

APPENDIX

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PUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-4837

UNITED STATES OF AMERICA,

Plaintiff – Appellee,

v.

CHARLES C. WILLIAMSON,

Defendant – Appellant.

Appeal from the United States District Court for the Northern District of West Virginia, at Wheeling. John Preston Bailey, District Judge. (5:18-cr-00022-JPB-JPM-1)

Argued: January 29, 2020

Decided: March 23, 2020

Before WILKINSON, NIEMEYER, and MOTZ, Circuit Judges.

Affirmed by published opinion. Judge Wilkinson wrote the opinion, in which Judge Niemeyer and Judge Motz joined.

ARGUED: David W. Frame, LAW OFFICE OF DAVID W. FRAME, Clarksburg, West Virginia, for Appellant. Robert Hugh McWilliams, Jr., OFFICE OF THE UNITED STATES ATTORNEY, Wheeling, West Virginia, for Appellee. **ON BRIEF:** William J. Powell, United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Wheeling, West Virginia, for Appellee.

WILKINSON, Circuit Judge:

In our criminal justice system, sentences for drug offenses are primarily based on the type and weight of the drug involved. In July 2018, Charles C. Williamson pleaded guilty to one count of aiding-and-abetting the distribution of methamphetamine. At sentencing, when deciding on the quantity of methamphetamine to attribute to Williamson, the district judge counted those drugs that Williamson and his accomplice sold, as well as those that the accomplice used “recreationally.” Williamson’s claim on appeal is solely that his accomplice’s personal use should not have counted. We disagree. And finding no other error with Williamson’s sentence, we affirm.

I.

On June 5, 2018, a grand jury for the United States District Court for the Northern District of West Virginia returned a three-count indictment against Williamson. Count one charged him with conspiracy to distribute methamphetamine, heroin, cocaine, and cocaine base in violation of 21 U.S.C. §§ 846 and 841(b)(1)(C). Counts two and three charged Williamson with aiding-and-abetting the distribution of methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(C). The indictment did not specify a drug weight, which meant that Williamson faced a statutorily-prescribed sentencing range of zero to twenty years imprisonment for each count. The grand jury also indicted Brea M. Saeger, who was Williamson’s accomplice and on-and-off-girlfriend, for the same three offenses.

On July 16, 2018, without the benefit of a plea agreement, Williamson pleaded guilty to one count of aiding-and-abetting the distribution of methamphetamine. The general nature of this drug trafficking scheme is not at issue. In short, Williamson would

receive methamphetamine from a supplier—mostly in crystal form (“Ice”), but sometimes in powder. He would then give at least some of that methamphetamine to Saeger. From there, the two shared roles. Williamson and Saeger were both involved in packaging and distributing a portion of the methamphetamine. The two also recreationally used the other portion of the methamphetamine.

A presentence report was prepared in August 2018. The report calculated the weight of methamphetamine attributable to Williamson from three sources: (i) two controlled buys, (ii) one seizure following a duly-executed search warrant, and (iii) two statements, one from one of Williamson’s purported customers, and another from Saeger, who noted how much methamphetamine she received from Williamson over their time together. The vast bulk of the methamphetamine attributed to Williamson in the report was based on Saeger’s account. Williamson filed only one objection. He argued that it was legal error to count the drugs he gave to Saeger that she used personally because she was his accomplice, not a customer.

On November 7, 2018, a sentencing hearing was held for Williamson. The government called only one witness: Saeger, who had since pleaded guilty to one count of aiding-and-abetting the distribution of methamphetamine, and had entered a plea agreement with the government in exchange for her cooperation against Williamson. Saeger testified that she received one gram of methamphetamine a day from Williamson from August 2016 to May 2018. Of this, she said, about 90 percent was “Ice” (crystal methamphetamine) while 10 percent was powder methamphetamine. She also testified that they would sell roughly \$20 worth of methamphetamine each day, and then would

consume the rest of the daily gram recreationally. Saeger did not say how much of this latter amount she used by herself, as compared to how much she used together with Williamson. Williamson did not testify nor did he call any witnesses on his behalf.

