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NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 18-2695

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UNITED STATES OF AMERICA

v.

RON DELANO KUNTZ,  
Appellant

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On Appeal from the District Court  
of the Virgin Islands  
District Court No. 3-17-cr-00026-003  
District Judge: The Honorable Curtis V. Gomez

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Submitted Under Third Circuit L.A.R. 34.1 (a)  
December 10, 2021

Before: McKEE, RESTREPO, and SMITH, *Circuit Judges*

(Filed: January 25, 2022)

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OPINION\*

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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.

SMITH, *Circuit Judge*

Ron Delano Kuntz was convicted of participating in a robbery of a jewelry store. He appeals his conviction and sentence. Because the District Court committed no error, we will affirm.

Kuntz was indicted for Conspiracy to Commit Hobbs Act Robbery, 18 U.S.C. § 1951, Hobbs Act Robbery, 18 U.S.C. §§ 1951, 1952, and Brandishing a Firearm during a Federal Crime of Violence, 18 U.S.C. § 924(c)(1)(A). Kuntz pled not guilty, and he was tried along with two of his co-conspirators, Keon Wilson and Shawn McIntosh. At trial, the testimony demonstrated that there was a conspiracy to rob a jewelry store in St. Croix. The day before the robbery, Kuntz picked up four men who would eventually rob the store, and he drove them to a Walgreens store where he and one of the men purchased straw hats and sunglasses. The individuals then wore the hats and sunglasses during their commission of the planned robbery. They also pointed a gun at the manager, smashed a jewelry case, and took jewelry before escaping. At trial, a cooperating witness, Robert Brown, identified Kuntz as a member of the conspiracy and stated that he served as a lookout. The Jury convicted Kuntz on all counts.

After the trial, a prisoner who was incarcerated with Brown claimed that he overheard Brown say that he testified against Kuntz only because Brown believed Kuntz was a government witness. This was brought to the attention of Kuntz's counsel. At the time, the prisoner was represented by Attorney Carl Williams who, at one point, represented both Brown and Kuntz. By the time trial commenced, however, both Brown and Kuntz had separate counsel.

The Court sentenced Kuntz to 78 months' imprisonment on Count One, Conspiracy to Commit Hobbs Act Robbery, and Count Two, Hobbs Act Robbery, to be served concurrently and 84 months' imprisonment on Count Three, Brandishing a Firearm During a Federal Crime of Violence, to be served consecutively. The court also ordered Kuntz to pay \$161,350 in restitution.<sup>1</sup>

On appeal, Kuntz argues that: (1) due to a conflict of interest he was deprived of his Sixth Amendment right to effective assistance of counsel; (2) there was insufficient evidence to convict him on all counts; (3) the Court erred in its jury instructions by stating that Hobbs Act Robbery is a crime of violence and by giving a *Pinkerton* instruction; and (4) the Court erred in applying a sentencing guideline based on the amount of restitution owed and by imposing more restitution than the evidence suggested at trial. We address each argument in turn.<sup>2</sup>

Kuntz was not denied effective assistance of counsel. As we have explained, "to prove a conflict of interest violative of the sixth amendment, a defendant ha[s] to prove (1) multiple representation that (2) created an actual conflict of interest that (3) adversely affected the lawyer's performance." *Gov't of V.I. v. Zepp*, 748 F.2d 125, 135 (3d Cir. 1984) (quoting *Sullivan v. Cuyler*, 723 F.2d 1077, 1084 (3d Cir. 1983)) (cleaned up). By the time

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<sup>1</sup> The District Court had jurisdiction pursuant to 18 U.S.C. § 3241. We have jurisdiction pursuant to 28 U.S.C. § 1291 and 18 U.S.C. § 3742(a).

<sup>2</sup> Kuntz attempted to incorporate other arguments from his codefendants pursuant to Federal Rule of Criminal Procedure 28. His brief did not identify which issues he intended to adopt. Nor did it attempt to individualize any arguments. His attempt to adopt arguments is therefore insufficient under Rule 28(i). See *United States v. Fattah*, 914 F.3d 112, 146 n.9 (3d Cir. 2019).

of trial, Kuntz and Brown each had his own counsel, so there was no conflict of interest. Further, there is no indication the previous sharing of counsel with Brown affected Kuntz's trial counsel. While he cites an email concerning the statement Brown made after trial, that post-trial statement could not have affected trial counsel's examination of Brown. Thus, Kuntz was not denied effective assistance of counsel.<sup>3</sup>

Second, viewed in the light most favorable to the prosecution, there was sufficient evidence in this case to convict Kuntz on all charges.<sup>4</sup> Most notably, Brown identified Kuntz as a member of the conspiracy. Additionally, the Jury was not required to credit Kuntz's explanation that he bought the hats and sunglasses for a "beach party." They could have reasonably concluded he bought them as disguises for the robbery. Therefore, the evidence was sufficient to convict Kuntz of these charges.

