NO:

SUPREME COURT OF THE UNITED STATES

RICHARD MAURIVAL,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

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PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED FOR REVIEW

Where disclosure of jurors' statements in their deliberations shows racial bias that may have tainted the verdict in a criminal trial, must the district court, in order to fulfill the requirement the Court imposed in *Peña-Rodriguez v. Colorado*, 580 U.S. ___, 137 S.Ct. 855 (2017) to ferret out the bias and its impact, conduct, at a minimum, an evidentiary inquiry of the racially biased jurors, as the Sixth Circuit has held, or instead may the district court preclude examination of the biased jurors, as the Eleventh Circuit ruled in petitioner's case?

INTERESTED PARTIES

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

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Richard Maurival 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 rendered and entered in case number 19-11680 in that court on July 7, 2021.

OPINION BELOW

A copy of the decision of the United States Court of Appeals for the 11th Circuit, unpublished and available at 861 Fed. Appx 388, and is contained in the Appendix (App. A) as is a copy of the denial of petitioner's request for rehearing (App.

B).

STATEMENT OF 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 July 7, 2021. App. A. Petitioner filed a timely petition for panel rehearing on October 15, 2021, and the Court of Appeals denied the petition on November 2, 2021. App. B. This petition is timely filed.

STATUTORY AND OTHER PROVISIONS INVOLVED

U.S. CONST. amend. VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

STATEMENT OF THE CASE

Petitioner was charged by indictment with sixteen counts of aiding in the preparation of false tax returns in violation of 26 U.S.C. § 7206(2) and three counts of filing false tax returns in violation of 26 U.S.C. § 7206(1). Following a jury trial petitioner was convicted of twelve of the counts charging aiding the preparation of false tax returns and all three counts charging the filing of false tax returns.

Petitioner's case was submitted to the jury on a Friday afternoon. After deliberating for nearly 4 hours the jury sent a note suggesting that they had not reached a verdict. The jury was discharged with instructions to return the following Monday to continue their deliberations.

On Monday morning the district court judge received two notes from juror G.D. The first note stated that "I have relevant feedback from jurors I would like to share with the Judge." When brought into the court room to discuss the note, G.D. explained that the note had to do with some comments that other jurors had made. G.D. was instructed that if she felt there may be some form of misconduct, to write it down and send another note to the court.

Shortly after returning to the jury room, G.D. sent a second note expressing her concerns that racial and ethnic bias had infected the jury deliberations. According to the note, "Juror A" had said "I just don't like some of these people. It's hard to be impartial." Another, "Juror B" stated "Some of these witnesses don't even speak English. They shouldn't even be in this country." The witnesses, like petitioner, were blacks of Haitian decent who had migrated to the United States.

In response to G.D.'s second note, defense counsel made three requests: (1) that the court conduct an interview of G.D. to determine the identity of the two jurors who had made the comments; (2) question those two jurors to find out whether they had made the comments attributed to them; and (3) if in fact they had made those comments, for the court to remove them and seat an alternate in their place. The government objected to each of these requests.

The district court agreed that the statements attributed to Jurors A and B raised a substantial concern that racial stereotyping and animus had been interjected into the case, observing:

> "I think this is important, very important. Because if what I hear from Juror G.D. as to what these two jurors said, it's disgraceful to think that a defendant in an American court could be convicted by virtue of a jurors racial or ethnic animus. And I have a chance, since we don't have a verdict yet, to hopefully prevent that from happening."

Despite his well founded concerns that racial or ethnic prejudice had become an issue in the case, the district court agreed with the government, rejected defense counsel's requests and simply read the following instruction to the jury:

> "Ladies and gentlemen of the jury, let me remind you that your decision must be based only on the evidence presented here you must not be influenced in any way by either sympathy or prejudice against the defendant, the government, or any of the witnesses in this case."

Later that day the jury returned its verdict finding the petitioner guilty of the majority of the counts. Petitioner then filed a post-trial motion seeking a new trial on the grounds that he had been denied his Sixth Amendment right to a fair and impartial jury given that racial and ethnic prejudice had tainted the jury's

deliberations.

The district court subsequently conducted an evidentiary hearing on the post-trial motion where, despite defense counsel's request, only G.D. was called to testify as a witness. G.D.'s testimony reflected that the racial and ethnic animosity harbored by Juror A and Juror B had not been extinguished by the curative instruction (which made no reference whatsoever to well established law that racial or ethnic prejudice must never factor into a juror's decision) and that racial and ethnic prejudice had indeed factored into the jury's decision to convict.

> THE COURT:
>
> ... And my question to you is this.
>
> When you voted to convict Mr. Maurival on 13 counts, were you motivated to do so because of either ethnicity or race?
>
> G.D. No, sir.
>
> THE COURT: Follow-up question. Do you believe based upon the deliberations that took place following the Court's curative instruction that any juror voted to convict Mr. Maurival because of ethnicity or race?
>
> G.D.: Well, I can only base my answer on the comments that were made before by the jurors, but I cannot be certain that they voted because of race. May I explain?
>
> THE COURT: Please.
>
> G.D. So the two jurors that made those comments started making the comments before we started deliberating, which made it a little bit difficult to be impartial to the case. That's when I brought up the issue... G.D. Once we started deliberating– remember, we couldn't come to a conclusion on Friday. We went home on the weekend. We came back the following Monday. Some jurors really wanted to go home. So they wanted to hurry the process up. Some of us were more attentive to the case because someone's life is at stake and we needed to review the facts.

No more comments about race were made on Monday after we started deliberation. That's why.

