

# **Petition Appendix**

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

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No. 16-10452

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D.C. Docket No. 8:15-cr-00250-RAL-MAP-1

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DEANTE DIXON,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Middle District of Florida

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(January 9, 2018)

Before ROSENBAUM and JILL PRYOR, Circuit Judges, and BARTLE,<sup>\*</sup> District Judge.

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<sup>\*</sup> Honorable Harvey Bartle III, United States District Judge for the Eastern District of Pennsylvania, sitting by designation.

PER CURIAM:

In 2015, Deante Dixon pled guilty to being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g). At sentencing, the district court enhanced his base offense level after concluding that two prior Florida robbery offenses of which he had been convicted were “crimes of violence” under the United States Sentencing Guidelines. Dixon now appeals, arguing that Florida robbery is not a crime of violence. He also asserts that 18 U.S.C. § 922(g) is unconstitutional because it exceeds Congress’s authority under the Commerce Clause.<sup>1</sup>

## I.

On June 16, 2015, in Pinellas County, Florida, Dixon was found in possession of a firearm and ammunition manufactured outside of Florida. Dixon was already a convicted felon—he had two Florida robbery convictions in 2008—so a grand jury indicted him under 18 U.S.C. § 922(g) for being a felon who “knowingly possess[ed], in and affecting interstate and foreign commerce, a firearm and ammunition . . . .” Dixon pled guilty to the charge on November 12, 2015.

In the Presentence Investigation Report (“PSR”), the United States Probation

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<sup>1</sup> Dixon acknowledges that this argument is foreclosed by binding precedent but seeks to preserve the issue so he can raise it before the Supreme Court.

Office recommended that Dixon's base offense level be enhanced to 20 because of his past robbery convictions, which it characterized as crimes of violence under the Guidelines.<sup>2</sup> Dixon objected to the characterization of Florida robbery as a crime of violence, but the district court adopted Probation's recommendation and enhanced the base offense level. The court also adopted Probation's recommendation for a three-level decrease because Dixon accepted responsibility. With a base offense level of 17 and a criminal history category of VI, the Guidelines range was 51 to 63 months' imprisonment. The district court ultimately sentenced Dixon to 60 months of imprisonment and 3 years of supervised release.

## II.

The United States Sentencing Guidelines provide for a sentence enhancement if a defendant has previously sustained a felony conviction for a crime of violence. U.S. Sentencing Guidelines Manual. § 2K2.1(a)(4) (U.S. Sentencing Comm'n 2015). The Guidelines define "crime of violence," in turn, as follows:

any offense under federal or state law, punishable by imprisonment for a term exceeding one year, that—

(1) has as an element the use, attempted use, or threatened use of physical force against the person of another, or

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<sup>2</sup> In this opinion, we refer exclusively to the 2015 Guidelines Manual, which was in effect when Dixon was sentenced.

(2) is burglary of a dwelling, arson, or extortion, involved use of explosives, or otherwise involves conduct that presents a serious potential risk of physical injury to another.

*Id.* § 4B1.2(a). In addition to this definition, the Guidelines commentary lists several offenses that constitute crimes of violence, including robbery. *Id.* § 4B1.2 cmt. n.1. Thus, a prior conviction constitutes a crime of violence if it (1) has as an element the use, attempted use, or threatened use of force (commonly referred to as the elements clause), (2) involves conduct that presents a serious potential risk of physical injury to another (commonly referred to as the residual clause), or (3) is enumerated as a crime of violence in the Guidelines or its commentary. *United States v. Lockley*, 632 F.3d 1238, 1241 (11th Cir. 2011).

Dixon argues that Florida robbery<sup>3</sup> is not a crime of violence under any of these three definitions. He recognizes that this court held the opposite in *Lockley*, 632 F.3d at 1246, but asserts the *Lockley* has been undermined to the point of abrogation by three Supreme Court cases: *Descamps v. United States*, 570 U.S. \_\_\_, 133 S. Ct. 2276 (2013), *Mathis v. United States*, 136 S. Ct. 2243 (2016), and

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<sup>3</sup> Florida's robbery statute at the time of Dixon's convictions provided:

Robbery means the taking of money or other property which may be the subject of larceny from the person or custody of another, with intent to either permanently or temporarily deprive the person or the owner of the money or other property, which in the course of the taking there is the use of force, violence, assault, or putting in fear.

