

NO. _____

In The
Supreme Court of the United States

RYAN DETRELL ROBINSON,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

PETITION FOR WRIT OF CERTIORARI

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Dated: February 5, 2021

QUESTION PRESENTED

- I. Whether the Circuit Court Erred Failing To Reverse District Court's Imposition of an "Alternate Variance Sentence" Which Was Designed To Insulate The Erroneous Upward Departure Judgment In Violation Of Due Process and Equal Protection of the Law.

PARTIES TO THE PROCEEDING

Other than the Petitioner and the United States, the following are the no other parties to this proceeding.

STATEMENT OF RELATED CASE

- *United States v. Ryan Robinson*, No. 19-4451, United States Court of Appeals for the Fourth Circuit, judgment entered September 11, 2020
- - *United States v. Ryan Robinson*, No. 5:18-cr-00227-D-1, United States District Court for the Eastern District of North Carolina, Raleigh Division, judgment entered June 18, 2019.

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PETITION FOR WRIT OF CERTIORARI

Petitioner Ryan Detrell Robinson respectfully petitions this Court for a writ of certiorari to review the opinion and judgment of the Fourth Circuit Court of Appeals affirming the district court's judgment in the criminal case below.

OPINION AND ORDER BELOW

The Fourth Circuit Court of Appeals' opinion (Pet. App. 1a) is unpublished per curiam. The District Court's judgment (Pet. App. 6a) is unpublished.

JURISDICTION

The order of the Fourth Circuit Court of Appeals was entered on September 11, 2020. This Court has jurisdiction pursuant to 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISIONS INVOLVED

The Fifth and Fourteenth Amendment [applicable to the States] to the U.S. Constitution provide that "No person ... shall be deprived of life, liberty, or property, without due process of law...". The Fourteenth Amendment directs no State "shall...deny to any person within its jurisdiction the equal protection of the laws."

INTRODUCTION

Petitioner complains that the District Court erroneously departed upward to enhance his sentence in his criminal case for conduct already taken into account by the Guidelines in calculating his sentence, therefore violating the rule in United States v. Koon, 518 U.S. 81, 96 (1996)(the court is authorized to depart if the applicable Guideline does not already take it into account), and the record is sufficiently ambiguous regarding the Court's reliance regarding offense conduct consistent with United States v. Lipford, 203 F.3d 259 (4th Cir. 2000)(record sufficiently ambiguous that the district court could have relied upon the same conduct underlying the § 924(c)(1) conviction when it increased defendant's base offense level). The district court then announced an alternative variance sentence to insulate the judgment on appeal, based on the same factual support.

On 18 June 2019 the District Court entered judgment. (See, App. 6a) Petitioner thereafter noticed appeal of the judgment, and the Circuit Court affirmed the order of the District Court, without finding the original judgment was error but holding that the alternate judgment sufficient to withstand challenge on appeal. (See, Appx. 5a) The Circuit Court stated as follows:

Assuming without deciding that the district court erred in departing under USSG § 2K2.2, § 2K2.6, such error was harmless. [citation omitted].

...
Here, the district court imposed that the 204-month prison term both as an upward departure and, alternatively, as an upward variant sentence in light of the nature and circumstances of Robinson's offense conduct, his history and characteristics, and the need for the sentence to reflect the seriousness of

the offense, to impose just punishment, to incapacitate Robinson, and protect the public. 18 U.S.C. § 3553(a)(1), (2)(A)-(C).

(Pet. App. 3a.)

As result, the Circuit Court conducted no reasonableness analysis of the decision to depart upward based on the advisory guidelines, nor whether [other than recanting the § 3553(a) factors] the district court utilized those same factors already taken into account by the significant guideline range already utilized to vary unreasonably.

Petitioner is entitled to a reasonable sentence without unwarranted, and unreasonable, inflation of his sentence for arbitrary rationale, and rationale already adequately considered by his advisory guideline range considering the offense conduct and his significant criminal history. Moreover, it sets a potentially wide-arching unconstitutional precedent to allow the district court to arbitrarily impose a sentence on factors the sentencing commission has already considered in promulgating the advice of the possible ranges of sentences guiding the court WHICH would facilitate unequal application of the criminal laws, and then merely announce it as a variance to evade any meaningful appellate review.

Therefore, Court should grant certiorari review.

