

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

June 26, 2018

Elisabeth A. Shumaker  
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KEN EJIMOFOR EZEAH,

Defendant - Appellant.

No. 17-6224  
(D.C. No. 5:16-CR-00029-D-1)  
(W.D. Okla.)

ORDER AND JUDGMENT\*

Before MATHESON, EID, and CARSON, Circuit Judges.

Ken Ejimofor Ezeah was indicted on 20 counts of conspiracy, wire fraud, and aggravated identity theft arising out of a scheme to obtain money from wealthy widows (Mr. Ezeah refers to the scheme as the "Romance Scam"). He accepted a plea agreement with an appeal waiver and pled guilty to one count of conspiring to commit wire fraud in violation of 18 U.S.C. § 1349. After he was sentenced to 132 months in prison, he appealed. The United States moves to enforce the appeal waiver. Mr. Ezeah, proceeding pro se, has responded. We enforce the waiver and dismiss this appeal.

\* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. See Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

## I. ANALYSIS

The United States may move in its merits brief to enforce a defendant's appeal waiver, *see United States v. Clayton*, 416 F.3d 1236, 1239 (10th Cir. 2005), as it has done here. In deciding whether to enforce an appeal waiver, we consider "(1) whether the disputed appeal falls within the scope of the waiver of appellate rights; (2) whether the defendant knowingly and voluntarily waived his appellate rights; and (3) whether enforcing the waiver would result in a miscarriage of justice." *United States v. Hahn*, 359 F.3d 1315, 1325 (10th Cir. 2004) (en banc) (per curiam). Before analyzing those factors, however, we consider Mr. Ezeah's assertions that the government breached the plea agreement, because "an appellate waiver is not enforceable if the [g]overnment breaches its obligations under the plea agreement." *United States v. Rodriguez-Rivera*, 518 F.3d 1208, 1212 (10th Cir. 2008).

### A. *The Government Did Not Breach the Plea Agreement*

"A claim that the government has breached a plea agreement is a question of law we review de novo, even where the defendant failed to object at the time of the alleged breach." *United States v. Rodriguez-Delma*, 456 F.3d 1246, 1250 (10th Cir. 2006) (internal quotation marks omitted). "In interpreting a plea agreement, we rely on general principles of contract law, and therefore look to the express language in the agreement to identify both the nature of the government's promise and the defendant's reasonable understanding of this promise at the time of the entry of the guilty plea." *Rodriguez-Rivera*, 518 F.3d at 1212-13 (citation and internal quotation marks omitted).

Mr. Ezeah identifies the alleged breach as the government's failure to move for a particular reduction in his offense level. But in the plea agreement the government promised only a three-level reduction for acceptance of responsibility—an adjustment that Mr. Ezeah duly received. The plea agreement does not require the government to file any other motions for a reduction.

Mr. Ezeah asserts that his counsel informed him that the government would file the additional motion. The record, however, offers little support for the conclusion that Mr. Ezeah reasonably understood that his plea deal included the alleged reduction. As stated, the plea agreement itself does not contain any such obligation. Mr. Ezeah confirmed both in writing and orally under oath that there were no additional terms beyond the terms of the written plea agreement, and he agreed with the prosecutor's plea-colloquy summary of the government's obligations, which did not include the additional reduction. Moreover, Mr. Ezeah's sentencing memorandum fails to support the alleged obligation, and he did not raise the issue in his objections to the presentence report or during his allocution.

The record contains only two references to the alleged obligation, both from the reconvened sentencing hearing.<sup>1</sup> One is a letter that Mr. Ezeah submitted to the court, and the other is his counsel's raising of the issue, at Mr. Ezeah's request, at the end of the hearing. But Mr. Ezeah's unsworn, post hoc statements cannot overcome the plain

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<sup>1</sup> The sentencing hearing abruptly terminated when Mr. Ezeah suffered a medical emergency during the pronouncement of sentence. The district court reconvened the sentencing hearing a week later.

language of the plea agreement and the remainder of the record evidence regarding the government's plea obligations, including his own prior sworn representations.

