

Appendix A

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 19-2532

UNITED STATES OF AMERICA

v.

JAMES HILL,
Appellant

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. No. 2-18-cr-00458-001)
District Judge: Honorable Gerald A. McHugh

Submitted under Third Circuit LAR 34.1(a)
April 15, 2020

Before: AMBRO, JORDAN, and SHWARTZ, Circuit Judges.

JUDGMENT

This cause came to be considered on the record from the United States District Court for the Eastern District of Pennsylvania and was submitted on April 15, 2020. On consideration whereof, it is now hereby ORDERED and ADJUDGED that the judgment of the District Court entered June 28, 2019 is VACATED and REMANDED. All of the above in accordance with the Opinion of this Court.

ATTEST:

s/ Patricia S. Dodszuweit
Clerk

Dated: December 10, 2020

Appendix B

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 19-2532

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v.

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Appellant

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for the Eastern District of Pennsylvania
(D.C. No. 2-18-cr-00458-001)
District Judge: Honorable Gerald A. McHugh

Submitted under Third Circuit LAR 34.1(a)
April 15, 2020

Before: AMBRO, JORDAN, and SHWARTZ, Circuit Judges.

(Filed: May 5, 2020)

OPINION*

* This disposition is not an opinion of the full court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

SHWARTZ, Circuit Judge.

James Hill appeals the order denying his motion to suppress a firearm discovered when a police officer frisked him. Because the officer had reasonable suspicion to conduct the frisk, we will affirm.¹

I

A

After 1:00 a.m. on a July night, Philadelphia Police Officers Eric Bond and Travis Terrell patrolled a West Philadelphia block that had a history of drug activity, shootings, and nonresidents gathering in front of rowhouses. As they drove down the block, they noticed two men sitting on the steps of a rowhouse, so they stopped to determine if the men lived there. One of the men, Hill, went up the stairs to the porch and approached the front door, while the other walked down the sidewalk. Officer Terrell approached the man on the sidewalk, while Officer Bond approached Hill.

Officer Bond stopped at the bottom of the steps and asked Hill, “what’s going on, man? Do you live here?” App. 76. As Officer Bond asked the question, Hill tried

¹ Hill raises two other issues on appeal. First, he argues that the statute underlying his conviction exceeds Congress’ powers under the Commerce Clause. Our precedent forecloses this argument, as he concedes. United States v. Singletary, 268 F.3d 196, 205 (3d Cir. 2001). Second, relying on Rehaif v. United States, 139 S. Ct. 2191 (2019), he argues that the Government failed to prove that “he knew he belonged to the relevant category of persons barred from possessing a firearm.” Appellant’s Br. at 27 (quoting 139 S. Ct. at 2200). Because our en banc Court will examine the import of Rehaif in United States v. Nasir, No. 18-2888 (3d Cir.), we will hold Hill’s Rehaif issue C.A.V. until Nasir is decided. See Mateo v. Att’y Gen., 870 F.3d 228, 231 n.4 (3d Cir. 2017) (explaining that “C.A.V.” “is the term we use when we hold an appeal in abeyance pending the outcome of another proceeding”).

different keys to open the door, but none worked. Officer Bond began walking up the stairs and asked: "Is this your house? You sure you live here?" App. 76. Hill responded that he lived there but kept his body angled away from Officer Bond. Officer Bond then asked Hill what the house number was. Hill became agitated, turned to face Officer Bond, and responded, "what you bothering me for? I just got off of work." App. 77.

Hill's answers and demeanor led Officer Bond to believe that Hill did not live at the rowhouse. Officer Bond continued to ask Hill questions and noticed that Hill put his hands in the front pocket of his sweatshirt. He asked Hill to take his hands out of his pocket because he knew from his experience that people can carry weapons in their pockets and shoot from pockets. Hill complied but shortly thereafter returned his hands to his pocket. Officer Bond asked him again to remove his hands from his pocket. Hill briefly complied.

When Hill returned his hands to his pocket a third time, Officer Bond suspected that Hill was carrying a gun. Officer Bond told Hill to take his hands out of his pocket and to put them up. When Hill did so, Officer Bond reached forward, touched Hill's pocket, and immediately felt a gun. Officer Bond shouted "gun," Officer Terrell returned, they subdued Hill, and Hill was arrested.

