

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

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

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LEONUS STEVENSON PETERSON,

*Petitioner,*

– v. –

UNITED STATES OF AMERICA,

*Respondent.*

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

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**PETITION FOR WRIT OF CERTIORARI**

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## **QUESTION PRESENTED**

Did the Fourth Circuit err in finding that Petitioner's plea waiver was knowing and voluntary and then applying a stricter standard than a number of other appellate circuits to determine that enforcement of the appeal waiver would not result in a miscarriage of justice?

## **PARTIES TO THE PROCEEDINGS**

**All Parties are listed in the caption on the cover page.**

***United States v. Leonus Stevenson Peterson*, Case No. 3:18-cr-0090-JAG-1, U.S. District Court for the Eastern District of Virginia. Judgment entered April 7, 2021.**

***United States v. Leonus Stevenson Peterson*, Case No. 21-4176, U.S. Court of Appeals for the Fourth Circuit. Judgment entered September 14, 2021.**

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## **OPINIONS BELOW**

There is no published opinion from the courts below. The unpublished judgment of the United States District Court for the Eastern District of Virginia, at Richmond, (3:18-cr-0090-JAG-1) (Payne, J.) can be found in Appendix B. The unpublished decision of the Fourth Circuit Court of Appeals (Case No. 21-4176) dismissing the Petitioner's appeal on September 14, 2021, is in Appendix A.

## **STATEMENT OF JURISDICTION**

This Court has jurisdiction to consider Mr. Peterson's petition from the Fourth Circuit Court of Appeals pursuant to 28 U.S.C. § 1254. The final order from the Fourth Circuit Court of Appeals was entered on September 14, 2021.

## **STATEMENT OF THE CASE**

### **I. PROCEEDINGS BELOW AND FACTUAL HISTORY**

On October 9, 2020, Mr. Peterson entered a guilty plea pursuant to a plea agreement to a one-count Criminal Information charging him with a conspiracy to distribute more than 100 grams of heroin in violation of 21 U.S.C. §§ 846 and 841(a)(1) and (b)(1)(B). Joint Appendix, (hereafter "J.A."), 38 - 39. The plea agreement promised no specific sentence and contains a waiver of his right to appeal the conviction or any sentence within the statutory maximum "or the manner in which the sentence is determined." J.A. 74. At the plea hearing before a magistrate judge, Mr. Peterson acknowledged that he had "waived [his] right to appeal this conviction and any sentence imposed." JA 56. The plea colloquy, however, did not include a discussion about whether Mr. Peterson understood that

he is also waiving an appeal of the manner in which his sentence was determined. JA 40 - 66.

At sentencing, the district court concluded that the relevant conduct drug weight attributable to Mr. Peterson was 900 grams. JA 410, and that the recalculated sentencing guidelines range was 84 – 105 months. JA 410 - 11. After hearing arguments for upward and downward variances, the trial court imposed a sentence of 240 months, representing an upward variance of 135 months, or eleven years and three months above the top of the Guidelines range and 156 months (13 years) above the bottom of the range. JA 446, 452.

In explaining the sentence and the sentencing factors under 18 U.S.C. § 3553(a), the court found that, by a preponderance of the evidence, “the drugs that [Mr. Peterson] provided to the people in Caroline County result[ed] in the death of [Ms. Rosie]” and speculated that “quite likely resulted in the overdose or death of others.” JA 441 – 42. The court further stated that “[w]hether it kills those people on any particular day they use, they got a little more addicted, or whether it killed them a year or five years or even ten years later it is lethal.” JA 442.

Following his sentencing, Mr. Peterson appealed his case to the United States Court of Appeals for the Fourth Circuit. In his appeal, he argued that his sentence was both procedurally and substantively unreasonable and that he had not knowingly and voluntarily waived his appellate rights pursuant to the plea agreement. The United States filed a Motion to Dismiss and the issue was briefed by the parties. On September 14, 2021, the Fourth Circuit entered an order



granting the government's Motion to Dismiss, holding that "we conclude that Peterson knowingly and voluntarily waived his right to appeal and that the issues Peterson seeks to raise on appeal fall squarely within the scope of his waiver of appellate rights." Appendix A. No opinion was issued further explaining the dismissal.

