

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 20-2887

UNITED STATES OF AMERICA

v.

MIGUEL SCOTT ARNOLD, a/k/a Midnight,

Appellant

Appeal from the United States District Court
for the Middle District of Pennsylvania
(D.C. Criminal Action Nos. 1:17-cr-00002-001)
District Judge: Honorable Sylvia H. Rambo

Submitted Under Third Circuit L.A.R. 34.1(a)

July 7, 2021

Before: AMBRO, JORDAN, and BIBAS, Circuit Judges

JUDGMENT


This case came on to be heard on the record before the United States District Court for the Eastern District of Pennsylvania and was submitted under Third Circuit L.A.R. 34.1(a) on July 7, 2021.

On consideration whereof, IT IS ORDERED AND ADJUDGED by this Court that the judgment of the District Court entered September 4, 2020, is hereby affirmed. Costs are not taxed. All of the above in accordance with the opinion of this Court.

ATTEST:

s/Patricia S. Dodszeweit
Clerk

Dated: July 29, 2021

The seal of the United States Court of Appeals for the Third Circuit is circular. It features an eagle with spread wings perched atop a shield. The shield is divided into sections, with a central section containing a constellation of stars. The words "UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT" are inscribed around the perimeter of the seal.
Certified as a true copy and issued in lieu
of a formal mandate on September 1, 2021

Teste: *Patricia S. Dodszeweit*
Clerk, U.S. Court of Appeals for the Third Circuit

NOT PRECEDENTIAL

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(Opinion filed July 29, 2021)

OPINION*

AMBRO, Circuit Judge

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

Miguel Arnold appeals his sex-trafficking convictions. He argues there was insufficient evidence to support one of his convictions, the indictment was impermissibly duplicitous (meaning it joined two or more offenses in the same count), and the District Court constructively amended the indictment. For the reasons stated below, we affirm.

I. Background

In January 2017, a grand jury indicted Miguel Arnold and four co-defendants. Arnold was indicted on five counts, including conspiracy to commit sex trafficking by force, fraud, and coercion in violation of 18 U.S.C. § 1594(c), and the substantive offense of sex trafficking of multiple victims in violation of 18 U.S.C. § 1591(a), (b)(1). One of the co-defendants, but not Arnold, was charged with sex trafficking of a minor.

At trial, the Government contended that Arnold was the ringleader of a single conspiracy to commit sex trafficking. The defense conceded that Arnold was a trafficker but suggested he did not operate within a hierarchical conspiracy. Instead, the defense argued, Arnold was part of a less formal, “family”-like group of traffickers, each of whom had a separate trafficking operation. App. at 525, 528.

During the proceedings, the Government offered evidence that underage victims were trafficked without any timely objection from Arnold. The Government also presented testimony about the age of certain victims to establish their susceptibility to force, fraud, and coercion. Later in the proceedings, Arnold objected to the presentation of this evidence, but the Court overruled his objection.

After a five-day trial, the jury convicted Arnold on four counts. The District Court then sentenced him to 300 months in prison. He appeals.

II. Discussion¹

Arnold raises three claims on appeal. None is persuasive.

A. Sufficiency of the Evidence

First, Arnold argues that the Government presented insufficient evidence to support its theory of a single, large-scale conspiracy, and instead only proved that he and his co-defendants were involved in separate and independent conspiracies. We evaluate “whether the record, when viewed in the light most favorable to the government, contains substantial evidence to support the jury’s verdict.” *United States v. Kelly*, 892 F.2d 255, 258 (3d Cir. 1989) (internal citations omitted). For a single conspiracy, we use a three-pronged test:

First, we examine whether there was a common goal among the conspirators Second, we look at the nature of the scheme to determine whether the agreement contemplated bringing to pass a continuous result that will not continue without the continuous cooperation of the conspirators Third, we examine the extent to which the participants overlap in the various dealings.

Id. at 259 (internal quotation marks and citations omitted).

Arnold asserts that the Government’s evidence failed on all prongs of the *Kelly* test; hence a rational juror could not have determined there was a unified conspiracy. However, the District Court properly instructed the jury on the difference between single and multiple conspiracies, and significant evidence supports the jury’s finding that Arnold and his co-defendants operated a single conspiracy.

On the first *Kelly* prong, the Government presented evidence that Arnold and his co-defendants knew each other and worked together toward the common goal of engaging

¹ The District Court had jurisdiction under 18 U.S.C. § 3231. We have appellate jurisdiction pursuant to 28 U.S.C. § 1291 and 18 U.S.C. § 3742(a).

in sex trafficking. For example, the Government demonstrated that Arnold and his co-defendants worked as drivers for each other, recruited victims together, coordinated motel stays, collaborated to recover on debts, traded victims to each other, and offered joint “two-for-one” services where their prostitutes would work together to offer services at a discounted rate. The Government also presented evidence that Arnold had monitored interactions between his co-defendants and the police, which suggested a close relationship between the co-defendants’ activities.

On the second prong, the Government presented evidence of interdependence among Arnold and his co-defendants. In addition to the evidence described above, there was testimony at trial that Arnold himself said he and his co-defendants were “all a family, we all do this together.” App. at 271. Finally, the third prong cuts against Arnold due to significant overlap in activity between the various co-defendants.

