

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

ANDRE DEMARCUS RUBELL,

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

/s/ Adam Nicholson

JASON HAWKINS
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Northern District of Texas
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Appendix A Opinion of Fifth Circuit, CA No. 26-10016, *United States v. Rubell*, 2026 WL 1746962 (5th Cir. June 17, 2026) (unpublished).

Appendix B Judgment and Sentence of the United States District Court for the Northern District of Texas, entered December 20, 2019.
United States v. Rubell, Dist. Court 4:19-CR-166.

Appendix C Judgment of Revocation Supervised Release of the United States District Court for the Northern District of Texas, entered December 22, 2025. *United States v. Rubell*, Dist. Court 4:19-CR-166.

APPENDIX A

United States Court of Appeals for the Fifth Circuit

No. 26-10016
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

June 17, 2026

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

ANDRE DEMARCUS RUBELL,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:19-CR-166-1

Before SMITH, HIGGINSON, and WILSON, *Circuit Judges*.

PER CURIAM:*

Andre Demarcus Rubell appeals a judgment revoking his term of supervised release and sentencing him to 12 months of imprisonment. Relying on *United States v. Haymond*, 588 U.S. 634 (2019), he argues for the first time in this appeal that 18 U.S.C. § 3583(g) is unconstitutional because it requires revocation of supervised release and imposition of a term of

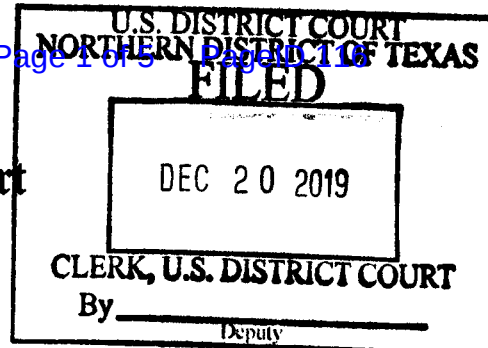
* This opinion is not designated for publication. See 5TH CIR. R. 47.5.

No. 26-10016

imprisonment without affording the defendant the constitutionally guaranteed right to a jury trial or requiring proof beyond a reasonable doubt. Rubell acknowledges that his challenge is foreclosed by *United States v. Garner*, 969 F.3d 550 (5th Cir. 2020). The government has filed an unopposed motion for summary affirmance or, alternatively, for an extension of time to file its brief.

Garner rejected the theory that Rubell raises and held that § 3583(g) is not unconstitutional under *Haymond*. *See Garner*, 969 F.3d at 551. Because Rubell's sole issue on appeal is foreclosed, summary affirmance is proper. *See Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969). The motion for summary affirmance is GRANTED, the alternative motion for an extension is DENIED, and the judgment is AFFIRMED.

APPENDIX B



United States District Court

Northern District of Texas
Fort Worth Division

UNITED STATES OF AMERICA

§

v.

§

Case Number: 4:19-CR-166-A(01)

ANDRE DEMARCUS RUBELL

§

JUDGMENT IN A CRIMINAL CASE

The government was represented by Assistant United States Attorney Michael Levi Thomas. The defendant, ANDRE DEMARCUS RUBELL, was represented by Federal Public Defender through Assistant Federal Public Defender Brook Antonio.

The defendant pleaded guilty on July 5, 2019 to the one count Indictment filed on May 22, 2019. Accordingly, the court ORDERS that the defendant be, and is hereby, adjudged guilty of such count involving the following offense:

Title & Section / Nature of Offense

18 U.S.C. §§ 922(g)(1) and 924(a)(2) Felon in Possession of Firearm

Date Offense Concluded

November 10, 2018

Count

1

As pronounced and imposed on December 20, 2019, the defendant is sentenced as provided in this judgment.

The court ORDERS that the defendant immediately pay to the United States, through the Clerk of this Court, a special assessment of \$100.00.

The court further ORDERS that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence address, or mailing address, as set forth below, 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, through the clerk of this court, and the Attorney General, through the United States Attorney for this district, of any material change in the defendant's economic circumstances.

IMPRISONMENT

The court further ORDERS that the defendant be, and is hereby, committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 33 months. This sentence shall run concurrently with any sentence which may be imposed in Case No. 1571327D in the 432nd Judicial District Court of Tarrant County, Texas. This sentence shall run consecutively to any sentences which may be imposed in Case Nos. 1573615 and 1573616 in Tarrant County Criminal Court 6, and Case Nos. 1591492D and 1599867 in the 432nd Judicial District Court of Tarrant County.

