

No. \_\_-\_\_\_\_\_

IN THE SUPREME COURT OF THE UNITED STATES

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BRANDON GREGORY LEAL,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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PETITION FOR A WRIT OF CERTIORARI

APPENDIX

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## APPENDIX A

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

August 5, 2019

Lyle W. Cayce  
Clerk

\_\_\_\_\_  
No. 16-11330  
\_\_\_\_\_

UNITED STATES OF AMERICA,

Plaintiff - Appellee

v.

BRANDON GREGORY LEAL,

Defendant - Appellant

\_\_\_\_\_  
Appeal from the United States District Court  
for the Northern District of Texas  
\_\_\_\_\_

Before DAVIS, HIGGINSON, and WILLETT, Circuit Judges.

STEPHEN A. HIGGINSON, Circuit Judge:

Defendant Brandon Leal pleaded guilty to one count of transportation of child pornography in violation of 18 U.S.C. § 2252A(a)(1). The district court sentenced Leal to 240 months imprisonment and ordered Leal to pay \$58,415 in restitution to “Andy,” a victim depicted in Leal’s materials. On appeal, Leal seeks to vacate the order of restitution, contending that it was imposed in violation of the proximate cause requirements described in *Paroline v. United States*, 572 U.S. 434 (2014). We affirm the district court.

I.

Leal stipulated that in December 2014, he traveled from Canada into the United States with electronic devices containing hundreds of images and

dozens of videos of child pornography. Some depicted sadistic acts involving children, and some depicted infants or toddlers.

In relevant part, Leal's plea agreement stated that the district court could impose a sentence including "restitution to victims or to the community, which is mandatory under the law." The agreement noted, "The defendant fully understands that the actual sentence imposed (so long as it is within the statutory maximum) is solely in the discretion of the Court." Finally, the agreement contained an appeal waiver stating in full:

The defendant waives his rights, conferred by 28 U.S.C. § 1291 and 18 U.S.C. § 3742, to appeal his conviction, sentence, fine, order of restitution, and forfeiture order in amount to be determined by the district court. He also waives his right to contest his conviction, sentence, fine, order of restitution and forfeiture order in any collateral proceeding, including proceedings under 28 U.S.C. § 2241 and 28 U.S.C. § 2255. The defendant, however, reserves the rights (a) to challenge the voluntariness of his plea of guilty or this waiver, and (b) to bring a claim of ineffective assistance of counsel.

The Pre-Sentence Report initially found restitution inapplicable. After the PSR was completed, Andy submitted his restitution request and the government sought to amend the PSR accordingly. Two weeks before sentencing, the Probation Office filed an addendum to the PSR recommending that Leal be ordered to pay \$58,415, the full amount sought by Andy.

The addendum attached the twenty-one-page restitution request submitted by Andy's attorney. The letter explained that beginning when Andy was seven and continuing until Andy was twelve, Andy was sexually abused by an older man (not Leal) who made and circulated "graphic video recordings of his sexual abuse of Andy" in which Andy was "clearly recognizable." Relying on reports from a forensic psychologist and an economist, Andy estimated that he had suffered losses of \$267,038 in future psychological counseling costs and

\$1,854,925 in future lost income, totaling \$2,121,963 in general losses “stem[ming] from the actions of defendant Leal as well as other criminals.” Andy acknowledged that Leal did not appear to be “directly connected to the initial production of his images,” but had harmed Andy by possessing Andy’s images.<sup>1</sup> Andy argued that Leal should be responsible for \$25,000 of Andy’s general losses. Andy also sought to recover \$33,415 for the forensic psychologist’s and economist’s fees.

Leal was sentenced on August 15, 2016, at a consolidated sentencing hearing that combined the instant case with a related case, in which Leal had pleaded guilty to possessing child pornography and to being a felon in possession of a firearm. At sentencing, Leal confirmed that he had reviewed the PSR and the addendum and raised no objections. The district court adopted the factual contents of the PSR and addendum and ordered Leal to pay Andy \$58,415 in restitution.

On August 30, 2016, Leal filed a pro se notice of appeal from “the judgment and sentences imposed by this court on August 15th, 2016.” Leal’s notice of appeal was timely. However, it was filed only in the related case, not in the present case, and hence arguably failed to “designate the judgment, order, or part thereof being appealed” as required by Rule 3(c)(1)(B). Fed. R. App. P. 3. We find that this omission is not a jurisdictional defect. “Courts will liberally construe the requirements of Rule 3.” *Smith v. Barry*, 502 U.S. 244,

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<sup>1</sup> “The consumer, or end recipient, of pornographic materials . . . caus[es] the children depicted in those materials to suffer as a result of his actions in at least three ways. . . . *First*, the simple fact that the images have been disseminated perpetuates the abuse initiated by the producer of the materials. . . . *Second*, the mere existence of child pornography represents an invasion of the privacy of the child depicted. . . . *Third*, the consumer of child pornography instigates the original production of child pornography by providing an economic motive for creating and distributing the materials.” *United States v. Norris*, 159 F.3d 926, 929–30 (5th Cir. 1998).