### **REASONS FOR GRANTING THE PETITION**

The district court imposed a sentence in this case that was more than eleven years above the top of the discretionary sentencing guidelines. In justifying this sentence, the trial court speculated that the Petitioner's drug distribution activity caused the death of an unspecified number of drug users despite there being no evidence in the record to support this assertion. While Mr. Peterson entered into a plea agreement that contained an appeal waiver, he could not have knowingly and voluntarily waived an appeal of a sentence arrived at in an arbitrary and speculative manner. Even if it is determined that his appeal waiver was knowing and voluntary, enforcement of the appeal waiver in this case represents a miscarriage of justice. While the Fourth Circuit provides no analysis in its order dismissing Mr. Peterson's appeal, the standard employed by the Fourth Circuit for determining whether a miscarriage of justice justifies not enforcing an appeal waiver is significantly narrower and more restrictive than other appellate circuits. This case provides the Court with the opportunity to harmonize these discordant standards.

## ARGUMENT

### **I. Enforcement of the plea waiver against Mr. Peterson would result in a miscarriage of justice.**

The Fourth Circuit, like every other Circuit, will not enforce an otherwise valid waiver if "to do so would result in a miscarriage of justice," *See United States v. Adams*, 814 F.3d 178, 182 (4th Cir. 2016), or where there is an "illegal sentence ... involv[ing] fundamental issues," *Braswell v. Smith*, 952 F.3d 441, 451 (4th Cir. 2020), *quoting*, *United States v. Copeland*, 707 F.3d 522, 530 (4th Cir. 2013). However, the Fourth Circuit employs a narrow reading of the "miscarriage of justice" exception to include only those sentences imposed "in excess of the maximum penalty provided by statute or based on a constitutionally impermissible factor such as race," *United States v. Marin*, 961 F.2d 493, 496 (4th Cir. 1992), or for a valid claim of actual innocence, *Adams*, 814 F.3d at 183.

Other Circuits, however, have employed a significantly wider review of the underlying circumstances to determine whether a miscarriage of justice as occurred. The First Circuit, while recognizing that plea waivers are presumptively valid, enunciated the following test for evaluating whether a miscarriage of justice occurred:

[T]he term "miscarriage of justice" is more a concept than a constant. Nevertheless, some of the considerations come readily to mind: the clarity of the error, its gravity, its character (e.g., whether it concerns a fact issue, a sentencing guideline, or a statutory maximum), the impact of the error on the defendant, the impact of correcting the error on the government, and the extent to which the defendant acquiesced in the result. Other considerations doubtless will suggest themselves in specific cases.

*U.S. v. Teeter*, 257 F.3d 14, 25-26 (1st Cir. 2001). This broader test has been

adopted by the Third Circuit, *see U.S. v. Khattak*, 273 F.3d 557 (3d Cir. 2001). The Circuit Court for the District of Columbia has also taken a broader view of when a miscarriage of justice may invalidate an appeal waiver, holding that such a “sentencing court's failure in some material way to follow a prescribed sentencing procedure [can] result[ ] in a miscarriage of justice. If, for example, the district court utterly fails to advert to the factors in 18 U.S.C. § 3553(a), then this court may disregard the waiver and consider the defendant's argument that the district court imposed an unlawful sentence.” *U.S. v. Guillen*, 561 F.3d 527, 531 (D.C. Cir. 2009).

In the present case, the trial court erroneously concluded that Mr. Peterson’s drug distribution activity “likely” resulted in the death of more than Ms. Rosie. JA 441 – 42. While there is absolutely no evidence to support such an assertion, the trial court relied upon this as a factor to sentence Mr. Peterson to a term of incarceration more than twice his sentencing guideline range. Mr. Peterson could not have knowingly and voluntarily agreed to such a sentencing process. While his plea waiver includes the “manner” in which his sentence is determined, it is a manifest injustice to find that he waived review of such a manifest error in both fact-finding and the apparent reliance on a non-fact to arrive at a sentence so in excess of his Guidelines.

Mr. Peterson therefore urges this Court to address the circuit split in defining the scope of what constitutes a miscarriage of justice. If the broader inquiry employed by the First and Third Circuits was applied to him, the clarity of the error and its gravity and impact was manifested in a sentence far in excess of Mr.

