

APPENDIX A

17-2206-cr

United States v. Nikolla

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

August Term, 2019

(Argued: January 28, 2020 Decided: February 19, 2020)

Docket No. 17-2206

United States of America,

Appellee,

v.

Denis Nikolla, also known as Deni, also known as Nache,

Defendant-Appellant,

Besnik Llakatura, also known as Besi, also known as Nick, Redinel Dervishaj,
also known as Redi, also known as Red,

*Defendants.*¹

Before:

PIERRE N. LEVAL, JOSÉ A. CABRANES, ROBERT D. SACK, *Circuit Judges.*

Defendant Denis Nikolla appeals from a judgment of conviction in the United States District Court for the Eastern District of New York (Eric N. Vitaliano, J.) upon Defendant's plea of guilty to, *inter alia*, one count of threatening physical violence in furtherance of an extortion plan in violation of 18 U.S.C. § 1951(a), and one count of brandishing a firearm during and in

¹ The Clerk is directed to modify the caption as shown above.

1 relation to, or in furtherance of, a crime of violence in violation of 18 U.S.C.
2 § 924(c)(1)(A)(ii). The sole issue on appeal is whether the offense of
3 threatening physical violence in furtherance of an extortion plan under 18
4 U.S.C. § 1951(a) qualifies as a “crime of violence” under 18 U.S.C.
5 § 924(c)(3)(A). We hold that it does, and AFFIRM the conviction.
6

7 DANIEL S. NOOTER, Washington, D.C.,
8 *for Defendant-Appellant.*
9

10 NADIA I. SHIHATA, Assistant United
11 States Attorney (Samuel P. Nitze and
12 Patrick T. Hein, Assistant United States
13 Attorneys, *on the brief*), *for* Richard P.
14 Donoghue, United States Attorney for
15 the Eastern District of New York,
16 Brooklyn, N.Y., *for Appellee.*
17
18

19 LEVAL, Circuit Judge:

20 Defendant-Appellant Denis Nikolla (“Nikolla”) appeals from a July 13,
21 2017 judgment of conviction in the United States District Court for the Eastern
22 District of New York (Eric N. Vitaliano, *J.*) upon his plea of guilty to two
23 counts of Hobbs Act extortion conspiracy in violation of 18 U.S.C. § 1951(a),
24 one count of threatening physical violence in furtherance of an extortion plan
25 in violation of 18 U.S.C. § 1951(a), and one count of brandishing a firearm
26 during and in relation to, or in furtherance of, a “crime of violence” under 18
27 U.S.C. § 924(c)(1)(A)(ii). Nikolla was sentenced principally to 216 months
28 imprisonment. On appeal, Nikolla challenges his conviction under

§ 924(c)(1)(A)(ii) on the grounds that the predicate offense, threatening physical violence in furtherance of an extortion plan under 18 U.S.C. § 1951(a), is not a “crime of violence” as defined in § 924(c)(3). For the reasons below, we hold that this offense under 18 U.S.C. § 1951(a) qualifies categorically as a “crime of violence” under the Elements Clause of § 924(c)(3), and affirm the judgment of conviction.

A. BACKGROUND

On July 17, 2014, a grand jury in the Eastern District of New York returned a second superseding indictment charging Nikolla and two co-defendants, Besnik Llakatura and Redinel Dervishaj (“Dervishaj”), with three counts of Hobbs Act extortion conspiracy, in violation of 18 U.S.C. § 1951(a); three counts of attempted Hobbs Act extortion, in violation of 18 U.S.C. § 1951(a); and three counts of using or carrying a firearm during and in relation to a crime of violence and possessing a firearm in furtherance of a crime of violence, in violation of 18 U.S.C. § 924(c)(1)(A)(i) & (ii),² all in

² The indictment charged Nikolla with, and Nikolla pled guilty to, the enhanced offense of “brandish[ing]” the firearm under 18 U.S.C. § 924(c)(1)(A)(ii), App’x at 38–39, 82–83, 106–07, which increases the mandatory penalty from five years to seven years of imprisonment.

1 connection with the defendants' efforts to extort the proprietors of restaurants
2 and other businesses in and around Astoria, Queens in 2012 and 2013. On
3 January 27, 2016, Dervishaj moved to dismiss the § 924(c) charges on the
4 grounds that none of the Hobbs Act offenses qualified as "crimes of violence"
5 as required by § 924(c). Nikolla joined the motion.

