

NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 2017

Keith Stephens,

v.

UNITED STATES OF AMERICA,
Respondent.

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

PETITION FOR WRIT OF CERTIORARI

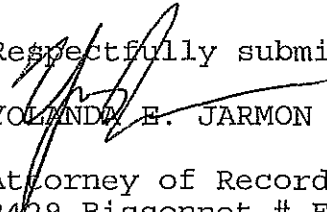
On Petition for Writ of Certiorari to the United States
Court of Appeals for the Fifth Circuit

MOTION FOR LEAVE TO PROCEED
IN FORMA PAUPERIS

Petitioner, Keith Stephens, pursuant to Rule 39 and 18 U.S.C. § 3006A(d)(6), asks leave to file the accompanying Petition for Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit without prepayment of costs and to proceed in forma pauperis. Petitioner was represented by counsel appointed under the Criminal Justice Act, 18 U.S.C. § 3006A (b) and (c), on appeal to the United States Court of Appeals for the Fifth Circuit.

Date:
January 22, 2018.

Respectfully submitted,


YOLANDA E. JARMON

Attorney of Record for Petitioner
2429 Bissonnet # E416
Houston, Texas 77005
Telephone: (713) 635-8338
Fax : (713) 635-8498

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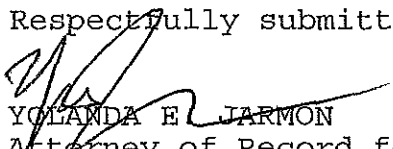
v.

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Attorney of Record for Petitioner
7429 Bissonnet # E416
Houston, Texas 77005
Telephone: (713) 635-8338
Fax: (713) 635-8498

QUESTIONS PRESENTED

I. Whether the Fifth Circuits order mandating that the district court order mental health treatment as part of Mr. Stephens is unconstitutional and a violation of Article III because the Fifth Circuit's order usurps the district court's unique role in issuing a specific, clear unambiguous sentence in the first place.

PARTIES TO THE PROCEEDINGS

All parties to the proceedings are named in the caption of the case before the Court.

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Appendix C: Judgment and Sentence of the District Court, United States v. Keith Stephens, Cr. No. 4:15:CR:265-1. (S.D. Tex. September 25, 2015)

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PRAYER

The petitioner, Keith Stephens, (Hereinafter "Mr. Stephens") respectfully prays that a writ of certiorari be granted to review the judgment and opinion of the United States Court of Appeals for the Fifth Circuit issued on October 24, 2017.

OPINIONS BELOW

On October 24, 2017, the United States Court of Appeals for the Fifth Circuit entered its judgment and opinion and affirmed Mr. Stephens' conviction. United States v. Keith Stephens, 699 Fed. Appx.343, 2017 LEXIS 20693 (5th Cir. October 24, 2017) (unpublished). A copy of the Fifth Circuit's opinion affirming the conviction is attached as **Appendix A** to this petition.

The Fifth Circuit also issued an order modifying the sentence in this case. The order mandated that the district court issue a sentence providing that mental health treatment be imposed upon Mr. Stephens with details of treatment to be supervised by the probation office. A copy of the Fifth Circuit's order to modify Mr. Stephens' sentence is attached as **Exhibit B**. No petition for rehearing was filed.

A copy of the judgment and sentence of the district court is attached as **Appendix C**. United States v. Keith Stephens Cr. No. 4:15:CR:265-1 (S.D. Tex. August 1, 2016). The district court did not issue a written opinion in this case.

JURISDICTION

On October 24, 2017, the United States Court of Appeals for the Fifth Circuit entered its judgment and opinion affirming the judgment of conviction and sentence in this case.

This petition is filed within ninety days after entry of the judgment. See. Sup. Ct. R. 13.1. Jurisdiction of the Court is invoked under Section 1254(1), Title 28, United States Code.

FEDERAL STATUTES INVOLVED

Appendix -Exhibit D: U.S. Const. art III, §§ 1 and 3

STATEMENT OF THE CASE

A. Course of Proceedings

Keith Deshawn Stephens (Hereinafter "Stephens"), along with four other co-defendants Zachary Loudd, Jerrell Devon James, Andrew Demon Holley, and Crystal Lashay Lewis were charged in a two- count indictment. In Count One, they were charged with bank robbery and assaulting and placing the life of another person in danger by the use of a firearm in violation of 18 U.S.C. §§ 2113(a), (d) and 2.