THE COURT: All right. Well the court, according to the record, gave the jury the curative instructions, that is, reminding them that their verdict must be based on the evidence presented and that they must not be influenced in any way by sympathy or prejudice against either party or any witness. And that, according to my records, was given at 11:45 a.m. on Monday, November the fifth.

And I guess to put it as plainly as I can, did that instruction produce the desired effect, that is, did it eliminate either race or did it eliminate both race and ethnicity from the deliberations?

G.D.: I don't think it did, sir. (emphasis added)

THE COURT: You don't?

G.D.: No.

THE COURT: Tell me why.

G.D.: Once we started talking, it was evident some of the jurors, A and B, were still in that thought process that they -- the comments that they initially made. And those jurors wanted to leave. So before -- we started basically reviewing the case again, all of the evidence, and, by the way, the case -- the jurors -- and I have to clarify this. Juror A was referring to the IRS. Jury B was referring to foreign people.

Okay? So once we started deliberating, the issue of race came up, but it wasn't as strong as it was when they first made those comments, which is when I raised the issue. I believe that the mind-set was still there, that there was a race issue, there was a dislike or distaste, but they went along with the process. [emphasis added].

THE COURT: Well, the verdict was not guilty on six counts.

G.D.: That's correct.

THE COURT: And, obviously, Jurors A and B concurred in that decision.

My concern and the purpose of this hearing is to determine whether race or ethnicity was a significant motivating factor in the decision to convict

Mr. Maurival on the 13 counts. That is the purpose of this hearing.

G.D.: I understand.

THE COURT: And you were there.

G.D.: Yes, I was. It's difficult to say what was on these jurors' minds once we started deliberating, because the issues that I brought up were not addressed directly with the jurors other than when we got called back into the courtroom. So everybody got the same instructions just like we did the first time and the second time. But once you have established a pattern of thought process, you usually carry that.... (emphasis added).

Although G.D. testified that race and ethnicity had not factored into her own decision, her testimony was, at best, equivocal with regard to whether those factors played a part in the decision of the two jurors who have made the racially and ethnically charged comments. Moreover, G.D. confirmed that the district court's curative instruction was ineffective and that discussions concerning race continued thereafter although not as bluntly or as overtly as previously.

REASONS FOR GRANTING THE WRIT

The Eleventh Circuit recognized, see App. A, that in light of the district court's finding that Juror A and Juror B statements made statements to other jurors during deliberations in petitioner's case that "exhibited overt racial bias that cast serious doubt on the fairness and impartiality of the jury deliberations and resulting verdict." *Peña-Rodriguez v. Colorado*,137 S.Ct. 855, 869 (2017). The finding of racial bias in the jurors' statements was not challenged by the government. App. A. The Eleventh Circuit's decision, however, to approve the district court's constrained and inherently

unreliable means of addressing such bias, despite the court of appeals' recognition that it would have been better practice to question at least one of the jurors who had made the racially and ethnically derogatory comments, permitted the racial bias in jury deliberations to go unexamined and unremedied, thus violating petitioner's fundamental due process rights.

The Eleventh Circuit held that the district court's utilization of a limited post-trial hearing that could not reasonably have been expected to uncover the extent to which racial or ethnic bias had impacted the jury's verdict was sufficient. App. A. The Eleventh Circuit's decision conflicts with at least one post-*Peña-Rodriguez* decision of another circuit and would so water down the import and effectiveness of the needed inquiry and remedy for jury racial bias that this Court should now answer the question left open in *Peña-Rodriguez*: what procedures must a trial court must follow when confronted with a motion for new trial based on juror testimony of racial bias?

This Court has long recognized that the Sixth Amendment guarantees the criminally accused a fair trial by an impartial jury. That guarantee mandates that each juror must be impartial. *See e.g.*, *Irvin v. Dowd*, 366 U.S. 717, 722, (1961) ("even if one juror is unduly biased or prejudiced, the defendant is denied his constitutional right to an impartial jury."). Within the universe of biases, racial and ethnic bias stand alone as the most evil and pernicious. Accordingly in *Peña-Rodriguez v. Colorado*, 580 U.S. ___, 137 S.Ct. 855 (2017) this Court abrogated the centuries old no impeachment rule that had barred post trial inquiry of juror racial or ethnic bias,

and observed that "racial bias, a familiar and recurring evil that if left unaddressed would risk systemic injury to the administration of justice." "This Court's decisions demonstrate that racial bias implicates unique historical, constitutional and institutional concerns…" *Pena-Rodriguez v. Colorado,*, 137 S.Ct at 869.

This Court has long recognized that a litigant, including a criminal defendant, has the right to a hearing where he has a meaningful opportunity to explore expressions of overt juror bias. *Remmer v. United States*, 347 U.S. 227 (1954), *Smith v. Phillips*, 455 U.S. 209, 215 (1982) ("The remedy for allegations of juror partiality is a hearing in which the defendant has the opportunity to prove actual bias.") *Smith v. Dennis*, 339 U.S. 162, 171-72 (1950) ("preservation of the opportunity to prove actual bias is a guarantee of the defendants right to an impartial jury.").

In petitioner's case the district court was afforded two opportunities to conduct a meaningful inquiry concerning the racially and ethnically biased comments attributed to Juror A and B. The district court declined to do so. When the comments were first reported to the court while the jury was still deliberating, the trial judge refused defense counsel's request to make a specific inquiry concerning the jurors who had made the comments and the potential impact of the comments not only on the jurors who made the comments but also on the remainder of the jury. Instead, the district court gave a purported curative instruction that failed to address the issue. Then, in the post-trial evidentiary hearing the trial court again declined the opportunity to question Juror A and Juror B.

