

**UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT**

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Filed: October 12, 2021

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Re: Case No. 20-4272, USA v. Roger Roberts  
Originating Case No. : 5:19-cr-00177-1

Dear Counsel,

The Court issued the enclosed opinion today in this case.

Sincerely yours,

s/Cathryn Lovely  
Opinions Deputy

cc: Ms. Sandy Opacich

Enclosure

Mandate to issue

NOT RECOMMENDED FOR PUBLICATION  
File Name: 21a0459n.06

No. 20-4272

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

**FILED**

Oct 12, 2021

DEBORAH S. HUNT, Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

ROGER D. ROBERTS,

Defendant-Appellant.

ON APPEAL FROM THE  
UNITED STATES DISTRICT  
COURT FOR THE  
NORTHERN DISTRICT OF  
OHIO

Before: SUTTON, Chief Judge; BATCHELDER and LARSEN, Circuit Judges.

LARSEN, Circuit Judge. Roger Roberts appeals the district court's denial of his motion to suppress evidence discovered during the execution of a search warrant at his home. He argues that the warrant was issued without probable cause. For the reasons stated below, we AFFIRM.

I.

In September 2018, Detective Mike Schmidt of the Akron Police Department received information that defendant Roberts was selling cocaine out of his house. Detective Schmidt met with a confidential informant and asked him to make a controlled purchase of cocaine from the house. Schmidt had worked with this informant in the past and believed the informant to be credible. The informant had told Schmidt that Roberts had said he had cocaine for sale and that Roberts had firearms inside the house.

Less than seven days later, Detective Schmidt applied for a warrant to search Roberts's house. The supporting affidavit attested to Schmidt's twenty-one years of law enforcement

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experience and described the informant as having previously provided Schmidt with “corroborated” “information concerning the possession and sale of controlled substances in the Akron” area. The affidavit explained that before sending the informant into Roberts’s house to make the controlled purchase, officers searched the informant and found neither controlled substances nor cash. Schmidt gave the informant police-department funds to use for the drug purchase. Another detective on the scene, Detective S. Williams, watched the informant approach and enter Roberts’s house. Schmidt watched the informant exit the house shortly thereafter. The informant then handed Schmidt what appeared to be cocaine and confirmed that it had been purchased inside Roberts’s house using the funds provided by the investigators. The substance tested positive for cocaine. After reviewing this affidavit, a judge issued a search warrant for Roberts’s residence.

Law enforcement officers executed the warrant the next day. Upon entering the house, officers heard glass shattering upstairs. The officers then recovered a loaded firearm from below a broken second-story window. Investigators later learned that the firearm was stolen. The officers spoke to Roberts. Roberts said he thought his drug supplier was entering the house, so he had planned to start shooting down the stairs; when he realized it was the police, not his supplier, he discarded the firearm. Roberts admitted that he had drugs in his pocket and explained that he was selling drugs to support his own habit. Officers found crack cocaine and a heroin/fentanyl mixture in Roberts’s pocket. The officers then searched the rest of the house and found cocaine, drug paraphernalia, and other contraband.

A grand jury returned a seven-count indictment, charging Roberts with multiple drug and firearms offenses. Roberts filed a motion to suppress the evidence discovered in his house, arguing that the affidavit in support of the search warrant lacked probable cause. The district court denied

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the motion after a hearing. Roberts pleaded guilty to all seven counts, reserving the right to appeal the district court's denial of his suppression motion. *See* Fed. R. Crim. P. 11(a)(2).

## II.

We review “the district court’s factual findings for clear error and its legal conclusions de novo.” *United States v. White*, 874 F.3d 490, 495 (6th Cir. 2017). While we give “no particular deference” to the district court’s probable-cause determination, we give “great deference” to the probable-cause determination made by the warrant-issuing judge. *United States v. Brown*, 732 F.3d 569, 572–73 (6th Cir. 2013). We will reverse the decision to grant a search warrant only when the judge “arbitrarily exercised his or her authority.” *Id.* at 573.