For these reasons, we conclude that the government was not obligated to move for the reduction claimed by Mr. Ezeah, and it therefore has not breached the plea agreement. Accordingly, we proceed to consider the government's request to enforce the appeal waiver.

### ***B. The Hahn Factors are Satisfied***

#### **1. The appeal falls within the scope of the waiver**

First, we consider whether the appeal falls within the scope of the waiver. *Hahn*, 359 F.3d at 1325. The plea agreement provides that Mr. Ezeah "waives his right to appeal his guilty plea, and any other aspect of his conviction, including but not limited to any rulings on pretrial suppression motions or any other pretrial dispositions of motions and issues" and "waives his right to appeal his sentence as imposed by the Court, including any restitution, and the manner in which the sentence is determined." First Supp. R., Vol. I at 12.<sup>2</sup>

With one exception, the issues Mr. Ezeah wishes to argue fall within the broad scope of the appeal waiver. The exception is for a claim of ineffective assistance of counsel in the negotiation of the plea or waiver, which cannot be waived, *see United States v. Cockerham*, 237 F.3d 1179, 1184 (10th Cir. 2001). It has long been

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<sup>2</sup> The waiver contains an exception allowing Mr. Ezeah to appeal the substantive reasonableness of his sentence if the court were to sentence him above the advisory Guidelines range. But this exception does not apply because the 132-month sentence Mr. Ezeah received was within the Guidelines range.

the rule, however, that ineffective-assistance claims generally should be raised in collateral proceedings under 28 U.S.C. § 2255. *See United States v. Galloway*, 56 F.3d 1239, 1240 (10th Cir. 1995) (en banc). That is because “[a] factual record must be developed in and addressed by the district court in the first instance for effective review. . . . [A]t the very least counsel accused of deficient performance can explain their reasoning and actions, and the district court can render its opinion on the merits of the claim.” *Id.* at 1240. “This rule [of deferring ineffective-assistance claims to § 2255 proceedings] applies even where a defendant seeks to invalidate an appellate waiver based on ineffective assistance of counsel.” *United States v. Porter*, 405 F.3d 1136, 1144 (10th Cir. 2005); *see also Hahn*, 359 F.3d at 1327 n.13.

Notwithstanding Mr. Ezeah’s protestations that this court should hear his ineffective-assistance claims in this direct appeal, the record is not sufficient for us to consider such claims. To the extent that Mr. Ezeah wishes to pursue claims of ineffective assistance of counsel, he therefore will have to do so by bringing a § 2255 motion.<sup>3</sup>

**2. The record fails to show that the waiver was not knowing and voluntary**

We next consider whether the waiver was knowing and voluntary. *Hahn*, 359 F.3d at 1325. In evaluating this factor, we generally examine the language of the plea agreement and the adequacy of the Fed. R. Crim. P. 11 plea colloquy. *Id.* It is Mr. Ezeah’s burden “to provide support for the notion that he did not knowingly and voluntarily enter into his plea agreement.” *Id.* at 1329; *see also United States v. Edgar*,

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<sup>3</sup> The plea agreement’s collateral-attack waiver explicitly excepts claims of ineffective assistance of counsel. *See* First Supp. R., Vol. I at 12.

348 F.3d 867, 872-73 (10th Cir. 2003) (“[The defendant] has the burden to present evidence from the record establishing that he did not understand the waiver.”).

The plea agreement’s waiver paragraph represents that the appeal waiver was knowingly and voluntarily accepted, and the paragraph just before the signatures acknowledged that Mr. Ezeah had discussed the provisions with his attorney and understood and accepted them. Mr. Ezeah also signed a petition to enter a plea of guilty stating that his plea was voluntary, that he was familiar with the terms of the plea agreement and understood them, and that his plea agreement reserved no rights for appeal.

During the plea colloquy, the district court noted the appeal waiver, and Mr. Ezeah confirmed his understanding that he had waived his right to appeal except under limited circumstances. He also confirmed that his plea and his waivers of his rights were “made voluntarily and completely of [his] own free choice,” and denied that “anyone forced or pressured [him] into pleading guilty.” R., Vol. I at 300-01. He asserted that he was “pleading guilty of [his] own free will because [he was], in fact, guilty,” and stated that he was satisfied with his attorney’s services. *Id.* at 306.

