

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

AARON C. PORTER
Petitioner,

v.

Case No.: 8:23-CV-0441-JLB-AEP

SECRETARY, DEPARTMENT
OF CORRECTIONS, et al.
Respondent.

Provided to Suwannee
Correctional Institution on:

MAY 21 2024

for mailing, by:

*Received by
Staff 5/20/24
unable to stamp
MCP 5/20*

**PETITIONER'S REPLY TO RESPONSE TO
PETITION FOR WRIT OF HABEAS CORPUS**

The Petitioner, Aaron C. Porter, *pro se*, and files this Limited Reply to Respondent's Limited Response to the *pro se* 28 U.S.C. §2254 Petition. Petitioner moves the Honorable Court to find the Petition timely filed, and deny Respondent's Motion to Dismiss. Petitioner asserts as follows:

The Petitioner, Aaron C. Porter, *pro se*, referred to as (Porter, "Sunila" or Petitioner), a Florida prisoner, attacks his trial Judgment for Robbery with a Firearm and False Imprisonment, which arose out of the 13th Judicial Circuit for Hillsborough County, Florida. Petitioner Sunila¹, a.k.a. Porter is unlawfully restrained, serving a sentence of Life imprisonment. Her claims warrants relief. No District Court Judge or Magistrate currently assigned this case participated in any of Petitioner's State Court proceedings.

PROCEDURAL BACKGROUND

The Petitioner accepts the procedural background as laid out by Respondent, but

¹In 2021, Porter was diagnosed with "Gender Dysphoria" previously referred to as Gender Identity Disorder (GID). Porter is a transgender female, hence, "Sunila".

makes corrections of misstatements as demonstrated herein.

Contrary to the Respondents at page 11, of their Response “Porter's limitations period” did not “commence after her Judgment became final on Thursday, August 9, 2012”, when the 90-day period expired for petitioning for certiorari review following silent affirmation of his Direct Appeal on May 11, 2012. In fact, the Mandate issued: June 28, 2012. Thus, her limitations period commenced after her Judgment became final on September 26, 2012 Wednesday when the 90 days period (from Mandate date) expired for petitioning for certiorari review following silent affirmance Mandate of her Direct Appeal on June 28, 2012. The Respondent appears to have started from opinion date of May 11, 2012, which should have been the Mandate date of June 28, 2012, factoring additional 90-days of to seek certiorari review following Mandate. Accordingly, Petitioner's federal limitations period started 90-days from date of Mandate.

PRESENT PETITION

Timeliness Determination:

The Petitioner's present petition is timely filed and Respondent's Motion to Dismiss on Grounds of Timeliness must be denied for (two) reasons:

A. Respondent's Motion and arguments is barred by estopped, and they are now estopped from presenting the time-bar argument.

B. In the context of a Federal Habeas Petition, the statute of limitations runs from the date of State Court Resentencing and [not] the date of the original Judgment.

ARGUMENT AND REPLY

The Petitioner's presently filed Petition, filed in this Court on February 27, 2023, filed after his August 04, 2021 resentencing, and Amended Judgment and Resentencing is timely filed, and in any event, the Respondent is now estopped from asserting something contrary to what was already implied by previous action and statement in Case No.: 8:19-CV-2505-SDM-AAS. See: Exhibit (A) D.E.#12 and Exhibit (B) D.E. #13.

FEDERAL HABEAS PROCEEDING 8:19-CV-2505-SDM-AAS

The Petitioner in the Circuit Court, filed a Motion to Correct Illegal Sentence on August 12, 2019, Respondent's (Ex. 060). While said motion was pending, Petitioner filed his Federal Petition docketed in this Court on October 9, 2019. See: Ex. 061 of Respondent's Response.

While the Petition in this Court under Case No.: 8:19-CV-2505-SDM-AAS was still pending, the post-conviction Court ^{ENTERED} an Order Denying in part and directing the State to Respond to Petitioner's motion. See: Ex. 062 of Respondent's Response. The State filed a Response Conceding the sentence was illegal and that Petitioner must be resentenced. (Ex. 063) of Respondent's Response. On March 20, 2020, the post-conviction Court entered an Order Granting the Motion to Correct Illegal Sentence, directing Petitioner to be re-sentenced with regard to Count One, Ex. 064 of Respondent's Response.

Before re-sentencing took place, on March 30, 2020, the Respondent (herein), filed a Motion to Stay or to Dismiss the Federal Petition on grounds that the State Court having granted Petitioner's motion, "The State Court will resentence Petitioner". "The State Court will render a new Amended Sentence". See: Exhibit (A) D.E. #12.

In their motion, the Respondent correctly argued to this Court: "Even though resentencing will [only] result in the imposition of a new 10-year mandatory minimum term for the firearm enhancement, the resentencing [will] result in a new Judgment under 28 U.S.C. §2254(a). Insignaras v. Sec'y, Fla. Dept. Corrs, 755 F.3d 1273, 1281 (11th Cir. 2014)". ('Holding that new Judgment resulted where the trial Court resentenced a Petitioner to a new mandatory minimum term').

The U.S. District Judge, Honorable Steven D. Merryday agreed, and dismissed Petition "without prejudice to Porter's pursuing a new application under section 2254 [after] his [new] Judgment becomes final". See: Exhibit (B).

The originally filed Petition under this Court's Case No.: 8:19-CV-02505-SDM-AAS was dismissed without prejudice on April 2, 2020. See: D.E. #(B).

On August 04, 2021, the post-conviction Court resentenced Petitioner to a new term and entered a Amended Judgment and Sentence. The Petitioner appealed his new Amended Judgment and Sentence on Direct and on October 12, 2022 issued opinion affirming, and Mandate followed on November 15, 2022. Timely, on February 22, 2023 Petitioner filed the instant pending Petition, attacking his Judgment and conviction.

The Respondent is estopped from now attempting to argue contrary to what was already presented to this very Court. Just like the case of Maharaj v. Secretary of Department of Corrections, 304 F.3d 1348 (11th Cir. 2002). Because Petitioner's resentencing had not occurred at the time she originally filed her Habeas Petition (Oct. 07, 2019), her State Court Judgment had not become final, and thus, her Petition, which challenged all of her convictions and sentences, was not ripe for review. In *Maharaj*, just as in Petitioner's case, the Attorney General filed a Motion to Dismiss without prejudice. *Maharaj* replied to the Motion to Dismiss, arguing that (1) "All of his convictions had become final, although he was awaiting resentencing on the capitol conviction", (2) "He had exhausted his State remedies to challenge his convictions, so his Petition must be considered or run the risk of being considered time-barred under the AEDPA", and (3) "He already had been imprisoned for 14 years, due to delays that were the fault of the State which prejudiced him greatly".

