

NUMBER \_\_\_\_\_

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**IN THE SUPREME COURT OF THE UNITED STATES**

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**OCTOBER TERM 2019**

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**WILLIAM JAMES SPRINGER, Petitioner,**

**v.**

**UNITED STATES OF AMERICA, Respondent.**

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**APPENDIX A**

**TO PETITION FOR WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT**

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**JONATHAN D. BYRNE  
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**WESLEY P. PAGE  
FEDERAL PUBLIC DEFENDER**

**DAVID R. BUNGARD  
ASSISTANT FEDERAL PUBLIC DEFENDER**

2019 WL 5166272

Only the Westlaw citation is currently available.

This case was not selected for publication in West's Federal Reporter.

See Fed. Rule of Appellate Procedure 32.1 generally governing citation of judicial decisions issued on or after Jan. 1, 2007. See also U.S.Ct. of Appeals 4th Cir. Rule 32.1.

United States Court of Appeals, Fourth Circuit.

UNITED STATES of America, Plaintiff-Appellee,

v.

William James SPRINGER, Defendant-Appellant.

No. 18-4545

|

Argued: September 20, 2019

|

Decided: October 15, 2019

### Synopsis

**Background:** After pleading guilty, defendant was convicted in United States District Court for the Southern District of West Virginia, [Irene C. Berger](#), J., of distribution of oxymorphone, a controlled substance, and received a sentence of 96 months of imprisonment, which included a two-level sentencing enhancement for possession of a dangerous weapon, and five years supervised release. Defendant appealed.

**Holdings:** The Court of Appeals held that:

[1] any error in the district court's finding that defendant could reasonably foresee co-participant's possession of a firearm was not clear;

[2] firearm being found in proximity to a large quantity of oxymorphone supported finding that firearm was within the scope of defendant and co-participant's joint criminal activity; and

[3] trial court acted within its discretion when it sentenced defendant to a five-year term of supervised release.

Affirmed.

West Headnotes (3)

**[1] Sentencing and Punishment**

Any error in the district court's finding that defendant could reasonably foresee co-participant's possession of a firearm in connection with their criminal activity, supporting a two-level sentencing enhancement for defendant's conviction for distribution of a controlled substance, was not clear, where defendant and co-participant were involved in the distribution of a large quantity of oxymorphone, and co-participant, at defendant's direction, had been bringing drugs to and staying with people he did not know otherwise, a potentially perilous undertaking. [U.S.S.G. §§ 1B1.3\(a\)\(1\)\(B\), 2D1.1\(b\)\(1\)](#).

**[2] Sentencing and Punishment**

Firearm being found in proximity to a large quantity of oxymorphone that defendant had arranged for co-participant to distribute supported finding that firearm was within the scope of defendant and co-participant's joint criminal activity, as required for two-level sentencing enhancement for the possession of a firearm. [U.S.S.G. § 1B1.3\(a\)\(1\)\(B\)](#).

**[3] Sentencing and Punishment**

Trial court acted within its discretion when it sentenced defendant to a five-year term of supervised release, where defendant's criminal history included crimes of violence, and defendant had substance abuse issues and a lack of education.

Appeal from the United States District Court for the Southern District of West Virginia, at Beckley. [Irene C. Berger](#), District Judge. (5:17-cr-00212-1)

**Attorneys and Law Firms**

ARGUED: [David Bungard](#), OFFICE OF THE FEDERAL PUBLIC DEFENDER, Charleston, West Virginia, for Appellant. Kathleen Elizabeth Robeson, OFFICE OF THE UNITED STATES ATTORNEY, Charleston, West Virginia, for Appellee. ON BRIEF: [Christian M. Capece](#), Federal Public Defender, Jonathan D. Byrne, Assistant Federal Public Defender, OFFICE OF THE FEDERAL PUBLIC DEFENDER, Charleston, West Virginia, for Appellant. [Michael B. Stuart](#),

United States Attorney, Charleston, West Virginia, [John L. File](#), Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Beckley, West Virginia, for Appellee.

Before [MOTZ](#), [KING](#), and [DIAZ](#), Circuit Judges.

