

RECORD NUMBER: \_\_\_\_\_

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*In the*  
**Supreme Court of the United States**

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**MICHAEL JAMES YOUNG, JR., a/k/a Unc and  
VANCE EDWARD VOLIOUS, JR., a/k/a Dank, a/k/a Black,**

*Petitioners,*

— 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 Fourth Circuit**

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**PETITION FOR WRIT OF CERTIORARI**

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**QUESTION PRESENTED FOR REVIEW**

DID THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT ERR BY RULING THAT 18 UNITED STATES CODE SECTION 1716 PROHIBTS AS NON-MAILABLE AN INERT DEVICE MANUFACTURED BY LAW ENFORCEMENT SO THAT IT COULD NOT EXPLODE?

## **PARTIES TO THE PROCEEDING**

All parties are listed in the caption on the cover page.

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**OPINIONS BELOW**

The Order of the Fourth Circuit Court of Appeals which affirmed the District Court was filed on February 26, 2021, and is reprinted in Petitioner's Appendix pages A-1 through A-22. The Judgment of the District Court for Mr. Young, which was entered on March 1, 2019, is reprinted in Petitioners' Appendix pages A-25 through A-30. The Judgment of the District Court for Mr. Volious, which was entered on March 29, 2019, is reprinted in Petitioners' Appendix pages A-31 through A-36.

**BASIS FOR JURISDICTION IN THE SUPREME COURT**

The United States District Court for the District of South Carolina had jurisdiction pursuant to 18 U.S.C. § 3231. The court of appeals had jurisdiction pursuant to 28 U.S.C. § 1291 and 18 U.S.C. § 3742. No petition for rehearing was filed.

The jurisdiction of this Court is involved pursuant to 28 U.S.C. § 1254(1).

**CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

Supreme Court Rules 10(a) and 10(c)

18 United States Code § 1716

18 United States Code § 844

### STATEMENT OF THE CASE

This Court has the opportunity in the instant matter to answer the important question of when a “bomb” isn’t a “bomb.” Here, law enforcement posed as an arms dealer selling “mail bombs” and shipped a device at Mr. Young’s request. This was a controlled situation with law enforcement constructing the device at issue, delivering the item at issue and overseeing the defendant’s coconspirator transport the item to a mail receptacle. The public was never in harm’s way as the item would not explode by design and construction. Despite the inability to “explode,” the defendants were charged with mailing a non-mailable device under the theory that it contained an “explosive.”

Defendants were charged with four separate counts. Two of these are not subject to the instant challenge: Count One, criminal conspiracy to acquire a bomb which would be sent to Mr. Young’s ex-wife to kill her, and Count 2, the receipt and possession of explosive to kill another. The defendants were convicted of these offenses and the instant petition does not challenge these convictions. Rather, this petition challenges the over-zealous additional charges which “pile on” the defendants. While law enforcements’ efforts to construct an inert device that could not cause injury are laudable, they should not give rise to the challenged charges. To be sure, the actions of Young and Volious were not proper and give rise to the criminal

charges reflected in Counts 1 and 2, just not a violation of Section 1716 based on the facts of this case. Because the indictment specifically references the 1716 charge as the underlying felony giving rise to the 844 charge in Count 4, conviction on this count should also be vacated. This Court has the ability to provide guidance on prosecutive decisions, judicial decisions, and appellate decisions by clarifying what is a “bomb” and what isn’t a “bomb.” This case raises the important question of whether the plain language of 18 United States Code Section 1716 renders “non mailable” an inert device, incapable of exploding due to the design of law enforcement, simply because it contains infinitesimal amount of “high explosives?”

Defendants Michael Young and Vance Volious are two of three defendants charged in a four count Superseding Indictment (“Indictment”) in the United States District Court for the District of South Carolina, Rock Hill Division.<sup>1</sup> (Appendix pages A-37 through A-46). The defendants challenge their convictions on Counts 3 and 4, which charge them with mailing a non-mailable item with the intent to kill in violation of 18 United States Code Section 1716 (Count 3) and carrying explosives during the commission of another felony in violation of 18 United States Code Section 844 (Count 4).

The defendants’ convictions all arise from Mr. Young’s efforts while within the

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<sup>1</sup> While Mr. Young and Mr. Volious proceeded to trial, the third defendant pled guilty.

South Carolina Department of Corrections to procure a mail bomb over the “dark web.” Unbeknownst to Mr. Young, the individual with whom he was communicating was an undercover FBI agent. Thereafter the FBI constructed an inert device, incapable of explosion, but designed to appear as the requested device.

Mr. Young and Mr. Volious proceeded to a jury trial on April 16-19, 2018, and each were convicted on all Counts. (App. p. A-25 through 36). On February 25, 2019, Mr. Young was sentenced to 525 months incarceration. Mr. Volious was sentenced on March 26, 2019 to 255 months incarceration. Appeal was thereafter taken to the Fourth Circuit Court of Appeals.

On February 26, 2021, the Fourth Circuit Court of Appeals affirmed in a published opinion. United States v. Young, 989 F.3d 253 (4<sup>th</sup> Cir. 2021)(App. p. A-1 through A-22). With respect to the application of 18 United States Code Section 1716(a), the Fourth Circuit recognizes the absence of controlling case law on the matter and turns to the text of the statute. The Fourth Circuit’s opinion, however, concludes the term “explosive” includes an inert device incapable of exploding due to the design and construction of law enforcement. Because the conviction under Section 1716 was sustained, the conviction under Section 844 was likewise sustained as the sole challenge to this section was that the “other felony” relied upon by the Government was conviction under 1716. Thus without a valid conviction under Section 1716, the conviction under Section 844 would also be infirm.

This petition follows.

## **ARGUMENTS**

### **I. THE FOURTH CIRCUIT ERRED BY CONCLUDING AN INERT DEVICE THAT COULD NOT EXPLODE BY LAW ENFORCEMENT DESIGN WAS “EXPLOSIVE” AND THEREFORE NON-MAILABLE.**

The Code Section at issue in the instant matter, 18 United States Code Section 1716(a), entitled “Injurious Articles as Nonmailable,” provides that

All kinds of poison, and all articles and compositions containing poison, and all poisonous animals, insects, reptiles, and all explosives, hazardous materials, inflammable materials, infernal machines, and mechanical, chemical, or other devices or compositions which may ignite or explode, and all disease germs or scabs, and all other natural or artificial articles, compositions, or material which may kill or injure another, or injure the mails or other property, whether or not sealed as first-class matter, are nonmailable matter and shall not be conveyed in the mails or delivered from any post office or station thereof, nor by any officer or employee of the Postal Service.

18 USC §1716 (a)(emphasis added).

The Government pursued conviction by alleging that the offending article was an “explosive.” As noted herein, the subject article could not explode by design and construction of law enforcement and as such presented no risk of harm. Despite this, and instead of looking to “the specific context in which the [word] is used, and the broader context of the statute as a whole” (see United States v. Serafini, 826 F.3d 146, 149 (4<sup>th</sup> Cir. 2016)(quoting Country Vintner of N.C., LLC v. E & J Gallo Winery,

Inc., 718 F.3d 249, 258 (4<sup>th</sup> Cir. 2013)), the Opinion parses out the word “explosives” without attempting to “giv[e] a more precise content by the neighboring words with which it is associated.” See United States v. Williams, 553 U.S. 285, 294 (2008).

