

A P P E N D I X

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IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 18-10278-F

AUTREY CANADATE,

Petitioner-Appellant,

versus

UNITED STATES OF AMERICA,

Respondent-Appellee.

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

ORDER:

Autrey Canadate moves for a certificate of appealability (“COA”), in order to appeal the denial of his counseled 28 U.S.C. § 2255 motion to vacate sentence. To merit a COA, Canadate must demonstrate that “reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong,” or that the issues “deserve encouragement to proceed further.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (quotations omitted). Because Circuit precedent forecloses Canadate’s claim, he has not met this standard, and his motion for a COA is DENIED.

/s/ Charles R. Wilson
UNITED STATES CIRCUIT JUDGE

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 16-22476-CIV-SEITZ

AUTREY CANADATE,

Movant,

v.

UNITED STATES OF AMERICA,

Respondent.

/

**ORDER ADOPTING REPORT, DENYING CERTIFICATE OF APPEALABILITY,
AND CLOSING CASE**

THIS CAUSE is before the Court on the Report and Recommendation [DE-9] of Magistrate Judge Turnoff, in which he recommends that Movant's Motion to Correct Sentence Pursuant to 28 U.S.C. § 2255 [DE-1] be denied. The Report and Recommendation (Report) found that, despite the holding in *Johnson v. United States*, 135 S. Ct. 2551(2015), Movant still has the necessary three predicate offenses to qualify for a sentence enhancement under the Armed Career Criminal Act (ACCA). Movant has filed objections. As set forth below, Movant's objections are overruled because this Court must follow existing Eleventh Circuit precedent, which classifies Movant's convictions for attempted armed robbery and aggravated assault as crimes of violence under the ACCA.

At the time Movant was sentenced, he had four predicate offenses: (1) possession with the intent to distribute or sell cocaine; (2) attempted armed robbery; (3) aggravated assault with a firearm, and (4) possession with the intent to distribute or sell cocaine. Movant's objections focus on the attempted armed robbery conviction and the aggravated assault with a firearm conviction. The objections argue that neither conviction qualifies as a crime of violence after

Johnson v. United States, 135 S. Ct. 2551 (2015), which held the ACCA's residual clause unconstitutionally vague.¹ The Movant's objections are overruled for the reasons set forth below.

A. The Attempted Armed Robbery Conviction

First, as to the attempted armed robbery conviction, the case law in the Eleventh Circuit is clear: Florida armed robbery is a violent felony under the elements clause of the ACCA. *See United States v. Fritts*, 841 F.3d 937, 943-44 (11th Cir. 2016); *United States v. Dowd*, 451 F.3d 1244, 1255 (11th Cir. 2006). Furthermore, the attempt to commit a violent crime itself constitutes a crime of violence. *United States v. Lockley*, 632 F.3d 1238, 1245 (11th Cir. 2011). Thus, the law in the Eleventh Circuit clearly holds that Movant's conviction for Florida attempted armed robbery qualifies as a violent felony under the elements clause of the ACCA.

In his objections, Movant relies on a recent decision from the Ninth Circuit, *United States v. Geozos*, 870 F.3d 890 (9th Cir. 2017), which directly contradicts the Eleventh Circuit, for the proposition that Florida robbery does not qualify as a violent felony under the ACCA.

Unfortunately for Movant, this Court is bound to follow the Eleventh Circuit. Consequently, the *Geozos* decision offers Movant no relief and Movant's objection is overruled. Accordingly, Movant's Florida attempted armed robbery conviction is a violent felony under the ACCA and, therefore, Movant has the necessary three predicate convictions to support the sentencing enhancement he received.

B. The Aggravated Assault Conviction

Because Movant has three predicate convictions, the Court need not address whether Movant's aggravated assault conviction also qualifies as a violent felony under the ACCA.

¹Movant concedes that his two drug convictions are predicate offenses under the ACCA.