## Opinion

Affirmed by unpublished per curiam opinion.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

\*1 William Springer pled guilty to a single count of distribution of oxymorphone, a controlled substance, and received a sentence of 96 months imprisonment and five years of supervised release. He appeals, challenging the district court's application of a two-level sentencing enhancement for possession of a dangerous weapon and contending that the district court abused its discretion in imposing a five-year term of supervised release. For the following reasons, we affirm.

### I.

Springer's conviction arises from an investigation into illegal drug trafficking in Greenbrier County, West Virginia. Officers conducted several "controlled buys" of oxymorphone tablets from Springer and his associates, Joshua Smith and Jessica Honaker. In connection with the investigation, twenty-one oxymorphone tablets were purchased from Springer for a total of \$2,030 and six tablets were purchased from Smith and Honaker for a total of \$770.

On December 2, 2016, officers executed a search warrant of Smith and Honaker's residence. Officers found Tremaine Pool, Springer's nephew, lying on a mattress in the living room. Underneath a couch in the living room were a 9 mm handgun with the serial number removed and a large quantity of oxymorphone tablets.

Pool told investigators that the handgun and oxymorphone tablets belonged to him. Pool admitted to selling approximately 260 tablets from Smith and Honaker's residence, and said that Springer had supplied him with the tablets, introduced him to Smith, and arranged for his transportation to the residence.

Based on the controlled buys, the Government charged Springer with six counts of distribution of oxymorphone, in violation of [21 U.S.C. § 841\(a\)\(1\)](#). He pled guilty to one count, preserving his right to appeal any decision or finding by the district court that the dangerous weapon enhancement

under Section 2D1.1(b)(1) of the Sentencing Guidelines applied. In connection with his guilty plea, Springer stipulated that he had distributed, or been involved in distributing, approximately 300 oxymorphone pills in Greenbrier County.

At the sentencing hearing, the district court applied a two-level enhancement for possession of a dangerous weapon. *See U.S.S.G. § 2D1.1(b)(1)*. The enhancement was based on Pool's possession of the handgun, which the court attributed to Springer as "relevant conduct" under Section 1B1.3 of the Sentencing Guidelines. In holding that the enhancement applied, the court found that Springer could have reasonably foreseen Pool's possession of a firearm given the ubiquity of firearms in the drug trafficking trade, the quantity of drugs involved in Springer and Pool's operation, and the fact that, at Springer's behest, Pool had been "bringing drugs to and staying with people he didn't otherwise know."

The Guideline range was 100 to 125 months' imprisonment; the court varied downwards to 96 months. The district court also sentenced Springer to five years of supervised release — an upward variance from the Guideline range of three years. Noting Springer's criminal history, substance abuse issues, and lack of education, the district court stated that "a lengthier term of supervised release will provide additional support and supervision to both assist Mr. Springer in returning to society and to protect the public after his completion of a term of imprisonment." Springer noted a timely appeal.

## II.

\*2 Springer contends that the district court clearly erred in finding that he could have reasonably foreseen Pool's possession of a firearm. Springer also contends that the district court's imposition of a five-year term of supervised release was substantively unreasonable. We review criminal sentences for reasonableness "under a deferential abuse-of-discretion standard." *Gall v. United States*, 552 U.S. 38, 41, 128 S.Ct. 586, 169 L.Ed.2d 445 (2007).

### A.

"In assessing whether a district court properly calculated the Guidelines range, including its application of any sentencing enhancements, we review the district court's legal conclusions *de novo* and its factual findings for clear error." *United States v. Fluker*, 891 F.3d 541, 547 (4th Cir. 2018) (alterations omitted).

Section 2D1.1(b)(1) of the Sentencing Guidelines provides that the base offense level of a drug offense is increased two levels "[i]f a dangerous weapon (including a firearm) was possessed."

U.S.S.G. § 2D1.1(b)(1). Under the relevant conduct provisions of the Guidelines, Springer is subject to the enhancement if Pool’s possession of the firearm was “(i) within the scope of [Springer and Pool’s] jointly undertaken criminal activity, (ii) in furtherance of that criminal activity, and (iii) reasonably foreseeable in connection with that criminal activity.” U.S.S.G. § 1B1.3(a)(1)(B).

