

# APPENDIX

## TAB A: FIFTH CIRCUIT'S OPINION

# United States Court of Appeals for the Fifth Circuit

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No. 23-40490  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

May 8, 2025

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

ERIC RICHARD GARZA,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 2:19-CR-5-1

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Before WIENER, HO, and RAMIREZ, *Circuit Judges.*

PER CURIAM:\*

Eric Richard Garza was convicted of attempted Hobbs Act robbery in violation of 18 U.S.C. § 1951 (Count One), and discharge of a firearm during a crime of violence in violation of 18 U.S.C. § 924(c)(1)(A)(iii) (Count Two). In his first appeal, we vacated as to the § 924(c) offense and remanded for resentencing. *See United States v. Garza*, No. 21-40759, 2023 WL 2525655,

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\* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

No. 23-40490

at \*2, \*4 (5th Cir. Mar. 15, 2023) (unpublished). On remand, the district court resentenced Garza on Count One within a recalculated guidelines range to a higher sentence than initially imposed. Now, Garza argues that his resentencing violated our previous mandate.

We review the issue de novo. *See United States v. Clark*, 816 F.3d 350, 360-61 (5th Cir. 2016). Here, we are persuaded that the district court complied with the letter and spirit of our mandate by resentencing Garza on Count One. *See United States v. Solorzano*, 65 F.4th 245, 249 n.4 (5th Cir. 2023); *Clark*, 816 F.3d at 360-61.

The judgment of the district court is AFFIRMED.

**TAB B: AMENDED JUDGMENT  
IN A CRIMINAL CASE**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
Holding Session in Corpus Christi

**ENTERED**  
August 17, 2023  
Nathan Ochsner, Clerk

UNITED STATES OF AMERICA

**AMENDED JUDGMENT IN A CRIMINAL CASE**

v.

**ERIC RICHARD GARZA**

**CASE NUMBER: 2:19CR00005-001**

**USM NUMBER: 75542-479**

**Date of Original Judgment:** October 6, 2021

(Or Date of Last Amended Judgment)

\* Adam Patrick Rodrigue

Defendant's Attorney

**THE DEFENDANT:**

- ☐ pleaded guilty to count(s) \_\_\_\_\_
- ☐ pleaded nolo contendere to count(s) \_\_\_\_\_  
which was accepted by the court.
- ☒ \* was found guilty on count(s) 1 on June 16, 2021.  
after a plea of not guilty.

\* The defendant is adjudicated guilty of these offenses:

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. §§ 1951 and 2	Interference With Commerce by Attempted Robbery	12/14/2018	1

☐ See Additional Counts of Conviction.

The defendant is sentenced as provided in pages 2 through 6 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) \_\_\_\_\_
- ☐ Count(s) \_\_\_\_\_ 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.

August 15, 2023

Date of Imposition of Judgment



Signature of Judge

**NELVA GONZALES RAMOS**  
**UNITED STATES DISTRICT JUDGE**

Name and Title of Judge

August 17, 2023

Date

DEFENDANT: ERIC RICHARD GARZA  
CASE NUMBER: 2:19CR00005-001

## IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of \*144 months.

- ☐ See Additional Imprisonment Terms.
- ☒ The court makes the following recommendations to the Bureau of Prisons:
- \* That the defendant be placed in a facility that is not Forest City, Arkansas, and that does not house gang members, specifically Mexican Mafia, due to the defendant's experience while in custody at the Bureau of Prisons. That the defendant participates in the 500-hour Residential Drug Abuse Program (RDAP) program.
- ☒ 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 \_\_\_\_\_ 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: **ERIC RICHARD GARZA**  
CASE NUMBER: **2:19CR00005-001**

## SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of \* 3 years.

## 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 the location where 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 other conditions on the attached page.

## STANDARD CONDITIONS OF SUPERVISION

- ☒ See Special 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.
14. If restitution is ordered, the defendant must make restitution as ordered by the Judge and in accordance with the applicable provisions of 18 U.S.C. §§ 2248, 2259, 2264, 2327, 3663A and/or 3664. The defendant must also pay the assessment imposed in accordance with 18 U.S.C. § 3013.
15. The defendant must notify the U.S. Probation Office of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution, fines, or special assessments.



