

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 20-2887

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UNITED STATES OF AMERICA

v.

MIGUEL SCOTT ARNOLD, a/k/a Midnight,

Appellant

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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

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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. Dodzuweit  
Clerk

Dated: July 29, 2021



Certified copy and issued in lieu  
of a formal mandate on September 1, 2021

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

NOT PRECEDENTIAL

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OPINION\*

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AMBRO, Circuit Judge

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\* 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. Discussion<sup>1</sup>

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

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<sup>1</sup> 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. Duplicitous Charges**

Arnold contends the indictment on Count 2, a sex trafficking charge based on “multiple victims,” was duplicitous. 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

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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**



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

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

2 THE COURT: Final PSR.

3 MR. CRISP: This is the one pertaining to the  
4 vulnerable victims, Your Honor, and I believe it was fifty --

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

7 THE COURT: It does not affect?

8 PROBATION OFFICER: It does not.

9 THE COURT: Okay. It would not affect the total

10 offense level.

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

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

18 MR. CRISP: Correct.

19 THE COURT: All right.

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

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

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

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

6 He does not have -- he has limited factors at this  
7 point, but he has been working in prison to try and be positive  
8 in terms of what he's been dealing with moving forward.  
9 And while he did serve in the military and it did not  
10 necessarily end well, it was not -- he certainly volunteered to  
11 serve his country, ran into some difficulties there, and  
12 received, I believe, a general discharge, so not -- general  
13 under honorable.

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

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

24 THE COURT: He may do so. You may do so now, sir.  
25 THE DEFENDANT: First of all, I'd like to say good

1 morning, Your Honorable Judge Raubo, 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 relieve 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.

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

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.

12 that the defendant, Miguel Arnold, is hereby committed to the  
13 custody of the Bureau of Prisons to be imprisoned for a term of  
14 300 months.

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

22 The court finds that the defendant does not have the  
23 ability to pay a fine. It is ordered that the defendant shall  
24 pay to the Clerk, U.S. District Court, a special assessment of  
25 \$100 due immediately and a \$5,000 assessment under the Justice

11 after release from confinement.

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

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

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

23 The defendant shall comply with the standard  
24 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 office 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

1 might affect your ability to pay the financial penalty.

2 Eight, you must not have direct contact with any child

3 you know or reasonably should know to be under the age of 18,

4 not including your own children, without the permission of the

5 probation officer.

6 If you do have any direct contact with any child you

7 know or reasonably should know to be under the age of 18, not

8 including your own children, without the permission of the

9 probation officer, you must report this contact to the

10 probation officer within 24 hours.

11 Direct contact includes written communication,

12 in-person communication, or physical contact. Direct contact

13 does not include incidental contact during ordinary daily

14 activities in public places.

15 Nine, you must not have any contact with the victims

16 of this offense.

17 Ten, you must participate in a sex offense specific

18 assessment.

19 Eleven, you must participate in a sex offense specific

20 treatment program and follow the rules and regulations of that

21 program. The probation officer will supervise your

22 participation in a program which could include an evaluation

23 and completion of any recommended treatment.

24 Twelve, you must submit to periodic polygraph testing

25 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 or 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?

1 MR. CONSIGLIO: No, Your Honor.

2 THE COURT: Anything further?

3 MR. CRISP: Yes, Your Honor. One point of

4 clarification, if I may, regarding the contact with minors.

5 So the concern I have in other situations is in a

6 family gathering that has nieces, nephews, or other social

7 environments, whether guardians or parents of the children are

8 present, is that something from which he is precluded to

9 attend, or may he attend in that context without violating the

10 conditions Your Honor indicated?

11 THE COURT: If they are actually relatives, I will

12 permit the contact.

13 MR. CRISP: Okay.

14 THE COURT: Is that understood?

15 MR. CRISP: Yes, Your Honor.

16 THE COURT: All right. Thank you.

17 MR. CRISP: And then I would ask that Your Honor make

18 a recommendation as to where he would serve. He has asked for

19 one of three locations, if any of those are possible. It would

20 be Cumberland --

21 THE COURT: Cumberland, Maryland?

22 MR. CRISP: Yes, Your Honor.

23 THE COURT: Cumberland. And the other two?

24 MR. CRISP: Allenwood.

25 THE COURT: Allenwood.

1 MR. CRISP: And Schuylkill, Your Honor.

2 THE COURT: And Schuylkill. We'll make those three

3 recommendations. He understands that it is only a

4 recommendation, it's not binding on the Bureau of Prisons. You

5 understand?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: Court's in recess.

8 MR. CRISP: Thank you.

9 COURTRoom DEPUTY: Court is in recess.

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

1 CERTIFICATE OF OFFICIAL COURT REPORTER  
2  
3

4 I, Lori A. Shuey, Federal Certified Realtime Reporter, in  
5 and for the United States District Court for the Middle  
6 District of Pennsylvania, do hereby certify that pursuant to  
7 Section 753, Title 28, United States Code, that the foregoing  
8 is a true and correct transcript of the stenographically  
9 reported proceedings held in the above-captioned matter and  
10 that the transcript page format is in conformance with the  
11 regulations of the Judicial Conference of the United States.  
12  
13 Dated in Harrisburg, Pennsylvania, this 15th day of  
14 October, 2020.  
15  
16 /s/ Lori A. Shuey  
17 Lori A. Shuey  
18 Federal Certified Realtime Reporter  
19  
20  
21  
22  
23  
24  
25

## UNITED STATES DISTRICT COURT

Middle District of Pennsylvania

UNITED STATES OF AMERICA	)	JUDGMENT IN A CRIMINAL CASE
v.	)	
MIGUEL SCOTT ARNOLD	)	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 &amp; 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 &amp; 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](http://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.

<b>TOTALS</b>	<b>Assessment</b>	<b>Restitution</b>	<b>Fine</b>	<b>AVAA Assessment*</b>	<b>JVTA Assessment**</b>
	\$ 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>
<b>TOTALS</b>	\$ <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) JVTA 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](http://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. Dodszuweit,  
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

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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

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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. Dodzuweit  
Clerk

Dated: July 29, 2021



Certified copy and issued in lieu  
of a formal mandate on September 1, 2021

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