In Count Two, Stephens and co-defendants were charged with aiding and abetting each other in brandishing a firearm during and in relationship to a crime of violence, specifically bank robbery in violation of 18 U.S.C. §§ 924 (c) (1) (A) (ii) and 2.

Stephens entered pleas of guilty to both charges alleged in the indictment

B. The Sentencing

The PSI also assessed a two-level increase to the base offense level pursuant to U.S.S.G. § 2B3.1(b)(7)(C) because the offense involved the intended loss of \$259,000. Stephens received an additional four-level enhancement pursuant to U.S.S.G. §3B1.1(a) because he was deemed an organizer/leader of criminal activity that involved five or more participants or was otherwise extensive. Finally, Stephens received a two-level increase in points pursuant to U.S.S.G. §3C1.1 because according to the PSR, Stephens obstructed or impeded the administration of justice during the course of the investigation of the offense of conviction by threatening a co-defendant. Thus, the Total Adjusted Offense Level was set at a level 34.

A Criminal History Category VI was established because Stephens was convicted of possession of a firearm, received a 2-year sentence, and was paroled in 2008. Thus, he received 3 criminal history points under U.S.S.G. §4A1.1.(a). He was convicted of evading arrest with a motor vehicle in 2007, and received 120 days imprisonment. Thus, he received 2 criminal history points under U.S.S.G. §4A1.1.(b). He was convicted of

possession of cocaine in 2008, and received a 180 day prison sentence. Thus, he was assessed two criminal history points under U.S.S.G. §4A1.1.(b).

He was convicted of possession of marijuana in 2008, and received 20 days imprisonment. Thus, he received 1 criminal history point under U.S.S.G. §4A1.1.(c). He was convicted of possession of a controlled substance in 2010, and received 180 days imprisonment. Thus, he was assessed 2 criminal history points under U.S.S.G. §4A1.1.(b). He was convicted of burglary of a building with intent to commit theft. Thus, he was assessed 2 criminal history points under U.S.S.G. §4A1.1.(b). He received 1 additional criminal history point under U.S.S.G. § 4A1.2.(a)(4), for pleading guilty to the underlying offenses in this case.

With a Total Adjusted Level at 34 and a Criminal History Category of VI, the guideline range for imprisonment found in Zone D of the Sentencing Table U.S.S.G Chapter 5, Part A resulted in 262-327 months of imprisonment.

Stephens filed written objections to the PSR.¹ Stephens objected to the four-level enhancement assessed under U.S.S.G. §3B1.1.(a) because he was deemed an organizer/leader of criminal

activity that involved five or more participants or was otherwise extensive. The objection was denied.

Stephens also objected to the two-level increase in points assessed under U.S.S.G. §3C1.1. for obstruction. The objection was denied. However, Stephens was awarded a three-level deduction in points for acceptance of responsibility pursuant to U.S.S.G. §§ 3E1.1.(a) and (b). The district court then found the offense level to be a 31 with a Criminal History Category VI, resulting in a guideline range of 188-235 months of imprisonment.

Ultimately, the district sentenced Stephens to a term of 235 months as to Count One and 84 months as to Count Two to run consecutively for a total of 319 months. A five-year term of supervised release was imposed as to each Count of conviction to run concurrently for a total of five years. No fine was imposed.

The restitution amount was set at \$218,823.66 to be paid jointly and severally with co-defendants. A special assessment of \$100 was imposed as to each count of conviction for a total of \$200 dollars.

The court ordered that within 72 hours of release from the custody of the Bureau of Prisons, Mr. Stephens report in person to the probation office in the district to which he is released. While on supervised release, Mr. Stephens is not to commit

another federal, state, or local crime; shall comply with the standard conditions that have not been adopted by the court under general order No. H-1996-10, abide by any mandatory conditions required by law, and shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (ROA.123).

Mr. Stephens is to cooperate in the collection of DNA sample from the defendant if the collection of such a sample is authorized pursuant to Section 3 of the DNA Analysis Backlog Elimination Act of 2000.

Mr. Stephens is required to provide the probation officer access to any requested financial information. Mr. Stephens is prohibited from incurring new credit charges opening additional lines of credit without approval of the probation officer. Mr. Stephens is prohibited from possessing a credit access device, such as a credit card unless first authorized by the probation officer.