6 On February 24, 2016, while these motions were pending, the
7 government filed a third superseding indictment which, along with the
8 charges contained in the second superseding indictment, charged Nikolla and
9 Dervishaj with three new counts of "knowingly and intentionally
10 threaten[ing] physical violence . . . in furtherance of a plan [of Hobbs Act
11 extortion]," in violation of 18 U.S.C. § 1951(a), on the basis of Nikolla and
12 Dervishaj's "plan and purpose to obtain proceeds from [several
13 establishments] located in Queens, New York, from [the victims], with [the
14 victims'] consent, which consent was to be induced by wrongful use of actual
15 and threatened force, violence and fear of physical injury." App'x at 35–36, 38,
16 40. The third superseding indictment also modified the previously alleged
17 charges of violation of § 924(c), so that they incorporated as predicate crimes

1 of violence the newly-charged offenses under § 1951(a) of threatened physical
2 violence.

3 On March 3, 2016, the district court heard oral argument on defendants'
4 joint motion to dismiss the § 924(c) charges. During that hearing, counsel for
5 Dervishaj conceded that the newly-charged Hobbs Act counts in the third
6 superseding indictment, charging Dervishaj and Nikolla with threatening or
7 committing physical violence in furtherance of a plan of extortion in violation
8 of 18 U.S.C. § 1951(a), were “valid predicate[]” crimes of violence as defined
9 in § 924(c)(3)’s so-called “Elements Clause,” and declined to extend the
10 motion to dismiss to those counts. Gov’t App’x at 4.³ Counsel for Nikolla then
11 agreed that the new counts qualified as “crimes of violence” under the
12 Elements Clause of § 924(c). *Id.* at 5. On March 23, 2016, Nikolla pleaded
13 guilty, pursuant to a plea agreement, to two counts of conspiracy to commit
14 Hobbs Act extortion in violation of 18 U.S.C. § 1951(a), one new count of
15 threatening physical violence in furtherance of an extortion plan in violation

³ Dervishaj was convicted of the § 924(c) offense after a jury trial, but subsequently appealed that conviction raising the same argument as here advanced by Nikolla. This court affirmed his § 924(c) conviction in a summary order. *United States v. Dervishaj*, 787 F. App’x 12 (2d Cir. 2019).

1 of 18 U.S.C. § 1951(a), and one count that charged him under § 924(c)(1)(A)(ii)
2 with brandishing a firearm during and in relation to, or in furtherance of, a
3 “crime of violence.”

4 On appeal, Nikolla asks this court to overturn his § 924(c) conviction
5 because the predicate offense for that conviction — Hobbs Act threat of
6 violence in furtherance of extortion under 18 U.S.C. § 1951(a) — does not
7 qualify as a “crime of violence” under the Elements Clause of § 924(c).

8 Because Nikolla conceded in the district court that this offense constituted a
9 “crime of violence” under § 924(c), we review his challenge on appeal for
10 plain error. *United States v. Hendricks*, 921 F.3d 320, 326 (2d Cir. 2019)
11 (“[Where] a defendant challenges his or her sentence on a basis not raised
12 before the District Court, we review for plain error.”).

13 B. DISCUSSION

14 Section 924(c) requires a mandatory consecutive sentence of five years
15 imprisonment for the use or carrying of a firearm during and in relation to a
16 “crime of violence” or the possession of a firearm in furtherance of a “crime of
17 violence,” and imposes an enhanced penalty of seven years imprisonment
18 (rather than five) “if the firearm is brandished.” 18 U.S.C. § 924(c)(1)(A).

1 Section 924(c) defines “crime of violence” as “an offense that is a felony and—
2 (A) has as an element the use, attempted use, or threatened use of physical
3 force against the person or property of another.” *Id.* § 924(c)(3)(A) (the
4 “Elements Clause”).⁴ To determine whether an offense is a crime of violence
5 under the Elements Clause of § 924(c)(3), we employ the “categorical
6 approach,” which requires us to consider whether the elements of the offense
7 can be satisfied by conduct that would fall outside the definition of a “crime
8 of violence” provided by § 924(c)(3)(A), looking to the statutory definitions of
9 the offense, and not to the particular underlying facts. *See United States v. Hill*,
10 890 F.3d 51, 55–56 (2d Cir. 2018) (citations omitted). To disqualify a particular
11 offense from § 924(c)’s definition of “crime[s] of violence,” a defendant must
12 show “a realistic probability, not a theoretical possibility, that the statute at
13 issue could be applied to conduct that does not constitute a crime of violence”
14 by establishing that “courts [have] in fact appl[ied] the statute in the manner

⁴ In *United States v. Davis*, 139 S. Ct. 2319 (2019), the Supreme Court invalidated the “Residual Clause” of 18 U.S.C. § 924(c)’s definition of “crime[s] of violence” as unconstitutionally vague. *Id.* at 2336; 18 U.S.C. § 924(c)(3)(B). Because we hold that the charged offense of threatening to commit physical violence in furtherance of Hobbs Act extortion qualifies as a “crime of violence” under the Elements Clause, *Davis*’s holding does not affect our analysis.

