

No. 21-7644

IN THE  
SUPREME COURT OF THE UNITED STATES

MARIO REYNOSO, pro se - PETITIONER

VS.

UNITED STATES OF AMERICA - RESPONDENT(S)

ON PETITION FOR A REHEARING OF THIS  
UNITED STATES SUPREME COURT'S June 06, 2022 DENIAL ORDER

PETITION FOR A REHEARING

FILED  
JUN 29 2022

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SUPREME COURT, U.S.

MARIO REYNOSO, pro se  
P.O. BOX 3000-Medium  
Forrest City, AR 72336

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REHEARING GROUND(S)

- (1). THE TENTH CIRCUIT COURT OF APPEALS RULED ON THE MERITS OF THE QUESTIONS PRESENTED ON REYNOSO'S DIRECT APPEALS REVIEW OF HIS CRIMINAL JUDGMENT OF CONVICTION WITHOUT FIRST ASKING AND ANSWERING THE THRESHOLD JURISDICTIONAL QUESTION OF WHICH ALL FEDERAL APPELLATE COURTS ARE OBLIGATED TO DETERMINE CONCERNING IT'S OWN AS WELL AS THE LOWER COURT'S SUBJECT MATTER JURISDICTION.
- (2). THE DISTRICT COURT LACKED SUBJECT AND PERSONAL MATTER JURISDICTION TO CRIMINALLY PROSECUTE REYNOSO IN HIS CRIMINAL MATTER.

(i).

LIST OF PARTIES

[ X] All parties appear in the caption of the case on the cover page.

[ ] All parties DO NOT appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

## ARGUMENT(S) FOR REHEARING

Petitioner Mario Reynoso brings this request for rehearing to this United States Supreme Court, concerning this court's June 6, 2022, denial of his Petition for a Writ of Certiorari, pertaining to the Tenth Circuit Court of Appeals orders and affirmance judgment rendered on his Criminal Direct Appeals Review, that this honorable court failed to acknowledge that both the Tenth Circuit Court of Appeals and the Federal District Court both lacked all subject and personal matter jurisdiction to enter the orders and judgments they have in your petitioner's criminal cause.

Because subject and personal matter [jurisdictional] claims cannot be waive nor forfeited and they must be determined by the federal courts in all proceedings, because without jurisdiction a courts orders and judgments are void, see Steel Co. v. Citizens For Better Environment, 523 US 83, 140 L Ed 2d 210, 118 S Ct 1003 (1998), Petitioner now brings this [jurisdictional] defect claim concerning the judgment of conviction rendered in the District Court, alone with the Tenth Circuit Court of Appeals affirmance judgment and all orders in his criminal matter's direct appellate review. See (D.C. No. 2:19-CR-00137-RB & USAP10 No. 20-2130).

GROUND 1- THE TENTH CIRCUIT COURT OF APPEALS FAILED TO FIRST ASK AND DETERMINE WHETHER IT OR THE DISTRICT COURT HAD LAWFUL JURISDICTION TO RULE ON THE MERITS OF THE CLAIMS OR CRIMINALLY PROSECUTE PETITIONER IN HIS CRIMINAL CASE

Facts in support- Petitioner brings to this United States Supreme Court's attention that the Tenth Circuit Court of Appeals resolved the merits of the claims presented on his criminal direct appeals

review without first asking whether or not the lower federal district court had [subject] and [personal] matter jurisdiction to criminally prosecute Petitioner in his criminal matter. See Attachment A.

It is clear by looking at the Tenth Circuit Court's affirmance judgment attached hereto as Attachment A, that the Circuit Court simply "hypothesized" its jurisdiction as well as the district court's subject matter jurisdiction based on the fact that Petitioner was criminally tried and convicted in the federal district court and then sentenced to a lengthy term of imprisonment by the federal district court. The Tenth Circuit Court fails to acknowledge that Petitioner's criminal case has a [indictment] defect which is plainly visible by reviewing the record of the district court's proceedings. See Attachment B.

In *Steel Co. v. Citizens For Better Environment*, 523 US 83, 140 L Ed 2d 210, 118 S Ct 1003 (1998), this court adhered to the rule that a Federal Court may not hypothesize subject-matter jurisdiction for the purpose of deciding the merits. *Steel Co.* reiterated: "the requirement that jurisdiction be established as a threshold matter. . . is 'inflexible and without exception,' " *id.*, at 94-94, 140 L Ed 2d 210, 118 S Ct 1003 (1998). For jurisdiction is [power] to declare the law, and " '[w]ithout jurisdiction the court cannot proceed at all in any cause,' " 523 US at 94, 140 L Ed 2d 210, 118 S Ct 1003. Because subject matter jurisdiction limitations on Federal jurisdiction serve institutional interest by keeping the Federal Courts within the bounds that the Federal Constitution and Congress have prescribed, subject matter delineations must be policed by the courts on their own initiative even at the

highest level.

Attachment A, the Tenth Circuit Court's affirmance opinion, is devoid of any [jurisdictional] inquiry. See Attachment A. Because the Tenth Circuit Court's June 29 affirmance opinion is devoid of any jurisdictional inquiry, than the judgment is simply a hypothetical judgment which is not binding law. Accord *Steel Co. v. Citizens For Better Environment*, 523 US 83, 140 L Ed 2d 210, 118 S. Ct 1003 (1998).

GROUND 2- THE DISTRICT COURT LACKED SUBJECT MATTER JURISDICTION  
TO CRIMINALLY PROSECUTE PETITIONER IN HIS CRIMINAL CASE

Facts in support- Petitioner brings to this United States Supreme Court's attention that the District Court lacked subject and personal matter jurisdiction to prosecute Petitioner in his criminal case. This is so because the facts of the district court's proceedings attached hereto as Attachment B, shows that all indictments presented in Petitioner's criminal case are [redacted] charging documents. See Attachment B Docket Entries 3 & 48.

The law is clearly established and the Fifth Amendment in the United States Constitution states that "[no] person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury.

Well it is clear that a [redacted] indictment is no indictment of a grand jury's. Indictments are not released from a grand jury redacted. The district court or the United States government altered the grand jury's indictment which therefore makes the indictment in my case no longer the charges as presented by the grand jury, and therefore, violates my Fifth and Sixth Amendments constitutional

rights.

In *Ex Parte Bain*, 121 US 1, 30 L Ed 849, 7 S Ct 781, the court ruled that "a defendant's right, under the fifth amendment, to have a grand jury make a charge on its own judgment is a [substantial] right which cannot be taken away with or without the court". The Bain Court made it clear that "after an indictment has been returned, its charges may not be amended or changed except by the grand jury itself". The Court held "that after the indictment of the grand jury's was changed, it was no longer the indictment of the grand jury who presented it". "Any other doctrine would place the right of the citizen, which were intended to be protected by the constitutional provision in the fifth amendment, at the mercy or control of the court or prosecuting attorney..." 121 US 1 13.

Again, a redacted indictment is not any indictment founded by a grand jury. The charging indictment in my criminal case was redacted for some reason unknown to me either by the court or the prosecuting attorney, in violation of my fifth amendment grand jury right. See Attachment B Docket Entries 3 & 48.

REQUESTED RELIEF

I am now requesting for this honorable constitutional court to grant this rehearing request concerning my Writ of Certiorari in my criminal case. My criminal cause has a jurisdictional defect within it, which affects my [substantial] rights in the fifth amendment, and is an important matter for this court to make a determination of.