B

Because Hill had a prior felony conviction, a grand jury returned an indictment charging him with possession of a firearm by a felon, in violation of 18 U.S.C. § 922(g)(1). Hill moved to suppress the firearm as the fruit of an unlawful investigatory

stop. The District Court held an evidentiary hearing at which Officers Bond and Terrell testified.

The District Court denied the motion. United States v. Hill, No. 18-458, 2019 WL 1236058, at *1 (E.D. Pa. Mar. 11, 2019). It held that Hill was seized when Officer Bond conducted a protective frisk by touching the front of Hill's sweatshirt. Id. at *3. It also held that the frisk did not violate the Fourth Amendment because Officer Bond, whom the Court found to be credible, id. at *2,² had a reasonable suspicion that Hill was on the property unlawfully since (a) Officer Bond "had previously been alerted by neighbors . . . about problems with individuals not from the block sitting on the steps of the neighbors' properties," (b) "Hill did not know the address, nor did any of his keys work," and (c) Hill "was agitated by the officer's questioning," id. at *3-4 (citing Terry v. Ohio, 392 U.S. 1, 30 (1968) (holding a stop-and-frisk does not violate the Fourth Amendment if justified by reasonable suspicion)). "That reasonable suspicion," the Court continued, "supported the protective frisk because Hill's agitation and repeated movements toward his pocket made Officer Bond concerned for the safety of himself and others." Id. at *4.

² Hill argues that Officers Bond and Terrell differed on the number of people on the block when they arrived, with Bond testifying that "multiple groups of people" were on the street, App. 68, Terrell saying that he only saw the two men and that this difference "casts a pall over their account of why Hill was confronted," Appellant's Br. at 20. In his closing argument at the suppression hearing, Hill did not argue that the differing testimony made Officer Bond not credible, and the District Court found Officer Bond's account credible, Hill, 2019 WL 1236058, at *2. We defer to the Court's credibility determination. Ornelas v. United States, 517 U.S. 690, 700 (1996); United States v. Mallory, 765 F.3d 373, 382 (3d Cir. 2014).

The case then proceeded to trial, and the jury returned a guilty verdict. Hill appeals.

II³

The Fourth Amendment prohibits an investigatory stop (a “Terry stop”) and an accompanying protective frisk absent reasonable suspicion. United States v. Foster, 891 F.3d 93, 104 (3d Cir. 2018). The District Court held, and the parties agree, that a Terry stop and protective frisk occurred when Officer Bond touched Hill’s sweatshirt pocket. See United States v. Brown, 765 F.3d 278, 289 (3d Cir. 2014) (holding that a police encounter “ripened into a Terry stop at the moment [the officer] grabbed [the defendant’s] waistband”). Thus, we must determine whether Officer Bond, when he frisked Hill’s pocket, had “a reasonable, articulable suspicion that criminal activity [was] afoot,” Foster, 891 F.3d at 104 (quoting United States v. Graves, 877 F.3d 494, 498 (3d Cir. 2017)), and “reason to believe that the suspect may pose a danger to the officers,” United States v. Lowe, 791 F.3d 424, 430 (3d Cir. 2015).

“We evaluate the totality of the circumstances in considering ‘whether a reasonable, trained officer standing in [the officer’s] shoes could articulate specific reasons justifying [the] detention.’” United States v. McCants, 952 F.3d 416, 422 (3d Cir. 2020) (alterations in original) (quoting Brown, 448 F.3d at 246-47). Factors that

³ When examining a suppression ruling, “[w]e review the District Court’s factual findings for clear error and its legal conclusions de novo.” United States v. McCants, 952 F.3d 416, 421 (3d Cir. 2020). We review “whether a seizure is supported by reasonable suspicion” de novo, United States v. Lowe, 791 F.3d 424, 427 (3d Cir. 2015), but “give due weight to a trial court’s finding that the officer was credible and [the officer’s] inference was reasonable,” Ornelas, 517 U.S. at 700.

“indicate suspicious behavior include the suspect’s presence in a high crime area, presence on a street at a late hour, . . . behavior that conforms to police officers’ specialized knowledge of criminal activity,” United States v. Hester, 910 F.3d 78, 87 (3d Cir. 2018) (quotation marks, citations, and alterations omitted), “furtive hand movements[,] and refusal to obey the officers’ orders,” United States v. Moorefield, 111 F.3d 10, 14 (3d Cir. 1997), including a suspect’s refusal to remove his hands from his pockets despite several requests to do so, e.g., United States v. Mouscardy, 722 F.3d 68, 75-76 (1st Cir. 2013).