The only major open issue at sentencing was the quantity of methamphetamine attributable to Williamson. To determine this, the district judge appeared to rely primarily on Saeger's testimony. The court reasoned that if Saeger received one gram a day from Williamson for at least 21 months (August 2016 to May 2018), that would come to about 630 grams of methamphetamine. The court, however, refined this figure in several ways. First, in light of the fact that one gram of "Ice" is equivalent to ten grams of powder methamphetamine under the Guidelines, the district court focused only on how much "Ice" Williamson gave Saeger. See U.S.S.G. § 2D1.1(c). The district judge noted that Saeger had said that about 90 percent of the methamphetamine she received from Williamson was "Ice," so the court reduced the amount attributable to Williamson to 540 grams of "Ice" (roughly 85 percent of the total methamphetamine). Second, the district judge observed that Saeger had explained that she was intermittently separated from Williamson over the relevant 21-month period, and found it was unlikely that she actually received one gram per day from him without interruption. As such, the district court decided that it was appropriate to set Williamson's base offense level at 32, which corresponds to 150 to 500 grams of "Ice," rather than 34, which is used for 500 to 1,500 grams of the same. *Id.* § 2D1.1(c)(3)-(4). As relevant here, the district judge did not consider how much methamphetamine Williamson or Saeger set aside for "personal use."

With the base offense level set, the district court then turned to the other factors under the Guidelines. It added a two level enhancement for obstruction of justice, but then subtracted three levels for acceptance of responsibility, bringing the total offense level to 31. Williamson's criminal history was category II. Williamson does not challenge any of these determinations. Put together, the recommended range under the Guidelines was 121 to 151 months imprisonment. The district court then sentenced Williamson to 121 months, with credit for time served, and 3 years of supervised release. The government dismissed the other two counts from the indictment against Williamson. This timely appeal followed.

II.

Sentences must be both procedurally and substantively reasonable. See *Gall v. United States*, 552 U.S. 38, 46 (2007). A sentence is not procedurally reasonable if the district court improperly calculated the Guidelines range. *Id.* at 51. Williamson's main claim on appeal is that the district judge did just that by making a legal error—counting the drugs that Williamson gave to his accomplice/girlfriend, Saeger, and that she used personally—which led to a higher recommendation than he should have received. We review a district court's legal conclusions de novo. *United States v. Layton*, 564 F.3d 330, 334 (4th Cir. 2009).

A.

As noted, punishments for drug offenses in our system are principally determined by the type and weight of drug involved in the criminal activity. Williamson's claim is about when drugs allegedly kept by an accomplice for “personal use” can be included as part of that calculation. To understand this case, it is first necessary to understand the

central role that drug weight plays in defining drug offenses. Specifically, it is essential to appreciate how federal law links the seriousness of a drug offense to the drug quantity at issue and, relatedly, how judges ordinarily determine the weight for which a given defendant is responsible.

Congress has made plain that the seriousness of a drug offense should be tied to the type and quantity of drug involved. In particular, in 1986, Congress passed the Anti-Drug Abuse Act (“ADAA”), which established a “weight-driven scheme” for punishing drug offenses. *Kimbrough v. United States*, 552 U.S. 85, 96 (2007). This scheme has two core parts. First, it created a tiered system of mandatory minimum and enhanced maximum sentences for drug crimes, with a five-year mandatory minimum for “serious” dealers and a ten-year mandatory minimum for “major” ones. *Id.* at 95. Second, Congress decided on “the weight of the drugs involved in the offense as the sole proxy to identify ‘major’ and ‘serious’ dealers.” *Ibid.* In so many words, the higher the weight, the higher the penalty.

The ADAA’s weight-driven scheme was a conscious departure from past practice. Before the ADAA, federal law generally did not impose mandatory minimums on drug offenses, and did not parse drug crimes on the basis of weight. See Pub. L. No. 91-513, 84 Stat. 1236 (Comprehensive Drug Abuse Prevention and Control Act of 1970). But Congress ultimately found this regime ineffective and inadequate. Specifically, Congress took issue with the fact that “the controlled substances law[s] did not distinguish drug traffickers by the quantities of drugs they were responsible for selling and smuggling,” leading to a federal enforcement scheme that lacked “focus” and “direction.” See H.R. Rep. No. 99-845, at 11 (1986) (House Judiciary Subcommittee on Crime report for a

precursor bill to the ADAA). To remedy this defect, the ADAA identified drug quantity as the best metric for evaluating the seriousness of a drug offense. *Id.* at 12. And while Congress has amended how heavily certain types and weights of drugs are punished, *e.g.*, Pub. L. No. 111-220, 124 Stat. 2372 (Fair Sentencing Act of 2010), it has consistently retained the ADAA’s weight-driven design.

