

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

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IN THE  
SUPREME COURT OF THE UNITED STATES

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ROSALIO RAMOS TAPIA,

*Petitioner*

v.

UNITED STATES OF AMERICA

*Respondent*

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APPENDIX

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INDEX TO APPENDICES

Appendix A Judgment and Opinion of Fifth Circuit

Appendix B Judgment and Sentence of the United States District Court for the Northern District of Texas

## APPENDIX A

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 18-10161

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United States Court of Appeals  
Fifth Circuit

**FILED**

January 6, 2020

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

Plaintiff - Appellee

v.

ROSALIO RAMOS TAPIA, also known as Rosalio Ramos, also known as Chale, also known as Mocho,

Defendant - Appellant

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

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Before SOUTHWICK, GRAVES, and ENGELHARDT, Circuit Judges.

KURT D. ENGELHARDT, Circuit Judge:

Rosalio Ramos Tapia pleaded guilty, pursuant to a plea agreement, to conspiracy to possess with intent to distribute a controlled substance, in violation of 21 U.S.C. §§ 846, 841(a)(1) and 841(b)(1)(B)(viii). The district court sentenced Tapia to 210 months of imprisonment and four years of supervised release based on a drug-quantity finding of 45 kilograms or more of methamphetamine. Tapia appeals his sentence, contending that the Government breached the plea agreement by using protected proffer information to support a higher drug-quantity finding. We AFFIRM.

**I.**

After being indicted for conspiracy to distribute and to possess with intent to distribute methamphetamine, Tapia entered into a proffer agreement on August 24, 2016, with the United States Attorney's Office for the Northern District of Texas. Under the proffer agreement, Tapia was required to "tell the truth" and was prohibited from, among other things, "withhold[ing] any material information" and "seek[ing] to minimize [his] own or anyone else's criminal activity." Law enforcement agents then interviewed Tapia, wherein he estimated participating in transactions of methamphetamine totaling approximately 21 kilograms.

On September 14, 2016, Tapia pleaded guilty, pursuant to a plea agreement, to a superseding information charging that he conspired to distribute and to possess with intent to distribute 50 grams or more of a mixture or substance containing a detectable amount of methamphetamine.<sup>1</sup> As part of the plea agreement, Tapia agreed to "give complete and truthful information and/or testimony concerning his participation in the offense of conviction." In exchange, the Government agreed not to bring any additional charges against Tapia based upon the conduct underlying and related to his guilty plea.

A supplement to the plea agreement provided that Tapia further agreed to fully cooperate with the Government and to provide, in any proceeding, information or testimony that is truthful and complete regarding his participation in the offense of conviction and his knowledge of criminal activities. The Government agreed to move for a downward departure under U.S.S.G. § 5K1.1, in the event the Government, "in its sole discretion," determined that Tapia "cooperated and provided substantial assistance in the

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<sup>1</sup> The August 24, 2016 proffer agreement contained a provision indicating that the proffer agreement would terminate in the event that Tapia signed a plea agreement. Tapia signed the plea agreement on September 5, 2016. Therefore, the plea agreement is the controlling document for review in the instant appeal.

investigation or prosecution of others.” Most importantly to the dispute on appeal, the supplement also contained a provision regarding information proffered by Tapia:

The government agrees that U.S.S.G. § 1B1.8 is applicable to the defendant. Any information provided by the defendant, other than that charged in the indictment, in connection with the defendant’s assistance to the United States, including debriefing and testimony, will not be used to increase the defendant’s Sentencing Guideline level or used against the defendant for further prosecution, *if in the opinion of the United States Attorney the defendant has met all of the defendant’s obligations under the Plea Agreement and provided full, complete, and truthful information and testimony.* However, nothing revealed by the defendant during the defendant’s debriefings and testimony would preclude the defendant’s prosecution for any violent crime.

As calculated in the presentence report (PSR), Tapia’s base offense level was 38, upon a finding that Tapia was responsible for a total of 67 kilograms of methamphetamine.<sup>2</sup> After two two-level enhancements<sup>3</sup> and a three-level reduction<sup>4</sup>, Tapia’s total offense level of 39 combined with a category I criminal history yielded a guidelines range of 262–327 months of imprisonment. Tapia filed written objections to the PSR, including an objection to the PSR’s drug-quantity finding, in which he denied responsibility for the 65 kilograms derived from CD1’s statements to agents. The Government filed a response, in which it included, among other exhibits, FBI reports in support of CD1’s credibility and reliability, as well as Tapia’s proffer information.<sup>5</sup> Subsequently, the

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<sup>2</sup> This drug-quantity finding was based on information from a cooperating defendant (CD1) who alleged that Tapia and a coconspirator supplied CD1 with an estimated 65 kilograms of methamphetamine, and on a communication intercepted by law enforcement which implicated Tapia’s responsibility for two additional kilograms of methamphetamine.