248 (1992). “[A] mistake in designating a judgment appealed from should not bar an appeal as long as the intent to appeal a specific judgment can be fairly inferred and the appellee is not prejudiced or misled by the mistake.” *United States v. Knowles*, 29 F.3d 947, 949 (5th Cir. 1994) (quotation omitted). Here, Leal’s intent to appeal the sentence in the present case can be fairly inferred from his plural reference to the “sentences imposed . . . on August 15th, 2016,” especially because pro se notices of appeal are liberally construed. *See Haines v. Kerner*, 404 U.S. 519, 520–21 (1972); *Edwards v. Joyner*, 566 F.2d 960, 961 n.3 (5th Cir. 1978). Further, the government does not argue that it has been prejudiced or misled. We are satisfied that we have jurisdiction. *See, e.g., United States v. Servellon*, 534 F. App’x 252, 252 (5th Cir. 2013); *United States v. Donjuan-Gonzalez*, 268 F. App’x 276, 276–77 (5th Cir. 2008).

## II.

Title 18 U.S.C. § 2259 requires district courts to order restitution for certain child pornography offenses, including Leal’s offense of transporting child pornography. The Supreme Court’s decision reversing our court in *Paroline* provides that restitution is “proper under § 2259 only to the extent the defendant’s offense proximately caused a victim’s losses.” 572 U.S. at 448. Leal argues that the district court failed to adequately analyze whether Leal proximately caused Andy’s losses. As a threshold matter, the government counters that Leal’s appeal is barred by his appeal waiver.

“The right to appeal a conviction and sentence is a statutory right, not a constitutional one, and a defendant may waive it as part of a plea agreement.” *United States v. Baymon*, 312 F.3d 725, 727 (5th Cir. 2002). “This court reviews de novo whether an appeal waiver bars an appeal.” *United States v. Keele*, 755 F.3d 752, 754 (5th Cir. 2014). We generally enforce a waiver that “was knowing and voluntary, and if the waiver applies to the circumstances at hand.” *United*

*States v. Walters*, 732 F.3d 489, 491 (5th Cir. 2013) (citing *United States v. Bond*, 414 F.3d 542, 544 (5th Cir. 2005)). Here, Leal does not dispute, and the record indicates, that the waiver was knowing and voluntary.

We determine the scope of an appeal waiver by examining “the plain language of the plea agreement,” “employ[ing] ordinary principles of contract interpretation” and “construing waivers narrowly and against the Government.” *Keele*, 755 F.3d at 754 (citations omitted); *cf. Puckett v. United States*, 556 U.S. 129, 137 (2009) (“Although the analogy may not hold in all respects, plea bargains are essentially contracts.”). An appeal waiver, even if applicable, does not deprive this court of jurisdiction. *United States v. Story*, 439 F.3d 226, 230 (5th Cir. 2006).

Leal’s “*Paroline*-based appeal of the district court’s restitution order” is, according to our precedent, an “appeal of a sentence exceeding the statutory maximum punishment.” *United States v. Winchel*, 896 F.3d 387, 389 (5th Cir. 2018); *see also United States v. Chem. & Metal Indus., Inc.*, 677 F.3d 750, 752 (5th Cir. 2012) (*CMI*). In *Winchel*, we held that a defendant could bring a *Paroline* challenge to a restitution order where the defendant’s appeal waiver expressly reserved the right to appeal a sentence “exceeding the statutory maximum punishment.” 896 F.3d at 389–90. Leal’s appeal differs from *Winchel*’s in that Leal did not expressly reserve the right to raise a statutory maximum challenge. But that difference is of no moment because as we explained in *Keele*, “an ‘in excess of the statutory maximum’ challenge, if properly raised on appeal, would not be barred by an appeal waiver.” 755 F.3d at 756 (citing *CMI*, 677 F.3d at 752).

*Keele* did not delve into justifications for its rule, but our reasoning in *United States v. White*, 258 F.3d 374, 380 (5th Cir. 2001), is instructive and apposite. *White* is one in a series of our decisions affirming that “even if there



is an unconditional plea of guilty or a waiver of appeal provision in a plea agreement, this Court has the power to review if the factual basis for the plea fails to establish an element of the offense which the defendant pled guilty to.” *Baymon*, 312 F.3d at 727 (listing cases). White pleaded guilty to violating 18 U.S.C. § 922(g)(9) by possessing a firearm after having been previously convicted of a “misdemeanor crime of domestic violence.” 258 F.3d at 376. On appeal, White asserted that neither of the two predicate offenses listed in the indictment was a misdemeanor crime of domestic violence, whereas the government argued that White’s appeal was foreclosed by his appeal waiver. The court sided with White.

*White* first questioned whether a defendant could ever “waive his substantive right ‘to be free of prosecution under an indictment that fails to charge an offense.’” *Id.* at 380 (quoting *United States v. Meacham*, 626 F.2d 503, 509–10 (5th Cir. 1980)). As in *White*, the government does not identify, nor have we located, published authority suggesting that a defendant may waive the substantive right to be free of a sentence that exceeds the statutory maximum. As other circuits have noted, “[e]ven when a defendant, prosecutor, and court agree on a sentence, the court cannot give the sentence effect if it is not authorized by law.” *United States v. Gibson*, 356 F.3d 761, 766 (7th Cir. 2004) (quoting *United States v. Greatwalker*, 285 F.3d 727, 730 (8th Cir. 2002)).

