

## APPENDIX

APPENDIX A:	<i>United States v. Jackson</i> , 4:20-cr-00073-001 (S.D. Iowa) (criminal proceedings) Judgment entered December 10, 2020.....	1
APPENDIX B:	<i>United States v. Jackson</i> , 20-3684, (8th Cir.) (direct criminal appeal), judgment and opinion entered February 2, 2022.....	8
APPENDIX C:	<i>United States v. Jackson</i> , 20-3684 (8th Cir.) (direct criminal appeal), Order denying petition for rehearing en banc and rehearing by the panel entered March 30, 2022 .....	14

**UNITED STATES DISTRICT COURT**  
SOUTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA

v.

RUSSELL KIMBLE JACKSON

a/k/a

Russell Kimble Jackson V

**JUDGMENT IN A CRIMINAL CASE**

Case Number: 4:20-cr-00073-001

USM Number: 19540-030

Andrew James Graeve

Defendant's Attorney

**THE DEFENDANT:**☒ pleaded guilty to count(s) One of the Indictment filed on May 12, 2020.☐ pleaded nolo contendere to count(s) \_\_\_\_\_  
which was accepted by the court.☐ was found guilty on count(s) \_\_\_\_\_  
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title &amp; Section</u> <span style="background-color: #0000FF; color: white; padding: 0 2px;">?</span>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
21 U.S.C. § 841(a)(1), 841(b)(1)(C)	Possession with Intent to Distribute Cocaine	03/09/2020	One

☐ See additional count(s) on page 2

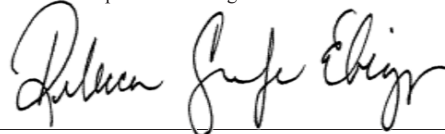
The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) \_\_\_\_\_☒ Count(s) Two ☒ 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.

December 10, 2020

Date of Imposition of Judgment



Signature of Judge

Rebecca Goodgame Ebinger, U.S. District Judge

Name of Judge

Title of Judge

December 10, 2020

Date

Appendix A  
APP. p. 001

DEFENDANT: RUSSELL KIMBLE JACKSON a/k/a Russell Kimble Jr  
CASE NUMBER: 4:20-cr-00073-001

## IMPRISONMENT

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

132 months as to Count One of the Indictment filed on May 12, 2020.

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

the defendant be evaluated for placement at FMC Rochester or, if ineligible, be placed at FCI Sandstone, FCI Oxford, or FPC Yankton and the defendant be provided the opportunity to participate in the 500-hour residential drug abuse treatment program (RDAP) and vocational programming in culinary arts and barbering.

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

☐ The defendant is remanded to the custody of the United States Marshal for surrender to the ICE detainer.

☐ 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 \_\_\_\_\_ 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 \_\_\_\_\_

a \_\_\_\_\_, with a certified copy of this judgment.

UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

DEFENDANT: RUSSELL KIMBLE JACKSON a/k/a Russell Kimble J:

Judgment Page: 3 of 7

CASE NUMBER: 4:20-cr-00073-001

### **SUPERVISED RELEASE**

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

Three years as to Count One of the Indictment filed on May 12, 2020.

### **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 which 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: RUSSELL KIMBLE JACKSON a/k/a Russell Kimble J;  
CASE NUMBER: 4:20-cr-00073-001

Judgment Page: 4 of 7

## 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. 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: RUSSELL KIMBLE JACKSON a/k/a Russell Kimble J;  
CASE NUMBER: 4:20-cr-00073-001

Judgment Page: 5 of 7

### **SPECIAL CONDITIONS OF SUPERVISION**

You must participate in a cognitive behavioral treatment program, which may include journaling and other curriculum requirements, as directed by the U.S. Probation Officer.

You must participate in a program of testing and/or treatment for substance abuse, as directed by the Probation Officer, until such time as the defendant is released from the program by the Probation Office. At the direction of the probation office, you must receive a substance abuse evaluation and participate in inpatient and/or outpatient treatment, as recommended. Participation may also include compliance with a medication regimen. You will contribute to the costs of services rendered (co-payment) based on ability to pay or availability of third-party payment. You must not use alcohol and/or other intoxicants during the course of supervision.

You must not patronize business establishments where more than fifty percent of the revenue is derived from the sale of alcoholic beverages.