The limited post-trial hearing conducted by the district court in which that

court interviewed only Juror G.D. and failed to interview Jurors A and B who had made the facially and ethnically biased statements failed to address the fundamental core concerns of juror racial or ethnic bias addressed by this Court in *Peña-Rodriguez*. Neither Juror A nor B were requested to explain what prompted their comments, what impact their comments had on their deliberations and the ultimate decision to convict; or whether in addition to what was manifested in the comments, whether they harbored any additional prejudices against Haitians in general or Mr. Maurival in particular. Beyond that, no jurors apart from G.D. were questioned to determine whether they heard the statements made by Juror A and Juror B, whether they agreed or disagreed with the statements, whether the statements impacted their ability to be fair and impartial, whether any other jurors commented when or after the statements were made and whether there was any discussion by and between one or more jurors regarding the statements.

The decision of the Eleventh Circuit Court of Appeals condoning the limited constitutionally defective hearing conducted by the district court is in direct conflict with the decision of the Sixth Circuit Court of Appeals in *Harden v. Hillman*, 993 F.3d 465 (6th Cir. 2021) as to the requirements of a post-trial hearing inquiring into the impact of expressed juror racial bias.

In *Harden v. Hillman*, the appellant, an African American man, asserted a number of claims under 42 U.S.C. § 1983 against a police officer and the city employing him alleging violations of his constitutional rights arising out of his arrest and prosecution following an incident at a convenience store in Louisville, Kentucky.

Several of his claims were dismissed prior to trial. Following a trial, the jury returned verdict against Harden on his claims of excessive use of force. Harden's counsel filed a Motion for New Trial with a supporting affidavit from a juror, T.H., an African American woman, describing how painful and humiliating her jury service had been given the racial stereotyping, bias, and prejudice displayed by her fellow jurors towards Harden and his legal team. The district court granted the defendant's motion to exclude the affidavit based on the no impeachment rule and denied Harden's Motion for New Trial.

Relying on the Fourteenth Amendment and the holding of this Court in *Peña-Rodriguez* the Sixth Circuit reversed and remanded with instructions to conduct a hearing to address the issue of juror bias and, in addition established the procedure to be followed in that hearing. The Sixth Circuit began by acknowledging that this Court's decision in *Remmer v. United States*, 347 U.S. 227, 229-30 (1954) would afford Harden "A meaningful opportunity to establish actual bias." Consistent with *Remmer* and it's reading of existing Sixth Circuit precedents including *United States v. Davis*, 177 F.3d 552, 557 (6th Cir. 1999), *McCoy v. Goldston*, 652 F.2d 654 (6th Cir. 1981), *United States v. Owens*, 426 F.3d 800, 805 (6th Cir. 2005) the *Harden* Court determined that "during the hearing attorneys for each side should have the opportunity to question [T.H.] and the rest of the jury (emphasis added) to determine whether [racial stereotypes] affected the jury's deliberations" citing *United States v. Lanier*, 870 F.3d 546, 550 (6th Cir. 2017).

CONCLUSION

Based upon the foregoing petition, the Court should grant a writ of certiorari to the Court of Appeals for the Eleventh Circuit.

Respectfully submitted,

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West Palm Beach, Florida
January 2022

APPENDIX

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 19-11680

D.C. Docket No. 2:17-cr-14013-RLR-1

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

RICHARD MAURIVAL,

Defendant - Appellant.

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

(July 7, 2021)

Before WILLIAM PRYOR, Chief Judge, and JORDAN and MARCUS, Circuit Judges.

PER CURIAM:

APP. A

Raising a number of issues, Richard Maurival appeals his convictions for filing his own false tax returns and aiding and assisting in the preparation of false tax returns of others. Following oral argument and review of the parties' briefs and the record, we affirm.[1]

I

A

From 2010 to 2015, Mr. Maurival—who is black and of Haitian descent—worked as a tax preparer in Florida and Georgia. He worked with two entities to file his clients' returns: BC Tax Services LLC, owned by his brother Beaunice Maurival; and JM Humanity Multi Services LLC, owned by Jean Rejuste. Both businesses had Electronic Filing Identification Numbers from the Internal Revenue Service, and Mr. Maurival had his own Preparer Tax Identification Number. In 2018, a grand jury charged Mr. Maurival with three counts of filing false individual tax returns in violation of 26 U.S.C. § 7206(1) and sixteen counts of willfully aiding and assisting in the preparation of false tax returns in violation of 26 U.S.C. § 7206(2).

At trial, the government called several of Mr. Maurival's clients as witnesses. Some of the clients were, like Mr. Maurival, black and of Haitian descent. Some of

[1] As we write for the parties, we assume their familiarity with the record and set out only what is necessary to explain our decision.

them were able to speak English with a creole accent (as was Mr. Maurival himself), but some needed an interpreter.

The clients testified about the false tax returns that Mr. Maurival had prepared. Those tax returns included unauthorized deductions or credits or impermissible claims of head of household filing status. The government called IRS Agent Stanley Lottman to explain the discrepancies in the filed tax returns given the evidence introduced at trial. Mr. Maurival took the stand in his defense and testified that the tax returns in question accurately reflected the information given to him by his clients.

During trial, one juror, G.D., informed the district court that she had heard racially and ethnically charged statements by two other jurors. G.D. then submitted a note describing the comments. According to the note, G.D. heard Juror A say, "I just don't like some of these people is [sic] hard to be impartial," and Juror B say, "Some of these witnesses don't even speak English, they shouldn't even be in this country." D.E. 102. Those statements were made on Friday, November 2, 2018, but G.D. did not notify the district court about them until the following Monday, when the jury was in deliberations. *See* D.E. 175 at 11.

