

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

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IN THE  
Supreme Court of the United States

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LONNIE ALONZO HOWARD,  
*Petitioner,*

v.

UNITED STATES OF AMERICA,  
*Respondent,*

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On Petition for a Writ of Certiorari to the  
United States Court of Appeals  
for the Eighth Circuit

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PETITIONER'S APPENDIX

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United States Court of Appeals  
For the Eighth Circuit

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No. 19-2473

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United States of America

*Plaintiff - Appellee*

v.

Lonnie Alonzo Howard, also known as Lonnie M. Howard

*Defendant - Appellant*

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Appeal from United States District Court  
for the District of North Dakota - Bismarck

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Submitted: June 19, 2020  
Filed: October 6, 2020

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Before GRUENDER, WOLLMAN, and KOBES, Circuit Judges.

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WOLLMAN, Circuit Judge.

Lonnie Alonzo Howard was convicted of being a felon in possession of a firearm and ammunition in violation of 18 U.S.C. §§ 922(g)(1), 924(a)(2), and 924(e). The district court<sup>1</sup> applied the Armed Career Criminal Act (ACCA), 18 U.S.C.

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<sup>1</sup>The Honorable Daniel L. Hovland, then Chief Judge, United States District Court for the District of North Dakota.

§ 924(e), and sentenced Howard to 210 months' imprisonment. Howard argues that the evidence was insufficient to support his conviction and that the district court erred in admitting certain evidence. He also contends that two of his prior state convictions do not constitute qualifying offenses under the ACCA. We affirm.

### I. Background

Howard was on parole through the state of North Dakota when on November 19, 2015, law enforcement officers executed a search warrant at the Bismarck, North Dakota, apartment he shared with Marybeth Fix. Officers encountered Anthony White in the kitchen area, Samantha Glass in the hallway, and Howard in the main bedroom. A .45 caliber Hi-Point pistol, a loaded magazine, and various ammunition were found in the main bedroom. Howard was charged in federal court in January 2017 with one count of being a felon in possession of a firearm and three counts of being a felon in possession of ammunition.

Howard was released to a halfway house pending trial. He absconded and was charged with escape in violation of 18 U.S.C. § 751(a). A deputy sheriff attempted to apprehend Howard in April 2018, after stopping him for a traffic infraction. The deputy's dash cam recorded the stop, during which Howard resisted arrest and fled from the scene. The district court granted the government's motion to join the escape case with the firearm and ammunition case. See Fed. R. Crim. P. 13. Howard thereafter pleaded guilty to escape.

At trial on the remaining charges, the government called several witnesses whose testimony supported the contention that Howard knowingly possessed a firearm and ammunition. Over Howard's objections, the district court admitted evidence of a pawn shop ticket indicating that Howard had pawned a firearm in July 2015 and the dash cam video of the April 2018 traffic stop. The district court issued limiting instructions to the jury about the disputed evidence. The jury found Howard

guilty of the one firearm and three ammunition counts, which the district court later merged into one count of conviction. The district court denied Howard's motion for judgment of acquittal.

At sentencing, the district court determined that Howard had three qualifying offenses and therefore was subject to an enhanced sentence under the ACCA. The court sentenced Howard to 30 months' imprisonment on the escape count, to run concurrently with the 210-month sentence on the firearm and ammunition count.

## II. Discussion

### A. Sufficiency of the Evidence

Howard argues that the evidence was insufficient to support his conviction and that the district court thus should have granted his motion for judgment of acquittal. We review *de novo* the denial of a motion for judgment of acquittal, viewing the evidence and all reasonable inferences in the light most favorable to the jury's verdict. United States v. McDonald, 826 F.3d 1066, 1072 (8th Cir. 2016) (per curiam). We reverse only if no reasonable jury could have found the defendant guilty beyond a reasonable doubt. Id.

Howard contends that the government failed to prove that he knowingly possessed a firearm and ammunition. Knowing possession may be proved by a showing of actual or constructive possession. Id. "[C]onstructive possession requires both knowledge that the contraband is present and dominion over the premises where the contraband is located." United States v. Ways, 832 F.3d 887, 897 (8th Cir. 2016). "Dominion over the premises where the contraband is located may give rise to a strong inference of knowledge in some contexts, but when there is joint occupancy of a residence, dominion over the premises by itself is insufficient to establish constructive possession." United States v. Patton, 899 F.3d 560, 563 (8th Cir. 2018)

(internal citations and quotation marks omitted). “In joint occupancy cases, there must be some additional nexus linking the defendant to the contraband.” Id. (quoting United States v. Wright, 739 F.3d 1160, 1168 (8th Cir. 2014)).