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

SUPERVISED RELEASE

The court further ORDERS that, upon release from imprisonment, the defendant shall be on supervised release for a term of three (3) years and that while on supervised release, the defendant shall comply with the standard conditions ordered by this Court and shall comply with the following additional conditions:

1. The defendant shall not commit another federal, state, or local crime.
2. The defendant shall not unlawfully possess a controlled substance.
3. The defendant shall cooperate in the collection of DNA as directed by the U.S. Probation Officer, as authorized by the Justice for All Act of 2004.
4. The defendant shall refrain from any unlawful use of a controlled substance, submitting to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as directed by the probation officer pursuant to the mandatory drug testing provision of the 1994 crime bill.
5. The defendant shall participate in mental health treatment services as directed by the probation officer until successfully discharged, which services may include prescribed medications by a licensed physician, with the defendant contributing to the costs of services rendered at a rate of at least \$25 per month.
6. The defendant shall participate in a 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 at the rate of at least \$25 per month.
7. The defendant shall also comply with the Standard Conditions of Supervision as hereinafter set forth.

Standard Conditions of Supervision

1. The defendant shall report in person to the probation office in the district to which the defendant is released within seventy-two (72) hours of release from the custody of the Bureau of Prisons.
2. The defendant shall not possess a firearm, destructive device, or other dangerous weapon.
3. The defendant shall provide to the U.S. Probation Officer any requested financial information.
4. The defendant shall not leave the judicial district where the defendant is being supervised without the permission of the Court or U.S. Probation Officer.

5. The defendant shall report to the U.S. Probation Officer as directed by the court or U.S. Probation Officer and shall submit a truthful and complete written report within the first five (5) days of each month.
6. The defendant shall answer truthfully all inquiries by the U.S. Probation Officer and follow the instructions of the U.S. Probation Officer.
7. The defendant shall support his dependents and meet other family responsibilities.
8. The defendant shall work regularly at a lawful occupation unless excused by the U.S. Probation Officer for schooling, training, or other acceptable reasons.
9. The defendant shall notify the probation officer at least ten (10) days prior to any change in residence or employment.
10. The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician.
11. The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
12. 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 U.S. Probation Officer.
13. The defendant shall permit a probation officer to visit his at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the U.S. Probation Officer.
14. The defendant shall notify the probation officer within seventy-two (72) hours of being arrested or questioned by a law enforcement officer.
15. 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.
16. 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.

The court hereby directs the probation officer to provide defendant with a written statement that sets forth all the conditions to which the term of supervised release is subject, as contemplated and required by 18 U.S.C. § 3583(f).

FINE

The court did not order a fine because the defendant does not have the financial resource or future earning capacity to pay a fine.

STATEMENT OF REASONS

The "Statement of Reasons" and personal information about the defendant are set forth on the attachment to this judgment. Attached to the "Statement of Reasons" is a report of Kristi Compton, PHD, of her evaluation of defendant on September 1, 2019 that the Court received at the sentencing hearing. Counsel for defendant requested that a copy of the report be attached to the Judgment so that the BOP will be aware of its contents. The Court is attaching it to the Statement of Reasons so that it will remain under Seal.

Signed this the 20th day of December, 2019.


JOHN McBRYDE
UNITED STATES DISTRICT JUDGE

RETURN

I have executed the imprisonment part of this Judgment as follows:

Defendant delivered on _____, 2019 to _____
at _____, with a certified copy of this Judgment.

United States Marshal for the
Northern District of Texas

By _____
Deputy United States Marshal

APPENDIX C

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
Fort Worth Division

UNITED STATES OF AMERICA

v.

Case Number: 4:19-CR-00166-P(01)

ANDRE DEMARCUS RUBELL

U.S. Marshal's No.: 58737-177

JUDGMENT IN A CRIMINAL CASE
(For **Revocation** of Probation or Supervised Release)
(For Offenses Committed On or After November 1, 1987)

The defendant, ANDRE DEMARCUS RUBELL, was represented by Rachel Taft.

THE DEFENDANT:

Pled true to violating Paragraph I, II of the Second Petition for Offender Under Supervision, dated November 6, 2025. In addition, the defendant pled true to violating Paragraph III **ONLY** as to the paragraph that states "on August 13, 2025, Mr. Rubell was indicted for Count 1: Felon in Possession of a Firearm, in violation of 18 U.S.C. § 922(g)(1) and 924(a)(8), in the Northern District of Texas, Fort Worth Division".

See Petition for Offender Under Supervision.

Certified copy of the Judgment imposed on December 20, 2019, in the U.S. District Court for the Northern District of Texas, Fort Worth Division, is attached.

As pronounced on December 17, 2025, the defendant is sentenced as provided on page 2 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

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 the defendant's economic circumstances.

