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APPENDIX A

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 17-13576
Non-Argument Calendar

D.C. Docket No. 5:16-cr-00007-MTT-CHW-1
UNITED STATES OF AMERICA,
Plaintiff – Appellee,
versus
MARK MANN,
Defendant – Appellant.

Appeal from the United States District Court
for the Middle District of Georgia

(August 30, 2018)

Before JILL PRYOR, HULL and JULIE CARNES, Cir-
cuit Judges.

PER CURIAM:

Mark Mann appeals his conviction and sentence
for possession of an unregistered firearm in violation
of 26 U.S.C. §§ 5841, 5845(a), 5861(d), and 5871. He

argues that the district court erred in denying his motion for judgment of acquittal and that his 97-month sentence is both procedurally and substantively unreasonable. After careful review, we affirm.

I. BACKGROUND

Mann was charged with one count of knowingly possessing an unregistered firearm, and his codefendant, Henry McGirt, was charged with aiding and abetting Mann. McGirt pled guilty to one count of aiding and abetting a false entry in a firearm record, in violation of 18 U.S.C. §§ 922(m), 924(a)(3)(B), and 2. [sic] Mann proceeded to trial.

The evidence at trial established the following. Mann, who is blind, owned The Rifleman, a gun store in Macon, Georgia. Mann sent his employee and store manager McGirt to Michigan to pick up a Lahti Finland antitank rifle from Dale Wiseman. Because it was a destructive device under the National Firearms Act (NFA), the Lahti qualified as an NFA weapon and was required to be registered through the Bureau of Alcohol, Tobacco and Firearms (ATF) National Firearms Branch on the National Firearms Registration and Transfer Record (NFRTR).

Mann sent McGirt to Michigan with two ATF forms—ATF Form 4 and ATF Form 5. ATF Form 4 is required to transfer possession of an NFA weapon. Before the NFA weapon can be transferred, the National Firearms Branch must review ATF Form 4 and approve the transfer. Until the transfer is approved, the

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NFA weapon must stay with the original owner. ATF Form 5 may be used to temporarily transfer an NFA weapon for service or repair. To temporarily transfer an NFA weapon under ATF Form 5, no approval from the National Firearms Branch is required.

McGirt understood that he was to purchase the Lahti from Wiseman. Acting under orders from Mann, McGirt had Wiseman sign both ATF forms. He paid Wiseman a total of \$11,000—in a combination of cash and two checks—that Mann had given him to purchase the Lahti. McGirt then took the Lahti to the Knob Creek Machine Gun Shoot. When the event was over, the two men took the Lahti to Macon and stored it in a vault at The Rifleman. Mann submitted the ATF Form 4 to the National Firearms Branch. The Branch subsequently disapproved the transfer.

Meanwhile, Wiseman attempted to deposit the two checks for the Lahti, but they were returned for insufficient funds. Wiseman's daughter, Sheila Frison, called the ATF. Frison had assisted her father in selling the Lahti, speaking to Mann over the phone and sending him photographs of the weapon and included accessories. Frison told the ATF about the two returned checks and explained that she considered the gun to be stolen because her father had not received the agreed-upon payment. Frison then got in touch with Mann, who sent her money orders to cover the overdrawn checks. Frison cashed the money orders and at that point considered the sale of the Lahti to be final.

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The ATF nonetheless followed up on Frison's complaint about the returned checks. An ATF specialist searched the NFRTR, saw that the Lahti was registered to Wiseman, and froze the record so that the weapon could not be transferred. Another ATF specialist conducted a Facebook search and found photographs of the Lahti advertised for sale on The Rifleman's Facebook account. An undercover ATF officer then visited The Rifleman store and discussed the Lahti with employees; he was told that it was stored in the back. ATF agents obtained a search warrant and located the Lahti in the store's vault. They seized the weapon.

During Mann's trial, the government also presented evidence of three other NFA weapons purchases that Mann had made. Marion Martin sold Mann a machine gun. A year after the sale, McGirt called Martin and asked him to write a letter indicating that the weapon was being repaired, tested, and evaluated. Martin wrote the letter even though there had been no conversation about repair or maintenance when Mann purchased the gun.