However, as the Report finds, Movant's aggravated assault conviction also qualifies as a violent felony under the ACCA. In reaching this conclusion, the Magistrate Judge relied on *Turner v. Warden, Coleman FCI*, which held:

by its definitional terms, [aggravated assault] necessarily includes an assault, which is “an intentional, unlawful threat by word or act *to do violence* to the person of another, coupled with an apparent ability to do so.” [Fla. Stat. § 784.011(1)] (emphasis supplied). Therefore, a conviction under section 784.021 will always include “as an element the . . . threatened use of physical force against the person of another,” § 924(e)(2)(B)(i), and [a] conviction for aggravated assault thus qualifies as a violent felony for purposes of the ACCA.

709 F.3d 1328, 1338 (11th Cir. 2013), *abrogated on other grounds by Johnson*, 135 S. Ct. 2551.

Movant objects to the conclusion that his aggravated assault conviction also qualifies as a violent felony. Movant maintains that the *Turner* Court failed to consider Florida courts' construction of the elements of aggravated assault and, thus, *Turner* was wrongly decided. The Eleventh Circuit, however, continues to recognize *Turner* as binding precedent. *See United States v. Kelly*, 697 Fed. App'x 669, 670 (11th Cir. 2017); *United States v. Golden*, 854 F.3d 1256 , 1257 (11th Cir. 2017). As stated above, this Court is bound to follow the Eleventh Circuit. Thus, Movant's aggravated assault conviction also qualifies as a crime of violence under the ACCA.

Consequently, Movant's objection is overruled.

The Court Will Not Issue A Certificate of Appealability

The Court will deny issuance of a certificate of appealability for Movant's motion pursuant to Rule 11 of the Rules Governing Section 2255 Cases. The Court, having established grounds for entering a “final order adverse to the applicant” on his first motion, “must issue or deny a certificate of appealability.” In order to obtain a certificate of appealability, Movant must make “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2).

This standard is satisfied “by demonstrating that jurists of reason could disagree with the district court’s resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.” *Jones v. Secretary*, 607 F.3d 1346, 1349 (11th Cir. 2010) (quotation omitted). Here, Movant has not made this showing. Thus, having carefully reviewed, *de novo*, Magistrate Judge Turnoff’s Report, the record, and Movant’s objections, it is

ORDERED that:

- (1) The above-mentioned Report and Recommendation [DE-9] is AFFIRMED and ADOPTED, and incorporated by reference into this Court’s Order.
- (2) Movant’s Motion to Correct Sentence Pursuant to 28 U.S.C. § 2255 [DE-1] is DENIED.
- (3) Movant’s Objections [DE-12] are OVERRULED.
- (4) All pending motions not otherwise ruled upon in this Order are DENIED AS MOOT.
- (5) The Court will not issue a Certificate of Appealability.
- (6) This case is CLOSED.

DONE and ORDERED in Miami, Florida this 21st day of November, 2017.



PATRICIA A. SEITZ
UNITED STATES DISTRICT JUDGE

cc: All Counsel of Record
Magistrate Judge Turnoff

A - 3

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 16-22476-CIV-SEITZ/Turnoff

AUTREY CANADATE,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

REPORT AND RECOMMENDATION

THIS CAUSE is before the Court upon a Motion to Correct Sentence Pursuant to 28 U.S.C. § 2255 (ECF No. 1), referred to the undersigned for resolution by the Honorable Patricia A. Seitz, United States Senior District Court Judge for the Southern District of Florida. (ECF No. 3). Upon careful review of the filings, the record, the relevant authority, and being otherwise duly advised in the premises, the undersigned makes the following findings and **RECOMMENDS** that the Petition be **DENIED**.

Summary Factual and Procedural Background

On October 4, 2012, Petitioner Autrey Canadate was indicted for possessing a firearm having been previously convicted of a felony in violation of 18 U.S.C. §§ 922(g)(1) and 924(e)(1) (Count 1); possessing with intent to distribute a detectable amount of cocaine base, in violation of 18 U.S.C. §§ 841(a)(1) and (b)(1)(C) (Count 2); and possessing a firearm in furtherance of a drug trafficking crime, in violation of 21 U.S.C. § 924(c)(1)(A)(I) (Count 3). (CRDE No. 7).¹

¹Citations to the docket in the underlying criminal case, No. 12-cr-20760-PAS, are as follows: (CRDE No. ____).

On June 6, 2013, Canadate pled guilty to Count 1 of the Indictment for possession of a firearm by a previously convicted felon, and the government agreed to dismiss Counts 2 and 3. (CRDE No. 43, 45).