You must submit to a mental health evaluation. If treatment is recommended, you must participate in an approved treatment program and abide by all supplemental conditions of treatment. Participation may include inpatient/outpatient treatment and/or compliance with a medication regimen. You will contribute to the costs of services rendered (co-payment) based on ability to pay or availability of third-party payment.

You will submit to a search of your person, property, residence, adjacent structures, office, vehicle, papers, computers (as defined in 18 U.S.C. § 1030(e)(1)), and other electronic communications or data storage devices or media, conducted by a U.S. Probation Officer. Failure to submit to a search may be grounds for revocation. You must warn any other residents or occupants that the premises and/or vehicle may be subject to searches pursuant to this condition. An officer may conduct a search pursuant to this condition only when reasonable suspicion exists that you have violated a condition of your release and/or that the area(s) or item(s) to be searched contain evidence of this violation or contain contraband. Any search must be conducted at a reasonable time and in a reasonable manner. This condition may be invoked with or without the assistance of law enforcement, including the U.S. Marshals Service.

DEFENDANT: RUSSELL KIMBLE JACKSON a/k/a Russell Kimble Jr  
CASE NUMBER: 4:20-cr-00073-001**CRIMINAL MONETARY PENALTIES**

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

- ☐ Pursuant to 18 U.S.C. § 3573, upon the motion of the government, the Court hereby remits the defendant's Special Penalty Assessment; the fee is waived and no payment is required.

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
<b>TOTALS</b>	\$ 100.00	\$0.00	\$ 23,282.00	\$ 0.00	\$ 0.00

- ☐ 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>		\$0.00	\$0.00

- ☐ 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:

\*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: RUSSELL KIMBLE JACKSON a/k/a Russell Kimble Jr  
 CASE NUMBER: 4:20-cr-00073-001

## 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 \$ 23,382.00 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 ☐ 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:
- All criminal monetary payments are to be made to the Clerk's Office, U.S. District Court, P.O. Box 9344, Des Moines, IA. 50306-9344.
- While on supervised release, you shall cooperate with the Probation Officer in developing a monthly payment plan consistent with a schedule of allowable expenses provided by the Probation Office.

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
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☐ 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:

\$5,707.00 in United States currency, \$16,818.00 in United States currency, and a loaded Smith & Wesson, Model 36, .38 caliber SPL revolver (SN: 646J12) as outlined in the Supplemental Preliminary Order of Forfeiture filed on December 8, 2020.

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.



**UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT**

**SENT TO CLIENT**  
Feb 03 2022  
by: kelly\_jensen

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No: 20-3684

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United States of America

Plaintiff - Appellee

v.

Russell Kimble Jackson, also known as Russell Kimble Jackson, V

Defendant - Appellant

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Appeal from U.S. District Court for the Southern District of Iowa - Central  
(4:20-cr-00073-RGE-1)

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**JUDGMENT**

Before BENTON, KELLY, and ERICKSON, Circuit Judges.

This appeal from the United States District Court was submitted on the record of the district court and briefs of the parties.

After consideration, it is hereby ordered and adjudged that the judgment of the district court in this cause is affirmed in accordance with the opinion of this Court.

February 02, 2022

Order Entered in Accordance with Opinion:  
Clerk, U.S. Court of Appeals, Eighth Circuit.

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/s/ Michael E. Gans

**Revision of Part V of the Eighth Circuit Plan to Implement the Criminal Justice Act of 1964.**

**V. Duty of Counsel as to Panel Rehearing, Rehearing En Banc, and Certiorari**

Where the decision of the court of appeals is adverse to the defendant in whole or in part, the duty of counsel on appeal extends to (1) advising the defendant of the right to file a petition for panel rehearing and a petition for rehearing en banc in the court of appeals and a petition for writ of certiorari in the Supreme Court of the United States, and (2) informing the defendant of counsel's opinion as to the merit and likelihood of the success of those petitions. If the defendant requests that counsel file any of those petitions, counsel must file the petition if counsel determines that there are reasonable grounds to believe that the petition would satisfy the standards of Federal Rule of Appellate Procedure 40, Federal Rule of Appellate Procedure 35(a) or Supreme Court Rule 10, as applicable. *See Austin v. United States*, 513 U.S. 5 (1994) (per curiam); 8th Cir. R. 35A.