Mr. Stephens shall participate in a program inpatient or outpatient, for the treatment of drug and/or alcohol addiction, dependency, or abuse, which may include but not be limited to urine, breath, saliva, and skin testing to determine whether the defendant has reverted to the use drugs and/or alcohol. Further, he shall participate as instructed and as deemed necessary by the

probation officer and shall comply with all rules and regulations of the treatment agency until discharged by the program director, with the approval of the probation officer.

Mr. Stephens shall further submit to such drug detection techniques in addition to those performed by the treatment agency, as directed by the probation officer. He will incur costs associated with such drug, alcohol detection and treatment based on ability to pay as determined by the probation officer.

Mr. Stephens is required to participate in a mental health program as deemed necessary and approved by the probation officer. He will incur costs associated with such program based

C. Statement of the Facts

According to the factual basis of the plea agreement, the government alleges that if the case had proceeded to trial, it would prove beyond a reasonable doubt that on June 27, 2014, three men, two of whom were subsequently identified as Andrew Holley and Jerrell James, entered the Chase Bank located at 7455 West Panther Creek, the Woodlands, Texas, and FDIC insured institution, carrying firearms while their faces were covered.

Holley and James went over the teller counter and the unknown male assisted as a lookout in the lobby. Once over the teller counter, Holley and James forced the bank employee to open the

bank's vault threatening the employee in an effort to make the employee move faster.

Once the vault was opened, Holley and James removed \$259,200 in U.S. currency, all brand new and undistributed bills sequentially numbered. After placing the currency in a bag, Holley, James and the unknown male exited the bank and drove away in a gold Dodge Ram 1500 which was later determined to have been stolen.

During interviews of bank employees and after review of surveillance video of the interior and exterior of the bank, Montgomery County Sheriff deputies were able to identify Zachary Loudd, Crystal Lewis, and Stephens, who is also known as "Nook" as additional suspects in the robbery. Defendant Lewis voluntarily met with investigators and identified "Nook" as Stephens who set up everything. She also stated that Stephens was a look out during the robbery.

Defendant Holley stated that he was asked to participate in a bank robbery by "Nook," but he refused. Holley ultimately plead guilty to the crime. An unindicted co-conspirator identified Stephens as the one who planned and coordinated the robbery, and that he acted as a look out during the robbery. (ROA.103).

The 2015 edition of the Guidelines Manual has been issued in this case. (ROA.144). The PSI recommended a base offense level of

20 pursuant to 18 U.S.C. §§ 2113(a) and (b). Additionally, the PSI assessed a two-level increase to the base offense level pursuant to U.S.S.G. §2B3.1(b) because the property was taken from a financial institution. An additional four-level increase was assessed pursuant §2B3.1 (b)(4)(A) because a person was abducted to facilitate the commission of the charged offenses.

3. Proceedings on Appeal.

On Appeal Mr. Stephens argued that it was an impermissible delegation of judicial authority by the district court to the probation officer when the district court stated that Mr. Stephens was "required to participate in a mental health program as deemed necessary and approved by the probation officer." The Fifth Circuit's issued an order mandating that the district court specify mental health treatment as part of Mr. Stephens's sentence. The Fifth Circuit's order usurped the district court's role in sentencing Mr. Stephens.

Because the proper role of the district court in sentencing defendants is of exceptional importance to the administration of justice in federal criminal cases, this Court should grant certiorari in this case to decide this question and, and upon review, should reverse the judgment of the Fifth Circuit and its erroneous unconstitutional order.

BASIS OF FEDERAL JURISDICTION IN THE
UNITED STATES DISTRICT COURT

This case was brought as a federal criminal prosecution involving bank robbery and assaulting and placing the life of another person in danger by the use of a firearm in violation of 18 U.S.C. §§ 2113(a), (d) and 2 and aiding and abetting in brandishing a firearm during and in relationship to a crime of violence, specifically bank robbery in violation of 18 U.S.C. §§ 924 (c) (1) (A) (ii) and 2. The district court therefore had jurisdiction pursuant to 18 U.S.C. § 3231.