Third, the Court did not err in its instructions.<sup>5</sup> Kuntz challenged the following two instructions: "[t]he defendants are charged in Count II of the Indictment with a crime of interference with commerce by robbery. I instruct you that interference with commerce by robbery is a crime of violence," App. at 492, and as to Count III, "each member of a

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<sup>3</sup> Defendant also argues that the email shows that Brown committed perjury, and therefore "[D]efendant is entitled to relief." Appellant's Br. at 12. But the case Kuntz relies upon stands for the proposition that when the government knowingly presents false testimony, it violates the Due Process Clause. There's no assertion that the Government knew Brown's testimony was false. *Haskell v. Superintendent Greene SCI*, 866 F.3d 139, 145–46 (3d Cir. 2017). Additionally, the email does not prove that Brown presented false testimony: It could have explained Brown's decision to cooperate instead of remaining silent.

<sup>4</sup> Our standard of review for sufficiency of the evidence is *de novo*. *United States v. Lee*, 612 F.3d 170, 178 (3d Cir. 2010).

<sup>5</sup> As Kuntz argues that this violated his right to trial by jury, we exercise plenary review. *United States v. Henry*, 282 F.3d 242, 246 (3d Cir. 2002).

conspiracy is responsible for the crime and other acts committed by the other members.” App. at 494. But both of these instructions are accurate statements of law. *See United States v. Walker*, 990 F.3d 316, 326 (3d Cir. 2021) (holding that Hobbs Act Robbery is a crime of violence); *United States v. Lopez*, 271 F.3d 472, 480 (3d. Cir. 2001) (citing *Pinkerton v. United States*, 328 U.S. 640 (1946)) (explaining that co-conspirators are responsible for the acts committed by other members of the conspiracy).

Finally, the Court did not err in determining the amount of restitution owed by Kuntz and by applying a related sentencing guideline.<sup>6</sup> First, the Jury did not have to find the amount of restitution imposed. *United States v. Leahy*, 438 F.3d 328, 337 (3d Cir. 2006) (en banc). It also did not have to find the amount stolen necessary for the guideline to apply because the guideline is merely discretionary. *United States v. Grier*, 475 F.3d 556, 565 (3d Cir. 2007) (en banc). The District Court needed to find, by a preponderance of the evidence, that the guideline could apply. *Id.* All the evidence presented was consistent: the loss was over \$95,000—the amount required for the guideline to apply. U.S.S.G. § 2B3.1(7).

Finally, the Court did not abuse its discretion in imposing \$161,350 worth of restitution. There was conflicting testimony as to the amount of the loss. Some of the sources, including the store owner’s testimony at trial, established that the loss was less than \$161,530. But there was also evidence which established that the loss was \$161,530.

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<sup>6</sup> We exercise plenary review over whether the jury was required to find the amount of restitution imposed. *Henry*, 282 F.3d at 246. The Court’s determination of the amount of restitution is reviewed for abuse of discretion. *United States v. Quillen*, 335 F.3d 219, 221–22 (3d Cir. 2003).

The District Court did not abuse its discretion in relying upon a source which provided more comprehensive information than the estimation provided at trial.

Therefore, we will affirm the judgment of the District Court.

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 18-2695

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UNITED STATES OF AMERICA

v.

RON DELANO KUNTZ,  
Appellant

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On Appeal from the District Court  
of the Virgin Islands  
District Court No. 3-17-cr-00026-003  
District Judge: The Honorable Curtis V. Gomez

---

Submitted Under Third Circuit L.A.R. 34.1 (a)  
December 10, 2021

Before: McKEE, RESTREPO, and SMITH, *Circuit Judges*

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JUDGMENT

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This cause came on to be considered on the record from the District Court of the Virgin Islands and was submitted on December 10, 2021.

On consideration whereof, it is now hereby ADJUDGED and ORDERED that the judgment of the District Court entered October 2, 2018, be and the same is hereby

AFFIRMED. All of the above in accordance with the opinion of this Court.

Attest:

s/ Patricia S. Dodszuweit  
Clerk

DATED: January 25, 2022

OFFICE OF THE CLERK

PATRICIA S.  
DODSZUWEIT

CLERK



UNITED STATES COURT OF APPEALS  
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January 25, 2022

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Office of United States Attorney  
5500 Veterans Drive  
United States Courthouse, Suite 260  
St. Thomas, VI 00802

RE: USA v. Ron Kuntz  
Case Number: 18-2695  
District Court Case Number: 3-17-cr-00026-003

ENTRY OF JUDGMENT

Today, **January 25, 2022** the Court entered its judgment in the above-captioned matter pursuant to Fed. R. App. P. 36.

