No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

JUNIOR JEAN BAPTISTE,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

On Petition for Writ of Certiorari to the
United States Court of Appeals
For the Eleventh Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

The district court, on remand for resentencing after failing originally to permit allocution by petitioner, reimposed the original sentence without discussion or acknowledgment of changed circumstances, including the defendant's remorse that the government concluded was heartfelt, or of any of the valid grounds asserted, without government opposition, for a sentence below the guideline range. The Eleventh Circuit held that nothing more is required at sentencing than a statement by the sentencing judge to the effect that 18 U.S.C. § 3553(a)'s sentencing factors were considered.

In order to afford meaningful appellate review and to insure constitutional application of the advisory guidelines, should this Court require the sentencing judge to address relevant sentencing factors and provide a reasoned basis for discounting valid grounds for variance?

INTERESTED PARTIES

The caption contains the names of all of the parties interested in the proceedings.

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PETITION FOR WRIT OF CERTIORARI

Junior Jean Baptiste respectfully petitions the Supreme Court of the United States for a writ of certiorari to review the decision of the United States Court of Appeals for the Eleventh Circuit, entered in case number 20-10635 on February 4, 2021.

OPINION BELOW

A copy of the decision of the United States Court of Appeals for the Eleventh Circuit, unpublished and available at 843 Fed.Appx. 212, is contained in the Appendix (App. 1).

JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1) and Part III of the Rules of the Supreme Court of the United States. The Court of Appeals issued its decision on February 4, 2021. App. 1–5. This petition is timely filed.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Petitioner relies upon the following constitutional and statutory provisions:

U.S. Const. amend. V (due process clause):

> No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury ... ; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law.

18 U.S.C. § 3553(a):

(a) Factors to be considered in imposing a sentence.--The court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection. The court, in determining the particular sentence to be imposed, shall consider–

(1) the nature and circumstances of the offense and the history and characteristics of the defendant;

(2) the need for the sentence imposed--

(A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;

(B) to afford adequate deterrence to criminal conduct;

(C) to protect the public from further crimes of the defendant; and

(D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;

(3) the kinds of sentences available;

(4) the kinds of sentence and the sentencing range established for--

(A) the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines--

(i) issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, subject to any amendments made to such guidelines by act of Congress (regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section 994(p) of title 28); and

(ii) that, except as provided in section 3742(g), are in effect on the date the defendant is sentenced; or

(B) in the case of a violation of probation or supervised release, the applicable guidelines or policy statements issued by the Sentencing Commission pursuant to section

994(a)(3) of title 28, United States Code, taking into account any amendments made to such guidelines or policy statements by act of Congress (regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section 994(p) of title 28);

(5) any pertinent policy statement--

(A) issued by the Sentencing Commission pursuant to section 994(a)(2) of title 28, United States Code, subject to any amendments made to such policy statement by act of Congress (regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section 994(p) of title 28); and

(B) that, except as provided in section 3742(g), is in effect on the date the defendant is sentenced.

(6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and

(7) the need to provide restitution to any victims of the offense.

18 U.S.C. § 3553(c):

(c) Statement of reasons for imposing a sentence.--The court, at the time of sentencing, shall state in open court the reasons for its imposition of the particular sentence, and, if the sentence–

(1) is of the kind, and within the range, described in subsection (a)(4), and that range exceeds 24 months, the reason for imposing a sentence at a particular point within the range; or

(2) is not of the kind, or is outside the range, described in subsection (a)(4), the specific reason for the imposition of a sentence different from that described, which reasons must also be stated with specificity in a statement of reasons form issued under section 994(w)(1)(B) of title 28, except to the extent that the court relies upon statements received in camera in accordance with Federal Rule of Criminal Procedure 32. In the event that the court

> relies upon statements received in camera in accordance with Federal Rule of Criminal Procedure 32 the court shall state that such statements were so received and that it relied upon the content of such statements.