The State replied, contending that "Maharaj's case was not yet final for the purpose of triggering the AEDPA's statute of limitations because he had not been resentenced and thus he would not lose his right to seek Habeas relief regarding any of his convictions". The Magistrate Judge issued a report, "Recommending that the State's Motion to Dismiss be Granted without prejudice to Maharaj to ^{allow} him to refile his Federal Habeas Petition after the State Court had resentenced him". The Magistrate Judge stated: that "The statute of limitations under AEDPA would not begin to run until Maharaj had been resentenced, and that as long as Maharaj timely files his Habeas Petition after the resentencing, the State would be estopped from presenting the time-bar argument". The District Judge granted Motion to Dismiss, and the Court found that the State would be estopped from

reversing its position and attempting to raise a statute of limitations defense to a subsequent Petition that was timely filed. *Id.* 304 F.3d 1348. Finally, the Eleventh Circuit, agreed and held: “The District Court's dismissal without prejudice, which will allow Maharaj to refile his Habeas Petition now that the State Court has completed its resentencing, was not in error”, and affirmed.

Turning back to the instant case, Petitioner's Petition filed February 22, 2023, after his resentencing is timely filed. Additionally, as demonstrated, the Respondent is estopped from arguing defense of time-bar, and their motion must be denied.

The Petitioner also submits, in the context of a Federal Habeas Petition, the statute of limitations runs from the date of State Court's resentencing and [not] the date of the original Judgment. Therefore, the “*nunc pro tunc*” term does not circumvent the law. Furthermore, the resentencing and adding a ten-year mandatory minimum term was not a ministerial act. *Osbourne*, 968 F.3d 1261.

Petitioner filed his Federal Habeas Petition under 28 U.S.C. §2254. The statute provides that “A District Court shall entertain an application for a Writ of Habeas Corpus in behalf of a person in custody pursuant to the Judgment of a State Court”. 28 U.S.A. §2254(a). The Judgment refers to the underlying conviction and most recent sentence that authorizes the Petitioner's current detention. *Ferreira v. Sec'y. Dep't Corrs*, 494 F.3d 1286, 1291-92 from the Judgment that imprisons a Petitioner. *Ferreira*, 494 F.3d at 1293.

When Petitioner filed his Federal Habeas Petition, she was in custody pursuant to the Judgment that the trial Court rendered after his trial and resentencing in 2021. Exhibit (C). Petitioner is now in custody under that new amended “Judgment of a State Court”. 28 U.S.C. §2254(a).

As Respondents previously correctly argued, “Even though resentencing only resulted in the imposition of a new 10-year mandatory minimum term of the firm enhancement, the resentencing resulted in a new Judgment under 28 U.S.C. §2254(a)”. *Insignares v. Sec'y, Fla. Dep't Corrs*, 755 F.3d 1273, 1281 (11th Cir. 2014)(Holding that new Judgment resulted where the trial Court resentenced a Petitioner to a new mandatory

minimum term).

The new 2021 sentence became final only after the sentence was affirmed on appeal or the time to seek an appeal expires. 28 U.S.C. §2244(d)(1)(A). In this case the Second DCA affirmed the Amend Judgment and Resentencing on October 12, 2022 and Mandate issued November 15, 2022. Porter v. State, 349 So.3d 271 (Fla. 2DCA 2022). Petitioner's Federal started to run February 20, 2023 after the 90-days time for seeking certiorari review expired. The Petition was filed only two-days within her commencing time clock of the one-year statute of limitations. 28 U.S.C. §2244(d)(1)(A); Thompson v. Fla. Dep't Corrs, 606 F. App'x. 495, 505-06 (11th Cir. 2015); Stites v. Dep't Corrs, 278 F.App'x. 933, 934-35 (11th Cir. 2008).

In the newly filed Petition, Petitioner can raise grounds that attack both the underlying 2010 conviction- including grounds of previous and new 2021 sentence. Insignares, 755 F.3d at 1277, 1281; Ferreira, 494 F.3d at 1992-93.

The Petitioner would note, all cases cited by the Respondent claiming the “*nunc pro tunc*” term, Osbourne, 968 F.3d 1261, Byrd, 648 Fed. Appx. 881, Tinker, 255 F.3d 1331, DeBaun, 333 So.2d 106, and Webster, 199 F.3d 1256, are all distinguishable from the instant case. While Petitioner's case are more on point with Insignares, 755 F.3d 1273 (11th Cir. 2014). In Osbourne, he had a 10-year mandatory term “REMOVED” because his charging Information failed to allege actual possession of the firearm or reference the relevant firearm statute. His amended sentence made a “DELETION” not addition. On Appeal, the Petition as “Unauthorized Second or Successive 2254 Petition because Osbourne HAD unsuccessfully litigated his initial 2254 Petition in 2010 and had not been resentenced or subject to a new Judgment”. Rather, his “2014 Judgment was simply the 'ministerial act' of correcting the original Judgment *nunc pro tunc*”. The instant case, Petitioner's First Petition file in (2019) never reached merits because Petitioner was resentenced in (2021) adding a new, intervening Judgment and Sentence of 10-year mandatory minimum. The First Petition was dismissed “without prejudice” to “refile” “after resentence”. See: Exhibits (A) and (B). Unlike Osbourne, there is an intervening

new Judgment here (2021) authorizing Petitioner's confinement. This was no mere, “ministerial act” of correcting the original Judgment, and “*nunc pro tunc*” was not proper. The Byrd, Court held his amended sentence was merely the correction of a “CLERICAL ERROR” in the original Order, that did not reset the limitations period. Additionally, his one-year limitation period expires in 2008 before *Byrd* filed any motion that could toll the limitations period. Finally, Byrd was not resentenced as result of the Granting of a Rule 3.800(a) Motion to Correct Illegal Sentence. Here, Porter was. The Tinker case do not apply at all. *Tinker* was not resentenced nor was his sentence amended. Furthermore, his Petition was untimely from Judgment becoming final.

The DeBaun case actually supports Petitioner's position. The Second DCA held, “An Order *nunc pro tunc* amending a Judgment of Dissolution and Changing Jurisdiction was improper because it “DID NOT correct a Clerical Mistake but effectively adjudicated anew”. The Court stated, “The function of an entry *nunc pro tunc* was to correct a record to reflect a prior ruling made but defectively recorded”. IN the instant case, there was never a [prior] ruling by the lower Court that attempted to impose or impose a sentence enhancement term of a ten-year mandatory minimum. Therefore, where an Order does not merely correct clerical error or omissions, but actually modifies the substance of a prior ruling or of itself constitutes a ruling not previously made. In fact, it should not be given retrospective effect. Baun v. Michael, 333 So.2d 106 (Fla. 2DCA 1976). Finally, Webster case do not apply to the Petitioner's set of facts. *Webster* was not resentenced, nor was any amended Judgments or Sentences entered.

The Respondents cannot use the improper “*nunc pro tunc*” function in this case. First, they are estopped from doing so. Second, there was no correction of clerical mistake. See: Exhibit (D), Original 2010 Judgment and Sentence. Their motion must be denied. Thus, when a Petitioner is resentenced after the imposition of his original conviction and sentence, the AEDPA's statute of limitations runs from the date on which the newly imposed sentence becomes final. See: Ferreira v. Sec'y Dep't of Corrs, 494 F.3d at 1292-93. The Eleventh Circuit concluded that because there is only one Judgment, which “is

comprised of both the sentence and the conviction,” a Habeas Petition is not second or successive where it follows a new Judgment, “regardless of whether its claims challenge the sentence or the underlying conviction”. *Id.* At 1281.

