

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

November 11, 2025

Lyle W. Cayce
Clerk

No. 25-20102

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

DAVANTAE LONDON,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:20-CR-154-1

UNPUBLISHED ORDER

Before SMITH, HAYNES, and OLDHAM, *Circuit Judges*.

PER CURIAM:

IT IS ORDERED that Appellee's opposed motion to dismiss the appeal is GRANTED.

IT IS FURTHER ORDERED that Appellee's opposed alternative motion for an extension of time to file their brief until 30 days after denial of the motion to dismiss the appeal is DENIED AS MOOT.

United States Court of Appeals
for the Fifth Circuit

No. 25-20102

United States Court of Appeals
Fifth Circuit

FILED

August 21, 2026

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

DAVANTAE LONDON,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:20-CR-154-1

ON REMAND FROM
THE SUPREME COURT OF THE UNITED STATES

Before SMITH, HAYNES, and OLDHAM, *Circuit Judges*.

PER CURIAM:

Defendant Davantae London robbed at gunpoint several Wal-Mart stores in the Houston area. As part of Hunter’s plea agreement with the United States, the Government agreed to drop nine counts from London’s superseding indictment, and London agreed to waive his right to appeal his conviction and sentence. But London tried to appeal anyway. So we granted the Government’s motion to dismiss. Following the Supreme Court’s

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decision in *Hunter v. United States*, 146 S. Ct. 1702 (2026), however, the Court granted London’s petition for a writ of certiorari, vacated our judgment, and remanded. *See London v. United States*, No. 25-6850, 2026 WL 1854988 (U.S. June 29, 2026).

In *Hunter*, the Supreme Court announced that a defendant’s appeal waiver is unenforceable if it “would result in a miscarriage of justice,” meaning “the kind of egregious error that would bring the judicial system into disrepute.” 146 S. Ct. at 1708. London contends that enforcement of his appeal waiver would result in one such miscarriage. He argues that the district court erred in running his federal sentence consecutive to his state sentence in violation of the Sentencing Guidelines. *See* U.S.S.G. § 5G1.3.

London’s argument fails. The *Hunter* Court provided examples of what could amount to a miscarriage of justice—including “a sentence exceeding what the relevant statute allows,” “a sentence that is infected with a blatant constitutional error,” or a sentence “imposed without some minimum of civilized procedure.” 146 S. Ct. at 1714 (quotation omitted). These types of errors jeopardize the “justice system’s basic integrity.” *Id.* London, by contrast, brings a run-of-the-mill challenge to the district court’s application of the Sentencing Guidelines. “Such standard-fare errors in misapplying sentencing law cannot cancel an appeal waiver”—even assuming such an error occurred here. *Id.* at 1713.

We therefore enforce London’s appeal waiver and DISMISS this appeal. *See United States v. Hunter*, No. 24-20211, 2026 WL 2185925, at *7 (5th Cir. July 29, 2026) (doing the same thing).

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA

v.

**DAVANTAE LONDON,
Defendant.**

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CRIMINAL NO. 4:20-CR-154

PLEA AGREEMENT

The United States of America, by and through Alamdar S. Hamdani, United States Attorney for the Southern District of Texas, and Lisa M. Collins, Assistant United States Attorney, and the defendant, Davantae London (“Defendant”), and Defendant’s counsel, pursuant to Rule 11(c)(1)(A) and 11(c)(1)(B) of the Federal Rules of Criminal Procedure, state that they have entered into an agreement, the terms and conditions of which are as follows:

Defendant’s Agreement

1. Defendant agrees to plead guilty to Counts **Two, Three, Ten and Eleven** of the Superseding Indictment. Counts Two and Ten charge Defendant with **Interference with Commerce by Robbery** in violation of Title 18, United States Code, Section 1951, Counts Three and Eleven charge Defendant with **Brandishing of a Firearm in Connection to a Crime of Violence** in violation of Title 18, United States Code, Section 924(c). Defendant, by entering this plea, agrees that he is waiving any right to have the facts that the law makes essential to the punishment either charged in the Superseding Indictment, or proved to a jury or proven beyond a reasonable doubt.