Mr. Maurival requested that the district court conduct an interview to determine the identities of the jurors involved, question those jurors, and remove them and seat the alternates if they had in fact made those comments. The court

declined to conduct juror interviews at that time, and chose to give the jury the following instruction: "Ladies and gentlemen of the jury, let me remind you that your decision must be based only on the evidence presented here. You must not be influenced in any way by either sympathy for or prejudice against the defendant, the government, or any of the witnesses in this case." D.E. 109 at 17. That instruction was given on Monday, November 5, 2018, at 11:45 a.m.

Several hours after receiving this instruction, the jury found Mr. Maurival guilty of three counts of filing false individual tax returns and ten counts of aiding and assisting the preparation of false tax returns. The jury found him not guilty of six counts of aiding and assisting the preparation of false tax returns.

B

Mr. Maurival moved for a new trial based on a violation of his Sixth Amendment right to a fair and impartial jury. In his motion, he requested a new trial or in "the alternative, an evidentiary hearing at which juror interviews will be conducted[.]" D.E. 112 at 16. The district court granted the motion for a hearing, explaining that it would initially question only G.D., and noting that it could take further measures if there was evidence that the verdicts were racially motivated. *See* D.E. 140 at 14.

The district court held an evidentiary hearing to question G.D. under oath about the statements made by Jurors A and B. At the hearing, the court asked G.D.

a number of questions and permitted counsel for both sides to propose further questions.

G.D. explained that Juror A was referring to the IRS, while Juror B was referring to "foreign people." D.E. 175 at 6. G.D. said that, with respect to the statements made by Jurors A and B, the other jurors did not agree or acquiesce and "they let it go by." *Id.* at 11. With respect to what happened (or what she perceived) during deliberations, G.D. provided testimony that was, in some respects, uncertain and/or conflicting.

◆ G.D. said that she did not think that the curative instruction had its desired effect because, once deliberations began, Jurors A and B were "still in that thought process that they – the comments that they initially made," and she believed that "the mindset was still there, . . . there was a race issue." D.E. 175 at 6. *See also id.* ("So once we started deliberating, the issue of race came up, but it wasn't as strong as it was when they first made those comments[.]") But she also said that, once deliberations began on the Monday after the weekend break (the Monday the district court issued its curative instruction) "[n]o more comments about race were made[.]" *Id.* at 5.

◆ G.D. said she could not "be certain" that any juror had voted to convict Mr. Maurival on the basis of ethnicity or race because Jurors A and B had made the comments before deliberations began, "which made it a little difficult to be impartial

to the case." *Id.* at 5. But she also said that she had not voted to convict Mr. Maurival because of either ethnicity or race, and that it "was difficult to say what was on these jurors' minds once we started deliberating." *Id.* at 5, 7. *See also id.* at 8 ("If there were additional thoughts about race or discrimination maybe they kept them inside and I wouldn't be able to comment on that.").

◆ G.D. said that she based her verdicts on the evidence, but she could only speak for herself, as "[s]ome of the jurors [who] were looking at the evidence exclusively basically talked to the rest of the jurors" about the evidence. *Id.* at 12. But G.D. also said point-blank that, for the counts on which Mr. Maurival was found guilty, the jury went "over every single piece of evidence," and all of the jurors "agreed on that [the guilty verdicts]." *Id.* at 8. *See also id.* ("It took a little bit, as you know, but we did all agree on that."). When asked directly by the district court whether the guilty verdicts were "based on the evidence presented," G.D. answered "I believe it was. Yes." *Id.* And when asked a second time whether there was any indication in her mind "that any of the [eleven] other jurors' decision to convict was based on something other than the evidence," G.D. responded "I don't think so." *Id.* at 12.

At the end of G.D.'s testimony, the district court asked if there was "[a]nything else from the defense[.]" *Id.* Mr. Maurival, through counsel, wondered whether the jury had been hurried due to racial or ethnic animus, but said on the

record that the court "might have just questioned [G.D.] about that, and I guess she did answer that." *Id.*

At the conclusion of the evidentiary hearing, the district court orally denied Mr. Maurival's motion for a new trial, stating that it was "satisfied that the verdicts were based on the evidence." *Id.* The court later entered a written order denying the motion. It noted that the jury had deliberated for over ten hours over two days, found that "racial or ethnic prejudice was not a significant factor in the jury's verdict[s]," and specifically credited G.D.'s testimony that the verdicts were based on the evidence and not on bias. *See* D.E. 149 at 5.

The district court subsequently sentenced Mr. Maurival to a term of 84 months' imprisonment. This appeal followed.

II

Mr. Maurival argues that his motion for a new trial should have been granted because of the statements by Jurors A and B. He contends that the district court violated his Sixth Amendment right to a fair and impartial jury by failing to cure the prejudice resulting from those statements by not conducting a sufficiently thorough inquiry on the matter of bias.

A new trial is warranted "if the interest of justice so requires." Fed. R. Crim. P. 33(a). We review the denial of a motion for new trial for abuse of discretion. *See United States v. Hernandez*, 433 F.3d 1328, 1332 (11th Cir. 2005). A court abuses

its discretion when it "applies the wrong law, follows the wrong procedure, bases its decision on clearly erroneous facts, or commits a clear error in judgment." *United States v. Brown*, 415 F.3d 1257, 1266 (11th Cir. 2005) (citations omitted).

Jurors are typically prohibited from testifying about deliberations after a verdict has been issued. *See* Fed. R. Evid. 606(b). But under *Peña-Rodriguez v. Colorado*, 137 S. Ct. 855, 869 (2017), jurors may testify about the jury's deliberations when there is "a showing that one or more jurors made statements exhibiting overt racial bias that cast serious doubt on the fairness and impartiality of the jury's deliberations and resulting verdict." Here, the district court found that the statements by Jurors A and B satisfied the *Peña-Rodriguez* threshold, and thus brought G.D. in to testify. In our view, Mr. Maurival has not shown reversible error.