STATEMENT OF THE CASE

1. Procedural Background - On 13 June 2018 defendant was charged in a four count Indictment in the Eastern District of North Carolina, alleging violations of 18 U.S.C. § 922(g)(1) (Possession of ammunition by a convicted felon)(Count One)(offense date 1/10/2018); 21 U.S.C. § 841(a)(1)(PWID cocaine)(Count Two)(offense date 1/23/2018); 18 U.S.C. § 924(c)(1)(A)(I) (Use and carry firearm in relation to drug trafficking crime (Count Three) (offense date 1/23/2018); 18 U.S.C. § 922(g)(1) and § 924 (Possession of a firearm by a convicted felon)(Count Four)(offense date 1/23/2018).
2. On 15 February 2019 without a plea agreement Petitioner pled guilty to all counts of the Indictment. Pre-sentence Investigation Report (PSR) was ordered, issued, reviewed and filed with objections preserved by this Petitioner through counsel. Petitioner objected to an upward departure based on § 5K2.2 and § 5K2.6¹. At sentencing on 5/31/2019 objections were not withdrawn.
3. Judgment was entered 18 June 2019. (Pet. App. 6a)
4. Petitioner's Notice of Appeal was timely filed 20 June 2019.
5. Petitioner's brief was filed in the Fourth Circuit Court of Appeals on 22 April 2020, raising the departure as error, arguing the variance relied

¹ Judgment imposed 120 months each on counts 1 and 4, concurrent with 144 months on count 2, consecutive to 60 months on count 3, for a total of 204 months. Defendant's successful objection would have resulted in a maximum of 71 months for counts 1,2,4 and 60 for count 3.

upon the same erroneous application of the Guidelines and facts related to the offense conduct.

6. On 11 September 2020 the Circuit Court entered an Order on the issue, deciding without opining error in the original judgment but, under a harmless error review, affirming the alternate variant sentence by the district court. (Pet. App. 1a)

REASONS FOR GRANTING THE WRIT

I. *The Circuit Court Erred Denying Relief.*

Petitioner requests review of denial of relief on due process and equal protection grounds.

The district court below announced reasons for the judgment for departure which were already taken into account in the calculation of his advisory guideline range. Nevertheless, the district court significantly departed for this same rationale. To insulate that departure in violation of the advice of the guidelines and caselaw, the district court - reliant upon the same argument by the government - entered an alternate variant sentence of the same active time. Petitioner contends this attempt to insulate the erroneous calculations by the district court from review on appeal violates his rights to due process and equal protection.

On appeal to the Fourth Circuit Court of Appeals, the Court - without determining the legality of the departure - relied upon the alternate insulating variance sentence to hold any error to be harmless, citing the circuit's prior holdings

at United States v. Evans, 526 F.3d 155, 156 (4th Cir. 2008) and United States v. Rivera-Santana, 668 F.3d 95, 104 (4th Cir. 2012).

Petitioner contends this procedure evading review violates due process and equal protection of the law.

The Evans court relied upon prior holdings of this Court, and summarized the law as follows:

Gall [128 S.Ct. 586] and its companion case, Kimbrough v. United States, __ U.S. __, 128 S.Ct. 558, 169 L.Ed.2d 481 (2007), and Rita v. United States, __ U.S. __, 127 S.Ct. 2456, 168 L.Ed.2d 203 (2007), supply the precedent governing Evans' challenges to his sentence. These cases unequivocally establish that: (1) the advisory Sentencing Guidelines, although important, simply do not have the preeminent and dominant role that Evans claims for them, and (2) an appellate court must defer to the trial court and can reverse a sentence only if it is unreasonable, even if the sentence would not have been the choice of the appellate court.

Evans, 526 F.3d at 157.

Regarding the role of the reviewing court, Evans, quoting Gall, said:

Rather, "the Court of Appeals should [give] due deference to the District Court's reasoned and reasonable decision that the § 3553(a) factors, on the whole, justif[y] the sentence." Gall, 128 S.Ct. at 602. Deference is required because "[t]he sentencing judge is in a superior position to find facts and judge their import under § 3553(a) in the individual case." Id. at 597 (quoting Br. for Fed. Pub. & Cmt. Defenders et al. as Amici Curiae at 16). "Moreover, '[d]istrict courts have an institutional advantage over appellate courts in making these sorts of determinations ... as they see so many more Guidelines sentences than appellate courts do.'" Id. at 598 (quoting Koon v. United States, 518 U.S. 81, 98, 116 S.Ct. 2035, 135 L.Ed.2d 392 (1996)).

Id. at 158.