Punishment Range

2. The statutory maximum penalty for each violation of Title 18, United States Code, Section 1951(a), is imprisonment of not more than 20 years and a fine of not more than \$250,000. Additionally, Defendant may receive a term of supervised release after imprisonment of three years. *See* Title 18, United States Code, sections 3559(a)(3) and 3583(b)(2). Defendant acknowledges and understands that if he should violate the conditions of any period of supervised release which may be imposed as part of his sentence, then Defendant may be imprisoned for two years, without credit for time already served on the term of supervised release prior to such violation. *See* Title 18, United States Code, sections 3559(a)(3) and 3583(e)(3). Defendant understands that the sentences on multiple Title 18, United States Code, Section 1951(a) counts may be imposed to run consecutively to one another or to any other sentence. Moreover, for each violation of Title 18 United States Code, Section 924(c)(1)(A)(ii), the statutory mandatory minimum penalty is imprisonment of no less than 7 years and the statutory maximum penalty is life imprisonment. There is also a fine of not more than \$250,000. Additionally, Defendant may receive a term of supervised release after imprisonment of five years. *See* Title 18, United States Code, sections 3559(a)(1) and 3583(b)(2). Defendant acknowledges and understands that if he should violate the conditions of any period of supervised release which may be imposed as part of his sentence, then Defendant may be imprisoned for five years, without credit for time already served on the term of supervised release prior to such violation. *See* Title 18, United States Code, sections 3559(a)(1) and 3583(e)(3). Defendant understands that the sentences on multiple Title 18, United States Code, Section 924(c)(1)(A)(ii) counts will be imposed to run consecutively to one another and any other sentence. Defendant understands that he cannot have the imposition or

execution of the sentence suspended, nor is he eligible for parole.

Mandatory Special Assessment

3. Pursuant to Title 18, United States Code, section 3013(a)(2)(A), immediately after sentencing, Defendant will pay to the Clerk of the United States District Court a special assessment in the amount of one hundred dollars (\$100.00) per count of conviction. The payment will be by cashier's check or money order, payable to the Clerk of the United States District Court, c/o District Clerk's Office, P.O. Box 61010, Houston, Texas 77208, Attention: Finance.

Immigration Consequences

4. Defendant recognizes that pleading guilty may have consequences with respect to his immigration status. Defendant understands that if he is not a citizen of the United States, by pleading guilty he may be removed from the United States, denied citizenship, and denied admission to the United States in the future. Defendant understands that if he is a naturalized United States citizen, pleading guilty may result in immigration consequences, such as denaturalization and potential deportation or removal from the United States. Defendant's attorney has advised Defendant of the potential immigration consequences resulting from Defendant's plea of guilty, and Defendant affirms that he wants to plead guilty regardless of any immigration consequences that may result from the guilty plea and conviction.

Waiver of Appeal, Collateral Review, and Statute of Limitations

7. Defendant is aware that Title 28, United States Code, section 1291, and Title 18, United States Code, section 3742, afford a defendant the right to appeal the conviction and sentence imposed. Defendant is also aware that Title 28, United States Code, section 2255, affords the right to contest or "collaterally attack" a conviction or sentence after the judgment of conviction and

sentence has become final. Defendant knowingly and voluntarily waives the right to appeal or “collaterally attack” the conviction and sentence, except that Defendant does not waive the right to raise a claim of ineffective assistance of counsel on direct appeal, if otherwise permitted, or on collateral review in a motion under Title 28, United States Code, section 2255. In the event Defendant files a notice of appeal following the imposition of the sentence or later collaterally attacks his conviction or sentence, the United States will assert its rights under this agreement and seek specific performance of these waivers.