WHEREFORE, based on the arguments and authorities presented, the Respondent is estopped from now misusing, in bad faith, defense of time-bar, and in any event, Petition is timely filed. The Motion to Dismiss must be denied and Respondent directed to address the merits of all claims in Petition.

Respectfully Submitted,

S/

(“Sunila”) Aaron Porter, FDC# L37704

CERTIFICATE OF MAILING / SERVICE

I HEREBY CERTIFY, that a true and correct copy of the foregoing “Petitioner's Reply to Response to Petition for Writ of Habeas Corpus” has been placed into the hands of institutional staff at Suwannee Correctional Institution for mailing to: The Clerk of U.S. District Court, Middle District of Florida, Tampa Division, and The Office of the Attorney General, A.A.G., Tonya V. Rook, Concourse Center 4, 3507 E. Frontage Road, Ste. 200, Tampa, FL 33607 via the United States Postal Service on this 20th day of MAY, 2024.

Provided to Suwannee
Correctional Institution on:

MAY 21 2024

for mailing, to:

S/

(“Sunila”) Aaron Porter, FDC# L37704

Suwannee Correctional Institution

5964 U.S. Highway 90

Live Oak, FL 32060

*prepared and ready to be mailed
legal mail unable to stamp
Due to not having stamp
C. Owen*

ARON C. PORTER,
PETITIONER,

CASE NO. 8:23-CV-0441-JLB-AEP

v.

SECRETARY, DEPARTMENT OF
CORRECTIONS, ET AL.
RESPONDENTS.

EXHIBIT

"A"

RESPONDENT'S MOTION TO DISMISS OR STAY
FILED IN CASE NO. 8:19-CV-02505-SOM-AAS

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

AARON C. PORTER,
Petitioner,

CASE NO. 8:19-cv-2505-T-23AAS

vs.

SECRETARY, DEPARTMENT OF
CORRECTIONS,
Respondent.

RESPONDENT'S MOTION TO DISMISS OR STAY

Respondent, SECRETARY, DEPARTMENT OF CORRECTIONS, respectfully moves to dismiss the petition for writ of habeas corpus without prejudice or stay the case. The state court granted Petitioner's motion to correct his sentence and will appoint counsel and resentence him in the coming months. The judgment and sentence in this case are not final. This case is not ripe for review.

PROCEDURAL HISTORY

Petitioner is in the custody of the Department of Corrections serving sentences for state court convictions. Ex. 1. A jury found Petitioner guilty of robbery with a firearm and false imprisonment. Ex. 4; Ex. 9:Attach. 2. The jury specifically found that Petitioner possessed a firearm during the commission of the robbery. Ex. 9:Attach. 2. The trial court sentenced Petitioner to life for the robbery as a prison releasee reoffender and a concurrent 5-year sentence for the false imprisonment. Ex. 4. The trial court did not impose a 10-year mandatory minimum term for the jury's firearm finding. Petitioner appealed. Ex. 5. The state appellate court affirmed. Ex. 7.

Petitioner engaged in extensive state post-conviction litigation. Ex. 2:1-23. Petitioner then filed a petition for writ of habeas corpus under 28 U.S.C. § 2254 attacking the state court judgment. D.E. 1. The Court ordered the Secretary to respond. D.E. 5.

About two months before filing his federal habeas petition, Petitioner filed a motion to correct his sentence in state court. Ex. 9. The state motion was pending when Petitioner filed his federal petition. The motion raised the following claims:

- (1) The sentence for robbery was illegal because a 10-year statutory maximum for a firearm enhancement prevailed over the mandatory life sentence for the prison releasee reoffender designation.
- (2) The sentence for robbery was illegal because it failed to impose a 10-year mandatory minimum sentence after the jury found that Petitioner actually possessed a firearm.
- (3) The sentence for robbery was illegal because the State failed to provide notice of its intent to rely on business records to prove the predicate for prison releasee reoffender enhancement.
- (4) The sentence for robbery was illegal because the photograph and fingerprints in documents used to prove the predicate for prison releasee reoffender enhancement did not match Petitioner.

Ex. 9.

About a month ago, while this case was pending, the state court denied claim (1), claim (3), and claim (4). Ex. 10. The state court ordered the State to respond to claim (2). Ex. 10. The State conceded that Petitioner was entitled to relief for claim (2), even though the remedy would be adverse to his own interests. Ex. 11.

Ten days ago, the state court accepted the State's concession and granted relief on claim (2). Ex. 12. The state court ordered appointment of counsel. Ex. 12. A status hearing is set for April 20, 2020. Ex. 2:1. Resentencing will be set after appointment of

counsel. Ex. 12. Due to the global pandemic, all non-emergency criminal proceedings are stayed in state court until after April 20, 2020. Ex. 13.

MEMORANDUM

The federal habeas petition should be dismissed without prejudice or the case should be stayed. Petitioner filed his federal habeas petition under 28 U.S.C. § 2254. The statute provides that “a district court shall entertain an application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court”. 28 U.S.C. § 2254(a). The judgment refers to the underlying conviction and most recent sentence that authorizes the petitioner’s current detention. *Ferreira v. Sec’y, Dep’t Corrs.*, 494 F.3d 1286, 1291-92 (11th Cir. 2007). Both the conviction and the sentence form the judgment that imprisons a petitioner. *Ferreira*, 494 F.3d at 1293.

When Petitioner filed his federal habeas petition, he was in custody pursuant to the judgment that the trial court rendered after his trial and sentencing in 2010. Ex. 4. The state appellate court affirmed that judgment. Ex. 4. Petitioner was in custody under that “judgment of a State court”. 28 U.S.C. § 2254(a).

Yet, more recently, the state court granted Petitioner’s motion to correct his sentence. Ex. 12. The state court will resentence Petitioner. Ex. 12. The state court will render a new amended sentence. Ex. 12.

✓ Even though resentencing will only result in the imposition of a new 10-year mandatory minimum term for the firearm enhancement, the resentencing will result in a new judgment under 28 U.S.C. § 2254(a). *Insignares v. Sec’y, Fla. Dep’t Corrs.*, 755

F.3d 1273, 1281 (11th Cir. 2014) (holding that new judgment resulted where the trial court resentenced a petitioner to a new mandatory minimum term).

Petitioner's challenge to that new 2020 judgment on federal habeas is not ripe for review. *Maharaj v. Sec'y Dep't Corrs.*, 304 F.3d 1345, 1349 (11th Cir. 2002); *see also Shipman v. Sec'y, Fla. Dep't Corrs.*, 2018 WL 4635667 (M.D. Fla. 2018); *Uhler v. Sec'y, Dep't Corrs.*, 2015 WL 10013666 (N.D. Fla. 2015).

