

PETITION
APPENDIX

APPENDIX A

United States Court of Appeals
For the Eighth Circuit

No. 20-2594

United States of America

Plaintiff - Appellee

v.

Isaiah Ramon Henderson

Defendant - Appellant

Appeal from United States District Court
for the Southern District of Iowa - Eastern

Submitted: April 15, 2021

Filed: August 27, 2021

Before LOKEN, WOLLMAN, and STRAS, Circuit Judges.

LOKEN, Circuit Judge.

A jury convicted Isaiah Henderson of being a felon in possession of a firearm in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2). The presentence investigation report (PSR) determined that Henderson's base offense level was 24 based on prior Iowa and Illinois convictions for controlled substance offenses. See USSG §

2K2.1(a)(2). The district court¹ adopted this recommendation over Henderson's objection, resulting in an advisory guidelines sentencing range of 140 to 175 months imprisonment. The court sentenced Henderson to the statutory maximum of 120 months. On appeal, Henderson argues the evidence was insufficient to convict and the court committed sentencing error because his prior state-law convictions were not "controlled substance offenses" as defined in USSG § 4B1.2(b). We affirm.

I. Sufficiency of the Evidence

At 2:30 a.m. on October 21, 2018, Detective Samantha Deney observed a fight involving three black women and a black man outside a Kwik Stop gas station in Davenport, Iowa. As Deney pulled into the parking lot, the women fled in two vehicles. The man entered the convenience store. Deney followed the vehicles and stopped one. Two hysterical women, Teonna Nimmers and Chaynel Hoskins, exited the vehicle. Nimmers screamed that a light-skinned black man with braids had a gun she described as a black semi-automatic firearm. Deney relayed that information to Officers Bret Digman and Evan Obert, who responded to the Kwik Stop. Upon arriving, Digman saw a light-skinned black man with braids exiting the store. He stopped this individual, later identified as Henderson, and patted him down, not finding a firearm. Obert went into the store where the only person inside, store clerk Katrina Kramer, told Obert she had seen Henderson walk toward the bathroom. Inside the bathroom trash can, Obert found a silver revolver with black electrical tape wrapped around the handle.

At trial, Nimmers testified she and Hoskins had arrived at the Kwik Stop that night after drinking and smoking marijuana. Hoskins saw an adversary, Laryn

¹ The Honorable John A. Jarvey, Chief Judge of the United States District Court for the Southern District of Iowa.

Williams, in another vehicle with Henderson. Hoskins left Nimmers' vehicle, approached Williams, and began hitting her. Nimmers joined the fighting women, encouraging Hoskins to beat up Williams. Henderson got out of the other vehicle and approached the fight. Nimmers testified Henderson raised his shirt and flashed a black firearm in his waistband at her. Nimmers yelled at Hoskins to leave, and the two women got into Nimmers's vehicle and left. Nimmers' trial testimony differed somewhat from her statements to police and her grand jury testimony. Hoskins, Williams, and Detective Deney testified they did not see a firearm.

After the jury found Henderson guilty of firearm possession, the district court denied his motion for judgment of acquittal or a new trial:

Taking the evidence in the light most favorable to the Government, the Court holds there was sufficient evidence to support the Defendant's conviction, including knowing possession of a firearm. The Government presented an eye witness, Teaonna Nimmers, who identified the defendant as the person possessing a firearm on the night in question. The other evidence presented, including video of the defendant's movements inside and outside the convenience store, and testimony from law enforcement officers as well as store personnel, is consistent and supports the conclusion that the defendant knowingly possessed the firearm prior to placing it in the trash bin. As such, the interest of justice does not require Defendant be granted a new trial.

On appeal, Henderson argues the evidence was insufficient to prove he knowingly possessed a firearm. Applying a strict standard of review, we will affirm if, after viewing the evidence in the light most favorable to the verdict, a reasonable jury could have found the defendant guilty beyond a reasonable doubt. United States v. Brooks-Davis, 984 F.3d 695, 697 (8th Cir. 2021).

The crux of Henderson's argument is that Nimmers and Hoskins were unreliable witnesses who each had a motive to direct the attention of law enforcement

away from themselves after driving under the influence of alcohol and marijuana and assaulting Williams. Henderson argues that Nimmers was not credible because her trial testimony differed from her prior statements to law enforcement and her grand jury testimony. Despite thorough cross-examination that probed these motives and inconsistencies, the jury convicted Henderson. “It is the function of the jury, not an appellate court, to resolve conflicts in testimony or judge the credibility of witnesses.” The jury’s credibility findings “are virtually unreviewable on appeal.” United States v. Hernandez, 569 F.3d 893, 897 (8th Cir. 2009) (citations omitted), cert. denied, 559 U.S. 915 (2010).