Springer contends that the district court clearly erred in finding that he could reasonably foresee Pool’s possession of a firearm. In determining whether an act or omission was reasonably foreseeable for purposes of the relevant conduct provisions, we consider both the nature of the offense and the circumstances of the case. *See United States v. Kimberlin*, 18 F.3d 1156, 1160 (4th Cir. 1994); U.S.S.G. § 1B1.3 cmt. n.3(D). In *Kimberlin*, we held that in drug trafficking cases, “absent evidence of exceptional circumstances, it is fairly inferable that a codefendant’s possession of a dangerous weapon is foreseeable to a defendant with reason to believe that their collaborative criminal venture includes an exchange of controlled substances for a large amount of cash.” *Kimberlin*, 18 F.3d at 1160 (alterations omitted); *accord United States v. Gomez-Jimenez*, 750 F.3d 370, 381 (4th Cir. 2014).

[1] Here, the district court cited the large quantity of oxymorphone Springer and Pool had distributed in West Virginia — Springer stipulated that he had been involved in distributing approximately 300 oxymorphone pills in Greenbrier County. The court also noted that Pool, at Springer’s direction, had been “bringing drugs to and staying with people he didn’t otherwise know” — a potentially perilous undertaking. Although this is a close case, the district court’s finding that Pool’s possession of a firearm was reasonably foreseeable to Springer does not constitute clear error.

Springer argues that the operation in which he played a part “was not the kind of large-scale operation which suggests that firearms will inevitably become involved,” Opening Br. at 16, and notes that the drug conspiracy at issue in *Kimberlin* involved fifteen kilograms of cocaine. *See Kimberlin*, 18 F.3d at 1158. To be sure, the strength of any inference that a defendant could reasonably foresee a co-defendant’s possession of a firearm depends on “the circumstances of the case,” *see id. at 1160*, including the quantity of drugs involved, as the Government acknowledged at oral argument. Here, Springer distributed upwards of \$25,000 worth of oxymorphone tablets and did so by arranging for Pool to sell the drugs from the home of people he did not otherwise know. While these facts do not compel the district court’s finding that Pool’s possession of a firearm was reasonably foreseeable to Springer, they are sufficient for us to conclude that the finding does not constitute clear error.

\*3 [2] Springer also argues that the dangerous weapon enhancement should not be applied in all drug cases involving firearms, and notes that for the enhancement to be applied under the relevant conduct provisions, the firearm must fall within the scope of jointly undertaken criminal activity. *See U.S.S.G. § 1B1.3(a)(1)(B)*. We agree.<sup>1</sup> Here, Pool’s firearm was found in proximity to a

large quantity of oxymorphone that Springer had arranged for Pool to distribute. This adequately supports the district court's finding that the firearm was within the scope of Springer and Pool's joint criminal activity. *See United States v. Harris*, 128 F.3d 850, 852 (4th Cir. 1997) (holding that the "proximity of guns to illicit narcotics" can support application of the dangerous weapon enhancement).

**1** We do not agree, however, with Springer's contention that the question of scope goes to whether a co-defendant's conduct is reasonably foreseeable. Scope and reasonable foreseeability are independent inquiries under [Section 1B1.3\(a\)\(1\)\(B\)](#). *See United States v. Flores-Alvarado*, 779 F.3d 250, 255–56 (4th Cir. 2015).

Springer argues that "[t]here was no evidence that Springer's agreement with Pool to enter into a criminal scheme included the possession of firearms." Opening Br. at 15. This argument is unavailing. The question is not whether Springer and Pool agreed to possess firearms; the question is whether possession of a firearm was within the scope of their agreement to distribute oxymorphone.