REASONS FOR GRANTING THE WRIT

This Court should grant certiorari because the Fifth Circuit's order usurped the district court's role in sentencing the defendant. The Fifth Circuit erroneously and illegally ordered the district court to provide that mental health treatment be imposed upon Mr. Stephens with details of treatment to be supervised by the probation office. Because the proper role of the district court in sentencing defendants is of exceptional importance to the administration of justice in federal criminal cases, this Court should grant certiorari in this case to decide this question and, and upon review, should reverse the judgment of the Fifth Circuit

A. The Fifth Circuit Ignored the Judicial Role of the district court as proscribed by Article III of the United States Constitution when it ordered the district court to impose a specific sentence as it relates to mental health treatment.

The Provision of Mr. Stephens' sentence ordering him to participate in a mental health program as deemed necessary and approved by the Probation Officer violates Article III of the United Constitution. Article III of the United States Constitution defines the scope of judicial power vested in federal courts. Sections I and II of Article III provide the following:

Article III Section 1.

The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the

Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

Section 2.

The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority;--to all cases affecting ambassadors, other public ministers and consuls;--to all cases of admiralty and maritime jurisdiction;--to controversies to which the United States shall be a party;--to controversies between two or more states;--between a state and citizens of another state;--between citizens of different states;--between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed.

This Court has long held that imposing a sentence upon a federal criminal defendant is strictly a judicial function. Ex parte United States, 242 U.S. 27, 41 (1916). Furthermore, the authority

to define and fix the punishment for crime is legislative and includes the right in advance to bring within judicial discretion, for the purpose of executing the statute, elements of consideration which would be otherwise beyond the scope of judicial authority, and that the right to relieve from the punishment, fixed by law and ascertained according to the methods by it provided, belongs to the executive department. Id. at 42. The Fifth Circuit recognized this well-established law in United States v. Yarborough, 2017 U.S. App. LEXIS 1664 (5th Cir. June 30, 2017); United States v. Alaniz, 2016 U.S. App. LEXIS 21960 (5th Cir. Dec.9, 2016) and United States v. Franklin, 836 F.3d 564, 568 (5th Cir. 2016). However, the Fifth Circuit misapplied the law in deciding Mr. Stephens' case.

In deciding Mr. Stephens' case, the fifth Circuit wrote that the imposition of supervised release conditions and terms "is a core judicial function that may not be delegated" and cited to United States v. Franklin, 838 F.3d 564, 567-68 (5th Cir. 2016). Citing, United States v. Guerra, 856 F.3d 368, 369 (5th Cir. 2017), the Fifth Circuit went on to add that "providing appropriate treatment for prisoners with known mental problems is also a core duty of judges."

The Fifth Circuit noted that The PSR in Stephens' case reflected that Stephens reported a history of mental health treatment for

manic depression. The PSR also reflected that the probation officer reported that "Stephens was very vocal about his need to continue mental health treatment while in custody." The Fifth Circuit also pointed out that when reviewing the factors considered before imposing sentence, the district court noted Stephens's "history of mental health issues and drug use."

The Fifth Circuit opined that based on this history, Stephens's request, and the district court's mention of his history of mental health issues, it is reasonable to conclude that the judge intended that treatment be mandatory and left only the details to the probation officer. This assumption by the Fifth Circuit is unconstitutional because the case should have been remanded for the district court to determine the sentence for Mr. Stephens.

Based upon the foregoing analysis the Fifth Circuit modified the judgment in this case and issued an order mandating the district court to order mental health treatment specifically, stating the following;

It is ordered and adjudged that the judgment of the District Court is affirmed as modified to provide that mental health treatment is imposed with details of treatment to be supervised by the probation office
(Exhibit B)

In this case, the Fifth Circuit's order mandating that the district court order mental treatment is unconstitutional. Under

Article III, the district court is to decide a sentence upon a defendant after a federal conviction. See United States v. Underwood, 597 F.3d 661, 672 (5th Cir. 2010) (holding District court has exclusive jurisdiction over federal trials.)).

It is a basic principle that a criminal sentence should be plain, unequivocal, and so free from doubt that those concerned -- accused, sentencing Court, reviewing Court, and prison authorities -- will know precisely what the punishment is. Where there is doubt or ambiguity about a sentence, it must be read in a light most favorable to the accused. Benson v. United States, 332 F.2d 288,291 (5th Cir. 1964) citing United States v. Daugherty, 269 U.S. 360 (1926; Paccione v. Heritage, 323 F.2d 378(5 Cir.1963)). Everything in criminal law jurisprudence points to the importance of an articulate, identifiable sentence being imposed. If that is what the law reasonably requires and prefers, then a sentence varying from that standard is, in the words of F.R.Crim.P. 35, 'illegal. Benson v. United States, 332 F.2d 288 at 291.