First, the district court's decision to give a curative instruction when it learned about the alleged statements by Jurors A and B was not an abuse of discretion. Generally, "[a] curative instruction purges the taint of a prejudicial remark because 'a jury is presumed to follow jury instructions.'" *United States v. Simon*, 964 F.2d 1082, 1087 (11th Cir. 1992) (citation omitted). As G.D. testified, there were no comments about ethnicity or race once deliberations resumed on Monday, November 5. And the jury found Mr. Maurival not guilty on six of the charges. The lack of further improper comments and the mixed verdicts indicate that the curative instruction had its intended effect.

Second, the district court acted within its discretion in deciding to hear only from G.D. initially. G.D. was the juror who reported the alleged statements by Jurors A and B, and the court told the parties that it could conduct a more searching inquiry if it heard from G.D. that the verdicts were based on racial or ethnic prejudice. Under the circumstances, the court's chosen procedure was not an abuse of discretion. *See United States v. Register*, 182 F.3d 820, 840 (11th Cir. 1999) ("When a juror's alleged improper conduct is brought to the court's attention, the court . . . enjoys substantial discretion in 'choosing the investigative procedure to be used in checking for juror misconduct[.]'") (citation omitted).

Third, "whether a juror is purposely not following the law is a finding of fact that we review for clear error," *United States v. Abbell*, 271 F.3d 1286, 1302–03 (11th Cir. 2001), and here the district court's finding that the guilty verdicts were not tainted by ethnic or racial prejudice was not clearly erroneous. As an initial matter, G.D. explained that Juror A's statement ("I just don't like some of these people is [sic] hard to be impartial") was about the IRS, and was therefore not ethnically or racially based. *See Peña-Rodriguez*, 137 S. Ct. at 869.

That leaves Juror B's statement: "Some of these witnesses don't even speak English, they shouldn't even be in this country." We note that this statement could have been about the government witnesses (the clients) who needed interpreters, and not about Mr. Maurival, who spoke English. But we need not base our decision on

that possibility. Although her testimony was not always perfectly consistent, G.D. said several times that the verdict, in her opinion, was based on the evidence. She also said that the jury had gone over the evidence for a long time before agreeing that Mr. Maurival was guilty on some of the charges. The district court was free, as the trier of fact, to find this testimony by G.D. to be probative and credible. Moreover, the jury returned not guilty verdicts on six of the charges, and the mixed result in part suggests that there was no "compelling prejudice." *United States v. LaSpesa*, 956 F.2d 1027, 1032 (11th Cir. 1992) (addressing severance claim).

Fourth, the district court found that Juror B's statement (together with Juror A's) "exhibit[ed] overt racial bias that cast serious doubt on the fairness and impartiality of the jury's deliberations and resulting verdict." *Peña-Rodriguez*, 137 S. Ct. at 869. Nobody has challenged this ruling. Thus, the district court faced the risk of racial bias, among the gravest of improper bases for a jury's decision. In our nation's criminal justice system, racial bias "implicates unique historical, constitutional, and institutional concerns." *Id.* at 868. It is "a familiar and recurring evil that, if left unaddressed, would risk systemic injury to the administration of justice." *Id.* Thus, courts should treat the possibility of racial bias in the jury room "with added precaution." *Id.* at 869. In order "to prevent a systemic loss of confidence in jury verdicts"—and in order to safeguard against the unacceptable possibility that criminal punishment be imposed on the basis of a defendant's race—

the Sixth Amendment requires that substantial allegations of racial bias in the jury room simply "must be addressed." *See id.* Once a district court has undertaken to investigate whether a racially biased juror remark may have influenced the verdict, it must do so thoroughly; it must create a record sufficient to satisfy itself that the verdict was not tainted. *Cf. United States v. Caldwell*, 776 F.2d 989, 998 (11th Cir. 1985) ("The more serious the potential jury contamination . . . the heavier the burden to investigate.").

Determination of the precise scope of the proceedings necessary to create this record, of course, is committed to the district court's sound discretion. Here, the district court acted within its discretion. Although it might have been better practice to question Juror B following G.D.'s testimony, the district court's failure to do so did not constitute an abuse of discretion. The Supreme Court has held that "the remedy for allegations of juror partiality is a hearing in which the defendant has the opportunity to prove actual bias." *Smith v. Phillips*, 455 U.S. 209, 215 (1982). The district court provided Mr. Maurival with that hearing, and allowed him (and the government) to propose questions for G.D. The only question, then, concerns the scope of the hearing.

As noted, G.D. said several times that the verdict was, in her opinion, based on the evidence. The district court, moreover, told the parties that it was going to question only G.D. initially but could conduct a more extensive inquiry if there was

evidence that the verdict was based on ethnic or racial prejudice. When the district court asked the defense at the end of G.D.'s testimony whether there was anything else, Mr. Maurival did not request that Juror B be questioned (he only considered proposing another question but decided the court had already asked it). Viewing the circumstances holistically, we do not see any reversible error.

In sum, we affirm the district court's denial of Mr. Maurival's motion for a new trial, and decline to order a further evidentiary hearing.

III

Mr. Maurival argues that the district court erred in declining to give the jury a requested theory of defense instruction on tax preparers' responsibilities for the veracity of their clients' returns. His proposed jury instruction read as follows: "In your deliberations you may consider that the Defendant in his capacity as a tax preparer was under no legal duty to investigate the veracity or accuracy of the information presented to him by the tax payer clients."