Recognizing the absence of a definition for “explosive” Section 1716, the Fourth Circuit attempts to give the term its “ordinary meaning.” See Taniguchi v. Kan Pac. Saipan, Ltd., 566 U.S. 560, 566 (2012). In this regard, the Opinion first looks to the dictionary definition of “explosive” but gives an incomplete analysis.

Dictionaries define “explosive,” when used as a noun, to mean an “explosive substance,” *Explosive*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/explosive> (last visited Feb. 22, 2021), or “[a]n explosive substance, object, or device,” *Explosive*, Oxford English Dictionary (3d ed.. 2016), <https://www.oed.com/view/Entry/66677?redirectedFrom=explosive#eid> (last visited Feb. 22, 2021).

Opinion, p. 6-7.

As the definition utilized herein specifically makes reference to “explosive” when used as an adjective, i.e. “explosive substance,” a review of that definition for the plain and ordinary meaning of the word is necessary, but was not undertaken. In looking to this definition, we see that the adjective “explosive” is “relating to, characterized by, or operated by explosion (ie. explosive hatch); resulting from or as if from an explosion (ie. *explosive* population growth); tending to explode (ie. an *explosive* person); likely to erupt in or produce hostile reaction or violence (ie. an *explosive* situation)”. *Explosive*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/explosive>

[webster.com/dictionary/explosive](https://www.webster.com/dictionary/explosive) (last visited May 18, 2021). The Opinion's conclusion fails to analyze the key aspect of the definition of "explosive substance" that the substances explodes.

Instead, of fully exploring the definition of the ordinary meaning of "explosive" the Opinion turns to the other language used in Section 1716 to justify its' conclusion. Even though the definition relied upon in the Opinion refers to "explosive substance," the Opinion later concludes "[r]eading 'all explosives' to encompass 'devices or compositions which may ignite or explode' would render the latter phrase superfluous, which we're loath to do." Opinion at 7 (citing United States v. Sims, 914 F.3d 229, 241 (4<sup>th</sup> Cir. 2019), cert. denied, 140 S.Ct. 304 (2019)). The reading encouraged by defendants – that "explosive" means a substance that actually will "explode" – does not render any language superfluous. Rather, this interpretation renders all substances and devices that explode (and thereby cause injury) non-mailable.

Based upon the foregoing, it is clearly apparent that an important question exists as to what does "explosives" mean in the context of non-mailable items. While few cases have addressed the issue, when law enforcement creates the device at issue and renders it inert, the lack of clarification as to what "explosives" means can have dramatic consequences for criminal defendants, such as the defendants. Because of this, it is appropriate for this Court

to address the issue by way of writ of certiorari.

### **CONCLUSION**

Based on the foregoing, Mr. Young and Mr. Volious submit that the District Court erred by finding inert devices were “explosives” and that the Fourth Circuit erred by affirming this determination. Mr. Young and Mr. Volious respectfully ask this Court to grant certiorari in his case to review the Fourth Circuit’s opinion, and to resolve this important issue.

Respectfully submitted,

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Columbia, South Carolina

May 27, 2021

# APPENDIX A

**PUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 19-4149**

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UNITED STATES OF AMERICA,

Plaintiff – Appellee,

v.

MICHAEL JAMES YOUNG, JR., a/k/a Unc,

Defendant – Appellant.

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**No. 19-4222**

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UNITED STATES OF AMERICA,

Plaintiff – Appellee,

v.

VANCE EDWARD VOLIOUS, JR., a/k/a Dank, a/k/a Black,

Defendant – Appellant.

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Appeals from the United States District Court for the District of South Carolina, at Columbia. J. Michelle Childs, District Judge. (3:17-cr-00575-JMC-1; 3:17-cr-00575-JMC-2)

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Argued: November 2, 2020

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Decided: February 26, 2021

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Before DIAZ, THACKER, and HARRIS, Circuit Judges.

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Affirmed by published opinion. Judge Diaz wrote the opinion, in which Judge Harris and Judge Thacker joined.

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**ARGUED:** Jonathan McKey Milling, MILLING LAW FIRM, LLC, Columbia, South Carolina; Aimee Zmroczek, A.J.Z. LAW FIRM, LLC, Columbia, South Carolina, for Appellants. Brook Bowers Andrews, OFFICE OF THE UNITED STATES ATTORNEY, Columbia, South Carolina, for Appellee. **ON BRIEF:** Sandra V. Moser, MILLING LAW FIRM, LLC, Columbia, South Carolina, for Appellant Michael James Young, Jr. A. Lance Crick, Acting United States Attorney, Greenville, South Carolina, Kathleen Michelle Stoughton, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Columbia, South Carolina, for Appellee.

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DIAZ, Circuit Judge:

Michael James Young, Jr. wanted his ex-wife dead. While serving a prison sentence for an unsuccessful first attempt on her life, Young concocted a plot for several friends on the outside, including Vance Edward Volious, Jr., to mail her a bomb and finish the job. There was but one (big) hitch; the bombmaker he contacted to design the bomb was an undercover FBI agent, and the bomb his friends tried to send was a dud by design. Young and Volious were indicted, a jury convicted them on several counts, and they appealed. Foremost among the questions we must now answer is whether an inert bomb is a nonmailable item under federal law.

I.

A.

While Young was in prison for attempting to kill his ex-wife (and killing his ex-father-in-law), he used a contraband cell phone to orchestrate a drug-dealing conspiracy. Young would contact a supplier, purchase the drugs, and arrange shipment to houses where Volious and Vincent Meredith (another friend on the outside) lived. Young would then arrange for another friend, frequently Tyrell Fears, to pick up the drugs and distribute them.

In February 2017, Young used the contraband cell phone to access the dark web and contact someone he believed to be a Russian bombmaker. After a few months of negotiations, Young purchased what he thought was a mail bomb and arranged for the bombmaker to send the device unarmed to Meredith's house and separately send a prepaid

shipping label to Volious's house. Young asked that the shipping label bear his ex-wife's address and asked that both packages contain instructions for arming the device.

What Young didn't know was that his dark web contact was an undercover FBI agent. The FBI built an inert device that ostensibly matched what Young asked for. It contained small amounts of explosives, but by design it couldn't explode. The FBI then sent the shipping label to Volious, per Young's request, and had an undercover postal inspector hand-deliver the inert device to Meredith's address.

After Volious received the label and delivered it to Fears, Fears went to Meredith's house, followed the instructions for arming the device, and placed the shipping label on the package. The FBI watched as Fears placed the device between two mail receptacles, where postal workers normally would have picked it up and placed it into the mail had the FBI not intercepted it first.

## B.

The government charged Young and Volious with the following four counts: (1) a criminal conspiracy with several objectives; (2) aiding and abetting the transportation of an explosive in interstate commerce to kill an individual; (3) aiding and abetting the mailing of a non-mailable item with intent to kill; and (4) aiding and abetting the carrying of an explosive during the commission of a felony. A jury convicted Young and Volious on each count, and the court sentenced each to lengthy prison terms.

This appeal followed.

## II.

Young and Volious make five challenges to their convictions, each with its own standard of review. The pair makes its first two arguments together, but Volious brings the final three alone. We discuss each in turn.

