

APPENDIX 1

UNITED STATES DISTRICT COURT

Southern

District of

Mississippi

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

V.

CHRISTIAN LEVON ROBINSON

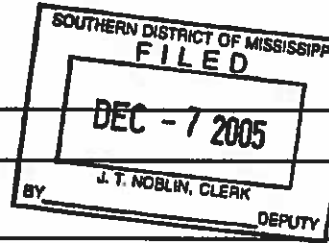
Case Number: 3:04cr152TSL-JCS-001

USM Number: 08570-043

Defendant's Attorney:

Guy N. Rogers, Jr.
P. O. Box 54051
Pearl, MS 39288-4051
(601) 932-2787

THE DEFENDANT:

☒ pleaded guilty to count(s) 3, 4, 5, and 6☐ 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:

Title & Section	Nature of Offense	Offense Ended	Count
18 U.S.C. §2113(a) & (d)	Armed Bank Robbery	02/13/04	3 and 5
18 U.S.C. §924(c)(1)	Brandishing a Firearm During and in Relation to a Crime of Violence	02/13/04	4 and 6

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) 1 and 2 ☐ is ☒ are 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.

December 2, 2005

Date of Imposition of Judgment

Signature of Judge

A handwritten signature in dark ink, appearing to read "Tom S. Lee".

Tom S. Lee, U.S. District Judge

Name and Title of Judge

Date

12/6/05

DEFENDANT: ROBINSON, Christian Levon
CASE NUMBER: 3:04cr152TSL-JCS-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:

Fifty seven (57) months as to counts 3 and 5, to run concurrently each to the other and 7 years as to count 4 and 7 years as to count 6, to run consecutively each to the other and consecutively to counts 3 and 5.

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

☒ 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: ROBINSON, Christian Levon
CASE NUMBER: 3:04cr152TSL-JCS-001

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

Five (5) years as to each of counts 3, 4, 5 and 6 to run concurrently

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

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

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☐ 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 register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (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

- 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.

AO 245B (Rev. 12/03) Judgment in a Criminal Case
Sheet 3C — Supervised Release

Judgment—Page 4 of 6

DEFENDANT: ROBINSON, Christian Levon
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SPECIAL CONDITIONS OF SUPERVISION

- A. The defendant is prohibited from incurring any new debt or opening any additional lines of credit without the prior approval of the U.S. Probation Officer. The defendant shall submit any requested financial information, business or personal, to the U.S. Probation Officer.
- B. The defendant shall submit to random urinalysis testing and, if deemed necessary, participate in a drug aftercare program as directed by the U.S. Probation Officer.

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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	\$ 400.00	\$	\$ 8,100.33

☐ 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*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
Union Planters Bank 25073 Highway 51 Crystal Springs, MS		\$5,509.00	
Am South Bank Attn: Security Department 210 E. Capitol Street, Ste. 100 P. O. Box 1200 Jackson, MS 39201		\$2,591.33	

TOTALS \$ _____ \$ 8100.33

☐ 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:

DEFENDANT: ROBINSON, Christian Levon
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SCHEDULE OF PAYMENTS

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

- A ☐ Lump sum payment of \$ _____ due immediately, balance due
- ☐ not later than _____, or
- ☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☒ Payment to begin immediately (may be combined with ☐ C, ☒ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☒ Payment in equal monthly (e.g., weekly, monthly, quarterly) installments of \$ 142.11 over a period of 57 months (e.g., months or years), to commence 30 days (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☐ Special instructions regarding the payment of criminal monetary penalties:

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 Court, P. O. Box 23552, Jackson, MS 39225-3552.

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

- ☐ Joint and Several

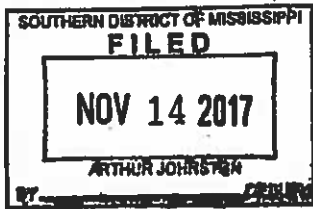
Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

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

APPENDIX 2

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT



No. 17-60136
USDC No. 3:16-CV-426
USDC No. 3:04-CR-152-1



A True Copy
Certified order issued Nov 14, 2017

Jyle W. Cayce
Clerk, U.S. Court of Appeals, Fifth Circuit

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

CHRISTIAN LEVON ROBINSON,

Defendant-Appellant

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

ORDER:

Christian Levon Robinson, federal prisoner # 08570-043, has moved for a certificate of appealability (COA) to appeal the district court's dismissal of his 28 U.S.C. § 2255 motion in which he attacked his convictions and sentences for two counts of federal bank robbery and two counts of brandishing of a firearm during and in relation to a crime of violence. Robinson asserts that the residual clause of 18 U.S.C. § 924(c)(3)(B) is unconstitutionally vague in light of the decision in *Johnson v. United States*, 135 S. Ct. 2551 (2015), and federal bank robbery is not otherwise a predicate crime of violence for purposes of § 924(c).