This pro se rehearing request should be granted.

Respectfully Signed,

MARION REYNOSO, PRO SE.



ATTACHMENT A

TENTH CIRCUIT COURT OF APPEALS  
JUNE 29, 2021, AFFIRMANCE JUDGMENT  
USAP10 No. 20-2130

ATTACHMENT A

UNITED STATES OF AMERICA, Plaintiff - Appellee, v. MARIO REYNOSO, a/k/a Mario Hernandez,  
Defendant - Appellant.

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT  
2021 U.S. App. LEXIS 19259  
No. 20-2130  
June 29, 2021, Filed

**Notice:**

**PLEASE REFER TO FEDERAL RULES OF APPELLATE PROCEDURE RULE 32.1 GOVERNING  
THE CITATION TO UNPUBLISHED OPINIONS.**

**Editorial Information: Prior History**

{2021 U.S. App. LEXIS 1}(D.C. No. 2:19-CR-00137-RB-1). (D. N.M.).United States v. Reynoso, 398 F. Supp. 3d 1115, 2019 U.S. Dist. LEXIS 111115, 2019 WL 2869195 (D.N.M., July 3, 2019)

**Counsel** For UNITED STATES OF AMERICA, Plaintiff - Appellee: Renee Lyn Camacho, USAO, Las Cruces, NM; Nicole T. Hammond, United States Department of Justice, Dallas, TX; Tiffany L. Walters, Office of the United States Attorney, Albuquerque, NM.  
For MARIO REYNOSO, Defendant - Appellant: Russell Dean Clark, Russell Dean Clark, LLC, Las Cruces, NM.

**Judges:** Before MATHESON, BRISCOE, and CARSON, Circuit Judges.

**CASE SUMMARY**In a conviction and sentence for distributing of methamphetamine in violation of 21 U.S.C.S. § 841(a)(1) and (b)(1)(B), the defendant did not argue that court erred in holding that the other acts evidence was sufficiently similar to the charged offense to be relevant to prove his knowledge and intent.

**OVERVIEW: HOLDINGS:** [1]-On appeal against conviction and sentence for for distributing five grams or more of methamphetamine in violation of 21 U.S.C.S. § 841(a)(1) and (b)(1)(B), the defendant failed to show that the district court abused its discretion in admitting the other acts evidence because the defendant did not argue that the district court erred in holding that the other acts evidence was sufficiently similar to the charged offense to be relevant to prove his knowledge and intent; [2]-The defendant's contention that his below-guidelines sentence was substantively unreasonable given his mental health conditions, substance abuse, and difficult childhood did not demonstrate that the district court exceeded the bounds of permissible choice in imposing a sentence that is 80 months below the bottom of the applicable guidelines range.

**OUTCOME:** Judgment affirmed.

**LexisNexis Headnotes**

*Criminal Law & Procedure > Appeals > Standards of Review > Abuse of Discretion*  
*Criminal Law & Procedure > Appeals > Standards of Review > Abuse of Discretion > Evidence*  
*Evidence > Procedural Considerations > Rulings on Evidence*

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The appellate court reviews the district court's evidentiary ruling for an abuse of discretion. Under this standard, the appellate court will not disturb a trial court's decision unless we have a definite and firm conviction that the trial court made a clear error of judgment or exceeded the bounds of permissible choice in the circumstances.

***Evidence > Relevance > Prior Acts, Crimes & Wrongs***

***Evidence > Relevance > Confusion, Prejudice & Waste of Time***

Under Fed. R. Evid. 404(b), evidence of any other crime, wrong, or act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character. Fed. R. Evid. 404(b)(1). But such evidence may be admissible for another purpose, such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident. Fed. R. Evid. 404(b)(2). In determining admissibility under Rule 404(b), courts consider four factors: (1) the evidence must be offered for a proper purpose; (2) the evidence must be relevant; (3) the trial court must make a Rule 403 determination of whether the probative value of the similar acts is substantially outweighed by its potential for unfair prejudice; and (4) pursuant to Fed. R. Evid. 105, the trial court shall, upon request, instruct the jury that evidence of similar acts is to be considered only for the proper purpose for which it was admitted. Fed. R. Evid. 404(b) is one of inclusion, rather than exclusion, unless the evidence is introduced for the impermissible purpose or is unduly prejudicial.

***Evidence > Relevance > Prior Acts, Crimes & Wrongs***

To prove identity, evidence of prior illegal acts need not be identical to the crime charged, so long as, based on a totality of the comparison, the acts share enough elements to constitute a signature quality. Elements relevant to a signature quality determination include geographic location, the skill necessary to commit the acts, or use of a distinctive device. The weight to be given to any one element and the number of elements necessary to constitute a signature are highly dependent on the elements' uniqueness in the context of a particular case.

***Evidence > Relevance > Confusion, Prejudice & Waste of Time***

Evidence is unfairly prejudicial if it makes a conviction more likely because it provokes an emotional response in the jury or otherwise tends to affect adversely the jury's attitude toward the defendant wholly apart from its judgment as to his guilt or innocence of the crime charged.

***Evidence > Inferences & Presumptions > Inferences***

***Evidence > Procedural Considerations > Weight & Sufficiency***

Evidence is sufficient to support a conviction if the evidence and the reasonable inferences drawn therefrom, viewed in the light most favorable to the government, would allow a reasonable jury to find defendant guilty beyond a reasonable doubt. We will not overturn a jury's finding unless no reasonable juror could have reached the disputed verdict.

***Criminal Law & Procedure > Juries & Jurors > Province of Court & Jury > Credibility of Witnesses***

In criminal cases, the appellate court accepts at face value the jury's credibility determinations and its balancing of conflicting evidence.

***Criminal Law & Procedure > Sentencing > Appeals > Proportionality Review***

***Criminal Law & Procedure > Appeals > Standards of Review > Abuse of Discretion***

The appellate court reviews the substantive reasonableness of a sentence for abuse of discretion. A sentence is substantively reasonable unless it exceeds the bounds of permissible choice, given the facts and the applicable law. Moreover, a below-guidelines sentence is presumptively reasonable.

## Opinion

**Opinion by:** Scott M. Matheson, Jr.

## Opinion

### ORDER AND JUDGMENT\*

Mario Reynoso appeals his conviction and sentence for distributing five grams or more of methamphetamine in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(B). He argues (1) the district court abused its discretion in admitting evidence of other acts under Federal Rule of Evidence 404(b) to prove his identity, knowledge, and intent; (2) the trial evidence was insufficient to support his conviction; and (3) his sentence is substantively unreasonable. Exercising jurisdiction pursuant to 28 U.S.C. § 1291 and 18 U.S.C. § 3742, we affirm.

### I. BACKGROUND

#### *A. Facts Underlying the Charged Offense*

A confidential source informed federal agents that someone named "Mario" was selling methamphetamine in the area around Las Cruces, New Mexico, and El Paso, Texas. The source did not know Mario's last name but provided the agents with{2021 U.S. App. LEXIS 2} Mario's phone number and a photograph of the license plate from Mario's gray 2011 Ford Fusion. Agents determined that the vehicle and the phone number were both registered to defendant, Mario Reynoso, at the same address. From a photo line-up including Mr. Reynoso's driver's license photograph, the confidential source identified Mr. Reynoso as the person he knew as "Mario."

