

# United States Court of Appeals

## For the First Circuit

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No. 02-1749

UNITED STATES,

Appellee,

v.

MESFIN HAILE TULLOCH,

Defendant, Appellant.

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### ERRATA

The opinion of the court issued on August 12, 2004, is amended as follows:

1. The slip opinion is amended to include the following inadvertently omitted footnote, footnote 1, after the first full sentence on page 5 ("On remand, we direct the respective courts to strike the improper delegation from their written judgments."):

"In Tulloch's case, the oral sentence set the maximum number of drug tests at three. On remand, the district court must ensure that the amended judgment is consistent with its oral order.

For reasons given below, we uphold the written drug testing condition imposed on Castillo, although it was not mentioned at sentencing. When, on remand, the district court strikes the improper delegation, "and thereafter as required by the probation officer," the portion remaining would require only one drug test during the supervised release period. Yet 18 U.S.C. § 3583(d) requires a minimum of three drug tests. On remand, the district court must ensure that the amended condition conforms to the statute."

2. Subsequent footnotes are to be renumbered accordingly.