Ultimately, without resolving waivability, *White* “conclude[d] that the language of White’s conditional plea agreement fails to embrace such a jurisdictional defect and, in any event, is insufficient to accomplish an intelligent waiver of the right not to be prosecuted (and imprisoned) for conduct that does not violate the law.” 258 F.3d at 380. In other words, considering the essential nature of the substantive right on the one hand, and the generic phrasing of White’s appeal waiver on the other hand, the court found that (1)

the right was not encompassed by the waiver (a matter of contract interpretation) and (2) the right could have not been knowingly and voluntarily surrendered (a problem of contract formation).

*White's* contract-interpretation and contract-formation concerns apply with considerable force to the right to be free of a sentence exceeding the statutory maximum—particularly so in Leal's case because his plea agreement stated that any sentence imposed would be “solely in the discretion of the Court,” “*so long as it is within the statutory maximum*” (emphasis added). That qualification reflects “that both parties to the plea agreement[] contemplated that all promises made were legal, and that the non-contracting ‘party’ who implements the agreement (the district judge) will act legally in executing the agreement.” *United States v. Ready*, 82 F.3d 551, 559 (2d Cir. 1996). But a district court imposes a sentence expressly foreclosed by statute when it orders restitution under § 2259 for losses not proximately caused by the defendant. *See Winchel*, 896 F.3d at 389; *see also CMI*, 677 F.3d at 752 (restitution order under 18 U.S.C. § 3664 “that exceeds the victim’s actual losses or damages is an illegal sentence”).

The government did not address the *Keele* rule in its brief (though the government did cite *Keele* for other propositions). Faithfully applying *Keele*, which is in accord with at least seven other circuits, we find that Leal's statutory maximum challenge is not barred by his waiver of appeal. *See United States v. Guillen*, 561 F.3d 527, 530–31 (D.C. Cir. 2009); *United States v. Bibler*, 495 F.3d 621, 623–24 (9th Cir. 2007); *United States v. Andis*, 333 F.3d 886, 891–92 (8th Cir. 2003) (en banc); *United States v. Black*, 201 F.3d 1296, 1301 (10th Cir. 2000); *Ready*, 82 F.3d at 558–60; *United States v. Marin*, 961 F.2d 493, 496 (4th Cir. 1992). This broad circuit agreement was recently acknowledged by the Supreme Court in *Garza v. Idaho*, 139 S. Ct. 738 (2019).

The Court explained that “no appeal waiver serves as an absolute bar to all appellate claims,” and “all jurisdictions appear to treat at least some claims as unwaivable,” including, in some jurisdictions, “claims that a sentence . . . exceeds the statutory maximum authorized.” *Id.* at 745 & n.6.

III.

We review the district court’s restitution order for plain error under Rule 52(b) because Leal did not object below. On plain error review, a court has discretion to correct an error only if it (1) was not intentionally relinquished or abandoned, (2) was plain, i.e. not subject to reasonable dispute, and (3) the error affected the defendant’s substantial rights. *Molina-Martinez v. United States*, 136 S. Ct. 1338, 1343 (2016) (citing *United States v. Olano*, 507 U.S. 725 (1993)). Where those three conditions are met, and the error also “seriously affects the fairness, integrity or public reputation of judicial proceedings,” then “the court of appeals should exercise its discretion to correct the forfeited error.” *Id.* (quoting *Olano*, 507 U.S. at 736).

Leal contends that the district court plainly erred because the restitution request adopted by the district court “contained no true *Paroline* analysis.” Specifically, Leal argues that (1) the \$25,000 figure for general losses was “based on a portion of the minimum civil remedy set forth in 18 U.S.C. § 2255, which is not a factor listed in *Paroline*,” and (2) “the \$33,415 figure for expenses was not subjected to any proximate cause analysis or apportionment at all.”

A.

We first address Leal’s challenge to his \$25,000 assessment for Andy’s general losses. “In determining the amount of general losses a defendant must pay under § 2259 the ultimate question is how much of these losses were the ‘proximate result’ of that individual’s offense.” *Paroline*, 572 U.S. at 449 (quoting 18 U.S.C. § 2259(b)(3)(F)). But the proximate cause analysis may be

“difficult” when, as is the case for Leal, the defendant is “one of thousands who have possessed and will in the future possess the victim’s images but who has no other connection to the victim.” *Id.* at 449. Such a defendant makes “very minor” “contribution[s] to the causal process underlying the victim’s losses,” compared to “the combined acts of all other relevant offenders” as well as the acts of distributors and producers. *Id.* at 454.

*Paroline* directed the sentencing court to “assess as best it can from available evidence the significance of the individual defendant’s conduct in light of the broader causal process that produced the victim’s losses.” *Id.* at 459. Proper restitution “would not be severe” because the victim’s general losses would be “the product of the acts of thousands of offenders. It would not, however, be a token or nominal amount.” *Id.* at 458–59. *Paroline* listed various factors, “rough guideposts,” relevant to a restitution calculation, but found it “neither necessary nor appropriate to prescribe a precise algorithm” or to make the specific *Paroline* factors mandatory on district courts. *Id.* at 459–60. Ultimately, a restitution order “cannot be a precise mathematical inquiry and involves the use of discretion and sound judgment.” *Id.* at 459.