<sup>3</sup> Pursuant to U.S.S.G. § 2D1.1(b)(1) and § 2D1.1(b)(5), respectively.

<sup>4</sup> Pursuant to U.S.S.G. § 3E1.1.

<sup>5</sup> Notably, the Government, in attaching Tapia’s proffer information as an exhibit, notified the court that the proffer information could not be used to enhance Tapia’s offense level but was being offered as rebuttal evidence to Tapia’s objection.

Government filed a motion under § 5K1.1, asking that Tapia’s total offense level be reduced by two levels, from 39 to 37. Observing that such a reduction would lower Tapia’s guidelines range to 210 to 262 months of imprisonment, the Government requested a sentence of 210 months of imprisonment.

At sentencing, Tapia reiterated his objection to the 65 kilograms of methamphetamine relating to CD1. Tapia admitted that he had transactions with CD1 but asserted that the transactions totaled no more than six to eight kilograms. Tapia then contended that he should be held responsible for 5 to 15 kilograms of methamphetamine, a range that corresponded to a base offense level of 34. In addressing the information detailed in the Government’s response to Tapia’s PSR objections, Tapia spoke about the Government’s use of his own proffer. Tapia then contended that CD1’s information attributing 65 kilograms of methamphetamine to Tapia was not corroborated by the other information presented by the Government.

In response, the Government urged the court to consider the “entire investigation” and began by reviewing the amounts of methamphetamine identified throughout the PSR. The Government then asserted that Tapia’s own proffer indicated he was responsible for more than 5 to 15 kilograms of methamphetamine. From that proffer information, the Government identified a minimum of 21 kilograms of methamphetamine attributable to Tapia. The Government ultimately contended that the 65-kilogram quantity was supported by a preponderance of the evidence and that Tapia’s objection to the drug quantity should be overruled.

The district court overruled Tapia’s objection to the PSR’s drug-quantity finding, reasoning that the Government had shown by a preponderance of the evidence that the drug quantity exceeded 45 kilograms of methamphetamine, the threshold for a base offense level of 38. The court granted the Government’s § 5K1.1 motion, thereby reducing Tapia’s total offense level from

39 to 37. The statement of reasons reflects that the district court adopted the PSR and PSR addendum without change. Tapia's guidelines range after the § 5K1.1 departure was 210 to 262 months of imprisonment, and the district court sentenced him to 210 months of imprisonment and four years of supervised release. Tapia did not object to the sentence after its pronouncement. He timely filed a notice of appeal. *See FED. R. APP. P. 4(b)(1)(A)(i).*

On appeal, Tapia contends that the Government breached the plea agreement by using information from his proffer to advocate for a higher sentence. First, Tapia argues that he preserved this issue for appeal by objecting to the Government's use of proffer information during the sentencing hearing. Second, he asserts that the district court erred by relying on the protected proffer information in making its drug-quantity finding, which resulted in a higher base offense level and ultimately a higher sentencing guidelines range, such that his substantial rights were affected.

## II.

First, we consider the question of issue preservation, as it dictates which standard of review to apply: *de novo* or plain error. If Tapia preserved the issue, whether the Government breached the plea agreement is a question of law that is reviewed *de novo*. *See United States v. Purser*, 747 F.3d 284, 290 (5th Cir. 2014). Conversely, if Tapia failed to preserve the issue, plain error review applies. *See Puckett v. United States*, 556 U.S. 129, 133–35 (2009); *see also United States v. Hebron*, 684 F.3d 554, 557–58 (5th Cir. 2012).

To preserve an alleged error, a party must raise an objection that is sufficiently specific to (1) alert the district court to the nature of the error and to (2) provide an opportunity for correction. *United States v. Chauful*, 781 F.3d 758, 761 n.2 (5th Cir. 2015) (quoting *United States v. Neal*, 578 F.3d 270, 272 (5th Cir. 2009)); *see Hebron*, 684 F.3d at 558 (“[W]ithout a specific objection

alerting the district court that the government has breached the plea agreement, the error is not preserved.”). Although a party is not required to express its objection in “ultra-precise terms,” *United States v. Pineiro*, 470 F.3d 200, 204 (5th Cir. 2006), the objection must provide the district court an opportunity to adjudicate the issue in first instance and cure or remediate any alleged breach, *Puckett*, 556 U.S. at 140.