While the circuit court, pursuant to the holdings above cited in Evans, "should give due deference to the District Court's reasoned and reasonable decision[s] that

the § 3553(a) factors, on the whole, justif[y] the sentence”, no deference is due to *unreasonable* determinations, or determinations by the district court that are reliant upon facts which it is prohibited from employing as departures to increase the sentence beyond the advice of the guidelines. Where, as here, the district court merely employs the mechanism of the variance to insulate the possibly prohibited departure by *alternately* calling it a variance, the circuit court should proceed to review the reasonableness of the facts which the district court employed to do so. To do otherwise would remove unreasonable determinations by the district court from the sound review on appeal.

Petitioner argued below that if the sentencing court finds an encouraged factor in a particular case, “the court is authorized to depart *if* the applicable Guideline does not already take it into account.” United States v. Koon, 518 U.S. 81, 96 (1996)(*emphasis added*). In pronouncing the sentence, the district court relied on the government’s motion and basis for upward departure, which argued facts already adequately considered by the Guidelines. The district court stated as follows: “I’m now considering the Government’s motion which describes in great detail why it has advocated an upward departure under both Section § 5K2.2 and § 5K2.6” (Found at J.A. 79), and held, “Motion for upward departure is granted under § 5K2.2” [proceeding to enhance for § 5K2.6 also]. (Found at J.A. 83) The government’s motion, in turn, requested a 240-month sentence on the collective basis of both grounds for upward departure. (J.A.74) Thus, because the district court’s imposition of a 204-month sentence relied on its departure under U.S.S.G. § 5K2.6 and U.S.S.G. § 5K2.2

on the Government's rationale on conduct adequately taken into account by the Guidelines, the error did appear to impact the district court's decision and also the alternate variance unreasonably.

The Court proceeded to announce it would impose the alternative variant sentence, based on the same erroneous application of the prohibited facts to enhance the sentence with departure, which variant sentence was specifically designed to insulate his calculations based on erroneous application of the facts already considered by the advisory Guidelines from review on appeal.

Petitioner requests the Court certify this procedure for due process and equal protection review.

II. *The Question Presented Is Important To Equal Application of the Law.*

The importance of this issue is due process and the equal protection of the law. Petitioner is entitled to appellate review of the reasonableness of the district court's determinations inflating his sentence. Intentionally skirting appellate review by announcing an alternate variance, without sufficient and/or different rationale justifying the cited § 3553(a) factors for variance over the prohibited departure rationale, presents merely an evasion of this review. The Circuit Court's precedent upon which it relies to facilitate this process by the district court, to the extent it allows the district court to circumvent meaningful appellate review, should be reversed.

III. *The Question Is Squarely Presented.*

The question upon which the lower court opined was directly presented, and the Order is clearly reliant upon the rationale of the district court for its conclusion. *See*, Appendix 1a, Opinion of the Fourth Circuit Court of Appeals. No reasonable argument could be made that this issue requires further percolation.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Deborrah L. Newton
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Raleigh, NC 27601

Attorney for Petitioner

APPENDIX

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UNPUBLISHED**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 19-4451

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RYAN DETRELL ROBINSON,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. James C. Dever III, District Judge. (5:18-cr-00227-D-1)

Submitted: August 31, 2020

Decided: September 11, 2020

Before FLOYD, THACKER, and QUATTLEBAUM, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Deborrah L. Newton, NEWTON LAW, Raleigh, North Carolina, for Appellant. Robert J. Higdon, Jr., United States Attorney, Jennifer P. May-Parker, Assistant United States Attorney, Adam F. Hulbig, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Ryan Detrell Robinson pled guilty, without a plea agreement, to possession of ammunition by a convicted felon, in violation of 18 U.S.C. §§ 922(g), 924; possession with intent to distribute a quantity of cocaine, in violation of 21 U.S.C. § 841(a)(1); using and carrying a firearm during and in relation to a drug trafficking crime, in violation of 18 U.S.C. § 924(c)(1)(A)(i); and possession of a firearm by a convicted felon, in violation of 18 U.S.C. §§ 922(g), 924. At sentencing, the district departed upwardly from Robinson's advisory Guidelines range, pursuant to U.S. Sentencing Guidelines Manual §§ 5K2.2, 5K2.6, p.s. (2018), and sentenced Robinson to 204 months' imprisonment. At the end of the hearing, the court stated that, even if it erred in its Guidelines computations, it would alternatively impose the same 204-month term as an upward variant sentence.