Drawing all inferences in the Government’s favor, as we must, we hold that a rational juror could conclude Arnold and his co-defendants operated a single conspiracy. We thus reject his first argument.

B. Duplicious Charges

Arnold contends the indictment on Count 2, a sex trafficking charge based on “multiple victims,” was duplicious. He did not raise this issue before the District Court; we therefore review for plain error, which requires that: (1) there was an error, (2) it was plain, (3) it affected substantial rights, and (4) not correcting it would “seriously affect[] the fairness, integrity or public reputation of judicial proceedings.” *United States v. Olano*, 507 U.S. 725, 732 (1993) (internal quotation marks and citations omitted). An

error is plain if it is “obvious” or “clear under current law.” *United States v. Vazquez*, 271 F.3d 93, 100 (3d Cir. 2001) (en banc) (quoting *Olano*, 507 U.S. at 734).

Assuming without deciding that there was an error on this issue, it was not plain.

In analyzing allegedly duplicitous indictments, we must determine the appropriate “unit of prosecution,” *United States v. Root*, 585 F.3d 145, 150 (3d Cir. 2009), meaning, in this case, whether the charges must be separated out by victim or whether it is permissible to combine multiple victims in one count. Neither we nor the Supreme Court have addressed the allowable unit of prosecution under 18 U.S.C. § 1591(a), the statute at issue here. “It is generally true that lack of precedent alone will not prevent us from finding plain error.” *United States v. Jabateh*, 974 F.3d 281, 299 (3d Cir. 2020) (internal quotation marks and citation omitted). However, “for relief under the stringent *Olano* standard, novel questions . . . must be capable of measurement against some other absolutely clear legal norm.” *Id.* (internal quotation marks, citation, and brackets omitted). There was no “absolutely clear legal norm” on this issue. We therefore reject Arnold’s second argument.

C. Constructive Amendment of the Indictment

Third, Arnold claims the District Court constructively amended the indictment by allowing evidence that some of the victims were minors, even though Arnold was not personally indicted on the separate charge of trafficking a minor. Constructive amendment occurs “when evidence, arguments, or the district court’s jury instructions effectively ‘amend[] the indictment by broadening the possible bases for conviction from that which appeared in the indictment.’” *United States v. McKee*, 506 F.3d 225, 229 (3d

Cir. 2007) (quoting *United States v. Lee*, 359 F.3d 194, 208 (3d Cir. 2004)). Permitting evidence about the age of certain victims did not broaden the possible bases for convicting Arnold. As to him, that evidence was offered only to support the elements of the offenses with which he was charged under 18 U.S.C. § 1591. That statute required the Government to prove that force, fraud, or coercion were used to cause a victim to engage in a commercial sex act. The age of the victim in Arnold's case was a relevant consideration to show the victim's susceptibility to fraud, force, or coercion, even though he was not separately charged with trafficking a minor. Thus we see no error.

* * * * *

We thus affirm the District Court's judgment of conviction.

OFFICE OF THE CLERK

PATRICIA S. DODSZUWEIT

CLERK



UNITED STATES COURT OF APPEALS

21400 UNITED STATES COURTHOUSE
601 MARKET STREET

PHILADELPHIA, PA 19106-1790

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TELEPHONE

215-597-2995

September 1, 2021

Mr. Peter J. Welsh
United States District Court for the Middle District of Pennsylvania
Ronald Reagan Federal Building
228 Walnut Street
Harrisburg, PA 17108

RE: USA v. Miguel Arnold
Case Number: 20-2887
District Court Case Number: 1-17-cr-00002-001

Dear Mr. Welsh:

Enclosed herewith is the certified judgment together with copy of the opinion in the above-captioned case(s). The certified judgment is issued in lieu of a formal mandate and is to be treated in all respects as a mandate.

Counsel are advised of the issuance of the mandate by copy of this letter. The certified judgment is also enclosed showing costs taxed, if any.

Very truly yours,

s/Patricia S. Dodszuweit,
Clerk

By: Stephanie
Case Manager
267-299-4926

cc: Miguel Scott Arnold
Michael A. Consiglio, Esq.
Jonathan W. Crisp, Esq.

APPENDIX B

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

vs. Case No. 1:17-CR-002-01

MIGUEL SCOTT ARNOLD, (Judge Rambo)

Defendant

TRANSCRIPT OF SENTENCING PROCEEDINGS
BEFORE THE HONORABLE SYLVIA H. RAMBO
UNITED STATES DISTRICT COURT JUDGE
SEPTEMBER 3, 2020, 9:30 A.M.
HARRISBURG, PENNSYLVANIA

FOR THE GOVERNMENT:

Michael A. Consiglio, Assistant United States Attorney
United States Attorney's Office
228 Walnut Street, Second Floor
Harrisburg, PA 17101

FOR THE DEFENDANT:

Jonathan W. Crisp, Esquire
Crisp and Associates, LLC
4631 North Front Street
Harrisburg, PA 17110

ALSO PRESENT:

Ashley Calvi, United States Probation Officer

Lori A. Shuey
Federal Certified Realtime Reporter
United States Courthouse
228 Walnut Street, P.O. Box 983
Harrisburg, PA 17108-0983
717-215-1270
lori_shuey@pmid.uscourts.gov
Proceedings recorded by mechanical stenography; transcript
produced by computer-aided transcription.