A 'general sentence' creates unnecessary and sometimes troublesome difficulties for Courts both in direct appeals and collateral proceedings. It does the same for prison authorities in handling offenders. Id. Trial courts are required to use meticulous precise language in all judgment entries. Furthermore, especial care is essential where sentences for crime are imposed. United States v. Daugherty 269 U.S. 360, 363, (1926).

Although meticulous language is required when a district court sentences a defendant, Mr. Stephens requests this court to review the Fifth Circuits order in this case because there is no precedent in this Court that allows for the Fifth Circuit to order what specific language the district court should use when rendering a lawful sentence. Here, the Fifth Circuit states what it, as a court finds a reasonable conclusion to be with respect to whether Stephens is to undergo mental health treatment. However, the Fifth Circuit's role is to remand the case to the district court for the district court to specify the sentence according to its original intentions in the first place. A district court may impose mental health treatment upon a defendant, but it is not the role of the appeals court to force the district court into doing so. Here, the Fifth Circuits order denies the district court the opportunity to clarify its order and instead orders the district court to impose mental health treatment upon Mr. Stephens. This is unconstitutional.

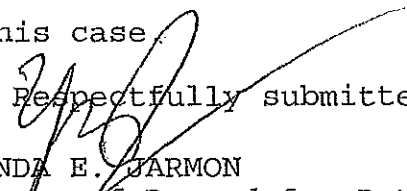
This Court should grant certiorari because the Fifth Circuit's order mandating that the district court specify mental health treatment as part of Mr. Stephens's sentence usurped the district court's role in sentencing Mr. Stephens. Furthermore, because the proper role of the district court in sentencing defendants is of exceptional importance to the administration of justice in federal criminal cases, this Court should grant certiorari in this case to decide this question and, and upon

review, should reverse the judgment of the Fifth Circuit.

CONCLUSION

For the foregoing reasons, petitioner Keith Stephens respectfully prays that this Court grant certiorari, to review the judgment of the Fifth Circuit in this case.

Date: January 22, 2018.

 Respectfully submitted,

YOLANDA E. JARMÓN
Attorney of Record for Petitioner
2429 Bissonnet # E416
Houston, Texas 77005
Telephone: (713) 635-8338
Fax: (713) 635-8498

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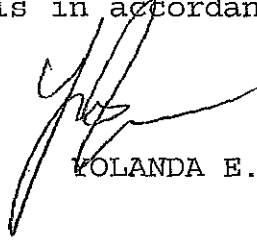
CERTIFICATE OF SERVICE

YOLANDA E. JARMON, is not a member of the Bar of this Court but was appointed under the Criminal Justice Act 18 U.S.C. § 3006 A(b) and (c), on appeal to the United States Court of Appeals for the Fifth Circuit, certifies that, pursuant to Rule 29.5, On January 18, 2017, she served the preceding Petition for Writ of Certiorari and the accompanying Motion for Leave to Proceed in Forma Pauperis on counsel for the Respondent by enclosing a copy of these documents in an envelope, first-class postage prepaid, Certified Mail No. 7011 0110 0000 9045 8744, return receipt requested, and depositing the envelope in the United States Postal Service located at 4206 Little York Rd. Houston, TX 77016-9998 and further certifies that all parties required to be served have been served and copies addressed to:

The Honorable Noel J. Francisco
Solicitor General of the United States
Room 5614, Department of Justice

950 Pennsylvania Ave., N.W.
Washington, D.C. 20530-0001

All parties have also been served electronic copies of the preceding Petition for Writ of Certiorari and the accompanying Motion for Leave to Proceed in Forma Pauperis in accordance with Supreme Court Rule 29.3.



YOLANDA E. JARMON

APPENDIX

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 16-20476
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

October 24, 2017

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

KEITH DESHAWN STEPHENS, also known as Nook,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:15-CR-265-1

Before HIGGINBOTHAM, JONES, and SMITH, Circuit Judges.