The Sentencing Guidelines, moreover, follow this design. While federal statutes set the floor and ceiling for a possible sentence, the Guidelines were put in place to assist district judges in selecting an informed point within that range. Critically, while the Sentencing Commission “developed Guidelines sentences using an empirical approach based on data about past sentencing practices” for most crimes, it took a different tack with drug crimes in light of the ADAA. *Kimbrough*, 552 U.S. at 96. Specifically, faithful to Congress’s policy judgments, the Commission took the ADAA as a mandate to increase drug sentences above traditional benchmarks and, furthermore, to calibrate sentences to the type and quantity of drug involved in a certain conviction. U.S. Dep’t of Justice, An Analysis of Non-violent Drug Offenders With Minimal Criminal Histories 15 (1994) (“[D]rug quantities . . . are the single most important determinant of the drug offender’s sentence length.”). The most important part of the Guidelines for drug offenses is the Drug Quantity Table, which assigns base offense levels according to these objective metrics, consistent with the ADAA. *Kimbrough*, U.S. at 96-97; see also U.S.S.G. ch. 1, pt. A, § 3 (2000). As above, while the Guidelines have changed features of this Table over time, they have always stuck to a weight-driven approach in their recommendations for drug crimes.

At bottom, Congress made a clear policy judgment in the ADAA, and the Guidelines followed suit: the severity of a drug offense must turn on the weight of the drugs involved.

B.

This policy judgment about the central import of drug weight pervades how district judges ordinarily decide the drug quantity attributable to a defendant under the Guidelines. (The terms “weight” and “quantity” are most often used synonymously.)

The applicable Section for violations of 21 U.S.C § 841(a), which is the law that covers Williamson’s conviction as well as other drug trafficking offenses, is Section 2D1.1. That Section states that the “base offense level” for a drug offender whose crime does not involve death or serious bodily injury is dictated exclusively by the Drug Quantity Table—the table, mentioned above, that gives a base offense level pegged to the type and quantity of drug at issue. See U.S.S.G. §§ 2D1.1(a)(5), 2D1.1(c); see also *United States v. Gill*, 348 F.3d 147, 151 (6th Cir. 2003). For instance, recall that 150 grams of “Ice” leads to a base offense level of 32.

The amount that is plugged into the Drug Quantity Table is not necessarily the same drug quantity that determines a defendant’s statutory minimum and maximum sentence under 21 U.S.C. § 841. Instead, the Guidelines make plain that a court should look to *both* the offense of conviction *and* a defendant’s “relevant conduct.” U.S.S.G. § 1B1.2(b). Conceptually, of course, “relevant conduct” means a defendant’s own behavior generally surrounding the offense of conviction and also, when applicable, the behavior of his accomplices or co-conspirators. See *United States v. Wright*, 873 F.2d 437, 441 (1st Cir. 1989) (Breyer, J.) (noting that “very roughly speaking, [relevant conduct] corresponds to

those actions and circumstances that courts typically took into account when sentencing prior to the Guidelines’ enactment”); see also *United States v. Carter*, 300 F.3d 415, 425 (4th Cir. 2002) (reiterating that such conduct must only be proven by a preponderance of the evidence). For drug offenses, the Guidelines make clear that “[t]ypes and quantities of drugs not specified in the count of conviction may be considered in determining the offense level,” as long as those drugs were part of “relevant conduct” under the Guidelines. See U.S.S.G. § 2D1.1, cmt. n.5.

Williamson claims simply that drugs possessed or consumed for “personal use” by his accomplice fall outside the ambit of relevant conduct here. This court has not decided whether drugs set aside for “personal use” could be included as relevant conduct for a standalone conviction of aiding-and-abetting the distribution of a controlled substance—the only offense to which Williamson pleaded guilty. And it does not seem that any other circuit has done so. But our sister circuits have weighed in on this issue in a closely analogous context.