THE COURT: Good morning everyone. Mr. Consiglio,
would you call your case.

MR. CONSIGLIO: Yes, Your Honor. If it pleases the
court, the government calls its case against Miguel Scott
Arnold. It's Docket Number 1:17-CR-002. He is present today
in court with counsel, and we're scheduled for a sentencing
proceeding.

THE COURT: Mr. Arnold, have you reviewed the
presentence report with your counsel?

THE DEFENDANT: Yes, Your Honor.

THE COURT: There have been three objections filed.
Would defense counsel address the objections one at a time.
The first one is to Paragraph 46.

MR. CONSIGLIO: Your Honor, the defense and the
government have worked -- talked through the guideline
objections under the circumstances.

THE COURT: Okay.

MR. CONSIGLIO: Would you mind if I took this down
to --

THE COURT: No, go ahead.

MR. CONSIGLIO: You may be able to understand me
better. Thank you. My understanding from the defense
objections, if they're all sustained --

THE COURT: Yes.

MR. CONSIGLIO: -- the defendant's guideline range

1 will end up at 360 months to life incarceration, that that is
2 going to be the guideline range that results.

3 THE COURT: 360 to life?

4 MR. CONSIGLIO: Yes. Now, in light of that
5 circumstance, while we agree with the probation office and
6 (their calculation and the applicability of the facts to the
7 enhancements as I've described, in the interest of moving this
8 litigation forward, the defense and the government have agreed
9 to sustaining the guideline objections to get to this guideline
10 range of 360 to life.

11 THE COURT: I was about ready to sustain the finding
12 by the probation office on their response to the objections.

13 I'm going to sustain the report as filed by the
14 probation office. However, I do not intend to impose the
15 maximum. In fact, the sentence I had suggested was going to be
16 below the 360.

17 MR. CONSIGLIO: Which, as far as the government is
18 concerned, we ask the court to sustain the defense objections,
19 as we agree -- have reached this agreement under the
20 circumstance, particularly in light of the fact that the court
21 has indicated that the range that results of 360 to life, the
22 court is inclined to go below the 360.

23 THE COURT: Okay. First of all, I believe that the
24 presentence report is adequately supported by the findings of
25 the probation office. However, I do think that the sentence

1 that has been posed is draconian, and I do not intend to impose
2 the sentence. I was going to impose a sentence of 300 months.
3 MR. CONSIGLIO: Well, then perhaps we should -- in
4 light of the procedural status of where we are, perhaps we
5 should have the court go through each objection by the defense
6 and have the court --

7 THE COURT: I'm not going to repeat what is in the
8 response by the probation office to the objections to Paragraph
9 46, Paragraphs 53 and 61, Paragraphs 55, 63, and 70. I think
10 the findings are well supported and well founded, and I will
11 overrule the objections. However, I do intend to depart.

12 Now, with that in mind, do you feel that it's
13 necessary for me to go through the findings by the probation
14 office as to the objections?

15 MR. CRISP: The only issue, if I may, Your Honor --
16 THE COURT: You may take your mask down.

17 MR. CRISP: Yes, Your Honor. Thank you. The only
18 issue that I would ask is, the vulnerable victims enhancement
19 was not initially in the draft PSR and it was added after,
20 which is why we addressed it in our sentencing memo.

21 So that would be the only one I would ask Your Honor
22 to address specifically. I agree with Your Honor that
23 everything else, if you're incorporating the objections --

24 THE COURT: Which one?

25 MR. CRISP: The -- let me get my final PSR here in.

front of me, if I may. I'm sorry.

THE COURT: Final PSR.

MR. CRISP: This is the one pertaining to the

vulnerable victims, Your Honor, and I believe it was fifty --

PROBATION OFFICER: Your Honor, that was Paragraph 69, but it doesn't affect the total offense level.

THE COURT: It does not affect?

PROBATION OFFICER: It does not.

THE COURT: Okay. It would not affect the total offense level.

MR. CRISP: I concur in that. If you're sustaining the other objections from the probation office, I would concur it does not, but it was one that was not in the initial that we objected to as part of the sentencing memorandum. That's the only reason I bring it up.

THE COURT: The court won't address it. Because of its findings, it will not affect the guideline.

MR. CRISP: Correct.

THE COURT: All right.

MR. CRISP: Correct. Thank you, Your Honor. Outside of that --

THE COURT: Do you wish to speak on behalf of your client?

MR. CRISP: Just briefly, Your Honor. My biggest point is -- and I think Your Honor, based on what you've said

already, that considering his otherwise lack of criminal history, while the offense itself and the offense for which he was convicted is obviously a very serious offense, to end up with something in the range of a 360 to life sentence is excessive.

He does not have -- he has limited factors at this point, but he has been working in prison to try and be positive in terms of what he's been dealing with moving forward.