No. 17-60136

A COA may issue if Robinson makes a substantial showing of the denial of a constitutional right. See 28 U.S.C. § 2253(c)(2); *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003). To satisfy that standard, Robinson must establish that “reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further.” *Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000) (internal quotation marks and citation omitted).

Robinson has not made the requisite showing. Therefore, his motion for a COA is DENIED.

/s/ Jacques L. Wiener, Jr.

JACQUES L. WIENER, JR.
UNITED STATES CIRCUIT JUDGE

APPENDIX 3

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

UNITED STATES OF AMERICA

VS.

CRIMINAL NO. 3:04CR152TSL-JCS
CIVIL ACTION NO. 3:16CV4261TSL

CHRISTIAN LEVON ROBINSON

ORDER

This cause is before the motion of defendant Christian Levon Robinson for relief pursuant to 28 U.S.C. § 2255¹ and the motion of the government to dismiss. Having reviewed the parties' motions and responses thereto, together with the record in this case, the court concludes that defendant's motion is not well taken and should be denied and that the government's motion to dismiss should be granted.

On September 22, 2004, the grand jury returned a six-count indictment, charging him with car jacking in violation of 18 U.S.C. §§ 2 and 2119 (Count 1); brandishing a firearm during a crime of violence, the car jacking, in violation of 18 U.S.C. § 924(c)(1) (Count 2); aggravated bank robbery in violation of 18

¹ On June 7, 2016, Robinson filed his motion pro se and by separate motion, requested that counsel be appointed. On June 23, 2016, the Federal Public Defender entered an appearance on Robinson's behalf pursuant to the court's December 15, 2015 standing order appointing counsel for indigent defendants related to the Johnson decision. See Johnson v. United States, 576 U.S. ___, 135 S. Ct. 2551 (2015). Accordingly, it is ordered that defendant's motion for appointment of counsel will be denied as moot.

U.S.C. §§ 2 and 2113(a) and (d) (Counts 3 and 5); using a firearm in relation to a crime of violence, the bank robberies, in violation of § 924(c)(1) (Counts 4 and 6). Following Robinson's guilty plea to Counts 3 through 6, the court sentenced Robinson to two 57-month terms of imprisonment on the aggravated bank robbery counts (Counts 3 and 5) to run concurrent to each other and to two seven-year terms of imprisonment as to the violations of § 924(c)(1) (Counts 3 and 6) to run consecutive to each other and to the terms of imprisonment imposed for aggravated bank robbery.

Robinson has filed his first motion for relief pursuant to § 2255, seeking to vacate his convictions under § 924(c)(1), charged in Counts 4 and 6, based on the Supreme Court's decision in Johnson v. United States, 576 U.S. ___, 135 S. Ct. 2551, 192 L. Ed. 2d 569 (2015). In Johnson, the Supreme Court found the definition of "violent felony" in the residual clause of the Armed Career Criminal Act (ACCA), 18 U.S.C. § 924(e)(2)(B)(ii), to be unconstitutionally vague. The residual clause invalidated by Johnson defined "violent felony" to mean a crime that "involves conduct that presents a serious potential risk of physical injury to another." 18 U.S.C. § 924(e)(2)(B)(ii). Robinson argues that since the language of § 924(c)(3)(B), defining a "crime of violence" for purposes of a conviction under § 924(c)(1), is similar to the now invalidated definition of a "violent felony" under the ACCA, then his conviction must be vacated. However, the

Fifth Circuit has recently held "Johnson does not invalidate § 924(c)(3)(B)." United States v. Davis, No. 16-10330, 2017 WL 436037, at *2 (5th Cir. Jan. 31, 2017). Accordingly, his petition is without merit and is due to be dismissed.

Based on the foregoing, it is ordered that the government's motion to dismiss is granted and that Robinson's motion is dismissed with prejudice. The motion to appoint counsel is denied as moot.

It is further ordered that a certificate of appealability is denied. Defendant has failed to show that "jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right." Slack v. McDaniel, 529 U.S. 473, 484, 120 S. Ct. 1595, 146 L. Ed. 2d 542 (2000).

A separate judgment will be entered in accordance with Rule 58 of the Federal Rules of Civil Procedure.

SO ORDERED this 28th day of February, 2017.

/s/ Tom S. Lee _____
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

UNITED STATES OF AMERICA

VS.

CRIMINAL NO. 3:04CR152TSL-JCS
CIVIL ACTION NO. 3:16CV4261TSL

CHRISTIAN LEVON ROBINSON

JUDGMENT

Pursuant to the court's order entered this day, it is hereby
ORDERED AND ADJUDGED that Robinson's motion to vacate under § 2255
is dismissed with prejudice.

SO ORDERED this 28th day of February, 2017.

/s/ Tom S. Lee _____
UNITED STATES DISTRICT JUDGE