Fla. Stat. § 812.13(1) (2008). This is the same version of the statute at issue in *Lockley*.

*Johnson v. United States*, 135 S. Ct. 2551 (2015).

Dixon's argument is foreclosed by precedent. First, *Johnson* cannot save Dixon from the residual clause of U.S.S.G. § 4B1.2(a)(2). Just this year, in *Beckles v. United States*, 137 S. Ct. 886 (2017),<sup>4</sup> the Supreme Court concluded that *Johnson*'s holding does not apply to the residual clause of the Guidelines because the Guidelines cannot be unconstitutionally vague.

As for *Mathis* and *Descamps*, we have reaffirmed the viability of *Lockley* in the aftermath of those cases. In *United States v. Fritts*, 841 F.3d 937, 938-42 (11th Cir. 2016), this Court relied on *Lockley* to conclude that a defendant's robbery conviction qualified as a violent felony under the elements clause of the Armed Career Criminal Act, 18 U.S.C. § 924(e)(2)(B)(i), which uses language identical to that in U.S.S.G. § 4B1.2(a)(1). *See also United States v. Burke*, 863 F.3d 1355, 1360 (11th Cir. 2017) (appellant's argument that Florida robbery is not crime of violence foreclosed by *Fritts* and *Lockley*). So we continue to be bound by *Lockley*'s conclusion that Florida robbery is a crime of violence under the Guidelines. *See United States v. Archer*, 531 F.3d 1347, 1352 (11th Cir. 2008) (“[A] prior panel's holding is binding on all subsequent panels unless and until it is overruled or undermined to the point of abrogation by the Supreme Court or by this court sitting *en banc*.”).

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<sup>4</sup> *Beckles* was issued in March 2017, after the parties submitted their briefs in this case.

### III.

In the proceedings below, Dixon was convicted under 18 U.S.C. § 922(g) because he was found in Florida to be in possession of a firearm that was manufactured outside of Florida. Under Section 922(g), it is unlawful for any person with a felony conviction to possess a firearm or ammunition “in or affecting commerce.” 18 U.S.C. § 922(g). Congress’s authority to establish this law is grounded in the Commerce Clause, which allows Congress to regulate the channels of interstate commerce, the instrumentalities of interstate commerce, and any activity that substantially affects interstate commerce. *United States v. Lopez*, 514 U.S. 549, 558-59 (1995).

On appeal, Dixon argues that Section 922(g) exceeds Congress’s Commerce Clause power both facially and as-applied because “possession—a non-economic activity—. . . does not ensure that this activity ‘substantially affects’ interstate commerce.” This is not the first time we have considered this argument. On the contrary, it is well-settled that Section 922(g) “is not constitutionally invalid under the Commerce Clause.” *United States v. Wright*, 607 F.3d 708, 715 (11th Cir. 2010); *see also United States v. McAllister*, 77 F.3d 387, 391 (11th Cir. 1996) (Section 922(g) “is not an unconstitutional exercise of Congress’s power under the Commerce Clause.”). Noting this precedent, the court below did not err by entering Dixon’s conviction under Section 922(g).

**IV.**

Because binding precedent precludes Dixon's challenge to the district court's crime-of-violence determination and his challenge to the constitutionality of 18 U.S.C. § 922(g), we affirm.

**AFFIRMED.**

**UNITED STATES DISTRICT COURT**MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

UNITED STATES OF AMERICA

**JUDGMENT IN A CRIMINAL CASE**

v.