And while he did serve in the military and it did not necessarily end well, it was not -- he certainly volunteered to serve his country, ran into some difficulties there, and received, I believe, a general discharge, so not -- general under honorable.

So he has attempted to engage in productive behaviors in the community, and he is certainly attempting to do so while he is inside and has been doing so in York County Prison. He does have a child, Your Honor, that is two?

THE DEFENDANT: Four.

MR. CRISP: Four, sorry, four years of age. And considering what we're looking at, the chances of him seeing her will be difficult. And I would ask that Your Honor factor that into your sentencing determination. And my client did express a desire to address the court.

THE COURT: He may do so. You may do so now, sir.

THE DEFENDANT: First of all, I'd like to say good

1 morning, Your Honorable Judge Rambo, and thank you for the
2 opportunity for allowing me to speak. I am not a good, you
3 know, public speaker, but I'm going to try my best as I speak
4 to you.

5 I am ashamed and I am definitely sorry for all the
6 things that I have done that have brought me to this point as I
7 come before you. And I do not know really what to say. It's
8 impossible, really, to say the right thing in a situation like
9 this.

10 But knowing that I'm in front of a woman that has
11 served this justice system for going on over four decades, I
12 believe that you have the wisdom, the knowledge, and the
13 experience, and you're more qualified to be able to assess the
14 situation as I stand before you today.

15 I grew up in Brooklyn, New York. I was adopted.
16 Being from a place like that, you know, there's a lot of
17 options and opportunity. My adopted mother threw me in a
18 garbage can when I was a baby, mouth was ripped open.

19 But the blessing of that situation is, I was taken in
20 by a family that were Christian and that were good people.
21 They offered me everything. But, of course, you know, growing
22 up in that type of environment, I rebelled. And I had an
23 option to do the right thing and become a decent person, but
24 through the lifestyle, through, you know, the rebellious stages
25 of me growing up in that environment, I chose the wrong path.

1 I was cut in the face when I was 14. I suffered PTSD.
2 Then I tried to turn my life around by joining the military.
3 That didn't work. I ended up getting into fights. And not too
4 long ago, around 2014, I was stabbed multiple times.

5 So all through my life it's been an up and down road.
6 And one thing I can say right now, me being incarcerated and me
7 being arrested and dealing with this situation, which I am not
8 happy and I am definitely ashamed of, was maybe one of the best
9 things that ever happened to me because it made me sit down and
10 really assess and think about what I need to improve in my
11 life.

12 And it's sad to say that it took this situation for me
13 to basically sit down to assess it, but it really made me think
14 that, you know what, I need to change. And I can't tell you
15 that I'm all the way there. I'm working at it every single
16 day. And this has to be a daily, a daily thing for me to
17 continue to work at changing and being a better man.

18 But no matter what you give -- what time you give me
19 today, Your Honor -- and I trust that, you know, justice will
20 be served in your eyes -- that I will continue doing the right
21 thing in becoming a better man, not just for myself, but for
22 that four-year-old girl that I love and I'm trying to fight to
23 get back home to.

24 I thank my lawyer. He has wonderful ethics. I thank
25 his assistants, his paralegal. I thank the prosecution. I

1 thank you, Your Honor, because I know everyone in this room has
2 a job to do.

3 And I know through the times that we're going through,
4 the George Floyd situation and everyone's anti-government and
5 anti-justice and anti-whatever, I know there are still people
6 out there that are doing their jobs. And I don't fault you,
7 and I don't blame no one in this room.

8 I thank you for the opportunity for allowing me to
9 speak, and I appreciate it. Thank you.

10 THE COURT: Thank you, sir. Mr. Consiglio.

11 MR. CONSIGLIO: Your Honor, sentencing is obviously a
12 three-step process, and the first step we have already
13 resolved.

14 I'm understanding from the court's indications on the
15 record that the defense objections to the guidelines have been
16 denied and that the record and facts as presented to the court
17 from the trial fully support each guideline provision
18 identified by the presentence report as applicable in this
19 case, with the exception of this issue of the vulnerable
20 victim, which would have no impact on the sentencing
21 guidelines.

22 So at the end of stage one, I believe we're at a
23 sentencing guideline range of step one. And just for our
24 completeness purposes, we are incorporating the trial record
25 into the record of this proceeding to help support the

1 guideline challenges that were raised by the defense.

2 At step two of the sentencing process there is no
3 motion for downward departure, so the court does not have to
4 resolve that issue.

5 So moving to step three, which is the balancing of the
6 Section 3553(a) factors, the government respectfully asks this
7 court, with a guideline range of life, to fashion a fair and
8 just sentence for this defendant in light of the totality of
9 the circumstances, his conduct.

10 His expression of remorse at this proceeding is
11 appropriate for the court to consider, but it is also
12 appropriate for the court to consider the fact that the
13 defendant challenged these charges and went through a jury
14 trial requiring over a dozen witnesses and individuals to
15 relive the violent and tragic circumstances and crimes that
16 were committed and that the defendant participated in
17 committing over the course of this conspiracy and this engaging
18 in human trafficking. This is obviously a very troubling and
19 violent and dangerous circumstance, and the defendant was its
20 leader.

