

APPENDIX

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

SEP 12 2019

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DARRYL WILLIAM YOUNG,

Defendant - Appellant.

No. 18-30039

D.C. No. 1:16-cr-02058-SMJ-1

U.S. District Court for Eastern
Washington, Yakima

MANDATE

The judgment of this Court, entered June 06, 2019, takes effect this date.

This constitutes the formal mandate of this Court issued pursuant to Rule
41(a) of the Federal Rules of Appellate Procedure.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

By: Rhonda Roberts
Deputy Clerk
Ninth Circuit Rule 27-7

(A)

FILED

UNITED STATES COURT OF APPEALS

SEP 4 2019

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

DARRYL WILLIAM YOUNG,

Defendant-Appellant.

No. 18-30039

D.C. No.

1:16-cr-02058-SMJ-1

Eastern District of Washington,
Yakima

ORDER

Before: O'SCANNLAIN, KLEINFELD, and FRIEDLAND, Circuit Judges.

The petition for panel rehearing is DENIED. Judge Friedland has voted to deny the petition for rehearing en banc, and Judges O'Scannlain and Kleinfeld have recommended denial.

The full court has been advised of the petition for rehearing en banc, and no judge of the court has requested a vote on the petition for rehearing en banc. Fed.

R. App. P. 35(b).

The petition for rehearing and the petition for rehearing en banc are DENIED.

(B)

FILED

JUN 06 2019

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

DARRYL WILLIAM YOUNG,

Defendant-Appellant.

No. 18-30039

D.C. No.
1:16-cr-02058-SMJ-1

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of Washington
Salvador Mendoza, Jr., District Judge, Presiding

Submitted May 15, 2019**
Seattle, Washington

Before: O'SCANNLAIN, KLEINFELD, and FRIEDLAND, Circuit Judges.

Defendant Darryl William Young ("Young") appeals his conviction by
guilty plea to three counts of bank robbery using a dangerous weapon, in violation

* This disposition is not appropriate for publication and is not precedent
except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision
without oral argument. See Fed. R. App. P. 34(a)(2).

CID

of 18 U.S.C. § 2113(a) and (d), and two counts of bank robbery in violation of 18 U.S.C. § 2113(a). We dismiss.

Young expressly waived his right to appeal in his plea agreement. Accordingly, except to the extent that improper venue or a Rule 11 violation might void his guilty plea, his appeal must be dismissed. See United States v. Arias-Espinosa, 704 F.3d 616, 620 (9th Cir. 2012).

Young expressly waived any right he might have had to a different venue, both in his plea agreement and after express advice during his plea colloquy.

Young did not object to the now-claimed omissions in his plea colloquy, so our review is limited to review for plain error. See United States v. Ross, 511 F.3d 1233, 1235 (9th Cir. 2008). As we held in United States v. Ross, an unobjected-to Rule 11 violation does not rise to the plain error standard unless the defendant shows “a reasonable probability that, but for the error, he would not have entered the [guilty] plea.” Id. at 1236 (alteration in original) (quoting United States v. Dominguez Benitez, 542 U.S. 74, 76 (2004)). Young has not done so.



To the extent Young raises any other issues on appeal, they are covered by his appeal waiver and therefore must be dismissed.

DISMISSED.

CfD

UNITED STATES DISTRICT COURT

Eastern District of Washington

UNITED STATES OF AMERICA

V.

DARRYL WILLIAM YOUNG

JUDGMENT IN A CRIMINAL CASE

Case Number: 1:16CR02058-SMJ-1

USM Number: 28865-086

Alex B Hernandez, III

Defendant's Attorney

**THE DEFENDANT:**
☒ pleaded guilty to count(s) 1 through 5 of the Superseding Information
☐ pleaded nolo contendere to count(s) _____
 which was accepted by the court.

☐ was found guilty on count(s) _____
 after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18 U.S.C. § 2113(a) and (d)	Bank Robbery Using a Dangerous Weapon	06/08/16	1s
18 U.S.C. § 2113(a) and (d)	Bank Robbery Using a Dangerous Weapon	06/18/16	2s
18 U.S.C. § 2113(a)	Bank Robbery	06/29/16	3s
18 U.S.C. § 2113(a)	Bank Robbery	07/01/16	4s
18 U.S.C. § 2113(a) and (d)	Bank Robbery Using a Dangerous Weapon	07/11/16	5s

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

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

☒ Count(s) All remaining counts
☐ 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.

