

APPENDIX

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PUBLISHEDUNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-4524

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JUROTHER LEE ALSTON, JR.,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. N. Carlton Tilley, Jr., Senior District Judge. (1:17-cr-00446-NCT-1)

Argued: September 20, 2019

Decided: October 24, 2019

Before MOTZ, KING, and DIAZ, Circuit Judges.

Affirmed by published opinion. Judge Motz wrote the opinion, in which Judge King and Judge Diaz joined.

ARGUED: Leza Lee Driscoll, LAW OFFICE OF LEZA LEE DRISCOLL, PLLC, Raleigh, North Carolina, for Appellant. Terry Michael Meinecke, OFFICE OF THE UNITED STATES ATTORNEY, Greensboro, North Carolina, for Appellee. **ON BRIEF:** Matthew G.T. Martin, United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Greensboro, North Carolina, for Appellee.

DIANA GRIBBON MOTZ, Circuit Judge:

Jurother Lee Alston, Jr., entered a conditional guilty plea to possession of a firearm in furtherance of a drug crime, reserving the right to appeal the district court's order denying his motion to suppress. Alston now appeals that order. For the reasons that follow, we affirm.

I.

We recount the facts related to the suppression motion in the light most favorable to the Government. *See United States v. Norman*, 935 F.3d 232, 235 (4th Cir. 2019).

On December 11, 2017, Captain Raheem Aleem of the Durham County Sheriff's Office saw Alston run a red light. Driving behind Alston, Captain Aleem activated his blue emergency lights, but Alston failed to stop. Aleem watched Alston reach deep under the passenger seat of his car — so deep that he briefly disappeared from Aleem's view. Captain Aleem suspected that Alston was reaching for a gun. Looking back at Aleem and continuing to reach down, Alston slowly drove into a parked car and came to a stop.

Captain Aleem, concerned that Alston might try to flee, pulled up next to Alston's car. When asked why he ran a red light, Alston explained that he was distracted. Aleem next asked why Alston was reaching deep under his seat, and Alston replied that he had dropped his cell phone. Captain Aleem was skeptical; he heard a woman's voice in an ongoing phone call with Alston over the car's speakers and noticed Alston holding his phone in his left hand despite reaching under the seat with his right.

Aleem responded, “Bro, you mighty nervous, you got anything else in the vehicle that you shouldn’t have?” Alston replied, “All I got is this little bag of weed.” He held up a small bag of marijuana and, at Aleem’s request, tossed it into the officer’s vehicle.

Captain Aleem then asked Alston for his driver’s license, which Alston admitted was suspended. Aleem asked if Alston “could call someone else to drive the vehicle,” and Alston called his mother to do so. Captain Aleem parked and approached Alston. Noticing that Alston remained very nervous, Aleem assured him that he did not intend to take him to jail and “just want[ed] [him] to be honest.” The two made small talk until Alston’s mother arrived about five minutes later.

Alston’s mother joined Captain Aleem outside Alston’s car, while Alston remained seated inside. Aleem told Alston that besides the small bag of marijuana, he “still needed to find out whatever else [Alston] had in the vehicle.” He added, “I’ve been straightforward with you, and I need for you to be honest and straightforward with me.” Alston then handed over a black bag containing marijuana, a digital scale, and small plastic bags. He told Aleem it was “all he had.”

Captain Aleem thanked Alston but continued to suspect that Alston had been reaching for a gun and sought to have him turn it over. Aleem told Alston and his mother, “I’m going to need to get the heater” (a slang term for a firearm). Alston replied, “[A]re you going to take me to jail?” Captain Aleem assured him, “I need you to be honest with me and I will not take you to jail today.” Alston paused, looked at his mother and Aleem, and admitted, “It is underneath the passenger seat.” Aleem then asked Alston to exit the vehicle.