1 for which he argues.” *Id.* at 56 (citations, alterations, and internal quotation
2 marks omitted).

3 The ultimate indictment charged Nikolla with “threatening physical
4 violence in furtherance of a plan to extort [the victim]” in violation of 18
5 U.S.C. § 1951(a). App’x at 38. Section 1951(a) defines several separate offenses,
6 one of which applies to a defendant who “commits or threatens physical
7 violence to any person or property in furtherance of a plan or purpose to
8 [commit Hobbs Act robbery or extortion].” 18 U.S.C. § 1951(a); *Scheidler v.*
9 *Nat’l Org. for Women*, 547 U.S. 9, 22 (2006) (recognizing that committing or
10 threatening physical violence in furtherance of Hobbs Act robbery or
11 extortion is a “separate Hobbs Act crime”). The elements of that offense
12 mirror almost exactly the definition of a “crime of violence” in the Elements
13 Clause of § 924(c). *Compare* 18 U.S.C. § 924(c)(3)(A) (defining “crime of
14 violence” as a felony that “has as an element the . . . *threatened use of physical*
15 *force against the person or property of another*”) *with id.* § 1951(a) (imposing
16 criminal liability on any person who “commits or *threatens physical violence to*
17 *any person or property* in furtherance of a plan [of Hobbs Act extortion]”).

1 Nikolla argues that the § 1951(a) offense does not necessarily involve
2 the threat of physical force “against the person or property of *another*,” *id.*
3 § 924(c)(3)(A) (emphasis added), because § 1951(a) — which prohibits the use
4 or threat of violence “to *any* person or property” — would impose liability if a
5 defendant’s plan of extortion involved a threat of violence to the defendant
6 himself or his property. Br. of Appellant at 11. Nikolla, however, does not cite
7 to any case that applied the Hobbs Act in this way, and we are aware of none.
8 *Gonzales v. Duenas-Avarex*, 549 U.S. 183, 193 (2007) (requiring “cases in which
9 [] courts in fact did apply the statute in the . . . manner for which [the
10 defendant] argues”); *Hill*, 890 F.3d at 56 (same).

11 We therefore hold that the offense specified in the clause of 18 U.S.C.
12 § 1951(a) by the language “[w]hoever . . . commits or threatens physical
13 violence to any person or property in furtherance of a plan or purpose to do
14 anything in violation of [§ 1951]” is categorically a “crime of violence” under
15 the Elements Clause of 18 U.S.C. § 924(c)(3).

16 C. CONCLUSION

17 For the foregoing reasons, we AFFIRM the July 13, 2017 judgment of
18 the district court.

APPENDIX B

**UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT**

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 1st day of April, two thousand twenty.

United States of America,

Appellee,

v.

Denis Nikolla, AKA Deni, AKA Nache,

Defendant - Appellant,

Besnik Llakatura, AKA Besi, AKA Nick, Redinel
Dervishaj, AKA Redi, AKA Red,

Defendants.

ORDER

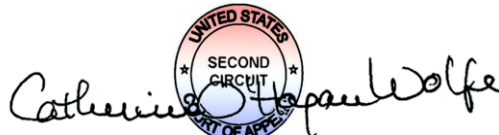
Docket No: 17-2206

Appellant, Denis Nikolla, filed a petition for panel rehearing, or, in the alternative, for rehearing *en banc*. The panel that determined the appeal has considered the request for panel rehearing, and the active members of the Court have considered the request for rehearing *en banc*.

IT IS HEREBY ORDERED that the petition is denied.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk

The block contains a handwritten signature in black ink that reads "Catherine O'Hagan Wolfe". The signature is written over a circular official seal of the United States Court of Appeals for the Second Circuit. The seal features the text "UNITED STATES" at the top, "SECOND CIRCUIT" in the center, and "COURT OF APPEALS" at the bottom, with stars on either side of the central text.

APPENDIX C

UNITED STATES DISTRICT COURT

Eastern District of New York

UNITED STATES OF AMERICA

v.

Denis Nikolla

JUDGMENT IN A CRIMINAL CASE

Case Number: 1:13CR00668(S-3) (ENV)-3

USM Number: 83112-053

Royce Russell, Esq.