Working undercover, Agent Omar Lujan began calling and texting the phone number registered to Mr. Reynoso, communicating with a person identifying himself as "Mario." Mario agreed to sell Agent Lujan two ounces of methamphetamine for \$800, and they arranged to meet at a casino named Sunland Park on May 8, 2018. On that day, Agent Lujan was provided with a picture of Mr. Reynoso. He exchanged additional text messages and phone calls with Mario to coordinate the meeting.

At the agreed location, Agent Lujan saw a gray Ford Fusion with the same license plate registered to Mr. Reynoso. He approached the driver's door and spoke to the driver through the rolled-down window. At that point, Agent Lujan identified the driver as Mr. Reynoso based on the photograph he had been provided. At the driver's direction, Agent Lujan{2021 U.S. App. LEXIS 3} got into the Ford Fusion and sat in the middle of the back seat. The driver turned to face Agent Lujan, who asked about the meth. The driver pointed to a Band-Aid box on the center console. Agent Lujan pulled from that box a plastic bag containing what appeared to be two ounces of methamphetamine. Agent Lujan gave the driver \$800. The driver said he needed to leave and told Agent Lujan to call him later.

That same day, Agent Lujan called the phone number registered to Mr. Reynoso and spoke to Mario. Agent Lujan indicated the bag of methamphetamine was less than two ounces, and Mario agreed he owed Agent Lujan another gram. Agent Lujan contacted Mario again in June 2018 to set up a second

drug buy, but no further transaction occurred. Mr. Reynoso was later charged in a superseding indictment with distributing five grams or more of methamphetamine on May 8, 2018.<sup>1</sup>

#### **B. Rule 404(b) Evidence**

The government notified the district court of its intent to introduce Rule 404(b) evidence relevant to Mr. Reynoso's identity as the person who sold the methamphetamine to Agent Lujan on May 8, as well as to Mr. Reynoso's knowledge and intent. It sought to introduce evidence related to Mr. Reynoso's arrest on August 22, 2018,{2021 U.S. App. LEXIS 4} by sheriff's deputies conducting a narcotics investigation in a hotel parking lot in El Paso. At that time, Mr. Reynoso was driving his 2011 gray Ford Fusion that had been used in the May 8 drug sale. In the car, the deputies found what appeared to be 2.5 ounces of methamphetamine, as well as other types of illegal drugs, drug paraphernalia, and a digital scale. They also seized over \$4,000 from Mr. Reynoso's person.

The government also sought to introduce evidence related to Mr. Reynoso's arrest in El Paso on January 30, 2019, on a warrant following his indictment in this case. At that time, he was driving the same gray Ford Fusion, but with a different license plate. Agents found over \$4,000 in cash on his person and seven one-ounce bags of methamphetamine in the vehicle. Agents also seized from Mr. Reynoso a cell phone containing text messages that discussed various drug transactions. The seized cellphone used a different phone number than the number registered to Mr. Reynoso that Agent Lujan had used to communicate with "Mario" regarding the May 8 drug sale. But both phone numbers had been used to contact the same 33 individuals, including Mr. Reynoso's wife.

Finally, the government{2021 U.S. App. LEXIS 5} sought to introduce evidence of jail phone calls recorded while Mr. Reynoso was awaiting trial, in which he discussed various ongoing drug trafficking activities.

Mr. Reynoso moved to exclude the proffered evidence. He first argued it was not relevant to prove his knowledge and intent because the identity of the person who sold methamphetamine to Agent Lujan on May 8 would be the main issue in the case. The district court disagreed, holding that the government could introduce evidence of his knowledge and intent in the absence of a stipulation that these elements of the charged offense were uncontested. The court further held that evidence of Mr. Reynoso's arrests, his cell phone texts, and his jail phone calls was admissible under Rule 404(b) to prove knowledge and intent because Mr. Reynoso's "subsequent possession of large quantities of methamphetamine in his vehicle" was "quite similar" to the charged offense, "and his alleged use of a cell phone and jail phone calls to coordinate narcotics trafficking are likewise quite similar to his alleged use of the first phone to coordinate the drug buy with [Agent Lujan]." R., Vol. I at 38.

Mr. Reynoso also contended that the evidence was not admissible{2021 U.S. App. LEXIS 6} to prove his identity because his arrests shared no signature quality elements with the May 8 drug sale to Agent Lujan. The district court again disagreed, holding that the 2011 gray Ford Fusion registered to Mr. Reynoso at his address constituted a sufficiently specific and distinctive device to render the evidence of his later drug-related acts involving that same vehicle relevant to prove his identity in the charged offense.

Finally, the district court held under Federal Rule of Evidence 403 that the probative value of the Rule 404(b) evidence was not substantially outweighed by its potential for unfair prejudice, and the court said it would give the jury a limiting instruction on its use of that evidence.

#### **C. Conviction and Sentence**

The jury convicted Mr. Reynoso on the charged offense. At sentencing, the district court calculated his applicable guidelines range as 360 months to life in prison. The court then sentenced Mr.

Reynoso below the guidelines range to 280 months.

## II. DISCUSSION

On appeal, Mr. Reynoso contends that (A) the district court erred in admitting the Rule 404(b) evidence, (B) the trial evidence was insufficient to support his conviction, and (C) his sentence is substantively unreasonable.

### A. Rule 404(b) Evidence

We review the district{2021 U.S. App. LEXIS 7} court's evidentiary ruling for an abuse of discretion. See *United States v. Merritt*, 961 F.3d 1105, 1111 (10th Cir. 2020). "Under this standard, we will not disturb a trial court's decision unless we have a definite and firm conviction that the trial court made a clear error of judgment or exceeded the bounds of permissible choice in the circumstances." *Id.* (brackets and internal quotation marks omitted).

Under Rule 404(b), "[e]vidence of any other crime, wrong, or act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character." Fed. R. Evid. 404(b)(1). But such "evidence may be admissible for another purpose, such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident." Fed. R. Evid. 404(b)(2). In determining admissibility under Rule 404(b), courts consider four factors:

(1) the evidence must be offered for a proper purpose; (2) the evidence must be relevant; (3) the trial court must make a Rule 403 determination of whether the probative value of the similar acts is substantially outweighed by its potential for unfair prejudice; and (4) pursuant to [Federal Rule of Evidence] 105, the trial court shall, upon request, instruct the jury that evidence of similar acts is to be considered only for the proper{2021 U.S. App. LEXIS 8} purpose for which it was admitted. *United States v. Smalls*, 752 F.3d 1227, 1237 (10th Cir. 2014) (internal quotation marks omitted). Rule 404(b) "is one of inclusion, rather than exclusion, unless the evidence is introduced for the impermissible purpose or is unduly prejudicial." *Id.* (internal quotation marks omitted).

#### 1. Knowledge and Intent

The district court held that all of the proffered Rule 404(b) evidence was admissible to prove Mr. Reynoso's knowledge and intent. He contends his knowledge and intent were irrelevant because the sole issue in the case was whether he was the person who sold methamphetamine to Agent Lujan on May 8. But under our reasoning in *United States v. Shumway*, 112 F.3d 1413, 1421-22 (10th Cir. 1997), the district court did not err in holding that the evidence was admissible because, absent a stipulation by Mr. Reynoso that knowledge and intent were uncontested, the government bore the burden of proving these elements of the charged offense.