Captain Aleem searched Alston's person and found nothing. He then searched the passenger side of the vehicle and retrieved a loaded Glock firearm from under the seat. Aleem called dispatch to check the gun's serial number and learned that the gun was stolen. He returned to Alston and reiterated that he did not intend to take Alston to jail.

As he was talking to Alston, however, Captain Aleem received a call from Durham County Deputy James Gryder, a member of a joint task force with the Federal Bureau of Investigation. Based on an independent tip, the task force was separately investigating whether Alston, a convicted felon, illegally possessed a firearm, and a confidential source had alerted Gryder that Alston was in a traffic stop. Deputy Gryder asked Aleem if he was with Alston and if Alston had a gun. Captain Aleem confirmed that he was with Alston and that Alston did have a gun. Deputy Gryder told Aleem to detain Alston until task force officers arrived, and Aleem did so. Captain Aleem informed Alston's mother that he did not intend to take Alston to jail, but that he did not know what would happen when the other officers got there.

Deputy Gryder and other task force officers soon arrived at the scene. Captain Aleem told Gryder that he had promised Alston and his mother that he would not arrest Alston, but Gryder responded that Alston was "on both state and federal probation" and that the task force "would be taking over." Task force officers then arrested Alston.

II.

A grand jury indicted Alston on counts of possession of marijuana with intent to distribute, possession of a firearm in furtherance of that crime, possession of a firearm by

a felon, and possession of a stolen firearm. Alston moved to suppress all evidence obtained in the stop.

The district court granted Alston's motion in part and denied it in part. The court found Captain Aleem to be "a very credible witness" and "a very sincere person" and credited his testimony. The court determined that the initial stop was permissible because Alston had run a red light, "disappeared out of sight as if he were reaching for something or to hide something," attempted to evade Aleem until hitting a parked car, and gave a dubious account of dropping his phone. Reviewing Captain Aleem's words and conduct at the start of the stop, the court found that he had not been coercive during that time. Accordingly, the court held that Alston's confession about the first bag of marijuana was voluntary and denied the suppression motion for evidence obtained through that point in the stop.

Given Captain Aleem's assurances that he did not intend to arrest Alston, however, the district court found that Alston's subsequent admissions were involuntary. The court emphasized that Aleem, a community liaison officer and former school resource officer who preferred alternative programs to jailing offenders, was sincere. But the court concluded that a reasonable person in Alston's position would understand Captain Aleem's statements to mean that law enforcement — not only Aleem, but also any other officers — would not arrest him if he confessed. These assurances, the court concluded, overbore Alston's will, and the court suppressed his statements about the black bag and the gun.

But the district court refused to exclude the gun itself. The court found that Alston's admission about and presentation of the first bag of marijuana gave Captain Aleem

probable cause to search the car. The court held that even if Alston had not admitted to possession of the gun, it “would have inevitably been found because there was probable cause to search.” The court did not, however, expressly find that the police would have conducted the search, only that there was probable cause to do so.

Alston entered a conditional guilty plea to the sole charge of possession of a firearm in furtherance of a drug crime, reserving his right to appeal the suppression ruling. The district court sentenced Alston to sixty months’ imprisonment and five years’ supervised release.

On appeal, Alston challenges the district court’s denial of his motion to suppress “all derivative evidence resulting from his statements.” Opening Br. at 17. We review the district court’s legal conclusions *de novo* and its factual findings for clear error, construing the evidence in the light most favorable to the Government. *United States v. McGee*, 736 F.3d 263, 269 (4th Cir. 2013).

III.

Alston expressly poses three arguments. All are meritless.

First, he claims that his entire interaction with Captain Aleem amounted to custodial interrogation and that because Aleem failed to read him his rights, under *Miranda v. Arizona*, 384 U.S. 436 (1966), the district court should have excluded all evidence obtained from the stop, including the gun. Of course, the exclusionary rule bars admission of the nontestimonial physical fruits of statements obtained in violation of *Miranda* when those statements are involuntary, and statements obtained in violation of *Miranda* are

presumptively involuntary. *See United States v. Nichols*, 438 F.3d 437, 442 (4th Cir. 2006).