Defendant's Attorney

BROOKLYN OFFICE

THE DEFENDANT:

☒ pleaded guilty to count(s) Counts 1, 7, 8 and 9 of a 12-count superseding indictment☐ 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>
	SEE NEXT PAGE		

The defendant is sentenced as provided in pages 2 through 8 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.☐ The defendant has been found not guilty on count(s) _____☒ Count(s) 2-6,10-12&underlying indictmts ☐ 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.

3/10/2017
Date of Imposition of Judgment

s/ENV

Signature of Judge

Eric N. Vitaliano, U.S.D.J.
Name and Title of Judge

JUL 7 2017

Date

DEFENDANT: Denis Nikolla
CASE NUMBER: 1:13CR00668(S-3) (ENV)-3

ADDITIONAL COUNTS OF CONVICTION

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. § 1951(a)	HOBBS ACT EXTORTION CONSPIRACY OF JOHN DOE #1	12/3/2013	1
*****	*****		*****
18 U.S.C. § 1951(a)	THREATENING PHYSICAL VIOLENCE IN FURTHERANCE OF A PLAN TO EXTORT JOHN DOE #2	12/3/2013	7
*****	*****		*****
18 USC §924(c)(1)(A)(II)	BRANDISHING A FIREARM IN FURTHERANCE OF A CRIME OF VIOLENCE	12/3/2013	8
*****	*****		*****
18 U.S.C. § 1951(a)	HOBBS ACT EXTORTION CONSPIRACY OF JOHN DOE #3	12/3/2013	9

DEFENDANT: Denis Nikolla
CASE NUMBER: 1:13CR00668(S-3) (ENV)-3

IMPRISONMENT

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

One Hundred thirty two (132) months on counts 1, 7 and 9, each term to run concurrently. Eighty-four months on count 8, consecutive to counts 1, 7 and 9.

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

☒ 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 _____
a _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____

DEPUTY UNITED STATES MARSHAL

DEFENDANT: Denis Nikolla

CASE NUMBER: 1:13CR00668(S-3) (ENV)-3

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of : see page 6

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 cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
5. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
6. ☐ You must participate in an approved program for domestic violence. *(check if applicable)*

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

DEFENDANT: Denis Nikolla

CASE NUMBER: 1:13CR00668(S-3) (ENV)-3

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.

Defendant's Signature _____

Date _____

DEFENDANT: Denis Nikolla

CASE NUMBER: 1:13CR00668(S-3) (ENV)-3

SPECIAL CONDITIONS OF SUPERVISION

Upon release from imprisonment, you will be on supervised release for a term of: Three (3) years on counts 1, 7 and 9. Five (5) years on count 8. Each term to run concurrently.

1. The defendant shall comply with the order restitution.
2. The defendant shall not have contact with John Doe #1, John Doe #2, John Doe #3, John Doe #4, or any of their family members. This means that he shall not attempt to meet in person, or communicate by letter, telephone, e-mail, the Internet, or through a third party, without the knowledge and permission of the U.S. Probation Department.
3. The defendant shall not associate in person, through mail, electronic mail or telephone with any individual with an affiliation to any organized crime groups, gangs or any criminal enterprise; nor shall the defendant frequent any establishment, or other locale where these groups may meet pursuant, but not limited to, a prohibition list provided by the U.S. Probation Department.
4. The defendant shall cooperate with and abide by all instructions of immigration authorities.
5. If deported, the defendant shall not illegally re-enter the United States.
6. The defendant shall not possess a firearm, ammunition, or destructive device;

DEFENDANT: Denis Nikolla
CASE NUMBER: 1:13CR00668(S-3) (ENV)-3**CRIMINAL MONETARY PENALTIES**

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

	<u>Assessment</u>	<u>JVTA Assessment*</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 400.00	\$	\$ 0.00	\$ 10,000.00

☐ 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.

<u>Name of Payee</u>	<u>Total Loss**</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
John Doe # 2		\$10,000.00	

TOTALS	\$	<u>0.00</u>	\$	<u>10,000.00</u>
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☐ 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: Denis Nikolla
CASE NUMBER: 1:13CR00668(S-3) (ENV)-3

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 \$ _____ 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:
- Special Assessment fee of \$400.00 is due immediately. The defendant shall pay restitution in the amount of \$10,000, due immediately and payable at a rate of \$25 per quarter while in custody and 10% of gross income per month while on supervised release. Payments should be submitted to the Clerk of the Court, U.S. District Court for the Eastern District of New York, 225 Cadman Plaza East, Brooklyn, NY 11201.

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.

Redinal Dervishaj and Benik Llakatura- 13cr668(ENV)

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