At the sentencing hearing, Tapia spoke about the Government’s use of his own proffer:

However, the Government then goes on and—and they understand, and they made it real clear that they’re not to use any debriefing information against the Defendant, but in this case they contend it’s done to rebut any evidence that the Defendant would bring.

So I’m contending, Judge, here that they’re saying that my client made reference to now about deals that he did with another individual in Tulsa to the tune of about 10 kilos, and that’s during debriefing. We’re not saying that didn’t happen, Judge. He also makes reference to another source that my client was utilizing that allowed him to transact and broker some activity in California.

However, Tapia did not explicitly assert that the Government’s disclosure of the proffer information constituted a violation or breach of the plea agreement. Tapia noted the Government’s contention that the proffer information could be used as rebuttal evidence, but he did not clearly argue that the Government’s contention was wrong. Because Tapia merely noted the prohibition without clearly stating that the Government was violating the plea agreement, his remarks fall short of those in *Chavful*, which were sufficient to preserve a challenge to the breach of a plea agreement. *See Chavful*, 781 F.3d at 761 n.2.

In the absence of a clear objection, our determination of the proper standard of review now turns on whether those same remarks were otherwise sufficiently specific to alert the district court to the alleged contravention. *See id.; Hebron*, 684 F.3d at 558. Here, Tapia’s remarks did not put the district

court on notice of the Government's alleged breach such that the court had the opportunity to cure or remedy the error. Accordingly, Tapia failed to preserve the issue and plain-error review applies.

### III.

Under the plain-error standard of review, Tapia must show not only error based on the breach of the plea agreement but also that the breach constitutes clear or obvious error that affects his substantial rights. *See Puckett*, 556 U.S. at 135 (recognizing that an error is not clear or obvious if it is subject to reasonable dispute). To prove an effect on his substantial rights, Tapia must show “a reasonable probability that, but for the error, he would have received a lesser sentence.” *Hebron*, 684 F.3d at 559 (citing *United States v. Villegas*, 404 F.3d 355, 364 (5th Cir. 2005)). Additionally, in *United States v. Mares*, this court emphasized, “the Supreme Court has made it clear that the defendant rather than the government bears the burden of persuasion with respect to prejudice.” 402 F.3d 511, 521 (5th Cir. 2005) (citing *United States v. Olano*, 507 U.S. 725, 734 (1993)). If Tapia makes such a showing, this court should exercise its discretion to correct the error if the error seriously affects the fairness, integrity, or public reputation of judicial proceedings. *See Rosales-Mireles v. United States*, 138 S. Ct. 1897, 1906 (2018); *see also Puckett*, 556 U.S. at 135.

Here, whether the Government's use of Tapia's proffer information constitutes clear or obvious error is of little consequence because, ultimately, Tapia's substantial rights were not affected. The district court, as in *Hebron*, could have reasonably based its drug-quantity finding on the facts presented in the PSR. *See Hebron*, 684 F.3d at 559. Although the district court did not specifically articulate how the Government proved by a preponderance of the evidence that the drug quantity was at least 45 kilograms, it did, in its

statement of reasons, adopt the PSR and addendum without change. Indeed, the district court must have considered at least some of the information from the PSR to be credible and reliable because if it had not, the court could not have made a drug-quantity finding higher than the 21 kilograms, via the protected proffer information, plus the six to eight kilograms admitted at sentencing, for a total of no more than 29 kilograms. Furthermore, the information from the PSR yielded a total drug quantity of 67 kilograms; so, relying on that unprotected information alone, the 45-kilogram base amount would have been, as the district court articulated, “certainly” met.

Accordingly, Tapia has not carried his burden of proving that he would have received a lesser sentence had the Government not referenced the proffer information; consequently, his substantial rights were not affected.

AFFIRMED.

## APPENDIX B

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

UNITED STATES OF AMERICA

v.

ROSALIO RAMOS TAPIA

§ JUDGMENT IN A CRIMINAL CASE

§

§

§ Case Number: 3:16-CR-00130-N(13)

§ USM Number: 54577-177

§ Luis A Merren

Defendant's Attorney

**THE DEFENDANT:**

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

**Count 1s of the Superseding Information filed September 14, 2016.**

The defendant is adjudicated guilty of these offenses:

| <u>Title &amp; Section / Nature of Offense</u>   | <u>Offense Ended</u> | <u>Count</u> |
|--|----------------------|--------------|
| 21:846, 841(A)(1), 841(B)(1)(B)(Viii) Conspiracy To Possess With Intent To Distribute A Controlled Substance | 03/18/2016           | 1s           |