## A.

Young and Volious's primary argument is a two-part challenge to their convictions for aiding and abetting the mailing of a nonmailable item under 18 U.S.C. § 1716(j)(2). They first contend that the package Fears placed in the mail doesn't qualify as a nonmailable item under federal law.<sup>1</sup> Next, they argue that the record evidence is insufficient to support their convictions for mailing a nonmailable item.

## 1.

The first part of Young and Volious's argument raises a question of statutory interpretation that we consider *de novo*. *See Stone v. Instrumentation Lab'y Co.*, 591 F.3d 239, 242–43 (4th Cir. 2009). The relevant statute provides that:

Whoever knowingly deposits for mailing or delivery, or knowingly causes to be delivered by mail, . . . *anything declared nonmailable by this section*, whether or not transmitted in accordance with the rules and regulations authorized to be prescribed by the Postal Service, with intent to kill or injure

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<sup>1</sup> Young and Volious also argue in their reply brief that we should resolve this issue in their favor under the rule of lenity. But they likely waived that argument by failing to present it in their opening brief. *Equal Rights Ctr. v. Niles Bolton Assocs.*, 602 F.3d 597, 604 n.4 (4th Cir. 2010) (arguments not raised in opening brief are waived); *see also United States v. Everhart*, 436 F. App'x 269, 271 (4th Cir. 2011) (rule of lenity defense is waivable); *United States v. Husmann*, 765 F.3d 169, 180 n.7 (3d Cir. 2014) (Van Antwerpen, J., dissenting) (same). In any event (as we explain), we find no ambiguity in the statute warranting application of the rule.

another, or injure the mails or other property, shall be fined under this title or imprisoned not more than twenty years, or both.

18 U.S.C. § 1716(j)(2) (emphasis added). The statute also describes which items qualify as nonmailable:

All kinds of poison, and all articles and compositions containing poison, and all poisonous animals, insects, reptiles, and *all explosives*, hazardous materials, inflammable materials, infernal machines, and mechanical, chemical, *or other devices or compositions which may ignite or explode*, and all disease germs or scabs, and all other natural or artificial articles, compositions, or material which may kill or injure another, or injure the mails or other property . . . .

18 U.S.C. § 1716(a) (emphases added).

The government elected at trial to prove only that the device was an “explosive,” Appellee’s Br. at 21, and chose not to prove that it was an “other device[] or composition[] which may ignite or explode.” 18 U.S.C. § 1716(a). The evidence at trial showed that the inert bomb contained high explosives. Young and Volious nonetheless argue that the package didn’t contain an “explosive” within the meaning of § 1716(a) because the FBI designed the bomb not to explode. Neither § 1716’s language nor the sparse case law on the subject support their view.

a.

We begin with the text. *Navy Fed. Credit Union v. LTD Fin. Servs., LP*, 972 F.3d 344, 356 (4th Cir. 2020) (“As in all statutory construction cases, we start with the plain text of the provision.” (internal quotation marks omitted)). Since § 1716 doesn’t define “explosive,” we must give the word its “ordinary meaning.” *Taniguchi v. Kan Pac. Saipan, Ltd.*, 566 U.S. 560, 566 (2012). Dictionaries define “explosive,” when used as a noun, to

mean an “explosive substance,” *Explosive*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/explosive> (last visited Feb. 22, 2021), or “[a]n explosive substance, object, or device,” *Explosive*, OXFORD ENGLISH DICTIONARY (3d ed. 2016), <https://www.oed.com/view/Entry/66677?redirectedFrom=explosive#eid> (last visited Feb. 22, 2021).

In this context, we must interpret the meaning of “all explosives” to exclude explosive “objects” or “devices” because § 1716(a) lists “other devices or compositions which may ignite or explode” as a category of nonmailable items separate from “all explosives.” Reading “all explosives” to encompass “devices or compositions which may ignite or explode” would render the latter phrase superfluous, which we’re loath to do. *See United States v. Simms*, 914 F.3d 229, 241 (4th Cir. 2019), *cert. denied*, 140 S. Ct. 304 (2019). Indeed, the “canon against surplusage” is at its “strongest” in cases like this one, where one party’s interpretation “would render superfluous another part of the same statutory scheme.” *Marx v. Gen. Revenue Corp.*, 568 U.S. 371, 386 (2013). In such cases, we favor “competing interpretation[s]” that give “effect to every clause and word of a statute.” *Id.* at 385.

The government’s interpretation does just that. The government explains that we should understand the term “all explosives” in this context to refer only to explosive substances, not finished devices. Not only does that reading avoid superfluity, but it’s also consonant with Congress’s use of other terms in the statute. *See United States v. Serafini*, 826 F.3d 146, 149 (4th Cir. 2016) (to discern a statute’s ordinary meaning, courts look not

only “to the language itself, but also the specific context in which that language is used, and the broader context of the statute as a whole”).

For example, § 1716(a) prohibits individuals from mailing “[a]ll kinds of poison” and “all articles containing poison.” It also bans people from mailing “inflammable materials” and “devices or compositions which may ignite.” 18 U.S.C. § 1716(a). In both cases, Congress used separate language to enact separate bans on mailing (1) a dangerous substance or material (poison or inflammable materials) and (2) objects incorporating that substance or material (all articles containing poison or devices or compositions which may ignite).

That pattern should hold true for explosives too. By banning “all explosives” as well as “other devices or compositions which may . . . explode,” Congress intended to enact separate bans on mailing (1) explosive substances or materials and (2) devices or compositions incorporating those substances or materials.

Young and Volious assert that § 1716(a) doesn’t apply to explosives mailed in such small quantities, or packaged in such a manner, that they couldn’t possibly do any harm.<sup>2</sup> They argue that the placement of the word “explosives” next to “hazardous materials, inflammable materials, infernal machines, and mechanical, chemical, or other devices or compositions which may ignite or explode” suggests that Congress intended to prevent people from mailing only those objects that could actually cause harm by exploding or

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<sup>2</sup> We express no opinion on whether, as a matter of fact, the explosives within the FBI’s inert bomb could have caused harm.

igniting. Because an inert bomb presents no safety concerns, they assert, it can't be an "explosive" within the meaning of § 1716(a).

We disagree. Congress's use of the word "all" before "explosives" suggests that it intended to prohibit the mailing of any explosive substance regardless of how it's packaged or the quantities in which it's sent. Were it otherwise, the statute would allow anyone to send "mail-safe" explosives to a recipient who could use them to assemble a functional bomb and accomplish the sender's goal of harming another. That would be an absurd construction of a statute that exists, as Young and Volious concede, for the "protection of the public and those mail delivery personnel who might otherwise hold in their possession parcels which conceal items that might explode and cause harm." Appellants' Br. at 11. And courts, of course, should interpret statutes to avoid absurdities. *Lara-Aguilar v. Sessions*, 889 F.3d 134, 144 (4th Cir.), *cert. denied sub nom. Lara-Aguilar v. Whitaker*, 139 S. Ct. 621 (2018).

Young and Volious's reading of the statute would force a similarly absurd result by requiring postal workers and people mailing packages to determine acceptable levels of explosive materials sent through the mail. Imposing such a duty would require a chemist's knowledge of explosive substances, which would be silly, not to mention dangerous. Indeed, slight miscalculations or unanticipated environmental factors during transit could potentially cause otherwise "safe" levels of explosives to become unsafe. *See United States v. Sheehan*, 838 F.3d 109, 117 (2d Cir. 2016) (discussing evidence that an otherwise dysfunctional explosive device could unintentionally detonate when exposed to "heat, shock, or friction").