The new sentence will become final only after the sentence is affirmed on appeal or the time to seek an appeal expires. 28 U.S.C. § 2244(d)(1)(A). The Court should abstain from reviewing the 2010 judgment because state court proceedings are ongoing and will result in a new 2020 judgment. *Maharaj*, 304 F.3d at 1348-49 (citing *Younger v. Harris*, 401 U.S. 37, 53-54 (1971)). After the state court renders the new 2020 judgment, Petitioner will have to amend his presently filed petition or file a new petition attacking the new judgment.

Also, Petitioner will have the right to collaterally attack the new sentence. *See, e.g., Davis v. State*, 800 So. 2d 336 (Fla. 4th DCA 2001). Petitioner may want to raise these new collateral attacks in his federal habeas petition. Dismissal is necessary to avoid piecemeal federal habeas litigation. *Maharaj*, 304 F.3d at 1349 (citing *Clisby v. Jones*, 960 F.2d 925, 936 (11th Cir. 1992)).

* Dismissing the petition without prejudice will not preclude Petitioner from timely filing a new federal habeas petition.

When the state court renders the new amended sentence, Petitioner will be in custody under the 2020 judgment. The one-year statute of limitations for federal habeas

petitions will begin to run when the 2020 judgment becomes final. 28 U.S.C. § 2244(d)(1)(A); *Thompson v. Fla. Dep't Corrs.*, 606 F. App'x 495, 505-06 (11th Cir. 2015); *Stites v. Sec'y, Dep't Corrs.*, 278 F. App'x 933, 934-35 (11th Cir. 2008).

The newly filed federal habeas petition attacking the new 2020 judgment will not be a prohibited second or successive petition. *Insignarés*, 755 F.3d at 1279-81.

In the newly filed federal habeas petition, Petitioner can raise grounds that attack both the underlying 2010 conviction – including grounds in his presently filed petition – and the new 2020 sentence. *Insignarés*, 755 F.3d at 1277, 1281; *Ferreira*, 494 F.3d at 1292-93.

And so, the federal habeas petition should be dismissed without prejudice for Petitioner to refile a new petition when the new 2020 judgment becomes final.

In the alternative, the case should be stayed until the state court renders the new judgment, the new judgment becomes final, and Petitioner amends his petition. *But see Rhines v. Weber*, 544 U.S. 269, 277 (2005) (explaining that staying a federal habeas case is available only in circumstances not present in this case because stay otherwise frustrates the objectives of the Antiterrorism and Effective Death Penalty Act).

Respectfully submitted,

MARK S. INCH
FLORIDA DEPARTMENT OF CORRECTIONS

By: ASHLEY MOODY
FLORIDA OFFICE OF ATTORNEY GENERAL

/s/Jonathan Tanoos
JONATHAN TANOOS, FBN 88851
Assistant Attorney General

CERTIFICATE OF SERVICE

I certify that on **March 30, 2020**, I electronically filed the foregoing – *Respondent’s Motion to Dismiss or Stay* – with the Clerk of the Court by using the CM/ECF system. I further certify that I mailed the foregoing and the notice of electronic filing by first-class mail to the following non-CM/ECF participants: **Aaron Porter – D.C. #L37704, Northwest Florida Reception Center Annex, 4455 Sam Mitchell Dr., Chipley, FL, 32428-3501.**

/s/Jonathan Tanoos

JONATHAN TANOOS, FBN 88851

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AARON C. PORTER,
PETITIONER.

V.

CASE NO: 8:23-CV-0441-JLB-AEP

SECRETARY, DEPARTMENT OF
CORRECTIONS, ET AL.
RESPONDENTS

EXHIBIT

"B"

U.S. DISTRICT COURT'S ORDER
CASE NO: 8:19-CV-2505-SOM-AAS

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

AARON C. PORTER,

Applicant,

v.

CASE NO. 8:19-cv-2505-T-23AAS

SECRETARY, Department of Corrections,

Respondent.

ORDER

Porter applies under 28 U.S.C. § 2254 for the writ of habeas corpus. The respondent moves (Doc. 12) either to dismiss this action or to stay this action because Porter is awaiting re-sentencing in the state court based on the granting of his motion to correct an illegal sentence, as is evidenced by respondent's exhibit 12-2. The respondent correctly argues that a new judgment will authorize Porter's imprisonment after the resentencing and, consequently, the judgment challenged in the present action is rendered moot.

The motion (Doc. 12) to dismiss is **GRANTED**. This dismissal is without prejudice to Porter's pursuing a new application under Section 2254 after his new judgment becomes final. The clerk is directed to close this case.

ORDERED in Tampa, Florida, on April 2, 2020.



STEVEN D. MERRYDAY
UNITED STATES DISTRICT JUDGE

AARON C. PORTER,
PETITIONER,

CASE NO: B:23-CV-0441-JLB-AEP

v.
SECRETARY, DEPARTMENT OF
CORRECTIONS, ET AL.
RESPONDENTS

EXHIBIT

"C"

AMENDED RESENTENCE JUDGMENT RESENTENC
NUNC PRO TUNC TO 10/28/2010

AND

TRANSCRIPT OF PROCEEDING
2021

AARON PORTER 10-CF-012180-B

SSN: 592564015

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR HILLSBOROUGH COUNTY
CRIMINAL DIVISION

 X AMENDED, RESENTENCE

Division: **G**

Case No: **10-CF-012180-B**

OBTS Number: **2901254928**

STATE OF FLORIDA

VS

Case Number: **10-CF-012180-B**

AARON PORTER

#L37704

WAKULLA CORRECTIONAL INSTITUTION

ANNEX

110 MELALEUCA DRIVE

CRAWFORDVILLE, FL 32327

Defense Case Number: **10-CF-012180-B**

Address: **PUBLIC DEFENDER**

PO BOX 172910

TAMPA, FL 33672

JUDGMENT
RESENTENCE, NUNC PRO TUNC TO 10/28/2010

The Defendant, AARON PORTER being personally before this court represented by PUBLIC DEFENDER, ATTORNEY the attorney of record, and the Prosecutor represented by STATE ATTORNEY and having

 X been tried and found guilty by jury/by court of the following crime(s)

 entered a plea of guilty to the following crime(s)

 entered a plea of nolo contendere to the following crime(s)

<u>Cnt</u>	<u>Charge Description</u>	<u>Lev/Deg</u>	<u>Plea</u>	<u>Disp Date</u>	<u>Disposition</u>
1	812.13(1) AND (2)(A) ROBBERY (\$300 OR MORE, LESS THAN \$20,000) (FIREARM-POSSESS)/775.087(2)	FP	NOT GUILTY	10/28/2010	ADJUDGED GUILTY
2	78702 FALSE IMPRISONMENT	F3	NOT GUILTY	10/28/2010	ADJUDGED GUILTY

If you are a "Qualified Offender" under §943.325, Florida Statutes, you are required to submit a DNA sample in the manner consistent with Florida law.