Peterson's sentencing guidelines and he should be allowed to appeal his sentence as a miscarriage of justice.

**CONCLUSION**

For the foregoing reasons, this Court should grant certiorari in this case.

Respectfully submitted,

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Counsel for Leonus Stevenson

Peterson

Dated: December 13, 2021

# APPENDIX A

FILED: September 14, 2021

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 21-4176**  
**(3:18-cr-00090-JAG-1)**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LEONUS STEVENSON PETERSON, a/k/a Doe, a/k/a Doughboy,

Defendant - Appellant.

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O R D E R

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Leonus Stevenson Peterson seeks to appeal his sentence of 240 months' imprisonment. The Government has moved to dismiss the appeal as barred by Peterson's waiver of the right to appeal included in the plea agreement. Upon review of the plea agreement and the transcript of the Fed. R. Crim. P. 11 hearing, we conclude that Peterson knowingly and voluntarily waived his right to appeal and that the issues Peterson seeks to raise on appeal fall squarely within the scope of his waiver of appellate rights. Accordingly, we grant the Government's motion to dismiss.

Entered at the direction of the panel: Judge Thacker, Judge Richardson, and Senior Judge Traxler.

For the Court

/s/ Patricia S. Connor, Clerk

# APPENDIX B



**UNITED STATES DISTRICT COURT**  
**Eastern District of Virginia**  
 Richmond Division

UNITED STATES OF AMERICA

v.

Case Number: 3:18CR00090-001

LEONUS STEVENSON PETERSON,

USM Number: 92425-083

Defendant.

Defendant's Attorney: William Dinkin, Esq.  
 Ali Amirshahi, Esq.

**JUDGMENT IN A CRIMINAL CASE**

The defendant pleaded guilty to Count One of the Criminal Information.

Accordingly, the defendant is adjudged guilty of the following counts involving the indicated offenses.

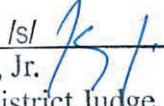
<u>Title and Section</u>	<u>Nature of Offense</u>	<u>Offense Class</u>	<u>Offense Ended</u>	<u>Count</u>
21:846 and 841(a)(1) and (b)(1)(B)	DISTRIBUTE AND POSSES WITH INTENT TO DISTRIBUTE HEROIN	Felony	6/22/2018	1 sss

On motion of the United States, the Court has dismissed the indictment, superseding indictment, and the second superseding indictment as to defendant LEONUS STEVENSON PETERSON.

As pronounced on April 6, 2021, 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.

It is ORDERED that the defendant shall 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.

Judgment imposed this 6th day of April, 2021.

  
 \_\_\_\_\_  
 John A. Gibney, Jr.  
 United States District Judge

Dated: 7 April 2021

Case Number: 3:18CR00090-001  
Defendant's Name: PETERSON, LEONUS STEVENSON

## IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of TWO HUNDRED AND FORTY (240) MONTHS. The defendant shall receive credit for time served on this charge.

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

- 1) THAT THE DEFENDANT BE PLACED IN A FACILITY THAT CAN TREAT HIS MEDICAL ISSUES;
- 2) THAT THE DEFENDANT PARTICIPATE IN THE 500 HOUR INTENSIVE DRUG TREATMENT PROGRAM, IF HE QUALIFIES AND VOLUNTEERS;
- 3) THAT THE DEFENDANT BE DESIGNATED TO A FACILITY NEAR HIS FAMILY, WHO RESIDE IN RICHMOND, VA;
- 4) THAT THE DEFENDANT RECEIVE EDUCATIONAL AND VOCATIONAL TRAINING.

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

By

\_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL



Case Number: 3:18CR00090-001  
Defendant's Name: PETERSON, LEONUS STEVENSON

### **SUPERVISED RELEASE**

Upon release from imprisonment, the defendant shall be on supervised release for a term of TEN (10) YEARS.

The Probation Office shall provide the defendant with a copy of the standard conditions and any special conditions of supervised release.

The defendant shall 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 periodic drug tests thereafter, as determined by the court.