2/14/2018

Date of Imposition of Judgment

Signature of Judge

The Honorable Salvador Mendoza, Jr.

Judge, U.S. District Court

Name and Title of Judge

2/15/2018

Date

AO 245B (Rev. 11/16) Judgment in Criminal Case
Sheet 2 — Imprisonment

Judgment — Page 2 of 7

DEFENDANT: DARRYL WILLIAM YOUNG
CASE NUMBER: 1:16CR02058-SMJ-1

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of: 180 months

This total term of imprisonment consists of 180 months with respect to each of Counts 1, 2, 3, 4, and 5 of the Superseding Information. To be served concurrently with each other for a total term of 180 months.

Defendant shall receive credit for time served in federal custody prior to sentencing in this matter.

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

Defendant shall participate in the BOP Inmate Financial Responsibility Program.

Court recommends placement of the defendant in the BOP Facility at Sheridan, Oregon for placement in a 500 hour substance abuse treatment program.

☒ 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

(E)

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

DEFENDANT: DARRYL WILLIAM YOUNG
CASE NUMBER: 1:16CR02058-SMJ-1

Judgment—Page 3 of 7

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of: 5 years.

This total term of supervised release consists of 5 years with respect to each of Counts 1, 2, and 5 and 3 years with respect to each of Counts 3, and 4 of the Superseding Information to be served concurrently with each other for a total term of 5 years.

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance, including marijuana, which remains illegal under federal law.
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 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.

(E)

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

DEFENDANT: DARRYL WILLIAM YOUNG
CASE NUMBER: 1:16CR02058-SMJ-1

Judgment—Page 4 of 7

STANDARD CONDITIONS OF SUPERVISION

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

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must be truthful when responding to the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If this judgment imposes restitution, a fine, or special assessment, it is a condition of supervised release that you pay in accordance with the Schedule of Payments sheet of this judgment. You shall notify the probation officer of any material change in your economic circumstances that might affect your ability to pay any unpaid amount of restitution, fine, or special assessments.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

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

Defendant's Signature _____

Date _____



DEFENDANT: DARRYL WILLIAM YOUNG
CASE NUMBER: 1:16CR02058-SMJ-1

SPECIAL CONDITIONS OF SUPERVISION

1. You must provide the supervising officer with access to any requested financial information and authorize the release of any financial information. The probation office may share financial information with the U.S. Attorney's Office. You must disclose all assets and liabilities to the supervising officer. You must not transfer, sell, give away, or otherwise convey any asset, without the advance approval of the supervising officer.
2. You must not incur any new debt, open additional lines of credit, or enter into any financial contracts, without the advance approval of the supervising officer.
3. You must complete a mental health evaluation and follow any treatment recommendations of the evaluating professional which do not require forced or psychotropic medication and/or inpatient confinement, absent further order of the court. You must allow reciprocal release of information between the supervising officer and treatment provider. You must contribute to the cost of treatment according to your ability to pay.
4. You must submit your person, residence, office, or vehicle and belongings to a search, conducted by a probation officer, at a sensible time and manner, based upon reasonable suspicion of contraband or evidence of violation of a condition of supervision. Failure to submit to search may be grounds for revocation. You must warn persons with whom you share a residence that the premises may be subject to search.
5. You must undergo a substance abuse evaluation and, if indicated by a licensed/certified treatment provider, enter into and successfully complete an approved substance abuse treatment program, which could include inpatient treatment and aftercare upon further order of the court. You must contribute to the cost of treatment according to your ability to pay. You must allow full reciprocal disclosure between the supervising officer and treatment provider.
6. You must participate in an inpatient substance abuse treatment program if so recommended and any recommended aftercare. You must follow the rules and regulations of the treatment program. The probation officer will supervise your participation in the program (provider, location, modality, intensity, etc.). You must pay the costs of the program if financially able.
7. You must abstain from the use of illegal controlled substances, and must submit to urinalysis and sweat patch testing, as directed by the supervising officer, but no more than 6 tests per month, in order to confirm continued abstinence from these substances.
8. You must not enter into or remain in any establishment where alcohol is the primary item of sale. You must abstain from alcohol and must submit to urinalysis and Breathalyzer testing as directed by the supervising officer, but no more than 6 tests per month, in order to confirm continued abstinence from this substance.