Under *Paroline*’s broad guidelines, Leal cannot show plain error with respect to the \$25,000 assessed for Andy’s general losses. Leal recognizes that the district court adopted the reasoning set forth in Andy’s extensive restitution request and submission, which was attached to the PSR addendum. Leal does not challenge Andy’s \$2.1 million estimate of general losses and argues only that the \$25,000 figure was derived without considering proximate cause. It is true that much of Andy’s restitution request focused on the “reasonableness” of a \$25,000 assessment in light of 18 U.S.C. § 2255, which entitles child pornography victims to liquidated damages of \$150,000 when they prevail in civil suits. That reasonableness argument appears to have little

bearing on the relative significance of Leal’s conduct in causing Andy’s losses. But Andy’s submission did discuss some of the *Paroline* factors. It represented that “Andy has received restitution in only a tiny number of cases in which he has been named a victim, in large part due to the fact that it was too late in the criminal process to ask for restitution by the time Andy retained our services.” It also explained that Andy did not have information about whether future offenders contributing to Andy’s general losses might be caught and convicted, nor did Andy have an estimate of the number of offenders involved with his images. Based on this evidence, holding Leal responsible for roughly one percent of Andy’s general losses does not make Leal “liable for an amount drastically out of proportion to his own individual causal relation to the victim’s losses.” *Paroline*, 572 U.S. at 461. *Cf. United States v. Dunn*, 777 F.3d 1171, 1181 (10th Cir. 2015) (vacating restitution order that held a single defendant liable for \$583,955 of the victim’s \$1.3 million general losses).

B.

As to the assessment for expert expenses, we do not perceive plain error that seriously affects the fairness, integrity, or public reputation of judicial proceedings.

The district court imposed on Leal the full extent of Andy’s expert expenses. Andy argued that he was entitled to recover those costs in full because Leal’s “conviction was both a ‘necessary’ and ‘sufficient’ condition to produce all the [expert] costs.” Put another way, Leal’s offense caused the need for Andy’s restitution request, and expert reports were required to support that request. However, Andy also forthrightly acknowledged that he “is submitting [the] . . . reports in other criminal cases in support of restitution, and with request for full restitution in these other cases.” In these narrow circumstances, the government ideally should have presented evidence about

these other defendants. *See* 18 U.S.C. § 3664 (“The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense shall be on the attorney for the Government.”); 18 U.S.C. § 2259(c)(2) (defining “full amount of the victim’s losses” to “include[] *any costs* incurred, or that are reasonably projected to be incurred in the future, by the victim, as a *proximate result* of the offenses involving the victim”) (emphasis added). For example, the government could have determined “the number of past criminal defendants found to have contributed to” Andy’s expert expenses, either on its own or by asking Andy’s attorneys. *See Paroline*, 572 U.S. at 460. Such developments would have given the district court an opportunity to apportion Andy’s expert expenses between multiple defendants.

However, we agree with Andy and the government that if Leal had been the only defendant convicted in connection with Andy’s images, then all the expert expenses could have been properly assessed against him. In the absence of any indication that Andy has received duplicative recovery on his expert expenses, we decline to find that ordering Leal to pay Andy’s expert expenses in full seriously affected the fairness or integrity of these proceedings.

#### IV.

For the foregoing reasons, the district court’s judgment is AFFIRMED.

## APPENDIX B

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

UNITED STATES OF AMERICA

v.

BRANDON GREGORY LEAL

§ JUDGMENT IN A CRIMINAL CASE

§

§

§ Case Number: 3:15-CR-00358-N(1)

§ USM Number: 49970-177

§ Theodore P Steinke

§ Defendant's Attorney

**THE DEFENDANT:**

- ☐ pleaded guilty to count(s)  
pleaded guilty to count(s) before a U.S.  
☒ Magistrate Judge, which was accepted by the court.  
☐ pleaded nolo contendere to count(s) which was accepted by the court  
☐ was found guilty on count(s) after a plea of not guilty

**Counts 1 and 3 of the Indictment filed August 18, 2015**

The defendant is adjudicated guilty of these offenses:

**Title & Section / Nature of Offense**

18:2252A.F 118:2252A(A)(2) Attempted Receipt Of Child Pornography  
18:922(G)(1) and 924(A)(2) Felon In Possession Of A Firearm

**Offense Ended**

07/28/2015  
07/28/2015

**Count**

1  
3

The defendant is sentenced as provided in pages 2 through  
to the Sentencing Reform Act of 1984.

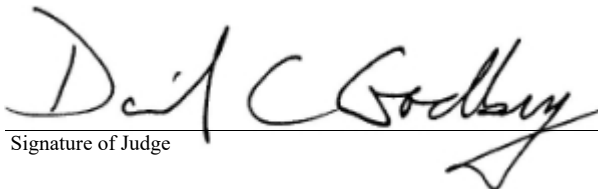
of this judgment. The sentence is imposed pursuant

- ☐ The defendant has been found not guilty on count(s)  
☒ Count(s) Count 2 of the Indictment ☒ is ☐ 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.

**AUGUST 15, 2016**

Date of Imposition of Judgment



Signature of Judge

**DAVID C. GODBEY, UNITED STATES DISTRICT JUDGE**

Name and Title of Judge

**AUGUST 23, 2016**

Date



DEFENDANT: BRANDON GREGORY LEAL  
CASE NUMBER: 3:15-CR-00358-N(1)

## IMPRISONMENT

Pursuant to the Sentencing Reform Act of 1984, but taking the Guidelines as advisory pursuant to United States v. Booker, and considering the factors set forth in 18 U.S.C. Section 3553(a), the defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

**240 months as to count 1 and 120 months as to count 3 to run consecutively for a total of 360 months in custody. This sentence shall run concurrently to the sentence imposed in 3:16-CR-015-N USA v. Brandon Gregory Leal; This sentence shall also run concurrently to any sentences imposed in Case Nos. F-1542147, F-1542148, F-1542149 and F-1542150 pending in Dallas County Criminal District Court 6.**

☒ The court makes the following recommendations to the Bureau of Prisons:  
That the defendant receive sex offender treatment, if possible.

