

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

CHRISTOPHER ALEXANDER REILLY, PETITIONER

VS.

UNITED STATES OF AMERICA, RESPONDENT

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

APPENDIX FOR PETITION FOR WRIT OF CERTIORARI

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APPENDIX TO THE PETITION

<i>United States v. Reilly</i> , Judgment & Commitment, SA-17-CR-128-DAE (W.D. TX. 2021 – Mar. 16, 2018)	1a
<i>Christopher Reilly v. United States</i> , Final Judgment & Order Denying Motion to Vacate and Denying Certificate of Appealability, SA-17-CR-128-DAE & SA-19-CV-203-DAE (W.D. TX. 2021 – Mar. 16, 2018)	8a
<i>United States v. Reilly</i> , Mandate & Judgment Denying Certificate of Appealability, 21-50068 (5 th Cir. – Mar. 31, 2022)	9a
Federal Appeal Statistics Excerpt (2020)	12a

FILED

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

MAR 16 2018

UNITED STATES OF AMERICA

v.

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY *[Signature]* DEPUTY CLERKCase Number: 5:17-CR-00128-DAE
USM Number: 85653-380CHRISTOPHER ALEXANDER REILLY
aka Christopher Reilly, Christopher A Reilly
Defendant.JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

The defendant, CHRISTOPHER ALEXANDER REILLY, was represented by Adam J. Crawshaw, Esq.

On a motion of the United States, the Court dismissed the remaining counts of the original indictment as to this defendant.

The defendant pled guilty to Counts Three (3) & Four (4), of the Indictment on November 27, 2017. Accordingly, the defendant is adjudged guilty of such Counts, involving the following offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. § 2252A(a)(2)	Receipt of Child Pornography	01/31/2017	Three (3)
18 U.S.C. § 2252A(a)(1)	Transportation of Child Pornography	12/31/2016	Four (4)

As pronounced on February 26, 2018, 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.

It is further 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 restitution, the defendant must notify the Court and United States Attorney of material changes in economic circumstances.

Signed this 16th day of March, 2018.


 DAVID A. EZRA
 Senior United States District Judge

DEFENDANT: CHRISTOPHER ALEXANDER REILLY
CASE NUMBER: 5:17-CR-00128-DAE(1)

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a **total term of two hundred months (200) months**. This term consists of two hundred (200) months as to count three (3) and two hundred (200) months as to count four (4). **Terms to run concurrent** with credit for time served while in custody for this federal offense pursuant to 18 U.S.C. § 3585(b).

The court makes the following recommendation to the Bureau of Prisons:

- (1) That the defendant be incarcerated in Bastrop, Texas.

The defendant shall remain in custody pending service of sentence.

RETURN

I have executed this judgment as follows:

Defendant delivered on [redacted] to [redacted]

at [redacted], with a certified copy of this judgment.

UNITED STATES MARSHAL

By
DEPUTY UNITED STATES MARSHAL

DEFENDANT: CHRISTOPHER ALEXANDER REILLY
 CASE NUMBER: 5:17-CR-00128-DAE(1)

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a total term of **twenty (20) years**. This term consists of twenty (20) years as to count three (3) and twenty (20) years as to count four (4). **Terms to run concurrent.**

While on supervised release, the defendant shall comply with the mandatory, standard and if applicable, the special conditions that have been adopted by this Court, and shall comply with the following additional conditions:

1. The defendant shall participate in a sex offense-specific treatment program and submit to periodic polygraph testing at the discretion of the probation officer as a means to ensure compliance with the requirements of supervision or the treatment program. The defendant shall follow the rules and regulations of the program. The probation officer will supervise the defendant's participation in the program (provider, location, modality, duration, intensity, etc). The defendant shall pay the costs of the program if financially able.
2. The defendant shall allow the probation officer to install computer monitoring software on any computer (as defined in 18 U.S.C. § 1030(e)(1)) the defendant uses.
3. To ensure compliance with the computer monitoring condition, the defendant shall allow the probation officer to conduct initial and periodic unannounced searches of any computers (as defined in 18 U.S.C. § 1030(e)(1)) subject to computer monitoring. These searches shall be conducted for the purposes of determining whether the computer contains any prohibited data prior to installation of the monitoring software; to determine whether the monitoring software is functioning effectively after its installation; and to determine whether there have been attempts to circumvent the monitoring software after its installation. The defendant shall warn any other people who use these computers that the computers may be subject to searches pursuant to this condition.
4. The defendant shall submit his person, property, house, residence, vehicle, papers, computers (as defined in 18 U.S.C. § 1030(e)(1)), other electronic communications or data storage devices or media, or office, to a search conducted by a United States probation officer. Failure to submit to a search may be grounds for revocation of release. The defendant shall warn any other occupants that the premises may be subject to searches pursuant to this condition. The probation officer may conduct a search under this condition only when reasonable suspicion exists that the defendant has violated a condition of supervision and that the areas to be searched contain evidence of this violation. Any search shall be conducted at a reasonable time and in a reasonable manner.
5. The defendant shall not associate with any child or children under the age of 18 except in the presence and supervision of an adult specifically designated in writing by the probation officer. The probation officer will notify the designated adult of risks occasioned by the defendant's criminal record or personal history or characteristics. The defendant shall permit the probation officer to make such notifications.
6. The defendant shall reside in a residence approved, in advance, by the probation officer. Any changes in the residence must be pre-approved by the Court.
7. The defendant shall not reside within 1,000 feet of the real property comprising a public or private elementary, vocational, or secondary school or a public or private college, junior college, university or playground or a housing authority owned by a public housing authority or within 100 feet of a public or private youth center, public swimming pool or video arcade facility, without prior approval of the Court.
8. If the defendant resumes his photographic profession, he shall not photograph any female or male under the age of 17 without prior approval of the probation officer.

DEFENDANT: CHRISTOPHER ALEXANDER REILLY
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CONDITIONS OF SUPERVISION

Mandatory Conditions:

1. The defendant shall not commit another federal, state, or local crime during the term of supervision.
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 on probation or supervised release and at least two periodic drug tests thereafter (as determined by the court), but the condition stated in this paragraph may be ameliorated or suspended by the court if the defendant's presentence report or other reliable sentencing information indicates low risk of future substance abuse by the defendant.
4. The defendant shall cooperate in the collection of DNA as instructed by the probation officer, if the collection of such a sample is authorized pursuant to section 3 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. § 14135a).
5. If applicable, the defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et. seq.) as instructed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which the defendant resides, works, is a student, or was convicted of a qualifying offense.
6. If convicted of a domestic violence crime as defined in 18 U.S.C. § 3561(b), the defendant shall participate in an approved program for domestic violence.
7. If the judgment imposes restitution, the defendant shall pay the ordered restitution in accordance with 18 U.S.C. §§ 2248, 2259, 2264, 2327, 3663, 3663A, and 3664. (if applicable)
8. The defendant shall pay the assessment imposed in accordance with 18 U.S.C. § 3013.
9. If the judgment imposes a fine, it is a condition of supervision that the defendant pay in accordance with the Schedule of Payments sheet of the judgment.
10. The defendant shall notify the court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution, fines or special assessments.