(E)

DEFENDANT: DARRYL WILLIAM YOUNG
CASE NUMBER: 1:16CR02058-SMJ-1

Judgment — Page 6 of 7

CRIMINAL MONETARY PENALTIES

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

	<u>Assessment</u>	<u>JVTA Assessment*</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 500.00	\$ 0.00	\$ 0.00	\$ 14,346.87

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

☒ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

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

<u>Name of Payee</u>	<u>Total Loss**</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
Key Bank	\$5,550.00	\$5,550.00	
Wells Fargo	\$950.00	\$950.00	
Key Bank	\$340.00	\$340.00	
Banner Bank	\$3,150.00	\$3,150.00	
U.S. Bank	\$4,010.00	\$4,010.00	
T.P.	\$346.87	\$346.87	

TOTALS	\$ 14,346.87	\$ 14,346.87
--------	--------------	--------------

☐ 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:

* 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.

DEFENDANT: DARRYL WILLIAM YOUNG
CASE NUMBER: 1:16CR02058-SMJ-1

Judgment — Page 7 of 7

SCHEDULE OF PAYMENTS

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

- A ☐ Lump sum payment of \$ _____ 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 _____ (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:

Defendant shall participate in the BOP Inmate Financial Responsibility Program. During the time of incarceration, monetary penalties are payable on a quarterly basis of not less than \$25.00 per quarter with respect to the Special Penalty Assessment only.

While on supervised release, monetary penalties are payable on a monthly basis of not less than \$25.00 per month or 10% of the defendant's net household income, whichever is less, commencing 30 days after the defendant is released from imprisonment.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the following address until monetary penalties are paid in full: Clerk, U.S. District Court, Attention: Finance, P.O. Box 1493, Spokane, WA 99210-1493.

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):
- ☐ 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) JVA assessment, (8) penalties, and (9) costs, including cost of prosecution and court costs.

AO 245 SOR

(Rev. 11/16) Judgment in a Criminal Case
Attachment (Page 1) — Statement of Reasons

DEFENDANT: DARRYL WILLIAM YOUNG
CASE NUMBER: 1:16CR02058-SMJ-1
DISTRICT: Eastern District of Washington

Statement of Reasons - Page 1 of 4

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Feb 15, 2018

SEAN F. McAVOY, CLERK

STATEMENT OF REASONS

(Not for Public Disclosure)

Sections I, II, III, IV, and VII of the Statement of Reasons form must be completed in all felony and Class A misdemeanor cases.

I. COURT FINDINGS ON PRESENTENCE INVESTIGATION REPORT

- A. ☒ The court adopts the presentence investigation report without change.
- B. ☐ The court adopts the presentence investigation report with the following changes: (Use Section VIII if necessary)
(Check all that apply and specify court determination, findings, or comments, referencing paragraph numbers in the presentence report)
1. ☐ Chapter Two of the United States Sentencing Commission Guidelines Manual determinations by court: (briefly summarize the changes, including changes to base offense level, or specific offense characteristics)
 2. ☐ Chapter Three of the United States Sentencing Commission Guidelines Manual determinations by court: (briefly summarize the changes, including changes to victim-related adjustments, role in the offense, obstruction of justice, multiple counts, or acceptance of responsibility)
 3. ☐ Chapter Four of the United States Sentencing Commission Guidelines Manual determinations by court: (briefly summarize the changes, including changes to criminal history category or scores, career offender status, or criminal livelihood determinations)
 4. ☐ Additional Comments or Findings: (include comments or factual findings concerning any information in the presentence report, including information that the Federal Bureau of Prisons may rely on when it makes inmate classification, designation, or programming decisions; any other rulings on disputed portions of the presentence investigation report; identification of those portions of the report in dispute but for which a court determination is unnecessary because the matter will not affect sentencing or the court will not consider it)
- C. ☐ The record establishes no need for a presentence investigation report pursuant to Fed.R.Crim.P. 32.
Applicable Sentencing Guideline: (if more than one guideline applies, list the guideline producing the highest offense level)