8. Defendant also agrees that should the conviction following the defendant’s plea of guilty pursuant to this Agreement be vacated for any reason, then any prosecution that is not time-barred by the applicable statute of limitations on the date of the signing of this agreement (including any counts that the United States has agreed to dismiss at sentencing pursuant to this Agreement) may be commenced or reinstated against the defendant, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement or reinstatement of such prosecution. It is the intent of this Agreement to waive all defenses based on the statute of limitations with respect to any prosecution that is not time-barred on the date that this Agreement is signed.

9. In agreeing to these waivers, Defendant is aware that a sentence has not yet been determined by the Court. Defendant is also aware that any estimate of the possible sentencing range under the sentencing guidelines that he may have received from his counsel, the United States or the Probation Office, is a prediction and not a promise, did not induce his guilty plea, and is not binding on the United States, the Probation Office or the Court. The United States does not make any promise or representation concerning what sentence the defendant will receive.

Defendant further understands and agrees that the United States Sentencing Guidelines are “effectively advisory” to the Court. *See United States v. Booker*, 543 U.S. 220 (2005). Accordingly, Defendant understands that, although the Court must consult the Sentencing Guidelines and must take them into account when sentencing Defendant, the Court is not bound to follow the Sentencing Guidelines nor sentence Defendant within the calculated guideline range.

10. Defendant understands and agrees that each and all waivers contained in the Agreement are made in exchange for the concessions made by the United States in this plea agreement.

The United States’ Agreements

11. The United States agrees to each of the following:

(a) If Defendant pleads guilty to Counts Two, Three, Ten and Eleven of the Superseding Indictment and persists in that plea through sentencing, and if the Court accepts this plea agreement, the United States will move to dismiss any remaining counts of the indictment at the time of sentencing. The defendant agrees that with respect to any and all dismissed charges he is not a ‘prevailing party within the meaning of the ‘Hyde Amendment,’ Section 617, P.L. 105-119 (Nov. 26, 1997), and will not file any claim under that law;

Agreement Binding - Southern District of Texas Only

12. The United States Attorney’s Office for the Southern District of Texas agrees that it will not further criminally prosecute Defendant in the Southern District of Texas for the specific conduct described in the Superseding Indictment. This plea agreement binds only the United States Attorney’s Office for the Southern District of Texas and Defendant. It does not bind any other United States Attorney’s Office. The United States Attorney’s Office for the Southern District of Texas will bring this plea agreement and the full extent of Defendant’s cooperation to the attention of other prosecuting offices, if requested.

United States' Non-Waiver of Appeal

13. The United States reserves the right to carry out its responsibilities under guidelines sentencing. Specifically, the United States reserves the right:

- (a) to bring the facts of this case, including evidence in the files of the United States Attorney's Office for the Southern District of Texas or the files of any investigative agency, to the attention of the Probation Office in connection with that office's preparation of a presentence report;
- (b) to set forth or dispute sentencing factors or facts material to sentencing;
- (c) to seek resolution of such factors or facts in conference with Defendant's counsel and the Probation Office;
- (d) to file a pleading relating to these issues, in accordance with section 6A1.2 of the United States Sentencing Guidelines and Title 18, United States Code, section 3553(a); and
- (e) to appeal the sentence imposed or the manner in which it was determined.

Sentence Determination

14. Defendant is aware that the sentence will be imposed after consideration of the United States Sentencing Guidelines and Policy Statements, which are only advisory, as well as the provisions of Title 18, United States Code, section 3553(a). Defendant nonetheless acknowledges and agrees that the Court has authority to impose any sentence up to and including the statutory maximum set for the offense(s) to which Defendant pleads guilty, and that the sentence to be imposed is within the sole discretion of the sentencing judge after the Court has consulted the applicable Sentencing Guidelines. Defendant understands and agrees that the parties' positions regarding the application of the Sentencing Guidelines do not bind the Court and that the sentence imposed is within the discretion of the sentencing judge. If the Court should impose any sentence up to the maximum established by statute, or should the Court order any or all of the sentences

imposed to run consecutively, Defendant cannot, for that reason alone, withdraw a guilty plea, and will remain bound to fulfill all of the obligations under this plea agreement.

