

APPENDIX

APPENDIX

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IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 17-10483-D

JEROME BANNISTER,

Petitioner-Appellant,

versus

UNITED STATES OF AMERICA,

Respondent-Appellee.

Appeal from the United States District Court
for the Southern District of Florida

ORDER:

Jerome Bannister is a federal prisoner serving a 180-month sentence after pleading guilty in 2009 to possession of a firearm and ammunition by a convicted felon in violation of 18 U.S.C. § 922(g)(1). He did not file a direct appeal. He filed this counseled 28 U.S.C. § 2255 motion to vacate, set aside, or correct his sentence asserting that he was no longer subject to enhancement under the Armed Career Criminal Act ("ACCA") in light of Johnson v. United States, 576 U.S. ___, 135 S. Ct. 2551 (2015). He asserted his 1995 Florida convictions for robbery and robbery with a deadly weapon did not qualify under the ACCA's elements clause

because at the time of his convictions robbery could be committed by mere snatching. He further asserted his Florida conviction for lewd or lascivious battery under Fla. Stat. Ann. § 800.04 is not an enumerated offense and this Court has expressly held it does not involve the use, attempted use, or threatened use of force, citing United States v. Harris, 608 F.3d 1222 (11th Cir. 2010). Finally, Mr. Bannister asserted his conviction for resisting arrest with violence did not qualify under the elements clause because it only required general intent and de minimis force.

A Magistrate Judge issued a report and recommendation (“R&R”) recommending Mr. Bannister’s § 2255 motion be denied. The Magistrate Judge reasoned that Mr. Bannister’s armed robbery, unarmed robbery, and resisting arrest with violence convictions still qualified as predicate offenses. The Magistrate Judge declined to address whether his conviction for lewd and lascivious battery could also serve as an ACCA predicate offense. Over Mr. Bannister’s objections, the District Court adopted the R&R, denied his § 2255 motion, and denied a certificate of appealability (“COA”).

Mr. Bannister now seeks a COA from this Court. He asserts that reasonable jurists have debated, and continue to debate, whether a pre-1997 Florida robbery conviction has as an element of the use of violent force. He asserts that United States v. Fritts, 841 F.3d 937 (11th Cir. 2016) is not controlling because the

defendant's conviction in that case was in the Florida Second District Court of Appeal, while Mr. Bannister's case was in the Fourth District Court of Appeal, which, at the time of his conviction, had held that robbery could be committed by mere snatching.

In order to obtain a COA, a movant must make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). The movant satisfies this requirement by demonstrating that "reasonable jurists would find the [D]istrict [C]ourt's assessment of the constitutional claims debatable or wrong," or the issues "deserve encouragement to proceed further." Slack v. McDaniel, 529 U.S. 473, 484, 120 S. Ct. 1595, 1604 (2000) (quotations omitted). Beyond that, "no COA should issue where the claim is foreclosed by binding circuit precedent because reasonable jurists will follow controlling law." Hamilton v. Sec'y, Fla. Dep't of Corr., 793 F.3d 1261, 1266 (11th Cir. 2015) (quotation omitted), cert. denied, 136 S. Ct. 1661 (2016).

The ACCA states that a person who violates § 922(g) and has three previous convictions for violent felonies or serious drug offenses shall be imprisoned for not less than fifteen years. 18 U.S.C. § 924(e)(1). It defines the term "violent felony" as any crime punishable by a term of imprisonment exceeding one year that:

- (i) has as an element the use, attempted use, or threatened use of physical force against the person of another; or

- (ii) is burglary, arson, or extortion, involves use of explosives, or otherwise involves conduct that presents a serious potential risk of physical injury to another.

18 U.S.C. § 924(e)(2)(B). The first prong of this definition is sometimes referred to as the “elements clause,” while the second prong contains the “enumerated crimes” and, finally, what is commonly called the “residual clause.” United States v. Owens, 672 F.3d 966, 968 (11th Cir. 2012).

On June 26, 2015, the Supreme Court in Johnson held that the residual clause of the ACCA is unconstitutionally vague because it creates uncertainty about how to evaluate the risks posed by a crime and how much risk it takes to qualify as a violent felony. Johnson, 135 S. Ct. at 2557–58, 2563. The Court clarified that they were not calling into question the application of the elements clause and the enumerated crimes of the ACCA’s definition of a violent felony. Id. at 2563. In Welch v. United States, 578 U.S. ___, 136 S. Ct. 1257, 1264–65, 1268 (2016), the Supreme Court thereafter held that Johnson announced a new substantive rule that applies retroactively to cases on collateral review.

