

11 TRANSCRIPT OF SENTENCING HEARING VIA ZOOM
12 HONORABLE JUDGE JAMES P. JONES PRESIDING
13 WEDNESDAY, MAY 20, 2020

APPEARANCES

19 | On behalf of the United States:

Lena Busscher

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22 On behalf of the Defendant:

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Appendix E

25 Proceedings taken by Certified Court Reporter and transcribed
using Computer-Aided Transcription

1 (Proceedings commenced at 1:05 p.m.)

2 THE COURT: All right. Ladies and gentlemen, can
3 you hear me?

4 I believe we have everybody present. Do we not,
5 Miss Lunsford?

6 THE CLERK: We do, Your Honor.

7 THE COURT: All right. We have Ms. Busscher for the
8 government.

9 And, Mr. Hagan, glad to see you, sir. We have you
10 for your client, Mr. Skaggs.

11 And we have the probation officer,
12 Miss Sumer-Taylor. And we also, I see, have an agent also
13 present, Mr. Temm.

14 Can everybody hear me all right and see me all
15 right?

16 MR. HAGAN: Yes, Judge.

17 MS. BUSSCHER: Yes.

18 THE COURT: Very good.

19 Well, we're -- we're ready to proceed. This is the
20 sentencing of the defendant, Mr. Travis Ryan Skaggs.

21 Mr. Skaggs, can you hear me all right?

22 THE DEFENDANT: Yes, sir, Your Honor.

23 THE COURT: All right. If at any time you're having
24 a problem hearing or seeing anything, if you'll raise your
25 hand, let us know. There is in the record a written consent

1 to proceed by video and audio by you, but I want to just make
2 sure that's correct. As I understand, you do consent
3 voluntarily to proceeding to this sentencing by video and
4 audio; is that correct?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: And you understand that you do have the
7 right, if you desire, to appear in person at a sentencing.
8 Unfortunately, we could not do it at this time because of the
9 pending coronavirus disease, but we would do that, if you
10 desired, at a later time. But, as I understand, you wish to
11 proceed today; is that correct?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: All right. Thank you.

14 And, Ms. Busscher, is the government ready to
15 proceed today?

16 MS. BUSSCHER: Yes, Your Honor, we are. If it's all
17 right, I think we'd also like to get on the record that the
18 defendant agrees hearing -- that further delaying the hearing
19 would result in serious harm.

20 THE COURT: Well, what I'm going to do,
21 Ms. Busscher, is make findings in that regard. And then I'll
22 ask the parties, including the defendant himself, whether he
23 has any objection to my specific findings in that regard.

24 MS. BUSSCHER: Yes, Your Honor. That works.

25 THE COURT: All right. And, Mr. Hagan, are you

1 ready to proceed on behalf of your client?

2 MR. HAGAN: Yes, Your Honor.

3 THE COURT: All right. Well, I hereby make the
4 following findings as required by the CARES Act. I find that
5 the Judicial Conference of the United States has found that
6 emergency conditions due to the national emergency declared by
7 the President with respect to the coronavirus disease will
8 materially affect the functioning of the federal courts
9 generally.

10 In addition, I find that the Chief Judge of this
11 district specifically found in Standing Order 2020-07, which
12 was entered March 30, 2020, that felony sentencing under
13 Rule 32 of the Federal Rules of Criminal Procedure cannot be
14 conducted in person without seriously jeopardizing public
15 health and safety.

16 In the particular case before me today, I further
17 find that the sentencing cannot be further delayed without
18 serious harm to the interest of justice. And I make this
19 finding for the following specific reasons: Further delay may
20 cause the loss of relevant evidence helpful to either the
21 prosecution or the defendant, it may delay the defendant's
22 transfer to a Bureau of Prisons facility with expanded and
23 more stable opportunities for rehabilitation programs, it will
24 also prolong the uncertainty and anxiety by the defendant and
25 his family members concerning the outcome of the case, and, in

1 addition, it may damage the public reputation of the criminal
2 justice system absent the speedy resolution of this case.

3 Do either the government or the defendant object to
4 these findings or their sufficiency?

5 Ms. Busscher?

6 MS. BUSSCHER: No, not from the government.

7 THE COURT: And, Mr. Hagan?

8 MR. HAGAN: No objection, Your Honor.

9 And we have agreed that Mr. Skaggs has a very
10 important interest in proceeding on to the Bureau of Prisons.
11 This sentencing was originally set in October, and he's ready
12 to start on with the rest of his life.