Each of those factors is present here: (1) at 1:40 a.m., Hill was in a high-crime area where neighbors had recently reported that nonresidents had been congregating on properties; (2) Hill sought to avoid encountering the police by approaching the door to a house for which he did not have a key to enter and did not know the house number, showing that he did not live there, see United States v. Robertson, 305 F.3d 164, 167 (3d Cir. 2002) (instructing that the “totality of the circumstances” includes “common sense judgments about human behavior”); (3) Hill was evasive as he faced away from Officer Bond and did not fully answer his questions; and (4) Hill repeatedly returned his hands to his pockets, despite requests not to do so, suggesting that he may have been armed or in possession of contraband.⁴ These facts, taken together, gave Officer Bond reasonable

⁴ Hill argues that his attitude towards Officer Bond’s questioning and conduct in repeatedly returning his hands to his pocket, despite requests not to do so, evince only a refusal to cooperate and cannot justify reasonable suspicion. While “a refusal to cooperate with the police in a consensual encounter, without more, cannot constitute reasonable suspicion for a stop,” United States v. Bonner, 363 F.3d 213, 218 (3d Cir. 2004), this is not a case where the investigating officer relied only on a refusal to

suspicion that Hill did not live at the house and that he was armed. Accordingly, the stop and protective frisk was justified.

III

For the foregoing reasons, we will affirm the District Court's order denying Hill's motion to suppress and hold the remainder of the appeal C.A.V.

cooperate for his reasonable suspicion. Rather, as discussed above, a number of facts informed Officer Bond's suspicion. Moreover, Hill did not simply refuse to answer questions—he repeatedly refused to comply with requests to keep his hands displayed and instead appeared to handle something in his pocket, which allowed Officer Bond to infer, based on his experience, that Hill was in possession of a weapon or contraband. Mouscardy, 722 F.3d at 75-76.

Appendix C

NOT PRECEDENTIAL

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District Judge: Honorable Gerald A. McHugh

Submitted under Third Circuit L.A.R. 34.1(a)
April 15, 2020

Before: AMBRO, JORDAN, and SHWARTZ, Circuit Judges.

(Filed: December 10, 2020)

OPINION*

* This disposition is not an opinion of the full court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

SHWARTZ, Circuit Judge.

James Hill appeals his conviction for possession of a firearm by a felon, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2). Relying on Rehaif v. United States, he argues that his indictment did not allege, the jury was not instructed, and the evidence did not prove that “he knew he belonged to the relevant category of persons barred from possessing a firearm.” 139 S. Ct. 2191, 2200 (2019). Because the Government failed to adduce evidence that Hill knew he was a felon, and because such a failure constitutes plain error under United States v. Nasir, No. 18-2888, --- F.3d ---, 2020 WL 7041357, at *19-21 (3d Cir. Dec. 1, 2020) (en banc), we will vacate the conviction and remand for retrial.¹

I

In July 2018, law enforcement discovered that Hill possessed a firearm. United States v. Hill, 811 F. App’x 761, 762 (3d Cir. 2020). A grand jury returned an indictment charging: “JAMES HILL, having been convicted in a court of the Commonwealth of Pennsylvania of a crime punishable by imprisonment for a term exceeding one year, knowingly possessed in and affecting interstate commerce a firearm,” in violation of § 922(g)(1). App. 24. Hill had previously been convicted of several offenses, including offenses under Pennsylvania law for possession of a controlled substance with intent to

¹ In his appeal, Hill raises both his Rehaif issue and two other issues. We addressed the other issues in United States v. Hill, 811 F. App’x 761 (3d Cir. 2020), and held the Rehaif issue C.A.V. pending Nasir.

deliver, for which he faced up to five years' imprisonment, 35 Pa. Stat. §§ 780-113(f)(2), 780-104(1)(ii)(10), and was sentenced to two to four years' imprisonment.