The presentence investigation report (“PSR”) indicated that Mr. Bannister was subject to enhancement as an armed career criminal based his prior convictions for (1) robbery on March 6, 1995, (2) armed robbery with a deadly weapon on March 15, 1995, and (3) lewd or lascivious battery and resisting arrest with violence in 2001. Mr. Bannister did not object at sentencing to the PSR’s

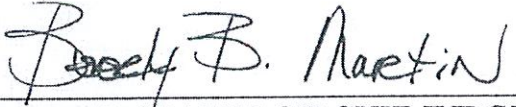
facts or its calculation of his guideline range and the District Court adopted the PSR without alteration.

Here, Mr. Bannister has failed to demonstrate that reasonable jurists would find the District Court's denial of his § 2255 motion debatable or wrong. After Johnson, Mr. Bannister has three prior offenses that qualify as crimes of violence under the remaining clauses of the ACCA. As to his conviction for resisting arrest with violence, this Court has held that the Florida offense of resisting an officer with violence constitutes a violent felony under the elements clause. See United States v. Hill, 799 F.3d 1318, 1322–23 (11th Cir. 2015).

Further, Mr. Bannister's 1995 Florida convictions for robbery and armed robbery qualify under the elements clause. In United States v. Seabrooks, a panel of this Court held that a defendant's August 1997 Florida armed robbery conviction qualified under the ACCA's elements clause, but the panel did not reach a consensus about whether a pre-1997 conviction could qualify as a predicate offense because before 1997 it was possible to be convicted of Florida robbery for a nonviolent sudden snatching. 839 F.3d 1326, 1343–36 (11th Cir. 2016). Shortly after Seabrooks, this Court held that pre-1997 Florida robbery convictions were categorically violent felonies under the ACCA's elements clause. 841 F.3d at 944. Given our Court's binding precedent in Fritts, reasonable jurists would not debate whether, post-Johnson, Mr. Bannister's 1995 Florida robbery conviction qualifies

as a violent felony under the ACCA's elements clause. Mr. Bannister's argument that his robbery convictions are no longer crimes of violence is therefore foreclosed by binding circuit court precedent. See Hamilton, 793 F.3d at 1266.

Because Mr. Bannister has three offenses that still qualify as ACCA predicate offenses, he cannot make a substantial showing of the denial of a constitutional right. His motion for a COA is therefore **DENIED**.


UNITED STATES CIRCUIT JUDGE

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 16-81057-CIV-ZLOCH

JEROME BANNISTER,

Movant,

vs.

**ORDER DENYING CERTIFICATE
OF APEALABILITY**

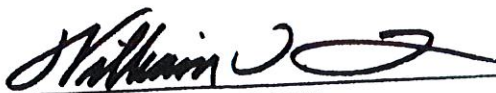
UNITED STATES OF AMERICA,

Respondent.

THIS MATTER is before the Court sua sponte and the Court having carefully reviewed the entire court file herein and after due consideration, it is

ORDERED AND ADJUDGED that the Court having denied the Movant's Motion Under 28 U.S.C. § 2255 To Vacate, Set Aside, Or Correct Sentence By A Person In Federal Custody (DE 1), finds that the Movant Jerome Bannister has failed to demonstrate the deprivation of a Federal constitutional right. Accordingly, the issuance of a Certificate Of Appealability be and the same is hereby **DENIED** for the reasons set forth above.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida, this 22nd day of December, 2016.



WILLIAM J. ZLOCH
United States District Judge

Copies furnished:

See attached mailing list

JEROME BANNISTER V. UNITED STATES OF AMERICA, Case No. 16-81057-
CIV-ZLOCH

The Honorable Patrick M. Hunt
United States Magistrate Judge

All Counsel of Record

A - 3

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 16-81057-CIV-ZLOCH

JEROME BANNISTER,

Movant,

vs.

FINAL JUDGMENT

UNITED STATES OF AMERICA,

Respondent.