If counsel declines to file a petition for panel rehearing or rehearing en banc requested by the defendant based upon counsel's determination that there are not reasonable grounds to do so, counsel must so inform the court and must file a written motion to withdraw. The motion to withdraw must be filed on or before the due date for a petition for rehearing, must certify that counsel has advised the defendant of the procedures for filing *pro se* a timely petition for rehearing, and must request an extension of time of 28 days within which to file *pro se* a petition for rehearing. The motion also must certify that counsel has advised the defendant of the procedures for filing *pro se* a timely petition for writ of certiorari.

If counsel declines to file a petition for writ of certiorari requested by the defendant based on counsel's determination that there are not reasonable grounds to do so, counsel must so inform the court and must file a written motion to withdraw. The motion must certify that counsel has advised the defendant of the procedures for filing *pro se* a timely petition for writ of certiorari.

A motion to withdraw must be accompanied by counsel's certification that a copy of the motion was furnished to the defendant and to the United States.

Where counsel is granted leave to withdraw pursuant to the procedures of *Anders v. California*, 386 U.S. 738 (1967), and *Penson v. Ohio*, 488 U.S. 75 (1988), counsel's duty of representation is completed, and the clerk's letter transmitting the decision of the court will notify the defendant of the procedures for filing *pro se* a timely petition for panel rehearing, a timely petition for rehearing en banc, and a timely petition for writ of certiorari.

United States Court of Appeals  
For the Eighth Circuit

SENT TO CLIENT  
Feb 03 2022  
by: kelly\_jensen

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No. 20-3684

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United States of America

*Plaintiff - Appellee*

v.

Russell Kimble Jackson, also known as Russell Kimble Jackson, V

*Defendant - Appellant*

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Appeal from United States District Court  
for the Southern District of Iowa - Central

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Submitted: November 15, 2021

Filed: February 2, 2022

[Unpublished]

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Before BENTON, KELLY, and ERICKSON, Circuit Judges.

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PER CURIAM.

Russell Jackson pled guilty to possession of cocaine with intent to distribute, in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(C). The district court<sup>1</sup> designated Jackson as a career offender because of his two prior Iowa marijuana convictions.

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<sup>1</sup>The Honorable Rebecca Goodgame Ebinger, United States District Judge for the Southern District of Iowa.

The court sentenced Jackson to a below-guidelines prison term of 132 months and imposed a \$23,282 fine based on unforfeited cash in the government's possession that the court determined to be proceeds of uncharged drug activity. Jackson appeals his career offender status and the fine. We affirm.

We review *de novo* a defendant's classification as a career offender. United States v. Clayborn, 951 F.3d 937, 939 (8th Cir. 2020). The career offender enhancement applies if a "defendant has at least two prior felony convictions of either a crime of violence or a controlled substance offense." U.S.S.G. § 4B1.1(a). The guidelines in turn define "controlled substance offense" as "an offense under federal or state law, punishable by imprisonment for a term exceeding one year, that prohibits" the distribution or possession with intent to distribute a controlled substance. U.S.S.G. § 4B1.2(b). We use a categorical approach to determine whether a prior conviction qualifies as a career offender predicate. United States v. Thomas, 886 F.3d 1274, 1275 (8th Cir. 2018). "[W]hen a federal enhancement provision incorporates state offenses by language other than a reference to generic crimes, the . . . inquiry is focused on applying the ordinary meaning of the words used in the federal law to the statutory definition of the prior state offense." United States v. Boleyn, 929 F.3d 932, 936 (8th Cir. 2019).

Jackson was convicted of possessing marijuana with intent to deliver in 2006 and delivery of marijuana in 2007, both felonies under Iowa Code § 124.401(1)(d). At the time, Iowa law defined marijuana to include hemp, Iowa Code § 124.101(19) (2006), as did the federal Controlled Substances Act ("CSA"), 21 U.S.C. § 802(16) (2006). Congress later amended the federal definition of marijuana to exclude hemp. See 21 U.S.C. § 802(16)(B)(i); Agriculture Improvement Act of 2018, Pub. L. No. 115-334, § 12619(a), 132 Stat. 4490, 5018 (2018). Jackson contends that the CSA amendment, which took effect before he was sentenced for the instant offense, generically defines marijuana for purposes of the career offender enhancement. Because the Iowa definition more broadly included hemp when he was convicted of the prior offenses, Jackson asserts that his marijuana convictions run afoul of the categorical approach.