DONE AND ORDERED in open court in Hillsborough County, Florida, 8/4/2021, Nunc Pro Tunc to 10/28/2010

10-CF-012180-B 8/9/2021 4:38:35 PM

10-CF-012180-B 8/9/2021 4:38:35 PM

Melissa M. Polo, Circuit Judge

AARON PORTER 10-CF-012180-B

=====SENTENCE=====

The Defendant, being personally before this court, accompanied by the defendant's attorney of record, PUBLIC DEFENDER, and having been adjudicated guilty herein, and the court having given the defendant an opportunity to be heard and to offer matters, in mitigation of sentence, and to show cause why the defendant should not be sentenced as provided by law, and no cause being shown

The defendant is hereby committed to the custody of the Department of Corrections: Florida State Prison

Ct.1 SENTENCE: CRIMINAL

Confinement (Effective 08/04/2021, TO BE IMPRISONED FOR A TERM OF LIFE, FLORIDA DEPARTMENT OF CORRECTIONS)(10 YEARS MIN/MAN PURSUANT TO FS# 775.087)
Credit for Time Served: 90 Days (STIPULATED CREDIT)

Provisions

- AMENDED SENTENCE- COURT RESENTENCE DEFENDANT TO LIFE, MIN/MAN 10 YEARS, WITH CREDIT, NUNC PRO TUNC TO 10-28-10
- SENTENCED AS PRISON RELEASE REOFFENDER
- MANDATORY COURT COST IMPOSED

Fee Totals:

- \$49.00 CR-2780 PD APP FEE - INDIGENT CRIMINAL TRUST FUND FS AUTH: 27.52(1)(b)
- \$0.20 CR-4005 PD APP ADDL FEE - CLERK OF COURT T.F./DOR/GEN FUND FS AUTH: 27.52(1)(b)
- \$0.80 IN-3991 PD APP FEE- INDIGENT CRIM TR FEE 2%- CLERKS OF CT TF FS AUTH: 27.52(1)(b)
- \$6.00 CF-R229 FELONY PREP FEE FOR CRIMINAL JUDGMENT - 28.24(8) FS AUTH: FS 28.24(8)
- \$1.00 CR-R229D FELONY PREP FEE FOR CRIMINAL JUDGMENT - 28.24(8) FS AUTH: FS 28.24(8)
- \$6.00 CF-R228 FELONY PREP FEE FOR CRIM SATISFACTION - 28.24(8) FS AUTH: FS 28.24(8)
- \$1.00 CR-R228D FELONY PREP FEE FOR CRIM SATISFACTION - 28.24(8) FS AUTH: FS 28.24(8)
- \$10.00 TF-1100S RECORDING FEE FOR CRIM SATISFCTN 28.24(12)(a)(b)(d) FS AUTH: FS 28.24(12)(a)(b)(d)

Fee Total : \$74.00

The defendant SHALL pay all mandatory and discretionary costs, fines, fees, penalties, & surcharges applicable to this matter, per Florida Statutes and Hillsborough County Ordinances; in addition to any previously assessed monies.

In the event the above sentence is to the Department of Corrections, the Sheriff of Hillsborough County, Florida, is hereby ordered and directed to deliver the defendant to the Department of Corrections at the facility designated by the department together with a copy of this judgment and sentence and any other documents specified by Florida Statute.

The defendant in open court was advised of the right to appeal from this sentence by filing notice of appeal within 30 days from this date with the clerk of this court and the defendant's right to the assistance of counsel in taking the appeal at the expense of the State on showing of indigency.

In imposing the above sentence, the court further recommends:

DONE AND ORDERED in open court at Hillsborough County, Florida, on 08/04/2021, Nunc Pro Tunc to 10/28/2010

10-CF-012180-B 8/9/2021 4:38:35 PM
10-CF-012180-B 8/9/2021 4:38:35 PM

Melissa M. Polo, Circuit Judge

08/09/2021 04:38:37 PM Electronically Filed: Hillsborough County/13th Judicial Circuit.

Page 2

AARON PORTER 10-CF-012180-B

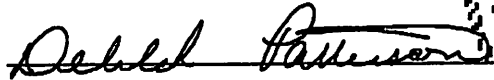
CERTIFICATE OF SERVICE

I, CINDY STUART, Clerk of the Circuit and County Court of the County of Hillsborough, State of Florida, having by law the custody of the seal and all records, books, documents and papers of or appertaining to the County Court, do hereby certify that a true and correct copy of this document has been hand delivered, mailed or served electronically to the Office of the State Attorney, the Defense Attorney, and/or Defendant, if appearing Pro Se.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said County Court, this 10th day of August, 20 21

CINDY STUART

As Clerk of the Circuit and County Court



As Deputy Clerk

Delilah Patterson



Filing # 133288468 E-Filed 08/24/2021 12:21:41 PM

1

1 IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL
2 CIRCUIT IN AND FOR HILLSBOROUGH COUNTY, FLORIDA

3 CIRCUIT CRIMINAL DIVISION

4 STATE OF FLORIDA,
5 Plaintiff,

Case No.: 10-CF-12180B

6 VS.

Division: G

7 AARON PORTER,
8 Defendant.

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12 This case came on to be heard before the
13 HONORABLE MELISSA POLO, Circuit Judge, at the
14 Hillsborough County Courthouse Annex, Tampa, Florida, on
15 August 4, 2021, commencing at approximately 8:30 a.m.

16
17 APPEARANCES:

18 Marcia Lucas, Assistant State Attorney,
19 800 East Kennedy Boulevard,
20 Tampa, Florida 33602
21 On behalf of the State.

22 Deborah Goins, Assistant Public Defender,
23 700 East Twiggs Street,
24 Tampa, Florida 33602
25 On behalf of the Defendant.

AOC CIRCUIT COURT REPORTERS
HILLSBOROUGH COUNTY, FLORIDA

1 (THE FOLLOWING PROCEEDINGS ENSUED IN OPEN
2 COURT.)

3 THE COURT: Aaron Porter.

4 MS. GOINS: Deborah Goins on behalf of Aaron
5 Porter.

6 THE COURT: Who's here for the State on Aaron
7 Porter?

8 ✓MS. LUCAS: Marcia Lucas on behalf of the
9 State.

10 THE COURT: Thank you.

11 * MS. GOINS: Your Honor, earlier this morning at
12 8:30 I actually did have Mr. Porter on the phone,
13 and he indicated that I could go ahead and proceed
14 on his behalf, which I will do.

15 THE COURT: He's also signed a waiver of
16 Physical Presence in Court Form dated July 14th,
17 because he didn't want to be here.

18 *MS. GOINS: That's correct. Oh, and that's
19 fine. I was just trying to set it up so he would
20 be able to listen. But, um, I am ready to -- I'm
21 prepared to proceed without his presence.

