
SUMMARIES OF RECENT CASE LAW
JANUARY 1, 2020–MARCH 31, 2020

**DECISIONS OF THE
SUPREME COURT OF THE UNITED STATES**

[*Holguin-Hernandez v. United States*, 140 S. Ct. 762, 2020 WL 908880, \(Feb. 26, 2020\)](#) (A defendant who advocates for a lower sentence during a sentencing hearing preserves an appellate challenge to the substantive reasonableness of the sentence imposed, even absent an additional objection.)

[*Shular v. United States*, 140 S. Ct. 779, 2020 WL 908904 \(Feb. 26, 2020\)](#) (The ACCA’s definition of “serious drug offense” requires only that the state offense involve the conduct specified in the statute; it does not require that the state offense match certain generic offenses.)

[*Kahler v. Kansas*, 140 S. Ct. 1021, 2020 WL 1325817 \(Mar. 23, 2020\)](#) (Kansas has a cognitive-incapacity test to absolve mentally ill defendants of criminal culpability, and due process does not require a test that turns on a defendant’s ability to recognize that his crime was morally wrong.)

[*Davis v. United States*, 140 S. Ct. 1060, 2020 WL 1325819 \(Mar. 23, 2020\)](#) (The Fifth Circuit’s practice of declining to review certain unpreserved factual arguments for plain error has no legal basis. Mr. Davis had argued for the first time on appeal that the district court erred in running his sentence consecutive to a related state sentence, and the Fifth Circuit refused to address the argument on the basis that factual issues capable of resolution by the district court never constitute plain error. The Supreme Court vacated the Fifth Circuit’s decision without hearing argument.)

**DECISIONS OF THE
UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT
PUBLISHED OPINIONS**

[*United States v. Hill*, 946 F.3d 1239 \(11th Cir. 2020\)](#) (The Eleventh Circuit declined to hold that the exclusionary rule should apply in the context of supervised release-revocation proceedings.)

[*United States v. Brown*, 947 F.3d 655 \(11th Cir. 2020\)](#) (The district court did not abuse its discretion in dismissing a juror who told other jurors during deliberations that “[t]he Holy Spirit told” him that the defendant was not guilty on all counts. Judge William Pryor dissented, writing that the majority’s decision “countenances discrimination against a substantial segment of the citizens in our Circuit who pray for and believe they receive divine guidance in their daily affairs” and allows their disqualification from jury service “for nothing more than expressing that belief—even when there is good reason to think they are performing their duties.”)

[*United States v. Santos*, 947 F.3d 711 \(11th Cir. 2020\)](#) (The Court affirmed Mr. Santos’s conviction for unlawfully procuring naturalization in violation of 18 U.S.C. § 1425(a), finding that the government presented sufficient evidence that he knowingly made false statements and that these statements were “material” to his procurement of naturalization. The government had retried Mr. Santos after his first conviction was summarily reversed in light of *Maslenjak v. United States*, 137 S. Ct. 1918 (2017).)

[*United States v. Mancilla-Ibarra*, 947 F.3d 1343 \(11th Cir. 2020\)](#) (The district court did not err in refusing to apply a two-level “safety valve” reduction under U.S.S.G. § 5C1.2(a), due to defendant’s failure to “tell all.” The defendant bears the burden to affirmatively show that he or she has met each factor of § 5C1.2(a) and, if the trier of fact is uncertain, the burden is not met.)

[*United States v. Bane*, 948 F.3d 1290, 2020 WL 401498 \(11th Cir. Jan. 24, 2020\)](#) (The defendants procedurally defaulted their claims contesting the joint and several liability portion of the forfeiture order by not raising

the issue on direct appeal. Judge Martin dissented in part, writing that she would hold that the district court's error in imposing a joint and several forfeiture award related to the healthcare fraud offenses was jurisdictional).

