RECORD NO._____

In The
Supreme Court of The United States

VINCENT CRAIG MOSLEY,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

APPENDIX TO PETITION FOR WRIT OF CERTIORARI

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APPENDIX TO PETITION FOR WRIT OF CERTIORARI

Appendix A

No. 17-4279, *United States of America v. Vincent Mosley*

Unpublished Opinion

In the United States Court of Appeals for the Fourth Circuit

Decided March 2, 2018

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-4279

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

VINCENT CRAIG MOSLEY, a/k/a Vincent G. Mosley,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Asheville. Martin K. Reidinger, District Judge. (1:16-cr-00016-MR-DLH-7)

Submitted: February 27, 2018 Decided: March 2, 2018

Before GREGORY, Chief Judge, and NIEMEYER and THACKER, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Charles R. Brewer, Asheville, North Carolina, for Appellant. R. Andrew Murray, United States Attorney, Amy E. Ray, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Asheville, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

A jury convicted Vincent Craig Mosley of conspiracy to possess with intent to distribute cocaine, in violation of 21 U.S.C. §§ 841(a)(1), 846 (2012), and possession with intent to distribute cocaine, in violation of 21 U.S.C. § 841(a)(1). The district court sentenced Mosley to time served and three years of supervised release. On appeal, Mosley challenges only his conspiracy conviction. We affirm.

First, Mosley argues that the district court erred in admitting certain testimony pursuant to Rule 801(d)(2)(E) of the Federal Rules of Evidence. Evidentiary rulings are reviewed for abuse of discretion, and we "will only overturn an evidentiary ruling that is arbitrary and irrational." *United States v. Cole*, 631 F.3d 146, 153 (4th Cir. 2011) (internal quotation marks omitted). Under Fed. R. Evid. 801(d)(2)(E), "[a] statement is not hearsay if it is a statement by a co-conspirator of a party during the course and in furtherance of the conspiracy and is offered against the party." *United States v. Graham*, 711 F.3d 445, 453 (4th Cir. 2013) (internal quotation marks omitted). "In order to admit a statement under 801(d)(2)(E), the moving party must show that (i) a conspiracy did, in fact, exist, (ii) the declarant and the defendant were members of the conspiracy, and (iii) the statement was made in the course of, and in furtherance, of the conspiracy." *United States v. Pratt*, 239 F.3d 640, 643 (4th Cir. 2001). The conspiracy cannot be established initially by the out-of-court statement at issue; rather, "[t]here must be proof from another source of the existence of the conspiracy and of [defendant]'s connection with it before [the out-of-court statement] can become admissible against [defendant]." *United States*

v. Stroupe, 538 F.2d 1063, 1065 (4th Cir. 1976). Thus, the Government must introduce "substantial, independent evidence of the conspiracy." *Id.*

"The incorrect admission of a statement under the coconspirator statement exclusion . . . is subject to harmless error review." *Graham*, 711 F.3d at 453. An evidentiary ruling is harmless if we may say "with fair assurance, after pondering all that happened without stripping the erroneous action from the whole, that the judgment was not substantially swayed by the error." *United States v. McLean*, 715 F.3d 129, 143 (4th Cir. 2013) (internal quotation marks omitted).

Here, our review of the record confirms that the district court properly admitted the testimony challenged on appeal by Mosley.* Prior to the admission of such testimony, the government introduced sufficient evidence of the conspiracy to satisfy its burden under *Pratt*. Moreover, we conclude that any error in admitting the challenged statement was harmless in light of the evidence against Mosley.