PER CURIAM:*

Keith Deshawn Stephens pleaded guilty without a plea agreement to armed bank robbery and brandishing a firearm in furtherance of a crime of violence. He was sentenced within the advisory guidelines range to 235 months on the bank robbery charge and 84 months on the firearm charge for a total of 319 months of imprisonment with five years of supervised release. As a special condition of his supervised release, the district court ordered

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

Appendix A

Stephens to participate in a mental health program “as deemed necessary and approved by the probation officer.” Stephens contends that such language impermissibly delegated to the probation officer the court’s responsibility to determine whether he must participate in mental health treatment. Because Stephens did not object to the challenged release condition, we review for plain error. *See Puckett v. United States*, 556 U.S. 129, 135 (2009).

The imposition of supervised release conditions and terms “is a core judicial function that may not be delegated.” *United States v. Franklin*, 838 F.3d 564, 567-68 (5th Cir. 2016) (internal quotation marks and citations omitted). However, providing appropriate treatment for prisoners with known mental problems is also a core duty of judges. *United States v. Guerra*, 856 F.3d 368, 369 (5th Cir. 2017). The PSR reflects that Stephens reported a history of mental health treatment for manic depression. The probation officer reported that “Stephens was very vocal about his need to continue mental health treatment while in custody.” In reviewing the factors considered before imposing sentence, the district court noted Stephens’s “history of mental health issues and drug use.” The district court stated the mental-health-treatment special condition as follows: “The defendant is required to participate in a mental health program as deemed necessary and approved by the probation officer. The defendant will incur costs associated with such program based on ability to pay, as determined by the probation officer.” This special condition was identically worded in the written final judgment.

Based on this history, Stephens’s request, and the district court’s mention of his history of mental health issues, it is reasonable to conclude that the judge intended that treatment be mandatory and left only the details to the probation officer. *See Guerra*, 856 F.3d at 370. As in *Guerra*, we AFFIRM

the sentence as MODIFIED to provide that mental health treatment is imposed with details of treatment to be supervised by the probation office.

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 16-20476
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

October 24, 2017

Lyle W. Cayce
Clerk

D.C. Docket No. 4:15-CR-265-1

UNITED STATES OF AMERICA,

Plaintiff - Appellee

v.

KEITH DESHAWN STEPHENS, also known as Nook,

Defendant - Appellant

Appeal from the United States District Court for the
Southern District of Texas

Before HIGGINBOTHAM, JONES, and SMITH, Circuit Judges.

J U D G M E N T

This cause was considered on the record on appeal and the briefs on file.

It is ordered and adjudged that the judgment of the District Court is affirmed as modified to provide that mental health treatment is imposed with details of treatment to be supervised by the probation office.

Appendix B

UNITED STATES DISTRICT COURT
Southern District of Texas
Holding Session in Houston

ENTERED

August 02, 2016

David J. Bradley, Clerk

UNITED STATES OF AMERICA

V.

KEITH DESHAWN STEPHENS

A/K/A Nook

JUDGMENT IN A CRIMINAL CASE

CASE NUMBER: 4:15CR00265-001

USM NUMBER: 87123-379

☐ See Additional Aliases.Thomas A. Glenn

Defendant's Attorney

THE DEFENDANT:☒ pleaded guilty to count(s) 1 and 2 on February 26, 2016.☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. §§ 2113(a), (d), and 2	Aiding and abetting an armed bank robbery	06/27/2014	1
18 U.S.C. §§ 924(c)(1)(A)(ii) and 2	Brandishing a firearm in furtherance of a crime of violence, aiding and abetting	06/27/2014	2

☐ 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) _____ ☐ is ☐ are dismissed on the motion of the .

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.

July 19, 2016

Date of Imposition of Judgment

Melinda Harmon
Signature of Judge

MELINDA HARMON
UNITED STATES DISTRICT JUDGE
Name and Title of Judge

August 1, 2016

Date

Attachment Appendix C

DEFENDANT: **KEITH DESHAWN STEPHENS**
CASE NUMBER: **4:15CR00265-001**

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 319 months.

This term consists of TWO HUNDRED AND THIRTY-FIVE (235) MONTHS as to Count 1 and EIGHTY-FOUR (84) MONTHS as to Count 2, to run consecutively, for a total of THREE HUNDRED AND NINETEEN (319) MONTHS. This sentence is to run consecutively to the sentence imposed in Dkt. No. 4:15CR00264-001.

☐ See Additional Imprisonment Terms.

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

That the defendant be designated to a facility as close to Houston, Texas, as possible.