Henderson further argues the evidence was insufficient to prove he possessed the firearm recovered from the bathroom because no fingerprints were found on the gun, and store clerk Kramer testified she saw Henderson walk toward the bathroom but did not see him enter it. However, no one else was in the store at 2:30 a.m., Obert found the firearm almost immediately after Henderson left, Nimmers testified the gun she saw was black, and the revolver in the bathroom had black electrical tape around its handle. “The absence of corroborating physical evidence,” such as fingerprints on the firearm, “is not a sufficient basis for us to conclude the jury acted unreasonably.” United States v. Mack, 343 F.3d 929, 934 (8th Cir. 2003), cert. denied, 540 U.S. 1226 (2004); cf. United States v. Cox, 627 F.3d 1083, 1085-86 (8th Cir. 2010).

For these reasons, the court did not err in denying Henderson’s motion for acquittal or a new trial based on insufficiency of the evidence.

II. The Sentencing Issue

The district court increased Henderson’s base offense because he committed this offense “subsequent to sustaining at least two felony convictions of . . . a

controlled substance offense.” USSG § 2K2.1(a)(2). “‘Controlled substance offense has the meaning given that term in § 4B1.2(b)’ and in Application Note 1 to the § 4B1.2 Commentary. USSG § 2K2.1, comment. (n.1). Henderson has two prior state court felony convictions, a 2014 Iowa conviction for Delivery of a Schedule II Controlled Substance in violation of Iowa Code § 124.401(1)(c), and a 2015 Illinois conviction for Unlawful Delivery of a Controlled Substance in violation of 720 ILCS 570/401. On appeal, Henderson argues that neither conviction meets the definition of controlled substance offense in USSG § 4B1.2(b). We review *de novo* whether a prior conviction is a sentencing enhancement predicate. United States v. Boleyn, 929 F.3d 932, 936 (8th Cir. 2019), cert. denied, 140 S. Ct. 1138 (2020). “In determining whether a prior . . . conviction qualifies as a predicate offense . . . we apply a categorical approach that looks to the statutory definition of the prior offense[.]” Id. “[W]hen a federal enhancement provision incorporates state offenses by language other than a reference to generic crimes . . . the inquiry is focused on applying the ordinary meaning of the words used in the federal law to the statutory definition of the prior state offense.” Id.

A. Henderson first argues that neither the Iowa nor the Illinois conviction qualifies because the state statutes include inchoate controlled substance offenses. Application Note 1 to USSG § 4B1.2 expressly provides that “‘controlled substance offense’ include[s] the offenses of aiding and abetting, conspiring, and attempting to commit such offenses.” As Henderson acknowledges, his argument that this commentary impermissibly expands the § 4B1.2(b) definition of a controlled substance offense is foreclosed by Eighth Circuit precedent holding that inchoate offenses are § 4B1.2(b) controlled substance offenses. See United States v. Merritt, 934 F.3d 809, 811 (8th Cir. 2019), cert. denied, 140 S. Ct. 981 (2020), citing United States v. Mendoza-Figueroa, 65 F.3d 691 (8th Cir. 1995) (en banc), cert denied, 516 U.S. 1125 (1996). As a panel, we may not overrule these decisions.

B. Henderson further argues that his prior Illinois conviction is not a § 4B1.2(b) controlled substance offense because the Illinois statute’s definition of “controlled substance” is overbroad. The Illinois statute, 720 ILCS 570/401, defines controlled substances to include substances not found in Controlled Substances Act schedules that list controlled substances that are included in the federal *statutory* enhancement for committing a “serious felony offense.” See 18 U.S.C. § 924(e)(2)(A); 21 U.S.C. §§ 802(6) and (57), 841(b)(1)(A). At first blush, this is a strong argument. We recently agreed with the Seventh Circuit that 720 ILCS 570/401 is “categorically broader than the federal definition” because under Illinois law, cocaine substances include “optical, positional, and geometric isomers,” while the federal schedules include only “optical and geometric isomers.” United States v. Oliver, 987 F.3d 794, 807 (8th Cir. 2021), citing United States v. Ruth, 966 F.3d 642, 645-47 (7th Cir. 2020), cert. denied, 141 S. Ct. (2021). Henderson argues the federal schedules govern this issue under the so-called “Jerome presumption” that courts “generally assume, in the absence of a plain indication to the contrary, that Congress when it enacts a statute is not making the application of the federal act dependent on state law.” Jerome v. United States, 318 U.S. 101, 104 (1943),