21 The court -- the government asks the court to impose a
22 fair sentence. I respectfully submit to the court a fair
23 sentence in this case must look to the co-defendants and their
24 roles and their circumstances in this case.

25 We've had a co-defendant who cooperated and testified

1 at these proceedings, who started as a victim, who then moved
2 to being involved in the conspiracy, and she was sentenced to
3 six years earlier this week.

4 We had a co-defendant in this case who did not go to
5 trial. His role was of a lesser role than the defendant. And
6 that co-defendant is Joshua Guity-Nunez, and Joshua Guity-Nunez
7 was sentenced by this court to 15 years of incarceration.

8 I think what that gives to the court is a sense of
9 balance of where justice should lie in this case. If a
10 cooperating co-defendant who doesn't go to trial gets 15 years
11 and a person who does cooperate who was victimized and
12 ultimately participated in the criminal conduct received six
13 years at one end, then the balance of this and a fair and just
14 sentence looks towards the other end for this defendant,
15 Mr. Arnold. And I think a fair sentence under those
16 circumstances is 30 years.

17 And a 30-year sentence matches and brings balance to
18 the criminal conspiracy and the conduct. It provides an option
19 for this defendant to continue to improve his life as he is
20 incarcerated and works his way through that lengthy sentence,
21 but also gives the prospect of hope that if he does continue to
22 change and mend his ways, that he could be a productive citizen
23 at the latter stage of his life. But it also protects the
24 public and enforces the law and brings justice to all of those
25 who were involved in this case.

1 So with that, Your Honor, we respectfully ask a
2 sentence of that. Thank you.

3 THE COURT: Do I understand defense counsel has agreed
4 with the stipulation as presented by Mr. Consiglio, 360?

5 MR. CRISP: What we agreed to, Your Honor, was that
6 the objections that I had posed would result in an offense
7 level 42 and that we would argue for a downward departure
8 based -- a variance based off of that, excuse me, so something
9 lesser.

10 So I don't agree, respectfully, with the government's
11 position as to the objections themselves, but my objections
12 ended up essentially at the same point in terms of the offense
13 level 42.

14 We still believe that our objections as to the minors
15 enhancements and some of these other things should be struck,
16 but we believe that a starting point for Your Honor to consider
17 prior to step three would have been 360 to life. Does that
18 make sense, Your Honor?

19 THE COURT: Yes.

20 MR. CRISP: And while I'm at it, the one thing I do
21 want to say, to the extent that government counsel's arguments
22 would imply that the court should penalize my client for his
23 exercising his legal and moral right to go to trial, I would
24 object to that argument to the extent that that's what the
25 implication was.

Certainly a defendant can be rewarded for pleading guilty and not going through that, but to the extent that -- the fact that he decided to make the government establish each and every element of the offense, as he is constitutionally permitted, I would object to that aspect of his argument, Your Honor.

THE COURT: We'll enter this order: Now, this 3rd day of September, the year 2020, the defendant appearing in court for purposes of sentencing, pursuant to the Sentencing Reform Act of 1984 and after having considered the factors set forth in 18, U.S.C., Section 3553(a), it is the judgment of the court that the defendant, Miguel Arnold, is hereby committed to the custody of the Bureau of Prisons to be imprisoned for a term of 300 months.

This term consists of a term of 300 months on each of Counts 1, 2, and 10 months on Counts 4 and 5 to be served concurrently. The sentence is to run consecutively to any sentence that may be imposed in Burlington County Superior Court, Docket Number CR-7099-2016, and concurrently with any sentence that may be imposed in York County Court of Common Pleas, Docket Number CR-7099-2016.

The court finds that the defendant does not have the ability to pay a fine. It is ordered that the defendant shall pay to the Clerk, U.S. District Court, a special assessment of \$100 due immediately and a \$5,000 assessment under the Justice

for Victims of Trafficking Act of 2015 on Count 1. Payment of interest is waived.

During the term of imprisonment, the assessment is payable every three months in an amount after a telephone allowance equal to 50 percent of the funds deposited into the defendant's inmate trust fund account.

In the event the assessment is not paid in full prior to the commencement of supervised release, the defendant shall, as a condition of supervised release, satisfy the amount due in monthly installments of no less than \$50 to commence 30 days after release from confinement.

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of 15 years. This term consists of a term of 15 years on Counts 1 and 2 and a term of three years on Counts 4 and 5 to be served concurrently.

Within 72 hours of release from the custody of the Bureau of Prisons, the defendant shall report in person to the probation office in the district to which the defendant is released.

While on supervised release, the defendant shall not commit any federal, state, or local crime and shall not possess a dangerous weapon.

The defendant shall comply with the standard conditions that have been adopted by this court and with the following additional conditions:

One, you must cooperate in the collection of a DNA sample as directed by the probation officer.

Two, you must not possess any controlled substance without a valid prescription. If you do have a valid

prescription, you must disclose the prescription information to the probation officer and follow the instructions on the prescription.

Three, you must submit to substance abuse testing to determine if you have used a prohibited substance. You must not attempt to obstruct or tamper with the testing methods.