CASE NUMBER: 8:15-cr-250-T-26MAP

USM NUMBER: 63188-018

DEANTE DIXON

Defendant's Attorney: Adam Joseph Nate, AFPD

THE DEFENDANT:

☒ pleaded **Guilty** to Count(s) ONE of the Indictment.☐ pleaded nolo contendere to count(s) which was accepted by the court.☐ was found guilty on count(s) after a plea of not guilty.

| <u>TITLE &amp; SECTION</u>              | <u>NATURE OF OFFENSE</u>                           | <u>OFFENSE ENDED</u> | <u>COUNT</u> |
|-----------------------------------------|----------------------------------------------------|----------------------|--------------|
| 18 U.S.C. §§ 922(g)(1)<br>and 924(a)(2) | Felon in Possession of a Firearm<br>and Ammunition | June 16, 2015        | ONE          |

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 United States.

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 shall notify the court and United States Attorney of any material change in economic circumstances.

Date of Imposition of Sentence: January 29, 2016



RICHARD A. LAZZARA

SENIOR UNITED STATES DISTRICT JUDGE

DATE: January 29, 2016

AO 245B (Rev 06/05) Sheet 2 - Imprisonment

Defendant: DEANTE DIXON  
Case No.: 8:15-cr-250-T-26MAP

Judgment - Page 2 of 6**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of **SIXTY (60) MONTHS**.

Defendant shall be given credit toward the service of a term of imprisonment for any time he/she has spent in official detention prior to the date the sentence commences -- (1) as a result of the offense for which the sentence was imposed; or (2) as a result of any other charge for which the Defendant was arrested after the commission of the offense for which the sentence was imposed; that has not been credited against another sentence. 18 U.S.C. § 3585(b).

X The court recommends to the Bureau of Prisons that the Defendant is incarcerated at FCI Coleman.

X 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 Marshal

Defendant: DEANTE DIXON  
Case No.: 8:15-cr-250-T-26MAP

Judgment - Page 3 of 6

### **SUPERVISED RELEASE**

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

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.

While on supervised release, the defendant shall not commit another federal, state, or local crime, and shall not possess a firearm, ammunition, or destructive device as defined in 18 U.S.C. § 921.

The defendant shall not illegally 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, not to exceed 104 tests per year.

X The mandatory drug testing provisions of the Violent Crime Control Act are imposed. The court orders the defendant to submit to random drug testing not to exceed 104 tests per year.

X The defendant shall cooperate in the collection of DNA as directed by the probation officer.

The defendant shall not possess a firearm, destructive device, or any other dangerous weapon.

If this judgment imposes a fine or a 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 shall 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 in a manner and frequency directed by the court or probation officer;
- 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;
- 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: DEANTE DIXON  
Case No.: 8:15-cr-250-T-26MAP

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**SPECIAL CONDITIONS OF SUPERVISION**

The defendant shall also comply with the following additional conditions of supervised release:

- X The defendant shall participate, in a substance abuse program (outpatient and/or inpatient) and follow the probation officer's instructions regarding the implementation of this court directive. Further, you shall contribute to the costs of these services not to exceed an amount determined reasonable by the Probation Office's Sliding Scale for Substance Abuse Treatment Services. During and upon the completion of this program, you are directed to submit to random drug testing.
- X The defendant shall submit to a search of his person, residence, place of business, any storage units under your control, or vehicle, conducted by the United States Probation Officer at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. You shall inform any other residents that the premises may be subject to a search pursuant to this condition. Failure to submit to a search may be grounds for revocation.

AO 245B (Rev 06/05) Sheet 5 - Criminal Monetary Penalties

Defendant: DEANTE DIXON  
Case No.: 8:15-cr-250-T-26MAPJudgment - Page 5 of 6**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>Total Restitution</u> |
|----------------|-------------------|-------------|--------------------------|
| <b>Totals:</b> | \$100.00          | Waived      | \$                       |

- 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 non-federal victims must be paid before the United States.

| <u>Name of Payee</u> | <u>*Total Amount of Loss</u> | <u>Amount of Restitution Ordered</u> | <u>Priority Order or Percentage of Payment</u> |
|----------------------|------------------------------|--------------------------------------|------------------------------------------------|
|----------------------|------------------------------|--------------------------------------|------------------------------------------------|

|                |    |    |  |
|----------------|----|----|--|
| <u>Totals:</u> | \$ | \$ |  |
|----------------|----|----|--|

- Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_.
- The defendant shall pay interest on any fine or restitution 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:

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for the offenses committed on or after September 13, 1994, but before April 23, 1996.