Mr. Reynoso nonetheless asserts the evidence was not relevant to his knowledge and intent under the reasoning in *United States v. Commanche*, 577 F.3d 1261 (10th Cir. 2009). The defendant in *Commanche* was charged with assault with a dangerous weapon with intent to do bodily harm. *Id.* at 1264. The government sought to introduce evidence of the facts underlying his two prior aggravated battery convictions—specifically that he had brandished{2021 U.S. App. LEXIS 9} sharp cutting instruments—to prove his intent regarding the charged offense. *Id.* We held that the district court erred in admitting such evidence, concluding it was immaterial to the defendant's claim of self-defense, which was "the sole disputed issue in the case." *Id.* at 1268. We reasoned that "the details of [the defendant's] prior aggravated battery convictions demonstrate nothing about his intent; they simply show that he is violent." *Id.* at 1269. And we noted that "the present case is not one in which intent is

proven circumstantially based on repeated substantially similar acts" because there was "no indication in the record that [the defendant] claimed self defense on the two other occasions." *Id.*

*Commanche* is readily distinguishable. First, we did not address the precise issue presented here: whether evidence relevant to an element of the charged offense is admissible absent the defendant's stipulation that the element is uncontested. On that issue, Mr. Reynoso neither acknowledges our holding in *Shumway* nor attempts to distinguish it. Second, unlike *Commanche*, this case does involve evidence of repeated substantially similar acts relevant to intent. See *United States v. Conway*, 73 F.3d 975, 981 (10th Cir. 1995) (affirming admission of evidence of prior{2021 U.S. App. LEXIS 10} drug-related arrests as relevant to proving intent). Yet Mr. Reynoso does not argue that the district court erred in holding that the other acts evidence was sufficiently similar to the charged offense to be relevant to prove his knowledge and intent. He therefore fails to show that the district court abused its discretion in admitting the other acts evidence for these proper purposes.

## 2. Identity

Mr. Reynoso next argues the district court abused its discretion in admitting evidence of his two arrests to prove his identity as the driver of the gray Ford Fusion who sold methamphetamine to Agent Lujan on May 8. According to Mr. Reynoso, the court erred because his later arrests shared no signature quality elements with the charged offense.

"We have held that to prove identity, evidence of prior illegal acts need not be identical to the crime charged, so long as, based on a totality of the comparison, the acts share enough elements to constitute a signature quality. *Shumway*, 112 F.3d at 1420 (internal quotation marks omitted). "Elements relevant to a signature quality determination include . . . geographic location, the skill necessary to commit the acts, or use of a distinctive device." *Id.* (citations and internal{2021 U.S. App. LEXIS 11} quotation marks omitted). "[T]he weight to be given to any one element and the number of elements necessary to constitute a 'signature' are highly dependent on the elements' uniqueness in the context of a particular case." *Id.* Here, the district court concluded that the gray Ford Fusion registered to Mr. Reynoso at his address was a sufficiently distinctive device to render evidence of his later drug-related bad acts involving that same vehicle relevant to proving his identity for the charged offense.

Mr. Reynoso asserts that "[a]nyone could have driven [his] car on May 18, 2018 to deliver the drugs." Aplt. Br. at 14. But he acknowledges that the use of his car was a "common unique fact[]" between the May 8 drug sale and his later arrests. *Id.* And he does not challenge the district court's conclusion regarding the distinctiveness of the 2011 gray Ford Fusion as the basis for admitting the evidence to prove his identity. He therefore fails to show that the district court abused its discretion.

## 3. No Undue Prejudice

Mr. Reynoso argues the district court should have excluded the other acts evidence under Rule 403 because it served primarily to inflame the jury's passion. "Evidence is unfairly prejudicial{2021 U.S. App. LEXIS 12} if it makes a conviction more likely because it provokes an emotional response in the jury or otherwise tends to affect adversely the jury's attitude toward the defendant *wholly apart* from its judgment as to his guilt or [innocence] of the crime charged." *United States v. Tan*, 254 F.3d 1204, 1211-12 (10th Cir. 2001) (alteration and internal quotation marks omitted). The district court concluded the evidence of Mr. Reynoso's later drug-related acts was highly probative of identity, knowledge, and intent, and was not outweighed by any potential prejudice from its admission. In particular, the court concluded that the Rule 404(b) evidence "may indeed elicit a reaction from the jury, but likely no more so than other allegations of involvement in drug trafficking that will already be presented at trial." R., Vol. I at 39. The court also indicated it would give a limiting instruction. Mr.

Reynoso fails to show an abuse of discretion.

### ***B. Sufficiency of the Evidence***

Mr. Reynoso argues the evidence was insufficient to support his conviction. We review this issue *de novo*. See *United States v. Walker*, 137 F.3d 1217, 1220 (10th Cir. 1998). "Evidence is sufficient to support a conviction if the evidence and the reasonable inferences drawn therefrom, viewed in the light most favorable to the government, would allow a reasonable{2021 U.S. App. LEXIS 13} jury to find defendant guilty beyond a reasonable doubt." *Id.* "[W]e will not overturn a jury's finding unless no reasonable juror could have reached the disputed verdict." *Id.*

Focusing, as Mr. Reynoso does, on the issue of his identity as the driver of the gray Ford Fusion involved in the May 8 drug sale, we hold that the evidence was sufficient to support the jury's verdict. Agent Lujan testified that he positively identified Mr. Reynoso as the person who sold him drugs on that date. Although Mr. Reynoso argues Agent Lujan may have been mistaken or the jury might not have credited his testimony, we do not weigh conflicting evidence or evaluate witness credibility, see *United States v. Khan*, 989 F.3d 806, 827 (10th Cir. 2021) ("We accept at face value the jury's credibility determinations and its balancing of conflicting evidence." (internal quotation marks omitted)).

### ***C. Substantively Reasonable Sentence***

Mr. Reynoso contends his below-guidelines sentence is substantively unreasonable given his mental health conditions, substance abuse, and difficult childhood. He also maintains that his 280-month sentence (less than 24 years), which was imposed when he was 41 years old, "is essentially a life sentence." Aplt. Br. at 20. "We review the substantive{2021 U.S. App. LEXIS 14} reasonableness of a sentence for abuse of discretion." *United States v. Chavez*, 723 F.3d 1226, 1233 (10th Cir. 2013). A sentence is substantively reasonable unless "it exceeds the bounds of permissible choice, given the facts and the applicable law." *Id.* (brackets and internal quotation marks omitted). Moreover, a below-guidelines sentence is presumptively reasonable. See *United States v. Balbin-Mesa*, 643 F.3d 783, 788 (10th Cir. 2011). Mr. Reynoso's contentions do not demonstrate that the district court exceeded the bounds of permissible choice in imposing a sentence that is 80 months below the bottom of the applicable guidelines range.

## **III. CONCLUSION**

We affirm the district court's judgment.

Entered for the Court

Scott M. Matheson, Jr.

Circuit Judge

### **Footnotes**

\* After examining the briefs and appellate record, this panel has determined unanimously to honor the parties' request for a decision on the briefs without oral argument. See Fed. R. App. P. 34(f); 10th Cir. R. 34.1(G). The case is therefore submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and

10th Cir. R. 32.1.

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Mr. Reynoso does not dispute that the methamphetamine sold to Agent Lujan on May 8 amounted to five grams or more.