Mr. Ezeah informs this court that his plea was unknowingly and unintelligently made. But he identifies no record evidence to support these assertions.<sup>4</sup> To the contrary,

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<sup>4</sup> We do not consider the declaration under penalty of perjury that Mr. Ezeah attached to his opening brief because our review is limited to the record before the district court. *See Edgar*, 348 F.3d at 872-73 (holding that the defendant could not merely deny that the agreement was knowing and voluntary, but had “to present evidence from the record establishing that he did not understand the waiver” (emphasis added)).

as discussed, the record fails to support any argument that the waiver was not knowing and voluntary. *See United States v. Tanner*, 721 F.3d 1231, 1233 (10th Cir. 2013) (per curiam) (“A properly conducted plea colloquy, particularly one containing express findings, will, in most cases, be conclusive on the waiver issue, in spite of a defendant’s post hoc assertions to the contrary.”).

**3. The record does not establish that a miscarriage of justice would result from enforcing the waiver**

Finally, we consider whether enforcing the waiver would result in a miscarriage of justice, as *Hahn* defines that term. *Hahn*, 359 F.3d at 1325, 1327. A miscarriage of justice occurs “[1] where the district court relied on an impermissible factor such as race, [2] where ineffective assistance of counsel in connection with the negotiation of the waiver renders the waiver invalid, [3] where the sentence exceeds the statutory maximum, or [4] where the waiver is otherwise unlawful.” *Id.* at 1327 (internal quotation marks omitted). Only ineffective assistance of counsel potentially appears to be implicated here. As stated above, however, any such allegations should be raised in a § 2255 proceeding. *See Porter*, 405 F.3d at 1144; *Hahn*, 359 F.3d at 1327 n.13.

**III. CONCLUSION**

For these reasons, the government’s motion to enforce the appeal waiver, made in its response brief, is granted. This matter is dismissed without prejudice to Mr. Ezeah filing a § 2255 motion alleging ineffective assistance of counsel. Mr. Ezeah’s opening brief with attached declaration shall remain sealed. The “Petition for Court’s Disposition on a Suggestion for Rehearing En Banc,” seeking rehearing en banc of the court’s denial

of reconsideration of its denial of release pending appeal, is denied. *See* 10th Cir. R. 35.7 (providing that procedural and interim orders are not considered en banc), 40.3 (“The court will accept only one petition for rehearing from any party to an appeal. No motion to reconsider the court’s ruling on a petition for rehearing may be filed.”).

Entered for the Court

Scott M. Matheson, Jr.  
Circuit Judge



UNITED STATES COURT OF APPEALS  
FOR THE TENTH CIRCUIT

FILED  
United States Court of Appeals  
Tenth Circuit

July 20, 2018

Elisabeth A. Shumaker  
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KEN EJIMOFOR EZEAH,

Defendant - Appellant.

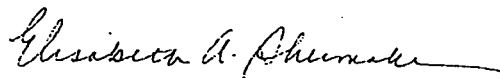
No. 17-6224  
(D.C. No. 5:16-CR-00029-D-1)  
(W.D. Okla.)

ORDER

Before **MATHESON, EID, and CARSON**, Circuit Judges.

Ken Ejimofor Ezeah filed a petition for rehearing and rehearing en banc. The panel voted to deny rehearing and did not call for a poll on the en banc request. The petition was circulated to the active judges on the court and no judge called for a poll. Accordingly, Mr. Ezeah's petition for rehearing and rehearing en banc is denied. His "Petition to re-instate Release on Bond while pending appeal in light of petition for Rehearing En Banc" is denied as moot.

Entered for the Court



ELISABETH A. SHUMAKER, Clerk

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA

V.