13 THE COURT: All right. And, Mr. Skaggs, I assume
14 that that's correct, that you feel that it would be important
15 for you to move on to Bureau of Prisons without further delay
16 of this sentencing; is that correct?

17 MR. SKAGGS: Yes, Your Honor.

18 THE COURT: All right. Thank you.

19 Because we're conducting this matter by video
20 teleconference, I remind any persons who may have access that
21 photography, recording, or rebroadcasting of this proceeding
22 is prohibited and any violation of these prohibitions may
23 result in sanctions by the Court.

24 Now, there is, of course, a preliminary matter that
25 I wanted to take up first. It is an objection. And, in

1 addition, counsel for the defendant has filed a specific
2 objection to the sentencing enhancement information which has
3 been briefed by the parties. And it, obviously, is an
4 important matter.

5 I need to proceed with some formalities, first, and
6 then I'll hear any further argument on this question that
7 counsel wishes to present, although, of course, I have read
8 the briefs that have been filed. But let me first direct this
9 to Mr. Skaggs and his counsel.

10 Mr. Skaggs, the government has filed a sentencing
11 enhancement information in your case and it sets forth in this
12 information an allegation that you had been previously
13 convicted in Wise County, Virginia, Circuit Court on July 27,
14 2015, for the felony crime of sale, distribution, Schedule
15 III, in violation of Virginia Code Section 18.2-248, a crime
16 occurring on or about November 21, 2014.

17 And the United States Attorney notifies in this
18 information that because of this you will face a mandatory
19 sentence of 15 years' imprisonment, a maximum fine of
20 \$20 million, in accord with Title 21, United States Code,
21 Section 841(b)(1)(A) and 851.

22 Now, of course, I understand that on behalf of the
23 defendant it is denied that he has been convicted of a serious
24 drug felony offense because he has denied that he served a
25 sentence of more than 12 months for that particular

1 conviction. And, again, I will rule on that after I've had --
2 the attorneys have had an opportunity to say anything further
3 about that. But, under the law, Mr. Skaggs, I have to advise
4 you that any objection to a prior conviction must be made
5 before sentencing and, if not, it may not thereafter be raised
6 to attack the sentencing. And I'm going to inquire, first, of
7 your counsel.

8 As I understand, Mr. Hagan, your client does not
9 contest that he was, in fact, convicted of that crime that
10 I've described, it's the question of whether it is a serious
11 drug felony. That is the question; is that correct?

12 MR. HAGAN: That's correct, Your Honor. We verify
13 the conviction. We contest that it qualifies as a serious
14 drug felony.

15 THE COURT: All right. And, Mr. Skaggs, is that
16 your position? Do you understand that?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: All right. Well, again, I have read the
19 briefs. But, Mr. Hagan, is there anything further you would
20 like to say in support of your argument?

21 MR. HAGAN: Your Honor, I would just underscore that
22 as far as I've determined this is an issue of first impression
23 for the Court and it comes down to basic statutory
24 interpretation. The key words are "for which" and the second
25 phrase is "served a term of imprisonment of more than

1 12 months." Obviously, the drafters of the First Step Act did
2 not have any procedure in mind in our custom of imposing
3 concurrent sentences, but I think that grammatically the plain
4 words of the statute require that the qualifying felony must
5 have resulted in a specific term of imprisonment for that
6 specific crime of more than 12 months and that a concurrent
7 sentence under Virginia law simply does not qualify under the
8 statute.

9 THE COURT: All right. Ms. Busscher, anything that
10 you'd like to say?

11 MS. BUSSCHER: Your Honor, I think our position is
12 set forth in our brief. Mr. Skaggs served a term of 2 years
13 and 2 months for the relevant drug felony. That's obviously
14 greater than 12 months. And the fact that it was imposed
15 concurrently with sentences for other convictions, it doesn't
16 matter. It doesn't mean that he served a single term of
17 imprisonment to be divided amongst the convictions, it means
18 he served greater than 12 months for that relevant drug felony
19 conviction. And that's why we believe it qualifies as a
20 serious drug felony.