Next, Mosley argues that the district court erred in excluding from evidence certain sealed materials. Rule 401 of the Federal Rules of Evidence provides that "[e]vidence is relevant if: (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining

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* Pursuant to Fed. R. App. P. 28(e), we have confined our review to the only specific statement challenged in Mosley's brief, which was testimony that, when the buyer complained to the defendant's son that he had received less cocaine than they had bargained for, the defendant's son responded that "he had had somebody to weigh it but it may be wrong, and . . . he would give it back to us." (J.A. 448; *see* Appellant's Br. (ECF No. 34) at 13-15).

the action." Fed. R. Evid. 401. Rule 403 provides that a "court may exclude relevant evidence if its probative value is substantially outweighed by a danger of . . . unfair prejudice, confusing the issues, [or] misleading the jury." Fed. R. Evid. 403. In determining whether an evidentiary ruling is arbitrary and irrational, we "look at the evidence in a light most favorable to its proponent, maximizing its probative value and minimizing its prejudicial effect." *Cole*, 631 F.3d at 153 (internal quotation marks omitted). Finally, as we noted above, evidentiary rulings are subject to harmless error review under Fed. R. Crim. P. 52. *McLean*, 715 F.3d at 143.

Having reviewed the record, we conclude that the district court did not abuse its discretion in this instance. Moreover, in light of defense counsel's closing argument to the jury that the government had the statutory power to require Mosley's codefendants to testify and yet failed to produce any of them as witnesses at trial, we find that, even if the district court committed error in excluding the sealed material, such error was harmless.

Finally, Mosley challenges the district court's denial of his Fed. R. Crim. P. 29 motions for acquittal as to the conspiracy charge. Relying on *Sears v. United States*, 343 F.2d 139, 142 (5th Cir. 1965), Mosley argues that his conviction cannot stand because a defendant cannot be convicted of conspiring with a government agent.

We review de novo the sufficiency of the evidence supporting a conviction. *United States v. Pinson*, 860 F.3d 152, 160 (4th Cir. 2017). In reviewing the sufficiency of the evidence, "[t]he jury's verdict must be upheld on appeal if there is substantial evidence in the record to support it; that is, there must be evidence that a reasonable finder of fact could accept as adequate and sufficient to support the defendant's guilt."

United States v. Banker, 876 F.3d 530, 540 (4th Cir. 2017) (internal quotation marks omitted). Our review "is thus limited to determining whether, viewing the evidence and the reasonable inferences to be drawn therefrom in the light most favorable to the government, the evidence adduced at trial could support any rational determination of guilty beyond a reasonable doubt." *Id.* (alteration and internal quotation marks omitted). A defendant challenging evidentiary sufficiency carries a "heavy burden." *Pinson*, 860 F.3d at 160 (internal quotation marks omitted). We may not "reweigh the evidence or the credibility of witnesses," *United States v. Roe*, 606 F.3d 180, 186 (4th Cir. 2010), and must examine the evidence in a "cumulative context" rather than "in a piecemeal fashion," *United States v. Burgos*, 94 F.3d 849, 863 (4th Cir. 1996) (en banc). Consequently, "reversal for insufficient evidence is reserved for the rare case where the prosecution's failure is clear." *United States v. Said*, 798 F.3d 182, 194 (4th Cir. 2015) (alterations and internal quotation marks omitted).

To establish that Mosley conspired to distribute cocaine, "the government must prove: (1) an agreement to possess [cocaine] with intent to distribute between two or more persons; (2) the defendant knew of the conspiracy; and (3) the defendant knowingly and voluntarily became a part of the conspiracy." *United States v. Allen*, 716 F.3d 98, 103 (4th Cir. 2013). "A conspiracy may be proved wholly by circumstantial evidence[,] [a]nd, one may be a member of a conspiracy without knowing its full scope, or all its members, and without taking part in the full range of its activities or over the whole period of its existence." *Id.* (citation and internal quotation marks omitted). "Therefore, once a conspiracy has been proved, the evidence need only establish a slight connection

between any given defendant and the conspiracy to support conviction." *Id.* (alteration and internal quotation marks omitted).

We have reviewed the record and conclude that the evidence is sufficient to show that Mosley participated in a conspiracy to possess with the intent to distribute cocaine. We find that Mosley's reliance on the Fifth Circuit's decision in *Sears* is misplaced, as the evidence here allowed the jury to reasonably infer that Mosley entered into an agreement to distribute cocaine with his son, Craig Mosley, a coconspirator who was not acting as a government agent.