☒ 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.

\_\_\_\_\_  
UNITED STATES MARSHAL

By

\_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

DEFENDANT: BRANDON GREGORY LEAL  
CASE NUMBER: 3:15-CR-00358-N(1)

## SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: **Life as to Count 1 and 3 Years on Count 3 to run concurrently. This sentence shall run concurrently to the sentence imposed in 3:15-CR-358-N USA v. Brandon Leal**

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

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

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

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. *(Check, if applicable.)*
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. *(Check, if applicable.)*
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. *(Check, if applicable.)*
- ☒ The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which he or she resides, works, is a student, or was convicted of a qualifying offense. *(Check, if applicable.)*
- ☐ The defendant shall participate in an approved program for domestic violence. *(Check, if applicable.)*

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

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

## STANDARD CONDITIONS OF SUPERVISION

1. the defendant shall not leave the judicial district without the permission of the court or probation officer;
2. the defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer;
3. the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
4. the defendant shall support his or her dependents and meet other family responsibilities;
5. the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
6. the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
7. the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
8. the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
9. the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
10. the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
11. the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
12. the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
13. as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: BRANDON GREGORY LEAL  
CASE NUMBER: 3:15-CR-00358-N(1)

### **SPECIAL CONDITIONS OF SUPERVISION**

The defendant shall participate in sex offender treatment services as directed by the probation officer until successfully discharged. These services may include psycho-physiological testing (i.e., clinical polygraph, plethysmograph, and the ABEL screen) to monitor the defendant's compliance, treatment progress, and risk to the community. The defendant shall contribute to the costs of services rendered (copayment) at a rate of at least \$15 per month.

Without prior permission from the Court or probation officer, the defendant shall have no unsupervised communication or contact with persons under the age of 18; the defendant shall not be at or near places where minors congregate, nor shall the defendant create an opportunity for minors to congregate; the defendant shall not be employed or be a volunteer at places where minors congregate; and the defendant shall not date or befriend someone who has minors.

The defendant shall neither possess nor have under his control any sexually oriented, or sexually stimulating materials of adults or children. This includes visual, auditory, telephonic, electronic media, email, chat communications, instant messaging, or computer programs. The defendant shall not patronize any place where such material or entertainment is available. The defendant shall not use any sex-related telephone numbers.

The defendant shall have no contact with any victim of this offense, including by correspondence, telephone, or communication through third parties, except under circumstances approved in advance by the probation officer. The defendant shall not enter onto the premises, travel past, or loiter near any victim's residence, place of employment, or other places frequented by the victim.

Pursuant to the Sex Offender Registration and Notification Act (SORNA) (42 U.S.C. Â§ 16901, et seq.), the defendant shall register, and keep the registration current, with state and local law enforcement, as directed by the probation officer, in each jurisdiction where the defendant resides, is employed, or is a student. The defendant shall, no later than 3 business days after each change of name, residence, employment, or student status, appear in person in at least one of the jurisdictions and inform that jurisdiction of all changes in the information required in the sex offender registry. The defendant shall also initially register in the jurisdiction in which the defendant was convicted if such jurisdiction is different from the jurisdiction of residence. Initial registration shall occur before completion of the sentence of imprisonment with respect to the offense giving rise to the registration requirement. The defendant shall provide to the appropriate official all information required in accordance with SORNA guidelines and additional state-specific regulations for inclusion in the sex offender registry. The defendant shall provide written verification of registration to the probation officer within 3 business days following registration. This registration shall be renewed as required by the defendant's assigned tier.

The defendant shall not have any form of unsupervised contact with persons under the age of 18 at any location, including, but not limited to, the defendant's residence, place of employment, and public places where persons under the age of 18 frequent or congregate, without prior permission of the probation officer.

DEFENDANT: BRANDON GREGORY LEAL  
CASE NUMBER: 3:15-CR-00358-N(1)

The defendant shall participate and comply with the requirements of the Computer and Internet Monitoring Program, contributing to the cost of the monitoring in an amount not to exceed \$40 per month. The defendant shall consent to the probation officer's conducting ongoing monitoring of his computer/computers. The monitoring may include the installation of hardware and/or software systems that allow evaluation of computer use. The defendant shall not remove, tamper with, reverse engineer, or circumvent the software in any way. The defendant shall only use authorized computer systems that are compatible with the software and/or hardware used by the Computer and Internet Monitoring Program. The defendant shall permit the probation officer to conduct a preliminary computer search prior to the installation of software. At the discretion of the probation officer, the monitoring software may be disabled or removed at any time during the term of supervision.

The defendant shall submit to periodic, unannounced examinations of his computer/computers, storage media, and/or other electronic or Internet-capable devices, performed by the probation officer at reasonable times and in a reasonable manner based on reasonable suspicion of contraband evidence of a violation of supervision. This may include the retrieval and copying of any prohibited data and/or the removal of such system for the purpose of conducting a more thorough inspection. The defendant shall provide written authorization for release of information from the defendant's Internet service provider.