### A.

“[N]o Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.” U.S. Const. amend. IV. “Probable cause exists when there is a ‘fair probability,’ given the totality of the circumstances, that contraband or evidence of a crime will be found in a particular place.” *United States v. Davidson*, 936 F.2d 856, 859 (6th Cir. 1991) (quoting *United States v. Loggins*, 777 F.2d 336, 338 (6th Cir. 1985) (per curiam)). When an affidavit is the basis for a probable-cause determination, it “must provide the [issuing judge] with a substantial basis for determining the existence of probable cause.” *Illinois v. Gates*, 462 U.S. 213, 239 (1983).

Here, the warrant affidavit relies on information provided by a confidential informant. Thus, we must consider “the veracity, reliability, and basis of knowledge of the informant’s information.” *United States v. Archibald*, 685 F.3d 553, 557 (6th Cir. 2012). “[A]n affidavit that supplies little information concerning an informant’s reliability may support a finding of probable

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cause, under the totality of the circumstances, if it includes sufficient corroborating information.” *Id.* (quoting *United States v. Coffee*, 434 F.3d 887, 893 (6th Cir. 2006)).

A “police-monitored controlled buy” generally provides sufficient corroboration. *United States v. Henry*, 299 F. App’x 484, 487 (6th Cir. 2008) (collecting cases). For example, in *Archibald*, we upheld a warrant supported by an affidavit nearly identical to the one at issue here. 685 F.3d at 555, 557. There, as here, the affidavit said that an informant, who had been used in past investigations, made a controlled purchase of narcotics. *Id.* at 555. As here, the affidavit described how the officers prepared the informant for the controlled purchase by searching her for contraband and giving her money to purchase narcotics. *Id.* And, as here, the affidavit described how the officers physically surveilled the premises. *Id.* We held that “although the details regarding the informant were sparse, that information combined with the information regarding the officers’ corroboration of the purchase, ma[de] the affidavit sufficient to allow the issuing judge to conclude that the veracity and reliability of the informant supported probable cause.” *Id.* at 557.<sup>1</sup> Other cases follow a similar pattern. See *United States v. Jackson*, 470 F.3d 299, 308 (6th Cir. 2006); *Coffee*, 434 F.3d at 894; *Pinson*, 321 F.3d at 563.

In light of our caselaw, and based on the totality of the circumstances, we conclude that the affidavit contained sufficient corroborating information to support a finding of probable cause.

Roberts argues that the affidavit was lacking because it did not associate the location to be searched with “regular, repeated drug trafficking.” But he cites no authority for such a

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<sup>1</sup> We note that the informant in *Archibald* was wired for audio surveillance during the controlled purchase, and the informant in our case was not. But Roberts makes no argument based on the absence of a wire. In any event, “[t]he affidavit is judged on the adequacy of what it does contain, not on what it lacks, or on what a critic might say should have been added.” *United States v. Pinson*, 321 F.3d 558, 562 (6th Cir. 2003) (alteration in original) (quoting *United States v. Allen*, 211 F.3d 970, 975 (6th Cir. 2000)). And we have never deemed a wire indispensable. See *Henry*, 299 F. App’x at 487–88.

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requirement, and “we have previously found that a single controlled purchase is sufficient to establish probable cause to believe that drugs are present at the purchase location.” *Archibald*, 685 F.3d at 558 (citing *Jackson*, 470 F.3d at 307–08 and *Pinson*, 321 F.3d at 565); *see also Henry*, 299 F. App’x at 487–88. Additionally, there is no merit to Roberts’s argument that the affidavit contained “boilerplate language” that did not corroborate the informant’s statements. “[T]he fact that a search-warrant affidavit is an almost ‘word-for-word’ copy of the affidavit in a prior case is irrelevant ‘[a]s long as there is sufficient information to provide probable cause for the search.’” *United States v. Green*, 572 F. App’x 438, 441 (6th Cir. 2014) (second alteration in original) (quoting *United States v. Weaver*, 99 F.3d 1372, 1378 (6th Cir. 1996)). And as we have explained, Detective Schmidt’s personal observations, his pat down of the informant before and after the purchase of the cocaine, and the fact that the drugs purchased by the informant were later tested positive for cocaine were sufficient to corroborate the information provided by the informant. *See Pinson*, 321 F.3d at 563. Schmidt’s affidavit accordingly established probable cause for the search.