Although the apartment here was jointly occupied, there was ample evidence that Howard exercised dominion over the main bedroom. Fix testified that Howard had been living at the apartment for about a year and that Glass had been staying there for about a month. Fix explained that Howard slept in the main bedroom and that the only individuals with access to the main bedroom were Fix, Howard, their children, and Glass. Glass testified that she sometimes slept in the main bedroom with Howard. A parole officer who had visited the apartment when supervising Howard confirmed that Howard occupied the main bedroom. There was no evidence that Anthony White had at any time entered the main bedroom.

The evidence presented also was sufficient to show a nexus between Howard and the firearm and ammunition. According to their testimony, neither Fix nor Glass had seen the pistol or the ammunition that were found during the search. Fix had spent the night before the search in her children’s room and had left with the children before officers arrived. Glass had spent that night in the main bedroom. Soon after she awoke, Howard told her that the police had arrived, as he moved back and forth near the window. Glass testified that a basket of children’s toys had been moved from its usual spot to the floor near the foot of the bed and that she had not previously noticed a backpack in the main bedroom. The basket held the pistol and the round-filled magazine. Officers found a loose bullet and a safe containing ammunition within the backpack. Officers also found two rounds of ammunition in a nightstand drawer that held mail addressed to Howard, along with his prescription medication. Furthermore, the government presented evidence that Howard had asked Fix to fabricate text messages between her and an ex-boyfriend saying that the ex-boyfriend had left his backpack, gun, and clothes at the apartment. See United States v. Cross, 888 F.3d 985, 991 (8th Cir. 2018) (evidence of jail call between Cross and his

girlfriend, in which he tried to convince her to claim ownership of the gun, “supported Cross’s possession”). In light of the evidence and the inferences that fairly could be drawn therefrom, a reasonable jury could reject Howard’s mere presence defense and find that he knowingly possessed a firearm and ammunition.<sup>2</sup>

### B. Evidentiary Challenges

Howard next argues that the district court abused its discretion in admitting certain evidence. See United States v. Buckner, 868 F.3d 684, 687 (8th Cir. 2017) (standard of review). He claims that the July 20, 2015, ticket indicating that he had pawned a firearm that day constituted impermissible character evidence. The government was required to prove that Howard knowingly possessed a firearm and ammunition, however, and the evidence of Howard’s four-month earlier firearm transaction tended to show that he knowingly and intentionally possessed a firearm and ammunition in November 2015. See Fed. R. Evid. 404(b) (evidence of a crime, wrong, or other act “may be admissible for . . . proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident”); Buckner, 868 F.3d at 689 (“We have expressly approved the use of Rule 404(b) evidence of prior possession of a firearm to show knowledge and intent to possess at a later occasion in a felon in possession prosecution.”). Moreover, the district court issued a limiting instruction, which diminished the prejudicial effect of the evidence. Id. at 690 (“[T]he presence of a limiting instruction diminishes the danger of any unfair prejudice arising from the admission of other acts.” (alteration in original) (quoting United States v. Strong, 415 F.3d 902, 906 (8th Cir. 2005))). We thus conclude that the district court did not abuse its discretion in determining that the

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<sup>2</sup>We deny Howard’s motion to file a supplemental brief, which raises a new argument. See United States v. Owen, 854 F.3d 536, 541 n.5 (8th Cir. 2017) (explaining that issues not raised in a party’s opening brief are forfeited); Fed. R. App. P. 28(c) (prohibiting the filing of post-reply briefs, except as permitted by the court).

probative value of the pawn ticket evidence outweighed any prejudice. See Fed. R. Evid. 403 (“The court may exclude relevant evidence if its probative value is substantially outweighed by a danger of . . . unfair prejudice . . .”).