On appeal, Robinson challenges his sentence, arguing that the grounds upon which the district court upwardly departed were already taken into account by the applicable Guidelines range. He also asserts he was denied effective assistance of counsel at sentencing. We affirm.

“We ‘review all sentences—whether inside, just outside, or significantly outside the Guidelines range—under a deferential abuse-of-discretion standard.’” *United States v. Blue*, 877 F.3d 513, 517 (4th Cir. 2017) (quoting *Gall v. United States*, 552 U.S. 38, 41 (2007)). “We must defer to the district court and affirm a reasonable sentence, even if we would have imposed something different.” *United States v. Bolton*, 858 F.3d 905, 915 (4th Cir. 2018) (internal quotation marks omitted). In determining whether the district court properly applied the Guidelines, we review the court’s factual findings for clear error and

questions of law de novo. *United States v. Hawley*, 919 F.3d 252, 255 (4th Cir. 2019). However, when a district court offers alternate and independent rationales for a sentence outside the Guidelines range, we will uphold the sentence if one of the justifications is reasonable even if another is faulty. *United States v. Evans*, 526 F.3d 155, 156 (4th Cir. 2008); *see also United States v. Rivera-Santana*, 668 F.3d 95, 104 (4th Cir. 2012) (holding that, even if district court erroneously departed upward from advisory Guidelines range, the asserted departure error was harmless “because the upward variance based on the [18 U.S.C.] § 3553(a) factors justified the sentence imposed”).

In light of these principals and after review of the record on appeal and the parties’ briefs, we conclude that Robinson fails to establish reversible sentencing error by the district court. Assuming without deciding that the district court erred in departing under USSG §§ 2K2.2, 2K2.6, such error was harmless. *See United States v. Gomez-Jimenez*, 750 F.3d 370, 382-83 (4th Cir. 2014) (addressing parameters of harmlessness review); *Evans*, 526 F.3d at 164-65 (holding that any error in application of upward departure Guideline was harmless because upward variance justified sentence imposed).

Here, the district court imposed that the 204-month prison term both as an upward departure and, alternatively, as an upward variant sentence in light of the nature and circumstances of Robinson’s offense conduct, his history and characteristics, and the need for the sentence to reflect the seriousness of the offense, to impose just punishment, to incapacitate Robinson, and protect the public. 18 U.S.C. § 3553(a)(1), (2)(A)-(C). On appeal, Robinson offers no challenge to the upward variant sentence. Robinson has thus waived this issue by failing to raise it in his opening brief. *United States v. Palacios*, 677

F.3d 234, 244 n.5 (4th Cir. 2012); *see also Grayson O Co. v. Agadir Int'l LLC*, 856 F.3d 307, 316 (4th Cir. 2017) (“A party waives an argument by failing to present it in its opening brief or by failing to ‘develop its argument’—even if its brief takes a passing shot at the issue.”) (brackets and internal quotation marks omitted).

Finally, Robinson claims his defense attorney was ineffective because she failed to present at sentencing information she possessed establishing that Robinson was “innocent” of shooting the victim on January 10, 2018. Robinson does not identify the information he alleges trial counsel possessed.

Unless an attorney’s ineffectiveness conclusively appears on the face of the record, ineffective assistance claims are not generally addressed on direct appeal. *United States v. Faulls*, 821 F.3d 502, 507 (4th Cir. 2016). Instead, such claims should be raised in a motion brought pursuant to 28 U.S.C. § 2255, in order to permit sufficient development of the record. *United States v. Baptiste*, 596 F.3d 214, 216 n.1 (4th Cir. 2010). Robinson concedes that the record does not conclusively show that counsel was ineffective. Therefore, Robinson should raise this claim, if at all, in a § 2255 motion. *Faulls*, 821 F.3d at 508.

We therefore affirm the criminal judgment. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

FILED: September 11, 2020

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-4451
(5:18-cr-00227-D-1)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

RYAN DETRELL ROBINSON

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

Eastern District of North Carolina

UNITED STATES OF AMERICA
v.

RYAN DETRELL ROBINSON

JUDGMENT IN A CRIMINAL CASE

Case Number: 5:18-CR-227-1-D

USM Number: 65074-056

Diana Helene Pereira

Defendant's Attorney

THE DEFENDANT:

 pleaded guilty to count(s) 1, 2, 3, and 4 of 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:

Title & Section	Nature of Offense	Offense Ended	Count
18 U.S.C. § 922(g)(1), 18 U.S.C. § 924(a)(2)	Possession of Ammunition by a Felon	1/23/2018	1

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) _____ 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.

5/31/2019
Date of Imposition of Judgment


Signature of Judge

James C. Dever III, United States District Judge
Name and Title of Judge

6/18/2019
Date

DEFENDANT: RYAN DETRELL ROBINSON
CASE NUMBER: 5:18-CR-227-1-D

ADDITIONAL COUNTS OF CONVICTION

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
21 U.S.C. § 841(a)(1), 21 U.S.C. § 841(b)(1)(C)	Possession With Intent to Distribute Quantity of Cocaine	1/23/2018	2
18 U.S.C. § 924(c), 18 U.S.C. § 924(c)(1)(A)(i)	Possession of a Firearm in Furtherance of a Drug Trafficking Offense	1/23/2018	3
18 U.S.C. § 922(g)(1), 18 U.S.C. § 924(a)(2)	Possession of a Firearm by a Felon	1/23/2018	4

DEFENDANT: RYAN DETRELL ROBINSON
CASE NUMBER: 5:18-CR-227-1-D

IMPRISONMENT

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

Counts 1 and 4: 120 months per count, to be served concurrently
Count 2: 144 months, to be served concurrently to all other counts
Count 3: 60 months, to be served consecutively to all other counts - (Total term: 204 months)
The court orders that the defendant provide support for all dependents while incarcerated.

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

The court recommends that the defendant receive intensive substance abuse treatment and vocational and educational training opportunities. The court recommends that he serve his term in FCI Butner, North Carolina.

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

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

at _____ a.m. p.m. on _____.

as notified by the United States Marshal.

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

before 2 p.m. on _____.

as notified by the United States Marshal.

as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: RYAN DETRELL ROBINSON

CASE NUMBER: 5:18-CR-227-1-D

SUPERVISED RELEASE

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

Counts 1, 2, and 4; 3 years per count and a term of 5 years on count 3, all such terms shall run concurrently - (Total term: 5 years)

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
 - The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. You must comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. You must participate in an approved program for domestic violence. *(check if applicable)*

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

DEFENDANT: RYAN DETRELL ROBINSON
CASE NUMBER: 5:18-CR-227-1-D

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: RYAN DETRELL ROBINSON
CASE NUMBER: 5:18-CR-227-1-D

ADDITIONAL STANDARD CONDITIONS OF SUPERVISION

The defendant shall not incur new credit charges or open additional lines of credit without approval of the probation office.

The defendant shall provide the probation office with access to any requested financial information.

The defendant shall participate as directed in a program approved by the probation office for the treatment of narcotic addiction, drug dependency, or alcohol dependency which will include urinalysis testing or other drug detection measures and may require residence or participation in a residential treatment facility.

The defendant shall consent to a warrantless search by a United States probation officer or, at the request of the probation officer, any other law enforcement officer, of the defendant's person and premises, including any vehicle, to determine compliance with the conditions of this judgment.

The defendant shall cooperate in the collection of DNA as directed by the probation officer.

The defendant shall support his dependent(s).

DEFENDANT: RYAN DETRELL ROBINSON
CASE NUMBER: 5:18-CR-227-1-D**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>
	\$ 400.00	\$	\$	\$

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>
TOTALS	\$ _____ 0.00	\$ _____ 0.00	

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.

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SCHEDULE OF PAYMENTS

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

A Lump sum payment of \$ _____ due immediately, balance due
 not later than _____, or
 in accordance with C, D, E, or F below; or

B Payment to begin immediately (may be combined with C, D, or F below); or

C Payment in equal _____ (*e.g., weekly, monthly, quarterly*) installments of \$ _____ over a period of _____ (*e.g., months or years*), to commence _____ (*e.g., 30 or 60 days*) after the date of this judgment; or

D Payment in equal _____ (*e.g., weekly, monthly, quarterly*) installments of \$ _____ over a period of _____ (*e.g., months or years*), to commence _____ (*e.g., 30 or 60 days*) after release from imprisonment to a term of supervision; or

E Payment during the term of supervised release will commence within _____ (*e.g., 30 or 60 days*) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or

F Special instructions regarding the payment of criminal monetary penalties:

The special assessment in the amount of \$400.00 shall be due in full immediately.

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

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

Joint and Several

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

The defendant shall pay the cost of prosecution.

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

The defendant shall forfeit the defendant's interest in the following property to the United States:
The defendant shall forfeit to the United States the defendant's interest in the property specified in the Order of Forfeiture entered on June 18, 2019.

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.