

No.

IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 2021

LANN TJUAN CLANTON, Petitioner,

v.

UNITED STATES OF AMERICA, Respondent

MOTION TO PROCEED IN FORMA PAUPERIS

Petitioner, Lann Tjuan Clanton, by his undersigned counsel, requests leave to file a Petition for Writ of Certiorari without prepayment of costs and to proceed in forma pauperis pursuant to Rule 39 of the Supreme Court Rules. Counsel was appointed in the lower court pursuant to 18 U.S.C. § 3006 and Rule 44, Fed. R. CR. P.

This the 27th day of June, 2022.

Respectfully submitted,


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No.

IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 2021

LANN TJUAN CLANTON, Petitioner,

v.

UNITED STATES OF AMERICA, Respondent

PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

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QUESTION PRESENTED

I. WHETHER, AFTER WINNING THE RIGHT TO FILE A BELATED APPEAL DUE TO COUNSEL'S INEFFECTIVENESS FOR FAILING TO FILE A NOTICE OF APPEAL, THE FOURTH CIRCUIT ERRED IN DISMISSING PETITIONER'S APPEAL PURSUANT TO AN APPEAL WAIVER IN HIS PLEA AGREEMENT, WHEN PETITIONER HAD MERITORIOUS GROUNDS FOR APPEAL, I.E. RECEIVING A LEADERSHIP ROLE IN A FEDERAL STING OPERATION.

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PETITION FOR WRIT OF CERTIORARI

Petitioner Lann Tjuan Clanton, respectfully prays this Court that a writ of certiorari issue to review the order of the United States Court of Appeals for the Fourth Circuit, issued on March 29, 2022, dismissing his appeal.

OPINION BELOW

The order of the United States Court of Appeals for the Fourth Circuit for which review is sought is United States v. Lann Tjuan Clanton, No. 21-4495 (4th Cir., March 29, 2022). The order is unpublished. The order of the United States Court of Appeals for the Fourth Circuit is reproduced in the Appendix to this petition as Appendix A. The judgment is reproduced as Appendix B. The mandate is reproduced as Appendix C.

JURISDICTION

The order and judgment of the United States Court of Appeals for the Fourth Circuit were issued on March 29, 2022. The jurisdiction of this court is invoked pursuant to 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

On April 22, 2015 Lann Tjuan Clanton was charged along with fourteen others in a 54 count indictment with drug, firearm, money laundering, and bribery offenses. On February 9, 2016, pursuant to a written plea agreement, Mr. Clanton pled guilty to a two count Criminal Information. Count 1 charged him with conspiracy to distribute and possess with intent to distribute controlled substances

in violation of 21 U.S.C. § 841(a)(1) and § 846. Count Two charged him with using and carrying a firearm during and in relation to a drug trafficking crime in violation of 18 U.S.C. § 924(c)(1)(A). A copy of the Criminal Information is reproduced as Appendix I. A copy of 18 U.S.C. 18 § 924(c) is reproduced as Appendix E, a copy of 21 U.S.C. § 841 is reproduced as Appendix F, and a copy of 21 U.S.C. § 846 is reproduced as Appendix G.

Lann Tjuan Clanton prevailed on his § 2255 petition wherein it was found that his trial counsel was ineffective for failing to file a notice of appeal. An amended judgment was entered on September 7, 2021 (Appendix D) from which Mr. Clanton appealed. The issue herein is whether the Fourth Circuit Court of Appeals erred in dismissing his appeal pursuant to an appeal waiver in his plea agreement. A copy of just the appeal waiver portion of the memorandum of plea agreement is reproduced as Appendix J. Lann Tjuan Clanton sought to appeal whether a drug conspiracy conviction is a valid predicate offense under 18 U.S.C. § 924(c), and whether the district court properly applied a four level enhancement for leadership role under Guideline § 3B1.1 in a federal sting operation. Guideline § 3B1.1 is reproduced as Appendix H.

STATEMENT OF THE CASE

PROCEDURAL HISTORY

On April 22, 2015 the federal grand jury for the Eastern District of North Carolina returned a 54-Count Indictment against 15 defendants, including Lann Tjuan Clanton, charging them with conspiracy, drugs, firearms, money laundering, and bribery. The case arose out of an undercover sting operation conducted by the FBI and known as Operation Rockfish. On February 9, 2016 Mr. Clanton pled guilty to a two-count Criminal Information pursuant to a plea agreement. Count 1 charged him with conspiracy to distribute and possess with the intent to distribute 100 grams or more of heroin and 500 grams or more of cocaine from November 7, 2013 to April 30, 2015. Count 2 charged him with using and carrying a firearm during and in relation to a drug-trafficking crime on February 24, 2014. (App. I). Pursuant to the plea agreement the relevant counts of the indictment were to be dismissed at sentencing.

The case came on for sentencing on June 14, 2017 before the Honorable Malcolm J. Howard, Senior United States District Court Judge. Mr. Clanton was sentenced to 135 months on Count 1s and 60 months on Count 2s to run consecutively, for a total term of 195 months. A notice of appeal was not filed.

On May 14, 2018 Mr. Clanton filed a motion under 28 U.S.C. § 2255 to vacate, set aside, or correct his sentence. The Government filed a motion to dismiss and supporting memorandum seeking dismissal of all claims, except agreeing to an

evidentiary hearing on the claim of ineffective assistance of counsel for failing to file a notice of appeal.

On May 6, 2020 Judge Howard entered an order directing United States Magistrate Judge Kimberly A. Swank to conduct an evidentiary hearing and directing the Federal Public Defender to assign counsel to represent Mr. Clanton at the hearing. The hearing on Mr. Clanton's § 2255 motion to vacate and the Government's motion to dismiss was held on June 28, 2021 before Magistrate Judge Swank. The Petitioner and his wife both testified at the hearing. The Government called as its witness Petitioner's district court counsel Alton Williams.

In her Memorandum and Recommendation filed on August 16, 2021, Magistrate Judge Swank recommended that the Government's motion to dismiss be denied, that Petitioner's motion to vacate be granted, and that the judgment of conviction be vacated and a new judgment be entered from which Mr. Clanton would have the opportunity to appeal.

Due to Judge Howard's retirement, a text order was entered reassigning the case to District Court Judge Louise W. Flanagan. On September 3, 2021 Judge Flanagan adopted Magistrate Judge Swank's recommendation. On September 7, 2021 Judge Flanagan entered an amended judgment. On September 15, 2021 undersigned counsel filed Petitioner's notice of appeal. On September 17, 2021 Judge Flanagan entered another amended judgment correcting two clerical mistakes.

By order entered on March 29, 2022, the Fourth Circuit Court of Appeals dismissed the appeal based upon the appeal waiver in Petitioner's plea agreement. (App. A).

STATEMENT OF FACTS

In 2013, an undercover investigation was initiated by the Federal Bureau of Investigation (FBI) to investigate allegations of corruption within the Northampton County Sheriff's Office and additional law enforcement officers and/or their associates on the I-95 corridor in the Eastern District of North Carolina and Virginia. The investigation, known as "Operation Rockfish", used undercover agents to pose as members of a transnational drug-trafficking organization (DTO) based in Florida. The purported DTO transported kilogram quantities of sham cocaine and sham heroin north along the I-95 corridor and significant sums of United States currency, representing sham drug proceeds, south along the I-95 corridor. The undercover operation engaged law enforcement officers and associates to protect the sham drug shipments and sham drug proceeds.

The target law enforcement defendants were led to believe that they had been recruited to work for this drug DTO because of their status as law enforcement or former law enforcement officers, and that they would assist in the transport of the narcotics up and down the east coast, as well as drug proceeds in exchange for payment. From 2013 to 2015, this undercover investigation consisted of multiple operations that would typically involve one or more of the defendants either transporting, protecting, or assisting in the transport of what they believed to be

drugs or drug proceeds. At the time of these offenses, Lann Tjuan Clanton was a former Weldon police officer. He was alleged to have participated in multiple operations between 2013 and 2015.