At sentencing, Canadate was subject to the Armed Career Criminal Act's ("ACCA") 15-year mandatory minimum sentence. 18 U.S.C. § 924(e), though the presentence investigation report ("PSI") did not specify which prior convictions constituted the predicate for his ACCA status. In the plea agreement, Canadate agreed that he had four prior felony convictions.² On October 8, 2013, he was sentenced to 180 months' imprisonment on Count I, followed by two years of supervised release. (CRDE No. 55, 56).

Canadate now seeks relief from his conviction under § 2255, in light of the Supreme Court's decision in Johnson v. United States, 135 S.Ct. 2551 (2015), which held that the ACCA's "residual clause," set forth in § 924(e)(2)(B)(ii), was unconstitutionally vague. (ECF No. 1). The petition is timely because it was filed less than one year after Johnson was decided. Review is proper because, in Welch v. United States, 136 S. Ct. 1257 (2016), the Supreme Court held that the Johnson decision "announced a substantive rule that has retroactive effect in cases on collateral review." Id. at 1268.

Canadate argued that two of the violent felony convictions relied upon by the Court in

²(a) Possession with the Intent to Distribute or Sell Cocaine, in violation of Fla. Stat. § 812.13(1)(a)(1), Case No. F02-037370;

(b) Attempted Armed Robbery, in violation of Fla. Stat. §§ 812.13(2)(B), 777.04, and 775.087, Case No. F08-044814A;

(c) Aggravated Assault with a Firearm, in violation of Fla. Stat. §§ 784.021(1)(A) and 775.087, Case No. F10-009460; and

(d) Possession with the Intent to Distribute or Sell Cocaine, in violation of Fla. Stat. § 893.13(1)(A)(1), Case No. F11-026230B.

sentencing him as an armed career criminal no longer qualified as predicate “crimes of violence,” under the ACCA. Thus, because he no longer had three qualifying predicate convictions, Canadate argued that he was no longer an armed career criminal.

The PSI and the Plea Agreement identified the same four predicate convictions relied upon by the Court for Canadate’s ACCA sentencing enhancement.³ See PSI (CRDE No. 51); Plea Agreement (CRDE No. 45). Two of these convictions were serious drug offenses, PSI ¶¶ 3, 27, 42, while the other two were violent felonies, PSI ¶¶ 3, 37, 39. The two felony drug convictions are not at issue here. In fact, Canadate does not contest that these convictions qualify as predicate convictions under the ACCA. The only issue is whether the two violent felony convictions for attempted armed robbery and aggravated assault with firearm, relied upon by the Court for the ACCA enhancement, still qualify as predicate convictions without reliance on the residual clause. If either conviction still qualifies as a violent felony, then Canadate’s sentence was properly enhanced under the ACCA.

Johnson v. United States

For contextual purposes, a brief review of the applicable law is in order.

The Armed Career Criminal Act (“ACCA”) requires an enhanced sentence for a defendant having three prior predicate convictions and who has been convicted under 18 U.S.C. § 922(g), which, *inter alia*, prohibits a felon from possessing a firearm. 18 U.S.C. § 924(e)(1).

The ACCA defines the term “violent felony” as: “any crime punishable by imprisonment for

³The PSI reflected that Canadate also has a 2006 felony conviction for Shooting or Throwing a Deadly Missile, PSI ¶ 34, which, he argued, was not a violent felony under the ACCA. According to the government, there is nothing in the record to suggest that the Court relied upon this conviction as a predicate conviction for Canadate’s ACCA enhancement. Thus, Canadate’s Shooting or Throwing a Deadly Missile conviction was not addressed herein.

a term 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)(I) and (B)(ii).

Paragraph (i) is commonly referred to as the "elements clause," the first part of paragraph (ii) listing felonies is referred to as the "enumerated offenses clause," while the concluding part of paragraph (ii) is referred to as the "residual clause." United States v. Owens, 672 F.3d 966, 968 (11th Cir. 2012). A predicate conviction for a violent felony can qualify under any of these clauses.