If you wish to seek review of the Court's decision, you may file a petition for rehearing. The procedures for filing a petition for rehearing are set forth in Fed. R. App. P. 35 and 40, 3rd Cir. LAR 35 and 40, and summarized below.

Time for Filing:

14 days after entry of judgment.

45 days after entry of judgment in a civil case if the United States is a party.

Form Limits:

3900 words if produced by a computer, with a certificate of compliance pursuant to Fed. R. App. P. 32(g).

15 pages if hand or type written.

Attachments:

A copy of the panel's opinion and judgment only.

Certificate of service.

Certificate of compliance if petition is produced by a computer.

No other attachments are permitted without first obtaining leave from the Court.

Unless the petition specifies that the petition seeks only panel rehearing, the petition will be construed as requesting both panel and en banc rehearing. Pursuant to Fed. R. App. P. 35(b)(3), if separate petitions for panel rehearing and rehearing en banc are submitted, they will be treated as a single document and will be subject to the form limits as set forth in Fed. R. App. P. 35(b)(2). If only panel rehearing is sought, the Court's rules do not provide for the subsequent filing of a petition for rehearing en banc in the event that the petition seeking only panel rehearing is denied.

A party who is entitled to costs pursuant to Fed.R.App.P. 39 must file an itemized and verified bill of costs within 14 days from the entry of judgment. The bill of costs must be submitted on the proper form which is available on the court's website.

A mandate will be issued at the appropriate time in accordance with the Fed. R. App. P. 41.

Please consult the Rules of the Supreme Court of the United States regarding the timing and requirements for filing a petition for writ of certiorari.

Very truly yours,

s/ Patricia S. Dodszuweit

Clerk

By: James King  
Case Manager  
267-299-4958

UNITED STATES DISTRICT COURT  
ST. THOMAS DIVISION

UNITED STATES OF AMERICA

v.

RON DELANO KUNTZ

## § JUDGMENT IN A CRIMINAL CASE

§

§ Case Number: 3:17-CR-00026-CVG-RM(3)  
§ USM Number: 49227-019  
§ Namosha Boykin, Esquire  
§ Defendant's Attorney

## THE DEFENDANT:

<input type="checkbox"/> pleaded guilty to count(s)	
<input type="checkbox"/> pleaded guilty to count(s) before a U.S. Magistrate Judge, which was accepted by the court.	
<input type="checkbox"/> pleaded nolo contendere to count(s) which was accepted by the court	
<input checked="" type="checkbox"/> was found guilty on count(s) after a plea of not guilty	1, 2 and 3

The defendant is adjudicated guilty of these offenses:

<u>Title &amp; Section / Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18: U.S.C. § 1951 Conspiracy To Commit Hobbs Act Robbery	09/16/2013	1ss
18: U.S.C. § 1951 and 2 Hobbs Act Robbery	09/16/2013	2ss
18: U.S.C. § 924 (c) (1)(A), and 2 Brandishing A Firearm During A Federal Crime Of Violence	09/16/2013	3ss

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The defendant has been found not guilty on count(s)  
 Count(s)  is  are dismissed on the motion of the United States

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

July 19, 2018

Date of Imposition of Judgment



Signature of Judge

Curtis V Gomez, District Judge

Name and Title of Judge



Date

DEFENDANT: RON DELANO KUNTZ  
 CASE NUMBER: 3:17-CR-00026-CVG-RM(3)

## IMPRISONMENT

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

Seventy Eight (78) months for each of Count 1 and Count 2. Each term for Counts 1 and 2 shall be served concurrently. Eighty-four (84) months as to Count 3, to be served consecutive to the term of imprisonment for Counts 1 and 2. Pursuant to Public Law 108-405, revised DNA collection requirements under the Justice for All Act of 2004, the defendant shall submit to DNA collection while incarcerated in the Bureau of Prisons, or at the direction of the U.S. Probation Office.