Before trial, Hill stipulated that “[p]rior to July 8th, 2018, [he] had been convicted in a court of the Commonwealth of Pennsylvania of a crime punishable by imprisonment for a term exceeding one year. That is, he had been convicted of a felony within the meaning of [§ 922(g)(1)].” App. 364-65. The stipulation was read to the jury but no other evidence was presented regarding Hill’s prior convictions or his knowledge of his status as a felon.²

The District Court instructed the jury that there were three elements to the offense charged: (1) Hill had been convicted of a crime punishable by imprisonment of over a year (a felony), (2) “after that conviction, [he] knowingly possessed a firearm,” and (3) “his possession was in or affecting interstate or foreign commerce.” App. 553. Regarding the first element, the Court explained that the parties had stipulated that Hill had a prior conviction, but that

[the] prior conviction is brought to your attention only because it tends to establish one of the elements of the crime So you are not to speculate about the nature of that conviction, and you may not consider the fact that he has a prior conviction in deciding whether he was in knowing possession of the firearm with which he is charged in this case because that is in

² Besides the stipulation, the Government presented the following evidence: the testimonies of Officers Bond and Terrell, who discovered Hill with the gun and described arresting him, the testimony of an agent of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, who testified regarding the firearm’s manufacturing and distribution history, and the testimony of an officer with the Philadelphia Police Department’s Firearms Identification Unit, who testified that the firearm was operable. Hill did not present any witnesses.

dispute . . . It's only proof for the fact that he had a previous felony conviction

App. 554. The Court then explained that “[t]o establish the second element . . . , the Government must prove that Mr. Hill possessed the firearm in question This means that the defendant possessed the firearm purposely and voluntarily It also means that he had to know that the object in question was a firearm.” App. 555-56.

The jury found Hill guilty. The Court sentenced Hill to 70 months’ imprisonment and three years’ supervised release. Hill appeals his conviction.

II

Three months after Hill’s conviction, and while his case was on direct appeal, the Supreme Court held in Rehaif that the Government must show that the defendant “knew he had the relevant status when he possessed [the firearm],” here, status as a felon. 139 S. Ct. at 2194. Based on Rehaif, Hill argues that his conviction must be reversed because his indictment did not allege, the jury was not instructed, and the evidence did not prove that he knew he had been convicted of a felony. Because Hill did not object to any of these things before the District Court, we review for plain error. Nasir, 2020 WL 7041357, at *10. “The plain error standard is met when (1) there is an error; (2) the error is clear or obvious . . . ; and (3) the error affected the appellant’s substantial rights A court may address the error if it seriously affects the fairness, integrity or public

reputation of judicial proceedings.” United States v. Bruce, 950 F.3d 173, 175 n.3 (3d Cir. 2020) (alterations, quotation marks, and citations omitted).³

In Nasir, we held that the Government’s failure to prove that a § 922(g)(1) defendant knew he was a felon was plain error that required vacatur of the conviction. 2020 WL 7041357, at *21-23. As in Nasir, the Government here, following our pre-Rehaif precedent, put forward no evidence that Hill knew he was a felon prohibited from possessing a firearm.⁴ Because this was a trial error, we will vacate and remand for a new trial.⁵ Nasir, 2020 WL 7041357, at *23.

³ Hill argues that plain error analysis does not apply because the error here was “structural,” thus requiring us “to invalidate the conviction.” Reply Br. at 9-10. However, there is “no structural defect exception” to Federal Rule of Criminal Procedure 52(b); instead, his allegation of a structural defect “is properly considered . . . during the course of our substantial rights inquiry” of plain error review. United States v. Vazquez, 271 F.3d 93, 103 (3d Cir. 2001) (en banc) (citing Johnson v. United States, 520 U.S. 461, 466 (1997)). Moreover, the errors he alleges are not structural. United States v. Stevenson, 832 F.3d 412, 426 (3d Cir. 2016) (“[D]efective indictments do not constitute ‘structural’ error.”); Washington v. Recuenco, 548 U.S. 212, 222 (2006) (“Failure to submit a sentencing factor to the jury, like failure to submit an element to the jury, is not structural error.”); Neder v. United States, 527 U.S. 1, 15 (1999) (“[T]he omission of an element [from jury instructions] is an error that is subject to harmless-error analysis.”).

⁴ While the Government argues that the jury could infer from the stipulation that Hill knew he was a felon, we rejected that argument in Nasir. 2020 WL 7041357, at *20.