Howard also challenges the district court’s decision to admit the dash cam video of the traffic stop and the deputy’s attempt to take Howard into custody. The video showed Howard giving a false name and date of birth to the deputy, who thereafter asked Howard to exit the vehicle. As the deputy was attempting to place him in handcuffs, Howard wrested himself free from the deputy’s grasp, attempted to reenter the vehicle, again broke free from the deputy, ran onto the highway, returned to his vehicle, and drove into another vehicle before speeding through a ditch, over the median, across lanes of traffic, and up an exit ramp. “[E]vidence of flight ‘is admissible and has probative value as circumstantial evidence of consciousness of guilt.’” United States v. Thompson, 690 F.3d 977, 991 (8th Cir. 2012) (quoting United States v. Hankins, 931 F.2d 1256, 1261 (8th Cir. 1991)). Howard concedes that the evidence is “arguably relevant,” but argues that the video should have been excluded as unfairly prejudicial. Appellant’s Br. 34.

The district court did not abuse its discretion in concluding that the probative value of the video was not substantially outweighed by the danger of unfair prejudice. See Fed. R. Evid. 403. The video portrayed Howard’s extraordinary efforts to avoid arrest, which the jury could interpret as evidence of his acute consciousness of guilt and his desire to remain on the lam. The district court instructed the jury that the government bore the burden of proving intentional flight and that flight “[a]t most, . . . may provide the basis for an inference of consciousness of guilt.” The district court then charged the jury with “determin[ing] whether or not evidence of intentional flight shows a consciousness of guilt and [determining] the weight or significance to be attached to any such evidence.” In light of the video’s probative value and the court’s careful instruction, we conclude that the district court did not err in admitting the video.

### C. ACCA

Howard argues that the district court erred in sentencing him as an armed career criminal. Under the ACCA, a person convicted of being a felon in possession of a firearm is subject to a mandatory minimum sentence of fifteen years if he has three prior convictions for violent felonies or serious drug offenses. 18 U.S.C. § 924(e)(1). Howard concedes that he has been convicted of one qualifying offense, but disputes the determinations that his 1992 Wisconsin conviction for robbery and his 2009 North Dakota conviction for conspiracy to deliver ecstasy constitute qualifying offenses under the ACCA.

The ACCA defines “violent felony” to include any felony that “has as an element the use, attempted use, or threatened use of physical force against the person of another.” 18 U.S.C. § 924(e)(2)(B)(i). At the time of Howard’s conviction, the Wisconsin robbery statute provided, in relevant part:

- (1) Whoever, with intent to steal, takes property from the person or presence of the owner by either of the following means is guilty of a Class C felony:
  - (a) By using force against the person of the owner with intent thereby to overcome his physical resistance or physical power of resistance to the taking or carrying away of the property; or
  - (b) . . . .
- (2) Whoever violates sub. (1) by use or threat of use of a dangerous weapon or any article used or fashioned in a manner to lead the victim reasonably to believe that it is a dangerous weapon is guilty of a Class B felony.

Wis. Stat. § 943.32 (1991). A Class B felony was punishable by a term of imprisonment not to exceed 20 years, whereas the maximum term of imprisonment for a Class C felony was 10 years. Wis. Stat. § 939.50 (1991).

Howard argues that the Wisconsin charging document and judgment of conviction do not indicate whether he was convicted of simple robbery, as set forth in subsection (1)(a), or armed robbery, as set forth in subsection (2). See Shepard v. United States, 544 U.S. 13, 26 (2005) (inquiry into elements of the offense of conviction “limited to the terms of the charging document, the terms of a plea agreement or transcript of colloquy . . . , or to some comparable judicial record”). He contends that the court thus “must presume that the conviction rested upon nothing more than the least of the acts criminalized,” *i.e.*, simple robbery, which is not a violent felony. Appellant’s Br. 46 (quoting United States v. Schneider, 905 F.3d 1088, 1091 (8th Cir. 2018)); see Cross v. United States, 892 F.3d 288, 297 (7th Cir. 2018) (holding that simple robbery under Wisconsin Statutes § 943.32(1) does not have as an element the use, attempted use, or threatened use of physical force against another person). Howard does not dispute the district court’s conclusion that armed robbery under subsection (2) constitutes a violent felony. See United States v. Townsend, 224 F. Supp. 3d 816, 823 (D. Minn. 2016) (“Because a dangerous weapon is, by definition, one that can cause great bodily harm, Wisconsin armed robbery adds “as an element [to simple robbery] the use, attempted use or threatened use of physical force against the person of another.” (alteration in original) (quoting 18 U.S.C. § 924(e)(2)(B)(i)).