The district court *agreed* with Alston that most of his statements were involuntary and so excluded them. The court admitted the derivative evidence, including the gun, *not* because it was the fruit of voluntary statements, but because the court found that the inevitable discovery exception to the exclusionary rule rendered the derivative evidence admissible.

Second, Alston contends that all of his statements were involuntary. The district court held that Alston's first statements were voluntary, as Captain Aleem had not yet made any promises or otherwise said anything coercive, and we find no error in that holding. As noted above, the district court held that the statements admitting possession of the gun were involuntary and so excluded those statements; they are not at issue before us.

Third, Alston maintains that Captain Aleem impermissibly prolonged their interaction by exceeding the scope of the stop, in violation of *Rodriguez v. United States*, 135 S. Ct. 1609 (2015). This argument fails because Alston's admission to possessing the first bag of marijuana gave Captain Aleem the "reasonable suspicion . . . demanded to justify detaining" Alston and investigating further. *Id.* at 1615.

IV.

Strangely, neither Alston nor the Government directly addresses the inevitable discovery doctrine. We find it necessary to consider the issue because it provides the sole basis for the district court's denial of Alston's motion to suppress the gun. *Cf. United States v. Uzenski*, 434 F.3d 690, 707 (4th Cir. 2006) (considering an issue that "neither

party directly addressee[d]," but which was necessary to reach in determining whether the district court properly denied a suppression motion).

Although the district court held that Captain Aleem discovered the gun as a result of Alston's involuntary statements, the court refused to suppress it. Evidence discovered by illegal means, like the gun here, is not admissible if obtained "by exploitation of that illegality," but it is admissible if discovered "by means sufficiently distinguishable to be purged of the primary taint." *Wong Sun v. United States*, 371 U.S. 471, 488 (1963) (quoting JOHN MACARTHUR MAGUIRE, EVIDENCE OF GUILT 221 (1959)).

Such derivative evidence is admissible pursuant to the inevitable discovery doctrine only "[i]f the prosecution can establish by a preponderance of the evidence that the information ultimately or inevitably would have been discovered by lawful means." *Nix v. Williams*, 467 U.S. 431, 444 (1984). "A finding of inevitable discovery necessarily rests on facts that did not occur," but "by definition the occurrence of these facts must have been likely, indeed 'inevitable,' absent the government's misconduct." *United States v. Allen*, 159 F.3d 832, 840 (4th Cir. 1998).

Inevitable discovery demands that the prosecution prove by a preponderance of the evidence: first, that police legally *could* have uncovered the evidence; and second, that police *would* have done so. *See id.* ("We have no doubt that [the officer] *could* have used the dog, but whether she *would* have presents an entirely different question."); *see also*, e.g., *United States v. Pelletier*, 700 F.3d 1109, 1116 (7th Cir. 2012); *United States v. Heath*, 455 F.3d 52, 55 (2d Cir. 2006); *United States v. Almeida*, 434 F.3d 25, 29 (1st Cir. 2006). We address each requirement in turn.

A.

To rely on the inevitable discovery doctrine, the Government first must prove that police could have used “lawful means” to discover the illegally obtained evidence. *Nix*, 467 U.S. at 444. “‘Lawful means’ include an inevitable search falling within an exception to the warrant requirement . . . that would have inevitably uncovered the evidence in question.” *United States v. Bullette*, 854 F.3d 261, 265 (4th Cir. 2017).