With respect to Count 2 of the Criminal Information, the Government proffered that on February 24, 2014 Mr. Clanton participated in what he believed to be the robbery of a drug courier. He was led to believe that a drug courier would be at a hotel in eastern North Carolina, and that drug courier would have cash on him. Mr. Clanton agreed to participate in the robbery of that courier, and entered the hotel room armed with a handgun and took a bag containing cash.

In an effort to gather evidence of Mr. Clanton's involvement in the criminal activity, the FBI utilized two undercover agents, one posing as a drug courier and the other, a drug courier's female escort, to engage Clanton. The FBI operatives also asked Mr. Clanton and co-defendant Ikeisha Jacobs to recruit other law enforcement officers to assist in the drug operation. During the conspirators' transportation of sham drugs and drug proceeds, they carried firearms and wore badges and/or law enforcement attire to assist in the protection of the items being transported. In these reverse undercover operations, the sham drugs and drug proceeds were strategically packaged to appear legitimate. The conspirators were compensated according to their position within the conspiracy. The FBI often paid Mr. Clanton and Ms. Jacobs the most because the FBI considered them to have a supervisory role.

Further facts will be developed during the argument portion of this petition.

REASONS FOR GRANTING THE PETITION

- I. AFTER WINNING THE RIGHT TO FILE A BELATED APPEAL DUE TO COUNSEL'S INEFFECTIVENESS FOR FAILING TO FILE A NOTICE OF APPEAL, THE FOURTH CIRCUIT ERRED IN DISMISSING PETITIONER'S APPEAL PURSUANT TO AN APPEAL WAIVER IN HIS PLEA AGREEMENT, WHEN PETITIONER HAD MERITORIOUS GROUNDS FOR APPEAL, I.E. RECEIVING A LEADERSHIP ROLE IN A FEDERAL STING OPERATION.

Petitioner, Lann Tjuan Clanton, respectfully seeks a remedy for what he contends was an incorrect guideline range due to the ineffectiveness of his district court counsel. More particularly, he claims that his district court counsel was ineffective for not objecting to the 4 level leadership role enhancement under Guideline § 3B1.1, failing to consult with him after sentencing and not filing a notice of appeal.

Petitioner timely filed a 28 U.S.C. § 2255 motion to vacate, set aside, or correct his sentence based upon counsel's failure to file a notice of appeal and failure to properly investigate the case, consult with him, file motions, and file objections to the Presentence Report. The Government filed a motion to dismiss all claims in the § 2255 motion, except agreeing to an evidentiary hearing on the claim of ineffective assistance of counsel for failing to file a notice of appeal.

Magistrate Judge Kimberly A. Swank conducted the evidentiary hearing. She found that trial counsel did not advise Mr. Clanton about the advantages and disadvantages of taking an appeal and did not make a reasonable effort to discover Mr. Clanton's wishes. She further found that his failure to do so was in direct contravention of the district court's instructions, and that this prejudiced Mr.

Clanton. She recommended that the Government's motion to dismiss be denied, that Petitioner's motion to vacate be granted, and that the judgment of conviction be vacated and a new judgment be entered from which Petitioner would have the opportunity to appeal.

District Court Judge Louise W. Flanagan adopted Magistrate Judge Swank's recommendation and an amended judgment was filed. A timely notice of appeal to the amended judgment was filed on September 15, 2021.

In his appeal to the Fourth Circuit Court of Appeals, Petitioner's new counsel raised two issues. First, he contended that the district court erred in applying a 4 level enhancement for a leadership role under Guideline § 3B1.1 because this case involved a unique situation where the true leaders were Government agents. Second, he contended that the predicate offense to which the § 924(c) charge related was not categorically a controlled substance offense, said statute being 21 U.S.C. § 841(a)(1) and § 846. Alternatively, that argument was and is made for appeal and preservation purposes.

The Government filed a motion to dismiss Petitioner's appeal based upon an appeal waiver in his plea agreement. A copy of the appeal waiver portion of the memorandum of plea agreement is attached hereto as Appendix J. While Petitioner acknowledges that the above appeal waiver provision was in his memorandum of plea agreement, he contends it should not be applicable in his case. The Petitioner contends that this appeal is pursuant to an amended judgment which was entered by the district court due to former defense counsel's failure to file an appeal.

Grounds of ineffective assistance of counsel are exceptions to the appeal waiver provision. This Court has long held that counsel has a constitutionally imposed duty to consult with a defendant about appeal issues when there is reason to think either that a rational defendant would want to appeal, or that the particular defendant reasonably demonstrates to counsel that he was interested in appealing. Roe v. Flores-Ortega, 528 U.S. 470, 120 S. Ct. 1029, 145 L. Ed. 2d 985 (2000). In pertinent part, Roe v. Flores-Ortega held as follows:

“We instead hold that counsel has a constitutionally imposed duty to consult with the defendant about an appeal when there is reason to think either (1) that a rational defendant would want to appeal (for example, because there are nonfrivolous grounds for appeal), or (2) that this particular defendant reasonably demonstrated to counsel that he was interested in appealing. In making this determination, courts must take into account all the information counsel knew or should have known. . . . Although not determinative, a highly relevant factor in this inquiry will be whether the conviction follows a trial or guilty plea, both because a guilty plea reduces the scope of potentially appealable issues and because such a plea may indicate that the defendant seeks an end to judicial proceedings. Even in cases when the defendant pleads guilty, the court must consider such factors as whether the defendant received the sentence bargained for as part of the plea and whether the plea expressly reserved or waived some or all appeal rights. Only by considering all relevant factors in a given case can a court properly determine whether a rational defendant would have desired an appeal or that the particular defendant sufficiently demonstrated to counsel an interest in an appeal.”

528 U.S. at 480, 120 S. Ct. at 1036.

This Court’s decision in Roe is significant to the instant case because it addresses a defendant’s constitutional right to effective assistance of counsel

regarding a defendant's appellate rights. Also, both Petitioner Roe and Petitioner Clanton pled guilty to their respective criminal charges. However, this should not diminish their right of appeal and their right of effective counsel to fully consult and file an appeal.

Because the appeal waiver excepts "ineffective assistance of counsel" as found herein by Magistrate Judge Swank and District Judge Flanagan, it is urged that Petitioner Clanton's appeal should not have been dismissed. In dismissing the appeal, the Fourth Circuit held:

"Upon review of the record, we conclude that Clanton knowingly and voluntarily waived his right to appeal and that the role enhancement claim Clanton seeks to raise on appeal falls squarely within the scope of his waiver of appellate rights.¹" (Appendix A-1-2).

Footnote 1 in the Fourth Circuit Order states:

"Contrary to Clanton's assertion in his response to the motion to dismiss, he cannot rely on the unresolved ineffective assistance of counsel claim in his prior 28 U.S.C. § 2255 proceeding to avoid application of the waiver to his role enhancement claim." (Appendix A-2).

The Fourth Circuit cites no opinion upholding the appeal waiver where trial counsel had previously been found ineffective and a defendant was granted an amended judgment and a belated appeal. Petitioner should have been entitled to appellate review of the issues that did not require a district court evidentiary hearing. Whether or not a defendant can receive a leadership role enhancement for his involvement in a Government led sting operation is a legal issue that should have been decided by the Fourth Circuit Court of Appeals or remanded to the

district court for disposition. In other words, by dismissing the appeal based upon the appeal waiver in the plea agreement, the Fourth Circuit denied Petitioner Clanton his right to review the 4 level leadership role enhancement under Guideline § 3B1.1.

Petitioner Clanton contends that a leadership role enhancement in a Government sting operation is an arguable, nonfrivolous, and meritorious appellate issue that should have been addressed at sentencing. The FBI carefully organized and effectuated the sting and was clearly in charge of all aspects of the sting operation. A leadership role enhancement in a sting operation is a significant issue that needs to be addressed by the appellate courts. Unfortunately it was not raised by trial counsel or appealed upon request.

Petitioner also contends that the 4 level leadership role enhancement affected the total offense level and his guideline range. It increased his base offense level from 32 to 36, which is a substantial increase. In Molina-Martinez v. United States, 578 U.S. 189, 136 S. Ct. 1338, 194 L. Ed. 2d 444 (2016), this Court held that where there is an unpreserved error in calculating a Sentencing Guidelines range, a defendant is not required to provide additional evidence to show the error affected his or her substantial rights. In Molina-Martinez the defendant was sentenced to 77 months in prison after the district court miscalculated his guideline range following a guilty plea. The error went unnoticed by the court and the parties, so no timely objection was entered. Molina was sentenced at an offense level of 21, criminal history category VI, and a guideline range of 77 to 96 months to a low-end

sentence of 77 months. As it turned out, the defendant's criminal history category should have been V. Therefore the guideline range for a level 21, category V was 70 to 87 months. Although the 77 month sentence was still within the range, the Supreme Court determined that the application of an incorrect guideline range at sentencing affected a defendant's substantial rights.

In Molina-Martinez, the Supreme Court concluded:

"When a defendant is sentenced under an incorrect Guidelines range – whether or not the defendant's ultimate sentence falls within the correct range – the error itself can, and most often will, be sufficient to show a reasonable probability of a different outcome absent the error."

578 U.S. at 198, 136 S. Ct. at 1345.

This Court went on to explain the importance of a properly calculated guideline range. It noted:

"Today's holding follows from the essential framework the Guidelines establish for sentencing proceedings. The Court has made clear that the Guidelines are to be the sentencing court's 'starting point and ... initial benchmark.' ...cites omitted.

"The Guidelines' central role in sentencing means that an error related to the Guidelines can be particularly serious." ... cites omitted.

"These sources confirm that the Guidelines are not only the starting point for most federal sentencing proceedings but also the lodestar. The Guidelines inform and instruct the district court's determination of an appropriate sentence. In the usual case, then, the systemic function of the selected Guidelines range will affect the sentence."

578 U.S. at 198-200, 136 S. Ct. at 1345-1346.

Petitioner Lann Tjuan Clanton respectfully contends that the Fourth Circuit Court of Appeals erred in dismissing his appeal based upon an appeal waiver. He believes he had some meritorious appeal issues that he wanted to pursue, but failed to do so due to his trial counsel's failure to properly consult with him or pursue an appeal. The district court agreed that the Petitioner was entitled to file a belated appeal, and it issued an amended judgment from which he timely appealed. Mr. Clanton urges that the appeal waiver should not bar his appeal under the facts and circumstances of this case. He claims that the 4 level enhancement for a leadership role in a Government sting operation is a meritorious and nonfrivolous appellate issue that should be heard. This Court can provide Petitioner with a remedy, and he respectfully requests that it do so.

CONCLUSION

For the foregoing reasons, Petitioner Lann Tjuan Clanton, respectfully requests that a Writ of Certiorari issue to review the decision of the United States Court of Appeals for the Fourth Circuit dismissing his appeal.

This the 27th day of June, 2022.

DUNN, PITTMAN, SKINNER & CUSHMAN, PLLC
Counsel for Petitioner Lann Tjuan Clanton

By:

Rudolph A. Ashton, III

RUDOLPH A. ASHTON, III

Panel Attorney

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No.

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 2021

LANN TJUAN CLANTON, Petitioner,

v.

UNITED STATES OF AMERICA, Respondent

ENTRY OF APPEARANCE

and

CERTIFICATE OF SERVICE

I, Rudolph A. Ashton, III, a member of the North Carolina State Bar, having been appointed to represent the Petitioner in the United States Court of Appeals for the Fourth Circuit, pursuant to the provisions of the Criminal Justice Act, 18 U.S.C. § 3006A, hereby enter my appearance in this Court in respect to this Petition for a Writ of Certiorari.

I, Rudolph A. Ashton, III, do swear or declare that on this date, the 27th day of June, 2022, pursuant to Supreme Court Rules 29.3 and 29.4, I have served the attached motion for leave to proceed *in forma pauperis* and petition for a writ of certiorari on each party to the above proceeding, or that party's counsel, and on every other person required to be served by depositing in an envelope containing the above documents in the United States mail properly addressed to each of them and

with first-class postage prepaid. The names and addresses of those served are as follows:

David A. Bragdon, AUSA
Joshua L. Rogers, AUSA
Office of the United States Attorney
Eastern District of North Carolina
150 Fayetteville Street, Suite 2100
Raleigh, NC 27601

Solicitor General of the United States
Room 5616, Department of Justice
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Washington DC 20530-0001

This the 27th day of June, 2022.

Respectfully submitted,

Rudolph A. Ashton, III
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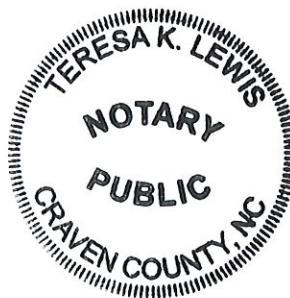
Subscribed and Sworn to Before Me

This the 27th day of June, 2022.

Teresa K. Lewis

Notary Public

My Commission Expires: 3/19/2024



APPENDIX A

FILED: March 29, 2022

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-4495
(2:15-cr-00009-FL-1)

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LANN TJUAN CLANTON, a/k/a Tjuan,

Defendant - Appellant.

O R D E R

Lann Tjuan Clanton seeks to appeal his sentence, challenging the district court's imposition of a four-level leadership role enhancement under the Sentencing Guidelines and arguing that his conspiracy conviction is not categorically a controlled substance offense for Guidelines purposes, which renders his 18 U.S.C. § 924 conviction invalid. The Government has moved to dismiss the appeal as barred by Clanton's waiver of the right to appeal included in the plea agreement. Upon review of the record, we conclude that Clanton knowingly and voluntarily waived his right to appeal and that the role enhancement claim Clanton seeks to raise on appeal falls squarely within the scope of his

waiver of appellate rights.¹ In addition, Clanton did not challenge the Government's characterization of the § 924(c) issue as a sentencing claim that the waiver forecloses.² Accordingly, we grant the Government's motion to dismiss.

Entered at the direction of the panel: Judge Harris, Judge Quattlebaum, and Judge Heytens.

For the Court,

/s/ Patricia S. Connor, Clerk

¹ Contrary to Clanton's assertion in his response to the motion to dismiss, he cannot rely on the unresolved ineffective assistance of counsel claim in his prior 28 U.S.C. § 2255 proceeding to avoid application of the waiver to his role enhancement claim.

² Even if the § 924(c) claim is construed as a challenge to the validity of the plea, which would fall outside the waiver's scope, the claim fails. The conspiracy conviction is a valid predicate because a "drug trafficking crime" under § 924(c) is statutorily defined to include § 846 offenses. *See* 18 U.S.C. § 924(c)(2). Clanton's reliance on *United States v. Norman*, 935 F.3d 232 (4th Cir. 2019), is therefore misplaced.

APPENDIX B

FILED: March 29, 2022

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-4495
(2:15-cr-00009-FL-1)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

LANN TJUAN CLANTON, a/k/a Tjuan

Defendant - Appellant

JUDGMENT

In accordance with the decision of this court, this appeal is dismissed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK

APPENDIX C

FILED: April 20, 2022

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-4495
(2:15-cr-00009-FL-1)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

LANN TJUAN CLANTON, a/k/a Tjuan

Defendant - Appellant

M A N D A T E

The judgment of this court, entered March 29, 2022, takes effect today.

This constitutes the formal mandate of this court issued pursuant to Rule 41(a) of the Federal Rules of Appellate Procedure.

/s/ Patricia S. Connor, Clerk

APPENDIX D

UNITED STATES DISTRICT COURT

Eastern District of North Carolina

UNITED STATES OF AMERICA

v.

LANN TJUAN CLANTON

Date of Original Judgment: 9/7/2021

(Or Date of Last Amended Judgment)

Reason for Amendment:

Correction of Sentence on Remand (18 U.S.C. 3742(f)(1) and (2))
 Reduction of Sentence for Changed Circumstances (Fed. R. Crim. P. 35(b))
 Correction of Sentence by Sentencing Court (Fed. R. Crim. P. 35(a))
 Correction of Sentence for Clerical Mistake (Fed. R. Crim. P. 36)

) AMENDED JUDGMENT IN A CRIMINAL CASE
)
) Case Number: *2:15-CR-9-1FL
) USM Number: 59261-056
) Rudolph A. Ashton, III
) Defendant's Attorney
)
) Modification of Supervision Conditions (18 U.S.C. §§ 3563(c) or 3583(c))
) Modification of Imposed Term of Imprisonment for Extraordinary and
Compelling Reasons (18 U.S.C. § 3582(c)(1))
) Modification of Imposed Term of Imprisonment for Retroactive Amendment(s)
to the Sentencing Guidelines (18 U.S.C. § 3582(c)(2))
) Direct Motion to District Court Pursuant 28 U.S.C. § 2255 or
 18 U.S.C. § 3559(c)(7)
) Modification of Restitution Order (18 U.S.C. § 3664)

THE DEFENDANT:

pleaded guilty to count(s) Counts 1s and 2s (Criminal Information)
 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:

Title & Section	Nature of Offense	Offense Ended	Count
21 U.S.C. §846,	Conspiracy to Distribute and Possess With the Intent to Distribute 100 Grams or	4/30/2015	1s
21 U.S.C. §841(b)(1)(B)	More of Heroin and 500 Grams or More of Cocaine		
18 U.S.C. §924(c), 18 U.S.C. §924(c)(1)(A)(i)	Using and Carrying a Firearm During and in Relation to a Drug Trafficking Crime	4/30/2015	2s

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) 1-6,8,10-11,15,19-20,24,28,37-38 is are dismissed on the motion of the United States.

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

9/7/2021

Date of Imposition of Judgment



Signature of Judge

Louise W. Flanagan

U.S. District Judge

Name and Title of Judge

9/17/2021

Date

DEFENDANT: LANN TJIUAN CLANTON
CASE NUMBER: *2:15-CR-9-1FL

IMPRISONMENT

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

195 months (135 months on Count 1s and 60 months on Count 2s, to run consecutively for a total term of 195 months)

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

- 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: LANN TJUAN CLANTON
CASE NUMBER: *2:15-CR-9-1FL

SUPERVISED RELEASE

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

5 years as to each of Counts 1s and 2s, both such terms to run concurrently

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
 - The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. You must comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. You must participate in an approved program for domestic violence. *(check if applicable)*

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

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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. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature

Date

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ADDITIONAL STANDARD CONDITIONS OF SUPERVISION

The defendant shall not incur new credit charges or open additional lines of credit without approval of the probation office.

The defendant shall provide the probation office with access to any requested financial information.

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SPECIAL CONDITIONS OF SUPERVISION

The defendant shall consent to a warrantless search by a United States probation officer or, at the request of the probation officer, any other law enforcement officer, of the defendant's person and premises, including any vehicle, to determine compliance with the conditions of this judgment.

The defendant shall support his dependent(s) and comply with the child support order issued in Northampton County, NC, Docket Number 08CVD526 and make payments in accordance with the terms of the order.

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CRIMINAL MONETARY PENALTIES

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

<u>TOTALS</u>	<u>Assessment</u>	<u>JVTA Assessment*</u>	<u>Fine</u>	<u>Restitution</u>
	\$ 200.00	\$ 0.00	\$ 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 shall 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>
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TOTALS \$ _____ 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 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.

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SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties shall be due as follows:

A Lump sum payment of \$ _____ due immediately, balance due
 not later than _____, or
 in accordance with C, D, E, or F below; or

B Payment to begin immediately (may be combined with C, D, or F below); or

C Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or

D Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or

E Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or

F Special instructions regarding the payment of criminal monetary penalties:

Payment of the special assessment shall be due immediately.

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

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) fine principal, (5) fine interest, (6) community restitution, (7) JVTA assessment, (8) penalties, and (9) costs, including cost of prosecution and court costs.

[Amendment by Pub.L. 105-277, Div. A, § 101(b) [Title I, § 119(d)], effective 180 days after Oct. 21, 1998, see Div. A, § 101(b) [Title I, § 119(e)] of Pub.L. 105-277, set out as a note under 18 U.S.C.A. § 921.]

§ 924. Penalties

(a)(1) Except as otherwise provided in this subsection, subsection (b), (c), (f), or (p) of this section, or in section 929, whoever—

(A) knowingly makes any false statement or representation with respect to the information required by this chapter to be kept in the records of a person licensed under this chapter or in applying for any license or exemption or relief from disability under the provisions of this chapter;

(B) knowingly violates subsection (a)(4), (f), (k), or (q) of section 922;

(C) knowingly imports or brings into the United States or any possession thereof any firearm or ammunition in violation of section 922(l); or

(D) willfully violates any other provision of this chapter, shall be fined under this title, imprisoned not more than five years, or both.

(2) Whoever knowingly violates subsection (a)(6), (d), (g), (h), (i), (j), or (o) of section 922 shall be fined as provided in this title, imprisoned not more than 10 years, or both.

(3) Any licensed dealer, licensed importer, licensed manufacturer, or licensed collector who knowingly—

(A) makes any false statement or representation with respect to the information required by the provisions of this chapter to be kept in the records of a person licensed under this chapter, or

(B) violates subsection (m) of section 922,

shall be fined under this title, imprisoned not more than one year, or both.

(4) Whoever violates section 922(q) shall be fined under this title, imprisoned for not more than 5 years, or both. Notwithstanding any other provision of law, the term of imprisonment imposed under this paragraph shall not run concurrently with any other term of imprisonment imposed under any other provision of law. Except for the authorization of a term of imprisonment of not more than 5 years made in this paragraph, for the purpose of any other law a violation of section 922(q) shall be deemed to be a misdemeanor.

(5) Whoever knowingly violates subsection (s) or (t) of section 922 shall be fined under this title, imprisoned for not more than 1 year, or both.

(6)(A)(i) A juvenile who violates section 922(x) shall be fined under this title, imprisoned not more than 1 year, or both, except that a juvenile described in clause (ii) shall be sentenced to probation on appropriate conditions and shall not be incarcerated unless the juvenile fails to comply with a condition of probation.

(ii) A juvenile is described in this clause if—

(I) the offense of which the juvenile is charged is possession of a handgun or ammunition in violation of section 922(x)(2); and

(II) the juvenile has not been convicted in any court of an offense (including an offense under section 922(x) or a similar State law, but not including any other offense consisting of conduct that if engaged in by an adult would not constitute an offense) or adjudicated as a juvenile delinquent for conduct that if engaged in by an adult would constitute an offense.

(B) A person other than a juvenile who knowingly violates section 922(x)—

(i) shall be fined under this title, imprisoned not more than 1 year, or both;

(ii) if the person sold, delivered, or otherwise transferred a handgun or ammunition to a juvenile knowing or having reasonable cause to know that the juvenile intended to carry or otherwise possess or discharge or otherwise use the handgun or ammunition in the commission of a crime of violence, shall be fined under this title, imprisoned not more than 10 years, or both.

(7) Whoever knowingly violates section 931 shall be fined under this title, imprisoned not more than 3 years, or both.

(b) Whoever, with intent to commit therewith an offense punishable by imprisonment for a term exceeding one year, or with knowledge or reasonable cause to believe that an offense punishable by imprisonment for a term exceeding one year is to be committed therewith, ships, transports, or receives a firearm or any ammunition in interstate or foreign commerce shall be fined under this title, or imprisoned not more than ten years, or both.

(c)(1)(A) Except to the extent that a greater minimum sentence is otherwise provided by this subsection or by any other provision of law, any person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States, uses or carries a firearm, or who, in furtherance of any such crime, possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime—

(i) be sentenced to a term of imprisonment of not less than 5 years;

(ii) if the firearm is brandished, be sentenced to a term of imprisonment of not less than 7 years; and

(iii) if the firearm is discharged, be sentenced to a term of imprisonment of not less than 10 years.

(B) If the firearm possessed by a person convicted of a violation of this subsection—

(i) is a short-barreled rifle, short-barreled shotgun, or semiautomatic assault weapon, the person shall be sentenced to a term of imprisonment of not less than 10 years; or

(ii) is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, the person shall be sentenced to a term of imprisonment of not less than 30 years.

(C) In the case of a violation of this subsection that occurs after a prior conviction under this subsection has become final, the person shall—

(i) be sentenced to a term of imprisonment of not less than 25 years; and

(ii) if the firearm involved is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, be sentenced to imprisonment for life.

(D) Notwithstanding any other provision of law—

(i) a court shall not place on probation any person convicted of a violation of this subsection; and

(ii) no term of imprisonment imposed on a person under this subsection shall run concurrently with any other term of imprisonment imposed on the person, including any term of imprisonment imposed for the crime of violence or drug trafficking crime during which the firearm was used, carried, or possessed.

(2) For purposes of this subsection, the term "drug trafficking crime" means any felony punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or chapter 705 of title 46.

(3) For purposes of this subsection the term "crime of violence" means an offense that is a felony and—

(A) has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or

(B) that by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

(4) For purposes of this subsection, the term "brandish" means, with respect to a firearm, to display all or part of the firearm, or otherwise make the presence of the firearm known to another person, in order to intimidate that person, regardless of whether the firearm is directly visible to that person.

(5) Except to the extent that a greater minimum sentence is otherwise provided under this subsection, or by any other provision of law, any person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States, uses or carries armor piercing ammunition, or who, in furtherance of any such crime, possesses armor piercing ammunition, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime or conviction under this section—

(A) be sentenced to a term of imprisonment of not less than 15 years; and

(B) if death results from the use of such ammunition—

(i) if the killing is murder (as defined in section 1111), be punished by death or sentenced to a term of imprisonment for any term of years or for life; and

(ii) if the killing is manslaughter (as defined in section 1112), be punished as provided in section 1112.

(d)(1) Any firearm or ammunition involved in or used in any knowing violation of subsection (a)(4), (a)(6), (f), (g), (h), (i), (j), or (k) of section 922, or knowing importation or bringing into the United States or any possession thereof any firearm or ammunition in violation of section 922(l), or knowing violation

of section 924, or willful violation of any other provision of this chapter or any rule or regulation promulgated thereunder, or any violation of any other criminal law of the United States, or any firearm or ammunition intended to be used in any offense referred to in paragraph (3) of this subsection, where such intent is demonstrated by clear and convincing evidence, shall be subject to seizure and forfeiture, and all provisions of the Internal Revenue Code of 1986 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of that Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter: *Provided*, That upon acquittal of the owner or possessor, or dismissal of the charges against him other than upon motion of the Government prior to trial, or lapse of or court termination of the restraining order to which he is subject, the seized or relinquished firearms or ammunition shall be returned forthwith to the owner or possessor or to a person delegated by the owner or possessor unless the return of the firearms or ammunition would place the owner or possessor or his delegate in violation of law. Any action or proceeding for the forfeiture of firearms or ammunition shall be commenced within one hundred and twenty days of such seizure.

(2)(A) In any action or proceeding for the return of firearms or ammunition seized under the provisions of this chapter, the court shall allow the prevailing party, other than the United States, a reasonable attorney's fee, and the United States shall be liable therefor.

(B) In any other action or proceeding under the provisions of this chapter, the court, when it finds that such action was without foundation, or was initiated vexatiously, frivolously, or in bad faith, shall allow the prevailing party, other than the United States, a reasonable attorney's fee, and the United States shall be liable therefor.

(C) Only those firearms or quantities of ammunition particularly named and individually identified as involved in or used in any violation of the provisions of this chapter or any rule or regulation issued thereunder, or any other criminal law of the United States or as intended to be used in any offense referred to in paragraph (3) of this subsection, where such intent is demonstrated by clear and convincing evidence, shall be subject to seizure, forfeiture, and disposition.

(D) The United States shall be liable for attorneys' fees under this paragraph only to the extent provided in advance by appropriation Acts.

(3) The offenses referred to in paragraphs (1) and (2)(C) of this subsection are—

(A) any crime of violence, as that term is defined in section 924(c)(3) of this title;

(B) any offense punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.);

(C) any offense described in section 922(a)(1), 922(a)(3), 922(a)(5), or 922(b)(3) of this title, where the firearm or ammunition intended to be used in any such offense is involved in a pattern of activities which includes a violation of any offense described in section 922(a)(1), 922(a)(3), 922(a)(5), or 922(b)(3) of this title;

§ 832. Suspicious orders**(a) Reporting**

Each registrant shall—

(1) design and operate a system to identify suspicious orders for the registrant;

(2) ensure that the system designed and operated under paragraph (1) by the registrant complies with applicable Federal and State privacy laws; and

(3) upon discovering a suspicious order or series of orders, notify the Administrator of the Drug Enforcement Administration and the Special Agent in Charge of the Division Office of the Drug Enforcement Administration for the area in which the registrant is located or conducts business.

(b) Suspicious order database**(1) In general**

Not later than 1 year after October 24, 2018, the Attorney General shall establish a centralized database for collecting reports of suspicious orders.

(2) Satisfaction of reporting requirements

If a registrant reports a suspicious order to the centralized database established under paragraph (1), the registrant shall be considered to have complied with the requirement under subsection (a)(3) to notify the Administrator of the Drug Enforcement Administration and the Special Agent in Charge of the Division Office of the Drug Enforcement Administration for the area in which the registrant is located or conducts business.

(c) Sharing information with the States**(1) In general**

The Attorney General shall prepare and make available information regarding suspicious orders in a State, including information in the database established under subsection (b)(1), to the point of contact for purposes of administrative, civil, and criminal oversight relating to the diversion of controlled substances for the State, as designated by the Governor or chief executive officer of the State.

(2) Timing

The Attorney General shall provide information in accordance with paragraph (1) within a reasonable period of time after obtaining the information.

(3) Coordination

In establishing the process for the provision of information under this subsection, the Attorney General shall coordinate with States to ensure that the Attorney General has access to information, as permitted under State law, possessed by the States relating to prescriptions for controlled substances that will assist in enforcing Federal law.

(Pub.L. 91-513, Title II, § 312, as added Pub.L. 115-271, Title III, § 3292(b), Oct. 24, 2018, 132 Stat. 3956.)

PART D—OFFENSES AND PENALTIES**§ 841. Prohibited acts A****(a) Unlawful acts**

Except as authorized by this subchapter, it shall be unlawful for any person knowingly or intentionally—

(1) to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance; or

(2) to create, distribute, or dispense, or possess with intent to distribute or dispense, a counterfeit substance.

(b) Penalties

Except as otherwise provided in section 849, 859, 860, or 861 of this title, any person who violates subsection (a) of this section shall be sentenced as follows:

(1)(A) In the case of a violation of subsection (a) of this section involving—

(i) 1 kilogram or more of a mixture or substance containing a detectable amount of heroin;

(ii) 5 kilograms or more of a mixture or substance containing a detectable amount of—

(I) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(II) cocaine, its salts, optical and geometric isomers, and salts of isomers;

(III) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

(IV) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subclauses (I) through (III);

(iii) 280 grams or more of a mixture or substance described in clause (ii) which contains cocaine base;

(iv) 100 grams or more of phencyclidine (PCP) or 1 kilogram or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

(v) 10 grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

(vi) 400 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 100 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide;

(vii) 1000 kilograms or more of a mixture or substance containing a detectable amount of marihuana, or 1,000 or more marihuana plants regardless of weight; or

(viii) 50 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers;

such person shall be sentenced to a term of imprisonment which may not be less than 10 years or more than life and if death or serious bodily injury results from the use of such substance shall be not less than 20 years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of Title 18 or \$10,000,000 if the defendant is an individual or \$50,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a serious drug felony or serious violent felony has become final, such person

shall be sentenced to a term of imprisonment of not less than 15 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of Title 18 or \$20,000,000 if the defendant is an individual or \$75,000,000 if the defendant is other than an individual, or both. If any person commits a violation of this subparagraph or of section 849, 859, 860, or 861 of this title after 2 or more prior convictions for a serious drug felony or serious violent felony have become final, such person shall be sentenced to a term of imprisonment of not less than 25 years and fined in accordance with the preceding sentence. Notwithstanding section 3583 of Title 18, any sentence under this subparagraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least 5 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 10 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein.

(B) In the case of a violation of subsection (a) of this section involving—

(i) 100 grams or more of a mixture or substance containing a detectable amount of heroin;

(ii) 500 grams or more of a mixture or substance containing a detectable amount of—

(I) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, egonine, and derivatives of egonine or their salts have been removed;

(II) cocaine, its salts, optical and geometric isomers, and salts of isomers;

(III) egonine, its derivatives, their salts, isomers, and salts of isomers; or

(IV) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subclauses (I) through (III);

(iii) 28 grams or more of a mixture or substance described in clause (ii) which contains cocaine base;

(iv) 10 grams or more of phencyclidine (PCP) or 100 grams or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);

(v) 1 gram or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

(vi) 40 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide or 10 grams or more of a mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide;

(vii) 100 kilograms or more of a mixture or substance containing a detectable amount of marihuana, or 100 or more marihuana plants regardless of weight; or

(viii) 5 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 50 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers;

such person shall be sentenced to a term of imprisonment which may not be less than 5 years and not more than 40 years and if death or serious bodily injury results from the use of such substance shall be not less than 20 years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of Title 18 or \$5,000,000 if the defendant is an individual or \$25,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a serious drug felony or serious violent felony has become final, such person shall be sentenced to a term of imprisonment which may not be less than 10 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of Title 18 or \$8,000,000 if the defendant is an individual or \$50,000,000 if the defendant is other than an individual, or both. Notwithstanding section 3583 of Title 18, any sentence imposed under this subparagraph shall, in the absence of such a prior conviction, include a term of supervised release of at least 4 years in addition to such term of imprisonment and shall, if there was such a prior conviction, include a term of supervised release of at least 8 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein.

(C) In the case of a controlled substance in schedule I or II, gamma hydroxybutyric acid (including when scheduled as an approved drug product for purposes of section 3(a)(1)(B) of the Hillory J. Farias and Samantha Reid Date-Rape Drug Prohibition Act of 2000), or 1 gram of flunitrazepam, except as provided in subparagraphs (A), (B), and (D), such person shall be sentenced to a term of imprisonment of not more than 20 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not less than twenty years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of Title 18 or \$1,000,000 if the defendant is an individual or \$5,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment of not more than 30 years and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of Title 18 or \$2,000,000 if the defendant is an individual or \$10,000,000 if the defendant is other than an individual, or both. Notwithstanding section 3583 of Title 18, any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least 3 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 6 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the provisions of this subparagraph which

provide for a mandatory term of imprisonment if death or serious bodily injury results, nor shall a person so sentenced be eligible for parole during the term of such a sentence.

(D) In the case of less than 50 kilograms of marihuana, except in the case of 50 or more marihuana plants regardless of weight, 10 kilograms of hashish, or one kilogram of hashish oil, such person shall, except as provided in paragraphs (4) and (5) of this subsection, be sentenced to a term of imprisonment of not more than 5 years, a fine not to exceed the greater of that authorized in accordance with the provisions of Title 18 or \$250,000 if the defendant is an individual or \$1,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment of not more than 10 years, a fine not to exceed the greater of twice that authorized in accordance with the provisions of Title 18 or \$500,000 if the defendant is an individual or \$2,000,000 if the defendant is other than an individual, or both. Notwithstanding section 3583 of Title 18, any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least 2 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 4 years in addition to such term of imprisonment.

(E)(i) Except as provided in subparagraphs (C) and (D), in the case of any controlled substance in schedule III, such person shall be sentenced to a term of imprisonment of not more than 10 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not more than 15 years, a fine not to exceed the greater of that authorized in accordance with the provisions of Title 18 or \$500,000 if the defendant is an individual or \$2,500,000 if the defendant is other than an individual, or both.

(ii) If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment of not more than 20 years and if death or serious bodily injury results from the use of such substance shall be sentenced to a term of imprisonment of not more than 30 years, a fine not to exceed the greater of twice that authorized in accordance with the provisions of Title 18 or \$1,000,000 if the defendant is an individual or \$5,000,000 if the defendant is other than an individual, or both.

(iii) Any sentence imposing a term of imprisonment under this subparagraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least 2 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 4 years in addition to such term of imprisonment.

(2) In the case of a controlled substance in schedule IV, such person shall be sentenced to a term of imprisonment of not more than 5 years, a fine not to exceed the greater of that authorized in accordance with the provisions of Title 18 or \$250,000 if the defendant is an individual or \$1,000,000 if the defendant is other than an individual, or both. If any

person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment of not more than 10 years, a fine not to exceed the greater of twice that authorized in accordance with the provisions of Title 18 or \$500,000 if the defendant is an individual or \$2,000,000 if the defendant is other than an individual, or both. Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least one year in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 2 years in addition to such term of imprisonment.

(3) In the case of a controlled substance in schedule V, such person shall be sentenced to a term of imprisonment of not more than one year, a fine not to exceed the greater of that authorized in accordance with the provisions of Title 18 or \$100,000 if the defendant is an individual or \$250,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a felony drug offense has become final, such person shall be sentenced to a term of imprisonment of not more than 4 years, a fine not to exceed the greater of twice that authorized in accordance with the provisions of Title 18 or \$200,000 if the defendant is an individual or \$500,000 if the defendant is other than an individual, or both. Any sentence imposing a term of imprisonment under this paragraph may, if there was a prior conviction, impose a term of supervised release of not more than 1 year, in addition to such term of imprisonment.

(4) Notwithstanding paragraph (1)(D) of this subsection, any person who violates subsection (a) of this section by distributing a small amount of marihuana for no remuneration shall be treated as provided in section 844 of this title and section 3607 of Title 18.

(5) Any person who violates subsection (a) of this section by cultivating or manufacturing a controlled substance on Federal property shall be imprisoned as provided in this subsection and shall be fined any amount not to exceed—

- (A) the amount authorized in accordance with this section;
- (B) the amount authorized in accordance with the provisions of Title 18;
- (C) \$500,000 if the defendant is an individual; or
- (D) \$1,000,000 if the defendant is other than an individual;

or both.

(6) Any person who violates subsection (a), or attempts to do so, and knowingly or intentionally uses a poison, chemical, or other hazardous substance on Federal land, and, by such use—

- (A) creates a serious hazard to humans, wildlife, or domestic animals,
- (B) degrades or harms the environment or natural resources, or
- (C) pollutes an aquifer, spring, stream, river, or body of water,

shall be fined in accordance with Title 18 or imprisoned not more than five years, or both.

controlled substance of this title in amount that, as far as is a personal liability for a civil action for each such amount assessed and an amount representing interest at a rate computed in accordance with section 1961 of Title 28. Such interest shall accrue from the expiration of the 30-day period described in subsection (g). In such an action, the decision of the Attorney General to issue the order, and the amount of the penalty assessed by the Attorney General, shall not be subject to review.

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district court of the United States for the purpose of recovering the amount assessed and an amount representing interest at a rate computed in accordance with section 1961 of Title 28. Such interest shall accrue from the expiration of the 30-day period described in subsection (g). In such an action, the decision of the Attorney General to issue the order, and the amount of the penalty assessed by the Attorney General, shall not be subject to review.

(i) Limitation

The Attorney General may not under this subsection¹ commence proceeding against an individual after the expiration of the 5-year period beginning on the date on which the individual allegedly violated subsection (a).

(j) Expungement procedures

The Attorney General shall dismiss the proceedings under this section against an individual upon application of such individual at any time after the expiration of 3 years if—

- (1) the individual has not previously been assessed a civil penalty under this section;
- (2) the individual has paid the assessment;
- (3) the individual has complied with any conditions imposed by the Attorney General;
- (4) the individual has not been convicted of a Federal or State offense relating to a controlled substance; and
- (5) the individual agrees to submit to a drug test, and such test shows the individual to be drug free.

A nonpublic record of a disposition under this subsection shall be retained by the Department of Justice solely for the purpose of determining in any subsequent proceeding whether the person qualified for a civil penalty or expungement under this section. If a record is expunged under this subsection, an individual concerning whom such an expungement has been made shall not be held thereafter under any provision of law to be guilty of perjury, false swearing, or making a false statement by reason of his failure to recite or acknowledge a proceeding under this section or the results thereof in response to an inquiry made of him for any purpose.

(Pub.L. 91-513, Title II, § 405; formerly Pub.L. 100-690, Title VI, § 6486, Nov. 18, 1988, 102 Stat. 4884, renumbered § 405 of Pub.L. 91-513, and amended Pub.L. 101-647, Title X, § 1002(g)(1), (2), Nov. 29, 1990, 104 Stat. 4828.)

¹So in original. Probably should be "section".

HISTORICAL NOTES

Prior Provisions

A prior section 405 of Pub.L. 91-513, Title II, Oct. 27, 1970, 84 Stat. 1265, was redesignated section 418 by Pub.L. 101-647, § 1002(a)(1) and is classified to 21 U.S.C.A. § 859.

§ 845. Transferred to § 859

§ 845a. Transferred to § 860

§ 845b. Transferred to § 861

§ 846. Attempt and conspiracy

Any person who attempts or conspires to commit any offense defined in this subchapter shall be subject to the same penal-

ties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy. (Pub.L. 91-513, Title II, § 406, Oct. 27, 1970, 84 Stat. 1265; Pub.L. 100-690, Title VI, § 6470(a), Nov. 18, 1988, 102 Stat. 4877.)

HISTORICAL NOTES

References in Text

"This subchapter", referred to in text, was in the original "this title", which is Title II of Pub.L. 91-513, Oct. 27, 1970, 84 Stat. 1242, and is popularly known as the "Controlled Substances Act". For complete classification of Title II to the Code, see Short Title note set out under § 801 of This title and Tables.

Effective and Applicability Provisions

1970 Acts. Section effective the first day of the seventh calendar month that begins after the day immediately preceding Oct. 27, 1970; see § 704(a) of Pub.L. 95-513, set out as a note under § 801 of this title.

§ 847. Additional penalties

Any penalty imposed for violation of this subchapter shall be in addition to, and not in lieu of, any civil or administrative penalty or sanction authorized by law.

(Pub.L. 91-513, Title II, § 407, Oct. 27, 1970, 84 Stat. 1265.)

HISTORICAL NOTES

References in Text

"This subchapter", referred to in text, was in the original "this title", which is Title II of Pub.L. 91-513, Oct. 27, 1970, 84 Stat. 1242, and is popularly known as the "Controlled Substances Act". For complete classification of Title II to the Code, see Short Title note set out under § 801 of this title and Tables.

Effective and Applicability Provisions

1970 Acts. Section effective the first day of the seventh calendar month that begins after the day immediately preceding Oct. 27, 1970, see § 704(a) of Pub.L. 91-513, set out as a note under § 801 of this title.

§ 848. Continuing criminal enterprise

(a) Penalties; forfeitures

Any person who engages in a continuing criminal enterprise shall be sentenced to a term of imprisonment which may not be less than 20 years and which may be up to life imprisonment, to a fine not to exceed the greater of that authorized in accordance with the provisions of Title 18 or \$2,000,000 if the defendant is an individual or \$5,000,000 if the defendant is other than an individual, and to the forfeiture prescribed in section 853 of this title; except that if any person engages in such activity after one or more prior convictions of him under this section have become final, he shall be sentenced to a term of imprisonment which may not be less than 30 years and which may be up to life imprisonment, to a fine not to exceed the greater of twice the amount authorized in accordance with the provisions of Title 18 or \$4,000,000 if the defendant is an individual or \$10,000,000 if the defendant is other than an individual, and to the forfeiture prescribed in section 853 of this title.

(b) Life imprisonment for engaging in continuing criminal enterprise

APPENDIX H

§3B1.1

PART B — ROLE IN THE OFFENSE

Introductory Commentary

This Part provides adjustments to the offense level based upon the role the defendant played in committing the offense. The determination of a defendant's role in the offense is to be made on the basis of all conduct within the scope of §1B1.3 (Relevant Conduct), *i.e.*, all conduct included under §1B1.3(a)(1)–(4), and not solely on the basis of elements and acts cited in the count of conviction.

When an offense is committed by more than one participant, §3B1.1 or §3B1.2 (or neither) may apply. Section 3B1.3 may apply to offenses committed by any number of participants.

<i>Historical Note</i>	Effective November 1, 1987. Amended effective November 1, 1990 (amendment 345); November 1, 1992 (amendment 456).
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§3B1.1. Aggravating Role

Based on the defendant's role in the offense, increase the offense level as follows:

- (a) If the defendant was an organizer or leader of a criminal activity that involved five or more participants or was otherwise extensive, increase by 4 levels.
- (b) If the defendant was a manager or supervisor (but not an organizer or leader) and the criminal activity involved five or more participants or was otherwise extensive, increase by 3 levels.
- (c) If the defendant was an organizer, leader, manager, or supervisor in any criminal activity other than described in (a) or (b), increase by 2 levels.

Commentary

Application Notes:

1. A “*participant*” is a person who is criminally responsible for the commission of the offense, but need not have been convicted. A person who is not criminally responsible for the commission of the offense (*e.g.*, an undercover law enforcement officer) is not a participant.
2. To qualify for an adjustment under this section, the defendant must have been the organizer, leader, manager, or supervisor of one or more other participants. An upward departure may be warranted, however, in the case of a defendant who did not organize, lead, manage, or supervise another participant, but who nevertheless exercised management responsibility over the property, assets, or activities of a criminal organization.
3. In assessing whether an organization is “otherwise extensive,” all persons involved during the course of the entire offense are to be considered. Thus, a fraud that involved only three participants but used the unknowing services of many outsiders could be considered extensive.

§3B1.2

4. In distinguishing a leadership and organizational role from one of mere management or supervision, titles such as "kingpin" or "boss" are not controlling. Factors the court should consider include the exercise of decision making authority, the nature of participation in the commission of the offense, the recruitment of accomplices, the claimed right to a larger share of the fruits of the crime, the degree of participation in planning or organizing the offense, the nature and scope of the illegal activity, and the degree of control and authority exercised over others. There can, of course, be more than one person who qualifies as a leader or organizer of a criminal association or conspiracy. This adjustment does not apply to a defendant who merely suggests committing the offense.

Background: This section provides a range of adjustments to increase the offense level based upon the size of a criminal organization (*i.e.*, the number of participants in the offense) and the degree to which the defendant was responsible for committing the offense. This adjustment is included primarily because of concerns about relative responsibility. However, it is also likely that persons who exercise a supervisory or managerial role in the commission of an offense tend to profit more from it and present a greater danger to the public and/or are more likely to recidivate. The Commission's intent is that this adjustment should increase with both the size of the organization and the degree of the defendant's responsibility.

In relatively small criminal enterprises that are not otherwise to be considered as extensive in scope or in planning or preparation, the distinction between organization and leadership, and that of management or supervision, is of less significance than in larger enterprises that tend to have clearly delineated divisions of responsibility. This is reflected in the inclusiveness of §3B1.1(c).

Historical Note

Effective November 1, 1987. Amended effective November 1, 1991 (amendment 414); November 1, 1993 (amendment 500).

§3B1.2. Mitigating Role

Based on the defendant's role in the offense, decrease the offense level as follows:

- (a) If the defendant was a minimal participant in any criminal activity, decrease by 4 levels.
- (b) If the defendant was a minor participant in any criminal activity, decrease by 2 levels.

In cases falling between (a) and (b), decrease by 3 levels.

Commentary**Application Notes:**

1. **Definition.**—For purposes of this guideline, "*participant*" has the meaning given that term in Application Note 1 of §3B1.1 (Aggravating Role).
2. **Requirement of Multiple Participants.**—This guideline is not applicable unless more than one participant was involved in the offense. See the Introductory Commentary to this Part (Role

APPENDIX I

TWL

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FEB 04 2016

JULIE RICHARDS JOHNSTON, CLERK
US DISTRICT COURT, EDNC

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
NORTHERN DIVISION

NO. 2:15-CR-9-1H

FILED

FEB - 4 2016

JULIE RICHARDS JOHNSTON, CLERK
BY US DISTRICT COURT, EDNC
DEP CLK

UNITED STATES OF AMERICA

v.

LANN TJUAN CLANTON

I N F O R M A T I O N

The United States Attorney charges:

Count One

[Conspiracy to Distribute and Possess with the Intent to
Distribute Controlled Substances;
21 U.S.C. §§ 841(a)(1) and 846]

Beginning on or about November 7, 2013, and continuing to
on or about April 30, 2015, in the Eastern District of North
Carolina and elsewhere, the defendant, LANN TJUAN CLANTON, did
knowingly and intentionally conspire, combine, confederate, and
agree with other persons, known and unknown, to knowingly and
intentionally distribute and possess with the intent to
distribute heroin, a Schedule I controlled substance, and
cocaine, a Schedule II controlled substance, in violation of
Title 21, United States Code, Section 841(a)(1).

Quantity of Controlled Substances Involved in the Conspiracy

With respect to the defendant, LANN TJUAN CLANTON, the
amount involved in the conspiracy attributable to him as a

result of his own conduct, and the conduct of other conspirators reasonably foreseeable to him, is one hundred (100) grams or more of heroin, and five hundred (500) grams or more of cocaine, in violation of Title 21, United States Code, Section 841(b) (1) (B).

All in violation of Title 21, United States Code, Section 846.

Count Two

[Use and Carry of a Firearm During and in Relation to a Drug Trafficking Crime;
18 U.S.C. §§ 924(c)(1)(A)]

On or about February 24, 2014, in the Eastern District of North Carolina and elsewhere, the defendant, LANN TJUAN CLANTON, did knowingly use and carry a firearm during and in relation to a drug trafficking crime for which the defendant may be prosecuted in a court of the United States, that is, conspiracy to distribute controlled substances, in violation of Title 21, United States Code, Sections 841(a)(1) and 846, as alleged in Count One of this Information, and did possess said firearm in furtherance of said drug trafficking crime.

All in violation of Title 18, United States Code, Sections 924(c)(1)(A).

FORFEITURE NOTICE

A. Forfeiture of Proceeds and Facilitating Property Involved in Count 1

The allegations contained in Count 1 of this Criminal Information are hereby realleged and incorporated by reference for the purpose of alleging forfeiture pursuant to Title 21, United States Code, Section 853.

Upon conviction of an offense in violation of Title 21, United States Code, Sections 841(a)(1) and 846, as set forth in Count 1 of this Criminal Information, the defendant, LANN TJUAN CLANTON, shall forfeit to the United States pursuant to Title 21, United States Code, Section 853, any property constituting, or derived from, any proceeds obtained, directly or indirectly, as the result of such offense and any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, the offense.

B. Forfeiture of Firearms and Related Ammunition Involved in or Used in Count 2

The allegations contained in Count 2 of this Criminal Information are hereby realleged and incorporated by reference for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 924(d) and Title 28, United States Code, Section 2461(c).

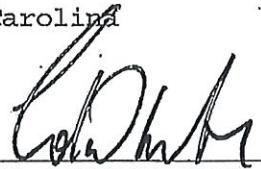
Upon conviction of the offense set forth in Count 2 of this Criminal Information, the defendant, LANN TJUAN CLANTON, shall forfeit to the United States pursuant to Title 18, United States Code, Section 924(d) and Title 28, United States Code, Section 2461(c), any and all firearms or ammunition involved in or used in a knowing commission of the offense.

If any of the property described in sections A-B above, as a result of any act or omission of a defendant,

- a. cannot be located upon the exercise of due diligence,
- b. has been transferred or sold to, or deposited with, a third party,
- c. has been placed beyond the jurisdiction of the court,
- d. has been substantially diminished in value, or
- e. has been commingled with other property which cannot be divided without difficulty,

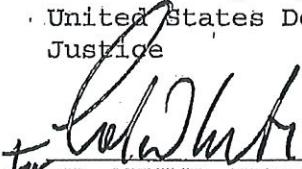
it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of said defendant up to the value of the forfeitable property.

JOHN STUART BRUCE
Acting United States Attorney
Eastern District of North
Carolina

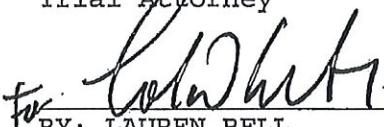


BY: TOBY LATHAN
Assistant United States
Attorney

RAYMOND HULSER
Chief
Public Integrity Section
United States Department of
Justice



BY: MENAKA KALASKAR
Trial Attorney



BY: LAUREN BELL
Trial Attorney

APPENDIX J

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
NORTHERN DIVISION

NO. 2:15-CR-9-2H

The United States of America ("United States"), by and through the United States Attorney for the Eastern District of North Carolina ("USA-EDNC") and the Public Integrity Section, United States Department of Justice ("PIN"), and the Defendant, with the concurrence of the Defendant's Attorney, Alton R. Williams, have agreed that the above-captioned case should be concluded in accordance with this Memorandum of Plea Agreement as follows:

1. This Memorandum constitutes the full and complete record of the Plea Agreement. There are no other agreements between the parties in addition to or different from the terms herein.

2. The Defendant agrees:

- a. To waive indictment and plead guilty to Counts One and Two of the Criminal Information herein.
- b. To make restitution to any victim in whatever amount the Court may order, pursuant to 18 U.S.C. §§ 3663 and 3663A. Said restitution shall be due and payable immediately.

c. To waive knowingly and expressly all rights, conferred by 18 U.S.C. § 3742, to appeal the conviction and whatever sentence is imposed on any ground, including any issues that relate to the establishment of the advisory Guideline range, reserving only the right to appeal from a sentence in excess of the applicable advisory Guideline range that is established at sentencing, and further to waive all rights to contest the conviction or sentence in any post-conviction proceeding, including one pursuant to 28 U.S.C. § 2255, excepting an appeal or motion based upon grounds of ineffective assistance of counsel or prosecutorial misconduct not known to the

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Defendant at the time of the Defendant's guilty plea. The foregoing appeal waiver does not constitute or trigger a waiver by the United States of any of its rights to appeal provided by law.