

Appendix A

In the
United States Court of Appeals
For the Eleventh Circuit

No. 21-14179

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LINDSEY ORR,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Georgia
D.C. Docket No. 1:07-cr-00017-AT-JFK-2

JUDGMENT

2

21-14179

It is hereby ordered, adjudged, and decreed that the opinion issued on this date in this appeal is entered as the judgment of this Court.

Entered: July 25, 2022

For the Court: DAVID J. SMITH, Clerk of Court

[DO NOT PUBLISH]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 21-14179

Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LINDSEY ORR,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Georgia
D.C. Docket No. 1:07-cr-00017-AT-JFK-2

Before WILLIAM PRYOR, Chief Judge, LUCK and LAGOA, Circuit Judges.

PER CURIAM:

Lindsey Orr, a federal prisoner, appeals the denial of his motion for compassionate release and the denial of his motion to reconsider. 18 U.S.C. § 3582(c)(1)(A). The district court ruled that the statutory sentencing factors weighed against granting Orr sentencing relief, *id.* § 3553(a), and denied Orr's motion to reconsider its decision on the grounds that it had "appropriately considered" the statutory sentencing factors and that Orr had failed to identify extraordinary and compelling reasons to warrant early release, U.S.S.G. § 1B1.13. The United States moves for a summary affirmance and to stay the briefing schedule. Because "the position of [the United States] . . . is clearly right as a matter of law so that there can be no substantial question as to the outcome of the case," *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969), we grant the motion for summary affirmance and dismiss as moot the motion to stay the briefing schedule.

A jury convicted Orr of two counts of aiding and abetting armed bank robbery, 18 U.S.C. §§ 2, 2113(a), (d), and two counts of brandishing a firearm during a crime of violence, *id.* §§ 2, 924(c). The district court sentenced Orr to 57 months of imprisonment for the two robberies and to mandatory minimum sentences of 84 months and 300 months for his firearm convictions, with each of

21-14179

Opinion of the Court

3

his sentences running consecutively. On appeal, we affirmed Orr's convictions. *United States v. Orr*, 322 F. App'x 741 (11th Cir. 2009).

Orr moved for compassionate relief. 18 U.S.C. § 3582(c)(1)(A). He argued that changes in the First Step Act to sentences for multiple firearm offenses constituted an extraordinary and compelling reason to reduce his sentence. Orr also argued that his good behavior and rehabilitation in prison warranted a sentence reduction.

The district court denied Orr's motion to reduce his sentence. Based on the "terrifying and violent" nature of Orr's two bank robberies, during which he "carried a gun and threatened" to kill "several people . . . if they did not comply with his demands," in a way that "caused lasting and damaging trauma in [his] victims," the district court determined that "releasing [Orr after serving only 15 years in prison] . . . would not serve the factors in section 3553(a)." The district court also determined that "the seriousness of the nature and circumstances of [Orr's] offense . . . [and the need to] provide just punishment" outweighed his "lack of criminal history and his substantial rehabilitative efforts while in prison." And the district court declined "to consider whether extraordinary and compelling circumstances warrant[ed] relief" or whether Orr "remain[ed] a danger to safety of any other person or to the community as provided in 18 U.S.C. § 3142(g)."

The district court also denied Orr's motion to reconsider. The district court reiterated that the statutory sentencing factors did "not weigh in favor of [Orr's] release at this juncture." And

based on our intervening decision in *United States v. Bryant*, 996 F.3d 1243 (11th Cir. 2021), *cert. denied*, 142 S. Ct. 583 (2021), the district court ruled that Orr had failed to identify an extraordinary and compelling reason for early release, U.S.S.G. § 1B1.13.