Every circuit to address the question has held that drugs consumed or possessed for “personal use” may be counted as relevant conduct at sentencing for the crime of conspiring-to-distribute a controlled substance. *United States v. Iglesias*, 535 F.3d 150, 160 (3d Cir. 2008); *United States v. Clark*, 389 F.3d 141, 142 (5th Cir. 2004); *United States v. Page*, 232 F.3d 536, 542 (6th Cir. 2000); *United States v. Asch*, 207 F.3d 1238, 1243-44 (10th Cir. 2000); *United States v. Stone*, 139 F.3d 822, 826 (11th Cir. 1998); *United States v. Fregoso*, 60 F.3d 1314, 1328-29 (8th Cir. 1995); *United States v. Snook*, 60 F.3d 394, 396 (7th Cir. 1995); *United States v. Innamorati*, 996 F.2d 456, 492 (1st Cir. 1993). These

circuits, at heart, have reasoned that what generally matters under the Guidelines in the context of a conspiracy is the total quantity of drugs involved in the entire enterprise, not what individual co-conspirators choose to do with those drugs. As Judge Posner put it:

Suppose that X sells Y a kilogram of cocaine in circumstances that make Y a conspirator with X and not merely a buyer from him. The amount of drugs involved in the conspiracy is unaffected by the use that Y makes of the drugs. It makes no difference whether he sells the entire amount and buys drugs for his personal consumption on the open market with the proceeds or keeps a portion of the drugs to consume personally as compensation for his participation in the conspiracy.

United States v. Wyss, 147 F.3d 631, 632 (7th Cir. 1998); see also *Innamorati*, 996 F.2d at 492 (“[T]he defendant’s purchases for personal use are relevant in determining the quantity of drugs that the defendant knew were distributed by the conspiracy.”). This makes sense: when sentencing people who were part of different conspiracies but were convicted under the same statute, the Guidelines treat members of more serious conspiracies more seriously, and the seriousness of a drug conspiracy, as noted, corresponds to the drug weight at issue. We therefore agree with the overwhelming consensus of our sister circuits that drugs consumed or possessed for personal use may be considered as relevant conduct at sentencing for a conspiracy-to-distribute conviction.*

C.

Williamson insists, however, that drugs set aside for an accomplice’s “personal use” may not be included as relevant conduct for the crime of aiding-and-abetting the

* We express no thoughts, however, on the relevance of a defendant’s own “personal use,” where such drugs were not obtained in connection with jointly undertaken criminal activity. That question was simply not raised in this appeal.

distribution of a controlled substance. In particular, he argues that he should not be on the hook for the drugs that he distributed to Saeger for her “personal use” because “drug quantities consumed by personal use of an accomplice are not within the scope of the jointly undertaken criminal activity.” App. Br. at 15. For this reason, Williamson says, those drugs used personally by Saeger should not have counted at sentencing since “[r]elevant conduct should extend no further than the drug quantity involved in the offense of conviction,” *id.* at 14, and her personal use was not part of the offense of conviction’s distributional scheme.

Williamson’s argument fails for multiple reasons. Initially, his notion of a “personal use” exception for an accomplice is nowhere in the text of the Guidelines. See U.S.S.G. § 2D1.1. Tellingly, the Guidelines have a number of sections that instruct district courts to reduce a defendant’s base offense level when doing so would better account for his culpability. For instance, Section 3B1.2 directs judges to lower a defendant’s offense level if he was a “minimal” or “minor” participant in the criminal enterprise. But there is nothing in the text of the Guidelines that even glancingly can be taken as something similar to the sort of “personal use” exception that Williamson champions before us.

The absence of such a “personal use” by accomplice exception is not surprising because its underlying premise intuitively cuts against the entire weight-based scheme for punishing drug offenses described above. The touchstone for the severity of drug offenses, as we have noted, is the *weight* of the drugs involved in the criminal activity. The exception offered by Williamson here is not simply atextual—rather, it is in the teeth of how the Guidelines account for this weight-driven scheme through relevant conduct. Indeed, as

Section 1B1.3(a)(1)—the provision that is most directly applicable to a case like this, see, e.g., *Gill*, 348 F.3d at 153—makes plain, relevant conduct covers a defendant’s actions “that *occurred* during the commission of the offense of conviction, in preparation for that offense, or in the course of attempting to avoid detection or responsibility for that offense.” U.S.S.G. § 1B1.3(a)(1) (emphasis added). Nothing about this concept suggests that conduct that is otherwise relevant suddenly becomes irrelevant if the unlawful substances with which the defendant is associated are assertedly for the “personal use” of an accomplice.