Because we find that the warrant was issued upon probable cause, we need not address the government’s alternative argument based on the good-faith exception articulated in *United States v. Leon*, 468 U.S. 897, 922 (1984).

\* \* \*

We AFFIRM the district court’s denial of Roberts’s motion to suppress.

Revised 4/11/2011

**MINUTES OF CRIMINAL PROCEEDINGS  
UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO**

UNITED STATES OF AMERICA

vs.

ROGER D. ROBERTS

Date: 11/19/2020

Case No. 5:19cr177

Judge: Dan Aaron Polster

Court Reporter: George Staiduhar

Pts/Prob Officer: Bradley Fabian

Interpreter: \_\_\_\_\_

Date of Arrest: \_\_\_\_\_

U.S. Attorney: Damoun Delaviz

Attorney for Defendant(s): Claire Cahoon

CJA Apt: \_\_\_\_\_

Fed. Defender: X

Retained: \_\_\_\_\_

**ARRAIGNMENT:**

Defendant arraigned, plea of        GUILTY        NOT GUILTY        NOLO CONTENDERE entered as to count(s) \_\_\_\_\_  
\_\_\_\_\_ of the \_\_\_\_\_ Indictment \_\_\_\_\_ Information.

**CHANGE OF PLEA:**

Defendant Plea of NOT GUILTY withdrawn, plea of        GUILTY        NOLO CONTENDERE entered as to count(s) \_\_\_\_\_  
\_\_\_\_\_ of the \_\_\_\_\_ Indictment \_\_\_\_\_ Information.

\_\_\_\_\_ Plea agreement executed.  
\_\_\_\_\_ The Court adopts the R&R of the Magistrate Judge and finds there is a factual basis for the acceptance of the guilty plea.  
\_\_\_\_\_ Bond \$ \_\_\_\_\_ set \_\_\_\_\_ continued \_\_\_\_\_ detention \_\_\_\_\_ remanded to the custody of U.S. Marshal.  
\_\_\_\_\_ Motion of government for detention pending trial. Detention Hearing set for: \_\_\_\_\_  
\_\_\_\_\_ Defendant referred to the Probation Office for Pre-sentence Investigation.  
\_\_\_\_\_ Jury Trial scheduled for: \_\_\_\_\_  
\_\_\_\_\_ Pretrial Conference scheduled for: \_\_\_\_\_  
\_\_\_\_\_ Sentencing scheduled for: \_\_\_\_\_

**SENTENCE:**

Defendant committed to the custody of the Bureau of Prisons for a period of 93 months on count(s) 1-7  
of the X Indictment \_\_\_\_\_ Information to run \_\_\_\_\_ concurrent \_\_\_\_\_ consecutively.

Period of \_\_\_\_\_ years of supervised release with standard/special conditions as ordered (see reverse side of form).

Fined the sum of \$ \_\_\_\_\_ X Fine Waived  
Restitution in the amount of \$ \_\_\_\_\_ Payable to: \_\_\_\_\_ Not Ordered.

I.S.S., Probation ordered for a period of \_\_\_\_\_ months \_\_\_\_\_ years on count(s) \_\_\_\_\_  
\_\_\_\_\_ Indictment \_\_\_\_\_ Information with standard/special conditions as ordered (see reverse side of form).

The defendant is to pay a special assessment of \$ 100.00 on counts 1-7. Total \$ 700.00.

Upon motion of U.S. Attorney, counts(s) \_\_\_\_\_ of the Indictment/Information are hereby dismissed.

The execution of the sentence of imprisonment is deferred and the bond continued until \_\_\_\_\_, at which time the defendant shall surrender to the United States Marshal for this district, or the designated institution.

\_\_\_\_\_ Bond is revoked and the defendant is remanded to the custody of the U.S. Marshal.