THIS MATTER is before the Court upon Movant Jerome Bannister's Motion Under 28 U.S.C. § 2255 To Vacate, Set Aside, Or Correct Sentence By A Person In Federal Custody (DE 1). For the reasons expressed in this Court's Order denying said Motion, entered separately, and pursuant to Federal Rule of Civil Procedure 58, it is

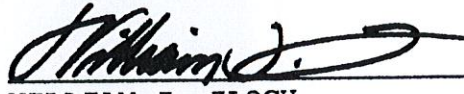
ADJUDGED as follows:

1. Final Judgment be and the same is hereby **ENTERED** in favor of Respondent United States of America and against Movant Jerome Bannister upon the Motion Under 28 U.S.C. § 2255 To Vacate, Set Aside, Or Correct Sentence By A Person In Federal Custody (DE 1) filed herein. Movant shall take nothing by this action and said Respondent shall go hence without day; and

2. To the extent not otherwise disposed of herein, all pending

motions are hereby **DENIED** as moot.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida, this 22nd day of December, 2016.



WILLIAM J. ZLOCH
United States District Judge

Copies furnished:

The Honorable Patrick M. Hunt
United States Magistrate Judge

All Counsel of Record

A - 4

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 16-81057-CIV-ZLOCH

JEROME BANNISTER,

Movant,

vs.

O R D E R

UNITED STATES OF AMERICA,

Respondent.

THIS MATTER is before the Court upon the Report And Recommendation (DE 8), filed herein by United States Magistrate Judge Patrick M. Hunt, and Movant's Objections To The Report And Recommendation And Renewed Request For Immediate Release (DE 9). The Court has conducted a de novo review of the entire record herein and is otherwise fully advised in the premises.

Accordingly, after due consideration, it is

ORDERED AND ADJUDGED as follows:

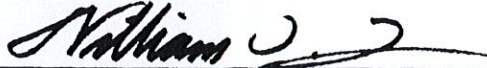
1. Movant's Objections To The Report And Recommendation And Renewed Request For Immediate Release (DE 9) be and the same are hereby **OVERRULED** and **DENIED**;

2. The Report And Recommendation (DE 8), filed herein by United States Magistrate Judge Patrick M. Hunt be and the same is hereby approved, adopted, and ratified by the Court;

3. Movant's Motion Under 28 U.S.C. § 2255 To Vacate, Set Aside, Or Correct Sentence By A Person In Federal Custody (DE 1) be and the same is hereby **DENIED**; and

4. Final Judgment will be entered by separate Order.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida, this 22nd day of December, 2016.



WILLIAM J. ZLOCH
United States District Judge

Copies furnished:

The Honorable Patrick M. Hunt
United States Magistrate Judge

All Counsel of Record

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

Case No. 16-81057-CIV-ZLOCH/HUNT

JEROME BANNISTER,

Movant,

v.

UNITED STATES OF AMERICA,

Respondent.

REPORT AND RECOMMENDATION

This matter is before this Court on Jerome Bannister's Motion to Vacate Sentence Pursuant to 28 U.S.C. § 2255, filed June 22, 2016. ECF No. 1. The Honorable William J. Zloch referred this case to the undersigned United States Magistrate Judge for disposition of all pretrial non-dispositive motions and a report and recommendation concerning disposition of all dispositive motions. ECF No. 3; *see also* 28 U.S.C. § 636(b); S.D. Fla. Mag. R. 1. Having carefully reviewed the § 2255 motion, the response, the reply, the entire case file, and applicable law, and being otherwise fully advised in the premises, the undersigned hereby RECOMMENDS that Bannister's § 2255 motion be DENIED.

I. Background

On September 3, 2009, in Case No. 09-cr-80075, Jerome Bannister pleaded guilty to one count of illegal possession of a firearm in violation of 18 U.S.C. § 922(g)(1), as charged by indictment. Crim. ECF No. 1, 27, 28. Normally, this offense carries a maximum penalty of ten years' incarceration. 18 U.S.C. § 924(a)(2). However, if the

defendant has previously been convicted of three or more “violent felon[ies]” or “serious drug offense[s],” or both, the Armed Career Criminal Act (ACCA) increases the defendant’s penalty to a minimum of fifteen years’ and a maximum of life imprisonment. *Id.* § 924(e)(1).