II. COURT FINDINGS ON MANDATORY MINIMUM SENTENCE (Check all that apply)

- A. ☐ One or more counts of conviction carry a mandatory minimum term of imprisonment and the sentence imposed is at or above the applicable mandatory minimum term.
- B. ☐ One or more counts of conviction carry a mandatory minimum term of imprisonment, but the sentence imposed is below the mandatory minimum term because the court has determined that the mandatory minimum term does not apply based on:
- ☐ findings of fact in this case: (Specify)
 - ☐ substantial assistance (18 U.S.C. § 3553(e))
 - ☐ the statutory safety valve (18 U.S.C. § 3553(f))
- C. ☒ No count of conviction carries a mandatory minimum sentence.

III. COURT DETERMINATION OF GUIDELINE RANGE: (BEFORE DEPARTURES OR VARIANCES)

Total Offense Level: 26
Criminal History Category: 3
Guideline Range: (after application of §5G1.1 and §5G1.2) 0 to 300 months
Supervised Release Range: 0 to 5 years
Fine Range: \$ 0 to \$ 250,000

Fine waived or below the guideline range because of inability to pay.

AO 245 SOR (Rev. 11/16) Judgment in a Criminal Case
Attachment (Page 2) — Statement of Reasons

(Not for Public Disclosure)

DEFENDANT: DARRYL WILLIAM YOUNG
CASE NUMBER: 1:16CR02058-SMJ-1
DISTRICT: Eastern District of Washington

Statement of Reasons - Page 2 of 4

STATEMENT OF REASONS

IV. GUIDELINE SENTENCING DETERMINATION (Check all that apply)

- A. ☐ The sentence is within the guideline range and the difference between the maximum and minimum of the guideline range does not exceed 24 months.
- B. ☐ The sentence is within the guideline range and the difference between the maximum and minimum of the guideline range exceeds 24 months, and the specific sentence is imposed for these reasons: (Use Section VIII if necessary)
- C. ☐ The court departs from the guideline range for one or more reasons provided in the Guidelines Manual. (Also complete Section V)
- D. ☒ The court imposed a sentence otherwise outside the sentencing guideline system (i.e., a variance). (Also complete Section VI)

V. DEPARTURES PURSUANT TO THE GUIDELINES MANUAL (If applicable)

A. The sentence imposed departs: (Check only one)

- ☐ above the guideline range
☐ below the guideline range

B. Motion for departure before the court pursuant to: (Check all that apply and specify reason(s) in sections C and D)

1. Plea Agreement

- ☐ binding plea agreement for departure accepted by the court
☐ plea agreement for departure, which the court finds to be reasonable
☐ plea agreement that states that the government will not oppose a defense departure motion

2. Motion Not Addressed in a Plea Agreement

- ☐ government motion for departure
☐ defense motion for departure to which the government did not object
☐ defense motion for departure to which the government objected
☐ joint motion by both parties