Defendant: DEANTE DIXON  
Case No.: 8:15-cr-250-T-26MAP

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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 \$ 100.00 due immediately.  
       \_\_\_ 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 \_\_\_\_\_ days (e.g., 30 or 60 days) after the date of this judgment; or
- D. \_\_\_ 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 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 a period of 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

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:  
See attached [22] Forfeiture Order dated 1/14/2016.

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.

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

UNITED STATES OF AMERICA

v.

Case No. 8:15-cr-250-T-26MAP

DEANTE DIXON

**PRELIMINARY ORDER OF FORFEITURE**

The United States moves, pursuant to 18 U.S.C. § 924(d), 28 U.S.C. § 2461(c), and Rule 32.2(b)(2) of the Federal Rules of Criminal Procedure, for a Preliminary Order of Forfeiture for the following assets:

- a. A Ruger .22 caliber Winchester Super X Long Rifle, Mark II; and
- b. Ten rounds of Winchester Super X .22 caliber ammunition.

The defendant pleaded guilty to knowingly being a convicted felon in possession of the firearm and ammunition described above, as charged in Count One of the Indictment, and the Court adjudged him guilty of this offense.

The Court finds that the United States has established the requisite nexus between the firearm and ammunition and the offense of conviction.

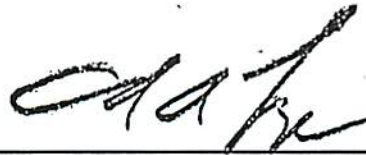
Accordingly, it is **ORDERED** that the motion of the United States is **GRANTED**.

It is **FURTHER ORDERED** that, pursuant to 18 U.S.C. § 924(d), 28 U.S.C. § 2461(c), and Rule 32.2(b)(2), Federal Rules of Criminal Procedure, the firearm and ammunition identified above are forfeited to the United States for disposition

according to law, subject to the provisions of 21 U.S.C. § 853(n), as incorporated by 28 U.S.C. § 2461(c).

The Court retains jurisdiction to complete the forfeiture and disposition of the assets sought by the government.

**ORDERED** in Tampa, Florida on January 14th, 2016.

A handwritten signature in black ink, appearing to read 'Richard A. Lazara', written over a horizontal line.

RICHARD A. LAZARA  
UNITED STATES DISTRICT JUDGE

Copies to:

All Parties/Counsel of Record

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 8:15-cr-250-T-26-MAP

DEANTE DIXON

**NOTICE OF MAXIMUM PENALTY, ELEMENTS OF OFFENSE,  
PERSONALIZATION OF ELEMENTS AND FACTUAL BASIS**

The essential elements of a violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2), felon in possession of a firearm and ammunition, are as follows:

- First: That the Defendant knowingly possessed a firearm or ammunition in or affecting interstate or foreign commerce; and,
- Second: That before the Defendant possessed the firearm or ammunition, the Defendant had been convicted in a court of a crime punishable by imprisonment for a term in excess of one year, that is, a felony offense.

**PENALTY**

The penalty for the offense charged in Count One of the Indictment is a term of imprisonment for not more than ten (10) years; a term of supervised release of not more than three (3) years; a fine of not more than \$250,000; and a special assessment of \$100.

### FACTUAL BASIS

On June 16, 2015, officials with the St. Petersburg Police Department (SPPD) received multiple calls from witnesses describing a man pointing a gun at people while riding a bike. According to those witnesses, the suspect was wearing no shirt, multi-colored pants, a multi-colored backpack, and riding a lime green bike.

Approximately ten minutes later, SPPD officers observed a person matching the description of the suspect in the area described by the callers. SPPD apprehended the suspect, who was later identified as Deante Dixon via his Florida identification card. A search of the backpack Dixon was wearing revealed a loaded .22 caliber pistol.