Citing *United States v. Ruiz*, 59 F.3d 1151, 1154 (11th Cir. 1995), Mr. Maurival submits that he was entitled to the instruction if it had "any foundation" in the evidence. In response, the government submits that Mr. Maurival's proposed instruction was an incomplete and misleading statement of the law.

Reviewing for abuse of discretion, *see United States v. Duperval*, 777 F.3d 1324, 1331 (11th Cir. 2015), we conclude that the district court did not err. A

defendant's proposed jury instruction must, among other things, be a correct statement of the law, *see Ruiz*, 59 F.3d at 1154, and here Mr. Maurival's proffered instruction was substantially incomplete.

Mr. Maurival based his proposed instruction on Treasury Regulation § 1.6694-1, codified at 26 C.F.R. § 1.6694-1(e). Although the language submitted by Mr. Maurival is found in § 1.6694-1(e) ("the tax return preparer generally may rely in good faith without verification upon information furnished by the taxpayer"), that language is qualified by what follows: "The tax return preparer, however, may not ignore the implications of information furnished [to him] or actually known by [him]. The tax return preparer must make reasonable inquiries if the information as furnished appears to be incorrect or incomplete." *Id.*

The government proposed that this additional language (and one other sentence from § 1.6694-1(e)) be added to Mr. Maurival's proposed instruction, but the defense objected. Under the circumstances, Mr. Maurival's instruction was an incomplete (and therefore incorrect) statement of the law as set forth in § 1.6694-1(e), and the district court did not err in refusing to give it.

IV

Mr. Maurival challenges the admission of evidence under Fed. R. Evid. 404(b) related to his preparation of the tax returns of four individuals not listed in the indictment. The district court allowed these individuals to testify that Mr. Maurival

took his fees from their tax refunds using a Form 8888, which routed the fees directly into his business and personal accounts without their knowledge.

We normally review a district court's decision to admit evidence under Rule 404(b) for abuse of discretion. *See United States v. Ford*, 784 F.3d 1386, 1392 (11th Cir. 2015). But we do not see the testimony by these individuals as Rule 404(b) evidence. As noted earlier, Mr. Maurival was charged with filing his own false tax returns, and the government's theory was that he did not report income that he had received in the years in question. This unreported income, according to the government, included the sums received from these four individuals for the preparation of their returns. So the testimony by the four individuals was relevant and material, and not extrinsic, to the charges of filing false tax returns. Indeed, Mr. Maurival conceded that the testimony was relevant as to how gross income ended up in his accounts. *See* D.E. 169 at 4. We therefore conclude that the district court correctly admitted the testimony.

V

We affirm Mr. Maurival's convictions.

AFFIRMED.

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 19-11680-HH

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

RICHARD MAURIVAL,

Defendant - Appellant.

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

BEFORE: WILLIAM PRYOR, Chief Judge, and JORDAN and MARCUS, Circuit Judges.

PER CURIAM:

The Petition for Panel Rehearing filed by Richard Maurival is DENIED.

ORD-41

APP. B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 17-14013-CR-ROSENBERG (COHN)

UNITED STATES OF AMERICA,

v.

RICHARD MAURIVAL,

Defendant.
_____/

ORDER DENYING DEFENDANT'S MOTION FOR A NEW TRIAL

THIS CAUSE is before the Court on Defendant's Motion for New Trial or in the Alternative for an Evidentiary Hearing and Interview of Members of the Jury [DE 112] ("Motion"). The Court has considered the Motion, the Government's Response [DE 137], the evidence presented at the hearing on March 19, 2019, and is otherwise advised in the premises. For the following reasons, the Court will deny the Motion.

I. Background

On November 5, 2018, Defendant Richard Maurival was convicted on ten of sixteen counts of aiding in the preparation of false tax returns and all three counts of filing false tax returns [DE 104.] During deliberations, Juror G.D. sent a handwritten note to the Court containing comments that had been made by two other jurors the previous day:

> Juror A: "I just don't like some of these people is [sic] hard to be impartial."
>
> Juror B: "Some of those witnesses don't even speak English, they shouldn't even be in this country."

After learning of these comments, the Court conferred with defense counsel and the Government on how to address the alleged juror bias. The Court ultimately gave the following curative instruction to the jury:

> Ladies and gentlemen of the jury, let me remind you that your decision must be based only on the evidence presented here. You must not be influenced in any way by either sympathy for or prejudice against the defendant, the Government or any of the witnesses in this case.

[DE 109 at 17.] Four hours later, the jury returned a verdict of guilty on thirteen of the nineteen counts in the indictment [Id. at 19-20.]

On November 19, 2018, Defendant moved for a new trial, or in the alternative an evidentiary hearing and interview with members of the jury, on the grounds that the jury's verdict was incurably infected by racial prejudice, depriving Maurival of his Sixth Amendment right to a fair and impartial jury [DE 112.]

On January 17, 2019, the Court ordered an evidentiary hearing and interview of the complaining juror, G.D. [DE 140.] The Court held that the alleged statements by Jurors A and B met the threshold under the Supreme Court's ruling in Peña-Rodriguez v. Colorado, ___ U.S. ___, 137 S. Ct. 855, 197 L. Ed. 2d 107 (2017) to overcome the no-impeachment rule in Fed. R. Evid. 606(b). The Court found that those jurors' alleged comments were "clear statements" that "tend to show that racial animus was a significant motivating factor" in those jurors' votes to convict. 137 S.Ct. at 869. Having only the handwritten note produced by Juror G.D., the Court stated that "[w]e do not know the impact of the Court's curative instruction, other than a verdict was returned four hours later. The Court concluded that "[b]ecause there is evidence of racial bias, the only way to determine whether the verdict was motivated by racial animus is through an evidentiary hearing." [DE 140 at 14.]