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

If this judgment imposes a fine or restitution obligation, it is a condition of supervised release that the defendant pay any such fine or restitution in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

### **STANDARD CONDITIONS OF SUPERVISION**

The defendant shall comply with the standard conditions that have been adopted by this court set forth below:

- 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 five 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 narcotic or other controlled substance or any paraphernalia related to such 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 for a special agent of a law enforcement agency without the permission of the Court;
- 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.

**Case Number:** 3:18CR00090-001  
**Defendant's Name:** PETERSON, LEONUS STEVENSON

### **SPECIAL CONDITIONS OF SUPERVISION**

While on supervised release pursuant to this Judgment, the defendant shall also comply with the following additional special conditions:

- 1) The defendant shall not incur new credit card charges or open additional lines of credit without the approval of the probation officer.
- 2) The defendant shall provide the probation officer with access to requested financial information.
- 3) The defendant shall pay for the support of his minor children in any amount ordered by any social service agency or court of competent jurisdiction. In the absence of any such order, payments are to be made on a schedule to be determined by the Court at the inception of supervision, based on the defendant's financial circumstances.
- 4) The defendant shall pay the balance owed on any court-ordered financial obligations in monthly installments of not less than \$5, starting 60 days after supervision begins until paid in full.

Case Number: 3:18CR00090-001  
Defendant's Name: PETERSON, LEONUS STEVENSON

### CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the Schedule of Payments on Page 6.

	<u>Count</u>	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
	One	\$100.00	\$0.00	\$0.00
		\$0.00	\$0.00	\$0.00
<b>TOTALS:</b>		<b>\$100.00</b>	<b>\$0.00</b>	<b>\$0.00</b>

### FINES

No fines have been imposed in this case.



Case Number: 3:18CR00090-001  
Defendant's Name: PETERSON, LEONUS STEVENSON

## **SCHEDULE OF PAYMENTS**

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

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. 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.

Nothing in the court's order shall prohibit the collection of any judgment, fine, or special assessment by the United States.

# APPENDIX C

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
Richmond Division

UNITED STATES OF AMERICA

v.

LEONUS STEVENSON PETERSON,

Defendant.

No. 3:18-cr-0090-JAG

PLEA AGREEMENT

G. Zachary Terwilliger, United States Attorney for the Eastern District of Virginia; undersigned counsel for the United States; the defendant, Leonus Stevenson Peterson; and the defendant's counsel have entered into an agreement pursuant to Rule 11 of the Federal Rules of Criminal Procedure. The terms of this Plea Agreement are as follows:

**1. Offense and Maximum Penalties**

The defendant agrees to waive indictment and plead guilty to a single count Criminal Information, charging the defendant with conspiracy to distribute and possess with the intent to distribute more than 100 grams of heroin, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(B) and 846. The penalties for this offense are: a mandatory minimum term of imprisonment of 5 years, a maximum term of 40 years of imprisonment, a fine of \$5,000,000, forfeiture of assets as outlined below, a special assessment pursuant to 18 U.S.C § 3013, and a minimum supervised release term of 4 years. The defendant understands that any supervised release term is in addition to any prison term the defendant may receive, and that a violation of a term of supervised release could result in the defendant being returned to prison for the full term of supervised release.



**2. Detention Pending Sentencing**

The defendant understands that this case is governed by 18 U.S.C. §§ 3143(a)(2) and 3145(c). These provisions provide that a judicial officer shall order that a person who has been found guilty of an offense of this kind be detained unless there are statutory justifications why such person's detention would not be appropriate.

**3. Factual Basis for the Plea**

The defendant will plead guilty because the defendant is in fact guilty of the charged offense. The defendant admits the facts set forth in the Statement of Facts filed with this Plea Agreement and agrees that those facts establish guilt of the offense charged beyond a reasonable doubt. The Statement of Facts, which is hereby incorporated into this Plea Agreement, constitutes a stipulation of facts for purposes of Section 1B1.2(c) of the Sentencing Guidelines.

**4. Assistance and Advice of Counsel**

The defendant is satisfied that the defendant's attorney has rendered effective assistance. The defendant understands that by entering into this Plea Agreement, defendant surrenders certain rights as provided in this agreement. The defendant understands that the rights of criminal defendants include the following:

- a. the right to plead not guilty and to persist in that plea;
- b. the right to a jury trial;
- c. the right to be represented by counsel—and, if necessary, have the court appoint counsel—at trial and at every other stage of the proceedings; and
- d. the right at trial to confront and cross-examine adverse witnesses, to be protected from compelled self-incrimination, to testify and present evidence, and to compel the attendance of witnesses.