22 THE COURT: All right.

23 MS. GOINS: The first order of business is, um,
24 the Court did issue an order denying another motion
25 for -- a Motion to Correct Illegal Sentence that I

1 had filed. And the premise of my legal -- of my
2 legal argument in that second motion was clearly
3 related to sentencing, which is the issue today.
4 Because of the fact that if the Court, you know,
5 had found that there was an improper imposition of
6 a Robbery with a Firearm, as an F1 punishable by
7 life, then Judge Holder could never have imposed a
8 life sentence as PRR.

9 That issue having been dealt with by the Court
10 through the written order, then the next issue --
11 and I certainly, by saying that, don't waive any
12 of the matters raised in that Motion to Correct
13 Illegal Sentence related to the Robbery with a
14 Firearm enhancement.

15 But the issue today, and I have just sent an
16 e-mail to the Court and Ms. Lucas. What I have
17 actually sent you, and the Court has probably
18 already reviewed this, is page 749 of the trial
19 transcript and sentencing transcript on October
20 28th of 2010, wherein Judge Gregory Holder imposed
21 the sentence of PRR/Life, which made it a life
22 sentence.

23 And the issue that I noted was nowhere in that
24 very quick declaration of the sentence did Judge
25 Holder find that Mr. Porter was in the actual

1 possession of a firearm, so as to qualify under
2 775.0872 (A). And therefore it would be my
3 understanding of well held case law that this
4 Court cannot now go back and add to that
5 declaration that was made. The oral pronouncement
6 would prevail.

7 And no matter what Mr. Porter may have claimed
8 in his Motion to Correct Illegal Sentence that was
9 filed I believe August 15th of, um, 2017 or 2018,
10 no matter what he said, this Court can't change
11 the oral declaration which now stands. And there
12 was no imposition, or there was no finding that he
13 would qualify for a 10/20 life sentence. Which
14 the Court I believe today, at least my
15 understanding was, the Court was considering going
16 ahead and imposing a ten year minimum mandatory of
17 the 10/20 life. If I have misspoken the Court can
18 correct me.

19 THE COURT: No, but you're relitigating the
20 motion that you filed on July 23rd, which I have
21 already entered an order on.

22 So, what we're addressing today is simply the
23 motion that was filed --

24 MS. GOINS: Oh, I'm sorry. I believe, Judge,
25 it was August 15th, 2019, was your -- was the

1 motion -- the initial Motion to Correct Illegal
2 Sentence that was pro se by Mr. Porter.

3 THE COURT: That's correct. And that's what
4 I'm addressing today regarding the ten year minimum
5 mandatory.

6 MS. GOINS: Yes.

7 THE COURT: So, the Court is resentencing
8 Mr. Porter, as to Count One only, to life in prison
9 as a prison releasee re-offender, to include a ten
10 year minimum mandatory term for actual possession
11 of a firearm, pursuant to Florida Statute Section
12 775.087 subsection two, nunc pro tunc to October
13 28th, 2010.

14 MS. GOINS: Right. Regardless of the fact that
15 the oral pronouncement had already been made
16 without that. I just wanted to clarify, that's
17 what the Court is doing. Okay? The Court has the
18 right to do it, I just wanted to make sure.

19 THE COURT: He asked for the ten year minimum
20 mandatory. Even though it's not detrimental to
21 him, because he's serving life in prison, I'm doing
22 it any way. Even though the case law is not
23 completely solidified, just to appease everybody.
24 And to try to do it right, we're imposing the ten
25 year minimum mandatory to the life sentence.

1 MS. GOINS: Understood.

2 THE COURT: That's what we're doing.

3 MS. GOINS: Okay.

4 THE COURT: Anything else?

5 MS. GOINS: I'll be -- I want to make it clear
6 for the record I'll be filing a Notice of Appeal on
7 behalf of Mr. Porter. And, thank you, Judge.

8 THE COURT: Understood. All right. Thank you.

9 ✓ MS. LUCAS: Judge, for the record, that ten
10 year minimum mandatory is consistent with the
11 verdict form, which the jury found the defendant to
12 be in actual possession of the firearm.

13 THE COURT: I concur.

14 THE CLERK: Judge, that was pursuant to 775.087
15 subsection two, your Honor?

16 THE COURT: Yes, and the jury verdict.

17 THE CLERK: Yes, Your Honor.

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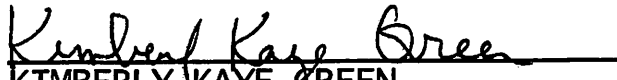
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1 CERTIFICATE OF REPORTER

2 STATE OF FLORIDA
3 COUNTY OF HILLSBOROUGH4 I, KIMBERLY KAYE GREEN, AOC Circuit Court
5 Reporter, hereby certify that I was authorized to and
6 did report the foregoing proceedings had in the
7 previously-styled cause; and that the preceding
transcript attached hereto is a true, accurate, and
correct computerized transcription of said proceedings.8 I further certify that I am not employed by or
9 related to any of the parties in this matter, nor am I
financially or otherwise interested in this action.10 IN WITNESS WHEREOF, I have hereunto set my hand
11 this 24th day of August 2021 in Tampa, Hillsborough
County, Florida.12
13
14 
15 KIMBERLY KAYE GREEN
16 AOC Circuit Court Reporter
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AARON C. PORTER,
PETITIONER.

CASE NO: 8:23-CV-0441-JLB-AEP

v.

SECRETARY, DEPARTMENT OF
CORRECTIONS, ET AL.
RESPONDENTS

EXHIBIT

"D"

ORIGINAL 2010 SENTENCING AND JUDGMENT
AND
SENTENCING TRANSCRIPTS

STATE OF FLORIDA

UNIFORM COMMITMENT TO CUSTODY
OF DEPARTMENT OF CORRECTIONSTHE CIRCUIT COURT OF HILLSBOROUGH COUNTY, IN THE Fall TERM 2010
IN THE CASE OF

STATE OF FLORIDA

VS

CASE ID : 10-CF-012180

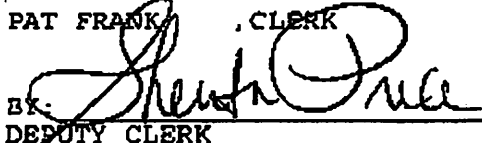
DIVISION : E

DEFENDANT : PORTER, AARON

AKA(S) :