DEFENDANT: **ERIC RICHARD GARZA**  
CASE NUMBER: **2:19CR00005-001**

## **SPECIAL CONDITIONS OF SUPERVISION**

**SUBSTANCE ABUSE TREATMENT AND TESTING:** You must participate in an outpatient substance-abuse treatment program and follow the rules and regulations of that program. The probation officer will supervise your participation in the program, including the provider, location, modality, duration, and intensity. You must pay the costs of the program, if financially able.

You may not possess any controlled substances without a valid prescription. If you do have a valid prescription, you must follow the instructions on the prescription.

You must submit to substance-abuse testing to determine if you have used a prohibited substance, and you must pay the costs of the testing if financially able. You may not attempt to obstruct or tamper with the testing methods.

You may not knowingly purchase, possess, distribute, administer, or otherwise use any psychoactive substances, including synthetic marijuana or bath salts, that impair a person's physical or mental functioning, whether or not intended for human consumption, except as with the prior approval of the probation officer.

DEFENDANT: ERIC RICHARD GARZA  
CASE NUMBER: 2:19CR00005-001

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment<sup>1</sup></u>	<u>JVTA Assessment<sup>2</sup></u>
<b>TOTALS</b>	* \$100.00	\$29,674.17	\$0.00	\$0.00	\$0.00

- ☐ See Additional Terms for Criminal Monetary Penalties.
- ☐ The determination of restitution is deferred until \_\_\_\_\_. An Amended Judgment in a Criminal Case (AO 245C) 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, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss<sup>3</sup></u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
Victim-A.M.D.	\$29,674.17	\$29,674.17	100%
<b>TOTALS</b>	<u>\$29,674.17</u>	<u>\$29,674.17</u>	100%

- ☐ See Additional Restitution Payees.

- ☐ 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 Sheet 6 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:

- ☒ the interest requirement is waived for the
 ☐ fine
 ☒ restitution.
- ☐ the interest requirement for the
 ☐ fine
 ☐ restitution is modified as follows:

- ☐ Based on the Government's motion, the Court finds that reasonable efforts to collect the special assessment are not likely to be effective. Therefore, the assessment is hereby remitted.

<sup>1</sup> Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.

<sup>2</sup> Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

<sup>3</sup> 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: ERIC RICHARD GARZA  
 CASE NUMBER: 2:19CR00005-001

## 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 payment of \$\_\_\_\_\_ due immediately, balance due  
☐ not later than \_\_\_\_\_, or  
☐ in accordance with ☐ 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 \_\_\_\_\_ installments of \$\_\_\_\_\_ over a period of \_\_\_\_\_, to commence \_\_\_\_\_ after the date of this judgment; or
- D ☐ Payment in equal \_\_\_\_\_ installments of \$\_\_\_\_\_ over a period of \_\_\_\_\_, to commence \_\_\_\_\_ after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within \_\_\_\_\_ 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:  
 Payable to: Clerk, U.S. District Court  
 Attn: Finance  
 1133 N Shoreline Blvd, Ste 208  
 Corpus Christi, TX 78401

Restitution is due in payments of the greater of \$25 per quarter or 50% of any wages earned while imprisoned. The defendant will receive credit for any payments made through the Bureau of Prisons' Inmate Financial Responsibility Program. Any balance remaining after release from imprisonment shall be paid in monthly installments of \$250.00, to commence 30 days after release to a term of supervision. Payments are to be made through the United States District Clerk's Office, Southern District of Texas.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of 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

### Case Number

**Defendant and Co-Defendant Names**  
**(including defendant number)**

Christopher James Rangel-Musial,  
 2:19CR00005-002

**Total Amount**  
 \$29,674.17

**Joint and Several**  
**Amount**  
 \$29,674.17

**Corresponding Payee,**  
**if appropriate**  
 Victim- A.M.D.

☐ See Additional Defendants and Co-Defendants Held Joint and Several.

☐ 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) JVT A assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.