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ATTACHMENT B

U.S. DISTRICT COURT CRIMINAL PROCEEDINGS  
(RECORD)  
CRIMINAL DOCKET FOR CASE #: 2:19-CR-00137-RB  
(INDICTMENT DEFECT)

ATTACHMENT B

APPEAL

**U.S. District Court  
United States District Court - District of New Mexico (Las Cruces)  
CRIMINAL DOCKET FOR CASE #: 2:19-cr-00137-RB All Defendants**

Case title: USA v. Reynoso

Date Filed: 01/16/2019

Date Terminated: 09/01/2020

Assigned to: Sr. District Judge Robert  
C. Brack

Appeals court case number: 20-2130  
USCA

**Defendant (1)**

**Mario Reynoso**

*TERMINATED: 09/01/2020*

*also known as*

Mario Hernandez

*TERMINATED: 09/01/2020*

represented by **Cori Ann Harbour-Valdez**  
The Harbour Law Firm, P.C.  
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*TERMINATED: 06/11/2019*  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**  
*Designation: CJA Appointment*

**Peter Edwards**

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*TERMINATED: 03/07/2019*

**LEAD ATTORNEY**

**ATTORNEY TO BE NOTICED**

*Designation: Public Defender or  
Community Defender Appointment*

**Russell Dean Clark**

P.O. Box 576

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**Pending Counts**

None

**Disposition****Highest Offense Level (Opening)**

None

**Terminated Counts**

None

**Disposition****Highest Offense Level (Terminated)**

None

**Complaints**

None

**Disposition****Plaintiff**

USA

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**ATTORNEY TO BE NOTICED**

*Designation: Retained*

Date Filed	#	Docket Text
01/16/2019	<u>1</u>	<p>PLEASE TAKE NOTICE that this case has been assigned to Sr. District Judge Robert C. Brack.</p> <p>The first page of each document must have the case file number and initials of the assigned judge. <i>Accordingly, further documents filed in this matter must bear the case number and the judge's initials shown in the case caption and the NEF for this document. Kindly reflect this change in your filings.</i></p> <p>[THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (kls)</p> <p>(Entered: 01/17/2019)</p>
01/16/2019	<u>3</u>	REDACTED INDICTMENT as to Mario Reynoso (1) count(s) 1. (kls) (Entered: 01/17/2019)
01/16/2019	<u>4</u>	ARREST Warrant Issued as to Mario Reynoso. Original ARREST Warrant with AO 442 Page 2 and one certified copy of Indictment hand-delivered to USMS by CRD K. Solis. (kls) (Entered: 01/17/2019)
01/30/2019		Arrest of Mario Reynoso (vrr) Modified Arrest date on 1/31/2019 (jjs). (Entered: 01/31/2019)
01/31/2019		Case unsealed as to Mario Reynoso (vrr) (Entered: 01/31/2019)
01/31/2019		Set/Reset Hearings as to Mario Reynoso: Initial Appearance set for 2/1/2019 at 08:37 AM in Las Cruces - 340 Sierra Blanca Courtroom (North Tower) before Magistrate Judge Gregory B. Wormuth. (vrr) (Entered: 01/31/2019)
01/31/2019	<u>5</u>	Arrest Warrant Returned Executed on 1/30/2019 as to Mario Reynoso. (jjs) (Entered: 01/31/2019)
02/01/2019	<u>6</u>	Clerk's Minutes for proceedings held before Magistrate Judge Gregory B. Wormuth: Initial Appearance as to Mario Reynoso held on 2/1/2019 (Recording Info: LCR - Sierra Blanca) (jn) (Entered: 02/01/2019)
02/01/2019	<u>7</u>	ORDER APPOINTING FEDERAL PUBLIC DEFENDER Peter Edwards for Mario Reynoso by Magistrate Judge Gregory B. Wormuth (jv)
		[THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (Entered:

		02/01/2019)
02/01/2019	<u>8</u>	NOTICE OF HEARING as to Mario Reynoso: Arraignment/Detention set for 2/6/2019 at 9:30 AM in Las Cruces, NM - 380 Animas Courtroom (South Tower) before Magistrate Judge Gregory B. Wormuth. (kls) [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (Entered: 02/01/2019)
02/06/2019	<u>9</u>	Clerk's Minutes for proceedings held before Magistrate Judge Gregory B. Wormuth: Arraignment/Detention as to Mario Reynoso (1) Count 1 held on 2/6/2019; Defendant detained as a flight risk and danger to the community; Defendant in custody (Recording Info: LCR - Animas) (jn) (Entered: 02/06/2019)
02/06/2019	<u>10</u>	DISCOVERY ORDER by Magistrate Judge Gregory B. Wormuth as to Mario Reynoso (jn) (Entered: 02/06/2019)
02/06/2019	<u>11</u>	ORDER OF DETENTION by Magistrate Judge Gregory B. Wormuth as to Mario Reynoso (jn) (Entered: 02/06/2019)
02/12/2019	<u>13</u>	NOTICE OF HEARING as to Mario Reynoso: Call of the Calendar set for 3/7/2019 at 11:45 AM in Las Cruces - 440 Guadalupe Courtroom (North Tower) before Sr. District Judge Robert C. Brack. Jury Trial (trailing docket) set for 3/18/2019 at 09:00 AM in Las Cruces - 440 Guadalupe Courtroom (North Tower) before Sr. District Judge Robert C. Brack. (jac) (Entered: 02/12/2019)
03/05/2019	<u>14</u>	MOTION to Withdraw as Attorney by Peter Edwards by Mario Reynoso. (Edwards, Peter) (Entered: 03/05/2019)
03/05/2019	<u>15</u>	AMENDED NOTICE OF HEARING (to change time) as to Mario Reynoso: Call of the Calendar re set for 3/7/2019 at 11:00 AM in Las Cruces - 440 Guadalupe Courtroom (North Tower) before Sr. District Judge Robert C. Brack. (jac) [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (Entered: 03/05/2019)
03/07/2019	<u>16</u>	Unopposed MOTION to Continue <i>Trial Setting</i> by Mario Reynoso. (Edwards, Peter) (Entered: 03/07/2019)
03/07/2019	<u>17</u>	Clerk's Minutes for proceedings held before Sr. District Judge Robert C. Brack: Call of the Calendar as to Mario Reynoso held on 3/7/2019; Counsel to file Motion to continue before being withdrawn (Court Reporter: Vanessa Alyce) (jn) (Entered: 03/07/2019)
03/07/2019	<u>18</u>	ORDER CONTINUING TRIAL SETTING by Sr. District Judge Robert C. Brack granting <u>16</u> Unopposed MOTION to Continue <i>Trial Setting</i> filed by Mario Reynoso; Trial reset for April 15, 2019; Time excluded from 03/15/2019 until 04/15/2019 (jn) (Entered: 03/07/2019)
03/07/2019	<u>19</u>	ORDER by Sr. District Judge Robert C. Brack granting <u>14</u> Motion to Withdraw as Attorney. Peter Edwards withdrawn from case as to Mario Reynoso (1) (jn) (Entered: 03/07/2019)