IN THE NAME AND BY AUTHORITY OF THE STATE OF FLORIDA, TO THE SHERIFF OF SAID
COUNTY AND THE DEPARTMENT OF CORRECTIONS OF SAID STATE, GREETING:THE ABOVE NAMED DEFENDANT HAVING BEEN DULY CHARGED WITH THE OFFENSE
SPECIFIED HEREIN IN THE ABOVE STYLED COURT, AND HE HAVING BEEN DULY CONVICTED
AND ADJUDGED GUILTY OF AND SENTENCED FOR SAID OFFENSE BY SAID COURT, AS
APPEARS FROM THE ATTACHED CERTIFIED COPIES OF INFORMATION FILED
JUDGEMENT AND SENTENCE, AND FELONY DISPOSITION AND SENTENCE DATA FROM WHICH
ARE HEREBY MADE PARTS HEREOF;NOW THEREFORE, THIS IS TO COMMAND YOU, THE SAID SHERIFF, TO TAKE AND
KEEP AND, WITHIN A REASONABLE TIME AFTER RECEIVING THIS COMMITMENT, SAFELY
DELIVER THE SAID DEFENDANT, TOGETHER WITH ANY PERTINENT INVESTIGATION REPORT
PREPARED IN THIS CASE, INTO THE CUSTODY OF THE DEPARTMENT OF CORRECTIONS OF
THE STATE OF FLORIDA; AND THIS IS TO COMMAND YOU, THE SAID DEPARTMENT OF
CORRECTIONS, BY AND THROUGH YOUR SECRETARY, REGIONAL DIRECTORS,
SUPERINTENDENTS, AND OTHER OFFICIALS, TO KEEP AND SAFELY IMPRISON THE SAID
DEFENDANT FOR THE TERM OF SAID SENTENCE IN THE INSTITUTION IN THE STATE
CORRECTIONAL SYSTEM TO WHICH YOU, THE SAID DEPARTMENT OF CORRECTIONS, MAY
CAUSE THE SAID DEFENDANT TO BE CONVEYED OR THEREAFTER TRANSFERRED. AND THESE
PRESENTS SHALL BE YOUR AUTHORITY FOR THE SAME. HEREIN NOT FAIL.WITNESS THE HONORABLE HOLDER, GREGORY, P
JUDGE OF THE SAID COURT, AS ALSO PAT FRANK
CLERK, AND THE SEAL THEREOF, THIS THE
28TH DAY OF October 2010

PAT FRANK, CLERK

BY: 
DEPUTY CLERK10-CF-012180 F53-0538000326-007
GIBBONS SABRINA 17 PAGES
\$ PRICE 11/08/2010 FCF5P

IN THE CIRCUIT COURT, 13TH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA
DIVISION : E
CASE NUMBER : 10-CF-012180
OBTS NUMBER : 2901254928

STATE OF FLORIDA
VS
PORTER, AARON
DEFENDANT

-----JUDGMENT-----

THE DEFENDANT PORTER, AARON BEING PERSONALLY BEFORE
THIS COURT REPRESENTED WITH
THE ATTORNEY OF RECORD AND THE STATE REPRESENTED BY ASSISTANT STATE ATTORNEY
RUIZ, AMY, AND HAVING

COUNT	CRIME	OFFENSE STATUTE NUMBER	DEGREE OF COURT CRIME ACTION	DATE
1	ROBBERY FIREARM POSSESS >\$30	81213 12A -GUNS0210	FP ADJG	28-OCT-2010
2	FALSE IMPRISONMENT	78702 -KIDN5000	FT ADJG	28-OCT-2010

And no cause being shown why the defendant should not be adjudicated guilty,
it is ordered that the defendant is hereby adjudicated guilty of the above
crime(s).

IF YOU ARE A "QUALIFYING OFFENDER" UNDER SECTION
943.525, FLORIDA STATUTES, YOU ARE REQUIRED TO SUBMIT A
DNA SAMPLE IN A MANNER CONSISTENT WITH FLORIDA LAW

STATE OF FLORIDA

VS.

CASE NUMBER: 10-CF-12180Porter, Aaron
DEFENDANT**FINGERPRINTS OF DEFENDANT**

1. Right Thumb	2. Right Index	3. Right Middle	4. Right Ring	5. Right Little
				 JUL 12 2010 PM 12:05 JUL 12 2010 PM 12:05
6. Left Thumb	7. Left Index	8. Left Middle	9. Left Ring	10. Left Little
				

Fingerprints taken by:

Celiss 3026

NAME

BAILEY

TITLE

I HEREBY CERTIFY that the above and foregoing are the fingerprints of the defendant,

Porter, Aaron

, and that they were placed thereon by the defendant in my presence in open court this date.

DONE AND ORDERED in open court in Hillsborough County, Florida, this 28 day ofOCT, 2010.
JUDGE

p32

IN THE CIRCUIT COURT, 13TH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA
DIVISION : E
CASE NUMBER : 10-CF-012180
OBS NUMBER : 2901254928

STATE OF FLORIDA
VS
PORTER, AARON
DEFENDANT

-----CHARGES/COSTS/FEE-----

A sum of \$49.00 pursuant to Section 938.03(1), Florida Statutes
(Crime Compensation Trust Fund)

A sum of \$1.00 pursuant to Section 938.03(1), Florida Statutes
(Crime Compensation Trust Fee)

\$2.00 pursuant to Section 938.15, Florida
Statutes (Criminal Justice Education by Municipalities and Counties)

A sum of \$65.00 pursuant to Section 939.185, Florida Statutes
(Circuit Criminal Additional Court Costs)

A sum of \$225.00 pursuant to Section 938.05(1)(A), Florida
Statutes (Criminal Justice Trust Fund)

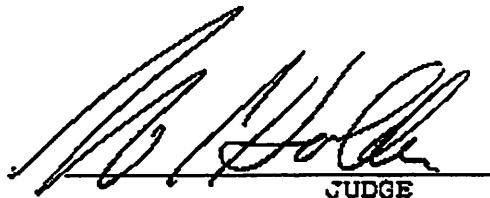
A sum of \$3.00 as a Court Cost pursuant to Section 938.01,
Florida Statutes (Assessments - Florida (Criminal Justice Trust Fund)).

A sum of \$50.00 pursuant to Section 775.083 Florida Statutes
(BOCC - County Crime Prevention)

A sum of \$100.00 pursuant to Section 938.27, Florida Statutes
(Prosecution Costs)

A sum of \$100.00
(Additional Court Cost Criminal)

DONE AND ORDERED IN HILLSBOROUGH COUNTY, FLORIDA, THIS 28TH DAY OF October 2010



JUDGE

DEFENDANT PORTER, AARON

DIVISION : E
CASE NUMBER : 10-CF-012180
OETS NUMBER : 2901254928

----- SENTENCE -----
AS TO COUNT(s) : 1

THE DEFENDANT, BEING PERSONALLY BEFORE THIS COURT, ACCOMPANIED BY THE
DEFENDANT'S ATTORNEY OF RECORD,
AND HAVING BEEN ADJUDGED GUILTY HEREIN, AND THE COURT HAVING GIVEN
THE DEFENDANT AN OPPORTUNITY TO BE HEARD AND TO OFFER MATTERS IN MITIGATION OF
SENTENCE, AND TO SHOW CAUSE WHY THE DEFENDANT SHOULD NOT BE SENTENCED AS
PROVIDED BY LAW AND NO CAUSE BEING SHOWN

IT IS THE SENTENCE OF THE COURT THAT THE DEFENDANT :
Is hereby committed to the custody of the Department of Corrections for a
term of Natural Life.