Signed December 22, 2025.


MARK T. PITTMAN
U.S. DISTRICT JUDGE

Judgment in a Criminal Case for Revocation
Defendant: ANDRE DEMARCUS RUBELL
Case Number: 4:19-CR-00166-P(1)

Page 2 of 2

IMPRISONMENT

The defendant, ANDRE DEMARCUS RUBELL, is hereby committed to the custody of the United States Bureau of Prisons (BOP) to be imprisoned for a term of **TWELVE (12) MONTHS**. This sentence shall run consecutively to the sentence imposed in Case No. 4:25-CR-205-P(01) before this court and concurrently with any sentence that may be imposed in Case No. 1890576, which is pending in Tarrant County Criminal Court No. 1 and is related to the instant offense.

The Court recommends to the BOP that the defendant be incarcerated at a facility as close to the Dallas/Fort Worth, Tx area as possible or as close to Forrest City, Arkansas as possible.

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

SUPERVISED RELEASE

The Court orders no further term of supervised release.

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.

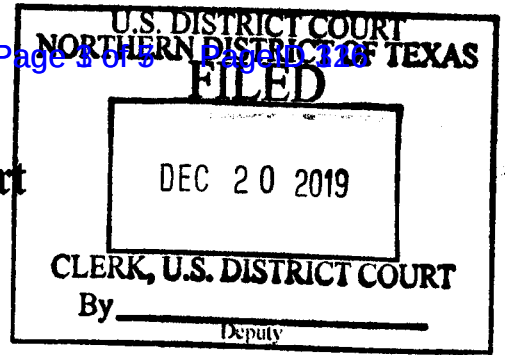
RETURN

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



CERTIFIED A TRUE COPY
KAREN MITCHELL, CLERK

By s/s/ S. CAMERON
DEPUTY CLERK
U.S. DISTRICT COURT, NORTHERN
DISTRICT OF TEXAS
December 19, 2019

United States District Court

Northern District of Texas
Fort Worth Division

UNITED STATES OF AMERICA

§

v.

§

Case Number: 4:19-CR-166-A(01)

ANDRE DEMARCUS RUBELL

§

JUDGMENT IN A CRIMINAL CASE

The government was represented by Assistant United States Attorney Michael Levi Thomas. The defendant, ANDRE DEMARCUS RUBELL, was represented by Federal Public Defender through Assistant Federal Public Defender Brook Antonio.

The defendant pleaded guilty on July 5, 2019 to the one count Indictment filed on May 22, 2019. Accordingly, the court ORDERS that the defendant be, and is hereby, adjudged guilty of such count involving the following offense:

Title & Section / Nature of Offense

18 U.S.C. §§ 922(g)(1) and 924(a)(2) Felon in Possession of Firearm

Date Offense Concluded

November 10, 2018

Count

1

As pronounced and imposed on December 20, 2019, the defendant is sentenced as provided in this judgment.

The court ORDERS that the defendant immediately pay to the United States, through the Clerk of this Court, a special assessment of \$100.00.

The court further ORDERS that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence address, or mailing address, as set forth below, 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, through the clerk of this court, and the Attorney General, through the United States Attorney for this district, of any material change in the defendant's economic circumstances.

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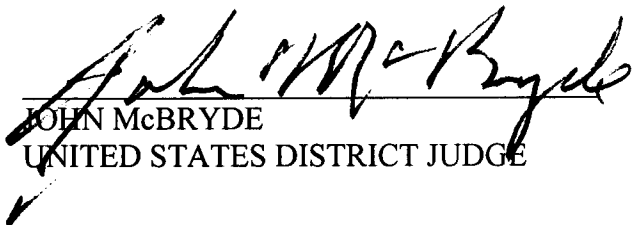
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The court did not order a fine because the defendant does not have the financial resource or future earning capacity to pay a fine.

STATEMENT OF REASONS

The "Statement of Reasons" and personal information about the defendant are set forth on the attachment to this judgment. Attached to the "Statement of Reasons" is a report of Kristi Compton, PHD, of her evaluation of defendant on September 1, 2019 that the Court received at the sentencing hearing. Counsel for defendant requested that a copy of the report be attached to the Judgment so that the BOP will be aware of its contents. The Court is attaching it to the Statement of Reasons so that it will remain under Seal.

Signed this the 20th day of December, 2019.


JOHN McBRYDE
UNITED STATES DISTRICT JUDGE

RETURN

I have executed the imprisonment part of this Judgment as follows:

Defendant delivered on _____, 2019 to _____
at _____, with a certified copy of this Judgment.

United States Marshal for the
Northern District of Texas

By _____
Deputy United States Marshal