The defendant participate in the Comprehensive Residential Drug Abuse Treatment Program during incarceration.

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

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

☐ at _____ ☐ a.m. ☐ p.m. on _____.

☐ as notified by the United States Marshal.

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

☐ before 2 p.m. on _____.

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: **KEITH DESHAWN STEPHENS**
CASE NUMBER: **4:15CR00265-001**

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: 5 years.
This term consists of FIVE (5) YEARS as to each of Counts 1 and 2.

☐ See Additional Supervised Release Terms.

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

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

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court. *(for offenses committed on or after September 13, 1994)*

☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)

☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)

☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)

☐ The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state registration in which he or she resides, works, is a student, or was convicted of a qualifying offense. (Check, if applicable.)

☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

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

STANDARD CONDITIONS OF SUPERVISION

☒ See Special Conditions of Supervision.

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: **KEITH DESHAWN STEPHENS**
CASE NUMBER: **4:15CR00265-001**

SPECIAL CONDITIONS OF SUPERVISION

The defendant shall provide the probation officer access to any requested financial information. If a fine or restitution amount has been imposed, the defendant is prohibited from incurring new credit charges or opening additional lines of credit without approval of the probation officer.

The defendant is prohibited from possessing a credit access device, such as a credit card, unless first authorized by the probation officer.

The defendant shall participate in a program, inpatient or outpatient, for the treatment of drug and/or alcohol addiction, dependency or abuse which may include, but not be limited to urine, breath, saliva and skin testing to determine whether the defendant has reverted to the use of drugs and/or alcohol. Further, the defendant shall participate as instructed and as deemed necessary by the probation officer and shall comply with all rules and regulations of the treatment agency until discharged by the Program Director with the approval of the probation officer. The defendant shall further submit to drug-detection techniques, in addition to those performed by the treatment agency, as directed by the probation officer. The defendant will incur costs associated with such drug/alcohol detection and treatment, based on ability to pay as determined by the probation officer.

The defendant is required to participate in a mental health program as deemed necessary and approved by the probation officer. The defendant will incur costs associated with such program, based on ability to pay as determined by the probation officer.

DEFENDANT: **KEITH DESHAWN STEPHENS**
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CRIMINAL MONETARY PENALTIES

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

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$200.00		\$219,823.66

A \$100 special assessment is ordered as to each of Counts 1 and 2, for a total of \$200.

☐ 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 payees must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
J.P. Morgan Chase Bank		\$219,823.66	

☐ See Additional Restitution Payees.

TOTALS	<u>\$0.00</u>	<u>\$219,823.66</u>
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☐ 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.

* 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: **KEITH DESHAWN STEPHENS**
CASE NUMBER: **4:15CR00265-001**

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 \$200.00 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 _____ days after the date of this judgment; or
- D ☐ Payment in equal _____ installments of _____ over a period of _____, to commence _____ days after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ days after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:

Payable to: Clerk, U.S. District Court, Attn: Finance, P.O. Box 61010, Houston, TX 77208

Balance due in payments of the greater of \$25 per quarter or 50% of any wages earned while in prison in accordance with the Bureau of Prisons' Inmate Financial Responsibility Program. Any balance remaining after release from imprisonment shall be paid in equal monthly installments of \$100 to commence 60 days after the release to a term of supervision

* In reference to the amount below, the Court-ordered restitution shall be joint and several with any co-defendant who has been or will be ordered to pay restitution under this docket number.

The defendant's restitution obligation shall not be affected by any payments that may be made by other defendants in this case, except that no further payment shall be required after the sum of the amounts paid by all defendants has fully covered all the compensable losses.

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

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

☒ Joint and Several

Case Number

Defendant and Co-Defendant Names
(including defendant number)

Keith Deshawn Stephens 4:15CR00265-001
See Court's order above*

Total Amount
\$219,823.66

Joint and Several
Amount

Corresponding Payee,
if appropriate

☐ 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) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

EXHIBIT D

Article III of the United States Constitution

Section 1.

The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behaviour, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

Section 2.

The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority;--to all cases affecting ambassadors, other public ministers and consuls;--to all cases of admiralty and maritime jurisdiction;--to controversies to which the United States shall be a party;--to controversies between two or more states;--between a state and citizens of another state;--between citizens of different states;--between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed.

Attachment D