Summary affirmance is appropriate because there is no substantial question that Orr is not entitled to compassionate release. *See Groendyke*, 406 F.2d at 1162. Orr does not dispute that the district court could deny his motion to reduce based solely on its determination that relief was inappropriate based on the statutory sentencing factors. *See United States v. Tinker*, 14 F.4th 1234, 1237–38 (11th Cir. 2021). Nor does Orr contest the weight that the district court assigned those factors. The district court was not required to resolve whether Orr had identified extraordinary and compelling reasons for early release because “the result would be the same—denial—[because] the § 3553(a) factors militate against a sentence reduction.” *Id.* at 1239. Even so, the district court correctly denied Orr’s motion for reconsideration on the ground that any reduction had to comport with the definition of “extraordinary and compelling reasons” in section 1B1.13. *See Bryant*, 996 F.3d at 1252–62. And Orr could not use his “motion for reconsideration . . . to relitigate” how the district court weighed the sentencing factors. *See Richardson v. Johnson*, 598 F.3d 734, 740 (11th Cir. 2010).

We GRANT the motion for summary affirmance, AFFIRM the denial of Orr’s motion for compassionate release, and DISMISS AS MOOT the motion to stay the briefing schedule.

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 21-14179-JJ

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

LINDSEY ORR,

Defendant - Appellant.

Appeal from the United States District Court
for the Northern District of Georgia

ON PETITION(S) FOR REHEARING AND PETITION(S) FOR REHEARING EN BANC

BEFORE: WILLIAM PRYOR, Chief Judge, LUCK, and LAGOA, Circuit Judges.

PER CURIAM:

The Petition for Rehearing En Banc is DENIED, no judge in regular active service on the Court having requested that the Court be polled on rehearing en banc. (FRAP 35) The Petition for Panel Rehearing is also denied. (FRAP 40)

ORD-46

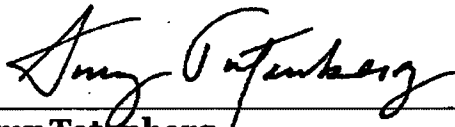
Appendix B

In reviewing Mr. Orr's Motion for Reconsideration, the Court concludes that it appropriately considered the facts and circumstances of Mr. Orr's case in finding that the Section 3553(a) factors do not weigh in favor of release at this juncture.

In addition, since the filing of Mr. Orr's initial motion and motion for reconsideration, the Eleventh Circuit has held that a court reviewing a motion for compassionate release is constrained to consider only reasons listed as "extraordinary and compelling" under the United States Sentencing Commission's policy statement, § 1B1.13, and the accompanying Application Notes. *See United States v. Bryant*, 996 F.3d 1243, 1263-64 (11th Cir. 2021). These reasons listed in the Sentencing Commission's policy statement include only: (1) medical conditions of the defendant; (2) age of the defendant; (3) family circumstances; and (4) other reasons, as determined by the BOP Director. *Id.*; U.S.S.G § 1B1.13 & n.1.

Here, Mr. Orr has not indicated that he has been diagnosed with any medical condition that is terminal or that "substantially diminishes" his ability to care for himself within the environment of a correctional facility. U.S.S.G § 1B1.13, n.1(A). Mr. Orr is in his mid-50s and has not argued that any particular family circumstances constitute extraordinary and compelling reasons for release. *Id.* at n.(B)-(C). Thus, besides that the Section 3553(a) factors do not weigh in favor of Mr. Orr's release, Mr. Orr has also failed to established extraordinary and compelling reasons for relief under the governing legal authority, namely *Bryant*. For these reasons, Mr. Orr's Motion for Reconsideration [Doc. 233] is **DENIED**.

IT IS SO ORDERED this 5th day of November, 2021.



Amy Totenberg
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES of AMERICA,

v.

LINDSEY ORR

CRIMINAL ACTION NO.
1:07-cr-00017-AT-JFK-2

ORDER

On April 16, 2020, Defendant Lindsey Orr filed a Motion for Compassionate Release Pursuant to 18 U.S.C. § 3582(c)(1)(A). [Doc. 223; *see also* Supplement, Doc. 225.] The Court ordered the Government to respond to the motion and on June 3, 2020, the Government filed a brief opposing the Defendant's motion. (Response, Doc. 229.) The Defendant filed a Reply on June 18, 2020. (Reply, Doc. 231.) For the reasons that follow, the Defendant's motion is **DENIED**.