21 THE COURT: All right. Thank you.

22 Mr. Hagan, anything further?

23 MR. HAGAN: No, Your Honor.

24 THE COURT: All right. Well, I have given the
25 matter considerable thought and carefully read the briefs.

1 And I'm going to overrule the objection and sustain the
2 government's position. I believe that, of course, it is a
3 matter of the proper construction of the federal statute. And
4 I've reviewed the judgment order which was entered in
5 Mr. Skaggs' case in the Circuit Court of Wise County in the
6 city of Norton. And I believe for the reasons stated by the
7 government in its brief that Mr. Skaggs does, in fact, qualify
8 under the statute of having been convicted of a sentence of a
9 sufficient length and type that is required to impose the
10 enhanced punishment. And, accordingly, I believe the
11 defendant's objection should be and is hereby overruled.

12 Mr. Hagan, are there any other objections,
13 unresolved objections, that you have to the presentence
14 investigation report?

15 MR. HAGAN: No, Your Honor.

16 THE COURT: All right. Ms. Busscher, does the
17 government have any other objections to the presentence report
18 or its calculation of the advisory sentencing guidelines?

19 MS. BUSSCHER: No, Your Honor.

20 THE COURT: Very well. I find, then, that the
21 defendant has a total offense level of 29 and a criminal
22 history category of six. I find that as to Count 1 there is a
23 mandatory minimum sentence of 15 years' imprisonment -- excuse
24 me. Yes, of 15 years' imprisonment. And as to Count 37, a
25 maximum term of imprisonment of 30 years.

1 I find that his advisory guideline range is
2 180 months, which is the mandatory minimum, to 188 months;
3 that he has a period of supervised release under the
4 guidelines, as required by the statute, of a minimum of ten
5 years; and as to Count 37, a guideline of six years, and those
6 would run concurrently; a fine range of \$30,000 to \$20
7 million; and a special assessment of \$200.

8 The defendant has also filed two other motions which
9 I'd like to take up before I hear further about the
10 appropriate sentence. One is a motion for a downward
11 variance, but I believe that that is mooted by my
12 determination that he does have a mandatory minimum sentence
13 of 180 months.

14 Would you agree, Mr. Hagan?

15 MR. HAGAN: Yes, Your Honor, I agree. And in
16 prudence, I'd like to state, please note our objection to the
17 Court's ruling on the 851 enhancement factors.

18 THE COURT: Yes, sir, I understand.

19 Now, in addition, there is a motion -- so motion
20 which is Docket No. 947 will be -- I'll ask the clerk to mark
21 that as moot.

22 And there is another motion for the federal
23 sentences to run concurrently with state sentences. And,
24 Mr. Hagan, I just want to make sure I understand what
25 sentences we're talking about. I believe that several of

1 these are revocation sentences. And I'll refer to the
2 paragraph's number -- paragraph numbers in the presentence
3 investigation report.

4 Paragraph 355, Mr. Skaggs was convicted of
5 shoplifting. And on November 9, 2018, his probation was
6 revoked and he was given two years' custody followed by one
7 year in community corrections or halfway house.

8 In paragraph 356, he was convicted of a drug offense
9 and on that same day, November 9, 2018, his probation was
10 revoked and he was given the same sentence.

11 And then in paragraph 357, he had been convicted of
12 several crimes breaking and entering and some other property
13 crimes, and he -- his probation, again, was revoked on that
14 same day, November 9, 2018, and he was given the same
15 sentence. All of these probation revocation sentences were to
16 run concurrently.

17 And then in paragraph 358, he received on that same
18 day a sentence, a new sentence of two years' custody to be
19 followed by three years of probation. And, as I understand,
20 is that -- is what I've said correct, Mr. Hagan, as far as you
21 know?

22 MR. HAGAN: Yes, Your Honor.

23 THE COURT: And, as I understand, the probation
24 officer advises that on November 12, 2019, his state
25 sentences, his concurrent state sentences did expire, and he

1 was then in primary federal custody after that date; is that
2 correct, Mr. Hagan?

3 MR. HAGAN: Yes, Your Honor. It's my understanding,
4 subject to Miss Taylor's correction, that the state sentences
5 that expired were for the 2017, yeah, the 358, that was the
6 primary sentence in the offense in paragraph 358. Our motion
7 goes to pending or future revocations that are brought in
8 state courts on the basis of conduct that arose within the
9 scope of this conspiracy.