⁵ While it is unlikely that the indictment, which tracks the language of the statute, was insufficient or that it would constitute plain error to allow it to stand, see Stevenson, 832 F.3d at 427-28, we need not decide this issue because Nasir requires that we vacate this conviction based upon the absence of trial evidence upon which a juror could conclude that Hill knew he was a felon. See 2020 WL 7041357, at *18 (“[O]ur analysis of Nasir’s claim of plain error [is] confined to the trial record and the evidence the government actually presented to the jury.”). Indeed, if the trial record provided evidence from which a reasonable juror could have found that Hill knew he was a felon, vacatur would not have been required.

III

For the foregoing reasons, we will vacate Hill's conviction and remand for a new trial.

Appendix D

1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF PENNSYLVANIA

10 -----
BEFORE THE HONORABLE GERALD A. MCHUGH, J.

12 JURY TRIAL
DAY 2

APPEARANCES:

15 JEANINE LINEHAN, ESQUIRE
 ASSISTANT UNITED STATES ATTORNEY
 615 CHESTNUT STREET, SUITE 1250
16 PHILADELPHIA, PA 19106

17 COUNSEL FOR THE GOVERNMENT

18

23 PROCEEDINGS RECORDED BY STENOTYPE-COMPUTER,
TRANSCRIPT PRODUCED BY COMPUTER-AIDED TRANSCRIPTION

1 ADDITION TO THE VERDICT SLIP IT WILL BE THAT PORTION OF
2 THE CHARGE THAT I WILL SEND OUT WITH THE JURY, NOT THE
3 ENTIRE CHARGE. JUST THAT PORTION SO THEY WILL HAVE THE
4 ELEMENTS OF THE OFFENSE CONVENIENT TO THEM AS THEY
5 DELIBERATE. ALL RIGHT.

6 MR. WILSON: AND YOUR HONOR, PERHAPS IT'S
7 BEST IF WE DO IT WITHOUT THE JURY HERE.

8 (JURY OUT.)

9 MR. WILSON: I DO MAKE A MOTION PURSUANT
10 TO RULE 29 OF THE FEDERAL RULES OF CRIMINAL PROCEDURE
11 THAT THE EVIDENCE IS INSUFFICIENT TO ESTABLISH THAT ANY
12 POSSESSION OF THE FIREARM IN THIS CASE WAS IN OR
13 AFFECTING COMMERCE. I DO RECOGNIZE THE SUPREME COURT'S
14 RULING ON THIS, THEIR DECISION ON THIS, BUT I WOULD NOTE
15 THAT THERE IS NO INDICATION AS TO WHEN THAT FIREARM CAME
16 INTO PENNSYLVANIA. THERE IS NO INDICATION THAT IT WAS
17 POSSESSED IN ANY MEANS OF INTERSTATE TRANSPORTATION. IT
18 WAS POSSESSED ON THE STREETS OF PHILADELPHIA ACCORDING
19 TO THE GOVERNMENT'S EVIDENCE, AND NOTHING FURTHER THAT
20 WOULD INDICATE THAT THE ENTRANCE INTO PHILADELPHIA, INTO
21 PENNSYLVANIA WAS ANYTHING OTHER THAN REMOTE IN TIME.
22 AND SO ON THAT BASIS, I MAKE A MOTION TO DISMISS AS THE
23 EVIDENCE BEING INSUFFICIENT AT LEAST ON ONE ELEMENT OF
24 THE CHARGED OFFENSE.

25 THE COURT: UNDERSTOOD. AND AS YOU

1 CORRECTLY OBSERVED THE SUPREME COURT HAS TAKEN A RATHER
2 BROAD VIEW OF THE ELEMENT OF INTERSTATE COMMERCE AND AS
3 I UNDERSTAND THE EXISTING LAW, THE GOVERNMENT WOULD HAVE
4 MET ITS BURDEN UNDER RULE 29 BUT YOUR POSITION IS
5 PRESERVED.

6 AND THEN THE ONLY OTHER, SUBJECT AGAIN TO
7 THE DISCUSSION WE WILL HAVE BEFORE THE JURY COMES BACK
8 IN, I'M NOT SURE THAT WE NEED TO USE ON OR ABOUT,
9 BECAUSE I DON'T THINK THAT IS REALLY IN DISPUTE HERE. I
10 THINK IT WILL CONFUSE THE JURY. I'M NOT REALLY SURE WE
11 NEED TO CHARGE ON MOTIVE HERE. AGAIN, THAT INSTRUCTION
12 IS ALWAYS A BADLY WORDED INSTRUCTION ANYWAY. I HAVE NOT
13 YET FOUND A GOOD WAY TO REWRITE IT. SO I WOULD BE
14 INCLINED TO NOT CHARGE ON EITHER OF THOSE TWO POINTS.