Williamson argues for a particularly problematic application of this atextual concept. He has pleaded guilty to a distributional offense, not one of simple possession, and he makes no bones about having *distributed* to Saeger the “Ice” at issue here. Instead, he is averring on appeal that Saeger’s personal use should be treated as his own because she was his accomplice in the matter. But this misses the mark. To put it plainly, distribution is the very antithesis of “personal use,” and what a recipient decides to *do* with drugs given to her by a distributor has no bearing on the quantity of drugs she *received* from the distributor in the first place.

It is apparent too that Williamson’s foundational proposition—that he, in short, should be treated as one with Saeger—falters for yet a further reason. As noted, every circuit to reach the issue has held that drugs possessed or consumed for “personal use” may be included as relevant conduct for conspiracy-to-distribute convictions. And while conspiracies might appear to present the least defensible case for application of any “personal use” exception, the animating rationale behind those decisions is certainly

applicable in the context of aiding-and-abetting, conspiracy's close kin. Consistent with traditional maxims of conspiracy law, *Callanan v. United States*, 364 U.S. 587, 593 (1961), our sister circuits have recognized that collective criminal activity poses an especially acute danger to civil society. As such, when interpreting the Guidelines in the context of joint criminal activity, these courts have rightly focused on the scope of the entire criminal enterprise; that is, generally speaking, the total amount of drugs in circulation that a defendant was aware of or were reasonably foreseeable. See *United States v. Bell*, 667 F.3d 431, 442 (4th Cir. 2011) (approvingly citing germane case law from other circuits).

So much so here. Aiding-and-abetting the distribution of a controlled substance is also an inherently collective enterprise, one that must go beyond a mere buyer-seller transaction. See *United States v. Colon*, 549 F.3d 565, 571 (7th Cir. 2008). And as the scope of the endeavor grows, so does its seriousness. This is true no matter how the accomplice's drugs are specifically allocated. In fact, to exclude an accomplice's "personal use" quantities in this context would be to ignore the reality that "personal use" consumption often drives the expansion of criminal schemes, because the more someone uses, the more likely she will need to sell to afford her budding addiction (thereby growing the enterprise even more). See *Snook*, 60 F.3d at 396 (noting "the more [the defendant] used, the more he had to sell to bank-roll his habit"). For these reasons, Williamson is dead wrong to say that the "personal use" of his accomplice should not count. By contrast, when evaluating the seriousness of a joint criminal activity like aiding-and-abetting, it stands to reason that the total amount of apparent or foreseeable drugs in circulation, however used by his accomplice, is of the highest import. See, e.g., *Innamorati*, 996 F.2d at 492.

If this were not enough, the practical dynamics of sentencing militate against embracing Williamson’s proposed “personal use” exception. It is not difficult to foresee that recognizing such an exception would prompt many a drug offender to claim at sentencing that whatever drugs were found in his accomplice’s possession or ambit were intended for “personal use.” But we are not inclined to burden district judges with such an indeterminate inquiry. The line separating “personal use” from “non-personal use” is inherently fluid, fluctuating based on a drug offender’s cash needs, daily desires, or “professional” obligations. What might be set aside for “personal use” one day, may need to be distributed or sold the next. Forcing the district court to parse such shifting aspirations would be inordinately difficult where the accomplice may not even be available to testify at sentencing.

Taken for what it is, Williamson’s proposed exception is quite unsound. It portends little more than an erosion of the weight-based scheme created by Congress for punishing drug offenses. For the above reasons, we decline to pursue that path, and hold that drugs distributed for the “personal use” of an accomplice may be included as relevant conduct for the crime of aiding-and-abetting the distribution of a controlled substance. The district court thus did not err when it included such quantities in sentencing Williamson.

III.

Williamson raises a second objection to his sentence. Aside from any potential legal error, he argues, the district court nonetheless abused its discretion by basing its analysis so heavily on Saeger’s testimony. This because, Williamson maintains, Saeger was not credible and the government did not offer any corroborating proof for her shaky claims.

We have little trouble rejecting this contention. “We review the district court’s calculation of the quantity of drugs attributable to a defendant for sentencing purposes for clear error.” *United States v. Randall*, 171 F.3d 195, 210 (4th Cir. 1999). In so doing, we afford “great deference” to a district judge’s credibility determinations and how the court may choose to weigh the evidence. See *United States v. Henry*, 673 F.3d 285, 292 (4th Cir. 2012).