03/12/2019	<u>20</u>	CJA 20: Appointment of Attorney Cori Ann Harbour-Valdez for Mario Reynoso by Sr. District Judge Robert C. Brack (jac) [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (Entered: 03/12/2019)
03/12/2019	<u>21</u>	NOTICE OF HEARING as to Mario Reynoso: Call of the Calendar set for 4/4/2019 at 11:00 AM in Las Cruces - 440 Guadalupe Courtroom (North Tower) before Sr. District Judge Robert C. Brack. Jury Trial set for 4/15/2019 at 09:00 AM in Las Cruces - 440 Guadalupe Courtroom (North Tower) before Sr. District Judge Robert C. Brack. (jac) (Entered: 03/12/2019)
03/12/2019	<u>22</u>	NOTICE of Counsel's Unavailability by Mario Reynoso (Harbour-Valdez, Cori) (Entered: 03/12/2019)
04/01/2019	<u>23</u>	NOTICE OF HEARING as to Mario Reynoso: Status Conference set for 4/4/2019 at 11:00 AM in Las Cruces - 440 Guadalupe Courtroom (North Tower) before Sr. District Judge Robert C. Brack. (jac) [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (Entered: 04/01/2019)
04/04/2019	<u>24</u>	Clerk's Minutes for proceedings held before Sr. District Judge Robert C. Brack: Status Conference and Call of the Calendar as to Mario Reynoso held on 4/4/2019 (Court Reporter: Vanessa Alyce) (jjs) (Entered: 04/04/2019)
04/05/2019	<u>25</u>	MOTION to Continue <i>Jury Trial</i> by Mario Reynoso. (Harbour-Valdez, Cori) (Entered: 04/05/2019)
04/08/2019	<u>26</u>	NOTICE OF HEARING as to Mario Reynoso: Status Conference set for 4/16/2019 at 10:00 AM in Las Cruces - 440 Guadalupe Courtroom (North Tower) before Sr. District Judge Robert C. Brack. (jac) [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (Entered: 04/08/2019)
04/09/2019	<u>27</u>	ORDER CONTINUING JURY TRIAL by Sr. District Judge Robert C. Brack granting <u>25</u> MOTION to Continue <i>Jury Trial</i> filed by Mario Reynoso; Trial reset May 20, 2019; Time excluded from 04/09/2019 until 05/20/2019 (jn) (Entered: 04/09/2019)
04/09/2019	<u>28</u>	NOTICE OF HEARING as to Mario Reynoso: Call of the Calendar set for 5/9/2019 at 11:00 AM in Las Cruces - 440 Guadalupe Courtroom (North Tower) before Sr. District Judge Robert C. Brack. Jury Trial set for 5/20/2019 at 09:00 AM in Las Cruces - 440 Guadalupe Courtroom (North Tower) before Sr. District Judge Robert C. Brack. (jac) (Entered: 04/09/2019)
04/15/2019	<u>29</u>	AMENDED NOTICE OF HEARING (to change time) as to Mario Reynoso: Status Conference re set for 4/16/2019 at 11:30 AM in Las Cruces - 440 Guadalupe Courtroom (North Tower) before Sr. District Judge Robert C. Brack. (jac) [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (Entered: 04/15/2019)
04/16/2019	<u>30</u>	Clerk's Minutes for proceedings held before Sr. District Judge Robert C. Brack: Status Conference as to Mario Reynoso held on 4/16/2019 (Court Reporter:

		Vanessa Alyce) (jn) (Entered: 04/16/2019)
04/25/2019	<u>31</u>	NOTICE of Attorney Substitution: Renee L Camacho substituted for Clara N. Cobos (Camacho, Renee) (Entered: 04/25/2019)
04/25/2019	<u>32</u>	MOTION to Withdraw as Attorney by Cori A. Harbour-Valdez by Mario Reynoso. (Harbour-Valdez, Cori) (Entered: 04/25/2019)
04/25/2019		Attorney update in case as to Mario Reynoso. Attorney Renee L Camacho for USA added. Attorney Clara Nevarez Cobos terminated. (yc) (Entered: 04/26/2019)
04/26/2019	<u>33</u>	NOTICE OF HEARING ON MOTION in case as to Mario Reynoso <u>32</u> MOTION to Withdraw as Attorney by Cori A. Harbour-Valdez : Motion Hearing set for 4/30/2019 at 11:45 AM in Las Cruces - 440 Guadalupe Courtroom (North Tower) before Sr. District Judge Robert C. Brack. (jac) [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (Entered: 04/26/2019)
04/29/2019	<u>34</u>	Proposed Jury Instructions by USA as to Mario Reynoso (Camacho, Renee) (Entered: 04/29/2019)
04/29/2019	<u>35</u>	Proposed Voir Dire by USA as to Mario Reynoso (Camacho, Renee) (Entered: 04/29/2019)
04/30/2019	<u>36</u>	Clerk's Minutes for proceedings held before Sr. District Judge Robert C. Brack: Status Hearing(Motion to withdraw counsel) as to Mario Reynoso held on 4/30/2019 (Court Reporter: Vanessa Alyce) (jjs) (Entered: 04/30/2019)
04/30/2019	<u>37</u>	Proposed Voir Dire by Mario Reynoso (Harbour-Valdez, Cori) (Entered: 04/30/2019)
05/02/2019	<u>38</u>	MOTION for Disclosure of <i>Grand Jury Testimony (Under Seal)</i> by USA as to Mario Reynoso. (Camacho, Renee) (Entered: 05/02/2019)
05/02/2019	<u>39</u>	NOTICE OF ATTORNEY APPEARANCE Nicole T Hammond appearing for USA. (Hammond, Nicole) (Entered: 05/02/2019)
05/02/2019	<u>40</u>	NOTICE of Request for Alibi Defense Pursuant to Federal Rule of Criminal Procedure 12.1 by USA as to Mario Reynoso (Camacho, Renee) (Entered: 05/02/2019)
05/02/2019	<u>41</u>	NOTICE of Intent to Offer Expert Testimony of DEA Special Agent Joseph Montoya and Motion In Limine for Ruling on Admissibility of Evidence by USA as to Mario Reynoso (Attachments: # <u>1</u> Exhibit Curriculum Vitae)(Camacho, Renee) (Entered: 05/02/2019)
05/02/2019	<u>42</u>	Proposed Jury Instructions by Mario Reynoso (Harbour-Valdez, Cori) (Entered: 05/02/2019)
05/02/2019	<u>43</u>	NOTICE of Intent to Use Evidence by Mario Reynoso <i>Expert Chemist</i> (Attachments: # <u>1</u> Exhibit 1)(Camacho, Renee) (Entered: 05/02/2019)
05/02/2019		Attorney update in case as to Mario Reynoso. Attorney Nicole T Hammond for USA added as co-counsel. (yc) (Entered: 05/03/2019)