[*United States v. Cabezas-Montano*, 949 F.3d 567 \(11th Cir. 2020\)](#) (The Court affirmed the defendants' drug-distribution convictions under the Maritime Drug Law Enforcement Act. Judge Rosenbaum wrote a special concurrence that she was troubled that the government took seven weeks between arresting the defendants and bringing them before a magistrate judge for a probable-cause determination and that she believes *United States v. Rivera*, 944 F.2d 1563, 1568 (11th Cir. 1991), was wrongly decided and should be reconsidered *en banc*. *Rivera* provides that, in the government's case in chief, it may present testimony or otherwise comment on a defendant's silence when the defendant was in custody but had not yet received his *Miranda* warnings.)

[*Martin v. United States*, 949 F.3d 662 \(11th Cir. 2020\)](#) (Mr. Martin did not show deficient performance of counsel for counsel's failure to advise him about deportation consequences of his guilty plea to access device fraud and aggravated identify theft because deportation is not "presumptively mandatory" for these offenses.)

[*United States v. Cingari*, 952 F.3d 1301 \(11th Cir. 2020\)](#) (The district court did not plainly err in holding the defendants (a married couple) jointly and severally liable for repaying the proceeds of their crimes of falsification of immigration forms, mail fraud, and conspiracy to do the same when they failed to establish that they did not mutually obtain, possess, and benefit from the proceeds. The Court also held that the appropriate guideline was § 2B1.1, not a cross reference to § 2L2.1, because the § 2B1.1 guideline "more aptly fit" the crimes.)

[*United States v. Eason*, 953 F.3d 1184 \(11th Cir. 2020\)](#) (As a matter of first impression, a conviction for Hobbs Act robbery does not qualify as a "crime of violence" under U.S.S.G. § 4B1.2(a).)

[*United States v. Goldman*, 953 F.3d 1213 \(11th Cir. 2020\)](#) (The Court vacated a restitution order and remanded the case for an evidentiary

hearing to determine a reasonable estimate of the replacement cost of a gold bar stolen from a museum. The Court held for the first time that where cash value does not sufficiently compensate a victim for a unique item, a district court should use replacement value to determine restitution. The court also affirmed the sentence as substantively reasonable and did not address arguments about the Guidelines calculation because the district court stated that it would have imposed the same sentence regardless of any error.)

[*Alston v. Swarbrick*, 954 F.3d 1312 \(11th Cir. 2020\)](#) (Related to a 42 U.S.C. § 1983 claim, the Court held that a Florida police officer lacked probable cause to arrest Mr. Alston for resisting an officer without violence because it was clearly established at the time of the arrest that “mere words” do not provide probable cause for that Florida offense.)

[*George v. U.S. Att’y Gen.*, 953 F.3d 1300 \(11th Cir. 2020\)](#) (When the record does not identify which alternative element underlies a statute of conviction, a court errs in considering facts from a criminal complaint to identify the elements of the offense.)

[*Pitch v. United States*, 953 F.3d 1226 \(11th Cir. 2020\)](#) (en banc) (District courts do not possess inherent, supervisory power to authorize the disclosure of grand jury records outside of Fed. R. Crim. P. 6(e)(3)’s enumerated exceptions, overruling *In re Petition to Inspect & Copy Grand Jury Materials*, 735 F.2d 1261 (11th Cir. 1984)).

[*United States v. Moore*, 954 F.3d 1322 \(11th Cir. 2020\)](#) (Under plain-error review, the Court could not say that the district court erred in allowing the defendants to be shackled during the trial. However, the Court admonished district courts that, in the typical case, the record should reflect why restraints are necessary and that shackling should not be the norm. The Court also clarified that, after a district court conducts an *in camera* interview of a juror related to potential misconduct, the court should summarize the interview for the parties and share the transcript of the interview with the parties. The Court also held that any error in the indictment after *Rehaif v. United States*, 139 S. Ct. 2191 (2019), did not deprive the district court of subject matter jurisdiction because the

indictment still charged an offense against the United States, and the indictment did not constitute plain error sufficient to set aside the convictions under 18 U.S.C. § 922(g)(1) because the record established that both defendants knew they were felons.)