We find no clear error in the district court’s factual determination that Howard was convicted of armed robbery in violation of Wisconsin Statutes § 943.32(2). See United States v. Thornton, 766 F.3d 875, 878 (8th Cir. 2014) (reviewing for clear error the finding that the defendant had pleaded guilty to a statutory subsection that qualified as an ACCA predicate offense). Although the information cited only

Wisconsin Statutes § 943.32(1)(a), it charged Howard with “Armed Robbery” and alleged:

[Howard] did and by the use or threat of use of a dangerous weapon, take property from the person of [another], the owner, by using force against the person of the owner with intent thereby to overcome the said owner’s physical resistance or physical power of resistance to the taking and carrying away of said property . . . .

The charging document thus tracked the statutory language from subsections (1)(a) and (2), which is consistent with the statute’s structure—that is, that a defendant commits armed robbery when he commits simple robbery by using or threatening to use a dangerous weapon. See Wis. Stat. § 943.32(2). Although the judgment cites only subsection (1)(a), it states that Howard pleaded guilty to “Armed Robbery,” a Class B felony. Given that the documents refer to the crime as “Armed Robbery,” that the information charged Howard with committing robbery by use and threat of use of a dangerous weapon, and that the judgment states that his conviction was a Class B felony, we reject Howard’s argument that those documents failed to establish that he was convicted of armed robbery in violation of Wisconsin Statutes § 943.32(2).

Finally, Howard argues that his 2009 North Dakota conviction for conspiracy to deliver ecstasy does not constitute a “serious drug offense” under the ACCA. “We review *de novo* the district court’s legal determination that a prior conviction is a predicate offense.” See United States v. Vanoy, 957 F.3d 865, 867 (8th Cir. 2020).

As relevant here, the ACCA defines “serious drug offense” as “an offense under State law, involving manufacturing, distributing, or possessing with intent to manufacture or distribute, a controlled substance.” 18 U.S.C. § 924(e)(2)(A)(ii). Relying on United States v. Franklin, 904 F.3d 793 (9th Cir. 2018), Howard argues that we must compare the elements of the state offense to the elements of the generic

federal offense to determine whether his conviction qualifies under the ACCA. Howard contends that conspiracy under federal law requires specific intent, whereas conspiracy under North Dakota law does not. He argues that because the North Dakota statute does not categorically fit within the generic federal definition of conspiracy, his conviction thereunder is not for a qualifying offense under the ACCA.

The Supreme Court recently abrogated Franklin and held that “[t]he ‘serious drug offense’ definition requires only that the state offense involve the conduct specified in the federal statute; it does not require that the state offense match certain generic offenses.” Shular v. United States, 140 S. Ct. 779, 782 (2020); see Vanoy, 957 F.3d at 868 (holding that the defendant’s “claim that the Virginia statute has a broader *mens rea* requirement than federal law fails because the categorical approach does not require them to match”). Because conspiracy to deliver ecstasy in violation of North Dakota law involves conduct of distributing a controlled substance, it categorically qualifies as a “serious drug offense.” See United States v. Boleyn, 929 F.3d 932, 938 (8th Cir. 2019) (holding that regardless whether the defendants were convicted of knowingly or intentionally aiding and abetting delivery of a controlled substance, “[t]hey were convicted of conduct that ‘involved’ . . . drug distribution”).

The judgment is affirmed.

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## UNITED STATES DISTRICT COURT

District of North Dakota

UNITED STATES OF AMERICA	}	JUDGMENT IN A CRIMINAL CASE
v.	}	
LONNIE ALONZO HOWARD	}	Case Number: 1:17-cr-014
A/K/A LONNIE M. HOWARD	}	USM Number: 16544-059
	}	Mark A. Meyer
	}	Defendant's Attorney

## THE DEFENDANT:

pleaded guilty to count(s) \_\_\_\_\_

pleaded nolo contendere to count(s) \_\_\_\_\_ which was accepted by the court.

was found guilty on count(s) Consolidated 1-4 of the Indictment. after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18 USC §§ 922(g)(1), 924(a)(2) and 924(e)	Possession of Firearm and Ammunition by a Convicted Felon	November 2015	Consolidated 1-4 as ordered by Ct.

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) See Ct's Order Dismissing Forfeiture Allegation  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.