05/03/2019	<u>44</u>	NOTICE of Intent to Introduce Evidence of Bad Acts Under Rule 404(b) by USA as to Mario Reynoso (Hammond, Nicole) (Entered: 05/03/2019)
05/03/2019	<u>45</u>	Sealed ORDER by Sr. District Judge Robert C. Brack Granting <u>38</u> Motion for Disclosure as to Mario Reynoso (1) (jjs) (Entered: 05/03/2019)
05/03/2019	<u>46</u>	INFORMATION TO ESTABLISH PRIOR CONVICTION as to Mario Reynoso (Attachments: # <u>1</u> Exhibit 1)(Camacho, Renee) (Entered: 05/03/2019)
05/07/2019	<u>48</u>	REDACTED INDICTMENT as to Mario Reynoso (1) count(s) 1s. (jn) Modified text on 5/9/2019 (yc). (Entered: 05/08/2019)
05/09/2019	<u>49</u>	Clerk's Minutes for proceedings held before Sr. District Judge Robert C. Brack: Call of the Calendar as to Mario Reynoso held on 5/9/2019 (Court Reporter: Vanessa Alyce) (jn) (Entered: 05/09/2019)
05/09/2019	<u>50</u>	Clerk's Minutes for proceedings held before Sr. District Judge Robert C. Brack: Arraignment as to Mario Reynoso (1) Count 1s held on 5/9/2019 (Court Reporter: Vanessa Alyce) (jn) Modified text on 5/10/2019 (yc). (Entered: 05/09/2019)
05/09/2019	<u>51</u>	ORDER by Sr. District Judge Robert C. Brack denying <u>32</u> Motion to Withdraw as Attorney as to Mario Reynoso (1) [THIS IS A TEXT ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.](jac) (Entered: 05/09/2019)
05/10/2019	<u>52</u>	Unopposed MOTION to Continue <i>Jury Trial</i> by Mario Reynoso. (Harbour-Valdez, Cori) (Entered: 05/10/2019)
05/14/2019	<u>53</u>	ORDER CONTINUING JURY TRIAL by Sr. District Judge Robert C. Brack granting <u>52</u> Unopposed MOTION to Continue <i>Jury Trial</i> filed by Mario Reynoso; Trial reset July 8, 2019; Time excluded from 05/14/2019 until 07/08/2019 (jn) (Entered: 05/14/2019)
05/14/2019	<u>54</u>	LETTER as to Mario Reynoso (jn) (Entered: 05/15/2019)
05/16/2019	<u>55</u>	Unopposed MOTION for Extension of Time to File <i>Notice of Alibi Defense Pursuant to Federal Rule of Criminal Procedure 12.1</i> by Mario Reynoso. (Harbour-Valdez, Cori) (Entered: 05/16/2019)
05/16/2019	<u>56</u>	ORDER by Sr. District Judge Robert C. Brack granting <u>55</u> Motion for Extension of Time to File as to Mario Reynoso (1); Defendant's Notice of Alibi Defense shall be filed on or before May 30, 2019 (jn) (Entered: 05/17/2019)
05/23/2019	<u>57</u>	NOTICE OF HEARING as to Mario Reynoso: Jury Selection/Jury Trial set for 7/8/2019 - 7/10/2019 at 09:00 AM in Las Cruces - 440 Guadalupe Courtroom (North Tower) before Sr. District Judge Robert C. Brack. (jac) (Entered: 05/23/2019)
05/29/2019	<u>58</u>	NOTICE UNITED STATES' NOTICE REGARDING RULE 609 EVIDENCE AS TO DEFENDANT MARIO REYNOSO by USA as to Mario Reynoso (Hammond, Nicole) (Entered: 05/29/2019)
05/30/2019	<u>59</u>	NOTICE of Alibi Defense by Mario Reynoso re <u>40</u> Notice (Other) (Harbour-Valdez, Cori) (Entered: 05/30/2019)

06/04/2019	<u>60</u>	MOTION to Seal Document by USA as to Mario Reynoso. (Camacho, Renee) (Entered: 06/04/2019)
06/04/2019	<u>61</u>	Unopposed MOTION to Appoint Counsel by USA as to Mario Reynoso. (Camacho, Renee) (Entered: 06/04/2019)
06/06/2019	<u>62</u>	(Ex Parte) Ex Parte MOTION to Substitute Attorney by Mario Reynoso. (Harbour-Valdez, Cori) Terminated motion on 6/11/2019 (jn). (Entered: 06/06/2019)
06/06/2019	<u>63</u>	MOTION to Substitute Attorney by Mario Reynoso. (Harbour-Valdez, Cori) (Entered: 06/06/2019)
06/06/2019	<u>64</u>	SEALED ORDER by Sr. District Judge Robert C. Brack granting <u>60</u> Motion to Seal Document as to Mario Reynoso (1) (jn) (Entered: 06/07/2019)
06/06/2019	<u>65</u>	SEALED ORDER by Sr. District Judge Robert C. Brack granting <u>61</u> Motion to Appoint Counsel as to Mario Reynoso (1) (jn) (Entered: 06/07/2019)
06/10/2019	<u>66</u>	EX PARTE NOTICE OF HEARING ON MOTION in case as to Mario Reynoso <u>62</u> Ex Parte MOTION to Substitute Attorney : Motion Hearing set for 6/11/2019 at 02:30 PM in Las Cruces - 440 Guadalupe Courtroom (North Tower) before Sr. District Judge Robert C. Brack. (jac) [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (Entered: 06/10/2019)
06/10/2019	<u>67</u>	NOTICE OF INTENT TO INTRODUCE SELF-AUTHENTICATING DOCUMENTS PURSUANT TO FED. R. EVID. 902(11) by USA as to Mario Reynoso (Attachments: # <u>1</u> Exhibit Certificate of Authentication, T-Mobile, # <u>2</u> Exhibit Certificate of Authentication, AT&T)(Camacho, Renee) (Entered: 06/10/2019)
06/11/2019	<u>68</u>	Clerk's Minutes for proceedings held before Sr. District Judge Robert C. Brack: Motion Hearing as to Mario Reynoso held on 6/11/2019 re <u>62</u> Ex Parte MOTION to Substitute Attorney filed by Mario Reynoso (Court Reporter: Vanessa Alyce) (jn) (Entered: 06/11/2019)
06/11/2019	<u>69</u>	ORDER by Sr. District Judge Robert C. Brack granting <u>63</u> Motion to Substitute Attorney as to Mario Reynoso (1) (jn) (Entered: 06/11/2019)
06/11/2019	<u>70</u>	CJA 20: Appointment of Attorney Russell Dean Clark for Mario Reynoso by Sr. District Judge Robert C. Brack (jac) [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (Entered: 06/11/2019)
06/13/2019	<u>71</u>	NOTICE of Expert Witness Testimony (Supplemental) and Motion in Limine for Daubert Ruling by USA as to Mario Reynoso (Attachments: # <u>1</u> Exhibit Summary of Testimony, Patrick Chavez, # <u>2</u> Exhibit Summary of Testimony, Vanessa Ponce, # <u>3</u> Exhibit Lab Report, # <u>4</u> Exhibit Dewitt CV)(Camacho, Renee) (Entered: 06/13/2019)
06/14/2019	<u>72</u>	Proposed Jury Instructions by USA as to Mario Reynoso (Camacho, Renee) (Entered: 06/14/2019)