Simply prohibiting the mailing of all explosives in whatever form is far more consistent with the statutory purpose as even Young and Volious conceive of it. The best reading of § 1716's plain language is therefore that an inert device qualifies as a nonmailable item if it contains explosives.

b.

Controlling case law also favors the government. Though few courts have examined § 1716(j) in this context, we did so in *United States v. Hamrick*, 43 F.3d 877 (4th Cir. 1995) (en banc). There, the defendant mailed a package bomb to a federal prosecutor. When the prosecutor opened the package, the bomb ignited, but didn't explode. *Hamrick*, 43 F.3d at 879. The defendant asserted that "since his bomb was dysfunctional, it was not a nonmailable article." *Id.* at 884.

Sitting en banc, we rejected that argument and determined that a reasonable jury could have found the defendant guilty under § 1716 because his package bomb contained "inflammable liquified butane" that could have "ignited" during transit.<sup>3</sup> *Id.* at 879. Although the *Hamrick* court didn't match its analysis to the statutory text explicitly, it's clear that the court determined that the package contained an "inflammable material" and the device in the package constituted a "device which may ignite," both of which are categories of items that § 1716 prohibits.

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<sup>3</sup> The *Hamrick* court split evenly as to certain issues, but the § 1716 charge wasn't among them. As Judge Hamilton's concurring opinion makes clear, the court was unanimous in its view that the jury properly convicted the defendant of violating § 1716. *Hamrick*, 43 F.3d at 890 (Hamilton, J., concurring).

The distinctions that Young and Volious attempt to make between their case and *Hamrick* make no difference. First, it matters not that *Hamrick* concerned “inflammable materials” and this case concerns “explosives.” In both cases, the packages at issue were nonmailable because they contained materials that § 1716 seeks to exclude from the mails.

It also makes no difference that the *Hamrick* defendant’s bomb was intended to explode, whereas here the FBI designed the device to prevent that result. We held in *Hamrick* that “[a] finding that [the defendant’s] bomb was capable of operating *as designed* is . . . unnecessary to support a conviction under section 1716.” 43 F.3d at 884 (emphasis added). True, the bomb in this case operated precisely as it was designed, since it didn’t detonate. But in *Hamrick*, the bomb designer and the bomb sender were the same person: the defendant. It therefore made sense in that case for the court to refer only to the bomb designer’s intentions because no one else was involved in the plot. In the context of this case, we read *Hamrick* to mean that a conviction under § 1716(j)(2) doesn’t require a finding that the bomb was capable of operating as the sender intended, so long as the package mailed contains something that § 1716(a) forbids. Since Young and Volious mailed a bomb they hoped would explode, and the package contained high explosives, this case is in line with our en banc precedent.

Young and Volious also cite *United States v. Wisdom*, 534 F.2d 1306 (8th Cir. 1976), to support their argument, but that case misses the mark. There, the defendant mailed a package bomb to another person, but the bomb didn’t detonate when the recipient opened the box. *Wisdom*, 534 F.2d at 1308. The defendant argued that the package was a “hoax bomb” that he designed to look realistic, but not explode. The government, on the

other hand, presented evidence suggesting that the defendant meant to design a functional bomb, but made several mistakes that rendered the bomb dysfunctional during travel. *Id.* at 1308–09. Accordingly, the issue for the jury to decide was whether the defendant in fact intended to make a real bomb, not whether the bomb contained explosives. *See id.* at 1307 (“[T]he defendant admits that the package contained non-mailable material.”).

This case has the opposite facts. No one disputes that Young and Volious intended to mail a real bomb that would have killed Young’s ex-wife when she opened it—the only dispute concerns whether the package contained a nonmailable item. In short, *Wisdom* sheds little light on this case.

Since the government’s reading of the statutory text is persuasive and *Hamrick*—the only controlling case law on the subject—supports that reading, we conclude that, as a matter of law, an inert bomb that contains explosives qualifies as a nonmailable item under § 1716.

## 2.

Young and Volious next argue that the jury improperly convicted them of aiding and abetting the mailing of a nonmailable item because the government failed to introduce enough evidence that the package Fears deposited for mailing actually contained any high explosives. On review, we must uphold the jury’s conviction “if there is substantial evidence in the record to support it; that is, there must be evidence that a reasonable finder of fact could accept as adequate and sufficient to support the defendant’s guilt.” *United States v. Banker*, 876 F.3d 530, 540 (4th Cir. 2017) (cleaned up).

Young and Volious's theory is that, while the government introduced evidence that the inert device tested positive for high explosives before the FBI delivered it to Meredith's house, the FBI didn't retest the device after the agents recovered it from beside the mail deposit boxes. As a result, Young and Volious contend, a jury couldn't know whether the device that the FBI recovered contained high explosives and therefore couldn't properly convict them for aiding and abetting the mailing of a nonmailable item.

That argument lacks merit. The jury heard evidence that an FBI bomb specialist assembled an inert bomb after Young's dark web inquiry. An FBI chemist testified that he tested the inert bomb and determined that, while the device couldn't detonate, it contained high explosives that are "designed to detonate." J.A. 536–37.

The government then described a chain of custody that a jury could rely on to conclude that the bomb's chemical makeup never changed. A postal inspector personally delivered the package containing the inert bomb from FBI Headquarters in Quantico, Virginia to Meredith's house. Meredith received the box and then left it in his guest bedroom until Fears arrived. When Fears showed up, the two of them brought the box to the kitchen, followed the instructions to arm the bomb, and put the shipping label that Volious delivered onto the box. Fears then took the package containing the inert bomb to the mail deposit boxes, where he left it (and FBI agents recovered it). There's no evidence in the record that any person tampered with or altered the bomb at any point between when it left Quantico and when FBI agents recovered the package from beside the mail deposit boxes.

The record evidence is more than enough for a reasonable jury to conclude that Fears placed the same device that the FBI sent to Meredith next to the mail deposit boxes, and therefore more than enough to convict Young and Volious for aiding and abetting the mailing of a nonmailable item.

B.

The jury also convicted Young and Volious of aiding and abetting the carrying of “an explosive during the commission of [a] felony,” in violation of 18 U.S.C. § 844(h). Mailing a nonmailable item with intent to kill under § 1716(j) was the predicate felony. Young and Volious now make a single challenge to those convictions: that they can’t be guilty of violating § 844(h) because they didn’t violate § 1716(j). As already discussed, however, the law and the evidence at trial support their convictions under § 1716(j). Since their sole argument against their convictions for aiding and abetting the carrying of an explosive during the commission of a felony fails, we decline to disturb the jury’s convictions.

C.

Volious next argues that we should vacate his conviction for the conspiracy charged in count one because the indictment fatally varied from the evidence presented at trial.

When the government presents evidence that “broadens the bases for conviction beyond those charged in the indictment,” a “variance” occurs. *United States v. Cannady*, 924 F.3d 94, 99 (4th Cir. 2019). But “[n]ot all variances between an indictment and the proof offered at trial are ‘fatal.’” *Id.* A variance is fatal, and violates the Fifth Amendment right to be indicted by a grand jury, “only if the appellant shows that the variance infringed

his ‘substantial rights’ and thereby resulted in actual prejudice.” *Id.* (quoting *United States v. Kennedy*, 32 F.3d 876, 883 (4th Cir. 1994)). We review de novo a defendant’s challenge to his conviction based on a claim that a fatal variance occurred at trial. *United States v. Malloy*, 568 F.3d 166, 177 (4th Cir. 2009).