The district court did not commit clear error in its sentencing analysis. Under the Guidelines, “[w]here there is no drug seizure or the amount seized does not reflect the scale of the offense, the court shall approximate the quantity of the controlled substance.” U.S.S.G. § 2D1.1 cmt., n.5. District courts enjoy considerable leeway in crafting this estimate. Indeed, the court may “give weight to any relevant information before it, including uncorroborated hearsay, provided that the information has sufficient indicia of reliability to support its accuracy.” *United States v. Wilkinson*, 590 F.3d 259, 269 (4th Cir. 2010).

Relying on Saeger’s testimony and the presentence report, the district court made a reasonable decision. For one, every issue raised here regarding Saeger’s credibility was explored on cross-examination. Moreover, the district court did not draw some slapdash drug quantity from Saeger’s testimony. Rather, as explained above, the district judge reduced the possible weight attributable to Williamson at least twice over in a careful manner: first, by focusing only on the percentage of “Ice,” and second, by accounting for Williamson and Saeger’s time apart. At the end of the day, while Saeger’s testimony could have supported an approximation of at least 540 grams of “Ice,” which would have

corresponded to a base offense level of 34, the district court erred on the side of caution and selected a base offense level of 32 that corresponded to only 150 to 500 grams of “Ice.” This approach faithfully adheres to our precedents. See *Bell*, 667 F.3d at 441. In so many words, the district court did not err at all here, let alone do so clearly.

IV.

Our holding in this matter follows from the plain text of the Guidelines, and the congressional policy judgments incorporated therein. It need not, however, augur a draconian sentencing regime. District courts must still exercise caution in estimating drug quantity at sentencing, and not attribute speculative or scantly supported amounts to defendants. See *United States v. Cook*, 76 F.3d 596, 604 (4th Cir. 1996). Likewise, those sentencing ranges compelled by federal statute still turn on the drug quantity involved in the offense of conviction, and defendants involved with smaller drug weights will face lesser sentences.

If this remains cold comfort for some, their pleas should be directed to Congress or the Sentencing Commission. While federal judges possess discretion in sentencing, that discretion does not amount to a form of legislative power in disguise. Our sole function is to apply the law as written. Accordingly, the judgment of the district court is

AFFIRMED.

FILED: March 23, 2020

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-4837
(5:18-cr-00022-JPB-JPM-1)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

CHARLES C. WILLIAMSON

Defendant - Appellant

JUDGMENT

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

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

/s/ PATRICIA S. CONNOR, CLERK

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA)	JUDGMENT IN A CRIMINAL CASE
v.)	
CHARLES C. WILLIAMSON)	Case Number: 5:18CR22-01
)	USM Number: 12546-087
)	David W. Frame
)	Defendant's Attorney

THE DEFENDANT:

pleaded guilty to count(s) 2 - 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>
21 U.S.C. §§ 841(a)(1), 841(b)(1)(C) and	Aiding and Abetting the Distribution of Methamphetamine	11/14/2017	2
18 U.S.C. § 2			

See additional count(s) on page 2

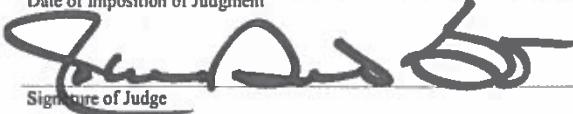
The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

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

Count(s) 1 and 3 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.

November 7, 2018
Date of Imposition of Judgment


Signature of Judge

Honorable John Preston Bailey, United States District Judge
Name and Title of Judge


Date

DEFENDANT: CHARLES C. WILLIAMSON
CASE NUMBER: 5:18CR22-01**IMPRISONMENT**

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of: 121 months

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

That the defendant be incarcerated at an FCI or a facility as close to Paden City, WV as possible;

and at a facility where the defendant can participate in substance abuse treatment, as determined by the Bureau of Prisons;

including the 500-Hour Residential Drug Abuse Treatment Program.

That the defendant be incarcerated at _____ or a facility as close to his/her home in _____ as possible;

and at a facility where the defendant can participate in substance abuse treatment, as determined by the Bureau of Prisons;

including the 500-Hour Residential Drug Abuse Treatment Program.

That the defendant be allowed to participate in any educational or vocational opportunities while incarcerated, as determined by the Bureau of Prisons.

Pursuant to 42 U.S.C. § 14135A, the defendant shall submit to DNA collection while incarcerated in the Bureau of Prisons, or at the direction of the Probation Officer.