06/17/2019	<u>73</u>	NOTICE by Mario Reynoso (Clark, Russell) (Entered: 06/17/2019)
06/17/2019	<u>74</u>	NOTICE OF HEARING as to Mario Reynoso: Status Conference set for 6/18/2019 at 10:30 AM in Las Cruces - 440 Guadalupe Courtroom (North Tower) before Sr. District Judge Robert C. Brack. (jac) [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (Entered: 06/17/2019)
06/18/2019	<u>75</u>	Clerk's Minutes for proceedings held before Sr. District Judge Robert C. Brack: Status Conference as to Mario Reynoso held on 6/18/2019 (Court Reporter: Jennifer Russin) (jjs) (Entered: 06/19/2019)
06/28/2019	<u>76</u>	First MOTION in Limine by Mario Reynoso. (Clark, Russell) (Entered: 06/28/2019)
07/01/2019	<u>77</u>	EXHIBIT LIST by USA as to Mario Reynoso (Camacho, Renee) (Entered: 07/01/2019)
07/01/2019	<u>78</u>	WITNESS LIST by USA as to Mario Reynoso (Camacho, Renee) (Entered: 07/01/2019)
07/01/2019	<u>79</u>	NOTICE of Expert Witness Testimony (2nd Supplemental) by USA as to Mario Reynoso (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2)(Camacho, Renee) (Entered: 07/01/2019)
07/02/2019	<u>80</u>	EXHIBIT LIST by Mario Reynoso (Clark, Russell) (Entered: 07/02/2019)
07/02/2019	<u>81</u>	WITNESS LIST by Mario Reynoso (Clark, Russell) (Entered: 07/02/2019)
07/02/2019	<u>82</u>	NOTICE OF HEARING ON MOTION in case as to Mario Reynoso <u>76</u> First MOTION in Limine : Motion Hearing set for 7/8/2019 at 08:30 AM in Las Cruces - 440 Guadalupe Courtroom (North Tower) before Sr. District Judge Robert C. Brack. (jac) [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (Entered: 07/02/2019)
07/03/2019	<u>83</u>	MEMORANDUM OPINION AND ORDER by Sr. District Judge Robert C. Brack DENYING <u>76</u> First MOTION in Limine as to Mario Reynoso (jjs) (Entered: 07/03/2019)
07/03/2019	<u>84</u>	MEMORANDUM OPINION AND ORDER by Sr. District Judge Robert C. Brack qualifying expert witnesses to provide testimony under Federal Rule of Evidence 702 as to Mario Reynoso (jjs) (Entered: 07/03/2019)
07/05/2019	<u>85</u>	NOTICE Amended by Mario Reynoso (Clark, Russell) (Entered: 07/05/2019)
07/07/2019	<u>86</u>	EXHIBIT LIST by USA as to Mario Reynoso (Camacho, Renee) (Entered: 07/07/2019)
07/08/2019	<u>87</u>	Clerk's Minutes for proceedings held before Sr. District Judge Robert C. Brack: Pretrial Matters as to Mario Reynoso held on 7/8/2019 (Court Reporter: Vanessa Alyce) (jn) (Entered: 07/10/2019)
07/08/2019	<u>88</u>	Court's Preliminary Instructions as to Mario Reynoso by Sr. District Judge Robert C. Brack (jn) (Entered: 07/10/2019)

07/08/2019	<u>89</u>	Clerk's Minutes for proceedings held before Sr. District Judge Robert C. Brack: Jury Selection/Trial as to Mario Reynoso held on 7/8/2019 (Court Reporter: Vanessa Alyce) (jn) (Entered: 07/10/2019)
07/09/2019	<u>90</u>	Court's Jury Instructions as to Mario Reynoso by Sr. District Judge Robert C. Brack (jn) (Entered: 07/10/2019)
07/09/2019	<u>91</u>	Jury Instructions as to Mario Reynoso by Sr. District Judge Robert C. Brack (jn) (Entered: 07/10/2019)
07/09/2019	<u>93</u>	REDACTED Jury Trial Questions Submitted as to Mario Reynoso (jn) (Entered: 07/10/2019)
07/09/2019	<u>95</u>	REDACTED JURY VERDICT as to Mario Reynoso (1) Guilty on Count 1s (jn) (Entered: 07/10/2019)
07/09/2019	<u>97</u>	REDACTED JURY VERDICT as to Mario Reynoso (1) Guilty on Count 1s (jn) (Entered: 07/10/2019)
07/09/2019	<u>98</u>	RECEIPT OF EXHIBITS - JURY TRIAL as to Mario Reynoso (jn) (Entered: 07/10/2019)
09/13/2019	<u>100</u>	PRESENTENCE INVESTIGATION REPORT as to Mario Reynoso (Attachments: # <u>1</u> Attachment A) (Sandoval, Yvonne) (Entered: 09/13/2019)
02/10/2020	102	NOTICE OF HEARING as to Mario Reynoso: Sentencing set for 2/20/2020 at 09:15 AM in Las Cruces - 440 Guadalupe Courtroom (North Tower) before Sr. District Judge Robert C. Brack. (jac) [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (Entered: 02/10/2020)
02/10/2020	103	"FILED IN ERROR - DUPLICATE" NOTICE OF HEARING as to Mario Reynoso: Sentencing set for 2/20/2020 at 09:15 AM in Las Cruces - 440 Guadalupe Courtroom (North Tower) before Sr. District Judge Robert C. Brack. (jac) [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] Modified on 2/10/2020 (jac). (Entered: 02/10/2020)
02/13/2020	<u>104</u>	First MOTION for Extension of Time to File <i>Objection to PSR</i> by Mario Reynoso. (Clark, Russell) (Entered: 02/13/2020)
02/18/2020	<u>105</u>	ORDER by Sr. District Judge Robert C. Brack granting <u>104</u> Motion for Extension of Time to File as to Mario Reynoso (1) (yc) (Entered: 02/18/2020)
02/19/2020	<u>106</u>	OBJECTION TO PRESENTENCE INVESTIGATION REPORT by Mario Reynoso (Clark, Russell) (Entered: 02/19/2020)
02/19/2020	<u>107</u>	First MOTION to Continue <i>Sentencing</i> by Mario Reynoso. (Clark, Russell) (Entered: 02/19/2020)
02/19/2020	<u>108</u>	ORDER by Sr. District Judge Robert C. Brack granting <u>107</u> Motion to Continue Sentencing Hearing as to Mario Reynoso (1) (yc) (Entered: 02/19/2020)
02/26/2020	<u>109</u>	RESPONSE by USA as to Mario Reynoso re <u>106</u> Objection to Presentence Investigation Report <i>In Opposition</i> (Attachments: # <u>1</u> Exhibit A)(Hammond,

		Nicole) (Entered: 02/26/2020)
03/10/2020	110	<p>ADDENDUM TO PRESENTENCE INVESTIGATION REPORT as to Mario Reynoso</p> <p>Related Documents: <a href="#">100 PSR - Presentence Report (Sandoval, Yvonne)</a> (Entered: 03/10/2020)</p>
08/14/2020	111	<p>NOTICE OF HEARING as to Mario Reynoso: Sentencing set for 9/1/2020 at 10:30 AM in Las Cruces - 440 Guadalupe Courtroom (North Tower) - Remote before Sr. District Judge Robert C. Brack. (jac)</p> <p>NOTE:</p> <ol style="list-style-type: none"> <li>1. This proceeding will be held via Zoom Video/Web Conferencing with all participants appearing remotely; the Zoom ID and Passcode will be provided separately to the participants email address of record.</li> <li>2. Participants should connect to the proceeding 15 minutes prior its scheduled start time to allow time for trouble-shooting of any connectivity issues.</li> <li>3. To ensure the record is of the best quality participants are encouraged to utilize a headset to reduce static and background noise; if not using a headset participants must ensure the audio feed at their location is muted when not speaking.</li> </ol> <p>*** REMINDER: Recording or broadcasting of this hearing is prohibited. ***</p> <p>[THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (Entered: 08/14/2020)</p>
08/14/2020	112	<p>AMENDED NOTICE OF HEARING (to change time) as to Mario Reynoso: Sentencing set for 9/1/2020 at 11:15 AM in Las Cruces - 440 Guadalupe Courtroom (North Tower) - Remote before Sr. District Judge Robert C. Brack. (jac)</p> <p>NOTE:</p> <ol style="list-style-type: none"> <li>1. This proceeding will be held via Zoom Video/Web Conferencing with all participants appearing remotely; the Zoom ID and Passcode will be provided separately to the participants email address of record.</li> <li>2. Participants should connect to the proceeding 15 minutes prior its scheduled start time to allow time for trouble-shooting of any connectivity issues.</li> <li>3. To ensure the record is of the best quality participants are encouraged to utilize a headset to reduce static and background noise; if not using a headset participants must ensure the audio feed at their location is muted when not speaking.</li> </ol>