Volious argues that, while the government charged him with participating in a single conspiracy with two different objectives—dealing drugs and mailing a bomb to Young’s ex-wife—the evidence at trial showed that there were, in fact, two separate conspiracies to accomplish those goals. Although a variance may have occurred at trial, we decline to overturn Volious’s conviction because he hasn’t shown that the variance actually prejudiced him.

A single conspiracy “exists where there is one overall agreement, or one general business venture,” *United States v. Nunez*, 432 F.3d 573, 578 (4th Cir. 2005), even when that agreement or venture has multiple objects, *United States v. Bolden*, 325 F.3d 471, 492 (4th Cir. 2003) (“Courts have uniformly upheld multiple-object conspiracies . . .”). As the Supreme Court has put it, “[a] single agreement to commit several crimes constitutes one conspiracy,” but “multiple agreements to commit separate crimes constitute multiple conspiracies.” *United States v. Broce*, 488 U.S. 563, 570–71 (1989).

Our cases distinguish single conspiracies from separate, independent conspiracies “based on the overlap in actors, methods, and goals.” *United States v. Bartko*, 728 F.3d 327, 344–45 (4th Cir. 2013); *United States v. Brown*, 811 F. App’x 818, 823 (4th Cir. 2020). The jury heard enough evidence to determine that the same actors—Young,

Meredith, Fears, and Volious—were involved in both the drug conspiracy and the bomb plot,<sup>4</sup> but the overlap largely ends there.

The methods of accomplishing the drug conspiracy and the mail bomb plot were different in important respects. While Young used a contraband cellphone to facilitate both criminal objectives from prison, Young contacted a new source to obtain the bomb and he used a new covert messaging application to coordinate the bomb’s delivery with Fears. No evidence suggests that the drug dealing operation required Volious, Fears, or Meredith to reship any packages to other third parties. Nor did the drug dealing ever extend to Florida, where Young’s ex-wife lived at the time and where she would have received the package containing the bomb. *See United States v. Jeffers*, 570 F.3d 557, 567 (4th Cir. 2009) (instructing courts to consider whether the two conspiracies have “the same geographic spread”). More importantly, the group’s drug-dealing efforts never involved violence of any kind. *See id.* (instructing courts to consider whether the two conspiracies have “the same results”).

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<sup>4</sup> Although Volious argues that he wasn’t involved in the bomb plot, *see* Appellants’ Br. at 21–24 (citing testimony from Meredith and Young suggesting that Volious knew nothing about the bomb plot), the government presented evidence to the contrary, *see* Appellee’s Br. at 6–7 (citing testimony from Fears that Volious delivered the shipping label to Fears with the knowledge that the package contained a bomb and was intended for Young’s ex-wife). At the very least, Volious delivered the bomb’s shipping label to Fears. And that’s likely enough for the jury to have properly determined that Volious was involved in the bomb conspiracy. *See United States v. Banks*, 10 F.3d 1044, 1054 (4th Cir. 1993) (“[O]ne may be a member of a conspiracy without knowing its full scope, or all its members, and without taking part in the full range of its activities or over the whole period of its existence.”).

The goals of the drug conspiracy and bomb plot were also different. One operated to make money by selling drugs and the other endeavored to murder someone with no connection to the drug activity, for free, with a mail bomb. As Volious argues, we generally recognize multiple-object conspiracies only when the conspiracies' objectives are at least somewhat similar to each other. *See, e.g., Bartko*, 728 F.3d at 332, 344–45 (all conspired to conduct fraudulent financial scheme); *Brown*, 811 F. App'x at 823 (all conspired to sell and possess drugs); *Cannady*, 924 F.3d at 100 (same); *Jeffers*, 570 F.3d at 567 (same).

Nonetheless, even if the evidence at trial varied from the indictment's charge, Volious hasn't shown that such a variance prejudiced him. *Cannady*, 924 F.3d at 100 ("The defendant bears the burden of establishing a prejudicial variance."). "[T]o show actual prejudice stemming from a multiple conspiracy variance," Volious "must prove that there [were] so many defendants and so many separate conspiracies before the jury that the jury was likely to transfer evidence from one conspiracy to a defendant involved in an unrelated conspiracy." *Id.* (cleaned up).

Volious argues that the number of defendants on trial (four) and conspiracies at play (two) indicate that the jury likely transferred evidence of Young's complicity in both conspiracies to Volious. We disagree.

We've previously determined that potential variances in cases similar to, and even more complex than, this one didn't result in actual prejudice because they presented no risk of jury confusion. *See, e.g., United States v. Kennedy*, 32 F.3d at 883 (no prejudice in case with eight defendants and three conspiracies); *United States v. Squillacote*, 221 F.3d 542, 575 (4th Cir. 2000) (finding no prejudice in a case with "a small number of conspirators

engaged in a limited number of illegal activities”). Indeed, even the cases that Volious cites suggest that any variance in this case wasn’t prejudicial.<sup>5</sup>

Moreover, this case presents no unusually complex facts that might confuse a jury, or cause it to misunderstand the necessary facts, and then transfer evidence of guilt from one defendant to another. To the contrary, both potential conspiracies in this case are relatively simple and easy to understand. *See Squillacote*, 221 F.3d at 575 (no risk of jury confusion in part because the “case was relatively straightforward”). Since Volious hasn’t demonstrated actual prejudice, any variance wasn’t fatal and thus isn’t cause for reversal.

#### D.

Volious next argues that the district court erred by failing to instruct the jury that it could determine that multiple conspiracies took place. Again, we disagree. We review a “district court’s denial of a proposed jury instruction for abuse of discretion.” *Cannady*, 924 F.3d at 101.

Courts need not give multiple conspiracy instructions “unless the proof at trial demonstrates that appellants were involved only in separate conspiracies *unrelated* to the overall conspiracy charged in the indictment.” *Id.* Even in such cases, a court’s failure to give a multiple conspiracy instruction is reversible only when “the evidence of multiple

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<sup>5</sup> Compare *Berger v. United States*, 295 U.S. 78 (1935) (variance non-prejudicial in case with two conspiracies involving four defendants), *United States v. Caporale*, 806 F.2d 1487 (11th Cir. 1986) (variance non-prejudicial in case with two possible conspiracies involving 11 defendants), and *United States v. Jones*, 880 F.2d 55 (8th Cir. 1989) (variance non-prejudicial in case with five defendants and two conspiracies), with *Kotteakos v. United States*, 328 U.S. 750 (1946) (variance prejudicial in case with eight or more conspiracies involving 19 defendants).

conspiracies [was] so strong in relation to that of a single conspiracy that the jury probably would have acquitted on the conspiracy count had it been given a cautionary multiple-conspiracy instruction.” *Bartko*, 728 F.3d at 344 (cleaned up).

Even if the evidence at trial showed that two conspiracies existed, there’s no reason to believe that the jury would have acquitted Volious of the conspiracy count if the district court had given a multiple-conspiracy instruction. As charged, the indictment lists four objectives to the conspiracy: three relating to the bomb plot and one for “Distributing Controlled Substances.” J.A. 89–90. Since Volious doesn’t contest that he knowingly participated in Young’s drug-dealing operation, a reasonable jury could have convicted him of the conspiracy count for that conduct, regardless of whether a separate conspiracy was afoot.