We conclude the contention founders upon closer examination. An enhancement under USSG § 2K2.1(a)(2) is not a statutory enhancement, like the 25-year mandatory minimum sentence at issue in Oliver. It is a sentencing guidelines enhancement, adopted by the Sentencing Commission to carry out its statutory mandate to “assure that the guidelines specify a sentence to a substantial term of imprisonment for categories of defendants [that have] a history of *two or more prior Federal, State, or local felony convictions* for offenses committed on different occasions.” 28 U.S.C. § 994(i)(1) (emphasis added).

The Commission included in Part 4B of the Guidelines career offender provisions that substantially increase the now-advisory guidelines sentencing range for a defendant that “has at least two prior felony convictions of either a crime of

violence or a controlled substance offense.” USSG § 4B1.1(a). Consistent with 28 U.S.C. § 994(i)(1), the term “controlled substance offense” is defined in § 4B1.2(b) as “an offense under federal or state law” The Guidelines provide no separate definition of “controlled substance.” Henderson urges us to limit the extent to which Illinois controlled substance offense convictions under 720 ILCS 570/401 are included in § 4B1.2(b) by replacing the Illinois statutory definition of “controlled substance” with the Controlled Substance Act’s definition and schedules.

In United States v. Sanchez-Garcia, 642 F.3d 658, 661-62 (8th Cir. 2011), the defendant used the Controlled Substances Act definition of controlled substance in arguing that a California controlled substances statute was overbroad. We did not hold that a state law crime must involve one of those substances to be a “controlled substance offense” under the career offender Guidelines. We simply affirmed the Guidelines enhancement at issue without addressing that question.

Other circuits have addressed the issue and reached conflicting conclusions. In our view, the answer to this question must begin with textual analysis. Section 4B1.2(b) defines a “controlled substance *offense*” that qualifies for various repeat-offender enhancements as “an offense under federal *or state law*.” In Ruth, the Seventh Circuit concluded that 720 ILCS 570/401 is “categorically broader than the federal definition” in the Controlled Substances Act and therefore “is not a predicate ‘felony drug offense’ under [Ruth’s] applicable federal penalty statute, 21 U.S.C. § 841(b)(1)(C).” 966 F.3d at 647, 650. The Court then took up this guidelines career offender issue and concluded that “Ruth’s 2006 cocaine conviction under [720 ILCS 570/401] is a controlled substance offense according to the career-offender guideline.” 966 F.3d at 654. The “definition of controlled substance offense does not incorporate, cross-reference, or in any way refer to the Controlled Substances Act.” Id. at 651. Thus, “the career offender enhancement does not limit its definition of controlled substance offense to specific federal violations.” Id. at 654 (cleaned up); see United States v. Sheffey, 818 F. App’x 513, 520 (6th Cir. 2020) (“There is no

requirement [in USSG § 4B1.2(b)] that the particular controlled substance underlying a state conviction also be controlled by the federal government.”) (quotation omitted). The Fourth Circuit recently set out the textual analysis more thoroughly:

[O]nly an offense under federal or state law may trigger the [§ 4B1.2(b)] enhancement. An “offense” is, of course, a breach of the law. . . . So to satisfy the ordinary meaning of “offense,” there must be a violation or crime subject to either federal or state law. . . . [T]he ordinary meaning of . . . “controlled substance,” is *any type of drug* whose manufacture, possession, and use is *regulated by law*. Here, the state law . . . satisfies this second criterion of § 4B1.2(b). . . . The state has not restricted itself to regulating only those substances listed on the federal drug schedules. Instead, the offense identifies those substances that are “regulated” under Virginia law, which has its own drug schedules. So a conviction under [the Virginia statute] categorically satisfies the second criterion of § 4B1.2(b) [and therefore] is a “controlled substance offense” under § 4B1.2(b).

United States v. Ward, 972 F.3d 364, 370-71 (4th Cir. 2020) (cleaned up; emphasis in original), cert. denied, 2021 WL 2637911 (Jun. 28, 2021).