The defendant shall not use any computer other than the one the defendant is authorized to use without prior approval from the probation officer.

The defendant shall not use any software program or device designed to hide, alter, or delete records and/or logs of the defendant's computer use, Internet activities, or files stored on the defendant's computer.

The defendant shall not use any computer or computer-related equipment owned by his employer except for the strict benefit of his employer in the performance of his job-related duties.

The defendant shall provide the probation officer with accurate information about his entire computer system. The defendant's email shall only be accessed through a pre-approved application.

The defendant shall not install new hardware, perform upgrades, or effect repairs on his computer system without the prior permission of the probation officer.

The defendant shall not maintain or create a user account on any social networking site (i.e., MySpace.com, Facebook.com, Adultfriendfinder.com, etc.) that allows access to persons under the age of 18, or allows for the exchange of sexually-explicit material, chat conversations, or instant messaging. The defendant shall neither view nor access any web profile of users under the age of 18.

The defendant shall not use or possess any gaming consoles (including, but not limited to, Xbox, PlayStation, Nintendo), or devices without prior permission from the probation officer.

The defendant shall not use or possess a web cam or any other hardware that allows for the exchange of video or photographs online.

The defendant shall not use or own any device that allows Internet access other than authorized by the probation officer. This includes, but is not limited to, PDA's, electronic games, and cellular/digital telephones.

DEFENDANT: BRANDON GREGORY LEAL  
CASE NUMBER: 3:15-CR-00358-N(1)

The defendant shall not engage in or utilize any service that allows peer-to-peer file sharing or file transfer protocol activity.

The defendant shall not possess or use removable media configured with bootable operating systems.

The defendant shall not access any Internet Service Provider account or other online service using someone else's account, name, designation, or alias.

DEFENDANT: BRANDON GREGORY LEAL  
 CASE NUMBER: 3:15-CR-00358-N(1)

## CRIMINAL MONETARY PENALTIES

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

|               | <u>Assessment</u> | <u>Fine</u> | <u>Restitution</u> |
|---------------|-------------------|-------------|--------------------|
| <b>TOTALS</b> | \$200.00          | \$.00       | \$.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.

- ☐ 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 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:

\* 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.

DEFENDANT: BRANDON GREGORY LEAL  
CASE NUMBER: 3:15-CR-00358-N(1)

## 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 payments of \$ \_\_\_\_\_ due immediately, balance due  
☐ 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 20 (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:  
**It is ordered that the Defendant shall pay to the United States a special assessment of \$200.00 for Counts 1 and 3 which shall be due immediately. Said special assessment shall be paid to the Clerk, U.S. District Court.**

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  
See above for Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.
- ☐ Defendant shall receive credit on his restitution obligation for recovery from other defendants who contributed to the same loss that gave rise to defendant's restitution obligation.
- ☐ 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:  
one Corsair computer tower, bearing Serial No. 121715068806; one Toshiba external hard drive, bearing Serial No. 29BDF05YSEU5; one silver LG thumb drive; one Smith and Wesson M&P 9-millimeter handgun, bearing Serial No. DXD4310; one AR-15 Rifle, Model ST-15, bearing Serial No. BMT0151 and any ammunition recovered with the weapons.

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.

## APPENDIX C



UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

UNITED STATES OF AMERICA

v.

BRANDON GREGORY LEAL

§ JUDGMENT IN A CRIMINAL CASE

§

§

§ Case Number: 3:16-CR-00015-N(1)

§ USM Number: 49970-177

§ Theodore P Steinke

§ Defendant's Attorney

**THE DEFENDANT:**

- ☐ pleaded guilty to count(s)  
pleaded guilty to count(s) before a U.S.  
☒ Magistrate Judge, which was accepted by the court.  
☐ pleaded nolo contendere to count(s) which was accepted by the court  
☐ was found guilty on count(s) after a plea of not guilty

**Count 1 of the Information filed January 12, 2016**

The defendant is adjudicated guilty of these offenses:

**Title & Section / Nature of Offense**

18:2252A(A)(1) Transporting Or Shipping Of Child Pornography

**Offense Ended**

07/28/2015

**Count**

1

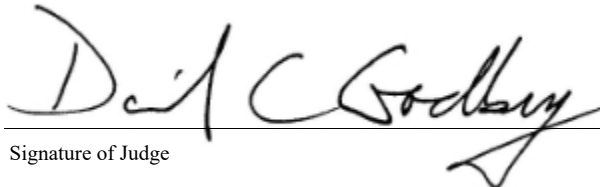
The defendant is sentenced as provided in pages 2 through 8 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

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

**AUGUST 15, 2016**

Date of Imposition of Judgment



Signature of Judge

**DAVID C. GODBEY, UNITED STATES DISTRICT JUDGE**

Name and Title of Judge

**AUGUST 23, 2016**

Date

DEFENDANT: BRANDON GREGORY LEAL  
CASE NUMBER: 3:16-CR-00015-N(1)

## IMPRISONMENT

Pursuant to the Sentencing Reform Act of 1984, but taking the Guidelines as advisory pursuant to United States v. Booker, and considering the factors set forth in 18 U.S.C. Section 3553(a), the defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

**240 months as to count 1. This sentence shall run concurrently to the sentence imposed in 3:15-CR-358-N USA v. Brandon Leal; This sentence shall also run concurrently to any sentences imposed in Case Nos. F-1542147, F-1542148, F-1542149 and F-1542150 pending in Dallas County Criminal District Court 6.**

☒ The court makes the following recommendations to the Bureau of Prisons:  
That the defendant get sex offender treatment, if possible.