Rights at Trial

15. Defendant understands that by entering into this agreement, he surrenders certain rights as provided in this plea agreement. Defendant understands that the rights of a defendant include the following:

(a) If Defendant persisted in a plea of not guilty to the charges, defendant would have the right to a speedy jury trial with the assistance of counsel. The trial may be conducted by a judge sitting without a jury if Defendant, the United States, and the court all agree.

(b) At a trial, the United States would be required to present witnesses and other evidence against Defendant. Defendant would have the opportunity to confront those witnesses and his/her attorney would be allowed to cross-examine them. In turn, Defendant could, but would not be required to, present witnesses and other evidence on his/her own behalf. If the witnesses for Defendant would not appear voluntarily, he/she could require their attendance through the subpoena power of the court; and

(c) At a trial, Defendant could rely on a privilege against self-incrimination and decline to testify, and no inference of guilt could be drawn from such refusal to testify. However, if Defendant desired to do so, he/she could testify on his/her own behalf.

Factual Basis for Guilty Plea

16. Defendant is pleading guilty because he is in fact guilty of the charges contained in Counts Two, Three, Ten and Eleven of the Superseding Indictment. If this case were to proceed to trial, the United States could prove each element of the offense beyond a reasonable doubt. The following facts, among others would be offered to establish Defendant's guilt:

- i. Wal-Mart is a part of a grocery chain with locations operating throughout North America and whose headquarters are in Bentonville, Arkansas. Wal-Mart

provides for the purchase of goods in stores and online, all of which affects interstate commerce.

- ii. All robberies listed below occurred in the Southern District of Texas.
- iii. On September 9, 2019, the Defendant attempted to rob a Wal-Mart store located at 25108 Market Place Drive, Katy, Texas 77494. He lifted his shirt, showing to an employee a firearm tucked in his waist. He demanded the employee give him money, but he was unable to take any money.
- iv. On September 10, 2019, the Defendant robbed a Wal-Mart store located at 22850 Morton Ranch Road, Katy, TX 77449. He pointed a gun to an employee and demanded money. He took an unknown amount of money, but it is estimated to be about \$400. While fleeing the store, he grabbed the side of a door. Police officers successfully lifted latent fingerprints from where he touched the door. Fingerprint analysis later confirmed that the latent fingerprints from the incident matched known fingerprints of the Defendant.
- v. On October 7, 2019, the Defendant attempted to rob a Wal-Mart store located at 22605 SH TX-249, Tomball, TX 77375. He pointed a gun to an employee and demanded money, but he was unable to take any money.
- vi. On October 10, 2019, the Defendant robbed a Wal-Mart store located at 27650 Tomball Parkway, Tomball, TX 77375. He pointed a gun to an employee and demanded money. He took \$1,104 in cash from the register and fled.
- vii. On October 11, 2019, the Defendant robbed a Wal-Mart store located at 1919 North Main Street, Pearland, TX 77581. He pointed a gun to an employee and demanded

money. He took \$899.99 from the register and fled.