STATEMENT OF THE CASE

Petitioner was prosecuted on federal charges of participating in a tax refund fraud and money laundering scheme. Petitioner was charged with conspiracy to commit money laundering (18 U.S.C. § 1956(h)); money laundering (18 U.S.C. §§ 2 and 1956(a)(1)(B)(i)); possession of five or more false identification documents with unlawful intent (18 U.S.C. §§ 2 and 1028(a)(3)); theft of government money (18 U.S.C. §§ 2 and 641); and aggravated identity theft (18 U.S.C. § 1028A(a)(1)). After a six-day jury trial, Petitioner was convicted on all counts. The district court sentenced Petitioner to 212 months of imprisonment.

In 2016, Petitioner appealed his conviction and sentence. 11th Cir. Case No. 16-17175. The Eleventh Circuit ruled that the district court erred during the sentencing hearing when it failed to "'address the defendant personally in order to permit the defendant to speak.'" *United States v. Baptiste*, 935 F.3d 1304, 1318–19 (11th Cir. 2019) (quoting Fed. R. Crim. P. 32(i)(4)(A)(ii)), *cert. denied*, No. 19-7988, 2020 WL 2105586 (U.S. May 4, 2020). Accordingly, Petitioner's case was remanded for a new sentencing hearing. *Id*. at 1319 ("On remand, Baptiste should be afforded the opportunity to address the court directly.").

At the resentencing hearing on remand, Petitioner addressed the district court concerning his personal circumstances. Additionally, his attorney made arguments in support of a below-guidelines sentence. The prosecutor commented that Petitioner's allocution seemed heartfelt. Nevertheless, the district court re-imposed the same within-guidelines sentence that it imposed originally—212 months. App. 6. The district court did not explain why it rejected Petitioner's arguments in favor of a shorter sentence.

Petitioner's attorney requested a downward variance from the sentencing guidelines range based on grounds including post-offense rehabilitation, remorse, increased hardships suffered by Petitioner's family members during his incarceration, and new information showing disparate treatment of a co-conspirator. Regarding Petitioner's efforts toward rehabilitation, his attorney identified numerous activities Petitioner undertook at the facility where he was housed. For example, Petitioner worked with the facility's Chaplain as the Sunday orderly. He also was entrusted with responsibility as a head orderly for his 200-man unit. In that capacity, he assisted the unit's counselor, case manager, and secretary. Petitioner also trained to be on the "psych watch" to promote mental health among inmates. Additionally, during his time in custody, Petitioner completed random drug testing and volunteered for testing even when not randomly tested. A report and certificates attached to the sentencing memorandum documented Petitioner's completion of numerous training and

educational programs, including programs relating to substance abuse, parenting skills, general education topics, and others. He also had made payments toward restitution, even as his family was facing bankruptcy and the loss of their home. During his three and one-half years of custody preceding his resentencing on remand, Petitioner was dedicated to education, work, and positively contributing to the well-being of his fellow inmates.

During the same period, Petitioner's family faced pressing health and financial challenges. His son, who was preparing to graduate from high school, was struggling with worsening Type I diabetes. Additionally, his five-year-old daughter was suffering chronic pneumonia. Petitioner's wife was suffering worsening lung difficulties. His mother was no longer able to work, and his father, a pastor, was required to take on additional jobs to support the family. These difficult family circumstances impressed upon Petitioner the grave impact his incarceration had on his family. Petitioner's attorney urged the district court to grant a downward sentencing variance based on these personal circumstances.

Petitioner's attorney also identified another ground that supported a downward sentencing variance – disparate treatment of a co-conspirator. During the period following Petitioner's original sentencing hearing, it became clear that the government had never prosecuted another participant in the underlying offense, who admitted to filing fraudulent tax returns and cashing approximately $2 million in fraudulent

checks in the charged scheme. This fact revealed a striking disparity in outcomes among persons involved in the offenses.