During a post-*Miranda* interview, Dixon admitted to possessing the gun.

The gun and ammunition, described as a Ruger .22 caliber Long Rifle Mark II and 10 rounds of .22 caliber Winchester Super X ammunition, have been examined by an ATF expert in interstate nexus and were confirmed to have been manufactured outside the State of Florida.

Dixon is a convicted felon. Records from the State of Florida confirm that Dixon has not had his right to possess a firearm or ammunition restored. Prior to the conduct giving rise to the instant offense, the Defendant Deante Dixon had been convicted of the following felonies:

1. Carrying a Concealed Firearm, in the Sixth Judicial Circuit Court, in and for Pinellas County, Florida, on or about August 25, 2008;
2. Robbery (convicted of two counts), in the Sixth Judicial Circuit Court, in and for Pinellas County, Florida, on or about August 25, 2008; and
3. Felonious Possession of a Firearm, in the Sixth Judicial Circuit Court, in and for Pinellas County, Florida, on or about May 3, 2013.

Respectfully submitted,

A. LEE BENTLEY, III  
United States Attorney

By: s/ Michael V. Leeman  
Michael V. Leeman  
Assistant United States Attorney  
Federal Bar No. 84422  
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Tampa, Florida 33602-4798  
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**U.S. v. DEANTE DIXON**

**Case No. 8:15-cr-250-T-26MAP**

**CERTIFICATE OF SERVICE**

I hereby certify that on November 9, 2015, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the following:

Adam J. Nate, Esq.

s/ Michael V. Leeman  
Michael V. Leeman  
Assistant United States Attorney  
Federal Bar No. 84422  
400 N. Tampa Street, Suite 3200  
Tampa, Florida 33602-4798  
Telephone: (813) 274-6000  
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E-mail: michael.leeman@usdoj.gov

1 UNITED STATES DISTRICT COURT  
2 MIDDLE DISTRICT OF FLORIDA  
3 TAMPA DIVISION

4 UNITED STATES OF AMERICA,

5 Plaintiff,

6 vs.

CASE NO. 8:15-CR-250-T-26MAP

12 NOVEMBER 2015

TAMPA, FLORIDA

10:30 A.M.

PAGES 1 - 25

8 DEANTE DIXON,

9 Defendant.

10 \_\_\_\_\_/  
11 TRANSCRIPT OF CHANGE OF PLEA PROCEEDINGS  
12 BEFORE THE HONORABLE RICHARD A. LAZZARA  
13 UNITED STATES DISTRICT JUDGE

14 APPEARANCES:

15 For the Plaintiff: Michael V. Leeman  
16 United States Attorney's Office  
17 Middle District of Florida  
18 400 N. Tampa Street  
19 Suite 3200  
20 Tampa, Florida 33602

21 For the Defendant: Adam Joseph Nate  
22 Federal Public Defender's Office  
23 Middle District of Florida  
24 400 N. Tampa Street  
25 Suite 2700  
Tampa, Florida 33602

Court Reporter: Linda Starr, RPR  
Janice Johnston Reporting Services  
901 Eagle Lane  
Apollo Beach, FL 33572

Proceedings recorded and transcribed by computer-aided  
stenography.

1 ammunition and, in doing so, you violated federal  
2 statutory law.

3           Now, Mr. Dixon, that's what the grand jury  
4 claims you did. However, before a jury of 12 people  
5 could convict you of that offense, the government would  
6 have to prove to each member of that jury beyond a  
7 reasonable doubt the following elements: One, that you  
8 knowingly possessed a firearm or ammunition in or  
9 affecting interstate or foreign commerce; and, two, that  
10 before you possessed a firearm and ammunition, you had  
11 been convicted in a court of a crime punishable by  
12 imprisonment for a term in excess of one year, that is,  
13 a felony offense.

14           Mr. Dixon, do you understand what the grand  
15 jury has charged you with doing?

16           THE DEFENDANT: Yes, sir.

17           THE COURT: Do you understand what a jury of  
18 12 people would have to find beyond a reasonable doubt  
19 before you could be convicted?