One such exception to the warrant requirement is the automobile exception, which the district court invoked. The automobile exception allows police to search a vehicle if they have probable cause to believe it contains contraband. *Maryland v. Dyson*, 527 U.S. 465, 467 (1999) (per curiam); *United States v. Kelly*, 592 F.3d 586, 589 (4th Cir. 2010). An officer’s detection of marijuana creates such probable cause. *See United States v. Palmer*, 820 F.3d 640, 650 (4th Cir. 2016). When police have probable cause, the automobile exception permits “the search of every part of the vehicle . . . that may conceal the object of the search.” *United States v. Ross*, 456 U.S. 798, 825 (1982).

The district court expressly held that the automobile exception gave Captain Aleem authority he *could* have exercised to lawfully search the car. The court reasoned that Alston’s traffic violation justified Captain Aleem’s initial stop, and Alston’s attempt to evade Aleem while reaching deep beneath the seat created adequate suspicion for further investigative detention. Then, by admitting to possessing marijuana and showing it to Captain Aleem — which Alston did voluntarily, before Aleem made any promises — Alston gave Aleem “probable cause to search the car for further marijuana.” Finally, if Captain Aleem had searched the car based on that probable cause, he inevitably would have

found the gun. We agree with the district court that these facts establish that Captain Aleem could have uncovered the gun by lawful means.¹

B.

We turn to whether it was inevitable that Captain Aleem *would* have conducted a search for the gun, based on the information Aleem had before Alston made the statements that the district court found involuntary.

Although the court held that Captain Aleem developed the necessary probable cause and therefore *could* have searched Alston’s car, and that “the firearm would have been found *had he* performed that search,” the court never expressly held that Captain Aleem *would* have conducted the search. We must answer this question because, as noted above, discovery is not inevitable unless the Government proves that police not only *could* have lawfully obtained the evidence but also *would* have done so. *See Nix*, 467 U.S. at 444; *Allen*, 159 F.3d at 840.

The inevitable discovery exception “involves no speculative elements but focuses on demonstrated historical facts.” *Nix*, 467 U.S. at 444 n.5. Although a finding that police inevitably would have conducted the lawful search “necessarily rests on facts that did not

¹ The only authority Alston offers in response to this holding is *United States v. Graham*, 686 F. App’x 166 (4th Cir. 2017). In addition to being unpublished and so lacking in precedential value, *see* Local Rule 36(b); *United States v. Cortez*, 930 F.3d 350, 362 n.2 (4th Cir. 2019), *Graham* is inapposite here. There, we rejected the Government’s post hoc attempt to leverage plain-view evidence of an open container violation as probable cause to justify a warrantless vehicle search, chiefly because the record did not demonstrate that the searching officer was even aware of that evidence at the time of the search. *Graham*, 686 F. App’x at 173–74. Here, by contrast, it is undisputed that Alston showed Captain Aleem the marijuana well before any search.

occur,” such a finding nonetheless requires adequate “evidentiary support.” *Allen*, 159 F.3d at 840. Thus, a question too close to decide on the evidentiary record may require remand. *Cf. Murray v. United States*, 487 U.S. 533, 543 (1988) (Scalia, J.) (vacating and remanding an application of the related independent source doctrine where the district court “did not . . . explicitly find that the agents would have sought a warrant” and the inferences drawn from the record were not “clear enough to justify the conclusion” that the doctrine applied).

But this is not such a case. Here, the record demonstrates that even absent Alston’s admissions, Captain Aleem inevitably would have searched the car and found the gun. Aleem repeatedly testified that his highest priority in conducting the traffic stop was to find the gun he believed to be in the car and to get it off the street. As soon as he saw Alston reaching deep beneath the passenger seat while attempting to evade him, Captain Aleem grew suspicious that Alston was “reaching for a weapon.” After Alston produced the marijuana and *before* Alston admitted to possessing a gun, Aleem announced that he “need[ed] to get the heater.” He explained that “getting the heater off the street [was] more pressing than taking [Alston] to jail.” Once Captain Aleem suspected that there was a gun in the car, nearly every interaction he had with Alston was directed to finding that gun. Concluding that discovery was inevitable here requires no tenuous “string of conjecture.” *See United States v. Thomas*, 955 F.2d 207, 209–10 (4th Cir. 1992). We need not stack any shaky inferences about what Alston and Captain Aleem would have done in order to

reach this conclusion. *See Allen*, 159 F.3d at 840–43. In this case, the evidence that the search was inevitable jumps off the pages of the record.²