Mann also purchased a machine gun from Michael Holliday. Holliday's wife testified that the weapon was not in need of repair and was not given to Mann for the purpose of repair. ATF agents found the gun in The Rifleman's vault. No ATF forms showed that Mann ever had registered the weapon in his name with the National Firearms Branch.

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Margie Wood gave a machine gun to Mann to sell for her on consignment. Don Perry purchased Wood's machine gun on a gun website. Perry later learned the seller was The Rifleman. As with Holliday's weapon, no ATF forms showed that the gun ever was registered to Mann. Instead, the ATF Form 4 showed a transfer directly from Wood to Michael Smith, a Federal Firearms Licensee in Mississippi to whom Perry had requested the weapon be transferred after he purchased it.

Mann testified in his own defense at trial. He acknowledged that the Lahti was a destructive device but said that he took possession of it for service and evaluation, planning to buy it only if everything checked out okay. He testified that he had told McGirt that Wiseman was supposed to hold the checks until Mann had been able to evaluate the weapon; according to Mann, the checks had bounced because Wiseman had failed to wait for a final determination. Mann also explained that he often called federal agents at the ATF Branch in Martinsburg, West Virginia for advice about navigating the federal regulations regarding NFA weapons. He testified that he spoke to an agent named Ernie Litner at the ATF Branch who told him he could keep the Lahti while waiting for the ATF Form 4 approval because he also had completed ATF Form 5.

In rebuttal, the government presented evidence that Ernie Litner had not been employed at the Martinsburg ATF Branch during the relevant time; thus he would not have been available to answer Mann's questions about transferring the Lahti. The government

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also recalled McGirt, who testified that he had performed no repairs to the Lahti, had not seen other employees repair or service the Lahti, and had never had [sic] discussed with Mann that Wiseman should hold the checks and not cash them. The jury found Mann guilty of possession of an unregistered firearm.

Before the jury verdict, Mann moved for a judgment of acquittal under Federal Rule of Criminal Procedure 29. He argued the evidence showed that he possessed the Lahti properly under an ATF Form 5 because he was evaluating it to determine its condition. The district court denied Mann's motion after the trial, finding that the evidence was sufficient for the jury to have found that Mann possessed the Lahti knowing that it was not registered to him and that Mann's "purported reliance on the 'repair and evaluation' exception was a sham." Doc. 109 at 2.¹

Mann proceeded to sentencing. His base offense level was 18 under United States Sentencing Guideline § 2K2.1(a)(5). After receiving several enhancements, Mann's total offense level was 30. His criminal history category was I. Accordingly, his guidelines range, as limited by the statutory maximum for his statute of conviction, was 97 to 120 months of imprisonment. The district court overruled Mann's objections to the various enhancements and concluded that the guidelines range had been calculated correctly.

¹ Citations to "Doc. #" refer to the numbered district court docket entries.

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In arguing for a reduced sentence, Mann pointed to the disparity between his guidelines range and McGirt's sentence of five years' probation. He also requested that the court vary downward based on his lack of a criminal record and the nature of the offense. He argued that as a blind person attempting to maintain records and adhere to complicated regulations, he was forced to rely on his employees and that, although he had made some accounting errors, he lacked any criminal intent.

The district court stated on the record that it had considered the advisory guidelines and the 18 U.S.C. § 3553(a) factors and had made an individualized assessment. The court found that the [sic] Mann had not committed mere record-keeping errors, but rather that he intentionally had violated laws designed to regulate dangerous weapons. The court sentenced Mann to 97 months' imprisonment, followed by two years of supervised release. This is Mann's appeal.

II. STANDARDS OF REVIEW

We review a challenge to the denial of a Rule 29 motion for judgment of acquittal *de novo*. *United States v. Chafin*, 808 F.3d 1263, 1268 (11th Cir. 2015). We will uphold the district court's denial of a motion for judgment of acquittal if a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt. *Id.* We view the evidence in the light most favorable to the government, resolving all reasonable inferences in favor of the guilty verdict. *Id.* "It is not necessary for the

government to disprove every reasonable hypothesis of innocence, as a jury is free to choose among reasonable constructions of the evidence.” *United States v. Foster*, 878 F.3d 1297, 1304 (11th Cir. 2018) (internal quotation marks omitted).