## 5. Sentencing Guidelines, Recommendations, and Roles

The defendant understands that the Court has jurisdiction and authority to impose any sentence within the statutory maximum described above, but that the Court will determine the defendant's actual sentence in accordance with 18 U.S.C. § 3553(a). The defendant understands that the Court has not yet determined a sentence and that any estimate of the advisory sentencing range under the U.S. Sentencing Commission's Sentencing Guidelines Manual the defendant may have received from the defendant's counsel, the United States, or the Probation Office, is a prediction, not a promise, and is not binding on the United States, the Probation Office, or the Court. Additionally, pursuant to the Supreme Court's decision in *United States v. Booker*, 543 U.S. 220 (2005), the Court, after considering the factors set forth in 18 U.S.C. § 3553(a), may impose a sentence above or below the advisory sentencing range, subject only to review by higher courts for reasonableness. The United States makes no promise or representation concerning what sentence the defendant will receive, and the defendant cannot withdraw a guilty plea based upon the actual sentence.

The United States and defendant have not agreed on any sentencing issues, whether related to the Sentencing Guidelines or the factors listed in 18 U.S.C. § 3553(a). The United States and defendant expressly reserve the right to present evidence relevant to sentencing, including evidence of drug weight and whether any death or serious bodily injury resulted from the use of controlled substances distributed by the defendant during the course of the charged conspiracy. The parties agree that any determinations of sentencing factors will be made by the Court at sentencing.

**6. Waiver of Appeal, FOIA, and Privacy Act Rights**

The defendant also understands that 18 U.S.C. § 3742 affords a defendant the right to appeal the sentence imposed. Nonetheless, the defendant knowingly waives the right to appeal the conviction and any sentence within the statutory maximum described above (or the manner in which that sentence was determined) on the grounds set forth in 18 U.S.C. § 3742 or on any ground whatsoever other than an ineffective assistance of counsel claim that is cognizable on direct appeal, in exchange for the concessions made by the United States in this Plea Agreement. This agreement does not affect the rights or obligations of the United States as set forth in 18 U.S.C. § 3742(b). The defendant also hereby waives all rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including without limitation any records that may be sought under the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act, 5 U.S.C. § 552a.

**7. Immunity from Further Prosecution in This District**

The United States will not further criminally prosecute the defendant in the Eastern District of Virginia for the specific conduct described in the Information or Statement of Facts, except that the United States may prosecute the defendant for any crime of violence or conspiracy to commit, or aiding and abetting, a crime of violence not charged in the Information as an offense. In such a prosecution, the United States may allege and prove conduct described in the Information or Statement of Facts. "Crime of violence" has the meaning set forth in 18 U.S.C. § 16.

**8. Dismissal of Other Counts**

As a condition of the execution of this agreement and the Court's acceptance of the defendant's plea of guilty, the United States will move to dismiss the Indictment, the Superseding Indictment and the Second Superseding Indictment pending against this defendant at the conclusion of this defendant's sentencing hearing.

**9. Payment of Monetary Penalties**

The defendant understands and agrees that, pursuant to 18 U.S.C. § 3613 and 18 U.S.C. § 3572, all monetary penalties imposed by the Court, including restitution, will be due immediately and subject to immediate enforcement by the United States as provided for in Section 3613. Within 14 days of a request, the defendant agrees to provide all of the defendant's financial information to the United States and the Probation Office and, if requested, to participate in a pre-sentencing debtor's examination and/or complete a financial statement under penalty of perjury. If the Court imposes a schedule of payments, the defendant understands that the schedule of payments is merely a minimum schedule of payments and not the only method, nor a limitation on the methods, available to the United States to enforce the judgment. Until all monetary penalties are paid in full, the defendant will be referred to the Treasury Offset Program so that any federal payment or transfer of returned property to the defendant will be offset and applied to pay the defendant's unpaid monetary penalties. If the defendant is incarcerated, the defendant agrees to participate voluntarily in the Bureau of Prisons' Inmate Financial Responsibility Program, regardless of whether the Court specifically directs participation or imposes a schedule of payments. Defendant agrees to make good-faith efforts toward payment of all monetary penalties imposed by the Court.