DEFENDANT PORTER, AARON

DIVISION : E
CASE NUMBER : 10-CF-012180
OBTS NUMBER : 2901254928

----- SPECIAL PROVISIONS -----

AS TO COUNT(s) : 1

THE FOLLOWING MANDATORY/MINIMUM PROVISION(S) APPLY TO THE SENTENCE IMPOSED :

SENTENCED AS A PRISON RELEASE REOFFENDER F.S. 775.082 (8)

DEFENDANT PORTER, AARON

DIVISION : E
CASE NUMBER : 10-CF-012180
OBTS NUMBER : 2901254928

----- OTHER PROVISIONS -----

AS TO COUNT(s) : 1

THE FOLLOWING MANDATORY/MINIMUM PROVISION(S) APPLY TO THE SENTENCE IMPOSED :

JAIL CREDIT: It is further ordered that the defendant shall be allowed a
total of 90 Days as credit for time incarcerated before
imposition of this sentence.

IT IS FURTHER ORDERED THAT THE SENTENCE FOR THIS COUNT SHALL RUN CONCURRENT
TO THE SENTENCE SET FORTH IN THE FOLLOWING COUNTS: 2

DEFENDANT PORTER, AARON

DIVISION : E
CASE NUMBER : 10-CF-012180
OBS NUMBER : 2901254928

SENTENCE

AS TO COUNT(s) : 2

THE DEFENDANT, BEING PERSONALLY BEFORE THIS COURT, ACCOMPANIED BY THE
DEFENDANT'S ATTORNEY OF RECORD,
AND HAVING BEEN ADJUDGED GUILTY HEREIN, AND THE COURT HAVING GIVEN
THE DEFENDANT AN OPPORTUNITY TO BE HEARD AND TO OFFER MATTERS IN MITIGATION OF
SENTENCE, AND TO SHOW CAUSE WHY THE DEFENDANT SHOULD NOT BE SENTENCED AS
PROVIDED BY LAW AND NO CAUSE BEING SHOWN

IT IS THE SENTENCE OF THE COURT THAT THE DEFENDANT :
is hereby committed to the custody of the Department of Corrections for a
term of: 5 Years

DEFENDANT PORTER, AARON

DIVISION : E
CASE NUMBER : 10-CF-012180
OBTS NUMBER : 2901254928

----- OTHER PROVISIONS -----

AS TO COUNT(s) : 2

THE FOLLOWING MANDATORY/MINIMUM PROVISION(S) APPLY TO THE SENTENCE IMPOSED :

JAIL CREDIT: It is further ordered that the defendant shall be allowed a
total of 90 Days as credit for time incarcerated before
imposition of this sentence.

IT IS FURTHER ORDERED THAT THE SENTENCE FOR THIS COUNT SHALL RUN CONCURRENT
TO THE SENTENCE SET FORTH IN THE FOLLOWING COUNTS: 1

DEFENDANT PORTER, AARON

DIVISION : E
CASE NUMBER : 10-CF-012180
OETS NUMBER : 2901254928

----- OTHER PROVISIONS -----
Sentencing Guidelines filed.

IN THE EVENT THE ABOVE SENTENCE IS TO DEPARTMENT OF CORRECTIONS, THE SHERIFF
OF HILLSBOROUGH COUNTY, FLORIDA, IS HEREBY ORDERED AND DIRECTED TO DELIVER
THE DEFENDANT TO THE DEPARTMENT OF CORRECTIONS AT THE FACILITY DESIGNATED
BY THE DEPARTMENT TOGETHER WITH A COPY OF THIS JUDGEMENT AND SENTENCE AND
ANY OTHER DOCUMENTS SPECIFIED BY FLORIDA STATUTE

THE DEFENDANT IN OPEN COURT WAS ADVISED OF THE RIGHT TO APPEAL FROM THIS
SENTENCE BY FILING NOTICE OF APPEAL WITHIN 30 DAYS FROM THIS DATE WITH THE
CLERK OF THIS COURT AND THE DEFENDANT'S RIGHT TO THE ASSISTANCE OF COUNSEL IN
TAKING THE APPEAL AT THE EXPENSE OF THE STATE ON SHOWING OF INDIGENCY.
DONE AND ORDERED IN HILLSBOROUGH COUNTY, FLORIDA, THIS 28TH DAY OF October 2010


JUDGE

Re: Aaron Porter

Sentencing

VOLUME
10-28-2010

1 Mr. Porter, please stand. Mr. Boldt, please
2 rise to receive the sentence of this Court.

3 Mr. Porter, having been found guilty by a jury
4 of your peers of Count I, Robbery with a Firearm,
5 and Count II False Imprisonment, the Court
6 adjudicates you guilty of Counts I and II.

7 On Count I, the Court sentences you as a Prison
8 Releasee Reoffender to life in prison.

9 On count II, the Court sentences you to a
10 concurrent maximum five years in the Florida state
11 prison.

12 I do impose as a lien the mandatory court costs
13 to include the \$100 Regional Counsel Fee, again, as
14 lien.

15 Thank you. You may be seated.

16 Are there any other matters to address before
17 adjourning?

18 Mr. Porter you do have 30 days from today's
19 date in which to appeal.

20 MR. BOLDT: Yes, Your Honor.

21 THE COURT: Any matters, ma'am?

22 MS. RUIZ: No, Your Honor.

23 THE COURT: Mr. Boldt?

24 MR. BOLDT: No, sir, nothing further.

25 THE COURT: Very well, Court is adjourned.

1 Mr. Porter, please stand. Mr. Boldt, please
2 rise to receive the sentence of this Court.

3 Mr. Porter, having been found guilty by a jury
4 of your peers of Count I, Robbery with a Firearm,
5 and Count II False Imprisonment, the Court
6 adjudicates you guilty of Counts I and II.

7 On Count I, the Court sentences you as a Prison
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10 concurrent maximum five years in the Florida state
11 prison.

12 I do impose as a lien the mandatory court costs
13 to include the \$100 Regional Counsel Fee, again, as
14 lien.

15 Thank you. You may be seated.

16 Are there any other matters to address before
17 adjourning?

18 Mr. Porter you do have 30 days from today's
19 date in which to appeal.

20 MR. BOLDT: Yes, Your Honor.

21 THE COURT: Any matters, ma'am?

22 MS. RUIZ: No, Your Honor.

23 THE COURT: Mr. Boldt?

24 MR. BOLDT: No, sir, nothing further.

25 THE COURT: Very well, Court is adjourned.

AOC CIRCUIT COURT REPORTERS
HILLSBOROUGH COUNTY, FLORIDA

750

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Thank you very much.
(THE PROCEEDINGS WERE CONCLUDED.)

AOC CIRCUIT COURT REPORTERS
HILLSBOROUGH COUNTY, FLORIDA

LEGAL MAIL

Aaron Porter

Case 8:23-cv-00441-JLB-AEP

Document 20-1

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Filed 05/20/24

Page 1 of 2 PageID

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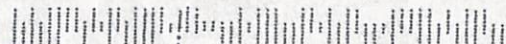
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U.S. District Court
OFFICE OF THE CLERK OF COURT
Middle District

801 N. Florida Ave.,
Tampa, FL 33602

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