July 11, 2019

Date of Imposition of Judgment

Signature of Judge

Daniel L. Hovland

U.S. Chief District Judge

Name and Title of Judge

Date

11 a

DEFENDANT: LONNIE ALONZO HOWARD A/K/A LONNIE M. I  
CASE NUMBER: 1:17-cr-014

### IMPRISONMENT

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

**210 MONTHS**, with credit for time served, on Consolidated Counts 1-4, sentence to run concurrent with sentence of 30 MONTHS in Case No. 1:17-cr-253, sentences to run concurrent with the remaining undischarged portion of the ND state sentence in accordance with Section 5G1.3 of the Sentencing Guidelines.

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

The Court recommends the Defendant be placed in a correctional facility as close as possible to Atlanta, GA, to remain close to family.

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

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DEFENDANT: LONNIE ALONZO HOWARD A/K/A LONNIE M. I  
CASE NUMBER: 1:17-cr-014

### SUPERVISED RELEASE

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

3 YEARS on Consolidated Counts 1-4, term to run concurrent with term of supervised release of 3 YEARS in Case No. 1:17-cr-253.

### 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 (34 U.S.C. § 2091, 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.

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DEFENDANT: LONNIE ALONZO HOWARD A/K/A LONNIE M. J  
CASE NUMBER: 1:17-cr-014

### STANDARD CONDITIONS OF SUPERVISION

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

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

### U.S. Probation Office Use Only

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

Defendant's Signature

Date

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DEFENDANT: LONNIE ALONZO HOWARD A/K/A LONNIE M.  
CASE NUMBER: 1:17-cr-814

### SPECIAL CONDITIONS OF SUPERVISION

1. You must submit to drug/alcohol screening at the direction of the United States Probation Officer to verify compliance. Failure or refusal to submit to testing can result in mandatory revocation. Tampering with the collection process or specimen may be considered the same as a positive test result.
2. As directed by the Court, if during the period of supervised release the supervising probation officer determines you are in need of placement in a Residential Re-Entry Center (RRC), you must voluntarily report to such a facility as directed by the supervising probation officer, cooperate with all rules and regulations of the facility, participate in all recommended programming, and not withdraw from the facility without prior permission of the supervising probation officer. The Court retains and exercises ultimate responsibility in this delegation of authority to the probation officer.
3. You must submit your person, residence, workplace, vehicle, computer (including passwords), and/or possessions to a search conducted by a United States Probation Officer based upon reasonable suspicion of a violation of a condition of supervision. Failure to submit to a search may be grounds for revocation, additional criminal charges, and arrest. You must notify any other residents that the premises may be subject to searches pursuant to this condition.

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DEFENDANT: LONNIE ALONZO HOWARD A/K/A LONNIE M. I  
CASE NUMBER: 1:17-cr-014

## 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>
	\$ 100.00	\$	\$	\$

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>
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<u>TOTALS</u>	\$ <u>0.00</u>	\$ <u>0.00</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.

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DEFENDANT: LONNIE ALONZO HOWARD A/K/A LONNIE M. I  
CASE NUMBER: 1:17-cr-014

### SCHEDULE OF PAYMENTS

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

A  Lump sum payment of \$ 100.00 due immediately, balance due  
 not later than \_\_\_\_\_, or  
 in accordance with  C,  D,  E, or  F below; or

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

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

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

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

F  Special instructions regarding the payment of criminal monetary penalties:

All criminal monetary payments are to be made to the Clerk's Office, U.S. District Court, P.O. Box 1193, Bismarck, North Dakota, 58502-1193.

While on supervised release, the Defendant shall cooperate with the Probation Officer in developing a monthly payment plan consistent with a schedule of allowable expenses provided by the Probation Office.

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

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

Joint and Several

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

The defendant shall pay the cost of prosecution.  
 The defendant shall pay the following court cost(s):  
 The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) JVTA assessment, (8) penalties, and (9) costs, including cost of prosecution and court costs.

17a

UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT

No: 19-2473

United States of America

Appellee

v.

Lonnie Alonzo Howard, also known as Lonnie M. Howard

Appellant

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Appeal from U.S. District Court for the District of North Dakota - Bismarck  
(1:17-cr-00014-DLH-1)

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**ORDER**

The petition for rehearing en banc is denied. The petition for rehearing by the panel is also denied.

Judge Erickson did not participate in the consideration or decision of this matter.

December 30, 2020

Order Entered at the Direction of the Court:  
Clerk, U.S. Court of Appeals, Eighth Circuit.