On June 26, 2015, in Johnson v. United States, the Supreme Court found that the "residual clause" of the ACCA, 18 U.S.C. § 924(e)(2)(B)(ii), was unconstitutionally vague and violated the Constitution's guarantee of due process. 135 S. Ct. 2551, 2563 (2015).

Canadate argued that the Court increased his sentence under the unconstitutional residual clause of the ACCA, while the government argued that, regardless, the predicate convictions for the ACCA enhancement both remained violent felonies under the elements clause of the ACCA and thus were properly considered in Canadate's sentencing.

Discussion

Canadate was convicted of attempted armed robbery under Fla. Stat. § 812.13(2)(B). He argued that the Florida robbery statute was categorically overbroad pursuant to Descamps v. United States, 133 S. Ct. 2276 (2013). The government correctly argued that the Eleventh Circuit has affirmed that armed robbery is a violent felony under the elements clause of the ACCA, even after

Descamps, which addressed whether the modified categorical approach could be used when examining whether a prior felony conviction qualified as a predicate violent felony under the enumerated clause. See In re Hires, 825 F.3d 1297, 1302 (11th Cir. 2016) (finding that prior ACCA predicate convictions for robbery and armed assault qualified under the elements clause without regard to the ACCA's residual clause); In re Thomas, 823 F.3d 1345, 1349 (11th Cir. 2016) (finding that two prior convictions for armed robbery qualified as ACCA predicates under the elements clause); In re Robinson, 822 F.3d 1196, 1197 (11th Cir. 2016) ("Neither Johnson nor any other case suggests that Robinson's armed robbery...offense[] do[es]n't count as [an] ACCA predicate[] under the 'elements clause.' Indeed, our precedent says otherwise. This means Robinson's sentence is valid even without ACCA's 'residual clause.'").

Moreover, in In re Hires, the Eleventh Circuit stated:

Consistent with In re Thomas, Johnson involved the residual clause and does not serve as a portal to relitigate whether a prior robbery conviction or another conviction qualifies under the elements clause. The same is true here. Hires cannot use Johnson as a portal to challenge his ACCA predicates of aggravated assault and robbery based on Descamps.

825 F.3d 1297, 1303 (11th Cir. 2016),

As the Eleventh Circuit recently noted in United States v. Stokeling, it has been held many times that "a conviction under the Florida robbery statute categorically qualifies as a violent felony under the elements clause of the Act." No. 16-12951, 2017 WL 1279086, at *1 (11th Cir. Apr. 6, 2017); see United States v. Anthony, Nos. 4:13cr103-RH/CAS, 4:16cv368-RH/CAS, 2017 WL 2656022, at *1 (N.D. Fla. Jun. 17, 2017) (recognizing that under the law of the Eleventh Circuit "armed robbery and attempted armed robbery remain violent felonies").

Furthermore, it follows that if an armed robbery satisfies the elements clause of the ACCA,

then an attempt to commit that crime does as well. See United States v. Lockley, 632 F.3d 1238, 1245 (11th Cir. 2011) (finding that attempted robbery satisfied the elements clause of the analogous “crime of violence” provision of the Sentencing Guidelines). Because Canadate’s attempted armed robbery conviction has as an element the use, attempted use, or threatened use of physical force against the person of another, it is a violent felony under the elements clause of the ACCA. See 18 U.S.C. § 924(1)(2)(B)(I).

Second, Canadate argued that a conviction for aggravated assault under Fla. Stat. §784.021 was not a violent felony for ACCA purposes because a person could be convicted thereunder upon a *mens rea* akin to recklessness. The government argued that Canadate’s conviction for aggravated assault with firearm qualifies as a violent felony also under the elements clause of the ACCA. In Turner v. Warden Coleman FCI, 709 F.3d 1328, 1338 (11th Cir. 2013), *abrogated on other grounds by* Johnson, 135 S. Ct. 2551, the Eleventh Circuit held that, “[b]y its definitional terms, the offense necessarily includes an assault, which is ‘an intentional, unlawful threat by word or act to do violence to the person of another, coupled with an apparent ability to do so.’” The government argued that the Eleventh Circuit has confirmed that this is still the law after Descamps. See In re Rogers, 825 F.3d 1335, 1341 (11th Cir. 2016) (citing Turner, 709 F.3d at 1338) (“We previously have held that a conviction under Florida’s aggravated assault statute categorically qualifies as a violent felony under the ACCA’s still-valid elements clause.”); In re Hires, 2016 WL 3342668, at *4.