10 THE COURT: Yes, I understand. You also go on to --
11 I guess what you're saying is there may be a revocation
12 proceeding in the paragraph 358 sentence.

13 MR. HAGAN: Yes, Your Honor.

14 THE COURT: And, in addition, you also point to
15 three other pending charges, which are paragraphs 363, 364,
16 and 365, which I don't know whether they are -- one of them
17 are revocation proceedings, but they may be relevant conduct
18 here.

19 In any event, I do understand what you're saying,
20 that to all of the other, the fully discharged, fully served
21 sentences, your client may be facing revocations of probation
22 because of the conviction in this case, and you desire those
23 sentences to run concurrently with the federal sentence.

24 MR. HAGAN: Yes, Your Honor.

25 THE COURT: Here's --

1 MR. HAGAN: Your Honor --

2 THE COURT: Go ahead, I'm sorry.

3 MR. HAGAN: I just realized I made a very bad
4 drafting error in my motion. In the motion, paragraphs 5 and
5 6, with reference to the charges that are pending in Scott
6 County noted in PSR paragraph 364 and 365. Your Honor, I've
7 carried over my syntax from the prior items. But those are
8 open charges with pending convictions. So the matters in
9 paragraphs 364 and 365, that motion goes to primary sentences
10 to be hereafter imposed in the Virginia courts.

11 THE COURT: Well, yes, and I understand that. And
12 it's also -- paragraph 363 is not a -- according to the
13 presentence report, it is a charge for possessing a Schedule I
14 or Schedule II controlled substance.

15 MR. HAGAN: Yes, Your Honor. I committed the same
16 error there.

17 THE COURT: Yeah. Well, I actually understood that.
18 And I appreciate you correcting that on the record, but I did
19 understand that those would be -- those three would be not
20 probation violations.

21 Here is the difficulty, I guess, Mr. Hagan, for
22 future sentences. Mr. Skaggs is now in federal custody. So
23 upon sentencing he will enter a federal institution and begin
24 service of his sentence. And I don't know how I would run any
25 future sentence that he might receive for probation violation

1 or otherwise for concurrently. I mean, I can't tell the state
2 judge that they should run their sentences concurrently with
3 the federal sentence. I mean, he will begin the federal
4 sentence and serve it. And, so, I don't know what power I
5 would have to -- over whether the state sentences would run
6 concurrently or not. I mean, even if he was obtained by a
7 writ from the federal primary custody, came back and was
8 sentenced, he would be returned -- he would have to be
9 returned to the federal court to continue his federal
10 sentence. And it seems to me that it's up to the state courts
11 in those cases to decide whether they wish to run those cases
12 concurrently.

13 In addition, as to any credit for the time already
14 served, you didn't really ask for that in the motion
15 specifically, but I don't believe that I could do that either
16 because those are fully discharged sentences. And the Fourth
17 Circuit has held that under Section 5G1.3 of the sentencing
18 guidelines that a fully discharged sentencing is not
19 properly -- I can't give him credit for that time, even if it
20 was relevant conduct. And some -- at least one of them may
21 be. And the probation violations were, at least in part, for
22 his drug activity. But I cannot, under my view of it, run --
23 give him any credit against his federal sentence for time that
24 he's already served.

25 So, but anything you want to say to me in that.

1 regard?

2 MR. HAGAN: Your Honor, I agree with your analysis,
3 and I agree that the served time cannot be credited against
4 the federal sentence. It's a catch-all motion. And our
5 primary interest in this motion is as to the pending charges
6 that I've had with success in other cases where a federal
7 sentencing order says concurrent time. That's been very
8 persuasive to state prosecutors to fold up those cases and
9 just put them in the drawer rather than hold them open as a
10 detainer against Mr. Skaggs. Because if he has open charges
11 that are lodged as detainees, it greatly complicates his
12 release from the Bureau of Prisons.

13 THE COURT: Well, I would agree with that.

14 Let me hear from Ms. Busscher. I guess what
15 Mr. Hagan is saying is I probably don't have any power to make
16 the state sentences run concurrently. But if I state it in
17 the judgment that they're to run concurrently, the state
18 prosecutors might decide not to fool with them, which I
19 suspect they will do anyway because of the time that
20 Mr. Skaggs is facing.