The record makes clear that before Alston made any involuntary admissions, Captain Aleem believed that Alston possessed a gun, had the probable cause necessary to search the car, and intended to find the gun. The record thus establishes that Captain Aleem not only could have searched the car but also would have done so. Accordingly, the district court did not err in admitting the gun.

V.

For the foregoing reasons, the judgment of the district court is

AFFIRMED.

² Alston emphasizes that Captain Aleem promised not to arrest him, and we accept the district court’s findings that Aleem’s promises were sincere. In another case, there well might be irreconcilable tension between an officer’s determination to obtain a gun and his repeated assurances that he would not arrest the suspect. In this case, however, there is not; we need not decide whether Captain Aleem, despite his sincere promises, would have arrested Alston because Deputy Gryder and the task force officers assuredly would have; indeed they did so. Independently of Aleem, Deputy Gryder learned that Alston was in a traffic stop. Deputy Gryder informed — not asked — Captain Aleem that the task force would arrest Alston; Gryder explained that Alston was “on both state and federal probation and due to the nature of the [offense], that [the task force] would be taking over” and “arrest [Alston] instead of allowing him to leave.” Captain Aleem repeatedly testified that “once [he] got the call” from Gryder, “[e]verything was frozen in time,” and that task force officers “took charge of everything.” The task force’s pursuit of Alston “is a critical intervening circumstance that is wholly independent” of Aleem’s promises not to arrest Alston. *Utah v. Strieff*, 136 S. Ct. 2056, 2063 (2016). The record indicates, and Alston does not dispute, that Gryder and the task force would and in fact did arrest Alston.

FILED: October 24, 2019

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-4524
(1:17-cr-00446-NCT-1)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

JUROTHREE LEE ALSTON, JR.

Defendant - Appellant

JUDGMENT

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

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

/s/ PATRICIA S. CONNOR, CLERK

United States District Court
Middle District of North Carolina

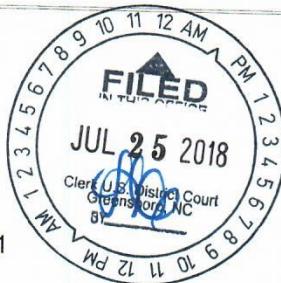
UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

V.

JUROTHER LEE ALSTON, JR.

Case Number: 1:17-CR-00446-1
USM Number: 29943-057

**THE DEFENDANT:**

- pleaded guilty to count 2.
 pleaded nolo contendere to count(s) _____ which was accepted by the court.
 was found guilty on count(s) _____ after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

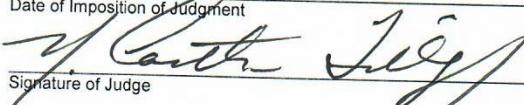
<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18:924(c)(1)(A)(i)	Possession of a Firearm in Furtherance of a Drug Trafficking Crime	12/11/2017	2

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)
 Counts 1, 3, and 4 are dismissed on the motion of the United States.

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States attorney of any material change in the economic circumstances.

June 21, 2018
Date of Imposition of Judgment


Signature of Judge

N. Carlton Tilley, Jr., Senior United States District Judge

Name & Title of Judge
7/24/2018
Date

DEFENDANT: JUROTHER LEE ALSTON, JR.
CASE NUMBER: 1:17-CR-00446-1

IMPRISONMENT

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

- The court makes the following recommendations to the Bureau of Prisons: that the defendant be designated to a Bureau of Prisons facility as close as possible to the Durham, N.C. area. Further, that the defendant be allowed to participate in whatever substance abuse treatment classes related to peer mediation, business management pertaining to the electrical business, whether it is actual electrical repairs or managing an electrical business. Further, that the defendant be allowed to participate in any mental health diagnostic or treatment program available.
- 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 _____ am/pm 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 pm 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: JUROTHER LEE ALSTON, JR.
CASE NUMBER: 1:17-CR-00446-1

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of **five (5) years**.