☒ 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.

\_\_\_\_\_  
UNITED STATES MARSHAL

By

\_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

DEFENDANT: BRANDON GREGORY LEAL  
CASE NUMBER: 3:16-CR-00015-N(1)

## SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: **Life as to Count 1. This sentence shall run concurrently to the sentence imposed in 3:15-CR-358-N, USA v. Brandon Leal.**

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

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

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

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. *(Check, if applicable.)*
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. *(Check, if applicable.)*
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. *(Check, if applicable.)*
- ☒ The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which he or she resides, works, is a student, or was convicted of a qualifying offense. *(Check, if applicable.)*
- ☐ The defendant shall participate in an approved program for domestic violence. *(Check, if applicable.)*

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

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

## STANDARD CONDITIONS OF SUPERVISION

1. the defendant shall not leave the judicial district without the permission of the court or probation officer;
2. the defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer;
3. the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
4. the defendant shall support his or her dependents and meet other family responsibilities;
5. the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
6. the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
7. the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
8. the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
9. the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
10. the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
11. the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
12. the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
13. as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: BRANDON GREGORY LEAL  
CASE NUMBER: 3:16-CR-00015-N(1)

### **SPECIAL CONDITIONS OF SUPERVISION**

Pursuant to the Mandatory Victims Restitution Act of 1996, the defendant is ordered to pay restitution in the amount of \$58,415 payable to the U.S. District Clerk, 1100 Commerce Street, Room 1452, Dallas, Texas 75242. Restitution shall be payable immediately and any unpaid balance shall be payable during incarceration. Restitution shall be disbursed to:

Andy  
\$58,415

Re: Marsh Law Firm PLLC in Trust for Andy

If upon commencement of the term of supervised release any part of the restitution remains unpaid, the defendant shall make payments on such unpaid balance in monthly installments of not less than 10 percent of the defendant's gross monthly income, or at a rate of not less than \$50 per month, whichever is greater. Payment shall begin no later than 60 days after the defendant's release from confinement and shall continue each month thereafter until the balance is paid in full. In addition, at least 50 percent of the receipts received from gifts, tax returns, inheritances, bonuses, lawsuit awards, and any other receipt of money shall be paid toward the unpaid balance within 15 days of receipt. Furthermore, it is ordered that interest on the unpaid balance is waived pursuant to 18 U.S.C. § 3612(f)(3).

The defendant shall participate in sex offender treatment services as directed by the probation officer until successfully discharged. These services may include psycho-physiological testing (i.e., clinical polygraph, plethysmograph, and the ABEL screen) to monitor the defendant's compliance, treatment progress, and risk to the community. The defendant shall contribute to the costs of services rendered (copayment) at a rate of at least \$15 per month.

Without prior permission from the Court or probation officer, the defendant shall have no unsupervised communication or contact with persons under the age of 18; the defendant shall not be at or near places where minors congregate, nor shall the defendant create an opportunity for minors to congregate; the defendant shall not be employed or be a volunteer at places where minors congregate; and the defendant shall not date or befriend someone who has minors.

The defendant shall neither possess nor have under his control any sexually oriented, or sexually stimulating materials of adults or children. This includes visual, auditory, telephonic, electronic media, email, chat communications, instant messaging, or computer programs. The defendant shall not patronize any place where such material or entertainment is available. The defendant shall not use any sex-related telephone numbers.

The defendant shall have no contact with any victim of this offense, including by correspondence, telephone, or communication through third parties, except under circumstances approved in advance by the probation officer. The defendant shall not enter onto the premises, travel past, or loiter near any victim's residence, place of employment, or other places frequented by the victim.

DEFENDANT: BRANDON GREGORY LEAL  
CASE NUMBER: 3:16-CR-00015-N(1)

Pursuant to the Sex Offender Registration and Notification Act (SORNA) (42 U.S.C. Â§ 16901, et seq.), the defendant shall register, and keep the registration current, with state and local law enforcement, as directed by the probation officer, in each jurisdiction where the defendant resides, is employed, or is a student. The defendant shall, no later than 3 business days after each change of name, residence, employment, or student status, appear in person in at least one of the jurisdictions and inform that jurisdiction of all changes in the information required in the sex offender registry. The defendant shall also initially register in the jurisdiction in which the defendant was convicted if such jurisdiction is different from the jurisdiction of residence. Initial registration shall occur before completion of the sentence of imprisonment with respect to the offense giving rise to the registration requirement. The defendant shall provide to the appropriate official all information required in accordance with SORNA guidelines and additional state-specific regulations for inclusion in the sex offender registry. The defendant shall provide written verification of registration to the probation officer within 3 business days following registration. This registration shall be renewed as required by the defendant's assigned tier.

The defendant shall not have any form of unsupervised contact with persons under the age of 18 at any location, including, but not limited to, the defendant's residence, place of employment, and public places where persons under the age of 18 frequent or congregate, without prior permission of the probation officer.