Finally, Springer contends that this case "lacks the factors that have led courts to find that possession of a firearm by a confederate was reasonably foreseeable to the defendant": this is not a case, like *Kimberlin*, "where the defendant actually saw a confederate with a gun in his hands," nor is it a case, like *Gomez-Jimenez*, "where the defendant helped maintain [a] home that was being used as a location to distribute drugs and where firearms were stored." Opening Br. at 14–15. Springer reads our precedents too narrowly. In *Kimberlin* and *Gomez-Jimenez*, we merely described relevant facts that supported the district courts' foreseeability findings. *See Kimberlin*, 18 F.3d at 1160; *Gomez-Jimenez*, 750 F.3d at 382. We have never *required* that a defendant participate in setting up a drug house or have actual knowledge of a firearm in order to apply the dangerous weapon enhancement as relevant conduct. Indeed, in *Kimberlin*, we upheld the district court's application of the dangerous weapon enhancement to three co-conspirators, including one co-conspirator for whom we referenced no facts showing actual knowledge. *See Kimberlin*, 18 F.3d at 1160.

## B.

**[3]** Springer additionally challenges his five-year term of supervised release as substantively unreasonable, contending that the sentence is greater than necessary to further the purposes of supervised release.<sup>2</sup> We disagree. The district court cited Springer's "criminal history, including [crimes] of violence, as well as ... substance abuse issues and a lack of education" in imposing the five-year term, and stated that "a lengthier term of supervised release will provide additional support and supervision to both assist Mr. Springer in returning to society and to protect the public after his completion of a term of imprisonment." These are proper considerations in imposing a term of supervised release, *see 18 U.S.C. § 3583(c)*, and the court's imposition of a five-year term

was not an abuse of discretion, especially in light of the below-Guidelines term of imprisonment imposed by the court. *See United States v. Helton, 782 F.3d 148, 155 (4th Cir. 2015).*

2 At oral argument, counsel for Springer confirmed that Springer challenges the supervised release term on substantive reasonableness grounds.

### III.

**\*4** For the foregoing reasons, the judgment of the district court is

*AFFIRMED.*

### All Citations

--- Fed.Appx. ----, 2019 WL 5166272

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**APPENDIX B**

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**WESLEY P. PAGE  
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**DAVID R. BUNGARD  
ASSISTANT FEDERAL PUBLIC DEFENDER**

1       The problem was the defendant was actually involved and  
2 maintained that house to the extent that he was there on the  
3 day that all those guns and the cash and the drugs were  
4 found. The defendant had also paid the electric bill for  
5 that particular residence. So that puts him more in the  
6 involvement with the conspiracy specifically where the guns  
7 were found with respect to the drugs and the money.

8       And I would respectfully submit in this case you don't  
9 have that here. It's, it's clear that Mr. Springer wasn't  
10 present on December 2nd when the Greenbrier police went in  
11 and executed the search warrant on the house. The amount of  
12 drugs that were found were significantly less than what was  
13 involved in the *Gomez-Jimenez* case. There was approximately  
14 76 oxymorphone, 40-milligram and 20-milligram pills. The  
15 amount of cash involved was only \$1,800.

16       Now, I'm not here arguing that, that the drug  
17 enhancement should not have applied to those three people  
18 that were there that day given the fact that the drugs were  
19 found and the gun was there. But I'm saying there's not --  
20 there's no ties to Mr. Springer and that gun that would  
21 warrant a two-level enhancement for a dangerous weapon in  
22 his case today.

23                   THE COURT: All right. Thank you, Mr. Bungard.

24       As has been stated here and argued in the parties'  
25 sentencing memoranda, the parties are essentially arguing

1 with respect to the issue of foreseeability.

2 I've reviewed your arguments and your memoranda. I've  
3 listened carefully here today. And I find that the  
4 objection made by the Government should be sustained. And I  
5 want to place the reasons on the record.

6 Pursuant to Section 2D1.1(b)(1) of the guidelines, the  
7 offense level should be increased by two levels if a  
8 dangerous weapon, including a firearm, was possessed during  
9 the crime.

10 When that specific offense characteristic is applicable  
11 as relevant conduct in the case of a jointly undertaken  
12 criminal activity, pursuant to Section 1B1.3(a)(1)(B), the  
13 possession of the firearm must have been within the scope of  
14 the jointly undertaken criminal activity, in furtherance of  
15 that activity, and reasonably foreseeable in connection with  
16 the activity.