Ken Ejiofor Ezeah

## JUDGMENT IN A CRIMINAL CASE

Case Number: CR-16-29-001-D

USM Number: 98590-379

Robert L. Wyatt IV, Frank A. Mba  
Defendant's Attorney

## THE DEFENDANT:

- ☒ pleaded guilty to count(s) 1 of the 20-count Superseding Indictment filed on June 22, 2016.
- ☐ pleaded nolo contendere to count(s) \_\_\_\_\_  
which was accepted by the court.
- ☐ was found guilty on count(s) \_\_\_\_\_  
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. § 1349	Conspiracy to Commit Wire Fraud	January 2016	1

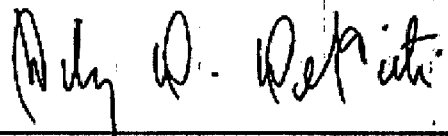
The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- ☐ The defendant has been found not guilty on count(s) \_\_\_\_\_.
- ☒ Counts 2 through 20 of the Superseding Indictment filed on June 22, 2016, 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 material changes in economic circumstances.

October 6, 2017

Date of Imposition of Sentence


TIMOTHY D. DEGIUSTI  
UNITED STATES DISTRICT JUDGE

October 6, 2017

Date Signed

AO 245B (Rev. 11/16)

Judgment in a Criminal Case

Sheet 2 - Imprisonment

Defendant: Ken Ejiofor Ezeah

Judgment-Page 2 of 7

Case Number: CR-16-29-001-D

### IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of: 132 months.

☒ The court makes the following recommendations to the Bureau of Prisons:

That the defendant, if eligible, participate in the Inmate Financial Responsibility Program at a rate determined by Bureau of Prisons staff in accordance with the requirements of the Inmate Financial Responsibility Program;

That the defendant, if eligible, be incarcerated at FCI Seagoville.

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

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at 12:00 noon on \_\_\_\_\_

☐ as notified by the United States Marshal.

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

☐ at 12:00 noon on \_\_\_\_\_

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services 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 United States Marshal

AO 245B (Rev. 11/16) Judgment in a Criminal Case  
Sheet 3 - Supervised Release

Defendant: Ken Ejiofor Ezeah  
Case Number: CR-16-29-001-D

Judgment-Page 3 of 7

### SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of: 3 years

### MANDATORY CONDITIONS

1. You must not commit another federal, state, or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must 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 above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse, but the court specifically retains the probation officer's authority under 18 U.S.C. § 3603 to administer drug testing for cause as a suitable method for monitoring the defendant's compliance with the standard conditions of supervision prohibiting the use of controlled substances. *(check if applicable)*
4. ☒ You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
5. ☐ You must 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 the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
6. ☐ You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached pages.

Defendant: Ken Ejiofor Ezeah  
Case Number: CR-16-29-001-D

Judgment-Page 4 of 7

**STANDARD CONDITIONS OF SUPERVISION**

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must 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. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

**U.S. Probation Office Use Only**

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: [www.uscourts.gov](http://www.uscourts.gov).

Defendant's Signature \_\_\_\_\_

Date \_\_\_\_\_

AO 245B (Rev. 11/16) Judgment in a Criminal Case  
 Sheet 3B - Supervised Release

Defendant: Ken Ejimofor Ezeah  
 Case Number: CR-16-29-001-D

Judgment-Page 5 of 7

### SPECIAL CONDITIONS OF SUPERVISION

The defendant shall maintain a single checking account in the defendant's name. The defendant shall deposit into this account all income, monetary gains, or other pecuniary proceeds, and make use of this account for payment of all personal expenses. All other bank accounts must be disclosed to the probation officer.

The defendant shall not make application for any loan or enter into any credit arrangement without first consulting with the probation officer.

The defendant shall disclose all assets and liabilities to the probation officer. The defendant shall not transfer, sell, give away or otherwise convey any asset, without first consulting with the probation officer. Unnecessary

If the defendant maintains interest in any business or enterprise, the defendant shall, upon request, surrender and/or make available for review, any and all documents and records of said business or enterprise to the probation officer.

The defendant shall, upon request of the probation officer, authorize release of any and all financial information, to include income records, income tax records, and social security records, by execution of a release of financial information form, or by any other appropriate means.