Drug offenses are not at issue in this case. The ACCA defines the term “violent felony” to mean a felony that “(i) has as an element the use, attempted use, or threatened use of physical force against the person of another; or (ii) is burglary, arson, or extortion, involves use of explosives, *or otherwise involves conduct that presents a serious potential risk of physical injury to another.*” *Id.* § 924(e)(2)(B) (emphasis added). Section 924(e)(2)(B)(i) is known as the “elements clause.” The non-italicized portion of § 924(e)(2)(B)(ii) is known as the “enumerated offenses clause,” and the italicized portion is known as the “residual clause.”

In this case, to assist the Court at sentencing, the United States Probation Department prepared a presentence investigation report (PSR) that discussed the Court’s sentencing options based on Bannister’s offense conduct, criminal history, and personal characteristics, among other things. The PSR stated that Bannister was subject to an enhanced sentence under the ACCA, citing four prior Florida convictions:

1. Case No. 95-3578CF—Robbery;
2. Case No. 95-3580CF—Armed Robbery with a Deadly Weapon; and
3. Case No. 01-1966CF—Lewd or Lascivious Battery; and Resisting Arrest with Violence.

PSR ¶ 17.

Bannister, who was represented by counsel throughout the proceedings, did not object to the PSR's finding that he was an armed career criminal. PSR (Second Addendum). In fact, at sentencing, Bannister, along with the Government, recommended that this Court impose a fifteen-year sentence, which the Court did. Crim. ECF No. 33 at 5, 7; Crim. ECF No. 31. Bannister did not directly appeal his conviction or sentence.

In his first, timely-filed § 2255 motion, Bannister now argues that he is entitled to relief in light of *Johnson v. United States*, 135 S. Ct. 2551 (2015). In *Johnson*, the Supreme Court struck down the residual clause of the ACCA as unconstitutionally vague. *Id.* at 2563. Bannister argues that he is no longer an armed career criminal because none of his four prior convictions qualify as violent felonies under the ACCA's elements clause.¹ ECF No. 1 at 10. If true, this would make his § 922(g) sentence illegal.

II. Analysis

A. Robbery Convictions

In 1995, on separate occasions, Bannister committed the offenses of armed robbery and strong-arm (unarmed) robbery in violation of Florida Statute § 812.13(1), (2)(a). He was convicted of both offenses the same year.

The Eleventh Circuit Court of Appeals has found that a Florida robbery conviction, whether armed or unarmed, is a violent felony under the ACCA's elements clause, irrespective of the date of conviction. See *United States v. Fritts*, No. 15-15699,

¹ The enumerated offenses clause is not at issue because no crime of burglary, arson, or extortion, or other crime involving the use of explosives, was used as an ACCA predicate.

2016 WL 6599553, at *5 (11th Cir. Nov. 8, 2016); *United States v. Seabrooks*, No. 15-10380, 2016 WL 6090860, at *17 (11th Cir. Oct. 19, 2016); *United States v. Dowd*, 451 F.3d 1244, 1255 (11th Cir. 2006); *cf. United States v. Jenkins*, 651 F. App'x 920, 928 (11th Cir. 2016) (unpublished); *United States v. Lockley*, 632 F.3d 1238, 1246 (11th Cir. 2011).² Accordingly, this Court must find that Bannister's 1995 armed and unarmed robbery convictions may properly serve as a predicate for his enhanced sentence under the ACCA.

B. Resisting with Violence Conviction

Interestingly, Bannister next argues that his 2001 conviction for resisting an officer *with violence* is not a violent felony under the elements clause. But this argument is foreclosed for similar reasons as his last. In *United States v. Romo-Villalobos*, the Eleventh Circuit Court of Appeals held that a Florida conviction for resisting an officer with violence under section 843.01 constitutes a violent felony under the ACCA's elements clause. 674 F.3d 1246, 1251 (11th Cir. 2012).