Jackson’s argument is foreclosed by our recent decision in United States v. Henderson, 11 F.4th 713 (8th Cir. 2021). We determined in Henderson that U.S.S.G. § 4B1.2(b) contains “no requirement that the particular substance underlying the state offense is also controlled under [the CSA].” Id. at 718. Instead, we agreed with the Fourth Circuit’s interpretation that the “ordinary meaning of . . . ‘controlled substance,’ is any type of drug whose manufacture, possession, and use is regulated by law.” Id. (emphases omitted) (quoting United States v. Ward, 972 F.3d 364, 371 (4th Cir. 2020)). Jackson concedes he was convicted of delivering and possessing with intent to deliver marijuana, a drug regulated by Iowa law. Whether the statute additionally proscribed hemp within the definition of marijuana is immaterial.

Attempting to distinguish Henderson, Jackson emphasizes that Iowa, too, has removed hemp from its marijuana definition since his convictions occurred. See Iowa Code § 124.401(6). But we may not look to “current state law to define a previous offense.” McNeill v. United States, 563 U.S. 816, 822 (2011); see also United States v. Santillan, 944 F.3d 731, 733 (8th Cir. 2019) (explaining that “a prior conviction qualifies as a ‘felony drug offense’ if it was punishable as a felony at the time of conviction”). Jackson’s uncontested prior marijuana convictions under the hemp-inclusive version of Iowa Code § 124.401(1)(d) categorically qualified as controlled substance offenses for the career offender enhancement.<sup>2</sup>

We likewise reject Jackson’s arguments disputing the \$23,282 fine. “A district court’s imposition of a fine and the determination of the amount of the fine will not be reversed unless clearly erroneous.” United States v. Allmon, 500 F.3d 800, 807 (8th Cir. 2007) (quoting United States v. Berndt, 86 F.3d 803, 808 (8th Cir. 1996)). At a forfeiture hearing held before sentencing, the district court concluded that the disputed funds were Jackson’s drug proceeds but that they did not satisfy the offense-specific nexus required for forfeiture. See Fed. R. Crim. P. 32.2(b)(1)(A)

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<sup>2</sup>The applicable career offender guideline independently resulted in a higher offense level, mooting Jackson’s challenge to the specific offense characteristic for maintaining a drug stash house, U.S.S.G. § 2D1.1(b)(12). See United States v. LeGrand, 468 F.3d 1077, 1082 (8th Cir. 2006).

(“If the government seeks forfeiture of specific property, the court must determine whether the government has established the requisite nexus between the property and the offense.”). At sentencing, the government then sought a fine in the amount of the disputed funds. The district court found that Jackson had acquired “significant proceeds from his drug trafficking” as “reflected in the \$23,282 in the custody of the government,” and ordered a fine in that amount. Jackson objected on the grounds that it was “unnecessary in this case.”

On appeal, Jackson claims the district court erred by relying on seized money to conclude he had the ability to pay a fine. But Jackson’s counsel conceded at sentencing that the disputed funds were “due to come back to . . . Jackson after th[e] hearing.” Counsel did not take a position on whether the funds would qualify as an “asset” but agreed that \$23,282 remained from the amount of money seized from Jackson’s safety deposit box and that this amount had “not been forfeited to the government.” We find no clear error in the district court’s findings. Jackson’s claim that the court clearly erred when it failed to make an express finding that he had the ability to pay the fine is similarly without merit. Although “[a] sentencing court must make specific factual findings on the record demonstrating that it has considered the defendant’s ability to pay the fine,” United States v. Patient Transfer Serv., Inc., 465 F.3d 826, 827 (8th Cir. 2006), the court’s colloquy makes plain that everyone understood that the government was in possession of sufficient funds belonging to Jackson for payment of the fine. The district court did not clearly err in assessing the fine.

We affirm the judgment of the district court.

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**UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT**

No: 20-3684

United States of America

Appellee

v.

Russell Kimble Jackson, also known as Russell Kimble Jackson, V

Appellant

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Appeal from U.S. District Court for the Southern District of Iowa - Central  
(4:20-cr-00073-RGE-1)

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**ORDER**

The petition for rehearing en banc is denied. The petition for rehearing by the panel is also denied.

March 30, 2022

Order Entered at the Direction of the Court:  
Clerk, U.S. Court of Appeals, Eighth Circuit.

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/s/ Michael E. Gans