Accordingly, we affirm the district court's judgment. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

Appendix B

No. 17-4279, *United States of America v. Vincent Mosley*

Judgment

In the United States Court of Appeals for the Fourth Circuit

Decided March 2, 2018

FILED: March 2, 2018

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-4279
(1:16-cr-00016-MR-DLH-7)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

VINCENT CRAIG MOSLEY, a/k/a Vincent G. Mosley

Defendant - Appellant

J U D G M E N T

In accordance with the decision of this court, the judgment of the district court is affirmed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK

Appendix C

No. 17-4279, *United States of America v. Vincent Mosley*

Petition for Rehearing and Rehearing *En Banc*

In the United States Court of Appeals for the Fourth Circuit

Filed March 16, 2018

RECORD NO. 17-4279

IN THE

United States Court of Appeals

FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

VINCENT CRAIG MOSLEY, a/k/a Vincent G. Mosley,

Defendant - Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
AT ASHEVILLE

PETITION FOR REHEARING AND REHEARING *EN BANC*
VINCENT CRAIG MOSLEY

Charles R. Brewer
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Counsel for Appellant

NOW COMES the defendant-appellant, by and through counsel, pursuant to Rules 35 and 40 of the Federal Rules of Appellate Procedure, moving for a panel rehearing and/or a rehearing *en banc*.

Rule 35(b)(1) statement

In the opinion of the undersigned counsel for petitioner this appeal involves two questions of exceptional importance, to wit: (a) the exclusion of highly relevant evidence relating to plea agreements filed by all of the co-defendants in the conspiracy charge and their agreements contained in their respective plea agreements, and (b) the sufficiency of evidence required to support a conviction of a conspiracy to distribute cocaine.

Issues presented

I. WHETHER THE PANEL'S OPINION CORRECTLY DETERMINED THAT THE TRIAL COURT DID NOT COMMIT PREJUDICIAL ERROR IN REFUSING TO ALLOW RELEVANT EVIDENCE RELATING TO THE PLEA AGREEMENTS OF THE CO-DEFENDANTS TO BE PRESENTED TO THE JURY AND ARGUED BY DEFENDANT'S COUNSEL IN CLOSING ARGUMENTS.

II. WHETHER THE PANEL'S OPINION CORRECTLY DETERMINED THAT THE TRIAL COURT DID NOT COMMIT PREJUDICIAL EVIDENCE IN DENYING DEEFENDANT'S MOTIONS FOR ACQUITTAL WHICH WERE TIMELY FILED.

Facts

In that the panel decision relies, in part, on the conclusion that the exclusion of the evidence relating to the plea agreements of the co-defendants in the conspiracy charge was harmless error and that the second issue asserted in this petition for rehearing relating to the sufficiency of the evidence is factually driven, the following facts, among others, are helpful in addressing these issues. Some of the facts useful to a review of the issues raised in this petition are set out hereafter. Other relevant facts are contained within the body of the arguments. The government adduced testimony from only two witnesses, to wit: Chadd Murray (hereinafter, "Murray") (JA 272-386) and James McKinney (hereinafter, "McKinney") (JA 395-480).

Murray testified that he is a sergeant with the Rutherford County Sheriff's Department over the narcotics unit. JA 272. He received word from another officer in about May of 2015 that McKinney had been stopped with a couple of crack rocks and wanted to cooperate. JA 274-5. The two rocks of crack which McKinney was caught with was sufficient for a state charge of felonious possession of a Schedule II controlled substance. With that hanging over his head McKinney agreed to start working for the government. JA 276-277. McKinney agreed to make some controlled buys in return for Murray agreeing to talk to the

state prosecutor about dropping the charges against him. JA 277. Murray testified that McKinney did "controlled buys" from Justin Mosley (JA 280), Kevin Bailey (JA 280), James Glover (JA 281) and multiple purchases from Craig Mosley (JA 281-282). Additionally, he had a drug related phone conversation with Heather Sheehan. JA 281. In addition to whatever help was to be given to McKinney in regard to his drug charges, he was paid over $3,000 as an informant . JA 286-287.