3. Other

- ☐ Other than a plea agreement or motion by the parties for departure

C. Reasons for departure: (Check all that apply)

- | | | |
|---|--|--|
| <input type="checkbox"/> 4A1.3 Criminal History Inadequacy | <input type="checkbox"/> 5K2.1 Death | <input type="checkbox"/> 5K2.12 Coercion and Duress |
| <input type="checkbox"/> 5H1.1 Age | <input type="checkbox"/> 5K2.2 Physical Injury | <input type="checkbox"/> 5K2.13 Diminished Capacity |
| <input type="checkbox"/> 5H1.2 Education and Vocational Skills | <input type="checkbox"/> 5K2.3 Extreme Psychological Injury | <input type="checkbox"/> 5K2.14 Public Welfare |
| <input type="checkbox"/> 5H1.3 Mental and Emotional Condition | <input type="checkbox"/> 5K2.4 Abduction or Unlawful Restraint | <input type="checkbox"/> 5K2.16 Voluntary Disclosure of Offense |
| <input type="checkbox"/> 5H1.4 Physical Condition | <input type="checkbox"/> 5K2.5 Property Damage or Loss | <input type="checkbox"/> 5K2.17 High-Capacity Semiautomatic Weapon |
| <input type="checkbox"/> 5H1.5 Employment Record | <input type="checkbox"/> 5K2.6 Weapon | <input type="checkbox"/> 5K2.18 Violent Street Gang |
| <input type="checkbox"/> 5H1.6 Family Ties and Responsibilities | <input type="checkbox"/> 5K2.7 Disruption of Government Function | <input type="checkbox"/> 5K2.20 Aberrant Behavior |
| <input type="checkbox"/> 5H1.11 Military Service | <input type="checkbox"/> 5K2.8 Extreme Conduct | <input type="checkbox"/> 5K2.21 Dismissed and Uncharged Conduct |
| <input type="checkbox"/> 5H1.11 Charitable Service/Good Works | <input type="checkbox"/> 5K2.9 Criminal Purpose | <input type="checkbox"/> 5K2.22 Sex Offender Characteristics |
| <input type="checkbox"/> 5K1.1 Substantial Assistance | <input type="checkbox"/> 5K2.10 Victim's Conduct | <input type="checkbox"/> 5K2.23 Discharged Terms of Imprisonment |
| <input type="checkbox"/> 5K2.0 Aggravating/Mitigating Circumstances | <input type="checkbox"/> 5K2.11 Lesser Harm | <input type="checkbox"/> 5K2.24 Unauthorized Insignia |
| | | <input type="checkbox"/> 5K3.1 Early Disposition Program (EDP) |

- ☐ Other Guideline Reason(s) for Departure, to include departures pursuant to the commentary in the Guidelines Manual: (see "List of Departure Provisions" following the Index in the Guidelines Manual.) (Please specify)

D. State the basis for the departure. (Use Section VIII if necessary)

DEFENDANT: DARRYL WILLIAM YOUNG
CASE NUMBER: 1:16CR02058-SMJ-1
DISTRICT: Eastern District of Washington

Statement of Reasons - Page 3 of 4

STATEMENT OF REASONS

VI. COURT DETERMINATION FOR A VARIANCE (If applicable)

A. The sentence imposed is (Check only one):

- ☒ above the guideline range
☐ below the guideline range

B. Motion for a variance before the court pursuant to (Check all that apply and specify reason(s) in sections C and D):

1. **Plea Agreement**
 - ☐ binding plea agreement for a variance accepted by the court
 - ☐ plea agreement for a variance, which the court finds to be reasonable
 - ☐ plea agreement that states that the government will not oppose a defense motion for a variance
2. **Motion Not Addressed in a Plea Agreement**
 - ☐ government motion for a variance
 - ☐ defense motion for a variance to which the government did not object
 - ☐ defense motion for a variance to which the government objected
 - ☐ joint motion by both parties
3. **Other**
 - ☒ Other than a plea agreement or motion by the parties for a variance