During the resentencing hearing on remand, Petitioner personally addressed the district court. He apologized to the court and expressed remorse for his conduct, assuring the court that it would not happen again. Petitioner said, "I am ashamed of my actions and I'll do everything in my power to continue paying the restitution, even if it means to take three jobs." Petitioner also emphasized his rehabilitative activities, including his work as an orderly, his voluntary participation in drug programs and testing, his participation in the financial responsibility program, his completion of 13 classes over a three-year period, and his participation in church activities. Additionally, Petitioner described his family's medical and financial struggles and his desire to return to his family and help them.

The prosecutor acknowledged that Petitioner's allocution "seemed heartfelt." The prosecutor did not oppose Petitioner's request for a downward variance sentence; he declined to present any argument regarding the new sentence to be imposed.

Prior to imposing sentence, the district court stated as follows:

> The Court has considered the statements of all the parties, the Presentence report which contains the advisory guidelines and the statutory factors as set forth in 18 U.S.C. Section 3553(a).
>
> The sentence will be imposed at the low end of the advisory guideline range as this will provide sufficient punishment and deterrence.

Sentencing transcript at 7. The district court then re-imposed the same sentence it originally had imposed in 2016: a 212-month term of imprisonment.

Petitioner again appealed to the Eleventh Circuit, contending that the district court erred in failing to address non-frivolous arguments presented in support of a downward sentencing variance, i.e., a sentence outside the advisory guideline range. The Eleventh Circuit concluded that a sentencing court has no obligation to do more than state that it considered the record and the law and imposed a sentence that provides sufficient punishment and deterrence, and that no further explanation of the sentence or of the rejection of the factors warranting a lesser sentence is needed:

> Though the district court might have done more to explain its sentence in light of Baptiste's new arguments, Baptiste's § 3553(c) challenge nonetheless fails. For better or worse, our precedents do not demand the level of detailed explanation that Baptiste seeks from the district court. *See*, *e.g.*, ... *United States v. Irey*, 612 F.3d 1160, 1195 (11th Cir. 2010) (en banc) ("It is sufficient that the district court considers the defendant's arguments at sentencing and states that it has taken the § 3553(a) factors into account.") (quotation marks omitted); *United States v. George*, 793 F. App'x 885, 891 (11th Cir. 2019) (holding that the district court satisfied § 3553(c) where it "expressly articulated that it had considered the § 3553(a) factors, the [presentencing report] containing the advisory guidelines range, and the parties' arguments").
>
> It is true that the Supreme Court has said that "[w]here the defendant or prosecutor presents nonfrivolous reasons for imposing a different sentence . . . the judge will normally go further and explain why he has rejected those arguments." *Rita v. United States*, 551 U.S. 338, 357 (2007). But *Rita* did not create a hard-and-fast requirement that courts address potentially meritorious arguments point-by-point. In *Rita*, the

> Court affirmed the district court's explanation for the sentence it imposed, though it had done no more than the district court here: It did not expressly rebut defense arguments for a downward variance, but instead stated that the advisory guidelines were not "an inappropriate guideline range" for that offense and that it was "appropriate to enter" a low-end guidelines sentence. *Id.* at 345.

App. 4–5.

REASONS FOR GRANTING THE PETITION

Although any sentencing question, because it deals with an individual's unique circumstances, can be viewed as fact-bound, the question presented concerns the *manner* in which fact-bound issues are addressed and whether a court of appeals can meaningfully review them absent some requirement of reasoning by the district court addressing facts which facially require consideration. The circumstances of Petitioner's case are ideal for resolving whether reasoning and analysis must appear on the sentencing record, because the government conceded on appeal that it did not oppose Petitioner's request for a variance sentence and did not contest any of the factual or legal arguments made by Petitioner in support of the variance request. See Gov't CA Br. 6. Thus, unlike cases in which a district court may make reference to the government's grounds of opposition in lieu of making its own findings or offering an independent explanation, there was no such opposition here. Instead, the government went so far as to offer support for the sincerity of Petitioner's allocution and expression of deep remorse. See *id.* (conceding that the prosecutor's response to

Petitioner's allocution was supportive and that the government offered no opposition to the variance request).