- The court makes the following recommendations to the Bureau of Prisons:
  - Defendant while incarcerated shall enroll in some course of study. It can be vocational, college preparatory or technical.
  - Defendant while incarcerated shall participate in the Inmate Financial Responsibility Program.
  - It is recommended that defendant be housed in an institution where he can participate in vocational training and where he can participate in substance abuse education and treatment.
- 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: RON DELANO KUNTZ  
CASE NUMBER: 3:17-CR-00026-CVG-RM(3)

## SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: Three (3) years on count 1 and 2. Five years on count 3. Term of supervised release shall 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 cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
5.  You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
6.  You must participate in an approved program for domestic violence. *(check if applicable)*
7.  You must make restitution in accordance with 18 U.S.C. §§ 2248, 2259, 2264, 2327, 3663, 3663A, and 3664. *(check if applicable)*
8.  You must pay the assessment imposed in accordance with 18 U.S.C. § 3013.
9.  If this judgment imposes a fine, you must pay in accordance with the Schedule of Payments sheet of this judgment.
10.  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.

You must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

DEFENDANT: RON DELANO KUNTZ  
 CASE NUMBER: 3:17-CR-00026-CVG-RM(3)

## STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

### U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. I understand additional information regarding these conditions is available at the [www.uscourts.gov](http://www.uscourts.gov).

Defendant's Signature \_\_\_\_\_

Date \_\_\_\_\_

DEFENDANT: RON DELANO KUNTZ  
CASE NUMBER: 3:17-CR-00026-CVG-RM(3)

## **SPECIAL CONDITIONS OF SUPERVISION**

**Defendant shall comply with the standard conditions of supervised release:**

1. Defendant while on supervised release shall enroll in some course of study. It can be vocational, college preparatory or technical for the duration of supervised release;
2. Defendant while on supervised release shall be referred to inpatient or outpatient substance abuse counseling if deemed necessary by the U.S. Probation Office and approved by the Court;
3. Defendant shall complete 400 hours of community service. It can be with My Brother's Workshop, Catholic Charities, Virgin Islands Humane Society, Virgin Islands Fish and Wildlife or some such similarly situated organization;
4. Defendant while on supervised release shall submit to random drug testing;
5. Defendant while on supervised release shall provide the Probation Office with access to any requested financial information including authorization to conduct credit check and obtain copies of the defendant's federal income tax returns;

DEFENDANT: RON DELANO KUNTZ  
 CASE NUMBER: 3:17-CR-00026-CVG-RM(3)

## CRIMINAL MONETARY PENALTIES

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

	Assessment	JVTA Assessment*	Fine	Restitution
<b>TOTALS</b>	\$300.00		\$0.00	\$161,350.00

The determination of restitution is deferred until An *Amended Judgment in a Criminal Case (AO245C)* will be entered after such determination.  
 The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

Defendant Ron Delano Kuntz, has a joint and several obligation along with co-defendants, Jarmaine Ayala, 3:17cr00026:01; Wahilli James, 3:17cr00026:02; Shaquille Correa, 3:17cr00026:04; Devon Davis, 3:17cr00026:05; Keao Wilson, 3:17cr00026:06, Shawn McIntosh, 3:17cr00026:07 and Robert Brown, 3:17cr00041, to make restitution payments to the following payee:

Restitution of \$161,350.00 to:

Pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

Restitution amount ordered pursuant to plea agreement \$  
 The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).  
 The court determined that the defendant does not have the ability to pay interest and it is ordered that:  
 the interest requirement is waived for the  fine  restitution  
 the interest requirement for the  fine  restitution is modified as follows:

\* 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: RON DELANO KUNTZ  
 CASE NUMBER: 3:17-CR-00026-CVG-RM(3)

## 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 payments of \$ \_\_\_\_\_ due immediately, balance due
  - not later than \_\_\_\_\_, or
  - in accordance  C,  D,  E, or  F below; or
- B  Payment to begin immediately (may be combined with  C,  D, or  F below); or
- C  Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D  Restitution payment shall be paid in monthly installments of not less than 10% of the defendant's gross monthly income; 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:  
**It is ordered that the Defendant shall pay to the United States a special assessment of \$300.00 for Counts 1ss, 2ss and 3ss , which shall be due immediately. Said special assessment shall be paid to the Clerk, U.S. District Court.**

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during 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  
 See above for Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.
  - Defendant shall receive credit on his restitution obligation for recovery from other defendants who contributed to the same loss that gave rise to defendant's restitution obligation.
  - 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) fine principal, (5) fine interest, (6) community restitution, (7) JVTA Assessment, (8) penalties, and (9) costs, including cost of prosecution and court costs.

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

---

No. 18-2695

---

UNITED STATES OF AMERICA

v.

RON DELANO KUNTZ,  
Appellant

---

District Court no. 3-17-cr-00026-003

---

SUR PETITION FOR REHEARING

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

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\* The vote of the Honorable D. Brooks Smith, Senior Judge of the United States Court of Appeals for the Third Circuit, is limited to panel rehearing.

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/D. Brooks Smith  
Circuit Judge

Dated: February 25, 2022  
Lmr/cc: All Counsel of Record