

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

JESSIE DEJUAN SULLIVAN,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

APPENDIX

JASON HAWKINS
Federal Public Defender
Northern District of Texas
TX State Bar No. 00759763
525 Griffin Street, Suite 629
Dallas, TX 75202
(214) 767-2746

/s/ Loui Itoh
LOUI ITOH **
Assistant Federal Public Defender
Northern District of Texas
D.C. Bar No. 1018988
819 Taylor Street, Room 9A10
Fort Worth, Texas 76102
(817) 978-2753

INDEX TO APPENDICES

Appendix A Opinion of Fifth Circuit, *United States v. Sullivan*, No. 24-10799, 2025 WL 1392087 (5th Cir. May 14, 2025) (unpublished)

Appendix B Judgment and Sentence of the United States District Court for the Northern District of Texas, entered August 30, 2024. *United States v. Sullivan*, Dist. Court No. 4:22-CR-080-P

APPENDIX A

United States Court of Appeals for the Fifth Circuit

No. 24-10799
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

May 14, 2025

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JESSIE DEJUAN SULLIVAN,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:22-CR-80-1

Before SMITH, STEWART, and DUNCAN, *Circuit Judges*.

PER CURIAM:*

Jessie Dejuan Sullivan appeals his conviction and sentence for possession of a firearm after a felony conviction, in violation of 18 U.S.C. § 922(g)(1). As he correctly concedes, our precedent forecloses his arguments that § 922(g)(1) violates the Commerce Clause and the Second

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

No. 24-10799

Amendment on its face. *See United States v. Diaz*, 116 F.4th 458, 462, 470-71 (5th Cir. 2024), *petition for cert. filed* (U.S. Feb. 18, 2025) (No. 24-6625).

For the first time on appeal, Sullivan contends that the district court erred by failing to apply the 2023 Guidelines that were in effect at the time of sentencing and by determining that his prior conviction for Texas robbery is a crime of violence for purposes of U.S.S.G. § 2K2.1(a)(4)(A). Our review is for plain error. *United States v. Hott*, 866 F.3d 618, 621 (5th Cir. 2017).

Even if we assume that Sullivan has shown clear or obvious error, he cannot succeed on plain error review because he has failed to demonstrate that any error affected his substantial rights. *See id.* To show that his substantial rights were affected, he must demonstrate a reasonable probability that, but for the error, his sentence would have been different. *See id.* Here, the district court stated that it would have imposed the same sentence even if its guideline calculations were incorrect, and its reasons for imposing the sentence were untethered to the allegedly incorrect guidelines range. These reasons included the facts and circumstances of Sullivan's case, the fact that he failed to appear for his original sentencing date and avoided apprehension for nearly two years, and the need to comply with the sentencing purposes listed in 18 U.S.C. § 3553(a)(2). Because the court's explanation shows that it thought the chosen sentence "was appropriate irrespective of the Guidelines range," Sullivan has not shown a reasonable probability that he would have received a different sentence but for the alleged error. *Hott*, 866 F.3d at 621 (internal quotation marks and citation omitted).

AFFIRMED.

APPENDIX B

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF TEXAS
Fort Worth Division

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

v.

JESSIE DEJUAN SULLIVAN

Case Number: 4:22-CR-00080-P(01)
U.S. Marshal's No.: 87344-509
P.J. Meitl, Assistant U.S. Attorney
Rachel Taft, Attorney for the Defendant

On April 20, 2022 the defendant, JESSIE DEJUAN SULLIVAN, entered a plea of guilty as to Count One of the Indictment filed on March 9, 2022. Accordingly, the defendant is adjudged guilty of such Count, which involves the following offense:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. §§ 922(g)(1) and 924(a)(2)	Possession of a Firearm by a Convicted Felon	9/29/2021	One

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to Title 18, United States Code § 3553(a), taking the guidelines issued by the United States Sentencing Commission pursuant to Title 28, United States Code § 994(a)(1), as advisory only.

The defendant shall pay immediately a special assessment of \$100.00 as to Count One of the Indictment filed on March 9, 2022.