UNPUBLISHED OPINIONS FROM THE NORTHERN DISTRICT OF ALABAMA

[United States v. Jackson, 799 F. App'x 715 \(11th Cir. 2020\)](#) (N.D. Ala. No. 2:18-cr-00243-LSC-JHE-1) (The district court did not err in imposing an above-guideline sentence without providing the parties with notice under Fed. R. Crim. P. 32(h) because that notice requirement applies only to *departures* pursuant to a particular provision in the Guidelines, and the Supreme Court has declined to extend the rule to a *variance* based on the 18 U.S.C. § 3553(a) factors.)

[United States v. Criscoe, 793 F. App'x 986 \(11th Cir. 2020\)](#) (N.D. Ala. No. 5:18-cr-00338-ACA-SGC-1) (The district court clearly erred in applying an enhancement under U.S.S.G. § 2K2.1(b)(5) for trafficking firearms. The enhancement applies when an individual transfers firearms to another “individual whose possession or receipt of the firearm would be unlawful” and a “known drug user” does not fall within the commentary’s narrow definition of that term.)

[United States v. Ramirez-Flores, 800 F. App'x 765 \(11th Cir. 2020\)](#) (N.D. Ala. No. 2:18-cr-411-ACA-JEO-1) (The district court’s 104-month upward variance to a sentence of 240 months on four drug-trafficking offenses was not procedurally or substantively unreasonable where the court considered the statutory sentencing factors and adequately explained the variance.)

[United States v. Dobbs, 802 F. App'x 466 \(11th Cir. 2020\)](#) (N.D. Ala. No. 7:18-cr-00397-LSC-JEO-1) (The district court did not clearly err in finding that Mr. Dobbs used the firearm in connection with kidnapping J.B. and applying the cross-reference in U.S.S.G. § 2K2.1(c)(1)(A). Mr. Dobb’s contention that J.B. was free to leave, at best, presented one of two permissible views of the evidence.)

[United States v. Juravel, 802 F. App'x 474 \(11th Cir. 2020\)](#) (N.D. Ala. No. 2:06-cr-00126-LSC-JEO-1) (Mr. Juravel was not eligible for relief under 18 U.S.C. § 3582(c)(2) based on U.S.S.G. Amendment 732 because that amendment is not listed as a retroactive amendment in subsection (d) of U.S.S.G. § 1B1.10.)

[United States v. Garrett, --- F. App'x ---, 2020 WL 882001 \(11th Cir. Feb. 24, 2020\)](#) (N.D. Ala. No. 2:16-cr-00327-MHH-JHE-1) (During Mr. Garrett's trial for production of child pornography the district court did not abuse its discretion by admitting evidence (a) of two sets of sexually explicit drawings Mr. Garrett made while in custody and (b) his prior admission to, and conviction for, sexually abusing a child. The district court also did not err in denying Mr. Garrett's motion to suppress statements that he made during a jail interview because his references to counsel were ambiguous and he later reinitiated conversation with the officers.)

[United States v. Cisneros, 799 F. App'x 777 \(11th Cir. 2020\)](#) (N.D. Ala. No. 2:17-cr-00544-LSC-JHE-4) (A reasonable jury could conclude that Mr. Cisneros knowingly participated in a conspiracy to distribute controlled substances because testimony about repeated purchases of at least a pound of methamphetamine supported the inference that the drugs were for distribution, not personal use.)

[United States v. Esquivel, --- F. App'x ---, 2020 WL 1064815 \(11th Cir. Mar. 5, 2020\)](#) (N.D. Ala. No. 2:18-cr-00132-MHH-JHE-1) (Because Mr. Esquivel did not object to the magistrate judge's report and recommendation denying his motion to suppress, he waived his right to challenge on appeal the denial of his motion to suppress.)

[United States v. Gonzalez-Marcial, 798 F. App'x 610, 2020 WL 1313331 \(11th Cir. Mar. 18, 2020\)](#) (N.D. Ala. No. 5:19-cr-00246-KOB-SGC-1) (The district court did not clearly err in giving more weight to Mr. Gonzalez-Marcial's criminal history and prior deportations than his cultural assimilation in imposing a sentencing within the advisory Guidelines range.)