Murray testified that he used McKinney on September 16, 2015. JA 288. McKinney agreed to make a phone call to Craig Mosley to arrange the purchase of one ounce of crack cocaine. JA 289. McKinney was given $1,200 in US currency to pay for the drugs. JA 292. McKinney had made a phone call to Craig Mosley (defendant's son) to arrange the purchase. JA 289-290. McKinney was equipped with a video recording device. JA 297-300. McKinney subsequently returned to Murray with a quantity of drugs which, by stipulation, was agreed to be 18.15 grams of cocaine. JA 481. The cocaine McKinney gave Murray was in a plastic bag, but no fingerprint analysis had been conducted on the plastic bag. JA 324-328. Murray testified that the bag of cocaine cannot actually be seen on the video taken of the controlled buy. JA 328-329. Over and above his compensation, McKinney was paid for lodging. JA 319. While still doing controlled buys for Murray, McKinney was charged with felony possession of cocaine in Rutherford

County. JA 358.

McKinney testified that Craig Mosley had said that he had come into some drugs and needed help in getting rid of them. JA 404. McKinney called Craig Mosley in September of 2015 trying to purchase one ounce of crack cocaine. McKinney understood, based on his phone conversation with Craig Mosley, that Craig Mosley would be there. JA 406. During the call they agreed for McKinney to go to where Craig Mosley's father (defendant herein) lives. Craig Mosley's family lives there. McKinney drove to defendant's house to meet Craig Mosley. JA 430. When he arrived Craig Mosley was not there. JA 431. He waited for about fifteen minutes until a car pulled up with defendant and others in the car. Defendant walked into the house. Defendant came back out, and defendant handed him the cocaine. McKinney handed defendant the money. JA 432.

McKinney testified that he had no conversation with defendant about the transaction he was doing. He also testified that he had no conversation with defendant about Craig Mosley. JA 432-433. Thereafter, McKinney testified that he drove away to meet Murray. JA 433. McKinney gave the drugs and the surveillance devices to Murray. JA 434. He testified that he had examined the video later and did not see defendant in it. JA 434. There was, however, a call he received from Craig Mosley while he was waiting for him. JA 437. Further, he

testified that while waiting he called Craig Mosley on more than one occasion and that during these calls Craig Mosley indicated that during calls that he was there. JA 437-438. McKinney testified that the amount of drugs he got was not the full ounce he was to have received. He called Craig Mosley and told him it was 8.7 grams short. On cross examination, McKinney reiterated that nothing on the video showed the drugs being transferred to McKinney from defendant or the currency being conveyed from McKinney to defendant. JA 459-460.

The defendant testified in his own behalf denying his involvement in the alleged conspiracy and denying distributing drugs to McKinney. Defendant also testified that he had essentially no criminal record. He further testified that he had no conversations with Craig Mosley concerning drugs. JA 496-525. Additionally, defendant offered two witnesses as to his good character for truthfulness and his good reputation for truthfulness. Those witnesses were Daniel Kiser (JA 387-395) and Charles McDowell (JA 490-496).

ARGUMENTS

I. THE PANEL'S OPINION INCORRECTLY DETERMINED THAT THE TRIAL COURT DID NOT COMMIT PREJUDICIAL ERROR IN REFUSING TO ALLOW RELEVANT EVIDENCE RELATING TO THE PLEA AGREEMENTS OF THE CO-DEFENDANTS TO BE PRESENTED TO THE JURY AND ARGUED BY DEFENDANT'S COUNSEL IN CLOSING ARGUMENTS.