The record of the post-sentencing factors identified by Petitioner meriting consideration included Petitioner's post-sentencing rehabilitation, his ongoing remorse, increased hardships suffered by Petitioner's family members during his incarceration, and new information regarding disparate treatment of a co-conspirator.

The Eleventh Court upheld a sentencing proceeding that afforded no meaningful basis for review of the district court's sentencing decision, and particularly its discounting of the positions of the parties and the dramatically changed circumstances pertinent to sentencing. Because the decision of the court of appeals relied principally on this Court's decision in *Rita v. United States*, 551 U.S. 338, 357 (2007), and because this Court should take this opportunity to explain that *Rita* was not meant to authorize no-explanation sentencing within the guideline range where there are abundant grounds for a below-guideline sentence, the Court should grant certiorari to provide further guidance.

The Eleventh Circuit's reliance on *Rita*, which involved a district court's *granting* of a defense-requested downward variance, and thus necessarily reflected consideration of and at least partial agreement with the downward variance factors, is erroneous. But absent this Court's clarification of the importance of the statement-

of-reasons provisions of sentencing law in assuring procedural fairness, the sentencing process will lack the appearance of justice.

When imposing sentence, the district court "must make an individualized assessment based on the facts presented." *Gall v. United States*, 552 U.S. 38, 50 (2007). Additionally, the sentencing court is required by statute to "state in open court the reasons for its imposition of the particular sentence." 18 U.S.C. § 3553(c). In doing so, the court must demonstrate that it "considered the parties' arguments and ha[d] a reasoned basis for exercising [its] own legal decisionmaking authority." *Rita*, 551 U.S. at 356.

When a defendant asserts a specific, nonfrivolous argument in support of a shorter sentence, the record must reflect both the district court's consideration of the argument and its explanation for determining that the argument does not warrant a shorter sentence. *United States v. Wallace*, 597 F.3d 794, 805 (6th Cir. 2010) (district court's "failure to even acknowledge Defendant's argument mandates remand in this case"); *United States v. Lynn*, 592 F.3d 572, 584 (4th Cir. 2010) (district court's explanation for the defendant's within-guidelines sentence "was inadequate because it failed to address [the defendant's] specific § 3553 arguments or explain why the sentence imposed on him was warranted in light of them").

The district court failed to explain why it rejected Petitioner's arguments that his exemplary conduct while incarcerated, his remorse, his family's hardships, and the government's disparate treatment of a co-conspirator should result in a shorter, variance sentence. Instead, the district court merely stated in general terms that it had considered the parties' statements, the presentence investigation report, the advisory guidelines, and the sentencing factors listed in 18 U.S.C. § 3553(a). The district court's statement wholly failed to reveal any basis for deciding a shorter sentence was not warranted on the grounds Petitioner identified which were material circumstances.

The grounds Petitioner presented in support of a variance sentence were meritorious. First, Petitioner demonstrated a strong commitment to rehabilitation, as manifested by his success in overcoming his dependence on controlled substances, his dedication to pursuing educational and employment opportunities, and his efforts to assist fellow inmates. Post-sentencing rehabilitation is a well-recognized basis for downward variance. In *Pepper v. United States*, 562 U.S. 476, 490 (2011), this Court held that when a defendant's case is remanded for resentencing, the district court "may consider evidence of a defendant's rehabilitation since his prior sentencing and that evidence may, in appropriate cases, support a downward variance from the advisory Guidelines range."

Petitioner also expressed his shame and remorse for his crimes, assuring the court that it would not happen again and promising to do everything in his power to continue paying restitution. Remorse is a traditional factor that warrants leniency in sentencing.