On March 19, 2019, the Court held an evidentiary hearing to determine whether the jury's verdict was motivated by racial and/or ethnic prejudice. The Court asked Juror G.D. to provide further context regarding the alleged comments by Jurors A and B – specifically, whether those jurors or any jurors made any other comments suggesting that they were motivated by racial or ethnic bias. The Court also inquired about the effect of the curative instruction on the jury's deliberations. After questioning Juror G.D., the Court found that the jury's verdict was based on the evidence presented at trial and not prejudice towards the Defendant. At the end of the hearing, the Court announced that Defendant's Motion for New Trial would be denied.

II. Discussion

Under Federal Rule of Criminal Procedure 33, a court may vacate a judgment and grant a defendant's motion for a new trial "if the interest of justice so requires." Fed. R. Crim. P. 33(a). In Peña-Rodriguez, the Supreme Court explicitly declined to articulate "the appropriate standard for determining when evidence of racial bias is sufficient to require that the verdict be set aside and a new trial be granted." 137 S.Ct. at 871. And circuit courts have disagreed on what standard should apply. Compare, e.g. Shillcutt v. Gagnon, 827 F.2d 1155, 1159 (7th Cir. 1987) (racial bias must have "pervaded the jury room"), with, e.g. United States v. Henley, 238 F.3d 1111, 1120 (9th Cir. 2001) ("One racist juror would be enough").

This Court's inquiry should be guided by the Eleventh Circuit's ruling in United States v. Heller, 785 F.2d 1524 (11th Cir. 1986), in which the court set aside a guilty verdict and ordered a new trial based on numerous anti-Semitic remarks by multiple jurors. The Eleventh Circuit did not explicitly articulate a standard for when racial or

religious prejudice has incurably infected a jury's verdict. But the court observed that "[t]he religious prejudice displayed by the jurors in the case presently before us is so shocking to the conscience and potentially so damaging to public confidence in the equity of our system of justice, that we must act decisively to correct any possible harmful effects on this appellant." 785 F.2d at 1527.

The recent decision in United States v. Smith, No. CR 12-183 (SRN), 2018 WL 1924454 (D. Minn. Apr. 24, 2018), is also instructive. There, the district court ordered a hearing pursuant to Peña-Rodriguez after learning of a racist remark by a member of the jury. At the hearing, a juror testified that he "changed his vote to convict based on [the defendant's] race" after hearing the other juror's racist remark. The juror further stated that he "violated his oath as a juror 'because my verdict did not come in based on the evidence.'" Id. At *5. Following the hearing, the court granted the defendant's motion for a new trial, finding that the defendant suffered "the deprivation of the right to a trial by an impartial, non-racist jury." Id. at *14.

Here, after closely questioning the complaining juror, the Court finds that Maurival was not deprived of his Sixth Amendment right to an impartial jury. The Court began its questioning by asking Juror G.D. whether she had voted to convict the defendant based on racial animus. Her response was a definitive 'no.' The Court then asked her whether the curative instruction cured any racial or ethnic prejudice. Initially, Juror G.D. stated, "I don't think it did," remarking that "some jurors were still in that thought process," and "the mindset was still there."

The Court then advised Juror G.D. that the purpose of the hearing was to determine whether race was a "significant motivating factor" in the jury's vote to convict.

She responded that she did not believe that it was. The only comments she was aware of regarding race were those made by jurors A and B which she had already brought to the Court's attention. She was not aware of any other comments by any members of the jury evidencing racial prejudice. The Court concluded its inquiry by asking Juror G.D. whether she believed any jurors based their decision to convict on anything other than the evidence. Juror G.D. replied "I don't think so."

Although Juror G.D. indicated that she was troubled by the comments made by Jurors A and B, and that some jurors appeared "a little distraught" during the deliberations, her testimony reveals that racial or ethnic prejudice was not a significant motivating factor in the jury's verdict. Juror G.D. stated that some jurors were rushed during the deliberations because they wanted to go home, and that she was uncomfortable with that because she wanted the jurors to carefully consider the evidence.[1] But, unlike the juror in Smith, Juror G.D. testified that the verdict was based solely on the evidence and not on racial bias.

In sum, although there was some evidence of racial and/or ethnic animus, Juror G.D.'s testimony clearly established that race and/or ethnicity was not a "significant motivating factor" in the jury's verdict. Accordingly, it is

ORDERED AND ADJUDGED that Defendant's Motion for a New Trial [DE 112] is **DENIED**.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida, this 20th day March, 2019.

JAMES I. COHN
United States District Judge

[1] The Court notes that the jury deliberated for more than 10 hours over the course of two days.

Copies provided to counsel of record via CM/ECF

United States District Court

Southern District of Florida

FT. LAUDERDALE DIVISION

UNITED STATES OF AMERICA

v.

