 12-17-2018
TOTAL JAIL CREDIT...: 309
CURRENT REL DT.....: 06-02-2022 THU
PROJ SATISFACT DT...: 02-28-2022 MON
ACTUAL SATISFACT DT.:
DAYS REMAINING.....:
GED PART STATUS.....:

PLRA
PRT ACT* DT:
FACL...: DSC CALC: AUTOMATIC
QUARTERS.....: B07-223U
COMP STATUS.....: COMPLETE
TOTAL INOP TIME.....: 0
EXPIRES FULL TERM DT: 11-11-2022
PROJ SATISF METHOD...: GCT REL
ACTUAL SATISF METHOD:
FINAL PUBLIC LAW DAYS:
DEPORT ORDER DATED...:

-----GOOD CONDUCT TIME AMOUNTS-----

START DATE	STOP DATE	MAX POSSIBLE TO DIS FFT	ACTUAL TOTALS DIS FFT	VESTED AMOUNT	VESTED DATE
02-11-2018	02-10-2019	54 54			
02-11-2019	02-10-2020	54 108			
02-11-2020	02-10-2021	54 162			
02-11-2021	02-10-2022	54			
02-11-2022	11-11-2022	40			

TOTAL EARNED AMOUNT.....: 162
TOTAL EARNED AND PROJECTED AMOUNT.....: 256

It will be soon!

G0005

TRANSACTION SUCCESSFULLY COMPLETED - CONTINUE PROCESSING IF DESIRED