Standard Conditions:

- 1) The defendant shall report to the probation office in the federal judicial district where he or she is authorized to reside within seventy-two (72) hours of release from imprisonment, unless the probation officer instructs the defendant to report to a different probation office or within a different time frame.
- 2) After initially report to the probation office, the defendant will receive instructions from the court or the probation officer about how and when to report to the probation officer, and the defendant shall report to the probation officer as instructed.
- 3) The defendant shall not knowingly leave the federal judicial district where he or she is authorized to reside without first getting permission from the court or the probation officer.
- 4) The defendant shall answer truthfully the questions asked by the probation officer.
- 5) The defendant shall live at a place approved by the probation officer. If the defendant plans to change where he or she lives or anything about his or her living arrangements (such as the people the defendant lives with), the defendant shall notify the probation officer at least ten (10) days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, the defendant shall notify the probation officer within seventy-two (72) hours of becoming aware of a change or expected change.
- 6) The defendant shall allow the probation officer to visit the defendant at any time at his or her home or elsewhere, and the defendant shall permit the probation officer to take any items prohibited by the conditions of the defendant's supervision that are observed in plain view..
- 7) The defendant shall work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses the defendant from doing so. If the defendant does not have full-time employment, he or she shall try to find full-time employment, unless the probation officer excuses the defendant from doing so. If the defendant plans to change where the

DEFENDANT: CHRISTOPHER ALEXANDER REILLY
CASE NUMBER: 5:17-CR-00128-DAE(1)

defendant works or anything about his or her work (such as the position or job responsibilities), the defendant shall notify the probation officer at least ten (10) days before the change. If notifying the probation officer at least ten (10) days in advance is not possible due to unanticipated circumstances, the defendant shall notify the probation officer within seventy-two (72) hours of becoming aware of a change or expected change.

- 8) The defendant shall not communicate or interact with someone the defendant knows is engaged in criminal activity. If the defendant knows someone has been convicted of a felony, the defendant shall not knowingly communicate or interact with that person without first getting the permission of the probation officer.
- 9) If the defendant is arrested or questioned by a law enforcement officer, the defendant shall notify the probation officer within seventy-two (72) hours.
- 10) The defendant shall not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified, for the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
- 11) The defendant shall not act or make 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 the defendant poses a risk to another person (including an organization), the probation officer may require the defendant to notify the person about the risk and the defendant shall comply with that instruction. The probation officer may contact the person and confirm that the defendant has notified the person about the risk.
- 13) The defendant shall follow the instructions of the probation officer related to the conditions of supervision.
- 14) If the judgment imposes other criminal monetary penalties, it is a condition of supervision that the defendant pays such penalties in accordance with the Schedule of Payments sheet of the judgment.
- 15) If the judgment imposes a fine, special assessment, restitution, or other criminal monetary penalties, it is a condition of supervision that the defendant shall provide the probation officer access to any requested financial information.
- 16) If the judgment imposes a fine, special assessment, restitution, or other criminal monetary penalties, it is a condition of supervision that the defendant shall not incur any new credit charges or open additional lines of credit without the approval of the probation officer, unless the defendant is in compliance with the payment schedule.
- 17) If the defendant is excluded, deported, or removed upon release on probation or supervised release, the term of supervision shall be a non-reporting term of probation or supervised release. The defendant shall not illegally re-enter the United States. If the defendant is released from confinement or not deported, or lawfully re-enters the United States during the term of probation or supervised release, the defendant shall immediately report to the nearest U.S. Probation Officer.

DEFENDANT: CHRISTOPHER ALEXANDER REILLY
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CRIMINAL MONETARY PENALTIES/SCHEDULE

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth. Unless the Court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. Criminal Monetary Penalties, except those payments made through Federal Bureau of Prisons' Inmate Financial Responsibility Program shall be paid through the Clerk, United States District Court, 655 E. Cesar E. Chavez Blvd, Room G65, San Antonio, TX 78206. The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$200.00	\$0.00	\$0.00

SPECIAL ASSESSMENT

It is ordered that the defendant shall pay to the United States a special assessment of \$200.00. The amount represents \$100.00 for count three (3) and \$100.00 for count four (4) for a total of \$200.00. Payment of this sum shall begin immediately.

FINE

The fine is waived because of the defendant's inability to pay.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column above. However, pursuant to 18 U.S.C. § 3664(i), all non-federal victims must be paid before the United States is paid.

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. §3614.