I. BACKGROUND

In July 2007, the Defendant was convicted of two counts of armed bank robbery and two counts of possession of a firearm in violation of 18 U.S.C. § 924(c). (See Presentence Report ("PSR") at 2.) The Defendant was sentenced to 57 months for the bank robberies, and an additional 384 months for the violations of 18 U.S.C. § 924(c). (Judgment and Commitment, Doc. 103.) At the time, brandishing a firearm during a crime of violence (18 U.S.C. § 924(c)(1))

created a mandatory 7-year sentence for the first conviction. Then, each additional conviction under section 924(c) was “stacked” on top of the first one such that Defendant’s first 924(c) conviction resulted in an 84-month consecutive sentence, and his second 924(c) conviction added another 300 months, to be served consecutively.

The Defendant now seeks compassionate release pursuant to the First Step Act. The Defendant says that the large disparity between the sentence he received at trial and the sentence he would receive if sentenced today is an “extraordinary and compelling” reason to reduce his sentence. (*See, generally*, Motion, Doc. 223.) The Defendant also notes his substantial efforts towards rehabilitation as weighing in favor of granting the relief he seeks. The Defendant is 54 years old, and has been incarcerated for approximately 15 years. While in prison, the Defendant has indeed taken major steps toward rehabilitation and preparing himself for life outside of prison. Notably, the Defendant has obtained his G.E.D., completed some college courses, graduated from the culinary arts program, and served as a mentor to other inmates in the Pre-Release Re-Entry in Society Classes, among several other accomplishments. (Doc. 223 at 4.)

The Government opposes the Defendant’s motion, saying that the disparity in sentencing does not warrant the relief sought by Defendant, who, at the time of his filing had served only 36% of his sentence. (Doc. 229 at 6.) The Government also says that the Defendant has not shown that he is no longer a danger to the community, a required condition for the relief sought. (Doc. 229 at 8–9.)

II. STANDARD OF REVIEW

Before the enactment of the First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5194 ("First Step Act"), compassionate release was only available if the Bureau of Prisons ("BOP") filed a motion requesting it. *See* 18 U.S.C. § 3582 (2002); *see also* U.S.S.G. § 1B1.13 ("Upon motion of the Director of the Bureau of Prisons under 18 U.S.C. § 3582(c)(1)(A), the court may reduce the term of imprisonment."). Now, however, the First Step Act enables a defendant to file a motion for compassionate release directly with the sentencing court, provided he has "fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on [his] behalf or the lapse of 30 days from the receipt of such a request by the warden of [his] facility, whichever is earlier." 18 U.S.C. § 3582(c)(1)(A).

Where the exhaustion requirement is satisfied, the First Step Act authorizes a court to modify a term of imprisonment if, after considering the factors set forth in 18 U.S.C. § 3553(a), to the extent they are applicable, the court determines that,

- (1)(A) extraordinary and compelling reasons warrant the reduction; or
- (B) The defendant
 - (i) is at least 70 years old; and
 - (ii) has served at least 30 years in prison pursuant to a sentence imposed under 18 U.S.C. § 3559(c) for the offense or offenses for which the defendant is imprisoned;
- (2) the defendant is not a danger to the safety of any other person or to the community as provided in 18 U.S.C. § 3142(g); and

(3) the reduction is consistent with this policy statement.