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
 The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
4. You must make restitution in accordance with 18 U.S.C §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. (Check if applicable)
5. You must cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
6. You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C § 20901, *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.)
7. 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.

DEFENDANT: JUROTHER LEE ALSTON, JR.
CASE NUMBER: 1:17-CR-00446-1

STANDARD CONDITIONS OF SUPERVISION

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

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

U.S. Probation Office Use Only

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

Defendant's Signature _____

Date _____

DEFENDANT: JUROTHER LEE ALSTON, JR.
CASE NUMBER: 1:17-CR-00446-1

SPECIAL CONDITIONS OF SUPERVISION

The defendant shall submit to substance abuse testing, at any time, as directed by the probation officer. The defendant shall cooperatively participate in a substance abuse treatment program, which may include drug testing and inpatient/residential treatment, and pay for treatment services, as directed by the probation officer. During the course of treatment, the defendant shall abstain from the use of alcoholic beverages.

The defendant shall cooperatively participate in a mental health diagnostic or treatment program, which may include inpatient treatment, and pay for treatment services, as directed by the probation officer.

The defendant shall provide any requested financial information to the probation officer.

The defendant shall not associate with or be in the company of any gang member/security threat group member, including but not limited to the United Blood Nation. The defendant shall not frequent any locations where gangs/security threat groups congregate or meet. The defendant shall not wear, display, use or possess any clothing or accessories which have any gang or security threat group significance.

The defendant shall submit his person, residence, office, vehicle, or any property under his control to a warrantless search. Such a search shall be conducted by a United States Probation Officer at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to such a search may be grounds for revocation; the defendant shall warn any residents that the premises may be subject to searches.

The defendant shall support his dependents.

DEFENDANT: JUROTHER LEE ALSTON, JR.
CASE NUMBER: 1:17-CR-00446-1

CRIMINAL MONETARY PENALTIES

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

TOTALS	<u>Assessment</u> \$100.00	<u>JVTA Assessment*</u>	<u>Fine</u> \$0.00	<u>Restitution</u> \$0.00
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- 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.
- 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 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: JUROTHER LEE ALSTON, JR.
CASE NUMBER: 1:17-CR-00446-1

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 payment of \$ 100.00 due immediately, balance due
 - not later than _____, or
 - in accordance with C, D, E, or F below; or
- B Payment to begin immediately (may be combined with C, D, or F below); or
- C Payment in equal _____ (e.g. weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D Payment in equal _____ (e.g. weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F Special instructions regarding the payment of criminal monetary penalties:

The special assessment in the amount of \$100.00 is due and payable immediately at such times and in such amounts as directed by the Federal Bureau of Prisons through the Inmate Financial Responsibility Program.

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 to be made to the Clerk of Court, United States District Court for the Middle District of North Carolina, 324 West Market Street, Greensboro, NC 27401-2544, unless otherwise directed by the court, the probation officer, or the United States Attorney. **Nothing herein shall prohibit the United States Attorney from pursuing collection of outstanding criminal monetary penalties.**

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

- Joint and Several

Defendant and Co-Defendant Names, Case 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) JVTA assessment, (8) penalties, and (9) costs, including cost of prosecution and court costs.

DEFENDANT: JUROTHER LEE ALSTON, JR.
CASE NUMBER: 1:17-CR-00446-1

DISPOSITION OF EVIDENCE

The firearm seized should be returned to the rightful owner at the conclusion of the appeal and the controlled substance seized shall be destroyed at the conclusion of the appeal.