Other federal appellate courts have granted relief where sentencing courts failed to explain their reasons for rejecting non-frivolous variance grounds. *E.g., United States v. Blue,* 877 F.3d 513 (4th Cir. 2017) (vacating defendant's sentence where district court did not explain why it rejected defendant's non-frivolous arguments for a shorter sentence); *United States v. McKeever,* 824 F.3d 1113, 1123–26 (D.C. Cir. 2016) (vacating one defendant's sentence where district court did not expressly address request for downward variance due to sentence entrapment, and vacating two defendants' sentences for clarification of the record concerning the same issue)*;* *United States v. Bigley*, 786 F.3d 11, 13–16 (D.C. Cir. 2015) (vacating defendant's sentence where district court made a substantial downward departure from the defendant's sentencing guidelines range but failed to consider his non-frivolous request for a downward variance based on other grounds); *United States v. Corsey*, 723 F.3d 366, 377 (2d Cir. 2013) (vacating defendant's sentence where, among other faults, district court "never resolved appellants' significant arguments" for a lower sentence even though it offered reasons for its decision); *United States v. Wallace*, 597

F.3d 794, 804-05 (6th Cir. 2010) (vacating sentence where district court "fail[ed] to even acknowledge Defendant's argument" that disparate treatment of a co-defendant warranted a shorter sentence); *United States v. Lynn*, 592 F.3d 572, 585 (4th Cir. 2010) ("Simply put, because there is no indication that the district court considered the defendant's nonfrivolous arguments prior to sentencing him, we must find error."); *United States v. Miranda*, 505 F.3d 785, 792–93, 796 (7th Cir. 2007) (vacating sentence where district court mentioned defendant's mental illness but "did not specifically address [his] principal, non-frivolous arguments" based on his illness as they related to the § 3553(a) factors).

To bring uniformity and procedural regularity to sentencing where valid variance grounds are presented, the Court should grant certiorari to direct that absent a clear showing of the district court's analysis for rejection of such grounds, some statement of reasons is required.

CONCLUSION

For the foregoing reasons, the Court should grant the petition.

Respectfully submitted,

RICHARD C. KLUGH, ESQ.
Counsel for Petitioner

Miami, Florida
July 2021

APPENDIX

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 20-10635
Non-Argument Calendar

D.C. Docket No. 1:15-cr-20777-JEM-1

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JUNIOR JEAN BAPTISTE,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Florida

(February 4, 2021)

Before JORDAN, NEWSOM, and GRANT, Circuit Judges.

PER CURIAM:

Junior Jean Baptiste appeals the district court's within-guideline 212-month total sentence, which it imposed on remand, having failed initially to give Baptiste an opportunity to address the court directly. Baptiste now argues that the court failed to give adequate explanation for the chosen sentence under 18 U.S.C. § 3553(c), which requires a district court to "state in open court the reasons for its imposition of the particular sentence." The facts are familiar to the parties, and we do not repeat them except as necessary to resolve the issue before us.

A sentence is procedurally unreasonable if a district court commits an error such as failing to consider the § 3553(a) factors or inadequately explaining the chosen sentence. *Gall v. United States*, 552 U.S. 38, 51 (2007). When a defendant's sentence has been set aside and his case remanded for resentencing, a district court "may consider evidence of [his] rehabilitation since his prior sentencing and . . . such evidence may, in appropriate cases, support a downward variance." *Pepper v. United States*, 562 U.S. 476, 490 (2011).

To comply with § 3553(c)(1), the court should tailor its comments to show that the sentence imposed is appropriate, given the factors set forth in § 3553(a). *United States v. Veteto*, 920 F.2d 823, 826 (11th Cir. 1991). "The length and amount of detail describing the district court's reasoning depends on the circumstances." *United States v. Ghertler*, 605 F.3d 1256, 1262 (11th Cir. 2010). A sentencing court is not required to incant the specific language used in the

guidelines or articulate its consideration of each individual § 3553(a) factor, so long as the record reflects the court's consideration of many of those factors. *Id.* And the court need only set forth enough to satisfy us that it considered the parties' arguments and had a reasoned basis for its decision. *United States v. Carpenter*, 803 F.3d 1224, 1232 (11th Cir. 2015). We review de novo whether a district court satisfied § 3553(c)(1). *United States v. Bonilla*, 463 F.3d 1176, 1181 (11th Cir. 2006).