“It is well established that credibility determinations are the exclusive province of the jury.” *United States v. Croteau*, 819 F.3d 1293, 1304 (11th Cir. 2016) (internal quotation marks omitted). We assume the jury made all credibility choices in support of the verdict. *Id.* at 1305. A criminal defendant who chooses to testify “runs the risk that if disbelieved the jury might conclude the opposite of his testimony is true,” and “[s]uch an inference . . . may be considered substantive evidence of his guilt.” *Id.* (internal quotation marks omitted).

We review the reasonableness of a sentence for an abuse of discretion. *United States v. Cubero*, 754 F.3d 888, 892 (11th Cir. 2014). Our review is a two-step process: first, we ensure that no significant procedural error occurred; second, we ensure that the sentence is substantively reasonable under the totality of the circumstances and in light of the 18 U.S.C. § 3553(a) factors. *Id.*

III. ANALYSIS

On appeal, Mann argues (1) the district court erred in denying his motion for judgment of acquittal because the evidence was insufficient to support his conviction, and (2) his 97-month sentence was

procedurally and substantively unreasonable. We address each issue in turn.

A. The Evidence at Trial Was Sufficient to Establish that Mann Possessed an Unregistered Firearm.

Mann argues that the evidence was insufficient to prove that he possessed an unregistered firearm and that the district court thus erred in denying his motion for judgment of acquittal. It is unlawful for any person to receive or possess a firearm subject to NFRTR registration if the firearm is not registered to him in the NFRTR. 26 U.S.C. § 5861(d). To sustain a conviction under § 5861(d), the government needed to prove that Mann knowingly possessed the Lahti and that the Lahti was not registered to him in the NFRTR. *See United States v. Mantes-Cardenas*, 746 F.2d 771, 779 (11th Cir. 1984). “Possession itself is sufficient, and the government need not prove that the defendant knew that registration was required. Possession may be actual or constructive and can be proven by circumstantial evidence.” *Id.* (citation omitted).

The evidence was sufficient for a reasonable trier of fact to conclude that Mann possessed an NFA weapon that was not registered to him in the NFRTR. The government submitted evidence that Mann paid for the Lahti, took the weapon to his store, kept it in his vault, and advertised it for sale. Additionally, the government offered evidence that the ATF Form 4 that

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Mann submitted was disapproved and that the weapon was not registered in Mann's name.

Indeed, Mann does not dispute that he had possession of the Lahti and that it was not registered to him in the NFRTR. He argues, however, that the government failed to prove that he and Wiseman entered into a contract for sale of the weapon. Instead, Mann insists, the evidence showed that he took possession of the weapon under an ATF Form 5—for temporary evaluation and service—and thus he was not required to have registered it in his name. We are unconvinced.

First, the government had no obligation to prove that Wiseman sold Mann the weapon because “[p]ossession itself is sufficient.” *Id.* Second, the jury was entitled to reject Mann's defense that he possessed the weapon only for service and evaluation and thus was not required to have registered it under his name. The government submitted evidence that neither McGirt nor Frison believed that Mann had taken possession of the Lahti for service or repair, the weapon was advertised for sale on The Rifleman's Facebook page, and Mann had engaged in transactions in the past where he either failed to register an NFA weapon in his name or later represented that he had taken a weapon for service or repair even though the other party understood that Mann had purchased the weapon.

Additionally, despite Mann's testimony that he took possession of the Lahti to evaluate it and that he had been assured by an ATF agent that his completion of an ATF Form 5 allowed him lawfully to possess the weapon pending approval of a transfer, the jury could

have disbelieved him and found instead that the ATF Form 5 was a sham and that Mann had not possessed the Lahti for evaluation and repair. *See Croteau*, 819 F.3d at 1305. We assume the jury made all credibility determinations in favor of the guilty verdict. *See id.* at 1304. In sum, a reasonable fact finder could have found that the government proved beyond a reasonable doubt that Mann unlawfully possessed an unregistered firearm; the district court thus did not err in denying Mann's motion for judgment of acquittal.