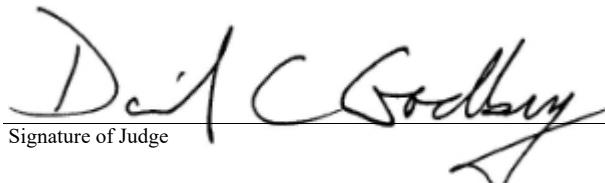
The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s)
- Count(s) Count 2 of the Original Indictment  is  are dismissed on the motion of the United States

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

**JANUARY 29, 2018**

Date of Imposition of Judgment

  
Signature of Judge

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

Name and Title of Judge

**FEBRUARY 2, 2018**

Date

DEFENDANT: ROSALIO RAMOS TAPIA  
CASE NUMBER: 3:16-CR-00130-N(13)

## IMPRISONMENT

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

**210 (Two Hundred Ten) months as to count 1s.**

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

That the defendant be designated to FCI Seagoville, Texas and participate in the Bureau of Prisons Residential Drug Abuse Treatment Program, if possible.

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

at  a.m.  p.m. on

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

before 2 p.m. on  
 as notified by the United States Marshal.  
 as notified by the Probation or Pretrial Services Office.

## RETURN

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to

at \_\_\_\_\_, with a certified copy of this judgment.

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UNITED STATES MARSHAL

By

---

DEPUTY UNITED STATES MARSHAL

DEFENDANT: ROSALIO RAMOS TAPIA  
CASE NUMBER: 3:16-CR-00130-N(13)

## SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: **Four (4) years as to Count 1s.**

## 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 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 additional conditions on the attached page.

DEFENDANT: ROSALIO RAMOS TAPIA  
CASE NUMBER: 3:16-CR-00130-N(13)

## 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. I understand additional information regarding these conditions is available at [www.txnp.uscourts.gov](http://www.txnp.uscourts.gov).

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

Date \_\_\_\_\_

DEFENDANT: ROSALIO RAMOS TAPIA  
CASE NUMBER: 3:16-CR-00130-N(13)

### **SPECIAL CONDITIONS OF SUPERVISION**

As a condition of supervised release, upon the completion of the sentence of imprisonment, the defendant shall be surrendered to a duly-authorized immigration official for deportation in accordance with the established procedures provided by the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq. As a further condition of supervised release, if ordered deported or removed, the defendant shall remain outside the United States.

In the event the defendant is not deported upon release from imprisonment, the defendant shall comply with the standard conditions contained in this Judgment and shall comply with the mandatory and special conditions stated herein.

DEFENDANT: ROSALIO RAMOS TAPIA  
 CASE NUMBER: 3:16-CR-00130-N(13)

## 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> |
|---------------|-------------------|-------------------------|-------------|--------------------|
| <b>TOTALS</b> | \$100.00          | \$0.00                  | \$0.00      | \$0.00             |

The determination of restitution is deferred until *An Amended Judgment in a Criminal Case (AO245C)* will be entered after such determination.

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

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

Restitution amount ordered pursuant to plea agreement \$

The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

The court determined that the defendant does not have the ability to pay interest and it is ordered that:

|   |                               |  |
|---|-------------------------------|--|
| <input type="checkbox"/> the interest requirement is waived for the | <input type="checkbox"/> fine | <input type="checkbox"/> restitution                         |
| <input type="checkbox"/> the interest requirement for the           | <input type="checkbox"/> fine | <input type="checkbox"/> 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: ROSALIO RAMOS TAPIA  
 CASE NUMBER: 3:16-CR-00130-N(13)

## SCHEDULE OF PAYMENTS

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

- A**  Lump sum payments of \$ \_\_\_\_\_ due immediately, balance due
  - not later than \_\_\_\_\_, or
  - in accordance  C,  D,  E, or  F below; or
- B**  Payment to begin immediately (may be combined with  C,  D, or  F below); or
- C**  Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D**  Payment in equal 20 (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E**  Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F**  Special instructions regarding the payment of criminal monetary penalties:  
**It Is ordered that the Defendant shall pay to the United States a special assessment of \$100.00 for Count 1s which shall be due immediately. Said special assessment shall be paid To the Clerk, U.S.District Court.**

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

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

- Joint and Several
 

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

  - Defendant shall receive credit on his restitution obligation for recovery from other defendants who contributed to the same loss that gave rise to defendant's restitution obligation.
  - The defendant shall pay the cost of prosecution.
  - The defendant shall pay the following court cost(s):
  - The defendant shall forfeit the defendant's interest in the following property to the United States:

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.