Here, the district court did not err under § 3553(c)(1) because, in context, the court sufficiently explained why it imposed a total sentence within the advisory guideline range. As a general matter, the court noted that it had considered the statements of all the parties, Baptiste's post-remand sentencing memorandum, and the presentence report that contained the facts pertinent to the § 3553(a) factors. Moreover, in both the first and second sentencing hearings, the district court emphasized the need for deterrence in south Florida of the type of fraud that Baptiste committed. *See* 18 U.S.C. § 3553(a)(2)(B).

Baptiste contends that though the district court's reasoning may have satisfied § 3553(c) in its first sentencing hearing, it couldn't rely on the same deterrence rationale four years later—at least not without new factual findings showing that the need for deterrence persisted. And in any event, Baptiste says, the district court failed to consider evidence of Baptiste's genuine remorse, his

rehabilitation, his family's struggles, and the disparate treatment of his uncharged co-conspirator Andy Louissaint. Though the district court might have done more to explain its sentence in light of Baptiste's new arguments, Baptiste's § 3553(c) challenge nonetheless fails. For better or worse, our precedents do not demand the level of detailed explanation that Baptiste seeks from the district court. *See, e.g.*, *Bonilla*, 463 F.3d at 1181 (upholding district court's sentence under § 3553(c) where the district court had stated that the sentence "accords with the array of factors specified in 18 U.S.C. § 3553 and adequately reflects the seriousness of the offense, . . . the sentence being neither greater nor lesser than necessary to achieve the statutory purposes of sentencing"); *United States v. Irey*, 612 F.3d 1160, 1195 (11th Cir. 2010) (*en banc*) ("It is sufficient that the district court considers the defendant's arguments at sentencing and states that it has taken the § 3553(a) factors into account.") (quotation marks omitted); *United States v. George*, 793 F. App'x 885, 891 (11th Cir. 2019) (holding that the district court satisfied § 3553(c) where it "expressly articulated that it had considered the § 3553(a) factors, the [presentencing report] containing the advisory guidelines range, and the parties' arguments").

It is true that the Supreme Court has said that "[w]here the defendant or prosecutor presents nonfrivolous reasons for imposing a different sentence . . . the judge will normally go further and explain why he has rejected those arguments."

Rita v. United States, 551 U.S. 338, 357 (2007). But *Rita* did not create a hard-and-fast requirement that courts address potentially meritorious arguments point-by-point. In *Rita*, the Court affirmed the district court's explanation for the sentence it imposed, though it had done no more than the district court here: It did not expressly rebut defense arguments for a downward variance, but instead stated that the advisory guidelines were not "an inappropriate guideline range" for that offense and that it was "appropriate to enter" a low-end guidelines sentence. *Id.* at 345.

Here, the record shows that the sentencing judge was made fully aware of Baptiste's circumstances. It attached significant weight to deterrence over the other § 3553(a) factors in resentencing Baptiste. That decision was committed to its sound discretion. *See United States v. Cabeza-Montano*, 949 F.3d 567, 611 (11th Cir. 2020). While the district court could have better explained its reasons for its sentence on remand, the district court did not err under § 3553(c).

AFFIRMED.

Date of Original Judgment: 11/16/2016

Reason for Amendment:

X – Remand from 11th Circuit Court of Appeals.

UNITED STATES DISTRICT COURT

Southern District of Florida

Miami Division

UNITED STATES OF AMERICA
v.
JUNIOR JEAN BAPTISTE

SECOND AMENDED
JUDGMENT IN A CRIMINAL CASE

Case Number: **15-20777-CR-MARTINEZ(s)**
USM Number: **08580-104**

Counsel For Defendant: **Richard Klugh**
Counsel For The United States: **Michael Berger**
Court Reporter: **Ellen Rassie**

The defendant was found guilty on count(s) 1, 3 through 28 of the Superseding Indictment.