The defendant shall notify the court and the Attorney General of any material change in economic circumstances that might affect the defendant's ability to pay a fine and/or restitution.

If, not detained by the Bureau of Immigration and Customs Enforcement at the time of release, or if detained and later released, within 72 hours of release from the custody of the Bureau of Prisons, the defendant shall report in person to the probation office in the district to which the defendant is released. If the defendant is detained by the Bureau of Immigration and Customs Enforcement and returned to a foreign country, the defendant is to report within 72 hours of any subsequent return to the United States during the period of supervised release.

AO 245B (Rev. 11/16) Judgment in a Criminal Case  
Sheet 5 - Criminal Monetary PenaltiesDefendant: Ken Ejiofor Ezeah  
Case Number: CR-16-29-001-DJudgment-Page 6 of 7**CRIMINAL MONETARY PENALTIES**

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>JVTA Assessment*</u>	<u>Fine</u>	<u>Restitution</u>
<b>TOTALS</b>	\$100.00	\$0.00	\$0.00	\$4,678,302.79

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

☒ The defendant must make restitution (including community restitution) payments to the U.S. Court Clerk, 200 N.W. 4<sup>th</sup> Street, Oklahoma City, OK 73102, to be distributed to the payees in the amounts listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

☒ Individual names omitted. See list in Court Clerk's Office.

<u>Name of Payee</u>	<u>Total Loss**</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
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	4,678,302.79		
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<b>TOTALS</b>	\$ _____	<b>\$ 4,678,302.79</b>
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☐ Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine 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 Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

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

<input type="checkbox"/> The interest requirement is waived for the	<input type="checkbox"/> fine	<input type="checkbox"/> restitution.
<input type="checkbox"/> The interest requirement for the	<input type="checkbox"/> fine	<input type="checkbox"/> restitution is modified as follows:

\*Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

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

AO 245B (Rev. 11/16) Judgment in a Criminal Case  
Sheet 6 - Schedule of PaymentsDefendant: Ken Ejiofor Ezeah  
Case Number: CR-16-29-001-DJudgment-Page 7 of 7**SCHEDULE OF PAYMENTS**

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

- A** ☒ Lump sum payment of \$ 4,678,402.79 due immediately, balance due
- ☐ not later than \_\_\_\_\_, or
- ☐ in accordance with ☐ C, ☐ D, ☐ E, or ☒ F below; or
- B** ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C** ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D** ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E** ☐ Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F** ☒ Special instructions regarding the payment of criminal monetary penalties:

If restitution is not paid immediately, the defendant shall make payments of 10% of the defendant's quarterly earnings during the term of imprisonment.

After release from confinement, if restitution is not paid immediately, the defendant shall make payments of the greater of \$ 400.00 per month or 10% of defendant's gross monthly income, as directed by the probation officer. Payments are to commence not later than 30 days after release from confinement.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, shall be paid through the United States Court Clerk for the Western District of Oklahoma, 200 N.W. 4<sup>th</sup> Street, Oklahoma City, Oklahoma 73102.

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

- ☒ Joint and Several
- | Defendant and Co-Defendant Names | Case Number (including dft number) | Joint and Several Amount |
|----------------------------------|------------------------------------|--------------------------|
| Akunna Baiyina Ejiofor,          | CR-16-29-002-D                     |                          |

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

All right, title, and interest in the assets listed in the Preliminary Order of Forfeiture dated \_\_\_\_\_ (doc. no. \_\_\_\_\_).

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) JVTA assessment, (8) penalties, and (9) costs, including cost of prosecution and court costs.



Date: 10/16/2018  
Time: 12:29:52 PM

Location: LAT

Federal Bureau of Prisons  
TRULINCS Account Transactions - Commissary  
Personal Inmate Information

Inmate No: 98590379	Inmate Name: EZEAH, KEN EJIMOFOR	Available Balance: \$204.55
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Date	Reference #	Transaction Type	Sender Last name	Amount
10/16/2018	TL1016	TRUL Withdrawal		-\$2.00
10/16/2018	TL1016	TRUL Withdrawal		-\$2.00
10/16/2018	TL1016	TRUL Withdrawal		-\$2.00
10/16/2018	TFN1016	Phone Withdrawal		-\$6.00
10/16/2018	9	Sales		-\$10.00
10/15/2018	TL1015	TRUL Withdrawal		-\$5.00
10/15/2018	56	Sales		-\$78.85
10/15/2018	TFN1015	Phone Withdrawal		-\$10.00
10/15/2018	TFN1015	Phone Withdrawal		-\$4.00
10/15/2018	TL1015	TRUL Withdrawal		-\$10.00
10/14/2018	TL1014	TRUL Withdrawal		-\$2.00
10/14/2018	TFN1014	Phone Withdrawal		-\$5.00
10/14/2018	TL1014	TRUL Withdrawal		-\$2.00
10/13/2018	TL1013	TRUL Withdrawal		-\$2.00
10/13/2018	TL1013	TRUL Withdrawal		-\$5.00
10/12/2018	TL1012	TRUL Withdrawal		-\$2.00
10/12/2018	TFN1012	Phone Withdrawal		-\$6.00
10/12/2018	TL1012	TRUL Withdrawal		-\$2.00
10/12/2018	TL1012	TRUL Withdrawal		-\$5.00
10/11/2018	TL1011	TRUL Withdrawal		-\$5.00
10/11/2018	TL1011	TRUL Withdrawal		-\$5.00
10/10/2018	TL1010	TRUL Withdrawal		-\$5.00
10/10/2018	TFN1010	Phone Withdrawal		-\$9.00
10/10/2018	TL1010	TRUL Withdrawal		-\$2.00
10/10/2018	33418283	Money Gram	EZEAH	\$100.00
10/10/2018	TL1010	TRUL Withdrawal		-\$10.00
10/10/2018	33318283	Western Union	EZEAH	\$300.00
10/10/2018	TL1010	TRUL Withdrawal		-\$2.00
10/09/2018	TL1009	TRUL Withdrawal		-\$2.00
10/09/2018	UIPP0918	Payroll - IPP		\$5.25
10/09/2018	132	Sales		-\$104.30
10/09/2018	TL1009	TRUL Withdrawal		-\$2.00
10/09/2018	TL1009	TRUL Withdrawal		-\$2.00

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Date	Reference #	Transaction Type	Sender Last name	Amount
10/09/2018	TL1009	TRUL Withdrawal		-\$2.00
10/08/2018	TL1008	TRUL Withdrawal		-\$5.00
10/08/2018	TL1008	TRUL Withdrawal		-\$2.00
10/08/2018	TFN1008	Phone Withdrawal		-\$5.00
10/08/2018	TL1008	TRUL Withdrawal		-\$5.00
10/08/2018	33318281	Western Union	EZEAH	\$43.00
10/07/2018	TL1007	TRUL Withdrawal		-\$2.00
10/06/2018	TL1006	TRUL Withdrawal		-\$5.00
10/06/2018	TL1006	TRUL Withdrawal		-\$2.00
10/06/2018	TL1006	TRUL Withdrawal		-\$2.00
10/06/2018	TFN1006	Phone Withdrawal		-\$5.00
10/06/2018	TL1006	TRUL Withdrawal		-\$5.00
10/05/2018	TL1005	TRUL Withdrawal		-\$2.00
10/05/2018	TL1005	TRUL Withdrawal		-\$2.00
10/05/2018	TFN1005	Phone Withdrawal		-\$5.00
10/05/2018	TL1005	TRUL Withdrawal		-\$2.00
10/05/2018	TL1005	TRUL Withdrawal		-\$2.00
10/04/2018	TL1004	TRUL Withdrawal		-\$2.00
10/04/2018	TL1004	TRUL Withdrawal		-\$2.00
10/04/2018	TL1004	TRUL Withdrawal		-\$10.00
10/04/2018	33418277	Money Gram	EZEAH	\$100.00
10/04/2018	TL1004	TRUL Withdrawal		-\$2.00
10/04/2018	TFN1004	Phone Withdrawal		-\$5.00
10/04/2018	TL1004	TRUL Withdrawal		-\$2.00
10/03/2018	TL1003	TRUL Withdrawal		-\$2.00
10/03/2018	TL1003	TRUL Withdrawal		-\$2.00
10/03/2018	TL1003	TRUL Withdrawal		-\$2.00
10/03/2018	TL1003	TRUL Withdrawal		-\$2.00
10/02/2018	TL1002	TRUL Withdrawal		-\$2.00
10/02/2018	TL1002	TRUL Withdrawal		-\$2.00
10/01/2018	TL1001	TRUL Withdrawal		-\$2.00
10/01/2018	12	Sales		-\$159.55
09/26/2018	TL0926	TRUL Withdrawal		-\$5.00
09/26/2018	TL0926	TRUL Withdrawal		-\$30.00

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Date	Reference #	Transaction Type	Sender Last name	Amount
09/26/2018	TL0926	TRUL Withdrawal		-\$10.00
09/26/2018	TFN0926	Phone Withdrawal		-\$60.00
09/26/2018	TL0926	TRUL Withdrawal		-\$5.00
09/25/2018	TL0925	TRUL Withdrawal		-\$5.00
09/25/2018	TFN0925	Phone Withdrawal		-\$8.00
09/25/2018	TL0925	TRUL Withdrawal		-\$2.00
09/25/2018	TL0925	TRUL Withdrawal		-\$2.00
09/24/2018	TL0924	TRUL Withdrawal		-\$2.00
09/24/2018	TL0924	TRUL Withdrawal		-\$2.00
09/24/2018	TL0924	TRUL Withdrawal		-\$2.00
09/24/2018	TL0924	TRUL Withdrawal		-\$2.00
09/24/2018	TFN0924	Phone Withdrawal		-\$5.00
09/22/2018	TL0922	TRUL Withdrawal		-\$5.00
09/22/2018	TL0922	TRUL Withdrawal		-\$2.00
09/22/2018	TL0922	TRUL Withdrawal		-\$2.00
09/22/2018	TFN0922	Phone Withdrawal		-\$10.00
09/21/2018	TL0921	TRUL Withdrawal		-\$2.00
09/21/2018	TL0921	TRUL Withdrawal		-\$5.00
09/20/2018	TL0920	TRUL Withdrawal		-\$5.00
09/20/2018	TL0920	TRUL Withdrawal		-\$5.00
09/20/2018	33418263	Money Gram	EZEAH	\$70.00
09/20/2018	140	Sales		-\$79.30
09/20/2018	33418263	Money Gram	EZEAH	\$80.00
09/20/2018	TFN0920	Phone Withdrawal		-\$5.00
09/20/2018	TL0920	TRUL Withdrawal		-\$2.00
09/19/2018	TL0919	TRUL Withdrawal		-\$5.00
09/19/2018	TL0919	TRUL Withdrawal		-\$2.00
09/19/2018	TL0919	TRUL Withdrawal		-\$2.00
09/19/2018	TL0919	TRUL Withdrawal		-\$2.00
09/18/2018	TL0918	TRUL Withdrawal		-\$2.00
09/18/2018	TFN0918	Phone Withdrawal		-\$10.00
09/18/2018	TL0918	TRUL Withdrawal		-\$10.00
09/18/2018	TL0918	TRUL Withdrawal		-\$5.00
09/18/2018	TL0918	TRUL Withdrawal		-\$2.00

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Date	Reference #	Transaction Type	Sender Last name	Amount
09/18/2018	TFN0918	Phone Withdrawal		-\$5.00
09/17/2018	TL0917	TRUL Withdrawal		-\$2.00
09/17/2018	TL0917	TRUL Withdrawal		-\$2.00
09/17/2018	TL0917	TRUL Withdrawal		-\$2.00
09/17/2018	TL0917	TRUL Withdrawal		-\$2.00
09/17/2018	TFN0917	Phone Withdrawal		-\$6.00
09/16/2018	TL0916	TRUL Withdrawal		-\$5.00
09/16/2018	TFN0916	Phone Withdrawal		-\$15.00

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Clerk's Office.**