**10. Special Assessment**

Before sentencing in this case, the defendant agrees to pay a mandatory special assessment of \$100 per felony count of conviction, pursuant to 18 U.S.C. § 3013(a)(2)(A).

**11. Forfeiture Agreement**

The defendant understands that the forfeiture of assets is part of the sentence that must be imposed in this case. The defendant agrees to forfeit all interests in any drug-related asset that the defendant owns or over which the defendant exercises control, directly or indirectly. This includes any property that is traceable to, derived from, fungible with, or a substitute for the following: property facilitating the offense. The defendant agrees that the assets subject to forfeiture include, but are not limited to, the following specific property:

- a. A black 2004 Mercedes Benz sedan S430, VIN WDBNG83J84A430412.

The defendant understands that if the assets subject to forfeiture are not available to the United States to be forfeited, the Court must enter a forfeiture money judgment in the amount of the unavailable assets. *United States v. Blackman*, 746 F.3d 137 (4th Cir. 2014).

The defendant further agrees to waive all interest in the asset(s) in any administrative or judicial forfeiture proceeding, whether criminal or civil, state or federal. The defendant agrees to consent to the entry of orders of forfeiture for such property and waives the requirements of Federal Rules of Criminal Procedure 32.2 and 43(a) regarding notice of the forfeiture in the charging instrument, announcement of the forfeiture at sentencing, and incorporation of the forfeiture in the judgment. Defendant admits and agrees that the conduct described in the charging instrument and Statement of Facts provides a sufficient factual and statutory basis for the forfeiture of the property sought by the government.



**12. Waiver of Further Review of Forfeiture**

The defendant further agrees to waive all constitutional and statutory challenges to forfeiture in any manner (including direct appeal, habeas corpus, or any other means) to any forfeiture carried out in accordance with this Plea Agreement on any grounds, including that the forfeiture constitutes an excessive fine or punishment. The defendant also waives any failure by the Court to advise the defendant of any applicable forfeiture at the time the guilty plea is accepted as required by Rule 11(b)(1)(J). The defendant agrees to take all steps as requested by the United States to pass clear title to forfeitable assets to the United States, and to testify truthfully in any judicial forfeiture proceeding. The defendant understands and agrees that all property covered by this agreement is subject to forfeiture as assets used in furtherance of the offense.

**13. The Defendant's Obligations Regarding Assets Subject to Forfeiture**

Upon request by the government, the defendant agrees to identify all assets in which the defendant had any interest or over which the defendant exercises or exercised control, directly or indirectly, within the past 3 years from the date of the defendant's signature on this Plea Agreement. The defendant agrees to take all steps as requested by the United States to obtain from any other parties by any lawful means any records of assets owned at any time by the defendant. The defendant agrees to undergo any polygraph examination the United States may choose to administer concerning such assets and to provide and/or consent to the release of the defendant's tax returns for the previous five years. The defendant understands that the proceeds of the offense(s) are subject to forfeiture and cannot be used for any purpose, to include attorney's fees and living expenses.

**14. Breach of the Plea Agreement and Remedies**

This Plea Agreement is effective when signed by the defendant, the defendant's attorney, and an attorney for the United States. The defendant agrees to entry of this Plea Agreement at the date and time scheduled with the Court by the United States (in consultation with the defendant's attorney). If the defendant withdraws from this agreement, or commits or attempts to commit any additional federal, state, or local crimes, or intentionally gives materially false, incomplete, or misleading testimony or information, or otherwise violates any provision of this agreement, then:

- a. The United States will be released from its obligations under this agreement. The defendant, however, may not withdraw the guilty plea entered pursuant to this agreement.
- b. The defendant will be subject to prosecution for any federal criminal violation, including, but not limited to, perjury and obstruction of justice, that is not time-barred by the applicable statute of limitations on the date this agreement is signed. Notwithstanding the subsequent expiration of the statute of limitations, in any such prosecution, the defendant agrees to waive any statute-of-limitations defense.
- c. Any prosecution, including the prosecution that is the subject of this agreement, may be premised upon any information provided, or statements made, by the defendant, and all such information, statements, and leads derived therefrom may be used against the defendant. The defendant waives any right to claim that statements made before or after the date of this agreement, including the Statement of Facts accompanying this agreement or adopted by the defendant and any other statements made pursuant to this or any other agreement with the United States, should be excluded or suppressed under Fed. R. Evid. 410, Fed. R. Crim. P. 11(f), the Sentencing Guidelines, or any other provision of the Constitution or federal law.