The defendant is adjudicated guilty of these offenses:

TITLE & SECTION	NATURE OF OFFENSE	OFFENSE ENDED	COUNT
Title 18, U.S.C. § 1956(h)	conspiracy to commit money laundering	01/25/2012	1
Title 18 U.S.C. § 1956(a)(1)(B)(i)	money laundering	02/18/2011	3 and 4
Title 18 U.S.C. § 1028(a)(3)	possession of five or more false identification documents with unlawful intent	10/12/2011	5
Title 18 U.S.C. § 1028(a)(3)	possession of five or more false identification documents with unlawful intent	01/25/2012	6
Title 18 U.S.C. § 641	theft of government money	02/22/2011	7
Title 18 U.S.C. § 641	theft of government money	03/08/2011	8
Title 18 U.S.C. § 641	theft of government money	03/08/2011	9
Title 18 U.S.C. § 641	theft of government money	05/01/2011	10
Title 18 U.S.C. § 641	theft of government money	05/02/2011	11
Title 18 U.S.C. § 641	theft of government money	05/09/2011	12
Title 18 U.S.C. § 641	theft of government money	05/24/2011	13
Title 18 U.S.C. § 641	theft of government money	06/07/2011	14
Title 18 U.S.C. § 641	theft of government money	07/06/2011	15
Title 18 U.S.C. § 641	theft of government money	07/07/2011	16
Title 18 U.S.C. § 641	theft of government money	08/24/2011	17

Title 18 U.S.C. § 641	theft of government money	09/01/2011	18
Title 18 U.S.C. § 641	theft of government money	09/01/2011	19
Title 18 U.S.C. § 1028A(a)(1)	aggravated identity theft	10/12/2011	20 to 22
Title 18 U.S.C. § 1028A(a)(1)	aggravated identity theft	01/25/2012	23 to 25
Title 18 U.S.C. § 1028A(a)(1)	aggravated identity theft	10/12/2011	26 to 28

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

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.

Date of Imposition of Sentence: **1/29/2020**

Jose E. Martinez
United States District Judge

Date: 2/3/2020

DEFENDANT: **JUNIOR JEAN BAPTISTE**
CASE NUMBER: **15-20777-CR-MARTINEZ(s)**

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of **212 Months; this term of imprisonment consists of 188 months as to each counts 1, 3, 4; and 60 months as to counts 5, 6; and 120 months as to counts 7 through 19; all to run concurrently; and 24 months as to counts 20 through 28; to run consecutively to the 188 months term.**

The court makes the following recommendations to the Bureau of Prisons: Defendant shall be assigned to a facility in South Florida or as close as possible commensurate with his background and the offense of which he stands convicted.

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

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

_____
UNITED STATES MARSHAL

_____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: **JUNIOR JEAN BAPTISTE**
CASE NUMBER: **15-20777-CR-MARTINEZ(s)**

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of **3 years - this term of supervised release consists of 3 years as to each of counts 1, and 3 through 19; and 1 year as to each of counts 20 through 28; all to run concurrently.**

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.

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

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

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

STANDARD CONDITIONS OF SUPERVISION

1. The defendant shall not leave the judicial district without the permission of the court or probation officer;
2. The defendant shall report to the probation officer and shall submit a truthful and complete written report within the first fifteen days of each month;
3. The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
4. The defendant shall support his or her dependents and meet other family responsibilities;
5. The defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
6. The defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
7. The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
8. The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
9. The defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
10. The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
11. The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
12. The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
13. As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: **JUNIOR JEAN BAPTISTE**
CASE NUMBER: **15-20777-CR-MARTINEZ(s)**

SPECIAL CONDITIONS OF SUPERVISION

Financial Disclosure Requirement - The defendant shall provide complete access to financial information, including disclosure of all business and personal finances, to the U.S. Probation Officer.