21 Mr. Skaggs really wants to say something.

22 Mr. Skaggs, did you have anything that you wanted to say?

23 THE DEFENDANT: Yes, Your Honor. I don't know if it
24 makes any difference or not, but the charges that I have
25 pending in Scott County is actually Count 37 in my indictment.

1 If you look at the dates, they're all the same.

2 THE COURT: No, I agree. I agree with you that
3 they're really, all three of them, are part and parcel of your
4 conduct in this case. That's not the question really. If you
5 were in state custody, primary state custody now, and you were
6 going to go serve a state sentence -- or you were going to go
7 back to be sentenced in state court, we didn't know what the
8 sentence would be, but you were going to go back, I would run
9 the federal sentence concurrent with the state sentence. But
10 you're in primary federal custody now and the only question is
11 whether if I put that in the judgment concurrent that it might
12 persuade the state prosecutors to dismiss those charges
13 because they figure -- it would give them more incentive to do
14 that.

15 Ms. Busscher, do you have any objection to that?

16 MS. BUSSCHER: Yes, Your Honor. The government
17 objects -- needs to object to that. It's our position that
18 the sentence should be imposed by you, the federal sentence,
19 and allow the Wise County Circuit Court to, in its discretion,
20 determine if any time is imposed later for those pending
21 charges, whether they should run concurrently or not, if they
22 even intend to go forward with them.

23 THE COURT: Well, I agree. I mean, I agree with you
24 entirely that that's the legal situation. What Mr. Hagan is
25 saying is that he hopes if I said something like "concurrent"

1 that that would -- I'll be honest, not that I haven't been,
2 but I'll be honest, maybe the state prosecutors would figure
3 that I somehow did have the power to run them concurrently and
4 they would sort of throw in the towel.

5 I suspect they're going to throw in the towel
6 anyway. I can't imagine them prosecuting Mr. Skaggs for those
7 charges.

8 MS. BUSSCHER: I suspect that that's the case also,
9 Judge. And I just don't believe the Court has the power to
10 run the sentences concurrently, so we shouldn't put that in
11 the order.

12 THE COURT: Right. Well, maybe you're the angel
13 sitting on my shoulder telling me what I should do.

14 But, Mr. Skaggs, I don't -- I can't imagine the
15 state prosecutors prosecuting you on those charges. Why would
16 they do that? As you point out, at least one of them is the
17 exact same conduct. And, unfortunately, I have to sentence
18 you to a lengthy term of incarceration in this case. And they
19 have plenty of things to do, and why they would want to bring
20 you back to prosecute you in state court I can't imagine,
21 frankly.

22 MR. HAGAN: Your Honor.

23 THE COURT: Yes, sir.

24 MR. HAGAN: If I may. Our concern is inertia from
25 the state prosecutors that they would simply allow these

1 charges to hang open as federal detainees and prejudice
2 Mr. Skaggs' service of his sentence in the Bureau of Prisons.

3 May I suggest, or ask of the Court, if the order
4 could reflect that these charges have been considered in the
5 federal sentence, then, frankly, honestly, I could use that
6 order to the same effect with the state prosecutors; that
7 these cases had already been considered.

8 THE COURT: Right. Well, I don't see any harm in
9 doing that. I've been faced with this situation before and it
10 does hamper the defendant when he's in prison. For example,
11 I'm going to recommend that he participate in the residential
12 drug treatment program while incarcerated. And if he has
13 detainees against him, he may not be able to get in the
14 program. And even if he does, he may not be able to get the
15 benefit of the program, which is at the discretion of the
16 Bureau of Prisons, but it does allow him right now up to a
17 year off. And, in addition, there's other -- at the time of
18 his release, there's problems whether he can be released to
19 community confinement or halfway house early because he's got
20 detainees and so on. And, as you say, the state authorities
21 might just, as you phrased it, through inertia, just keep
22 those charges pending. So maybe a halfway point would be as
23 you suggest, that I would state in the judgment that I have
24 fully considered these charges that I will specifically
25 mention in arriving at the appropriate sentence in this case.