We agree with these decisions. “The career-offender guideline defines the term controlled substance offense broadly, and the definition is most plainly read to ‘include state-law offenses related to controlled or counterfeit substances punished by imprisonment for a term exceeding one year.’” Ruth, 966 F.3d at 654 (citation omitted). There is no requirement that the particular substance underlying the state offense is also controlled under a distinct federal law. There is no cross-reference to the Controlled Substance Act in § 4B1.2(b), like the cross-references to 26 U.S.C. § 5845(a) and 18 U.S.C. § 841(c) in the definition of the term “crime of violence” in § 4B1.2(a)(2). Therefore, there is no textual basis to graft a federal law limitation onto a career-offender guideline that specifically includes in its definition of controlled substance offense, “an offense under . . . state law.” Grafting the limitation

urged by Henderson would defeat the Sentencing Commission's obvious intent, consistent with its statutory mandate under 28 U.S.C. § 994(i)(1), to include prior convictions for controlled substance offenses "under . . . state law."

Some circuits have interpreted § 4B1.2(b) as limiting prior state convictions for a "controlled substance offense" to convictions based on a "controlled substance" under the Controlled Substances Act. These decisions focus on the need for national uniformity in federal Guidelines sentencing reinforced by a "Jerome presumption" that "the application of a federal law does not depend on state law unless Congress plainly indicates otherwise." United States v. Townsend, 897 F.3d 66, 71 (2d Cir. 2018); see Ruth, 966 F.3d at 653 (collecting cases).

We disagree with this reasoning. First, the Supreme Court has rarely cited Jerome and never to our knowledge in a Guidelines case. See Gamble v. United States, 139 S. Ct. 1960, 1967 (2019) (citing Jerome as background in declining to overrule the dual-sovereign double jeopardy rule). Jerome considered whether state law should be incorporated into an *element* of the federal statutory bank robbery offense. Second, Jerome only stated there is an "assumption . . . based on the fact that the application of federal legislation is nationwide." 318 U.S. at 104. Supreme Court precedents make clear that this type of assumption only applies in the absence of contrary congressional intent. "There are, of course, instances in which the application of certain federal [law] may depend on state law. . . . But this is controlled by the will of Congress." N.L.R.B. v. Natural Gas Util. Dist., 402 U.S. 600, 603 (1971) (quotation omitted). Third, and most important, the intent of Congress to depart from pure nationwide sentencing uniformity is clearly evidenced in 28 U.S.C. § 994(i)(1), which directs the Sentencing Commission to fashion guidelines that enhance the federal sentence of a defendant who has "a history of two or more prior . . . State . . . felony convictions." This statute requires that the term "controlled substance offense . . . under . . . state law" in USSG § 4B1.2(b) be construed

consistent with its plain meaning, not the interpretation urged by Henderson, even if this arguably weakens “national uniformity.”

At sentencing, Henderson disputed the PSR enhancement recommendations, but he did not contest the fact of his Iowa and Illinois controlled substance offense convictions. Because the enhancement is proper based on the fact of a prior controlled substance offense conviction under state law, the district court did not err in imposing the § 2K2.1(a)(2) enhancement.

The judgment of the district court is affirmed.

APPENDIX B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA

v.

Isaiah Ramon Henderson,
a.k.a. Isaiah Roman Henderson

JUDGMENT IN A CRIMINAL CASE

Case Number: 3:19-CR-00094-001

USM Number: 19318-030

Diane Z. Helphrey
Defendant's Attorney

THE DEFENDANT:

☐ pleaded guilty to count(s)☐ pleaded nolo contendere to count(s)
which was accepted by the court.☒ was found guilty on count(s) One of the Indictment filed on October 9, 2019
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), 924(a)(2)	Felon in Possession of Firearm	10/21/2018	One

☐ See additional count(s) on page 2

The defendant is sentenced as provided in pages 2 through 7 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.

July 20, 2020

Date of Imposition of Judgment

Signature of Judge

John A. Jarvey, Chief U.S. District Judge

Name of Judge

Title of Judge

July 21, 2020

Date

DEFENDANT: Isaiah Ramon Henderson, a.k.a. Isaiah Roman Henderso
CASE NUMBER: 3:19-CR-00094-001

IMPRISONMENT

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

120 months as to Count One of the Indictment filed on October 9, 2019.