- viii. On October 16, 2019, the Defendant attempted to rob a Wal-Mart store located at 3040 College Park Drive, Conroe, TX 77384. He pointed a gun to an employee and demanded that she open the money safe and give him \$10,000. The employee was unable to get the safe open, so the Defendant was unable to get the money. As the Defendant was fleeing the store, he discharged his firearm into the ceiling of the store. An employee picked up the discharged casing. Crime scene investigators were able to recover and process the discharged casing and shell fragments from the scene.
- ix. On October 20, 2019, the Defendant returned to and robbed the Wal-Mart store located at 1919 North Main Street, Pearland, TX 77581. He pointed a gun to an employee and demanded money. He took approximately \$1,800 from the register and fled.
- x. On October 22, 2019, the Defendant returned to and robbed the Wal-Mart store located at 25108 Market Place Drive, Katy, Texas 77494. He pointed a gun to an employee and demanded money. He took \$549.03 from the register. As he was fleeing the store, he stole bicycle and fled said bicycle. The bicycle was valued at \$198.
- xi. Officers analyzed Flock Cameras and store surveillance videos to identify a white 2013 Chevrolet 4 door long bed pickup truck displaying Texas License Plate KZK6438 near several of the robberies.
- xii. On October 24, 2019, officers initiated a traffic stop of said pickup truck due to

expired registration. During the stop, officers were able to confirm that the driver of the truck was the Defendant. The Defendant was given a warning for the expired registration and the rest of the stop occurred without incident.

- xiii. After additional physical surveillance, on October 28, 2019, officers conducted a traffic stop of the defendant driving the white pickup truck with license plate KZK6438. The defendant was taken into custody without incident. A search of the truck incident to the arrest resulted in the following items: a small plastic bag weighing 0.5 gram of an off-white substance believed to be cocaine; a small plastic bag weighing 0.05 ounces of a green leafy substance believed to be marijuana; and a Smith and Wesson, Model SW40VE, .40 Caliber Pistol, Serial Number DSK0227.
- xiv. On October 28, 2019, officers conducted a post-arrest interview of the Defendant. After being read his *Miranda* rights, defendant confessed to each of the eight robberies by describing specifics of each robbery that only he would know, including, the weather at certain robberies and where he parked at each of the robberies.
- xv. Ballistics analysis performed on the firearm recovered from the Defendant's car confirmed that it was the same weapon that discharged the bullet found at the October 16, 2019 robbery at 3040 College Park Drive, Conroe, TX 77384.

Breach of Plea Agreement

17. If Defendant should fail in any way to fulfill completely all of the obligations under this plea agreement, the United States will be released from its obligations under the plea

agreement, and Defendant's plea and sentence will stand. If at any time Defendant retains, conceals, or disposes of assets in violation of this plea agreement, including required financial information, or if Defendant knowingly withholds evidence or is otherwise not completely truthful with the United States, then the United States may move the Court to set aside the guilty plea and reinstate prosecution. Any information and documents that have been disclosed by Defendant, whether prior to or subsequent to this plea agreement, and all leads derived therefrom, will be used against defendant in any prosecution.

Monetary Penalties, Assets and Financial Disclosures

18. Defendant understands and agrees that monetary penalties will be subject to immediate enforcement as provided in 18 U.S.C. § 3613 and that monetary penalties will be submitted to the Treasury Offset Program so that payments to the Defendant may be applied to federal debts.

19. Defendant understands that restitution, forfeiture, and fines are separate components of sentencing and are separate obligations. Defendant agrees to take all steps necessary to pass clear title to forfeitable assets to the United States and to assist fully in the collection of restitution and fines. Subject to the provisions of paragraph 7 above, Defendant waives the right to challenge in any manner, including by direct appeal or in a collateral proceeding, any restitution order, any forfeiture orders, and any fines.

Forfeiture

21. As part of this plea agreement, Defendant agrees to the following:

(a) to forfeit, via either an administrative or judicial proceeding, all assets listed in the charging document (including any Supplemental Notice of Forfeiture), and to forfeit or abandon any assets seized during this investigation or a related investigation including but

not limited to the following specific assets: a Smith and Wesson, SW40VE, .40 caliber pistol with serial number DSK0227;

(b) to withdraw any claims and petitions for such listed or seized assets, whether in this proceeding or another proceeding, and to waive notice of administrative proceedings (including forfeiture, destruction, and abandonment for seized property);

(c) to the order of forfeiture becoming final as to Defendant immediately following this guilty plea or immediately following entry of the forfeiture order, whichever applies.