Conclusion

Canadate’s convictions for attempted armed robbery and aggravated assault with firearm qualify as predicate offenses under the ACCA’s elements clause, 18 U.S.C. § 922(e)(2)(B)(I). As

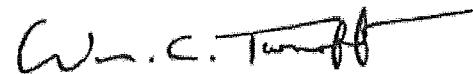
such, Canadate's sentence was properly enhanced under the ACCA.

Recommendation

In light of the foregoing, and given this Court's limited review, it is **RESPECTFULLY RECOMMENDED** that Petitioner's Motion to Correct Sentence Pursuant to 28 U.S.C. § 2255 (ECF No. 1) be **DENIED**.

Pursuant to 28 U.S.C. § 636(b)(1)(c), the parties may file written objections to this Report and Recommendation with Judge Seitz, within fourteen (14) days of receipt. Failure to file timely objections shall bar the parties from attacking on appeal any factual findings contained herein. RTC v. Hallmark Builders, Inc., 996 F. 2d 1144, 1149 (11th Cir. 1993); LoConte v. Dugger, 847 F. 2d 745 (11th Cir. 1988).

RESPECTFULLY RECOMMENDED in Chambers, at Miami, Florida, on this 18th day of August 2017.



WILLIAM C. TURNOFF
UNITED STATES MAGISTRATE JUDGE

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United States District Court
Southern District of Florida
MIAMI DIVISION

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

v.

Case Number - 1:12-20760-CR-SEITZ-1

AUTREY CANADATE

USM Number: 00744-104

Counsel For Defendant: Omar Malone, Esq.
Counsel For The United States: Michael Garofola, AUSA
Court Reporter: Robin Dispenzieri

The defendant pleaded guilty to Count 1 of the Indictment.
The defendant is adjudicated guilty of the following offense:

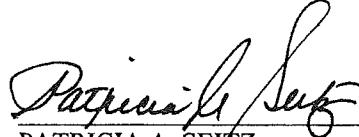
<u>TITLE/SECTION NUMBER</u>	<u>NATURE OF OFFENSE</u>	<u>OFFENSE ENDED</u>	<u>COUNT</u>
18 U.S.C. §§ 922(g)(1) and 924 (e)(1)	Possession of a firearm by a convicted felon	9/24/12	1

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.

Counts 2 and 3 are dismissed on the motion of the United States.

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:
10/8/2013


PATRICIA A. SEITZ
United States District Judge

October 8, 2013

DEFENDANT: AUTREY CANADATE
CASE NUMBER: 1:12-20760-CR-SEITZ-1

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**.

The Court makes the following recommendations to the Bureau of Prisons:

Defendant should be placed in a facility in South Florida to be near his 9 year old daughter.

Defendant should participate in the 500 hour intensive drug treatment program.

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

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: AUTREY CANADATE
CASE NUMBER: 1:12-20760-CR-SEITZ-1

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of **2 YEARS**.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.

The defendant shall cooperate in the collection of DNA as directed by the probation officer.

If this judgment imposes a fine or a restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as any additional conditions 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 fifteen 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: AUTREY CANADATE
CASE NUMBER: 1:12-20760-CR-SEITZ-1

SPECIAL CONDITIONS OF SUPERVISION

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

Anger Control/Domestic Violence Treatment - If deemed necessary by the Probation Officer at the time of defendant's release from incarceration, the defendant shall participate in an approved treatment program for anger control/domestic violence. 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.

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.

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

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: AUTREY CANADATE
CASE NUMBER: 1:12-20760-CR-SEITZ-1

CRIMINAL MONETARY PENALTIES

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

<u>Total Assessment</u>	<u>Total Fine</u>	<u>Total Restitution</u>
\$100.00	\$	\$

*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: AUTREY CANADATE
CASE NUMBER: 1:12-20760-CR-SEITZ-1

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, balance due

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.

Forfeiture of the defendant's right, title and interest in certain property is hereby ordered consistent with the plea agreement of forfeiture. The United States shall submit a proposed order of forfeiture within three days of this proceeding.

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.