20           THE DEFENDANT: Yes, sir.

21           THE COURT: How do you wish to plead to  
22 Count One, sir?

23           THE DEFENDANT: I plead guilty.

24           THE COURT: Are you pleading guilty because,  
25 in fact, on June 16th of this year, in Pinellas County,

1 after previously having been convicted of those three  
2 felony offenses that, on that date, you had in your  
3 possession the firearm and the ammunition described in  
4 the indictment?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Okay. Now, the government has  
7 filed at Docket 17 a document called notice of maximum  
8 penalty, elements of offense, personalization of  
9 elements and factual basis. And in that document on  
10 pages two and three, they set out the facts they say  
11 they can prove to a jury beyond a reasonable doubt to  
12 convict you as to Count One.

13 Did you go over those facts with Mr. Nate?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Do those facts accurately and  
16 correctly represent what you did in this case?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Do you dispute or contest any of  
19 those facts?

20 THE DEFENDANT: No, sir.

21 THE COURT: And Mr. Leeman, it's my  
22 understanding the government can prove that the  
23 particular firearm and the ammunition were manufactured  
24 outside of the state of Florida?

25 MR. LEEMAN: That's correct, Your Honor.

1 THE COURT: Okay. Mr. Dixon, have you  
2 understood each and every one of my questions?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Have you been confused about  
5 anything?

6 THE DEFENDANT: No, sir.

7 THE COURT: Do you need to spend any time  
8 conferring with Mr. Nate before we adjourn?

9 THE DEFENDANT: No, sir.

10 THE COURT: Are you, therefore, reaffirming  
11 to me under oath that you have truthfully answered each  
12 and every one of my questions, and that you have fully  
13 and completely comprehended everything that's taken  
14 place here this morning?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Okay. Mr. Nate, do you wish me  
17 to make any further inquiry?

18 MR. NATE: No, sir.

19 THE COURT: Mr. Leeman?

20 MR. LEEMAN: No, Your Honor.

21 THE COURT: I will, therefore, find that  
22 this defendant has entered his plea of guilty to Count  
23 One of the indictment freely, voluntarily and  
24 intelligently with full knowledge of the nature of the  
25 offense, the range of penalties provided by law, the

1 consequences of his plea of guilty, and the various  
2 rights that he's giving up.

3 I will further find, based on his clear  
4 admission of guilt, based on his acknowledgement of the  
5 accuracy and correctness of the factual basis set forth  
6 in the government's notice, that there's more than an  
7 adequate -- and based on the representation of  
8 Mr. Leeman with regard to the manufacture of the gun  
9 being outside the state of Florida, that there's more  
10 than an adequate factual basis to support the entry of  
11 his plea of guilty.

12 I will, therefore, accept his guilty plea.  
13 I will adjudge him to be guilty of the offense charged  
14 in Count One of the indictment.

15 Madam Clerk, a sentencing date, please.

16 COURTROOM DEPUTY CLERK: Yes, sir.

17 THE COURT: I'll set sentencing for January  
18 29th of 2016 at 9 o'clock in the morning. I will remand  
19 him to the custody of the United States Marshal Service  
20 pending sentencing.

21 Anything else?

22 MR. LEEMAN: No, Your Honor.

23 MR. NATE: No.

24 THE COURT: All right. Thank you.

25 (Proceedings concluded at 12:00 P.M.)

## C E R T I F I C A T E

STATE OF FLORIDA )

COUNTY OF HILLSBOROUGH )

I, Linda Starr, RPR, do hereby certify, that I was authorized to and did, through use of Computer Aided Transcription, report in machine shorthand the proceedings and evidence in the above-styled cause, as stated in the caption hereto, and that the foregoing pages, numbered 1 through 25, inclusive, constitute a true and correct transcription of my machine shorthand report of said proceedings and evidence.

IN WITNESS WHEREOF, I have hereunto set my hand in the City of Tampa, County of Hillsborough, State of Florida, this 25th day of February 2016.

/s/ Linda Starr  
Linda Starr, RPR