The defendant's argument in the opening brief in regard to this argument is

contained at pages 16 – 22 which is incorporated herein by reference. This argument was filed under seal for the reason that it is based on matters which were under seal in the trial court. Of particular importance to this appeal are the provisions within the plea agreements which due to the rulings of the trial court were not made known to the jury. The opening brief contains a quotation at pages 20-21 from one of the plea agreements in this regard found in a provision in the plea agreements of each of the co-defendants. The Panel's opinion underestimates the probative value of the evidence sought to be presented at trial. Offering a simple layout of "relevant evidence" and "prejudice" under Rules 401 and 403 of the Federal Rules of Evidence is, in this case, far too dismissive where such evidence was not merely tangentially relevant—but of paramount relevance in determining whether the government had proven guilt beyond a reasonable doubt. Such a finding can arise from the failures of the government to adduce evidence as well as from the evidence actually adduced. Defense counsel endeavored to unseal the plea agreements entered into by seven co-conspirators who, in terms of shedding light on the nature and makeup of the conspiracy, stood on the most competent platform. Not one of the seven co-conspirators were called upon to testify against the defendant despite having entered into these plea agreements. If the agreements of these same co-conspirators with the government had been disclosed to the jury, any reasonable

onlooker would wonder why they had not been called upon to testify. Being the most knowledgeable as regards the conspiracy, their absence in that manner was itself telling—probative. Far from misleading a jury, these sealed documents and the absence of the co-conspirators would have comprised the fodder for the most complete and fair assessment of the facts. Without them, the jury was, in a very real sense, left in the dark. That defense counsel in his closing argument commented on the statutory power of the government to require such witnesses and did not cannot cure or mitigate this defect.

> Moreover, in light of defense counsel's closing argument to the jury that the government had the statutory power to require Mosley's codefendants to testify and yet failed to produce any of them as witnesses at trial, we find that, even if the district court committed error in excluding the sealed material, such error was harmless.

Panel Opinion, at page 4. The argument of defendant's counsel to the jury to which the Panel Opinion refers appears at JA 564-567. In that portion of the argument, defendant's counsel argued to the jury that the United States could have under 18 USC § 6001 compelled the testimony of the co-conspirators. This is far different and far less persuasive than showing the jury the agreements of the co-conspirators contained in their plea agreements and arguing their import. The jury would very likely have concluded that the failure of the government to take advantage of the co-conspirators' agreements is considerably more determinative as to what the co-

conspirators' testimony would have been as opposed to the government having failed to seek a court order coercing their testimony. The government's brief at pages 19 through 23 did not even mention defendant's jury argument concerning 18 USC § 6001. Consequently, defendant could not address this in his reply brief. There were also no oral arguments which would have given defendant's counsel an opportunity to argue the issue as to whether the argument before the jury constituted harmless error. Because of the nature of the evidence sought to be presented and the request to argue before the jury the significance of that evidence, this issue rises to the level of a deprivation of the Due Process of Law under the Fifth Amendment to the United States Constitution requiring a determination that the error was harmless beyond a reasonable doubt. This is particularly true in light of the extraordinarily thin evidence on behalf of the government as argued in the following issue.

II. THE PANEL'S OPINION INCORRECTLY DETERMINED THAT THE TRIAL COURT DID NOT COMMIT PREJUDICIAL ERROR IN DENYING DEEFENDANT'S MOTIONS FOR ACQUITTAL WHICH WERE TIMELY FILED.

This argument was presented in defendant's opening brief at pages 9-13 which argument is incorporated herein by reference. The gravamen of the government's case was the testimony of two witnesses, one of whom never had any conversation or involvement with defendant at all. The other testified repeatedly that he had no conversation with defendant about the drug transaction; he simply

gave money to defendant, and defendant handed him drugs. The government and the Panel relied on the informant McKinney's testimony regarding his conversations with defendant's brother to establish the existence of a conspiracy. However, the conspiracy must be established first in order to admit out-of-court statements such as those of defendant's brother. Both the government in its brief and the panel in its opinion wrongfully assert that the conspiracy was established prior to admitting the hearsay evidence of alleged statements made by the defendant's brother. There was no other evidence of the conspiracy other than those alleged statements. Since the conspiracy had not been established, that hearsay evidence was inadmissible. Hearsay evidence of an alleged co-conspirator cannot alone form the basis of the conspiracy. The timely objection to this evidence is shown at JA 447-448. The argument in regard to this contention is contained in a separate issue in defendant's opening brief at pages 14-15; however, this is an integral part of the contention herein that the government's evidence as to the conspiracy was totally inadequate and clearly failed to constitute proof beyond a reasonable doubt. Since the hearsay evidence of statements allegedly made by defendant's brother suggesting that he conspired with the defendant was the *only* evidence of defendant's involvement in the conspiracy, their admission into evidence was merely an exercise in boot strapping. Without this wrongful admission there would have been no evidence of