17 There's no dispute in our case that possession of the  
18 firearm was within the scope of the jointly undertaken  
19 criminal activity or that it was in furtherance of that  
20 activity.

21 It was located by law enforcement officers underneath a  
22 couch together with some pills. And the parties are simply  
23 arguing about the issue of foreseeability.

24 Also, the relevant facts here are not in dispute. A  
25 loaded 9-millimeter firearm was found during the search of

1 the home of one of Mr. Springer's criminal colleagues,  
2 Joshua Smith, underneath the couch, as I've indicated, with  
3 some oxymorphone.

4 Tremaine Pool, the defendant's nephew who the defendant  
5 sent to West Virginia for the purpose of delivering  
6 oxymorphone to Smith and his girlfriend for sale in  
7 Greenbrier County and who was staying with Smith and his  
8 girlfriend while they distributed the oxymorphone, admitted  
9 the firearm and oxymorphone found underneath the couch were  
10 his.

11 This defendant stipulated to having distributed or  
12 being involved in distributing 300 40-milligram oxymorphone  
13 pills in Greenbrier County during a three-month time frame.  
14 That amount included 21 oxymorphone, the best I could count  
15 it, pills distributed by him.

16 Based on the undisputed facts contained in the  
17 Pre-Sentence Investigation Report, I find that it was  
18 reasonably foreseeable to Mr. Springer that his nephew,  
19 Mr. Pool, would possess a firearm while he carried out his  
20 role of delivering drugs to West Virginia for Smith and his  
21 girlfriend to sell.

22 You all have made reference in your sentencing  
23 memoranda, and Mr. Bungard here today, to the Fourth Circuit  
24 opinion of *U.S. vs. Kimberlin* that the Court has found that  
25 it is fairly inferable that a co-defendant's possession of a

1 dangerous weapon is foreseeable to a defendant with reason  
2 to believe that their collaborative criminal venture  
3 includes an exchange of controlled substances for a large  
4 amount of cash. And, yes, the facts of that case are very  
5 different than the facts of this case.

6 We know, however, under Application Note 3 of Section  
7 1B1.3 the fact that Pool and Springer were not indicted  
8 together or charged with conspiring together does not impact  
9 the Court's determination regarding jointly undertaken  
10 criminal activity.

11 We also know from that Application Note that the  
12 criminal activity that the defendant agreed to undertake,  
13 the distribution of oxymorphone in Greenbrier County, and  
14 the reasonably foreseeable conduct of Mr. Pool in  
15 furtherance of that criminal activity do not necessarily  
16 have to be identical.

17 It is not necessary that the defendant actually saw his  
18 nephew with the gun or that he had been at the Smith  
19 residence when the search was conducted or that he actually  
20 knew his nephew had a gun in his possession.

21 Nor is it necessary, as has been argued here today,  
22 that his acquiring of the gun be done at this defendant's  
23 direction or with his assistance or that Mr. Springer be  
24 present at the home when the search was conducted.

25 The focus under the guidelines is on what is reasonably

1 foreseeable from the defendant's perspective given the  
2 nature of the criminal activity that's undertaken.

3 We know that firearm possession is not unusual in drug  
4 distribution. We also know that firearms have at times been  
5 referred to as a tool of the drug trade.

6 And, again, I have said, and I think it's important to  
7 point out, that we are not dealing here with the defendant's  
8 actual knowledge of the possession of the gun, but in its  
9 reasonable foreseeability.

10 The defendant and Mr. Pool, at the defendant's  
11 direction, delivered a large quantity of oxymorphone to this  
12 state. And given the nature of the offense, the quantity,  
13 and the fact that Pool was bringing drugs to and staying  
14 with people he didn't otherwise know while and until the  
15 drugs were sold, this Court finds that his possession of a  
16 firearm was, in fact, reasonably foreseeable.