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 the judgment, pursuant to 18 U.S.C. §3612(f). All payment options may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. §3612(g).

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

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: CHRISTOPHER ALEXANDER REILLY
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FORFEITURE

The defendant is ordered to forfeit the following property to the United States:

- the MacBook laptop; Seagate external hard drive SN W801DCD2
- Seagate external hard drive W801RAN6
- Seagate Backup Plus Portable 2TB external hard disk drive SN NA7K0WNE
- Western Digital My Passport Ultra SN WXG1E65D53CA
- Canon EOS ID with Ultra Sonic lens
- Canon EOS 7D Mark II
- Apple iphone Model A1661
- Apple iPhone Model A1586
- and any other digital devices seized during the investigation of this matter that contain evidence of child exploitation material
- and any property, real or personal, involved in such offense
- and any and all visual depictions described the plea agreement

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

CHRISTOPHER ALEXANDER
REILLY,
#85653-380,

Movant,

SA-19-CV-203-DAE
SA-17-CR-128-DAE

V.

UNITED STATES OF AMERICA,

Respondent.

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FINAL JUDGMENT

The Court considered the Judgment to be issued in the above styled and numbered cause.

Pursuant to the Order denying Movant Christopher Alexander Reilly's Motion to Vacate, Set Aside, or Correct Sentence Under 28 U.S.C. § 2255 of even date herewith,

IT IS HEREBY ORDERED, ADJUDGED and DECREED that Movant's Motion to Vacate, Set Aside, or Correct Sentence Under 28 U.S.C. § 2255 (ECF No. 67) is **DENIED**. **IT IS FURTHER ORDERED** that all pending motions related to this motion, if any, are **DISMISSED AS MOOT**.

FINALLY, IT IS ORDERED that a **CERTIFICATE OF APPEALABILITY WILL NOT ISSUE**, and this case is **DISMISSED** and **CLOSED**.

It is so ORDERED.

SIGNED on this 15 day of December, 2020.

David A. Ezra
Senior U.S. District Judge



United States Court of Appeals for the Fifth Circuit

Certified as a true copy and issued
as the mandate on May 23, 2022

Attest: *Lyle W. Cayce*
Clerk, U.S. Court of Appeals, Fifth Circuit

UNITED STATES OF AMERICA,

United States Court of Appeals
Fifth Circuit

FILED

March 31, 2022

Lyle W. Cayce
Clerk

Plaintiff—Appellee,

versus

CHRISTOPHER ALEXANDER REILLY,

Defendant—Appellant.

Application for Certificate of Appealability from
the United States District Court
for the Western District of Texas
USDC No. 5:19-CV-203
USDC No. 5:17-CR-128-1

Before KING, SMITH, and WILLETT, *Circuit Judges.*

PER CURIAM:

Christopher Reilly, federal prisoner #85653-380, seeks a certificate of appealability (“COA”) to challenge the denial of his 28 U.S.C. § 2255 motion. Reilly filed the motion to attack his guilty-plea convictions of receipt of child pornography and transportation of child pornography, for which he was sentenced to concurrent terms of 200 months.

Renewing claims raised in the district court, Reilly contends that his trial counsel was ineffective for (1) failing to file a timely motion to suppress

No. 21-50068

and (2) failing to consult with him regarding an appeal. He maintains that he was entitled to an evidentiary hearing on the claim asserting that counsel was ineffective for failing to file a timely suppression motion.

Because Reilly fails to “demonstrate that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong,” a COA is DENIED. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Because Reilly fails to make the required showing for a COA, this court does not reach whether the district court erred by denying an evidentiary hearing. *See United States v. Davis*, 971 F.3d 524, 534–35 (5th Cir. 2020), *cert. denied*, 142 S. Ct. 122 (2021).