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 12:00 pm (noon) on _____ .

as notified by the United States Marshal.

as notified by the Probation or Pretrial Services Office.

on _____, as directed by the United States Marshals Service.

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: CHARLES C. WILLIAMSON
CASE NUMBER: 5:18CR22-01

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of: 3 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 probation officer.
 - 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 (34 U.S.C. § 20901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in 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: CHARLES C. WILLIAMSON
CASE NUMBER: 5:18CR22-01Judgment—Page 4 of 7**STANDARD CONDITIONS OF SUPERVISION**

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

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You shall not commit another federal, state or local crime.
4. You shall not unlawfully possess a controlled substance. You shall refrain from any unlawful use of a controlled substance. You shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the probation officer.
5. 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.
6. You must answer truthfully the questions asked by your probation officer.
7. 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.
8. 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.
9. 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.
10. 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.
11. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
12. 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).
13. 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.
14. 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.
15. You shall not purchase, possess or consume any organic or synthetic intoxicants, including bath salts, synthetic cannabinoids or other designer stimulants.
16. You shall not frequent places that sell or distribute synthetic cannabinoids or other designer stimulants.
17. Upon reasonable suspicion by the probation officer, you shall submit your person, property, house, residence, vehicle, papers, computers, or other electronic communications or data storage devices or media, or office, to a search conducted by a United States Probation Officer. Failure to submit to a search may be grounds for revocation of release. You shall warn any other occupants that the premises may be subject to searches pursuant to this condition.
18. You are prohibited from possessing a potentially vicious or dangerous animal or residing with anyone who possess a potentially vicious or dangerous animal. The probation officer has sole authority to determine what animals are considered to be potentially vicious or dangerous.
19. 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: CHARLES C. WILLIAMSON
CASE NUMBER: 5:18CR22-01

SPECIAL CONDITIONS OF SUPERVISION

- 1) You must participate in substance abuse treatment. The probation officer will supervise your participation in the program.
- 2) You must submit to substance abuse testing to determine if you have used a prohibited substance. You must not attempt to obstruct or tamper with the testing methods.
- 3) You must comply with the Northern District of West Virginia Offender Employment Program which may include participation in training, counseling, and/or daily job search as directed by the probation officer. Unless excused for legitimate reasons, if not in compliance with the condition of supervision requiring full-time employment at a lawful occupation, you may be required to perform up to 20 hours of community service per week until employed, as approved by the probation officer.

DEFENDANT: CHARLES C. WILLIAMSON
CASE NUMBER: 5:18CR22-01**CRIMINAL MONETARY PENALTIES**

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

<u>TOTALS</u>	<u>Assessment</u>	<u>JVTA Assessment*</u>	<u>Fine</u>	<u>Restitution</u>
	\$ 100	\$ 0	\$ 0	\$ 0

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.

The victim's recovery is limited to the amount of their loss and the defendant's liability for restitution ceases if and when the victim receives full restitution.

Name of Payee	Total Loss**	Restitution Ordered	Priority or Percentage
TOTALS	\$ _____	\$ _____	

See Statement of Reasons for Victim Information

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: CHARLES C. WILLIAMSON
CASE NUMBER: 5:18CR22-01**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 due immediately, balance due
 not later than _____, or
 in accordance with C D, E, F, or G below); or

B Payment to begin immediately (may be combined with C, D, F, or G 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:
 Financial obligations ordered are to be paid while the defendant is incarcerated, and if payment is not completed during incarceration, it is to be completed by the end of the term of supervised release; or

G Special instructions regarding the payment of criminal monetary penalties:
 The defendant shall immediately begin making restitution and/or fine payments of \$ _____ per month, due on the first of each month. These payments shall be made during incarceration, and if necessary, during supervised release.

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 Clerk, U. S. District Court, Northern District of West Virginia, P.O. Box 1518, Elkins, WV 26241.

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:
 The defendant shall forfeit \$400.00 seized in the search of the defendant's apartment on November 17, 2017.

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.

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FILED: April 20, 2020

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-4837
(5:18-cr-00022-JPB-JPM-1)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

CHARLES C. WILLIAMSON

Defendant - Appellant

O R D E R

The court denies the petition for rehearing.

Entered at the direction of the panel: Judge Wilkinson, Judge Niemeyer, and
Judge Motz.

For the Court

/s/ Patricia S. Connor, Clerk