the defendant's involvement in the conspiracy.

Conclusion

For the reasons set forth above the Panel should rehear this appeal and/or this Court should conduct a rehearing *en banc.*

Respectfully submitted this the 16th day of March, 2018.

s/Charles R. Brewer
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CERTIFICATE OF SERVICE

The undersigned certifies that on March 16, 2018, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Amy Elizabeth Ray
amy.ray@usdoj.gov

s/ Charles R. Brewer
Charles R. Brewer

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/s/ Charles R. Brewer
Charles R. Brewer

March 16, 2018

Appendix D

No. 17-4279, *United States of America v. Vincent Mosley*

Order Denying Petition for Rehearing and Rehearing *En Banc*

In the United States Court of Appeals for the Fourth Circuit

Filed April 17, 2018

FILED: April 17, 2018

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-4279
(1:16-cr-00016-MR-DLH-7)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

VINCENT CRAIG MOSLEY, a/k/a Vincent G. Mosley

Defendant - Appellant

O R D E R

The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 35 on the petition for rehearing en banc.

Entered at the direction of the panel: Chief Judge Gregory, Judge Niemeyer, and Judge Thacker.

For the Court

/s/ Patricia S. Connor, Clerk

Appendix E

No. 1:16-cr-00016-MR-DLH-7
United States of America v. Vincent Craig Mosley

Judgment In A Criminal Case

In The United States District Court for the Western District of NC

Filed May 4, 2017

UNITED STATES DISTRICT COURT
Western District of North Carolina

UNITED STATES OF AMERICA	)	**JUDGMENT IN A CRIMINAL CASE**
	)	(For Offenses Committed On or After November 1, 1987)
V.	)	
	)	
VINCENT CRAIG MOSLEY	)	Case Number: DNCW116CR000016-007
	)	USM Number: 32797-058
	)	
	)	Charles R. Brewer
	)	Defendant's Attorney

THE DEFENDANT:

☐ Pleaded guilty to count(s).

☐ Pleaded nolo contendere to count(s) which was accepted by the court.

☒ Was found guilty on counts 2s and 10s after a plea of not guilty.

ACCORDINGLY, the court has adjudicated that the defendant is guilty of the following offenses:

Title and Section	Nature of Offense	Date Offense Concluded	Counts
21 U.S.C. §§ 841(a)(1), 841(b)(1)(C) and 846	Conspiracy to Possess with Intent to Distribute Cocaine and Cocaine Base	1/07/2016	2s
21 U.S.C. §§ 841(a)(1) and 841(b)(1)(C)	Possess with Intent to Distribute Cocaine	9/16/2015	10s

The Defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984, United States v. Booker, 125 S.Ct. 738 (2005), and 18 U.S.C. § 3553(a).

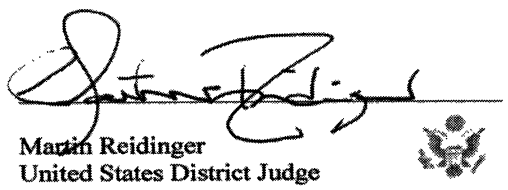
☐ The defendant has been found not guilty on count(s).

☐ Count(s) (is)(are) dismissed on the motion of the United States.

IT IS ORDERED that the Defendant shall 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 monetary penalties, the defendant shall notify the court and United States attorney of any material change in the defendant's economic circumstances.