U.S.S.G. § 1B1.13. Section (1)(B)(ii) deals with sentences imposed under section 3559(c),¹ and is not relevant to the Court here. The Sentencing Commission's policy is found in § 1B1.13 of the Guidelines and that section's accompanying Application Notes. Application Note 1 to this section lists three specific circumstances that would qualify as "extraordinary and compelling:" (1) medical condition; (2) advanced age; and (3) family circumstances. *Id.* § 1B1.13 cmt. n.1. Application Note 1 includes a residual clause whereby the BOP may determine "there exists in the defendant's case an extraordinary and compelling reason other than, or in combination with, the reasons" set out above. *Id.*

The Sentencing Commission has not updated this policy statement since the passage of the First Step Act. Section 1B1.13 therefore does not reflect the change in the procedural requirements for compassionate release. *See United States v. Ebberts*, 432 F. Supp. 3d 421, 427 (S.D.N.Y. 2020). Courts across the

¹ Section 3559 reads as follows:

(c) Imprisonment of certain violent felons.--

(1) Mandatory life imprisonment.--Notwithstanding any other provision of law, a person who is convicted in a court of the United States of a serious violent felony shall be sentenced to life imprisonment if--

(A) the person has been convicted (and those convictions have become final) on separate prior occasions in a court of the United States or of a State of--

(i) 2 or more serious violent felonies; or

(ii) one or more serious violent felonies and one or more serious drug offenses; and

(B) each serious violent felony or serious drug offense used as a basis for sentencing under this subsection, other than the first, was committed after the defendant's conviction of the preceding serious violent felony or serious drug offense.

18 U.S.C. § 3559.

country – including this Court – still rely on § 1B.1.13 for guidance as to the “extraordinary and compelling reasons” that may warrant a sentence reduction. *See United States v. Drummond*, No. 1:97-cr-0019, Doc. 118 at 5 (N.D. Ga. Sept. 27, 2019) (viewing § 1B.1.13 as “non-binding guidance”); *see also United States v. Solis*, No. 16-015-CG-MU, 2019 WL 2518452, at *2–3 (S.D. Ala. June 18, 2019); *United States v. Heromin*, No. 8:11-cr-550-T-33SPF, 2019 WL 2411311, at *2 (M.D. Fla. June 7, 2019). However, the Court is not *limited* to the technical requirements set forth in § 1B.1.13 in assessing whether a defendant’s application for compassionate release provides “extraordinary and compelling reasons” for a sentence reduction under § 3582(c)(1)(A)(i). *See, e.g., United States v. Maria Ullings*, No. 1:10-cr-406-MLB, Doc. 34 at 6 (N.D. Ga. May 12, 2020) (citing *United States v. Perez*, 451 F. Supp. 3d 288, No. 17 Cr. 513-3, 2020 WL 1546422, at *4 (S.D.N.Y. Apr. 1, 2020)); *United States v. Beck*, 425 F. Supp. 3d 573, 579 (M.D.N.C. 2019) (“While the old policy statement provides helpful guidance, it does not constrain the Court’s independent assessment of whether ‘extraordinary and compelling reasons’ warrant a sentence reduction under § 3582(c)(1)(A)(i).”); *United States v. Beard*, No. 1:16-CR-285-SCJ, Doc. 176 at 6-7, 10 (N.D. Ga. June 25, 2020); *United States v. Kowalewski*, No. 2:13-CR-45-RWS, Doc. 251 at 10 (N.D. Ga. Apr. 30, 2020); *United States v. Hill*, No. 1:05-CR-0081-LMM, Doc. 45 at 4 (N.D. Ga. June 10, 2020); *United States v. Noble*, No. 1:09-CR-315-MHC, Doc. 58 at 3-6 (N.D. Ga. Nov. 24, 2020).

III. DISCUSSION

The Defendant submitted a Request for Compassionate Release to the Warden of the prison, and the Warden denied the request on April 7, 2020. (See Tinto Declaration, Doc. 58-11 at 2.) Over thirty days have passed since the Defendant made his request, so he is considered to have exhausted his administrative filing requirements. See 18 U.S.C. § 3582(c)(1)(A). Accordingly, the Defendant now properly invokes section 3582(c)(1)(A) and requests that this Court grant him a reduction in his sentence to time served.

a. Section 3553(a) factors

Defendant satisfied the exhaustion requirement, so the Court moves on to consider the factors set forth in section 3553(a). It is in the consideration of these factors that the Court denies the Defendant's motion. The two bank robberies committed by the Defendant were terrifying and violent affairs in which the Defendant put several people in fear for their life through his actions and words. The Defendant carried a gun and threatened to use it. The Defendant told several people that he would kill them if they did not comply with his demands. These actions have caused lasting and damaging trauma in the victims of the crimes. The victims spoke of living in ongoing fear long after the robberies took place.

The Court gave due consideration to the Defendant's lack of criminal history and his substantial rehabilitative efforts while in prison. But the Court must also consider the nature and circumstances of the offense, the need for the sentence to reflect the seriousness of the offense and provide just punishment, and the need for the sentence to afford adequate deterrence, both generally and

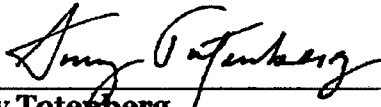
specifically, the need to protect the public as well as the range of sentences available for the Defendant's crimes; and pertinent policy statements. See 18 U.S.C. § 3553(a). When considering all of these factors, the Court finds that releasing the Defendant at this point in his sentence would not serve the factors in section 3553(a). Particularly, releasing the Defendant at this point in time would not adequately reflect the seriousness of the nature and circumstances of the offense or provide just punishment.

[The Court finds that the factors of section 3553(a) will not be satisfied if [the Defendant were to be released at this point in his sentence]. Accordingly, the Court does not need to go further to consider whether extraordinary and compelling circumstances warrant relief. Similarly, the Court need not address whether the Defendant remains a danger to safety of any other person or to the community as provided in 18 U.S.C. § 3142(g). Were the Defendant to have completed a greater portion of his custodial sentence, such that the sentence reflected the seriousness of his crimes, the Court might be of a different opinion. This is especially so in light of the sentencing disparities created by the prior section 924(c) "stacking" sanction and Defendant's major rehabilitation efforts. But as it is now, the motion must be denied.

IV. CONCLUSION

For the reasons set forth in this Order, the Defendant's Motion for Compassionate Release Pursuant to U.S.C. § 3582(c)(1)(A) is **DENIED**. [Doc. 223.]

IT IS SO ORDERED this 19th day of January, 2021.



Amy Totenberg
United States District Judge

Appendix C

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF GEORGIA
3 ATLANTA DIVISION

4 UNITED STATES OF AMERICA,) DOCKET NO.
5 PLAINTIFF,) 1:07-CR-017-2-JOF
6 V.)
7 LINDSEY ORR,) ATLANTA, GEORGIA
8 DEFENDANT.) JUNE 5, 2008

9
10 TRANSCRIPT OF SENTENCING HEARING
11 BEFORE THE HONORABLE J. OWEN FORRESTER
12 SENIOR UNITED STATES DISTRICT JUDGE

13 APPEARANCES:

14 FOR THE GOVERNMENT: WILLIAM MCKINNON
15 ASSISTANT U. S. ATTORNEY
16 FOR THE DEFENDANT: MICHAEL J. O'LEARY
17 ATTORNEY AT LAW
18
19
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21
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23 LOIS D. PHILLIPS, RMR, CRR
24 OFFICIAL COURT REPORTER
25 UNITED STATES DISTRICT COURT
U.S. DISTRICT COURT
ATLANTA, GEORGIA 30303-3361
(404) 215-1317

UNITED STATES DISTRICT COURT

1 A DEPARTURE BASED ON MR. O'LEARY'S THEORY THAT 32 YEARS IS ENOUGH,
2 AND I WOULD SUBMIT THAT THAT'S CLEARLY NOT WHAT CONGRESS INTENDED
3 WHEN CONGRESS ENACTED 924(C) AND REQUIRED MANDATORY SENTENCING.
4 AND I WOULD SUBMIT THAT THE 3553(A) AND THE SENTENCING COMMISSION
5 REQUIRE THAT THE COURT FASHION A SENTENCE THAT'S REASONABLE FOR
6 THE DEFENDANT'S COMMISSION OF THESE TWO BANK ROBBERIES. AND THEN
7 THE COURT HAS NO DISCRETION BASED ON CONGRESS' STATUTES TO
8 SENTENCE MR. ORR TO CONSECUTIVE SENTENCES FOR THE FIRST 924(C) AND
9 THEN THE SECOND 924(C).

10 SO I WOULD SUBMIT THE COURT SHOULD NOT BE LOOKING IN
11 TERMS OF FASHIONING A SENTENCE ON THE BANK ROBBERY, COUNTS 1 AND
12 3, THE COURT SHOULD BE DETERMINING WHAT IS A REASONABLE SENTENCE.
13 CONGRESS DIRECTED THE COURT TO ADD ONTO THAT BECAUSE OF THE FACT
14 THAT MR. ORR AND MR. MINTON USED FIREARMS IN THE COMMISSION OF
15 THESE OFFENSES. AND THE WAY THE GUIDELINES WORK, AS THE COURT IS
16 AWARE, MR. ORR IS NOT BEING HELD ACCOUNTABLE FOR THE FACT THAT
17 THESE WERE ARMED BANK ROBBERIES. THE GUIDELINES WORK AS IF THERE
18 WAS NO FIREARM USED IN THE BANK ROBBERIES BECAUSE THE GUIDELINES
19 ACCOUNT FOR THE FACT THAT THERE IS GOING TO BE ADDITIONAL
20 SENTENCES BASED ON THE 924(C) CONVICTIONS.

21 AND I WOULD SUBMIT THAT IT'S A REASONABLE SENTENCE TO
22 TAKE INTO ACCOUNT THE VIOLENT NATURE OF THESE BANK ROBBERIES TO
23 DETER OTHERS FROM COMMITTING VIOLENT ARMED BANK ROBBERIES THAT THE
24 COURT IMPOSE A SENTENCE THAT'S WITHIN THE GUIDELINES RANGE FOR THE
25 BANK ROBBERIES, AND THEN ADD THE TWO CONSECUTIVE SENTENCES FOR THE

Appendix D

1 DRUGS. HE WAS A FELON, AND HE HAD A BAD SENSE TO SHOOT AT THE ATF
2 AGENTS WHO WERE TRYING TO ARREST HIM. HE DIDN'T KILL ANYBODY
3 BECAUSE THE ATF AGENT WAS WEARING A VEST. BUT I'M NOT -- I NEVER
4 HAD BEEN A LAW ENFORCEMENT OFFICER, BUT I CAN JUST IMAGINE IF I
5 HAD BEEN ACTUALLY HIT BY A BULLET OUT OF A HIGH-POWERED RIFLE, I
6 WOULD CARRY THAT WITH ME FOR THE REST OF MY DAYS EVEN THOUGH MY
7 HEALTH WAS GOOD. SO IT WAS A TERRIBLE THING YOU'VE DONE.

8 YOU KNOW, IF YOU LOOK AT THE CATEGORY OF CRIMES, IT'S
9 PROBABLY MURDER, RAPE, AND ARMED ROBBERY, IN THAT ORDER. AND
10 ARMED ROBBERY IS BAD NOT BECAUSE YOU GOT THAT DIDN'T BELONG TO
11 YOU, THAT'S BAD, THAT'S NOT IT. IT'S WHAT YOU'VE DONE TO OTHER
12 PEOPLE.

13 TO DO WHAT MR. O'LEARY ASKS ME TO DO PUTS ME IN A
14 POSITION OF REALLY IGNORING THE SENTENCING POLICIES OF THE UNITED
15 STATES GOVERNMENT. I REALIZE THAT THE MANDATORY SENTENCES ARE
16 SUBSTANTIAL, BUT I CAN'T IGNORE THEM.