² The state district in which the defendant was convicted is irrelevant for purposes of this analysis. "Neither this Court nor any other federal tribunal has any authority to place a construction on a state statute different from the one rendered by the highest court of the State." *Johnson v. Fankell*, 520 U.S. 911, 916 (1997); *see also Curtis Johnson v. United States*, 559 U.S. 133, 138 (2010); *Erie R. Co. v. Tompkins*, 304 U.S. 64, 78 (1938). This Court may only look to intermediary appellate court decisions when there is no decision on point from the state supreme court. *See McMahan v. Toto*, 311 F.3d 1077, 1080 (11th Cir. 2002) ("[T]he rule is that, *absent a decision from the state supreme court on an issue of state law*, we are bound to follow decisions of the state's intermediate appellate courts" (emphasis added)). When rejecting the idea that there is "an artificial time divide between before and after Florida's enactment of the 1999 sudden snatching statute," an argument Howard makes here, the circuit court relied on Florida Supreme Court precedent dating as far as back as 1922, to wit: *Robinson v. State*, 692 So. 2d 883 (Fla. 1997); *McCloud v. State*, 335 So. 2d 257 (Fla. 1976); and *Montsdoca v. State*, 93 So. 157 (Fla. 1922). *Fritts*, 2016 WL 6599553, at *5; *Seabrooks*, 2016 WL 6090860, at *14.

Bannister argues that *Romo–Villalobos* is no longer good law after *Moncrieffe v. Holder*, 133 S. Ct. 1678 (2013), *Descamps v. United States*, 133 S. Ct. 2276 (2013), and the 2015 *Johnson* decision. However, his argument is not persuasive based on the fact that, after those decisions were published, the Eleventh Circuit Court of Appeals relied on *Romo–Villalobos* to come to the same conclusion. *United States v. Jean*, 636 F. App'x 767, 770 (11th Cir. 2016); *United States v. James*, 631 F. App'x 803, 806 (11th Cir. 2015); *United States v. Hill*, 799 F.3d 1318, 1323 (11th Cir. 2015). In *Hill*, for example, the court applied the categorical approach and cited to Florida intermediary appellate court decisions holding that “violence is a necessary element of the offense.” *Id.* at 1322. And while Bannister suggests that this Court should ignore *Hill* because none of his arguments “were advanced or considered in *Hill*,” ECF No. 1 at 20, this Court is not permitted to do so. See *Tippitt v. Reliance Standard Life Ins. Co.*, 457 F.3d 1227, 1234 (11th Cir. 2006) (stating that “a prior panel precedent cannot be circumvented or ignored on the basis of arguments not made to or considered by the prior panel”). Accordingly, this Court must find that Bannister’s 2001 resisting with violence conviction may properly serve as a predicate for his enhanced sentence under the ACCA.

C. Conclusion

Because Bannister had at least three prior convictions that still qualify as violent felonies under the ACCA’s elements clause—robbery, armed robbery, and resisting arrest with violence—his § 922(g) sentence is not illegal.³

³ As a result, it is unnecessary to address whether his other conviction for lewd and lascivious battery could also serve as an ACCA predicate.

III. Recommendation

Based upon the foregoing, the undersigned hereby RECOMMENDS that Bannister's § 2255 motion be DENIED.

Within fourteen days after being served with a copy of this Report and Recommendation, any party may serve and file written objections to any of the above findings and recommendations as provided by the Local Rules for this district. 28 U.S.C. § 636(b)(1); S.D. Fla. Mag. R. 4(b). The parties are hereby notified that a failure to timely object waives the right to challenge on appeal the district court's order based on unobjected-to factual and legal conclusions contained in this Report and Recommendation. 11th Cir. R. 3-1 (2016); see *Thomas v. Arn*, 474 U.S. 140 (1985).

DONE and SUBMITTED at Fort Lauderdale, Florida, this 16th day of November, 2016.



PATRICK M. HUNT
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:

The Honorable William J. Zloch

All Counsel of Record

A - 6

United States District Court
Southern District of Florida
FT. LAUDERDALE DIVISION

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

v.

Case Number - 0:09-80075-CR-ZLOCH

JEROME BANNISTER

USM Number: 91091-004

Counsel For Defendant: Chantel Doakes, Esq., AFPD
Counsel For The United States: Lothrop Morris, Esq., AUSA
Court Reporter: Carl Schanzleh

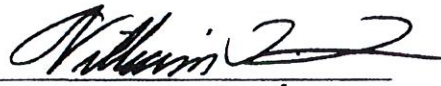
The defendant pleaded guilty to the One Count Indictment.
The defendant is adjudicated guilty of the following offense:

<u>TITLE/SECTION NUMBER</u>	<u>NATURE OF OFFENSE</u>	<u>OFFENSE ENDED</u>	<u>COUNT</u>
18 U.S.C. §922(g)(1)	Possession of a firearm and ammunition by a convicted felon	November, 2008	One

The defendant is sentenced as provided in the following pages of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant must 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 must notify the court and United States attorney of any material changes in economic circumstances.