Date of Imposition of Sentence: 4/20/2017

Signed: May 4, 2017



Martin Reidinger
United States District Judge

Defendant: Vincent Craig Mosley
Case Number: DNCW116CR000016-007

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of TIME SERVED.

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

☒ The Defendant is remanded to the custody of the United States Marshal.

☐ The Defendant shall surrender to the United States Marshal for this District:

- ☐ As notified by the United States Marshal.
- ☐ At _ on _.

☐ The Defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

- ☐ As notified by the United States Marshal.
- ☐ Before 2 p.m. on _.
- ☐ As notified by the Probation Office.

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 Marshal

Defendant: Vincent Craig Mosley
Case Number: DNCW116CR000016-007

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of THREE (3) YEARS AS TO EACH OF COUNTS 2s AND 10s, TO RUN CONCURRENTLY.

☐ The condition for mandatory drug testing is suspended based on the court's determination that the defendant poses a low risk of future substance abuse.

CONDITIONS OF SUPERVISION

The defendant shall comply with the mandatory conditions that have been adopted by this court.

1. The defendant shall not commit another federal, state, or local crime.
2. The defendant shall not unlawfully possess a controlled substance.
3. 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 (unless omitted by the Court).
4. The defendant shall cooperate in the collection of DNA as directed by the probation officer (unless omitted by the Court).

The defendant shall comply with the standard conditions that have been adopted by this court and any additional conditions ordered.

1. The defendant shall report to the probation office in the federal judicial district where he/she is authorized to reside within 72 hours of release from imprisonment, unless the probation officer instructs the defendant to report to a different probation office or within a different time frame.
2. The defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer.
3. The defendant shall not leave the federal judicial district where he/she is authorized to reside without first getting permission from the Court or probation officer.
4. The defendant shall answer truthfully the questions asked by the probation officer.
5. The defendant shall live at a place approved by the probation officer. The probation officer shall be notified in advance of any change in living arrangements (such as location and the people with whom the defendant lives).
6. The defendant shall allow the probation officer to visit him/her at any time at his/her home or elsewhere, and shall permit the probation officer to take any items prohibited by the conditions of his/her supervision that the probation officer observes.
7. The defendant shall work full time (at least 30 hours per week) at lawful employment, unless excused by the probation officer. The defendant shall notify the probation officer within 72 hours of any change regarding employment.
8. The defendant shall not communicate or interact with any persons engaged in criminal activity, and shall not communicate or interact with any person convicted of a felony unless granted permission to do so by the probation officer.
9. The defendant shall notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer.
10. The defendant shall not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. The defendant shall not act or make any agreement with a law enforcement agency to act as a confidential informant without the permission of the Court.
12. If the probation officer determines that the defendant poses a risk to another person (including an organization), the probation officer may require the defendant to notify the person about the risk. The probation officer may contact the person and make such notifications or confirm that the defendant has notified the person about the risk.
13. The defendant shall refrain from excessive use of alcohol and shall not unlawfully purchase, possess, use, distribute or administer any narcotic or controlled substance or any psychoactive substances (including, but not limited to, synthetic marijuana, bath salts) that impair a person's physical or mental functioning, whether or not intended for human consumption, or any paraphernalia related to such substances, except as duly prescribed by a licensed medical practitioner.
14. The defendant shall participate in a program of testing for substance abuse if directed to do so by the probation officer. The defendant shall refrain from obstructing or attempting to obstruct or tamper, in any fashion, with the efficiency and accuracy of the testing. If warranted, the defendant shall participate in a substance abuse treatment program and follow the rules and regulations of that program. The probation officer will supervise the defendant's participation in the program (including, but not limited to, provider, location, modality, duration, intensity) (unless omitted by the Court).
15. The defendant shall not go to, or remain at any place where he/she knows controlled substances are illegally sold, used, distributed, or administered without first obtaining the permission of the probation officer.
16. The defendant shall submit his/her person, property, house, residence, vehicle, papers, computers (as defined in 18 U.S.C. § 1030(e)(1)), or other electronic communications or data storage devices or media, or office, to a search conducted by a United States Probation Officer and such other law enforcement personnel as the probation officer may deem advisable, without a warrant. The defendant shall warn any other occupants that such premises may be subject to searches pursuant to this condition.
17. The defendant shall pay any financial obligation imposed by this judgment remaining unpaid as of the commencement of the sentence of probation or the term of supervised release in accordance with the schedule of payments of this judgment. The defendant shall notify the court of any changes in economic circumstances that might affect the ability to pay this financial obligation.
18. The defendant shall provide access to any financial information as requested by the probation officer and shall authorize the release of any financial information. The probation office may share financial information with the U.S. Attorney's Office.
19. The defendant shall not seek any extension of credit (including, but not limited to, credit card account, bank loan, personal loan) unless authorized to do so in advance by the probation officer.
20. The defendant shall support all dependents including any dependent child, or any person the defendant has been court ordered to support.
21. The defendant shall participate in transitional support services (including cognitive behavioral treatment programs) and follow the rules and regulations of such program. The probation officer will supervise the defendant's participation in the program (including, but not limited to, provider, location, modality, duration, intensity). Such programs may include group sessions led by a counselor or participation in a program administered by the probation officer.
22. The defendant shall follow the instructions of the probation officer related to the conditions of supervision.