The defendant shall notify the United States Attorney for this district within thirty 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.

Sentence imposed August 30, 2024.



MARK T. PITTMAN
U.S. DISTRICT JUDGE

Signed August 30, 2024.

Judgment in a Criminal Case
Defendant: JESSIE DEJUAN SULLIVAN
Case Number: 4:22-CR-00080-P(1)

Page 2 of 5

IMPRISONMENT

The defendant, JESSIE DEJUAN SULLIVAN, is hereby committed to the custody of the Federal Bureau of Prisons (BOP) to be imprisoned for a term of **Sixty-Five (65) months** as to Count One of the Indictment filed on March 9, 2022. This sentence shall run concurrently with any future sentence which may be imposed in Case No. 1702793 in the 371st Judicial District Court of Tarrant County which is related to the instant offense and consecutively to Case No. 1709159 in Tarrant County Criminal Court No. 1, which is unrelated to the instant offense.

The Court recommends to the Bureau of Prisons that the defendant be incarcerated at a facility as close to the Northern District of Texas as possible.

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

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of **Three (3) years** as to Count One of the Indictment filed on March 9, 2022.

While on supervised release, in compliance with the standard conditions of supervision adopted by the United States Sentencing Commission, the defendant shall:

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

Judgment in a Criminal Case
Defendant: JESSIE DEJUAN SULLIVAN
Case Number: 4:22-CR-00080-P(1)

Page 3 of 5

- 7) The defendant shall work full time (at least 30 hours per week) at a lawful type of employment, unless the probation excuses the defendant from doing so. If the defendant does not have full-time employment, he or she shall try to find full-time employment, unless the probation officer excuses the defendant from doing so. If the defendant plans to change where the defendant works or anything about his or her employment (such as the position or the job responsibilities), the defendant shall notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, the defendant shall notify the probation officer within 72 hours of becoming aware of a change or expected change;
- 8) The defendant shall not communicate or interact with someone the defendant knows is engaged in criminal activity. If the defendant knows someone has been convicted of a felony, the defendant shall not knowingly communicate or interact with that person without first getting the permission of the probation officer;
- 9) If the defendant is arrested or questioned by a law enforcement officer, the defendant shall notify the probation officer within 72 hours;
- 10) The defendant shall not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed , or was modified for, the specific purpose of causing bodily injury or death to another person, such as nunchakus or tasers);
- 11) The defendant shall not act or make an agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court;
- 12) If the probation officer determines that the defendant poses a risk to another person (including an organization), the probation officer may require the defendant to notify the person about the risk and the defendant shall comply with that instruction. The probation officer may contact the person and confirm that the defendant has notified the person about the risk; and,
- 13) The defendant shall follow the instructions of the probation officer related to the conditions of supervision.

In addition the defendant shall:

not commit another federal, state, or local crime;

not possess illegal controlled substances;

not possess a firearm, destructive device, or other dangerous weapon;

cooperate in the collection of DNA as directed by the U.S. probation officer;

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;

Judgment in a Criminal Case
Defendant: JESSIE DEJUAN SULLIVAN
Case Number: 4:22-CR-00080-P(1)

Page 4 of 5

pay the assessment imposed in accordance with 18 U.S.C. § 3013; and,

participate in an outpatient program approved by the probation officer for treatment of narcotic or drug or alcohol dependency that will include testing for the detection of substance use, abstaining from the use of alcohol and all other intoxicants during and after completion of treatment, contributing to the costs of services rendered (copayment) at the rate of at least \$20 per month.

FINE/RESTITUTION

The Court does not order a fine or costs of incarceration because the defendant does not have the financial resources or future earning capacity to pay a fine or costs of incarceration.

Restitution is not ordered because there is no victim other than society at large.

FORFEITURE

The Court granted a preliminary order of forfeiture on July 6, 2022. Therefore, there are no items pending forfeiture.

Judgment in a Criminal Case
Defendant: JESSIE DEJUAN SULLIVAN
Case Number: 4:22-CR-00080-P(1)

Page 5 of 5

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