Four, you must apply all monies received from income tax refunds, lottery winnings, judgments, and/or other anticipated or unexpected financial gains to the outstanding court-ordered financial obligation.

Five, you must provide the probation officer access to any requested financial information and authorize the release of any financial information. The probation officer may share the financial information with the U.S. Attorney's Office.

Six, you must not incur new credit charges or open additional lines of credit without the approval of the probation officer.

Seven, the judgment has imposed a financial penalty, and you must pay the financial penalty in accordance with the schedule of payments set forth in this judgment. You must also notify the court of any change in economic circumstances that

might affect your ability to pay the financial penalty.

Eight, you must not have direct contact with any child you know or reasonably should know to be under the age of 18, not including your own children, without the permission of the probation officer.

If you do have any direct contact with any child you know or reasonably should know to be under the age of 18, not including your own children, without the permission of the probation officer, you must report this contact to the probation officer within 24 hours.

Direct contact includes written communication, in-person communication, or physical contact. Direct contact does not include incidental contact during ordinary daily activities in public places.

Nine, you must not have any contact with the victims of this offense.

Ten, you must participate in a sex offense specific assessment.

Eleven, you must participate in a sex offense specific treatment program and follow the rules and regulations of that program. The probation officer will supervise your participation in a program which could include an evaluation and completion of any recommended treatment.

Twelve, you must submit to periodic polygraph testing at the direction of the probation officer as a means to ensure

1 that you are in compliance with the requirements of your
2 supervision or treatment program.

3 Thirteen, you must submit your computers as defined in
4 18, United States Code, Section 1030(e) (1), or other electronic
5 communication or data storage devices or media to a search.

6 You must warn any other people who use these computers or
7 devices capable of accessing the Internet that the devices may
8 be subject to searches pursuant to this condition.

9 A probation officer may conduct a search pursuant to
10 this condition only when reasonable suspicion exists that there
11 is a violation of a condition of supervision and that the
12 computer or device contains evidence of this violation. Any
13 search will be conducted at a reasonable time and in a
14 reasonable manner.

15 You must submit your person, property, house,
16 residence, vehicle, papers, computers, as previously defined,
17 other electronic communications or data storage devices or
18 media or office to a search conducted by a United States
19 probation officer.

20 Failure to submit to a search may be grounds for
21 revocation of release. You must warn any other occupants that
22 the premises may be subject pursuant to this condition.

23 The following statement of reasons is placed on the
24 record for the sentence that has been imposed:

25 The court adopts the presentence investigation report

1 without change. One count of -- one or more counts of
2 conviction carry a mandatory minimum term of imprisonment, and
3 the sentence is imposed at or above the mandatory minimum term.
4 The fine is waived because of the defendant's inability to pay.

5 The sentence is below the guideline range for the
6 following reasons:

7 The court has imposed a variance. This variance is
8 based on several factors. One, the defendant's condition in
9 which he was initially grown up in. The court also believes
10 that it reflects the seriousness of the offense, it will
11 provide adequate deterrence to criminal conduct, and it will
12 protect the public from further crimes.

13 The court is concerned that the sentence as set forth
14 in the guideline is draconian to a certain point, particularly
15 in regards to this case, and the court, therefore, has
16 departed -- has varied from the guideline range.

17 Now, you may appeal your sentence to the United States
18 Court of Appeals. You have 14 days from this day in which to
19 file a notice of an appeal.

20 If you're unable to pay the costs of an appeal, you
21 may apply for leave to appeal in forma pauperis, and, if
22 approved, the court will appoint for you and you may not be
23 required to pay any costs. You may also request our Clerk of
24 Court to prepare and file a Notice of Appeal on your behalf.
25 Anything further, Mr. Consiglio?

MR. CONSTIGLIO: No, Your Honor.

THE COURT: Anything further?

MR. CRISP: Yes, Your Honor. One point of clarification, if I may, regarding the contact with minors.

So the concern I have in other situations is in a family gathering that has nieces, nephews, or other social environments, whether guardians or parents of the children are present, is that something from which he is precluded to attend, or may he attend in that context without violating the conditions Your Honor indicated?

THE COURT: If they are actually relatives, I will permit the contact.

MR. CRISP: Okay.

THE COURT: Is that understood?

MR. CRISP: Yes, Your Honor.

THE COURT: All right. Thank you.

MR. CRISP: And then I would ask that Your Honor make a recommendation as to where he would serve. He has asked for one of three locations, if any of those are possible. It would be Cumberland --

THE COURT: Cumberland, Maryland?

MR. CRISP: Yes, Your Honor.

THE COURT: Cumberland. And the other two?

MR. CRISP: Allenwood.

THE COURT: Allenwood.

MR. CRISP: And Schuylikill, Your Honor.

THE COURT: And Schuylikill. We'll make those three recommendations. He understands that it is only a recommendation, it's not binding on the Bureau of Prisons. You understand?

THE DEFENDANT: Yes, ma'am.

THE COURT: Court's in recess.

MR. CRISP: Thank you.

COURTROOM DEPUTY: Court is in recess.