And even if the jury had been instructed that they could consider the drug conspiracy and bomb plots as separate conspiracies, it could have reasonably convicted Volious for participating in the bomb conspiracy. Some trial evidence indicated that Volious knew only about the drug ring (and not the bomb plot), but other evidence suggested that Volious delivered the shipping label to Fears with knowledge that Fears would use it to mail a dangerous package to Young’s ex-wife. Since the jury could reasonably resolve that factual conflict in the government’s favor, we conclude that the evidence in Volious’s favor is not so strong that the jury likely would have acquitted him if the court had given his proposed multiple-conspiracy instruction. The court therefore didn’t abuse its discretion in declining to give the instruction.

## E.

Volious's final argument is that the district court erred by denying his pre-trial motion to sever his trial from Young's. In reviewing a district court's ruling on a motion to sever a criminal trial, we must first "determine if the initial joinder of the offenses and defendants was proper under Fed. R. Crim. P. 8(a) and 8(b) respectively." *Cannady*, 924 F.3d at 102. If so, "we must then determine if the district court abused its discretion under Fed. R. Crim. P. 14 in denying [the] pre-trial motion[] to sever." *Id.*

Federal Rule of Criminal Procedure 8(a) doesn't apply here because it pertains to joining offenses, rather than defendants. Rule 8(b) states that:

The indictment or information may charge [two] or more defendants if they are alleged to have participated in the same act or transaction, or in the same series of acts or transactions, constituting an offense or offenses. The defendants may be charged in one or more counts together or separately. All defendants need not be charged in each count.

Fed. R. Crim. P. 8(b); *see also Cannady*, 924 F.3d at 102 ("Rule 8 permits very broad joinder at the pleading stage.") (cleaned up).

The indictment alleges that Volious and Young were involved in both the drug conspiracy and the mail bomb plot. Even assuming arguendo that Volious wasn't involved in the bomb plot, he still would have been a part of the same "series of transactions" that generated the indictment. And while Volious argues that the government misjoined him because he wasn't involved in Young's previous attempt on his ex-wife's life, that attempted murder isn't at issue here. This prosecution concerned the events that took place

after Young was tried and convicted for that crime. We therefore have no reason to believe that Volious and Young’s initial joinder was improper.

If two defendants are properly indicted together, courts “generally adhere to the principle that defendants indicted together should be tried together, and a defendant must show that he was prejudiced by the denial of a severance motion in order to establish that the district court abused its broad discretion in that regard.” *Cannady*, 924 F.3d at 102 (cleaned up); *see also United States v. Lawson*, 677 F.3d 629, 639 (4th Cir. 2012) (joint trials are “highly favored” in conspiracy cases). Demonstrating prejudice is a high hurdle. It exists “only if there is a serious risk that a joint trial would compromise a specific trial right of one of the defendants, or prevent the jury from making a reliable judgment about guilt or innocence.” *United States v. Lighty*, 616 F.3d 321, 348 (4th Cir. 2010) (quoting *Zafiro v. United States*, 506 U.S. 534, 539 (1993)).

Volious identifies no specific trial right that the district court’s decision compromised. Instead, he argues that he suffered prejudice because the government’s main witness, Fears, wasn’t credible. But Volious cites no authority that permits a district court to prejudge a trial witness’s credibility when determining whether to sever a defendant from a joint trial. Volious also contends that joining the two trials “allowed the government to greatly bolster Fear[s]’s conspiracy testimony and, consequently, substantially strengthen [its] case both as to the conspiracy and substantive counts.” Appellants’ Br. at 33. But Volious was “not entitled to severance merely because he might have had a better chance of acquittal in a separate trial.” *Cannady*, 924 F.3d at 103.

Here, Volious remained free to combat the government’s “bolstering” of Fears’s testimony by cross-examining Fears at trial and introducing evidence that conflicted with his account. He and Young indeed did so. And even if a joint trial created a more favorable environment for Fears’s testimony, there’s no indication that it did so to the extent that the jury was unable to render a reliable verdict. The district court therefore correctly denied the motion to sever.

### III.

For the reasons given, we affirm the district court’s judgment.

*AFFIRMED*

## **APPENDIX B**

FILED: March 22, 2021

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 19-4149 (L)  
(3:17-cr-00575-JMC-1)

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UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

MICHAEL JAMES YOUNG, JR., a/k/a Unc

Defendant - Appellant

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No. 19-4222  
(3:17-cr-00575-JMC-2)

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UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

VANCE EDWARD VOLIOUS, JR., a/k/a Dank, a/k/a Black

Defendant – Appellant

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M A N D A T E

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The judgment of this court, entered February 26, 2020, takes effect today.

This constitutes the formal mandate of this court issued pursuant to Rule 41(a) of the Federal Rules of Appellate Procedure.

/s/Patricia S. Connor, Clerk

## APPENDIX C

**UNITED STATES DISTRICT COURT**  
**District of South Carolina**

UNITED STATES OF AMERICA

**JUDGMENT IN A CRIMINAL CASE**

vs.

Case Number: 3:17-575-JMC (1)

Michael James Young, Jr.  
 a/k/a "Unc"

USM Number: 32527-171

William Hodge, CJA  
 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) 1-4 of the Indictment after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<b>Title &amp; Section</b>	<b>Nature of Offense</b>	<b>Offense Ended</b>	<b>Count</b>
18:371	Please see Indictment	6/20/17	1
18:844(d) & 2	Please see Indictment	6/7/17	2
18:1716(j)(2) & 2	Please see Indictment	6/7/17	3
18:844(h) & 2	Please see Indictment	6/7/17	4

The defendant is sentenced as provided in pages 2 through 6 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) \_\_\_\_\_.  are dismissed on the motion of the United States.  
 Forfeiture provision is hereby dismissed on motion of the United States Attorney.

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 any material changes in economic circumstances.

February 25, 2019

Date of Imposition of Judgment



Signature of Judge

J. Michelle Childs, United States District Judge  
 Name and Title of Judge

March 01, 2019

Date

DEFENDANT: Michael James Young, Jr.  
CASE NUMBER: 3:17-575-JMC

### IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of five hundred twenty-five (525) months. This term consists of 405 months as to Counts One, Two and Three, to run concurrently, and 120 months as to Count Four, to run consecutively.

- The court makes the following recommendations to the Bureau of Prisons: The Court recommends that the defendant participate in an Intensive Drug Treatment Program, Mental Health Counseling and an Educational Program as available through the BOP. The Court also recommends that the defendant be housed at a facility in South 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: Michael James Young, Jr.  
CASE NUMBER: 3:17-575-JMC

## SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of three (3) years as to each count, said terms to run concurrently.

## 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 of domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with the following conditions:

- 1) The defendant shall submit to random drug testing as administered by the U.S. Probation Office. The defendant shall contribute to the costs of such program not to exceed an amount determined reasonable by the court approved "U.S. Probation Office's Sliding Scale for Services."