C. 18 U.S.C. § 3553(a) and other reason(s) for a variance (Check all that apply):

- ☒ The nature and circumstances of the offense pursuant to 18 U.S.C. § 3553(a)(1):
- | | | |
|---|---|--|
| <input type="checkbox"/> Mens Rea | <input type="checkbox"/> Extreme Conduct | <input type="checkbox"/> Dismissed/Uncharged Conduct |
| <input type="checkbox"/> Role in the Offense | <input checked="" type="checkbox"/> Victim Impact | |
| <input type="checkbox"/> General Aggravating or Mitigating Factors (Specify): _____ | | |
- ☐ The history and characteristics of the defendant pursuant to 18 U.S.C. § 3553(a)(1):
- | | |
|--|---|
| <input type="checkbox"/> Aberrant Behavior | <input type="checkbox"/> Lack of Youthful Guidance |
| <input type="checkbox"/> Age | <input type="checkbox"/> Mental and Emotional Condition |
| <input type="checkbox"/> Charitable Service/Good Works | <input type="checkbox"/> Military Service |
| <input type="checkbox"/> Community Ties | <input type="checkbox"/> Non-Violent Offender |
| <input type="checkbox"/> Diminished Capacity | <input type="checkbox"/> Physical Condition |
| <input type="checkbox"/> Drug or Alcohol Dependence | <input type="checkbox"/> Pre-sentence Rehabilitation |
| <input type="checkbox"/> Employment Record | <input type="checkbox"/> Remorse/Lack of Remorse |
| <input type="checkbox"/> Family Ties and Responsibilities | <input type="checkbox"/> Other (Specify): _____ |
| <input type="checkbox"/> Issues with Criminal History (Specify): _____ | |
- ☒ To reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense (18 U.S.C. § 3553(a)(2)(A))
- ☒ To afford adequate deterrence to criminal conduct (18 U.S.C. § 3553(a)(2)(B))
- ☒ To protect the public from further crimes of the defendant (18 U.S.C. § 3553(a)(2)(C))
- ☐ To provide the defendant with needed educational or vocational training (18 U.S.C. § 3553(a)(2)(D))
- ☐ To provide the defendant with medical care (18 U.S.C. § 3553(a)(2)(D))
- ☒ To provide the defendant with other correctional treatment in the most effective manner (18 U.S.C. § 3553(a)(2)(D))
- ☒ To avoid unwarranted sentencing disparities among defendants (18 U.S.C. § 3553(a)(6)) (Specify in section D)
- ☒ To provide restitution to any victims of the offense (18 U.S.C. § 3553(a)(7))
- ☐ Acceptance of Responsibility
- ☐ Early Plea Agreement
- ☐ Time Served (not counted in sentence)
- ☐ Policy Disagreement with the Guidelines (Kimbrough v. U.S., 552 U.S. 85 (2007). (Specify): _____
- ☐ Conduct Pre-trial/On Bond
- ☐ Global Plea Agreement
- ☐ Waiver of Indictment
- ☐ Cooperation Without Government Motion for Departure
- ☐ Waiver of Appeal
- ☐ Other (Specify): _____

D. State the basis for a variance. (Use Section VIII if necessary)

DEFENDANT: DARRYL WILLIAM YOUNG
CASE NUMBER: 1:16CR02058-SMJ-1
DISTRICT: Eastern District of Washington

Statement of Reasons - Page 4 of 4

STATEMENT OF REASONS

VII. COURT DETERMINATIONS OF RESTITUTION

A. ☐ Restitution not applicable.

B. Total Amount of Restitution: \$ 14,346.87

C. Restitution not ordered (Check only one):

1. ☐ For offenses for which restitution is otherwise mandatory under 18 U.S.C. § 3663A, restitution is not ordered because the number of identifiable victims is so large as to make restitution impracticable under 18 U.S.C. § 3663A(c)(3)(A).
2. ☐ For offenses for which restitution is otherwise mandatory under 18 U.S.C. § 3663A, restitution is not ordered because determining complex issues of fact and relating them to the cause or amount of the victims' losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim would be outweighed by the burden on the sentencing process under 18 U.S.C. § 3663A(c)(3)(B).
3. ☐ For other offenses for which restitution is authorized under 18 U.S.C. § 3663 and/or required by the sentencing guidelines, restitution is not ordered because the complication and prolongation of the sentencing process resulting from the fashioning of a restitution order outweigh the need to provide restitution to any victims under 18 U.S.C. § 3663(a)(1)(B)(ii).
4. ☐ For offenses for which restitution is otherwise mandatory under 18 U.S.C. §§ 1593, 2248, 2259, 2264, 2327 or 3663A, restitution is not ordered because the victim(s)' losses were not ascertainable (18 U.S.C. § 3664(d)(5)).
5. ☐ For offenses for which restitution is otherwise mandatory under 18 U.S.C. §§ 1593, 2248, 2259, 2264, 2327 or 3663A, restitution is not ordered because the victim(s) elected to not participate in any phase of determining the restitution order (18 U.S.C. § 3664(g)(1)).
6. ☐ Restitution is not ordered for other reasons. (Explain)

D. ☐ Partial restitution is ordered for these reasons (18 U.S.C. § 3553(c)):

VIII. ADDITIONAL BASIS FOR THE SENTENCE IN THIS CASE (If applicable)

Defendant's Soc. Sec. No.: 531-56-4734

Defendant's Date of Birth: 5/26/1951

Defendant's Residence Address:

Unknown

Defendant's Mailing Address:

Unknown

2/14/2018

Date of Imposition of Judgment:

Signature of Judge

The Honorable Salvador Mendoza, Jr. Judge, U.S. District Court

2/15/2018

Date Signed:

55

**Additional material
from this filing is
available in the
Clerk's Office.**