Defendant: Vincent Craig Mosley
Case Number: DNCW116CR000016-007

CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the Schedule of Payments.

ASSESSMENT	FINE	RESTITUTION
$200.00	$0.00	$0.00

☐ The determination of restitution is deferred until. An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.

FINE

The defendant shall pay interest on any fine or restitution of more than $2,500.00, unless the fine or restitution is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the Schedule of Payments may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

☒ The court has determined that the defendant does not have the ability to pay interest and it is ordered that:

☒ The interest requirement is waived.

☐ The interest requirement is modified as follows:

COURT APPOINTED COUNSEL FEES

☐ The defendant shall pay court appointed counsel fees.

☐ The defendant shall pay $0.00 towards court appointed fees.

SCHEDULE OF PAYMENTS

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

A ☐ Lump sum payment of $0.00 due immediately, balance due
- ☐ Not later than_____
- ☐ In accordance ☐ (C), ☐ (D) below; or

B ☒ Payment to begin immediately (may be combined with ☐ (C), ☒ (D) below); or

C ☐ Payment in equal Monthly (E.g. weekly, monthly, quarterly) installments of $50.00 to commence 60 (E.g. 30 or 60) days after the date of this judgment; or

D ☒ Payment in equal Monthly (E.g. weekly, monthly, quarterly) installments of $50.00 to commence 60 (E.g. 30 or 60) days after release from imprisonment to a term of supervision. In the event the entire amount of criminal monetary penalties imposed is not paid prior to the commencement of supervision, the U.S. Probation Officer shall pursue collection of the amount due, and may request the court to establish or modify a payment schedule if appropriate 18 U.S.C. § 3572.

Special instructions regarding the payment of criminal monetary penalties:

☐ The defendant shall pay the cost of prosecution.

☐ The defendant shall pay the following court costs:

☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Unless the court has expressly ordered otherwise in the special instructions above, if this judgment imposes a period of imprisonment payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalty payments are to be made to the United States District Court Clerk, 401 West Trade Street, Room 210, Charlotte, NC 28202, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program. All criminal monetary penalty payments are to be made as directed by the court.

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.

STATEMENT OF ACKNOWLEDGMENT

I understand that my term of supervision is for a period of _____months, commencing on _____.

Upon a finding of a violation of probation or supervised release, I understand that the court may (1) revoke supervision, (2) extend the term of supervision, and/or (3) modify the conditions of supervision.

I understand that revocation of probation and supervised release is mandatory for possession of a controlled substance, possession of a firearm and/or refusal to comply with drug testing.

These conditions have been read to me. I fully understand the conditions and have been provided a copy of them.

(Signed) _____ Date: _____
Defendant

(Signed) _____ Date: _____
U.S. Probation Office/Designated Witness