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

The Court recommends placement at FCI Pekin, Illinois, or FCI Greenville, Illinois, if commensurate with his security and classification needs. The Court also recommends that the defendant be made eligible for mental health treatment and substance abuse treatment.

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

☐ The defendant is remanded to the custody of the United States Marshal for surrender to the ICE detainer.

☐ 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 _____ 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 _____

a _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Isaiah Ramon Henderson, a.k.a. Isaiah Roman Henderso

CASE NUMBER: 3:19-CR-00094-001

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of :

Three years as to Count One of the Indictment filed on October 9, 2019.

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: Isaiah Ramon Henderson, a.k.a. Isaiah Roman Henderso
CASE NUMBER: 3:19-CR-00094-001

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.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature _____

Date _____

DEFENDANT: Isaiah Ramon Henderson, a.k.a. Isaiah Roman Henderso
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SPECIAL CONDITIONS OF SUPERVISION

You must participate in a program of testing and/or treatment for substance abuse, as directed by the Probation Officer, until such time as the defendant is released from the program by the Probation Office. At the direction of the probation office, you must receive a substance abuse evaluation and participate in inpatient and/or outpatient treatment, as recommended. Participation may also include compliance with a medication regimen. You will contribute to the costs of services rendered (co-payment) based on ability to pay or availability of third party payment. You must not use alcohol and/or other intoxicants during the course of supervision.

You must submit to a mental health evaluation. If treatment is recommended, you must participate in an approved treatment program and abide by all supplemental conditions of treatment. Participation may include inpatient/outpatient treatment and/or compliance with a medication regimen. You will contribute to the costs of services rendered (co-payment) based on ability to pay or availability of third party payment.

You will submit to a search of your person, property, residence, adjacent structures, office, vehicle, papers, computers (as defined in 18 U.S.C. § 1030(e)(1)), and other electronic communications or data storage devices or media, conducted by a U.S. Probation Officer. Failure to submit to a search may be grounds for revocation. You must warn any other residents or occupants that the premises and/or vehicle may be subject to searches pursuant to this condition. An officer may conduct a search pursuant to this condition only when reasonable suspicion exists that you have violated a condition of your release and/or that the area(s) or item(s) to be searched contain evidence of this violation or contain contraband. Any search must be conducted at a reasonable time and in a reasonable manner. This condition may be invoked with or without the assistance of law enforcement, including the U.S. Marshals Service.

DEFENDANT: Isaiah Ramon Henderson, a.k.a. Isaiah Roman Henderso
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CRIMINAL MONETARY PENALTIES

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

- ☐ Pursuant to 18 U.S.C. § 3573, upon the motion of the government, the Court hereby remits the defendant's Special Penalty Assessment; the fee is waived and no payment is required.

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
TOTALS	\$ 100.00	\$0.00	\$ 0.00	\$ 0.00	\$ 0.00

- ☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.
- ☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss***</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
TOTALS	\$0.00	\$0.00	

- ☐ 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 Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- ☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:
- ☐ the interest requirement is waived for the ☐ fine ☐ restitution.
- ☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

*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: Isaiah Ramon Henderson, a.k.a. Isaiah Roman Henderso
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SCHEDULE OF PAYMENTS

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

- A ☒ Lump sum payment of \$ 100.00 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 _____ (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:
- All criminal monetary payments are to be made to the Clerk's Office, U.S. District Court, P.O. Box 9344, Des Moines, IA. 50306-9344.
- While on supervised release, you shall cooperate with the Probation Officer in developing a monthly payment plan consistent with a schedule of allowable expenses provided by the Probation Office.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of 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

Case Number Defendant and Co-Defendant Names (including defendant number)	Total Amount	Joint and Several Amount	Corresponding Payee, if appropriate
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- ☐ 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:

Charter Arms .357 revolver (SN: 13-12088) and ammunition, as ordered in the Preliminary Order of Forfeiture, filed on April 7, 2020.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVT A assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

APPENDIX C

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

No: 20-2594

United States of America

Appellee

v.

Isaiah Ramon Henderson, also known as Isaiah Roman Henderson

Appellant

Appeal from U.S. District Court for the Southern District of Iowa - Eastern
(3:19-cr-00094-JAJ-1)

ORDER

The petition for rehearing en banc is denied. The petition for rehearing by the panel is also denied.

October 15, 2021

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans