

No. _____

In the

Supreme Court of the United States

James Paris Williams,

Petitioner,

v.

United States of America,

Respondent.

On Petition for a Writ of Certiorari
to the United States Court of Appeals
for the Fifth Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

1. Did the district court impose a substantively unreasonable sentence when it varied upward from the advisory sentencing range?

PARTIES TO THE PROCEEDING

Petitioner is James Paris Williams, who was the Defendant-Petitioner in the court below. Respondent, the United States of America, was the Plaintiff-Appellee in the court below. No party is a corporation.

RULE 14.1(b)(iii) STATEMENT

This case arises from the following proceedings in the United States District Court for the Northern District of Texas and the United States Court of Appeals for the Fifth Circuit:

- *United States v. Williams*, No. 21-10982, 2022 U.S. App. LEXIS 8064, at *1 (5th Cir. Mar. 28, 2022)
- *United States v. Williams*, 5:21-CR-00024-H-BQ(1) (N.D.T.X. Sept. 23, 2021)

No other proceedings in state or federal trial or appellate courts, or in this Court, are directly related to this case.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner James Paris Williams seeks a writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit.

OPINIONS BELOW

The opinion of the Court of Appeals is reported at *United States v. Williams*, No. 21-10982, 2022 U.S. App. LEXIS 8064, at *1 (5th Cir. Mar. 28, 2022). The district court did not issue a written opinion.

JURISDICTION

The Fifth Circuit entered judgment on September 23, 2021. This Court has jurisdiction pursuant to 28 U.S.C. § 1254(1).

RULES AND GUIDELINES PROVISIONS

This petition involves 18 U.S.C. § 3553(a):

The court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection. The court, in determining the particular sentence to be imposed, shall consider—

- (1) the nature and circumstances of the offense and the history and characteristics of the defendant;
- (2) the need for the sentence imposed—
 - (A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;
 - (B) to afford adequate deterrence to criminal conduct;
 - (C) to protect the public from further crimes of the defendant; and
 - (D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;
- (3) the kinds of sentences available;
- (4) the kinds of sentence and the sentencing range established for—

- (A) the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines—
 - (i) issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, subject to any amendments made to such guidelines by act of Congress (regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section 994(p) of title 28); and
 - (ii) that, except as provided in section 3742(g), are in effect on the date the defendant is sentenced; or
- (B) in the case of a violation of probation or supervised release, the applicable guidelines or policy statements issued by the Sentencing Commission pursuant to section 994(a)(3) of title 28, United States Code, taking into account any amendments made to such guidelines or policy statements by act of Congress (regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section 994(p) of title 28);

(5) any pertinent policy statement—

- (A) issued by the Sentencing Commission pursuant to section 994(a)(2) of title 28, United States Code, subject to any amendments made to such policy statement by act of Congress regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section 994(p) of title 28); and
- (B) that, except as provided in section 3742(g), is in effect on the date the defendant is sentenced.

(6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct and

(7) the need to provide restitution to any victims of the offense.

STATEMENT OF THE CASE

On November 3, 2020, DPS agents discovered James Paris Williams, Appellant, in possession of firearms, ammunition, and drugs while investigating a report of a stolen vehicle. (ROA.122). The agents then determined that Mr. Williams had a prior felony conviction and that parts of at least one of the firearms had traveled in interstate commerce. (ROA.123). The government subsequently indicted him on one count of Convicted Felon in Possession of a Firearm and Ammunition, in violation of §§ 922(g)(1) and 924(a)(2). (ROA.8-10).

On April 27, 2021, Mr. Williams pleaded guilty to the one-count indictment. (ROA.91). The Presentence Investigation Report (PSR) was prepared, which reflected a base offense level of 14. (ROA.124). After a 2-level reduction for acceptance of responsibility, Mr. William's total offense level was 12. (ROA.124). Combined with a Criminal History Category of VI, U.S. Probation calculated Mr. Williams's advisory guidelines range at 30 to 37 months. (ROA.136).

On September 23, 2021, the district court held Mr. William's sentencing hearing. (ROA.96). Defense counsel requested a sentence within the advisory range of 30 to 37 months. (ROA.101). The government, in response, requested a "substantial sentence." (ROA.102). The district court then imposed an 11-month upward variance, sentencing him to 48 months imprisonment, followed by a 3-year term of supervised release. (ROA.105-06). Defense counsel objected, arguing that the sentence was substantively unreasonable and greater than necessary to achieve the statutory sentencing factors. (ROA.107). The Fifth Circuit affirmed.

REASON FOR GRANTING THIS PETITION

The district court imposed an upward variance based on Mr. William's recidivism. In doing so, the court did not adequately consider and account for Mr. Williams's history and characteristics, leading to sentence that was greater than necessary to achieve the statutory sentencing goals. This Court should vacate and reverse for resentencing under a proper balancing of the appropriate factors.

I. The district court imposed an unreasonable sentence upon Mr. Williams.

A. Standard of Review

This Court reviews substantive reasonableness under an abuse of discretion standard. *Gall v. United States*, 552 U.S. 38, 51 (2007). Appellant's trial counsel preserved this point of error by objecting to the district court's sentence as substantively unreasonable. (ROA.107).

B. The district court erred when it varied upward from the advisory sentencing range.

Circuit courts exist, in part, to correct mistakes of substantive reasonableness when they occur. *Rita v. United States*, 551 U.S. 338, 354 (2007). Moreover, appellate review of a sentencing decision for "reasonableness" is proper regardless of whether the sentence is within or outside of the guidelines range. *United States v. Cisneros-Gutierrez*, 517 F.3d 751, 764 (5th Cir. 2008). But when a sentence is above-guidelines, the district court does not benefit from a presumption of reasonableness. *See Rita*, 551 U.S. at 347.

In reviewing a challenge to the substantive reasonableness of a non-Guidelines sentence, the sentence unreasonably fails to reflect the statutory sentencing factors when: (1) the court does not account for a factor that should have received significant weight; (2) the court gives significant weight to an irrelevant or improper factor; or (3) the court makes a clear error of judgment in balancing the sentencing factors.

United States v. Chandler, 732 F.3d 434, 437 (5th Cir. 2013) (quoting *United States v. Smith*, 440 F.3d 704, 708 (5th Cir. 2006)). Those factors include:

- (1) the nature and circumstances of the offense and the history and characteristics of the defendant;
- (2) the need for the sentence imposed --
 - (A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;
 - (B) to afford adequate deterrence to criminal conduct;
 - (C) to protect the public from further crimes of the defendant; and
 - (D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;
- (3) the kinds of sentences available;
- (4) the kinds of sentence and the established sentencing range;
- (5) any pertinent policy statements issued by the Sentencing Commission;
- (6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and
- (7) the need to provide restitution.

18 U.S.C. § 3553(a).

Although the Sentencing Guidelines are advisory rather than mandatory, they

are the product of careful study based on extensive empirical evidence derived from the review of thousands of individual sentencing decisions. *Gall v. United States*, 552 U.S. 38, 46 (2007). As such, a district court must more thoroughly articulate its reasons when it imposes a non-Guideline sentence than when it imposes a sentence under authority of the Sentencing Guidelines. *United States v. Smith*, 440 F. 3d 704, 707 (5th Cir. 2006). These reasons should be fact-specific and consistent with the sentencing factors enumerated in 18 U.S.C. § 3553(a). *Id.* A checklist recitation of the factors is neither necessary nor sufficient for a sentence to be reasonable as the purpose of the district court's statement of reasons is to enable the reviewing court to determine whether, as a matter of substance, the sentencing factors support the sentence. *United States v. Smith*, 440 F. 3d 704, 707.

Here, the district court's above-Guidelines sentence was based on Mr. Williams's criminal history, which was already accounted for by the Sentencing Guidelines and in Mr. Williams's Guideline criminal history calculation. The district court described a series of Mr. Williams's prior convictions and concluded that a prior sentence of 46-months imprisonment for the same offense, along with other "more lenient sentences," "have not deterred you from breaking the law." (ROA.103). This showed, in the eyes of the district court, that "there hasn't been a great respect for the law." (ROA.104).

In doing so, the district court did not adequately account Mr. William's history and characteristics. Within this category, Mr. Williams and his counsel described how he had completed an RDAP program while in BOP custody and showed promise with

initial success while on supervised release. (ROA.100). It was not until he failed to qualify for college financial assistance that he “became depressed and went back to some old habits that put him in this situation again.” (ROA.101). Furthermore, the advisory sentencing range already accounted for and reflected Mr. Williams’s recidivism by increasing Mr. Williams’s criminal history category. (ROA.124-28). Had the district court given these considerations adequate weight, the sentence should have been lower.

C. The district court’s 48-month sentence was excessive.

This Court also evaluates whether the “degree of the departure or the sentence as a whole is unreasonable.” *United States v. Rajwani*, 476 F.3d 243, 250 (5th Cir. 2007), *modified on other grounds*, 479 F.3d 904 (5th Cir. 2007). Additionally, when reviewing a non-Guidelines sentence, courts may consider the extent of the variance, but must give due deference to the district court’s decision that the § 3553(a) factors, on a whole, justify the extent of the variance. *Chandler*, 732 F.3d at 437 (quoting *United States v. Broussard*, 669 F.3d 537, 551 (5th Cir. 2012)). Here, the PSR’s guideline range was 30 to 37 months. (ROA.122). Yet the district court sentenced Appellant to 48 months, which was eleven months above the top of the advisory sentencing range. (ROA.136). Under the totality of the circumstances, this was unreasonable. Justice does not require Mr. Williams to suffer an enhanced sentence here.

CONCLUSION

Petitioner respectfully prays that this Court grant this Petition, vacate sentence, and remand for a sentence that properly serves the statutory sentencing goals.

Respectfully submitted,

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/s/ Brandon Beck
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Attorney for Petitioner

United States v. Williams

United States Court of Appeals for the Fifth Circuit

March 28, 2022, Filed

No. 21-10982 Summary Calendar

Reporter

2022 U.S. App. LEXIS 8064 *; 2022 WL 901508

United States of America, Plaintiff-Appellee, versus James Paris Williams, Defendant-Appellant.

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

Prior History: [*1] Appeal from the United States District Court for the Northern District of Texas. USDC No. 5:21-CR-24-1.

[United States v. Williams, 2021 U.S. Dist. LEXIS 93560 \(N.D. Tex., Apr. 27, 2021\)](#)

Counsel: For United States of America, Plaintiff - Appellee: Leigha Amy Simonton, Assistant U.S. Attorney, U.S. Attorney's Office, Dallas, TX.

For James Paris Williams, Defendant - Appellant: Brandon Elliott Beck, Federal Public Defender's Office, Lubbock, TX.

Judges: Before Southwick, Oldham, and Wilson, Circuit Judges.

Opinion

PER CURIAM:*

James Paris Williams appeals the 48-month above-guidelines term of imprisonment imposed following his guilty plea conviction for possession of firearms and ammunition by a convicted felon. He challenges only the substantive reasonableness of his sentence, arguing that it is greater than necessary to satisfy the sentencing goals of [18 U.S.C. § 3553\(a\)](#).

Our review is for abuse of discretion. *See Gall v. United States, 552 U.S. 38, 51, 128 S. Ct. 586, 169 L. Ed. 2d 445 (2007)*. When reviewing a non-guidelines sentence for substantive reasonableness, we consider "the totality of the circumstances, including the extent of any variance from the Guidelines range, to determine whether, as a matter of substance, the sentencing factors in section 3553(a) support the sentence." *United States v. Gerezano-Rosales, 692 F.3d 393, 400 (5th Cir. 2012)* (internal quotation marks and citations omitted). We "give due deference to the district court's decision that the § 3553(a) factors, [*2] on a whole, justify the extent of the variance." *Id. at 401* (internal quotation marks and citation omitted).

The district court made an individualized assessment and concluded that the 30-to-37-month guidelines range did not adequately take into account the § 3553(a) factors. Although Williams asserts that too much weight was given to his criminal history, "the sentencing court is free to conclude that the applicable Guidelines range gives too much or too little weight to one or more factors, and may adjust the sentence accordingly under § 3553(a)." *United States v. Lopez-Velasquez, 526 F.3d 804, 807 (5th Cir. 2008)* (internal quotation marks and citation omitted). Williams's arguments amount to a disagreement with the district court's weighing of the sentencing factors, which "is not a sufficient ground for reversal." *United States v. Malone, 828 F.3d 331, 342 (5th Cir. 2016)*. Although Williams's 48-month term of imprisonment is 11 months greater than the top of the guidelines range, we have upheld much greater variances. *See, e.g., United States v. Key, 599 F.3d 469, 475-76 (5th Cir. 2010); United States v. Brantley, 537 F.3d 347, 348-50 (5th Cir. 2008)*. Based on the totality of the circumstances, including the significant deference that is given to the district court's consideration of the § 3553(a) factors, Williams's sentence is not substantively unreasonable. *See Gerezano-Rosales, 692 F.3d at 400-01*.

The judgment of the district court is AFFIRMED.

End of Document

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS LUBBOCK DIVISION

UNITED STATES OF AMERICA

v.

JAMES PARIS WILLIAMS

§ JUDGMENT IN A CRIMINAL CASE

§

§

§ Case Number: **5:21-CR-00024-H-BQ(1)**

§ USM Number: **54255-177**

§ **Wade William Iverson**

§ Defendant's Attorney

THE DEFENDANT:

<input type="checkbox"/> pleaded guilty to count(s)	
<input checked="" type="checkbox"/> pleaded guilty to count(s) before a U.S. Magistrate Judge, which was accepted by the court.	1 of the indictment filed March 10, 2021.
<input type="checkbox"/> pleaded nolo contendere to count(s) which was accepted by the court	
<input type="checkbox"/> was found guilty on count(s) after a plea of not guilty	

The defendant is adjudicated guilty of these offenses:

Title & Section / Nature of Offense	Offense Ended	Count
18 U.S.C. §§ 922(g)(1), 924(a)(2) - CONVICTED FELON IN POSSESSION OF FIREARMS AND AMMUNITION	10/09/2020	1

The defendant is sentenced as provided in pages 2 through 8 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The defendant has been found not guilty on count(s)
 Count(s) is Remaining count(s) 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.

September 23, 2021

Date of Imposition of Judgment



Signature of Judge

James Wesley Hendrix
United States District Judge

Name and Title of Judge

September 23, 2021

Date

DEFENDANT: JAMES PARIS WILLIAMS
CASE NUMBER: 5:21-CR-00024-H-BQ(1)

IMPRISONMENT

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

48 months as to count 1. This sentence shall run consecutively to the sentence imposed in Case No. 5:16-CR-018-H(01), in the U.S. District Court, Northern District of Texas, Lubbock Division, and Case No. 2021-422,088, pending in the 364th District Court, Lubbock County, Texas.

The court makes the following recommendations to the Bureau of Prisons: Incarceration at FCI Big Spring, Texas.

The Court recommends that, while incarcerated, the defendant receive appropriate substance-abuse and mental health treatment, but the Court did not lengthen the defendant's prison term to promote rehabilitation. *See Tapia v. United States*, 564 U.S. 319 (2011).

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: JAMES PARIS WILLIAMS
CASE NUMBER: 5:21-CR-00024-H-BQ(1)

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: **Three (3) years.**

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 additional conditions on the attached page.

DEFENDANT: JAMES PARIS WILLIAMS
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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 www.txnp.uscourts.gov.

Defendant's Signature _____

Date _____

DEFENDANT: JAMES PARIS WILLIAMS
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SPECIAL CONDITIONS OF SUPERVISION

1. The defendant shall participate in an outpatient program approved by the probation officer for treatment of narcotic, drug, or alcohol dependency that will include testing for the detection of substance use, abstaining from the use of alcohol and all other intoxicants during and after completion of treatment, and contributing to the costs of services rendered (copayment) at the rate of at least \$20.00 per month.

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CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments page.

	Assessment	Restitution	Fine	AVAA Assessment*	JVTA Assessment**
TOTALS	\$100.00	\$0.00	\$0.00	\$0.00	\$0.00

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.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment. However, 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 the schedule of payments page 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.

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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 Payment in equal 20 (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:
It is ordered that the Defendant shall pay to the United States a special assessment of \$100.00 for Count 1, 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.
 - The defendant shall pay the cost of prosecution.
 - The defendant shall pay the following court cost(s):
 - The defendant shall forfeit the defendant's interest in the following property to the United States:

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

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FORFEITED PROPERTY

Pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c) and the Preliminary Order of Forfeiture (Dkt. #30) filed on 6/28/21, it is further ordered that the defendant's interest in the following property is condemned and forfeited to the United States:

- a Springfield Model RO Target, .45 caliber semiautomatic pistol, serial number NM650445;
- a Smith & Wesson Model SD40, .40 caliber semiautomatic pistol, serial number FCK6399; and
- numerous rounds of ammunition.