Financial Statement

22. Defendant agrees to truthfully complete under penalty of perjury, within thirty days of the execution of this Plea Agreement, a financial statement on a form provided by the United States Attorney's Office and to update the statement within seven days of any material change. Defendant also agrees to make full disclosure to the United States Probation Office of all current and anticipated assets in which Defendant has an interest both before sentencing and again before termination of supervised release or probation, with such disclosures to be shared with the United States Attorney's Office.

23. Defendant further agrees not to dispose or transfer any assets without the prior written permission of the United States and to authorize the release of all financial information requested by the United States, including, but not limited to, credit histories and tax returns. Defendant agrees to discuss and answer any questions by the United States relating to Defendant's financial disclosure, including in a deposition or informal debtor exam, whether before or after sentencing.

Complete Agreement

24. This written plea agreement, consisting of 15 pages, including the attached addendum of Defendant and his attorney, constitutes the complete plea agreement between the United States, Defendant, and Defendant's counsel. Other than any written proffer agreement(s) that may have

been entered into between the United States and Defendant, this agreement supersedes any prior understandings, promises, agreements, or conditions between the United States and Defendant. No additional understandings, promises, agreements, or conditions have been entered into other than those set forth in this agreement, and none will be entered into unless in writing and signed by all parties. Defendant acknowledges that no threats have been made against him and that he is pleading guilty freely and voluntarily because he is guilty.

25. Any modification of this plea agreement must be in writing and signed by all parties.

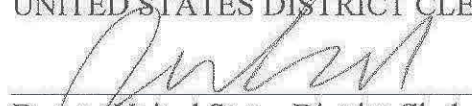
Filed at Houston, Texas, on September 23, 2024.


Defendant

Subscribed and sworn to before me on September 23, 2024.

NATHAN OCHSNER
UNITED STATES DISTRICT CLERK

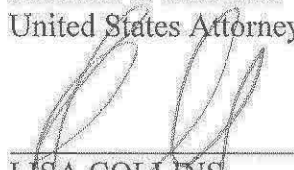
By:


Deputy United States District Clerk

APPROVED:

Alamdar S. Hamdani
United States Attorney

By:


LISA COLLINS
Assistant United States Attorney


DAVID CUNNINGHAM
Attorney for Defendant

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA

v.

**DAVANTAE LONDON,
Defendant.**

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CRIMINAL NO. 4:20-CR-154

PLEA AGREEMENT -- ADDENDUM

I have fully explained to Defendant his rights with respect to the pending Superseding Indictment. I have reviewed the provisions of the United States Sentencing Commission's Guidelines Manual and Policy Statements and I have fully and carefully explained to Defendant the provisions of those Guidelines which may apply in this case. I have also explained to Defendant that the Sentencing Guidelines are only advisory and the court may sentence Defendant up to the maximum allowed by statute per count of conviction. I have also explained to Defendant that sentences on multiple counts may be imposed to run consecutively to one another or to any other sentence. Further, I have carefully reviewed every part of this plea agreement with Defendant. To my knowledge, Defendant's decision to enter into this agreement is an informed and voluntary one.



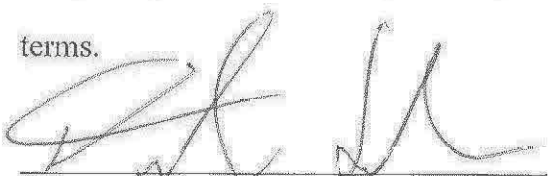
Attorney for Defendant



Date

I have consulted with my attorney and fully understand all my rights with respect to the Superseding Indictment pending against me. My attorney has fully explained, and I understand, all my rights with respect to the provisions of the United States Sentencing Commission's Guidelines Manual which may apply in my case. I have read and carefully reviewed every part of

this plea agreement with my attorney. I understand this agreement and I voluntarily agree to its terms.


Defendant

9/23/24
Date