17 And for those reasons, I sustain the objection filed on  
18 behalf of the Government.

19 Counsel, do either of you have other objections that  
20 you want to note at this time?

21 MR. FILE: No, Your Honor.

22 MR. BUNGARD: No, Your Honor.

23 THE COURT: I preserve, Mr. Bungard, by the way,  
24 an objection and exception for Mr. Springer to my finding  
25 with respect to the foreseeability of the weapon.

NUMBER \_\_\_\_\_

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**APPENDIX C**

**TO PETITION FOR WRIT OF CERTIORARI  
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**DAVID R. BUNGARD  
ASSISTANT FEDERAL PUBLIC DEFENDER**



DEFENDANT: WILLIAM JAMES SPRINGER

CASE NUMBER: 5:17-cr-00212-01

**IMPRISONMENT**

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

NINETY-SIX (96) MONTHS. The defendant shall be given credit for all time served to which he is legally entitled.

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

That the defendant: 1) be evaluated for and placed in any and all appropriate substance and/or alcohol abuse treatment programs which may be offered by the Bureau of Prisons; and 2) be placed in a facility as near as possible to his home in Michigan.

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: WILLIAM JAMES SPRINGER

CASE NUMBER: 5:17-cr-00212-01

**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 you pose 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 (42 U.S.C. § 16901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
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: WILLIAM JAMES SPRINGER  
CASE NUMBER: 5:17-cr-00212-01

## STANDARD CONDITIONS OF SUPERVISION

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

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

## U.S. Probation Office Use Only

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

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

Date \_\_\_\_\_

DEFENDANT: WILLIAM JAMES SPRINGER  
CASE NUMBER: 5:17-cr-00212-01

### ADDITIONAL SUPERVISED RELEASE TERMS

While on supervised release, the defendant must not commit another federal, state, or local crime, must not possess a firearm or other dangerous device, and must not unlawfully possess a controlled substance. The defendant must also comply with the standard terms and conditions of supervised release as recommended by the United States Sentencing Commission and as adopted by the United States District Court for the Southern District of West Virginia, including the special condition that the defendant shall participate in a program of testing, counseling, and treatment for drug and alcohol abuse as directed by the probation officer, until such time as the defendant is released from the program by the probation officer. In addition, the defendant shall comply with the Standard Conditions of Supervision adopted by the Southern District of West Virginia in Local Rule of Criminal Procedure 32.3, as follows:

- 1) If the defendant is unemployed, the probation officer may direct the defendant to register and remain active with Workforce West Virginia;
- 2) The defendant shall submit to random urinalysis or any drug screening method whenever the same is deemed appropriate by the probation officer and shall participate in a substance abuse program as directed by the probation officer. The defendant shall not use any method or device to evade a drug screen;
- 3) As directed by the probation officer, the defendant will make copayments for drug testing and drug treatment services at rates determined by the probation officer in accordance with a court-approved schedule based on ability to pay and availability of third-party payments; and
- 4) A term of community service is imposed on every defendant on supervised release or probation. Fifty hours of community service is imposed on every defendant for each year the defendant is on supervised release or probation. The obligation for community service is waived if the defendant remains fully employed or actively seeks such employment throughout the year.

DEFENDANT: WILLIAM JAMES SPRINGER  
CASE NUMBER: 5:17-cr-00212-01

### **SPECIAL CONDITIONS OF SUPERVISION**

In addition, the Defendant shall comply with the following Special Condition of supervision:

The Defendant is not currently a resident of this district; therefore, the period of supervised release is to be administered by the district where the defendant is a legal resident and/or the district where a suitable release plan is developed.

DEFENDANT: WILLIAM JAMES SPRINGER  
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## CRIMINAL MONETARY PENALTIES

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

**TOTALS**      \$ 100.00      \$ 0.00      \$ 0.00      \$ 0.00

- 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 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: WILLIAM JAMES SPRINGER  
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## 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:

If not paid immediately, the defendant shall pay the \$100 special assessment while incarcerated through participation in the Inmate Financial Responsibility Program by paying quarterly installments of \$25 each.

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 clerk of the court.

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

Joint and Several

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

The defendant shall pay the cost of prosecution.  
 The defendant shall pay the following court cost(s):  
 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.