## STANDARD AND SPECIAL CONDITIONS OF SUPERVISED RELEASE/PROBATION

- ☒ The defendant shall not commit another federal, state or local crime, shall not illegally possess a controlled substance, shall comply with the standard conditions that have been adopted by this court, and shall comply with any additional conditions.
- ☒ The defendant shall refrain from unlawful use of a controlled substance and submit to one drug test within 15 days of the commencement of supervision and to at least two periodic drug tests thereafter, as determined by the pretrial services and probation officer.
- ☒ The defendant shall participate in an approved program of outpatient, inpatient or detoxification substance abuse treatment, which will include drug and alcohol testing to determine if the defendant has reverted to substance abuse.
- ☒ The defendant shall not possess a firearm, destructive device or any dangerous weapon.
- ☐ The defendant shall provide the probation office access to any requested financial information.
- ☐ The defendant shall not incur new credit charges or open additional lines of credit without the approval of the probation officer.
- ☐ Financial Windfall Condition.
- ☐ Gambling Condition.
- ☒ The defendant shall enter an adult program and work toward a Certificate of General Educational Development (GED).
- ☐ Special Employment. The defendant shall comply with the Offender Employment Policy which may include participation in training, counseling, and/or daily job search as directed by the pretrial services and probation officer.
- ☐ The defendant shall participate in the Location Monitoring Program for a period of \_\_\_\_\_ months, to commence no later than 30 calendar days from sentencing.
- ☒ Search and Seizure. The defendant shall submit his/her person, residence, place of business, computer, or vehicle to a warrantless search, conducted and controlled by the U.S. Probation Officer.
- ☐ Sex Offender Registration and Notification Act (Adam Walsh Act)
- ☒ Mental Health Treatment. The defendant shall participate in an outpatient mental health treatment program.
- ☒ Cognitive Behavioral Program.
- ☐ Community Service. The defendant shall perform \_\_\_\_\_ hours of community service as directed by the probation officer.
- ☐ Gang. The defendant shall not associate with any members of a gang or threat group as directed by the probation officer.
- ☐ Deportation. The defendant shall surrender to the Bureau of Immigration and Customs Enforcement, U.S. Department of Homeland Security for deportation, and shall not illegally re-enter or remain in the United States.
- ☒ DNA Collection.
- ☐ Denial of Federal Benefits.
- ☐ Sex Offender.
- ☐ Computer/Internet. Total Prohibition on Access to a Computer Internet.
- ☐ Computer/Internet Restricted.
- ☐ Computer/Internet Access Permitted. The defendant shall abide by all rules of the Computer Restriction and Monitoring Program.
- ☐ Computer Search Only.
- ☐ Computer Employment Restriction.
- ☒ Recommendation to the Bureau of Prisons: Residential Drug Abuse Program, FCM Butner, or FCI Milan or McKean; Second Chance Act
- ☒ The defendant is granted credit for time already served in relation to this matter.
- ☒ The defendant advised of his/her appeal rights.
- ☐ No Contact with Minors.

**COMMENTS:** The Court recommends the defendant consider the Northern District of Ohio Reentry Program upon release.

Total Time: 1 hour

s/ Katherine King

Courtroom Deputy Clerk



**UNITED STATES DISTRICT COURT**  
NORTHERN DISTRICT OF OHIO

UNITED STATES OF AMERICA

v.

ROGER D. ROBERTS

§ **JUDGMENT IN A CRIMINAL CASE**

§

§

§ Case Number: **5:19-CR-00177-DAP(1)**§ USM Number: **66516-060**§ **Claire R. Cahoon**

§ Defendant's Attorney

**THE DEFENDANT:**

<input checked="" type="checkbox"/>	pleaded guilty to counts	<b>1s-7s of the Superseding Indictment</b>
<input type="checkbox"/>	pleaded guilty to count(s) before a U.S. Magistrate Judge, which was accepted by the court.	
<input type="checkbox"/>	pleaded nolo contendere to count(s) which was accepted by the court	
<input type="checkbox"/>	was found guilty on count(s) after a plea of not guilty	

The defendant is adjudicated guilty of these offenses:

**Title & Section / Nature of Offense****Offense Ended****Count**

18 U.S.C. § 922(g)(1) and 924(a)(2) Felon In Possession Of Firearm and Ammunition

09/18/2018

1s

18 U.S.C. § 922(j) and 924(a)(2) Possession Of Stolen Firearm

09/18/2018

2s

21 U.S.C. § 841(a)(1) and (b)(1)(C) Possession With Intent To Distribute Cocaine Base

09/18/2018

3s

21 U.S.C. § 841(a)(1) and (b)(1)(C) Possession With Intent To Distribute Heroin

09/18/2018

4s

21 U.S.C. § 841(a)(1) and (b)(1)(C) Possession With Intent To Distribute Fentanyl

09/18/2018

5s

21 U.S.C. § 841(a)(1) and (b)(1)(C) Possession With Intent To Distribute Cocaine Base

09/18/2018

6s

18 U.S.C. § 924(c)(1)(A) Possession of a Firearm in Furtherance of a Drug Trafficking Offense

09/18/2018

7s

The defendant is sentenced as provided in pages 2 through 9 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s)

☐ Count(s) ☐ is ☐ are dismissed on the motion of the United States

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

**November 19, 2020**

Date of Imposition of Judgment

**s/Dan Aaron Polster**

Signature of Judge

**Dan Aaron Polster United States District Judge**

Name and Title of Judge

**November 19, 2020**

Date

DEFENDANT: ROGER D. ROBERTS  
CASE NUMBER: 5:19-CR-00177-DAP(1)

## IMPRISONMENT

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

93 months (33 months as to count 1s through 6s, concurrent; 60 months as to count 7s, consecutive). Defendant to receive credit for time served.

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

The Court recommends designation to Federal Medical Center Butner. If the defendant is not eligible for placement at a federal medical center, the Court recommends designation to FCI McKean – Medium, or FCI Milan – Low, as the Bureau of Prisons deems appropriate. The Court also recommends the defendant be considered for the Second Chance Act, with a year in Oriana House. The Court recommends the Residential Drug Abuse Program and mental health treatment and counseling while in custody.

The Court ORDERS that Dr. Fabian's psychiatric evaluation of the defendant be provided to the Bureau of Prisons.

☒ 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: ROGER D. ROBERTS  
CASE NUMBER: 5:19-CR-00177-DAP(1)

### **SUPERVISED RELEASE**

Upon release from imprisonment, the defendant shall be on supervised release for a term of : **three (3) years, concurrent.**

### **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 which you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. ☐ You must participate in an approved program for domestic violence. *(check if applicable)*

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

DEFENDANT: ROGER D. ROBERTS  
CASE NUMBER: 5:19-CR-00177-DAP(1)

## STANDARD CONDITIONS OF SUPERVISION

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

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change. If not in compliance with the condition of supervision requiring full-time occupation, you may be directed to perform up to 20 hours of community service per week until employed, as approved or directed by the pretrial services and probation officer.
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. As directed by the probation officer, you shall notify third parties who may be impacted by the nature of the conduct underlying your current or prior offense(s) of conviction and/or shall permit the probation officer to make such notifications, and/or confirm your compliance with this requirement.
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. I understand additional information regarding these conditions is available at the [www.uscourts.gov](http://www.uscourts.gov).

Defendant's Signature \_\_\_\_\_

Date \_\_\_\_\_

DEFENDANT: ROGER D. ROBERTS  
CASE NUMBER: 5:19-CR-00177-DAP(1)

## **SPECIAL CONDITIONS OF SUPERVISION**

### **General Educational Development (GED)**

You must enter an adult program and work toward obtaining a General Educational Development (GED) diploma at the discretion of the U.S. Pretrial Services & Probation Officer.

### **Substance Abuse Treatment and Testing**

The defendant shall participate in an approved program of substance abuse testing and/or outpatient or inpatient substance abuse treatment as directed by their supervising officer; and abide by the rules of the treatment program. The probation officer will supervise your participation in the program (provider, location, modality, duration, intensity, etc.). The defendant shall not obstruct or attempt to obstruct or tamper, in any fashion, with the efficiency and accuracy of any prohibited substance testing.