RICHARD MAURIVAL,

JUDGMENT IN A CRIMINAL CASE

Case Number - 0:17-14013-CR-ROSENBERG (COHN)-1

USM Number: 17249-104

Counsel For Defendant: Rodney Bryson
Counsel For The United States: Diana Acosta and Grace Albinson
Court Reporter: Jill Felicetti

The defendant was found Guilty on Counts 3, 5, 6, 7, 8, 9, 10, 14, 15, 16, 17, 18 and 19 of the Superseding Indictment. The defendant is adjudicated guilty of the following offense(s):

TITLE/SECTION NUMBER	NATURE OF OFFENSE	OFFENSE ENDED	COUNT
26 U.S.C. § 7206(2)	Aiding and Assisting in the Preparation of False Tax Returns	1/31/2014	3
26 U.S.C. § 7206(2)	Aiding and Assisting the Preparation of False Tax Returns	2/20/2013	5
26 U.S.C. § 7206(2)	Aiding and Assisting in the Preparation of False Tax Returns	2/12/2014	6
26 U.S.C. § 7206(2)	Aiding and Assisting in the Preparation of False Tax Returns	2/21/2015	7
26 U.S.C. § 7206(2)	Aiding and Assisting in the Preparation of False Tax Returns	3/17/2013	8
26 U.S.C. § 7206(2)	Aiding and Assisting in the Preparation of False Tax Returns	2/22/2014	9
26 U.S.C. § 7206(2)	Aiding and Assisting in the Preparation of False Tax Returns	2/21/2015	10
26 U.S.C. § 7206(2)	Aiding and Assisting in the Preparation of False Tax Returns	1/22/2013	14
26 U.S.C. § 7206(2)	Aiding and Assisting in the Preparation of False Tax Returns	2/4/2014	15

APP. D

26 U.S.C. § 7206(2)	Aiding and Assisting in the Preparation of False Tax Returns	2/14/2015	16
26 U.S.C. § 7206(1)	Filing False Tax Returns	2/25/2013	17
26 U.S.C. § 7206(1)	Filing False Tax Returns	4/2/2014	18
26 U.S.C. § 7206(1)	Filing False Tax Returns	2/16/2015	19

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.

The defendant has been found Not Guilty on Counts 1, 2, 4, 11, 12 and 13 of the Superseding Indictment.

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

Date of Imposition of Sentence:
4/17/2019

JAMES I. COHN
United States District Judge

April 17, 2019

DEFENDANT: RICHARD MAURIVAL
CASE NUMBER: 0:17-14013-CR-ROSENBERG (COHN)-1

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of **36 MONTHS AS TO COUNTS 3, 5, 6, 7 and 8 TO RUN CONCURRENT WITH EACH OTHER**
12 MONTHS AS TO COUNTS 9 and 10 TO RUN CONCURRENT WITH EACH OTHER, BUT CONSECUTIVE TO COUNTS 3, 5, 6, 7 and 8
36 MONTHS AS TO COUNTS 14, 15, 16, 17, 18, and 19 TO RUN CONCURRENT WITH EACH OTHER BUT CONSECUTIVE TO COUNTS 3, 5, 6, 7, 8, 9 and 10
TOTAL SENTENCE 84 MONTHS

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 U.S. Marshal

DEFENDANT: RICHARD MAURIVAL
CASE NUMBER: 0:17-14013-CR-ROSENBERG (COHN)-1

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of **1 YEAR AS TO COUNTS 3, 5, 6, 7, 8, 9, 10, 14, 15, 16, 17, 18 and 19 TO ALL RUN CONCURRENT WITH EACH OTHER.**

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 a 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 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 (10) days prior** to any change in residence or employment;
7. the defendant shall refrain from the 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 by the probation officer;
11. the defendant shall notify the probation officer within **seventy-two (72) 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: RICHARD MAURIVAL
CASE NUMBER: 0:17-14013-CR-ROSENBERG (COHN)-1

SPECIAL CONDITIONS OF SUPERVISION

The defendant shall also comply with the following additional conditions of supervised release:

Cooperation with the IRS - The defendant shall cooperate fully with the Internal Revenue Service in determining and paying any tax liabilities. The defendant shall provide to the Internal Revenue Service all requested documents and information for purposes of any civil audits, examinations, collections, or other proceedings. It is further ordered that the defendant file accurate income tax returns and pay all taxes, interest, and penalties due and owing by him to the Internal Revenue Service.

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 written permission from the United States Probation Officer.

Permissible Computer Examination - The defendant shall submit to the U.S. Probation Officer conducting periodic unannounced examinations of the defendant's computer(s) equipment which may include retrieval and copying of all data from the computer(s) and any internal or external peripherals to ensure compliance with this condition and/or removal of such equipment for the purpose of conducting a more thorough inspection; and to have installed on the defendant's computer(s), at the defendant's expense, any hardware or software systems to monitor the defendant's computer use.

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

Related Concern Restriction - The defendant shall not own, operate, act as a consultant, be employed in, or participate in any manner, in any business offering tax service or advice during the period of supervision. Further, the defendant shall not work or volunteer in any position where he will have access to the personal identifying information of others.

Unpaid Restitution, Fines, or Special Assessments- If the defendant has any unpaid amount of restitution, fines, or special assessments, the defendant shall notify the probation officer of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay.

Restitution as Condition of Supervision (Title 26) - The defendant shall pay restitution to the Internal Revenue Service, in the amount of $267,995.00. 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. 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, Financial Section, 400 N Miami Avenue, RM#8N09, Miami, Florida 33128. The restitution will be forwarded by the Clerk of the Court to the victim.

DEFENDANT: RICHARD MAURIVAL
CASE NUMBER: 0:17-14013-CR-ROSENBERG (COHN)-1

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on the Schedule of Payments sheet.

Total Assessment	Total Fine	Total Restitution
$1300.00	$	$267,995.00

Restitution with Imprisonment -
It is further ordered that the defendant shall pay restitution to the Internal Revenue Service, in the amount of $267,995.00. 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 $25.00 per quarter toward the financial obligations imposed in this order. These payments do not preclude the government from using other assets or income of the defendant to satisfy the restitution obligations.

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

DEFENDANT: RICHARD MAURIVAL
CASE NUMBER: 0:17-14013-CR-ROSENBERG (COHN)-1

SCHEDULE OF PAYMENTS

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

A. Lump sum payment of **$1300.00** due immediately, balance due

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.

The 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 8N09
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.

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.