1 MR. HAGAN: Thank you, Your Honor.

2 THE COURT: All right.

3 MS. BUSSCHER: I don't have any objection to that,

4 Your Honor.

5 THE COURT: All right. Thank you, Ms. Busscher.

6 Very well. Well, I'll be glad to hear from counsel
7 in regard to the appropriate sentence in this case. Again,
8 there is a mandatory minimum sentence of 180 months. And I
9 have read the sentencing memorandum filed by Mr. Hagan on
10 behalf of his client, but I'll be glad to hear what the
11 lawyers wish to tell me about the appropriate sentence. And
12 then, of course, I'll hear from Mr. Skaggs too.

13 So, Ms. Busscher, first, I'll be glad to hear
14 anything the government wishes to advise me.

15 MS. BUSSCHER: Yes, Your Honor. The government
16 believes that a sentence of 180 months, the mandatory minimum,
17 is appropriate for Mr. Skaggs. And given that we're seeking
18 the mandatory minimum, I don't think it's necessary for me to
19 go into any further argument on those points.

20 THE COURT: All right. Mr. Hagan?

21 MR. HAGAN: Well, Your Honor, that relieves me of
22 the necessity of further arguments, and I hope that the Court
23 will adopt that recommendation. Thank you.

24 THE COURT: All right. Thank you, Mr. Hagan.

25 And, Mr. Skaggs, is there anything that you would

1 like to say to me before I pronounce sentence in your case?

2 THE DEFENDANT: Your Honor, I would just like to say
3 that I apologize for wasting law enforcement's time. They
4 could have been spending time with their families or, you
5 know, just enjoying their personal life instead of wasting
6 their time investigating me. And I would just like to
7 apologize to them and apologize for having y'all here wasting
8 y'all's time. I'm sure there's things that y'all could be
9 doing. And I would just like to ask that I get some kind of
10 help for my addiction because, really, all this boils down to
11 that I was dealing to supply my addiction. And I would just
12 like to receive help for that.

13 THE COURT: Thank you. Thank you, Mr. Skaggs.

14 If there's nothing further then, the following are
15 the reasons for the imposition of sentence in this case:

16 I have considered the factors set forth in 18,
17 United States Code, Section 3553(a), as well as the advisory
18 sentencing guidelines. It is, accordingly, the judgment of
19 the Court that the defendant is hereby committed to the
20 custody of the Bureau of Prisons to be imprisoned for a total
21 term of 180 months, consisting of the same term on each count
22 to run concurrently.

23 I will recommend to the Bureau of Prisons that the
24 defendant participate in the residential drug treatment
25 program while incarcerated.

1 And, Mr. Hagan, is there any specific institution or
2 facility that you would desire the Court to recommend to the
3 Bureau of Prisons? Of course, I can't tell the Bureau of
4 Prisons where to send Mr. Skaggs, but I can recommend
5 something. They always, of course, try to place an inmate
6 closest to his home. But that still -- there are a lot of
7 facilities in the United States.

8 MR. HAGAN: Yes, Your Honor. Mr. Skaggs is
9 concerned not to go to Beckley because many of the
10 co-defendants have been going there and those are the people
11 that he wants to learn to live without.

12 I'm going to need to ask my client across the
13 screen, because I haven't located my note to the facility in
14 Kentucky, that would be your first preference?

15 THE DEFENDANT: Yes. I would prefer Petersburg or
16 Lexington.

17 MR. HAGAN: Petersburg or Lexington, Kentucky, yes.
18 Thank you.

19 THE COURT: Petersburg, Virginia, or Lexington,
20 Kentucky.

21 MR. HAGAN: Yes, Your Honor.

22 THE COURT: Well, I will recommend to the Bureau of
23 Prisons either of those facilities in order to facilitate
24 family visits.

25 Upon release from imprisonment, the defendant shall

1 be placed on supervised release for a term of ten years. And,
2 again, ten years is the mandatory minimum for one of the
3 counts. And it also will allow the defendant a lengthy period
4 of time in order to re-enter society and receive assistance
5 and supervision by the probation office to make sure that he
6 does not return to the same difficulties that brought him here
7 today.

8 In addition, he must comply with the following
9 mandatory conditions:

10 He must not commit another federal, state, or local
11 crime;

12 He must not unlawfully possess a controlled
13 substance;

14 He must refrain from any unlawful use of a
15 controlled substance and must submit to one drug test within
16 15 days of release and at least two periodic drug tests
17 thereafter;

18 He must cooperate in the collection of DNA as
19 directed by the probation officer. All of those are mandatory
20 conditions.