B. Mann's 97-Month Sentence Was Procedurally and Substantively Reasonable.

1. Procedural Reasonableness

Mann argues that his sentence was procedurally unreasonable because the district court failed to provide specific reasons for the sentence, in violation of 18 U.S.C. § 3553(c)(2). The sentencing court must set forth sufficient explanation to satisfy the appellate court that it considered the parties' arguments and had a reasoned basis for exercising its legal decision making authority, *Rita v. United States*, 551 U.S. 338, 356 (2007), but the court need only acknowledge that it considered the § 3553(a) factors and need not discuss each of these factors at sentencing, *United States v. Amedeo*, 487 F.3d 823, 832 (11th Cir. 2007).

Here, the sentence was procedurally reasonable because the district court gave sufficient reasons for the sentence. As an initial matter, Mann's argument that the district court should have provided more

detailed reasoning for his sentence because the court varied upward from the guidelines range is unpersuasive because the district court did not vary upward. In fact, the district court imposed a sentence at the very bottom of Mann’s guidelines range.² Additionally, the district court stated on the record that it had considered the § 3553(a) factors and explained that Mann’s offense was the result of willful and dangerous violations of the law. This was sufficient to demonstrate the court’s reasoned basis for exercising its decision making authority. *Rita*, 551 U.S. at 356. Mann’s sentence thus was procedurally reasonable.

2. Substantive Reasonableness

Mann’s sentence also was substantively reasonable. Under 18 U.S.C. § 3553(a), the district court is required to impose a sentence “sufficient, but not greater than necessary, to comply with the purposes” of § 3553(a)(2)—the need to reflect the seriousness of the offense; promote respect for the law; provide just punishment; deter criminal conduct; protect the public from the defendant’s future criminal conduct; and effectively provide the defendant with educational or vocational training, medical care, or other correctional treatment. 18 U.S.C. § 3553(a)(2). The court also must consider the nature and circumstances of the offense; the history and characteristics of the defendant; the

² Mann does not argue on appeal that the district court miscalculated the guidelines range or erred in applying any enhancements; he thus has abandoned those issues. *Sapuppo v. Allstate Floridian Ins. Co.*, 739 F.3d 678, 681 (11th Cir. 2014).

kinds of sentences available; the applicable guidelines range; the pertinent policy statements of the Sentencing Commission; the need to avoid unwarranted sentencing disparities; and the need to provide restitution to victims. *Id.* § 3553(a)(1), (3)-(7). In conducting our review, we consider the totality of the circumstances and whether the statutory factors in 18 U.S.C. § 3553(a) support the sentence in question. *United States v. Gonzalez*, 550 F.3d 1319, 1324 (11th Cir. 2008). Although we do not automatically presume a within-guidelines sentence to be reasonable, ordinarily we expect it to be. *United States v. Asante*, 782 F.3d 639, 648 (11th Cir. 2015).

A district court abuses its discretion and imposes a substantively unreasonable sentence “only when it (1) fails to afford consideration to relevant factors that were due significant weight, (2) gives significant weight to an improper or irrelevant factor, or (3) commits a clear error of judgment in considering the proper factors.” *United States v. Roasales-Bruno*, 789 F.3d 1249, 1256 (11th Cir. 2015) (internal quotation marks omitted). The weight given to any specific § 3553(a) factor is committed to the sound discretion of the district court, *United States v. Langston*, 590 F.3d 1226, 1237 (11th Cir. 2009), and we may vacate a sentence “only if[] we are left with the definite and firm conviction that the district court committed a clear error of judgment in weighing the § 3553(a) factors by arriving at a sentence that lies outside the range of reasonable sentences dictated by the facts of the case,” *United States v. Irej*, 612 F.3d 1160, 1190 (11th Cir. 2010) (en banc) (internal quotation marks omitted).

The 97-month sentence—which was at the bottom of Mann’s guidelines range—was substantively reasonable. Mann argues that there was a large, unwarranted disparity between his sentence and McGirt’s, but McGirt was a subordinate employee following Mann’s orders. Importantly, McGirt accepted responsibility, pled guilty, and acted as a government witness. Mann also argues that the court failed to consider important factors, such as his age and disability, and placed too much emphasis on other factors, such as his prior bad acts. But the court expressly stated that it took into account all of the § 3553(a) factors, and it reasonably emphasized Mann’s pattern of willfully violating the law—as evidenced by the multiple NFA weapon transactions he entered into without obtaining an approved ATF Form 4—and the importance of regulating weapons that Congress has labeled as particularly dangerous. We are not left with a “definite and firm conviction that the district court committed a clear error of judgment in weighing the § 3553(a) factors.” *Id.* (internal quotation marks omitted). The court thus did not abuse its discretion in imposing the 97-month sentence. Mann’s sentence was substantively reasonable.

IV. CONCLUSION

For the foregoing reasons, we affirm Mann’s conviction and sentence.

AFFIRMED.

APPENDIX B
IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

UNITED STATES)	
OF AMERICA,)	
v.)	CASE NO.
MARK MANN,)	5:16-CR-7(MTT)
Defendant.)	
)	

ORDER

Defendant Mark Mann was convicted of possessing a destructive device—a Lahti Finland 20mm caliber semi-automatic rifle—not registered to him in the National Firearms Registration and Transfer Record in violation of 26 U.S.C. § 5861(d). *See* Docs. 96; 97; 98. At trial, following the close of the Government’s evidence, Mann made an oral motion under Criminal Rule of Procedure Rule 29(a) seeking a judgment of acquittal because the evidence offered by the Government was insufficient to sustain a conviction. The Court reserved ruling. In Mann’s later oral argument on the motion (made after the close of evidence), Mann, in addition to attacking the sufficiency of the Government’s case, relied on evidence he presented. The Court again reserved ruling. The Court construes Mann’s motion as two motions, one based on the evidence adduced during the Government’s case in chief and the other

based on all of the evidence at trial. *Cf.* Fed. R. Crim. P. 29(a), (b), (c)(1).

In ruling on a Rule 29 motion, the Court must “view[] the evidence in the light most favorable to the Government and draw[] all reasonable inferences in favor of the jury’s verdict.” *United States v. Hunt*, 526 F.3d 739, 744 (11th Cir. 2008). “A factual finding will be sufficient to sustain a conviction if, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *Id.* at 745 (quotations omitted). “[A] jury is free to disbelieve a defendant’s testimony and consider it as substantive evidence of [his] guilt.” *United States v. Rivera*, 780 F.3d 1084, 1098 (11th Cir. 2015).

The evidence adduced by the Government during its case in chief demonstrated that Mann possessed the Lahti firearm knowing that it was not registered to him and knowing that it was the type of weapon that needed to be registered to him, the essential elements of the crime. *See Bryan v. United States*, 524 U.S. 184, 194 (1998); *Staples v. United States*, 511 U.S. 600, 607 (1994); *United States v. Miller*, 255 F.3d 1282, 1286 (11th Cir. 2001); *United States v. Hutchins*, 292 Fed. Appx. 842, 844 (11th Cir. 2008). Mann, however, adduced evidence tending to support an entrapment-by-estoppel defense—that Mann was in fact reasonably relying on government representations that he could possess the Lahti firearm without registration so long as the possession was for “repair and evaluation.”

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Mann had the burden to prove his affirmative defense by a preponderance of the evidence.

There was evidence that the Government (namely, the BATF) made representations that dealers could take possession of a firearm for a limited time for the purpose of “repair and evaluation” without going through the registration process. But the Government’s evidence showed that Mann paid for the Lahti firearm outright and the buyer understood the transaction to be a sale. The Government also offered proof of several of Mann’s past firearm transactions, and the BATF’s subsequent disapproval of them, to support the conclusion that Mann took possession of the Lahti firearm for the purpose of selling it and his purported reliance on the “repair and evaluation” exception was a sham. In sum, the Government’s evidence supported an inference that Mann did not possess the Lahti firearm in reasonable reliance on the BATF’s agency-made “repair and evaluation” exception. Accordingly, at the close of the Government’s case, the evidence was sufficient to support a guilty verdict.

In his case, Mann testified that his payments for the Lahti were intended to be deposits during an evaluation of the firearm and that his actions were expressly sanctioned by a named BATF agent. However, his testimony was in contradiction of other evidence at trial. It remained in the province of the jury to disbelieve Mann and find that his purported reliance on BATF representations was a sham and/or that any actual reliance was objectively unreasonable in light of the narrowness of the “repair and evaluation”

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exception and his history with the BATF. Accordingly, at its close, the evidence was sufficient to support a guilty verdict.

For these reasons, Mann's oral Rule 29 motions are **DENIED** and the jury's verdict is **SUSTAINED**.

SO ORDERED, this 2nd day of June, 2017.

S/ Marc T. Treadwell
MARC T. TREADWELL
UNITED STATES DISTRICT COURT

UNITED STATES DISTRICT COURT
Middle District of Georgia

UNITED STATES) **JUDGMENT IN A**
OF AMERICA) **CRIMINAL CASE**
)
v.) Case Number: 5:16-CR-
) 00007-001
MARK MANN)
) USM Number: 99586-020
) Alexander J. Repasky
) 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 count(s) 4s _____
after a plea of not guilty.

The defendants adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
26:5841, 5845(a), 5861(d) & 5871	Possession of an Unregistered Firearm	12/30/2014	4s

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.

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

☒ Count(s) 1s-3s ☐ is ☒ are dismissed.

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.

07/24/2017

Date of Imposition of Judgment
UNITED STATES DISTRICT
JUDGE

s/ Marc T. Treadwell

Signature of Judge

MARC T. TREADWELL,
U.S. DISTRICT JUDGE

Name and Title of Judge

07/26/2017

Date

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of: 97 months.

☐ 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:

☐ at _____ ☐ a.m. ☐ p.m. 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:

☐ before 2 p.m. 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.

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UNITED STATES MARSHAL

By:

DEPUTY UNITED STATES MARSHAL

SUPERVISED RELEASE

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

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the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which 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 other conditions on the attached page.

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

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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

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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. I understand additional information regarding these conditions is available at the [sic] www.uscourts.gov.

Defendant's Signature _____ Date _____

SPECIAL CONDITIONS OF SUPERVISION

You shall provide financial information to the probation officer upon request.

You are prohibited from incurring new credit charges or opening additional lines of credit without approval of the probation office.

Your surrendered passport will be forwarded to the State Department.

CRIMINAL MONETARY PENALTIES

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

	<u>Assess- ment</u>	<u>JVTA Assess- ment*</u>	<u>Fine</u>	<u>Restitu- tion</u>
TOTALS	\$100.00		\$5,000.00	\$

- ☐ The determination of restitution is deferred until *An Amended Judgment in a Criminal Case (AO245C)* will be entered after such determination.
- ☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

	<u>Restitution</u>	<u>Priority or</u>
<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Ordered Percentage</u>
TOTALS	\$ _____	\$ _____

- ☐ Restitution amount ordered pursuant to plea agreement \$

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- ☐ 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 the 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:
- ☒ the interest requirement is waived for the
☒ fine ☐ restitution
- ☐ the interest requirement for the ☐ fine ☐ 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.

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 \$ _____ due immediately,
balance due

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- ☐ not later than _____, or
- ☐ in accordance ☐ 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:

Any criminal monetary penalty ordered by the court shall be due and payable in full immediately. Present and future Assets are subject to enforcement and may be included in the treasury offset program allowing qualified federal benefits to be applied to the balance of criminal monetary penalties.

Payment during the term of supervised release will commence within 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. (fine/restitution) payment shall be due during the period of imprisonment at the rate of not less than \$25 per quarter and pursuant to the bureau of prisons' financial responsibility program. The value of any future assets may be applied to offset the balance of criminal monetary penalties. The defendant may be included in the treasury offset program, allowing qualified benefits to be applied to offset the balance of any criminal monetary penalties.

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.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (*including defendant number*), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

☐ The defendant shall pay the cost of prosecution.

☐ The defendant shall pay the following court cost(s):

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

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.