Date of Imposition of Sentence:
November 13, 2009


WILLIAM J. ZLOCH
United States District Judge
November 13, 2009

ALL PENDING MOTIONS ARE HEREBY DENIED AS MOOT.

DEFENDANT: JEROME BANNISTER
CASE NUMBER: 0:09-80075-CR-ZLOCH

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of **180 months** as to the One Count Indictment.

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

The Court recommends a Federal facility in South Florida capable of treating the defendant's substance abuse and mental health issues.

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 U.S. Marshal

DEFENDANT: JEROME BANNISTER
CASE NUMBER: 0:09-80075-CR-ZLOCH

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of **five years**. Within 72 hours of release, the defendant shall report in person to the probation office in the district where released.

While on supervised release, the defendant shall not commit any crimes, shall be prohibited from possessing a firearm or other dangerous devices, shall not possess a controlled substance, shall cooperate in the collection of DNA, and shall comply with the standard conditions of supervised release and with the special conditions listed on the attached page.

STANDARD CONDITIONS OF SUPERVISION

1. The defendant shall not leave the judicial district without the permission of the court or probation officer;
2. The defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
3. The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
4. The defendant shall support his or her dependents and meet other family responsibilities;
5. The defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
6. The defendant shall notify the probation officer **at least ten (10) days prior** to any change in residence or employment;
7. The defendant shall refrain from the excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
8. The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
9. 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 probation officer;
10. The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
11. The defendant shall notify the probation officer within **seventy-two (72) hours** of being arrested or questioned by a law enforcement officer;
12. 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; and
13. 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.

DEFENDANT: JEROME BANNISTER
CASE NUMBER: 0:09-80075-CR-ZLOCH

SPECIAL CONDITIONS OF SUPERVISION

The defendant shall also comply with the following additional conditions of supervised release:

Employment Requirement - The defendant shall maintain full-time, legitimate employment and not be unemployed for a term of more than 30 days unless excused for schooling, training or other acceptable reasons. Further, the defendant shall provide documentation including, but not limited to pay stubs, contractual agreements, W-2 Wage and Earnings Statements, and other documentation requested by the U.S. Probation Officer.

Financial Disclosure Requirement - The defendant shall provide complete access to financial information, including disclosure of all business and personal finances, to the U.S. Probation Officer.

Mental Health Treatment - The defendant shall participate in an approved inpatient/outpatient mental health treatment program. The defendant will contribute to the costs of services rendered (co-payment) based on ability to pay or availability of third party payment.

Permissible Search - The defendant shall submit to a search of his person or property conducted in a reasonable manner and at a reasonable time by the U.S. Probation Officer.

Sex Offender Registration - The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which he or she resides, works, is a student, or was convicted of a qualifying offense.

Substance Abuse Treatment - The defendant shall participate in an approved treatment program for drug and/or alcohol abuse and abide by all supplemental conditions of treatment. Participation may include inpatient/outpatient treatment. The defendant will contribute to the costs of services rendered (co-payment) based on ability to pay or availability of third party payment.

DEFENDANT: JEROME BANNISTER
CASE NUMBER: 0:09-80075-CR-ZLOCH

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on the Schedule of Payments sheet.

Total Assessment

\$100.00

Total Fine

\$

Total Restitution

\$

*Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18, United States Code, for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: JEROME BANNISTER
CASE NUMBER: 0:09-80075-CR-ZLOCH

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A. Lump sum payment of **\$100.00** due immediately.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

The assessment/fine/restitution is payable to the CLERK, UNITED STATES COURTS and is to be addressed to:

**U.S. CLERK'S OFFICE
ATTN: FINANCIAL SECTION
400 NORTH MIAMI AVENUE, ROOM 8N09
MIAMI, FLORIDA 33128-7716**

The assessment/fine/restitution is payable immediately. The U.S. Bureau of Prisons, U.S. Probation Office and the U.S. Attorney's Office are responsible for the enforcement of this order.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.