### **Cognitive Behavioral Treatment**

You must participate in a cognitive-behavioral treatment program and follow the rules and regulations of that program. The probation officer will supervise your participation in the program (provider, location, modality, duration, intensity, etc.).

### **Mental Health Treatment**

You must undergo a mental health evaluation and/or participate in a mental health treatment program and follow the rules and regulations of that program. The probation officer, in consultation with the treatment provider, will supervise your participation in the program (provider, location, modality, duration, intensity, etc.).

### **Search / Seizure**

You must submit your person, property, house, residence, vehicle, papers, computers (as defined in 18 U.S.C. § 1030(e)(1)), other electronic communications or data storage devices or media, or office, to a search conducted by a United States probation officer. Failure to submit to a search may be grounds for revocation of release. You must warn any other occupants that the premises may be subject to searches pursuant to this condition.

The probation officer may conduct a search under this condition only when reasonable suspicion exists that you have violated a condition of supervision and that the areas to be searched contain evidence of this violation. Any search must be conducted at a reasonable time and in a reasonable manner.

**The Court recommends the defendant consider the Reentry Program.**

DEFENDANT: ROGER D. ROBERTS  
CASE NUMBER: 5:19-CR-00177-DAP(1)

### CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments page.

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
<b>TOTALS</b>	\$700.00	\$ .00	\$ .00	\$ .00	

- ☐ 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. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

- ☐ Restitution amount ordered pursuant to plea agreement \$
- ☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the schedule of payments page 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:
- |   |                               |  |
|---|-------------------------------|--|
| <input type="checkbox"/> the interest requirement is waived for the | <input type="checkbox"/> fine | <input type="checkbox"/> restitution                         |
| <input type="checkbox"/> the interest requirement for the           | <input type="checkbox"/> fine | <input type="checkbox"/> restitution is modified as follows: |

\* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.

\*\* 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: ROGER D. ROBERTS  
CASE NUMBER: 5:19-CR-00177-DAP(1)

### 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 payments of \$ \_\_\_\_\_ due immediately, balance due  
☐ not later than \_\_\_\_\_, or  
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal 20 (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:  
**It is ordered that the Defendant shall pay to the United States a special assessment of \$700.00 for Counts 1s, 2s, 3s, 4s, 5s, 6s and 7s, which shall be due immediately. Said special assessment shall be paid to the Clerk, U.S. District Court.**

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.

- ☐ Joint and Several  
See above for Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.
- ☐ Defendant shall receive credit on his restitution obligation for recovery from other defendants who contributed to the same loss that gave rise to defendant's restitution obligation.
- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

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

DEFENDANT: ROGER D. ROBERTS  
CASE NUMBER: 5:19-CR-00177-DAP(1)

**DENIAL OF FEDERAL BENEFITS**  
*(For Offenses Committed On or After November 18, 1988)*

**FOR DRUG TRAFFICKERS PURSUANT TO 21 U.S.C. § 862**

IT IS ORDERED that the defendant shall be:

- ☐ ineligible for all federal benefits for a period of
- ☐ ineligible for the following federal benefits for a period of  
*(specify benefit(s))*

**OR**

- ☐ Having determined that this is the defendant's third or subsequent conviction for distribution of controlled substances, IT IS ORDERED that the defendant shall be permanently ineligible for all federal benefits.

**FOR DRUG POSSESSORS PURSUANT TO 21 U.S.C. § 862(b)**

IT IS ORDERED that the defendant shall:

- ☐ be ineligible for all federal benefits for a period of
- ☐ be ineligible for the following federal benefits for a period of  
*(specify benefit(s))*

- ☐ successfully complete a drug testing and treatment program.
- ☐ perform community service, as specified in the probation and supervised release portion of this judgment.

IS FURTHER ORDERED that the defendant shall complete any drug treatment program and community service specified in this judgment as a requirement for the reinstatement of eligibility for federal benefits.

Pursuant to 21 U.S.C. § 862(d), this denial of federal benefits does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility. The clerk is responsible for sending a copy of this page and the first page of this judgment to:

U.S. Department of Justice, Office of Justice Programs, Washington, DC 20531