15 MS. LINEHAN: NO OBJECTION FROM THE
16 GOVERNMENT ON THAT.

17 THE COURT: MR. WILSON, DO YOU AGREE?
18 MR. WILSON: I HAVE NO PROBLEM WITH THAT,
19 YOUR HONOR.

20 THE COURT: I AM JUST TRYING TO
21 STREAMLINE IT AND NOT ADD CONFUSION INTO THE
22 DELIBERATION, AND WITH THAT, WE WILL TAKE ABOUT A
23 TEN-MINUTE BREAK AND HEAR BACK FROM THE GOVERNMENT ON
24 IMPLICIT BIAS AND MR. WILSON, DO YOU WANT TO FORMALLY --
25 WHAT I WILL DO --

Appendix E

UNITED STATES DISTRICT COURT

Eastern District of Pennsylvania

UNITED STATES OF AMERICA

v.

JAMES HILL

FILED**JUN 28 2019**By KATE BARKMAN, Clerk
Dep. Clerk**JUDGMENT IN A CRIMINAL CASE**

Case Number: DPAE2: 18CR00458-001

USM Number: 76821-066

Mark Wilson, Esq.

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) 1 _____ after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18:922(g)(1)	Possession of a firearm by a convicted felon	7/8/2018	1

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) _____ 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.

C.C. Jeanine Linehan, AUSA
Mark Wilson, Det. Camsel
Carolyn De Mayo, USPA (2)
U. S. Marshal (2)
Pretrial Services

6/27/2019
Date of Imposition of Judgment

Gerald Austin McHugh
Signature of Judge

Gerald Austin McHugh, United States District Judge
Name and Title of Judge

6/27/19
Date

DEFENDANT: JAMES HILL

CASE NUMBER: DPAE2: 18CR00458-001

IMPRISONMENT

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

70 months on Count 1. This sentence shall run concurrent to any state sentence imposed for violation of parole. The defendant shall be given credit for time served while in federal custody

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

The defendant shall be designated to a facility close to Philadelphia, PA.

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: JAMES HILL

CASE NUMBER: DPAE2: 18CR00458-001

SUPERVISED RELEASE

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

3 years on Count 1

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 (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: JAMES HILL

CASE NUMBER: DPAE2: 18CR00458-001

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: JAMES HILL

CASE NUMBER: DPAE2: 18CR00458-001

SPECIAL CONDITIONS OF SUPERVISION

The defendant shall participate in a mental health program for evaluation and/or treatment and abide by the rules of any such program until satisfactorily discharged.

The defendant shall refrain from the illegal possession and/or use of drugs and shall submit to urinalysis or other forms of testing to ensure compliance. It is further ordered that the defendant shall participate in drug treatment and abide by the rules of any such program until satisfactorily discharged.

The defendant shall provide the U.S. Probation Office with full disclosure of his financial records to include yearly income tax returns upon the request of the U.S. Probation Office. The defendant shall cooperate with the probation officer in the investigation of his financial dealings and shall provide truthful monthly statements of his income.

The defendant is prohibited from incurring any new credit charges or opening additional lines of credit without the approval of the probation officer. The defendant shall not encumber or liquidate interest in any assets unless he has the express approval of the Court.

DEFENDANT: JAMES HILL

CASE NUMBER: DPAE2: 18CR00458-001

CRIMINAL MONETARY PENALTIES

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

TOTALS \$ Assessment \$ JVTA Assessment* \$ Fine \$ Restitution
TOTALS \$ 100.00 \$ 0.00 \$ 0.00 \$ 0.00

- 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.

- 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. 24a

DEFENDANT: JAMES HILL

CASE NUMBER: DPAE2: 18CR00458-001

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:

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:
One (1) Sig Sauer, Model P226, semi-automatic 9mm pistol, bearing serial number U448070; 14 rounds of assorted 9mm ammunition and any and all related ammunition.

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.