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

May 23, 2022

Ms. Jeannette Clack
Western District of Texas, San Antonio
United States District Court
655 E. Cesar E. Chavez Boulevard
Suite G65
San Antonio, TX 78206

No. 21-50068 USA v. Reilly
USDC No. 5:19-CV-203

Dear Ms. Clack,

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

Sincerely,

LYLE W. CAYCE, Clerk

Renee McDonough

By: Renee S. McDonough, Deputy Clerk
504-310-7673

cc:

Mr. Joseph H. Gay Jr.
Mr. Stephen H. Gordon

Federal Judicial Caseload Statistics 2020

In accordance with 28 U.S.C. § 604(a)(2) (<http://www.law.cornell.edu/uscode/text/28/604>), each year the Administrative Office of the United States Courts is required to provide a report of statistical information on the caseload of the federal courts for the 12-month period ending March 31.

This report presents data on the work of the appellate, district, and bankruptcy courts and on the probation and pretrial services systems. The following is a summary of key findings provided for the year ending March 31, 2020.

- In the U.S. courts of appeals, filings increased 5 percent.
- The bankruptcy appellate panels reported that filings fell 11 percent.
- Filings in the U.S. Court of Appeals for the Federal Circuit dropped 3 percent.
- In the U.S. district courts, filings of civil cases grew 16 percent, while filings for criminal defendants rose 3 percent.
- The U.S. bankruptcy courts received 1 percent fewer petitions.
- The number of persons under supervision by the federal probation system on March 31, 2020, was 1 percent below the total reported one year earlier.
- Pretrial services cases activated in the past 12 months increased 5 percent.

U.S. Courts of Appeals

Filings in the 12 regional courts of appeals rose 5 percent to 50,258 (up 2,281 appeals) in 2020. This increase stemmed from higher filings of other private civil appeals and of criminal appeals, which more than offset decreases in U.S. prisoner petitions and private prisoner petitions.

Civil appeals increased by 732 cases to 27,500.

- Civil appeals not filed by prisoners rose 8 percent.
- Prisoner petitions fell 3 percent.

Criminal appeals grew 8 percent to 10,425, mainly because of a 19 percent increase in appeals related to drug offenses.

- Seventy-six percent of criminal appeals involved four offense categories: drugs, firearms and explosives, property offenses (including fraud), and immigration.

Appeals of administrative agency decisions rose 9 percent to 6,356, mostly due to growth in appeals of decisions by the Board of Immigration Appeals (BIA).

- BIA appeals accounted for 86 percent of administrative agency appeals and constituted the largest category of administrative agency appeals filed in each circuit except the DC Circuit.

Original proceedings and miscellaneous applications climbed 7 percent to 5,346.

- Sixty-six percent of original proceedings and miscellaneous applications involved second or successive motions for writs of habeas corpus, and 23 percent involved writs of mandamus.
- Of the 434 miscellaneous applications reported, motions for class actions accounted for 50 percent of the total.

Bankruptcy appeals declined 3 percent to 631.

APPEALS COURT FILINGS PERCENT CHANGE OVER TIME

	Since 2011	Since 2016	Since 2019
Total Filings	-9.9	-6.3	4.8
Criminal Appeals	-17.1	-15.1	7.5
Civil Appeals	-10.9	-2.0	2.7
U.S. Prisoner Petitions	-14.3	-0.7	-8.6
Other U.S. Civil	-7.0	-0.5	3.1
Private Prisoner Petitions	-24.5	-13.2	-0.6
Other Private Civil	1.8	6.3	9.5
Bankruptcy Appeals	-8.0	-21.9	-3.2
Administrative Agency Appeals	-17.3	-7.4	8.6
Original Proceedings and Miscellaneous Applications ¹	35.3	-5.1	6.7

¹ Beginning in March 2014, data include miscellaneous cases not included previously.

Case terminations rose 1 percent to 49,057. Pending cases increased 3 percent to 39,014.

For data on activity of the appellate courts, see the [B series of tables](#) ([/statistics-reports/federal-judicial-caseload-statistics-2020-tables](#)).