(Whereupon, the proceedings were concluded at 10:05 a.m.)

CERTIFICATE OF OFFICIAL COURT REPORTER

I, Lori A. Shuey, Federal Certified Realtime Reporter, in and for the United States District Court for the Middle District of Pennsylvania, do hereby certify that pursuant to Section 753, Title 28, United States Code, that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-captioned matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated in Harrisburg, Pennsylvania, this 15th day of October, 2020.

/s/ Lori A. Shuey
Lori A. Shuey
Federal Certified Realtime Reporter

UNITED STATES DISTRICT COURT

Middle District of Pennsylvania

UNITED STATES OF AMERICA

v.

MIGUEL SCOTT ARNOLD

JUDGMENT IN A CRIMINAL CASE

Case Number: 1:17-CR-002-01

USM Number: 75651-067

Jonathan Crisp, Esquire

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) 1, 2, 4 and 5 of the Indictment
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 USC § 1594(c)	Sex Trafficking by Force, Fraud, and Coercion	8/13/2016	-1-
18 USC § 1591 (a)	Sex Trafficking by Force, Fraud, and Coercion	8/13/2016	-2-
21 USC § 846	Possession With Intent to Distribute Heroin and Marijuana	8/13/2016	-4-

The defendant is sentenced as provided in pages 2 through 8 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) 6 of the Indictment☐ 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.

9/3/2020

Date of Imposition of Judgment

S/Sylvia H. Rambo

Signature of Judge

Sylvia H. Rambo, United States District Judge

Name and Title of Judge

9/4/2020

Date

DEFENDANT: MIGUEL SCOTT ARNOLD
CASE NUMBER: 1:17-CR-002-01

ADDITIONAL COUNTS OF CONVICTION

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
21 USC § 841(a)(1)	Possession With Intent to Distribute Heroin	8/13/2016	-5-

DEFENDANT: MIGUEL SCOTT ARNOLD
CASE NUMBER: 1:17-CR-002-01

IMPRISONMENT

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

Three hundred (300) months. This term consists of a 300 months on each of Counts 1 and 2, and 10 months on each of Counts 4 and 5, to be served concurrently. This sentence is to run consecutively to any sentence that may be imposed in Burlington County Superior Court docket number CR-7099-2016; and concurrently with any sentence that may be imposed in York County Court of Common Pleas docket number CR-7099-2016.

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

Placement at one of the following institutions FCI-Cumberland, Allenwood or Schuylkill.

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

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: MIGUEL SCOTT ARNOLD

CASE NUMBER: 1:17-CR-002-01

SUPERVISED RELEASE

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

Fifteen (15) years. This term consists of a term of 15 years on Counts 1 and 2, and a term of 3 years on Counts 4 and 5, to be served concurrently.

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 the location where 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: MIGUEL SCOTT ARNOLD
CASE NUMBER: 1:17-CR-002-01**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.
14. You must notify the court of any material change in your economic circumstances that might affect your ability to pay restitution, fines or special assessments.

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: MIGUEL SCOTT ARNOLD
CASE NUMBER: 1:17-CR-002-01

ADDITIONAL SUPERVISED RELEASE TERMS

1. You must cooperate in the collection of DNA as directed by the probation officer.
2. You must not use or possess any controlled substances without a valid prescription. If you do have a valid prescription, you must disclose the prescription information to the probation officer and follow the instructions on the prescription.
3. You must submit to substance abuse testing to determine if you have used a prohibited substance. You must not attempt to obstruct or tamper with the testing method.
4. You must apply all monies received from income tax refunds, lottery winnings, judgments, and/or other anticipated or unexpected financial gains to the outstanding court-ordered financial obligation;
5. You must provide the probation officer access to any requested financial information and authorize the release of any financial information. The probation office may share financial information with the U.S. Attorney's Office.
6. You must not incur new credit charges, or open additional lines of credit without the approval of the probation officer.
7. The judgment imposes a financial penalty, you must pay the financial penalty in accordance with the Schedule of Payments sheet of this judgment. You must also notify the court of any changes in economic circumstances that might affect the ability to pay this financial penalty.
8. You must not have direct contact with any child you know or reasonably should know to be under the age of 18, not including your own children, without the permission of the probation officer. If you do have any direct contact with any child you know or reasonably should know to be under the age of 18, not including your own children, without the permission of the probation officer, you must report this contact to the probation officer within 24 hours. Direct contact includes written communication, in-person communication, or physical contact. Direct contact does not include incidental contact during ordinary daily activities in public places.
9. You must not have any contact with the victims of this offense.
10. You must participate in a sex offense-specific assessment.
11. You must participate in a sex offense-specific treatment program and follow the rules and regulations of that program. The probation officer will supervise your participation in the program (provider, location, modality, duration, intensity, etc.) which could include an evaluation and completion of any recommended treatment.
12. You must submit to periodic polygraph testing at the discretion of the probation officer as a means to ensure that you are in compliance with the requirements of your supervision or treatment program.
13. You must submit your computers [as defined in 18 U.S.C. § 1030(e)(1)] or other electronic communications or data storage devices or media, to a search. You must warn any other people who use these computers or devices capable of accessing the Internet that the devices may be subject to searches pursuant to this condition. A probation officer may conduct a search pursuant to this condition only when reasonable suspicion exists that there is a violation of a condition of supervision and that the computer or device contains evidence of this violation. Any search will be conducted at a reasonable time and in a reasonable manner.
14. You must submit your person, property, house, residence, vehicle, papers, computers [as defined in 18 U.S.C. § 1030(e)(1)], other electronic communications or data storage devices or media, or office, to a search conducted by a United States probation officer. Failure to submit to a search may be grounds for revocation of release. You must warn any other occupants that the premises may be subject to searches pursuant to this condition.