The defendant shall participate and comply with the requirements of the Computer and Internet Monitoring Program, contributing to the cost of the monitoring in an amount not to exceed \$40 per month. The defendant shall consent to the probation officer's conducting ongoing monitoring of his computer/computers. The monitoring may include the installation of hardware and/or software systems that allow evaluation of computer use. The defendant shall not remove, tamper with, reverse engineer, or circumvent the software in any way. The defendant shall only use authorized computer systems that are compatible with the software and/or hardware used by the Computer and Internet Monitoring Program. The defendant shall permit the probation officer to conduct a preliminary computer search prior to the installation of software. At the discretion of the probation officer, the monitoring software may be disabled or removed at any time during the term of supervision.

The defendant shall submit to periodic, unannounced examinations of his computer/computers, storage media, and/or other electronic or Internet-capable devices, performed by the probation officer at reasonable times and in a reasonable manner based on reasonable suspicion of contraband evidence of a violation of supervision. This may include the retrieval and copying of any prohibited data and/or the removal of such system for the purpose of conducting a more thorough inspection. The defendant shall provide written authorization for release of information from the defendant's Internet service provider.

The defendant shall not use any computer other than the one the defendant is authorized to use without prior approval from the probation officer.

The defendant shall not use any software program or device designed to hide, alter, or delete records and/or logs of the defendant's computer use, Internet activities, or files stored on the defendant's computer.

The defendant shall not use any computer or computer-related equipment owned by his employer except for the strict benefit of his employer in the performance of his job-related duties.

DEFENDANT: BRANDON GREGORY LEAL  
CASE NUMBER: 3:16-CR-00015-N(1)

The defendant shall provide the probation officer with accurate information about his entire computer system. The defendant's email shall only be accessed through a pre-approved application.

The defendant shall not install new hardware, perform upgrades, or effect repairs on his computer system without the prior permission of the probation officer.

The defendant shall not maintain or create a user account on any social networking site (i.e., MySpace.com, Facebook.com, Adultfriendfinder.com, etc.) that allows access to persons under the age of 18, or allows for the exchange of sexually-explicit material, chat conversations, or instant messaging. The defendant shall neither view nor access any web profile of users under the age of 18.

The defendant shall not use or possess any gaming consoles (including, but not limited to, Xbox, PlayStation, Nintendo), or devices without prior permission from the probation officer.

The defendant shall not use or possess a web cam or any other hardware that allows for the exchange of video or photographs online.

The defendant shall not use or own any device that allows Internet access other than authorized by the probation officer. This includes, but is not limited to, PDA's, electronic games, and cellular/digital telephones.

The defendant shall not engage in or utilize any service that allows peer-to-peer file sharing or file transfer protocol activity.

The defendant shall not possess or use removable media configured with bootable operating systems.

The defendant shall not access any Internet Service Provider account or other online service using someone else's account, name, designation, or alias.

DEFENDANT: BRANDON GREGORY LEAL  
 CASE NUMBER: 3:16-CR-00015-N(1)

## CRIMINAL MONETARY PENALTIES

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

|               | <u>Assessment</u> | <u>Fine</u> | <u>Restitution</u> |
|---------------|-------------------|-------------|--------------------|
| <b>TOTALS</b> | \$100.00          | \$.00       | \$58,415.00        |

- ☐ 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.

Restitution of \$58,415.00 to:

MARSH LAW FIRM PLLC

- ☐ 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 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:
- |  |                               |  |
|--|-------------------------------|--|
| <input checked="" type="checkbox"/> the interest requirement is waived for the | <input type="checkbox"/> fine | <input checked="" type="checkbox"/> restitution              |
| <input type="checkbox"/> the interest requirement for the                      | <input type="checkbox"/> fine | <input type="checkbox"/> restitution is modified as follows: |

\* 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.

DEFENDANT: BRANDON GREGORY LEAL  
CASE NUMBER: 3:16-CR-00015-N(1)

## 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 payments of \$ \_\_\_\_\_ due immediately, balance due  
☐ 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 20 (e.g., weekly, monthly, quarterly) installments of \$ not less than 10 percent of the defendant's gross monthly income, or at a rate of not less than \$50 per month, whichever is greater over a period of Years (e.g., months or years), to commence 60 (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:  
**It is ordered that the Defendant shall pay to the United States a special assessment of \$100.00 for Count 1 which shall be due immediately. Said special assessment shall be paid to the Clerk, U.S. District Court. Restitution is not due and payable ahead of the schedule set for in this judgment, nor may the United States collect payment in advance of that schedule through garnishment or otherwise, absent further order of the Court, except that at least 50 percent of the receipts received from gifts, tax returns, inheritances, bonuses, lawsuit awards, and other receipt of money shall be paid toward the unpaid balance within 15 days of receipt.**

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  
See above for Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.
- ☐ Defendant shall receive credit on his restitution obligation for recovery from other defendants who contributed to the same loss that gave rise to defendant's restitution obligation.
- ☐ 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:  
one Corsair computer tower, bearing Serial No. 121715068806; one Toshiba external hard drive, bearing Serial No. 29BDF05YSEU5; one silver LG thumb drive; one Smith and Wesson M&P 9-millimeter handgun, bearing Serial No. DXD4310; one AR-15 Rifle, Model ST-15, bearing Serial No. BMT0151 and any ammunition recovered with the weapons.

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.