DEFENDANT: Michael James Young, Jr.  
CASE NUMBER: 3:17-575-JMC**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 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 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 \_\_\_\_\_

DEFENDANT: Michael James Young, Jr.  
CASE NUMBER: 3:17-575-JMC**CRIMINAL MONETARY PENALTIES**

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

<u>Assessment</u>	<u>JVTA Assessment*</u>	<u>Fine</u>	<u>Restitution</u>
<b>TOTALS</b>	<b>\$ 400.00</b>	<b>\$</b>	<b>\$</b>

The determination of restitution is deferred until \_\_\_\_\_. An *Amended Judgment in a Criminal Case*(AO245C) 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>
<b>TOTALS</b>	\$ _____	\$ _____	

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 judgment, pursuant to 18 U.S.C. §3612(f). All of the payment options on Sheet 5 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. §3612(g).

The court determined that the defendant does not have the ability to pay interest and it is ordered that:
 

- The interest requirement is waived for the  fine  restitution.
- The interest requirement for the  fine  restitution is modified as follows:

\*Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

\*\*Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Michael James Young, Jr.  
CASE NUMBER: 3:17-575-JMC**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 \$400.00 due immediately, balance due

not later than \_\_\_\_\_, or

in accordance with  C,  D, or  E, or  F below: or

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

C  Payment in equal \_\_\_\_\_ (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 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 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:

As directed in the Preliminary Order of Forfeiture, filed \_\_\_\_\_ and the said order is incorporated herein as part of this judgment.

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) penalties, and (8) costs, including cost of prosecution and court costs.

## **APPENDIX D**

**UNITED STATES DISTRICT COURT**  
**District of South Carolina**

UNITED STATES OF AMERICA

**JUDGMENT IN A CRIMINAL CASE**

vs.

Vance Edward Volious, Jr.a/k/a "Dank"  
a/k/a "Black"

Case Number: 3:17-575-JMC (2)

USM Number: 32421-171

Aimee Zmroczek, Ret.  
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) 1-4 after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<b>Title &amp; Section</b>	<b>Nature of Offense</b>	<b>Offense Ended</b>	<b>Count</b>
18:371	Please see Indictment	6/20/17	1
18:844(d) & 2	Please see Indictment	6/7/17	2
18:1716(j)(2) & 2	Please see Indictment	6/7/17	3
18:844(h) & 2	Please see Indictment	6/7/17	4

The defendant is sentenced as provided in pages 2 through 6 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  Clare dismissed on the motion of the United States.  
 Forfeiture provision is hereby dismissed on motion of the United States Attorney.

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 any material changes in economic circumstances.

March 26, 2019

Date of Imposition of Judgment



Signature of Judge

J. Michelle Childs, United States District Judge  
Name and Title of JudgeMarch 29, 2019

Date

DEFENDANT: Vance Edward Volious, Jr.  
CASE NUMBER: 3:17-575-JMC

### IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of two hundred fifty-five (255) months, consisting of 60 months as to Count One, 120 months as to Count Two, and 135 months as to Count Three, said terms to run concurrently with each other, and 120 months as to Count Four, said term to run consecutively to Counts One, Two, and Three.

The court makes the following recommendations to the Bureau of Prisons: The Court recommends that the defendant participate in an Intensive Drug Treatment Program and a Mental Health Treatment Program as available through the BOP. The Court also recommends that the defendant be housed in a facility in South 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: Vance Edward Volious, Jr.

CASE NUMBER: 3:17-575-JMC

### **SUPERVISED RELEASE**

Upon release from imprisonment, the defendant shall be on supervised release for a term of three (3) years, consisting of three (3) years as to each as to Counts One, Two, Three, and Four, said terms to run concurrently.

### **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 of domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with the following conditions:  
1) The defendant shall submit to random drug testing as administered by the U.S. Probation Office. The defendant shall contribute to the costs of such program not to exceed an amount determined reasonable by the court approved "U.S. Probation Office's Sliding Scale for Services."

DEFENDANT: Vance Edward Volious, Jr.  
CASE NUMBER: 3:17-575-JMC

### 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 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 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 \_\_\_\_\_

DEFENDANT: Vance Edward Volious, Jr.  
CASE NUMBER: 3:17-575-JMC**CRIMINAL MONETARY PENALTIES**

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

<u>Assessment</u>	<u>JVTA Assessment*</u>	<u>Fine</u>	<u>Restitution</u>
<b>TOTALS</b>	<b>\$ 400.00</b>	<b>\$</b>	<b>\$</b>

The determination of restitution is deferred until \_\_\_\_\_. An *Amended Judgment in a Criminal Case*(AO245C) 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>
<b>TOTALS</b>	<b>\$ _____</b>	<b>\$ _____</b>	

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 judgment, pursuant to 18 U.S.C. §3612(f). All of the payment options on Sheet 5 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. §3612(g).

The court determined that the defendant does not have the ability to pay interest and it is ordered that:

- The interest requirement is waived for the  fine  restitution.
- The interest requirement for the  fine  restitution is modified as follows:

\*Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

\*\*Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Vance Edward Volious, Jr.  
CASE NUMBER: 3:17-575-JMC**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 \$400.00 due immediately, balance due

not later than \_\_\_\_\_, or

in accordance with  C,  D, or  E, or  F below; or

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

C  Payment in equal \_\_\_\_\_ (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 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 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:

As directed in the Preliminary Order of Forfeiture, filed \_\_\_\_\_ and the said order is incorporated herein as part of this judgment.

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) penalties, and (8) costs, including cost of prosecution and court costs.

## **APPENDIX E**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION

UNITED STATES OF AMERICA

CR. NO.: 3:17-575

v.

**MICHAEL JAMES YOUNG, JR.**  
a/k/a "Unc"  
**VANCE EDWARD VOLIOUS, JR.**  
a/k/a "Dank"  
a/k/a "Black"  
**TYRELL CHRISTIAN FEARS**

18 U.S.C. § 844(d)  
18 U.S.C. § 1716(j)(2)  
18 U.S.C. § 844(h)  
18 U.S.C. § 371  
18 U.S.C. § 2  
21 U.S.C. § 841(a)(1)

INDICTMENT

COUNT 1  
(Conspiracy to Violate Federal Law)

THE GRAND JURY CHARGES:

1. The Defendants, MICHAEL JAMES YOUNG, JR., VANCE EDWARD VOLIOUS, JR., and TYRELL CHRISTIAN FEARS, ordered, paid for, received, armed, and attempted to re-ship a mail bomb for the purpose of killing an intended victim, S.C.

2. Defendant MICHAEL JAMES YOUNG, JR. is currently incarcerated in the South Carolina Department of Corrections, serving a sentence for murdering his estranged wife's father and, in the same incident, shooting but failing to kill his estranged wife, S.C.

3. VANCE EDWARD VOLIOUS, JR. is a close friend of MICHAEL JAMES YOUNG, JR., and TYRELL CHRISTIAN FEARS is the nephew of MICHAEL JAMES YOUNG JR.