DEFENDANT: MIGUEL SCOTT ARNOLD
CASE NUMBER: 1:17-CR-002-01

CRIMINAL MONETARY PENALTIES

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

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
TOTALS	\$ 400.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 5,000.00

☐ 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	\$	<u>0.00</u>	\$	<u>0.00</u>
--------	----	-------------	----	-------------

☐ 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 ☒ Special Assessments

☐ 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: MIGUEL SCOTT ARNOLD
CASE NUMBER: 1:17-CR-002-01

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 with ☐ 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:
During the term of imprisonment, the assessment payable every three months in an amount, after a telephone allowance, equal to 50 percent of the funds deposited into the defendant's inmate trust fund account. In the event the assessment is not paid in full prior to the commencement of supervised release, the defendant shall, as a condition of supervised release, satisfy the amount due in monthly installments of no less than \$50.00, to commence thirty (30) days after release from confinement.

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

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

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

APPENDIX C

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 20-2887

UNITED STATES OF AMERICA

v.

MIGUEL SCOTT ARNOLD, a/k/a Midnight, Appellant

(District Court Criminal No.: 1-17-cr-00002-001)

SUR PETITION FOR REHEARING

Present: SMITH, Chief Judge, McKEE, AMBRO, CHAGARES, JORDAN,
HARDIMAN, GREENAWAY, JR., SHWARTZ, KRAUSE,
RESTREPO, BIBAS, PORTER, MATEY, and PHIPPS, Circuit Judges

The petition for rehearing filed by **Appellant** in the above-entitled case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the panel and the Court en banc, is **denied**.

BY THE COURT,

s/ THOMAS L. AMBRO
Circuit Judge

Dated: November 3, 2021
Sb/cc: Miguel Scott Arnold
All Counsel of Record

APPENDIX D

OFFICE OF THE CLERK

PATRICIA S. DODSZUWEIT

CLERK



UNITED STATES COURT OF APPEALS

21400 UNITED STATES COURTHOUSE
601 MARKET STREET

PHILADELPHIA, PA 19106-1790

Website: www.ca3.uscourts.gov

TELEPHONE

215-597-2995

September 1, 2021

Mr. Peter J. Welsh
United States District Court for the Middle District of Pennsylvania
Ronald Reagan Federal Building
228 Walnut Street
Harrisburg, PA 17108

RE: USA v. Miguel Arnold
Case Number: 20-2887
District Court Case Number: 1-17-cr-00002-001

Dear Mr. Welsh:

Enclosed herewith is the certified judgment together with copy of the opinion in the above-captioned case(s). The certified judgment is issued in lieu of a formal mandate and is to be treated in all respects as a mandate.

Counsel are advised of the issuance of the mandate by copy of this letter. The certified judgment is also enclosed showing costs taxed, if any.

Very truly yours,

s/Patricia S. Dodszeit,
Clerk

By: Stephanie
Case Manager
267-299-4926

cc: Miguel Scott Arnold
Michael A. Consiglio, Esq.
Jonathan W. Crisp, Esq.

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 20-2887

UNITED STATES OF AMERICA

v.

MIGUEL SCOTT ARNOLD, a/k/a Midnight,

Appellant

Appeal from the United States District Court
for the Middle District of Pennsylvania
(D.C. Criminal Action Nos. 1:17-cr-00002-001)
District Judge: Honorable Sylvia H. Rambo

Submitted Under Third Circuit L.A.R. 34.1(a)

July 7, 2021

Before: AMBRO, JORDAN, and BIBAS, Circuit Judges

JUDGMENT


This case came on to be heard on the record before the United States District Court for the Eastern District of Pennsylvania and was submitted under Third Circuit L.A.R. 34.1(a) on July 7, 2021.

On consideration whereof, IT IS ORDERED AND ADJUDGED by this Court that the judgment of the District Court entered September 4, 2020, is hereby affirmed. Costs are not taxed. All of the above in accordance with the opinion of this Court.

ATTEST:

s/Patricia S. Dodszeweit
Clerk

Dated: July 29, 2021

The seal of the United States Court of Appeals for the Third Circuit is circular. It features an eagle with spread wings perched atop a shield. The shield is divided into sections, with a constellation of stars in the upper left. The words "UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT" are inscribed around the perimeter of the seal.
Certified as a true copy and issued in lieu
of a formal mandate on September 1, 2021

Teste: *Patricia S. Dodszeweit*
Clerk, U.S. Court of Appeals for the Third Circuit