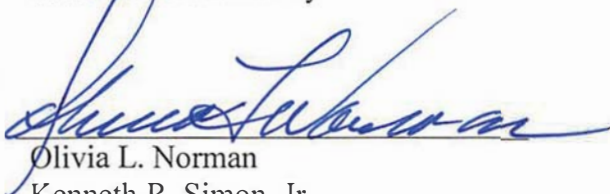
Any alleged breach of this agreement by either party shall be determined by the Court in an appropriate proceeding at which the defendant's disclosures and documentary evidence shall be admissible and at which the moving party shall be required to establish a breach of this Plea Agreement by a preponderance of the evidence.

**15. Nature of the Agreement and Modifications**

This written agreement constitutes the complete plea agreement between the United States, the defendant, and the defendant's counsel. The defendant and the defendant's attorney acknowledge that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in writing in this Plea Agreement or any associated documents filed with the Court, to cause the defendant to plead guilty. Any modification of this Plea Agreement shall be valid only as set forth in writing in a supplemental or revised plea agreement signed by all parties.

G. Zachary Terwilliger  
United States Attorney

By:



Olivia L. Norman  
Kenneth R. Simon, Jr.  
Assistant United States Attorney




Defendant's Signature: I hereby agree that I have consulted with my attorney and fully understand all rights with respect to the pending criminal Information. Further, I fully understand all rights with respect to 18 U.S.C. § 3553 and the provisions of the Sentencing Guidelines Manual that may apply in my case. I have read this Plea Agreement and carefully reviewed every part of it with my attorney. I understand this agreement and voluntarily agree to it.

Date: 10.09.20

  
Leonus Stevenson Peterson

Defense Counsel's Signature: We are counsel for the defendant in this case. We have fully explained to the defendant the defendant's rights with respect to the pending Information. Further, we have reviewed 18 U.S.C. § 3553 and the Sentencing Guidelines Manual, and we have fully explained to the defendant the provisions that may apply in this case. We have carefully reviewed every part of this Plea Agreement with the defendant. To our knowledge, the defendant's decision to enter into this agreement is an informed and voluntary one.

Date: 10/9/20

  
William J. Dinkin  
Ali J. Amirshahi  
Counsel for the Defendant

U. S. DEPARTMENT OF JUSTICE  
Statement of Special Assessment Account

This statement reflects your Special Assessment only. There may be other penalties imposed at sentencing.

ACCOUNT INFORMATION	
CRIM. ACTION NO.:	3:18-cr-0090-JAG
DEFENDANT'S NAME:	Leonus Stevenson Peterson
PAY THIS AMOUNT:	\$100.00

INSTRUCTIONS:

**1. MAKE CHECK OR MONEY ORDER PAYABLE TO:**

CLERK, U.S. DISTRICT COURT

**2. PAYMENT MUST REACH THE CLERK'S OFFICE BEFORE YOUR SENTENCING DATE.**

**3. PAYMENT SHOULD BE SENT TO:**

	In-Person (9 AM to 4 PM)	By Mail:
<b>Alexandria Cases:</b>	Clerk, U.S. District Court 401 Courthouse Square Alexandria, VA 22314	
<b>Richmond Cases:</b>	Clerk, U.S. District Court 701 East Broad Street, Suite 3000 Richmond, VA 23219	
<b>Newport News Cases:</b>	Clerk, U.S. District Court 2400 West Ave., Suite 100 Newport News, VA 23607	
<b>Norfolk Cases:</b>	Clerk, U.S. District Court 600 Granby Street Norfolk, VA 23510	

**4. INCLUDE DEFENDANT'S NAME ON CHECK OR MONEY ORDER.**

**5. ENCLOSE THIS COUPON TO ENSURE PROPER AND PROMPT APPLICATION OF PAYMENT.**