17 ~~SO ON COUNTS 1 AND 3 I WILL SENTENCE YOU TO THE CUSTODY~~
18 ~~OF THE BUREAU OF PRISONS FOR A PERIOD OF 57 MONTHS. ON COUNT 2~~
19 ~~WILL SENTENCE YOU TO THE CUSTODY OF THE BUREAU OF PRISONS FOR 84~~
20 ~~MONTHS TO FOLLOW THE SENTENCE IN COUNTS 1 AND 3. AND ON COUNT 4~~
21 ~~WILL SENTENCE YOU TO THE CUSTODY OF THE BUREAU OF PRISONS FOR 300~~
22 ~~MONTHS, TO FOLLOW THE SENTENCE ON COUNT 2.~~

23 IT IS VERY UNLIKELY THAT YOU WILL EVER PAY A FINE. I
24 WILL IMPOSE NONE. ALSO, THERE IS RESTITUTION, SO I WILL IMPOSE AN
25 ORDER OF RESTITUTION IN THE AMOUNT OF \$7,351.86 JOINTLY AND

Appendix

1 I'M NOT ADDRESSING THAT ISSUE. I THINK IT IS BORDERING ON CRUEL
2 AND UNUSUAL PUNISHMENT TO PUT SOMEONE IN PRISON FOR THIS AMOUNT OF
3 TIME AND NOT ALLOW THEM TO HAVE MONEY IN PRISON FOR THE FEW LITTLE
4 CONVENIENCES THAT MAKE LIFE A LITTLE MORE BEARABLE.

5 I WILL IMPOSE A SPECIAL ASSESSMENT OF A HUNDRED DOLLARS.
6 I WILL PLACE YOU ON SUPERVISED RELEASE FOR A PERIOD OF THREE
7 YEARS. SPECIAL CONDITIONS ARE THAT YOU PAY THE RESTITUTION
8 AMOUNTS I JUST ORDERED. OTHERWISE, YOU WILL BE UNDER THE STANDARD
9 CONDITIONS. YOU ARE GOING TO HAVE TO SUBMIT TO DNA TESTING.
10 THAT'S NOT INTRUSIVE, BUT UNDERSTAND THAT THEREAFTER YOU WILL BE
11 IN THE RECORDS -- YOUR DNA WILL BE IN THE RECORDS OF LAW
12 ENFORCEMENT. YOU CANNOT HEREAFTER OWN, POSSESS OR HAVE UNDER YOUR
13 CONTROL A DANGEROUS WEAPON OR FIREARM. DURING THE FIRST YEAR OF
14 SUPERVISED RELEASE YOU SHALL PARTICIPATE IN DRUG SCREENING. IF
15 YOU GET THROUGH A YEAR WITHOUT A NEGATIVE RESULT, THEN THAT
16 CONDITION IS DONE AWAY WITH. IF YOU HAVE A NEGATIVE RESULT, YOU
17 WILL PARTICIPATE IN DRUG TREATMENT AS ORDERED BY THE PROBATION
18 OFFICE.

19 I CONSIDERED THE FACTORS HERE IN 3553, AND I THINK IT
20 WOULD -- I THINK THAT TO DO WHAT MR. O'LEARY ASKED ME TO DO WOULD
21 UNDERMINE THE SERIOUSNESS OF THE BASE OFFENSE, AND HE WANTS ME TO
22 IMPOSE NO TIME FOR IT OR ESSENTIALLY NO TIME, AND OF COURSE HAVE
23 SOME EFFECT ON THE SENTENCING DISPARITY.

24 ANY QUESTIONS ABOUT THE SENTENCE? ANY JONES OBJECTIONS?

25 MR. MCKINNON: NO OBJECTION FROM THE GOVERNMENT. I