21 In addition, he must comply with the standard
22 conditions of supervision that have been adopted by the Court,
23 and he must comply with the following special conditions, and
24 I'll also explain the reasons for these:

25 He must pay any monetary penalty imposed. I am not

1 going to impose a fine because I don't believe that the
2 defendant has adequate resources to pay a fine. There is a
3 mandatory special assessment of \$200 which I'm required to
4 impose, which is due and payable immediately.

5 Because of the defendant's drug abuse, which he's
6 mentioned today and which is clearly evident from the
7 presentence report, following his release, I will evaluate his
8 status and determine whether drug rehabilitation -- further
9 drug rehabilitation after prison is necessary and appropriate.
10 If so, he must participate in a program as designated by the
11 Court, upon consultation with the probation officer, until he
12 has satisfied the requirements of the program.

13 He must reside in a residence free of firearms,
14 ammunition, destructive devices, and dangerous weapons. Of
15 course, he may not possess a firearm as a convicted felon.
16 But, in addition, this condition protects the probation office
17 from any danger from firearms or dangerous weapons or
18 destructive devices when they may need to supervise him at his
19 residence.

20 He must submit his person, property, house,
21 residence, vehicle, papers, electronic communication or data
22 storage devices, like computers, to a search conducted by a
23 United States Probation Officer. Failure to submit to a
24 search may be grounds for revocation of release. And he needs
25 to -- he must warn other occupants of his residence, of his

1 premises that the premises may be subject to searches pursuant
2 to this condition.

3 The purpose of this condition is that an officer may
4 conduct a search pursuant to this condition only when
5 reasonable suspicion exists that the defendant has violated a
6 condition of his supervision and that the areas to be searched
7 contain evidence of this violation.

8 So this is an ability, authorized ability, of the
9 probation officers to make sure that the defendant is obeying
10 his conditions of supervision.

11 I advise the defendant that he has waived his right
12 to appeal, except for the one condition of the objection that
13 was filed relating to the enhanced sentence pursuant to the
14 information. But, otherwise, he has waived his right to
15 appeal in accord with the terms of his plea agreement.

16 If a right of appeal does exist, a person who is
17 unable to pay the cost may apply for leave to appeal without
18 prepayment of such cost. And any notice of appeal must be
19 filed within 14 days of the entry of judgment or within
20 14 days of a notice of appeal by the government. If
21 requested, the clerk will prepare and file a notice of appeal
22 on behalf of the defendant.

23 Mr. Hagan, I will ask you to discuss and confer with
24 your client as to whether he does wish to appeal, as he is
25 authorized by the plea agreement, and if he does wish to

1 appeal, your obligation would be to file a notice of appeal on
2 his behalf. Whether or not you continue to represent him on
3 appeal, obviously, is a matter between you and him. But you
4 would be obligated to file a timely notice of appeal on his
5 behalf.

6 MR. HAGAN: Yes, Your Honor.

7 THE COURT: Are there any further matters that the
8 Court must resolve in this case?

9 MS. BUSSCHER: Your Honor, there's a forfeiture
10 allegation that we would like to dismiss with respect to this
11 defendant.

12 THE COURT: I will grant the government's motion.

13 MS. BUSSCHER: Thank you.

14 THE COURT: Mr. Skaggs, I wish you the best. I know
15 you're facing a lengthy period of incarceration, but, you
16 know, you need to take every day at a time. You need to take
17 advantage of all the opportunities that you can while you're
18 in prison to make sure that when you get out you can live the
19 rest of your life in a law abiding, clean and sober manner,
20 and put what's happened behind you.

21 If there's nothing further then, thank you, Counsel,
22 and we will adjourn court.

23 (Proceedings concluded at 1:53 p.m.)

24

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REPORTER'S CERTIFICATE

3 I, DONNA J. PRATHER, do hereby certify that the
4 above and foregoing, consisting of the preceding 25 pages,
5 constitutes a true and accurate transcript of my stenographic
6 notes and is a full, true and complete transcript of the
7 proceedings to the best of my ability.

Dated this 6th day of August, 2020.

Donna Q. Parker

DONNA J. PRATHER, RPR, CRR, CBC, CCP
Federal Official Court Reporter

Donna Prather, CCR, RPR, CCP, CCB
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