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/s/ Michael E. Gans

18a

## ACKNOWLEDGEMENT OF NOTICE

I hereby acknowledge that the North Dakota Department of Corrections, has advised me that it is unlawful, under Federal\* and/or State\*\* law, for me to possess or receive firearms or ammunition. For me to possess firearms or ammunition is a violation of my probation, and will subject me to prosecution in either Federal or North Dakota court. I am prohibited from possessing firearms due to my conviction(s) for

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I hereby acknowledge that I understand that it would be a violation of Federal and/or State law for me to deliver, return, loan, possess, buy, transfer or otherwise in any way have access to any firearm or ammunition

Signed: Connie Howard

Date: 1/21/2014

Printed Name: Connie Howard

DOB: 09/18/1970

GENDER: Female

Male

ND SID# or NDSP #: 165548

Witness: KH

\* See Title 18 U.S.C., Section 922

### PERSONS PROHIBITED FROM POSSESSING FIREARMS OR AMMUNITION

#### Title 18 United States Code, Section 922(g) (1 - 9)

- Previously convicted of a crime punishable by a term of imprisonment exceeding one (1) year - (Felons)
- Fugitive from Justice (felony or misdemeanor)
- Unlawful user of, or addicted to, a controlled substance
- Adjudicated as a mental defective or who has been committed to a mental institution
- Alien illegally in the US
- Dishonorably Discharged from the Armed Services
- Renounced U.S. Citizenship
- Subject to a court order restraining person from an intimate partner
- Previously convicted of a misdemeanor crime of domestic violence



A person under indictment or information for a felony 922 (n) (Prohibits New Acquisition of Firearms Since Indictment)

Initials of Probationer LAD

Initials of Probation Officer AA

\*\* See North Dakota Century Code Section 62-1-02-01

North Dakota State law prohibits you from possessing a firearm after your probation ends or release from incarceration:

- 1) A person who has been convicted anywhere for a felony involving violence or intimidation, as defined in chapters 12.1-16 through 12.1-25, is prohibited from owning a firearm or having one in possession or under control from the date of conviction and continuing for a period of ten years after the date of conviction or release from incarceration or probation, whichever is the later;
- 2) A person who has been convicted of any felony not provided for in subsection 1 or has been convicted of a Class A Misdemeanor involving violence or intimidation and that crime was committed while using or possessing a firearm or dangerous weapon, as defined in Chapters 12.1-16 through 12.5-25 is prohibited from owning a firearm or having one in possession or under control from the date of conviction and continuing for a period of five years after the date of conviction or release from incarceration or probation, whichever is the later.

Violation of either of these sections of law is a Class C Felony.

“Dangerous weapon” includes:

- any switchblade or gravity knife, machete, scimitar, stiletto, sword, dagger, or knife with a blade of five inches (12.7 centimeters) or more;
- any throwing star, nunchaku, or other martial arts weapon;
- any billy, blackjack, sap, bludgeon, cudgel, metal knuckles, or sand club;
- any slungshot;
- any bow and arrow, crossbow or spear;
- any stun gun;
- any weapon that will expel or is readily capable of expelling, a projectile by the action of a spring, compressed air, or compressed gas including any such weapon, loaded or unloaded, commonly referred to as a BB gun, air rifle, or CO<sub>2</sub> gun;
- and any capable of producing and emitting any noxious liquid, gas or substance.

Initials of Probationer LAD

Initials of Probation Officer AA

20 9

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA

UNITED STATES OF AMERICA,

Plaintiff,

V.

LONNIE ALONZO HOWARD

Defendant.

Case No. 1:17-cr-014

## STIPULATION

(Prohibiting Conviction)

The United States of America and the Defendant stipulate and agree as follows:

Defendant LONNIE ALONZO HOWARD, prior to November 2015, was convicted of a crime punishable by imprisonment for a term exceeding one year, which prohibited him from legally possessing firearms and ammunition during the time frame alleged in Counts One through Four of the Indictment, and no further evidence need be presented to establish element one of the charges as alleged in Counts One, Two, Three, and Four of the Indictment.

Dated 7-9-19

  
\_\_\_\_\_  
Lonnie Alonzo Howard  
Defendant

Lonnie Alonzo Howard  
Defendant

Dated 4-9-19

  
Mark A. Meyer  
Attorney for Defendant

Mark A. Meyer  
Attorney for Defendant

Dated 4/9/19

  
David D. Hagler  
Attorney for the United States

David D. Hagler  
Attorney for the United States