4. At times unknown to the grand jury, but beginning at least in or around 2016, and continuing thereafter, up to and including the date of this Indictment, in the District of South Carolina, the Defendants, MICHAEL JAMES YOUNG, JR., VANCE EDWARD VOLIOUS, JR., and TYRELL CHRISTIAN FEARS, and others known and unknown, knowingly and intentionally combined, conspired, confederated, agreed, and had a tacit understanding

a. **to commit the offense of Transport and Receipt of Explosives to Kill an Individual:** that is, knowingly to transport and receive, and attempt to transport and receive, in interstate and foreign commerce, explosives with the knowledge and intent that it will be used to kill, injure, and intimidate an individual, in violation of Title 18, United States Code, Section 844(d);

b. **to commit the offense of Mailing Nonmailable Item with Intent to Kill:** knowingly did deposit for mailing and delivery, and knowingly cause to be

delivered by mail, according to the direction thereon and at any place to which it is directed to be delivered by the person to whom it is addressed, explosives and a device which may ignite and explode, which are declared nonmailable in 18 U.S.C. §1716(a), with intent to kill and injure another, in violation of Title 18, United States Code, Section 1716(j)(2);

**c. to commit the offense of Carrying Explosives**

**During the Commission of a Felony:** that is, knowingly to carry explosives during the commission of any felony (i.e., a violation of Title 18, United States Code, Section 1716(j)(2)), in violation of Title 18, United States Code, Section 844(h);

**d. to commit the offense of Distributing Controlled Substances:** that is, knowingly and intentionally to possess with intent to distribute and to distribute controlled substances, in violation of Title 21, United States Code, Section 841.

**Purposes of the Conspiracy**

5. It was a purpose of the conspiracy for the Defendants, MICHAEL JAMES YOUNG, JR., VANCE EDWARD VOLIOUS, JR., and TYRELL CHRISTIAN FEARS, to kill S.C.

6. It was a purpose of the conspiracy for the Defendants, MICHAEL JAMES YOUNG, JR., VANCE EDWARD VOLIOUS, JR., and TYRELL CHRISTIAN FEARS, to enrich themselves.

7. It was a purpose of the conspiracy for the Defendants, MICHAEL JAMES YOUNG, JR., VANCE EDWARD VOLIOUS, JR., and TYRELL CHRISTIAN FEARS, to obtain shipments of contraband, including explosives and illegal narcotics.

8. It was a purpose of the conspiracy for the Defendants, MICHAEL JAMES YOUNG, JR., VANCE EDWARD VOLIOUS, JR., and TYRELL CHRISTIAN FEARS, to conceal their involvement in the conspiracy, including but not limited to ordering, paying, receiving, arming, and re-shipping explosives and ordering, paying, receiving, and distributing illegal narcotics.

**Manner and Means of the Conspiracy**

9. It was part of the conspiracy that the Defendants, MICHAEL JAMES YOUNG, JR., VANCE EDWARD VOLIOUS, JR., and TYRELL CHRISTIAN FEARS, aided and abetted by the other persons

known to the grand jury, did and caused to be done the following:

- a. Order a mail bomb containing explosives that they could send through the mail and explode when opened, killing whomever opened the device.
- b. Receive and arm the device containing explosives.
- c. Obtain shipping labels to mail the explosives.
- d. Deliver the device with explosives to the U.S. Post Office with a label directing the explosives be delivered to S.C. in Florida.
- e. Order, receive, and distribute illegal narcotics.

**Overt Acts in Furtherance of the Conspiracy**

10. In furtherance of the conspiracy and to achieve its purposes, the Defendants, MICHAEL JAMES YOUNG, JR., VANCE EDWARD VOLIOUS, JR., and TYRELL CHRISTIAN FEARS, and others known and unknown to the grand jury, committed the following overt acts, in the District of South Carolina:

- a. MICHAEL JAMES YOUNG, JR. ordered a device containing explosives.
- b. MICHAEL JAMES YOUNG, JR. paid for the explosives.

c. MICHAEL JAMES YOUNG, JR. obtained shipping labels to send the explosives to the intended victim, S.C., and sent the shipping labels to VANCE EDWARD VOLIOUS, JR.

d. MICHAEL JAMES YOUNG, JR. and VANCE EDWARD VOLIOUS, JR. spoke on the phone about the shipping labels.

e. VANCE EDWARD VOLIOUS, JR. provided the shipping labels to TYRELL CHRISTIAN FEARS.

f. After having received the shipping labels, TYRELL CHRISTIAN FEARS went to the residence of V.M., a minor known to the grand jury, where the explosives were being stored after having been delivered to V.M. by an U.S. Postal Employee.

g. TYRELL CHRISTIAN FEARS, in accord with instructions provided, armed the explosive device by pulling a line on the side of the mail bomb box. TYRELL CHRISTIAN FEARS then cut the line to ensure it would not be visible from the outside of the package. TYRELL CHRISTIAN FEARS then obtained additional tape to secure the package and to attach two mailing labels

directing the package be delivered to the intended victim, S.C., in Florida.

h. MICHAEL JAMES YOUNG, JR. and TYRELL CHRISTIAN FEARS spoke on the phone about the explosives.

i. TYRELL CHRISTIAN FEARS delivered the explosive device addressed to the intended victim to a U.S. Post Office, leaving it beside the mailboxes.

j. MICHAEL JAMES YOUNG, JR. ordered illegal narcotics to be shipped to V.M.

k. VANCE EDWARD VOLIOUS, JR. and TYRELL CHRISTIAN FEARS, and others, received, transported, and distributed the illegal narcotics that had been shipped to V.M.

All in violation of Title 18, United States Code, Section 371.

COUNT 2

**(Transport and Receipt of Explosives to Kill an Individual)**

11. On or about June 5-7, 2017, in the District of South Carolina, the Defendants, MICHAEL JAMES YOUNG, JR., VANCE EDWARD VOLIOUS, JR., and TYRELL CHRISTIAN FEARS, and others known and unknown, as principals, aiders and abettors, and co-participants in jointly undertaken criminal activity did knowingly transport and receive, and attempt to transport and receive, in interstate and foreign commerce, explosives with the knowledge and intent that it will be used to kill and injure an individual.

In violation of Title 18, United States Code, Sections 844(d) & 2.

COUNT 3

**(Mailing Nonmailable Item with Intent to Kill)**

12. On or about June 5-7, 2017, in the District of South Carolina, the Defendants, MICHAEL JAMES YOUNG, JR., VANCE EDWARD VOLIOUS, JR., and TYRELL CHRISTIAN FEARS, and others known and unknown, as principals, aiders and abettors, and co-participants in jointly undertaken criminal activity knowingly did deposit for mailing and delivery, and knowingly did cause to be delivered by mail, according to the direction

thereon and at any place to which it is directed to be delivered by the person to whom it is addressed, explosives and devices which may ignite and explode, which are declared nonmailable in 18 U.S.C. §1716(a), with intent to kill and injure another.

In violation of Title 18, United States Code, Sections 1716(j)(2) & 2.

**COUNT 4**  
**(Carrying Explosives During the Commission of a Felony)**

13. On or about June 5-7, 2017, in the District of South Carolina, the Defendants, MICHAEL JAMES YOUNG, JR., VANCE EDWARD VOLIOUS, JR., and TYRELL CHRISTIAN FEARS, and others known and unknown, as principals, aiders and abettors, and co-participants in jointly undertaken criminal activity did knowingly carry explosives during the commission of any felony (*i.e.*, a violation of Title 18, United States Code, Section 1716(j)(2)).

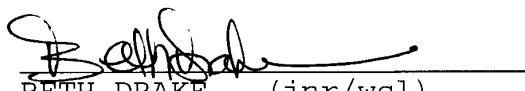
In violation of Title 18, United States Code, Sections 844(h) & 2.

A TRUE Bill

[REDACTED]

FOREPERSON

11' 0

  
BETH DRAKE (jnr/wcl)  
UNITED STATES ATTORNEY