No New Debt Restriction - The defendant shall not apply for, solicit or incur any further debt, included but not limited to loans, lines of credit or credit card charges, either as a principal or cosigner, as an individual or through any corporate entity, without first obtaining permission from the United States Probation Officer.

Permissible Search - The defendant shall submit to a search of his/her person or property conducted in a reasonable manner and at a reasonable time by the U.S. Probation Officer.

Self-Employment Restriction - The defendant shall obtain prior written approval from the Court before entering into any self-employment.

Substance Abuse Treatment - The defendant shall participate in an approved treatment program for drug and/or alcohol abuse and abide by all supplemental conditions of treatment. Participation may include inpatient/outpatient treatment. The defendant will contribute to the costs of services rendered (co-payment) based on ability to pay or availability of third party payment.

DEFENDANT: **JUNIOR JEAN BAPTISTE**
CASE NUMBER: **15-20777-CR-MARTINEZ(s)**

CRIMINAL MONETARY PENALTIES

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

	Assessment	Fine	Restitution
TOTALS	$2,700.00	$0.00	$11,098,262.50

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.

NAME OF PAYEE	TOTAL LOSS*	RESTITUTION ORDERED
Internal Revenue Service (IRS)-RACS		$11,098,262.50

Restitution with Imprisonment - It is further ordered that the defendant, **JUNIOR JEAN BAPTISTE**, shall pay restitution in the amount of **$11,098,262.50**, of this amount, $70,000.00 is owed joint and several with Karl Yves Moltimer in a related case number 14-CR-20227-CMA. During the period of incarceration, payment shall be made as follows: (1) if the defendant earns wages in a Federal Prison Industries (UNICOR) job, then the defendant must pay 50% of wages earned toward the financial obligations imposed by this Judgment in a Criminal Case; (2) if the defendant does not work in a UNICOR job, then the defendant must pay a minimum of $25.00 per quarter toward the financial obligations imposed in this order. Upon release from incarceration, the defendant shall pay restitution at the rate of 10% of monthly gross earnings, until such time as the Court may alter that payment schedule in the interests of justice. The U.S. Bureau of Prisons, U.S. Probation Office and U.S. Attorney's Office shall monitor the payment of restitution and report to the Court any material change in the defendant's ability to pay. These payments do not preclude the government from using any other anticipated or unexpected financial gains, assets or income of the defendant to satisfy the restitution obligations. The restitution shall be made payable to Clerk, United States Courts, and forwarded to:

U.S. CLERK'S OFFICE
ATTN: FINANCIAL SECTION
400 N MIAMI AVENUE, RM 8N09
MIAMI, FL 33128

The restitution will be forwarded by the Clerk of the Court to the victims.

* 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.

**Assessment due immediately unless otherwise ordered by the Court.

DEFENDANT: **JUNIOR JEAN BAPTISTE**
CASE NUMBER: **15-20777-CR-MARTINEZ(s)**

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 $2,700.00 due immediately.

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 the court.

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

This assessment/fine/restitution is payable to the CLERK, UNITED STATES COURTS and is to be addressed to:

U.S. CLERK'S OFFICE
ATTN: FINANCIAL SECTION
400 NORTH MIAMI AVENUE, ROOM 08N09
MIAMI, FLORIDA 33128-7716

The assessment/fine/restitution is payable immediately. The U.S. Bureau of Prisons, U.S. Probation Office and the U.S. Attorney's Office are responsible for the enforcement of this order.

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.

CASE NUMBER DEFENDANT AND CO-DEFENDANT NAMES (INCLUDING DEFENDANT NUMBER)	TOTAL AMOUNT	JOINT AND SEVERAL AMOUNT
14-20117-CR-ALTONAGA-01, KARL YVES MOLTIMER		$70,000.00
15-20777-CR-MARTINEZ-01, JUNIOR JEAN BAPTISTE		$11,098,262.50

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.