

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

August 31, 2022

Lyle W. Cayce
Clerk

No. 20-11232

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

MAYELI MOLINA,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
No. 3:17-CR-341

Before SMITH, DUNCAN, and OLDHAM, *Circuit Judges.*

PER CURIAM:*

Mayeli Molina was convicted of conspiring to distribute over 500 grams of methamphetamine (“meth”) and sentenced to 292 months’ imprisonment. She appeals her conviction and sentence.

Regarding her conviction, Molina complains that, although the government designated several of its lay witnesses as experts, the trial court took

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

No. 20-11232

no steps to prevent jury confusion. Regarding her sentence, Molina challenges both the district court's factual findings and its stated reasons. Molina contends that the court did not make findings, but if it did, the ones it made are clearly erroneous. And she maintains that the court sentenced her partially as punishment for exercising her constitutional right to a jury trial. We affirm.

I.

Federal investigators first became aware of Molina when they observed text messages between her and another individual whose line had been tapped. Those communications made it appear that Molina had picked up a kilogram of meth on her uncle's behalf, providing money in exchange. The authorities began investigating Molina as a potential participant in a drug-trafficking conspiracy.

Evidence of Molina's involvement gradually piled up. A series of text messages and financial transfers suggested that she had arranged and paid for drug transactions. A search of her house revealed scales and baggies. A cooperating witness confirmed Molina's involvement in the pickup that had first alerted the authorities. And a second cooperating witness testified to selling several kilograms of meth to Molina on multiple occasions.

Molina was indicted as part of an eighteen-person operation to import meth from Mexico into the United States. Molina's co-defendants pleaded guilty. The government presented testimony from its two cooperating witnesses and several government agents, all of whom had been personally involved in the investigation. The jury instructions listed all but one of those agents as expert witnesses.

Molina testified, laying the blame primarily on her uncle. Because he is old and infirm, she explained, Molina often allowed her uncle to use her phone and ran errands for him. She admitted to participating in the transac-

No. 20-11232

tion with the first cooperating witness but claimed that, because the bags were opaque, she had not realized they contained drugs and money. As for the second cooperating witness, she claimed that her uncle sent all the incriminating text messages. The jury convicted Molina of conspiracy to distribute at least 500 grams of meth.

In calculating the base offense level, the presentence investigation report (“PSR”) attributed thirteen kilograms of “ice” (that is, high-purity) meth to Molina, despite the fact that no meth in Molina’s possession had ever been recovered. Molina objected, averring that she should be held responsible for only six kilograms of meth and that none of it should be counted as ice. The district court overruled both objections and adopted the PSR. The base offense level, with a two-point enhancement because the meth was imported, resulted in a guidelines sentencing range of 292 to 365 months.

Molina requested a downward departure, pointing to her lack of criminal history and relatively minor role in the conspiracy. The district court declined to indulge. The court acknowledged that it had given downward departures in similar cases but expressed frustration with Molina’s decision not to accept responsibility and instead “insist[] on going to trial.” The court was particularly frustrated with Molina’s apparently false testimony on her own behalf. The court sentenced Molina to 292 months’ imprisonment, the low end of the guidelines range.

On appeal, Molina challenges her conviction and sentence. She maintains that the trial court erred in three ways. First, it allowed the government to present dual-purpose fact and expert witnesses without appropriate safeguards. Second, it failed to make sufficient factfindings regarding the quantity and quality of meth attributable to her, and if it did make those findings, they were clearly erroneous. Third, Molina says that her sentence, while not substantively unreasonable, was imposed as punishment for her decision to

No. 20-11232

exercise her Sixth Amendment right to stand trial.

II.

Regarding the conviction, Molina says that, although the government presented most of its witnesses as both fact and expert witnesses, the district court failed to take any protective steps to prevent that dual role from confusing the jury. Molina did not object, so, as she concedes, we review only for plain error. We conclude that the plain-error standard has not been satisfied.

A.

To show plain error, Molina must show that (1) there was error, (2) the error was obvious, and (3) the error affected her substantial rights. *Molina-Martinez v. United States*, 578 U.S. 189, 194 (2016). Even if she makes that showing, this court will correct the error only if, in our discretion, we determine that it “seriously affects the fairness, integrity or public reputation of judicial proceedings.” *Ibid.* (quotation omitted).

B.

We pretermitt a discussion of the first two prongs because, even assuming error that was obvious, such assumed error did not harm Molina’s substantial rights, so this appeal fails on the third prong of plain-error review.

“Error is prejudicial if there is a reasonable probability that the result of the proceedings would have been different but for the error.” *United States v. Gonzalez-Rodriguez*, 621 F.3d 354, 363 (5th Cir. 2010). It is not prejudicial if the remaining evidence of guilt, after errors are excised, was strong enough to make a guilty verdict the much more likely outcome. *See, e.g., United States v. Haines*, 803 F.3d 713, 732–33 (5th Cir. 2015); *United States v. Gonzalez-Rodriguez*, 621 F.3d 354, 367 (5th Cir. 2010).

Molina could have been convicted even if the testimony of the six witnesses had been excluded. That would still leave the police officer who

No. 20-11232

searched Molina’s house and phone, finding scales, baggies, and receipts for large transfers of money to Mexico. More importantly, it would also leave the two witnesses who testified that they personally transacted in meth with Molina. Those witnesses had an obvious self-interest in cooperating with the authorities, but their testimony was supported with documented communications. Excluding the dual-use witnesses would also leave Molina’s sometimes-unconvincing testimony in her own defense.

And fortunately for the government, it relied very little on the witnesses’ expertise. Instead, the claimed error stemmed from the designation of the witnesses as experts in pleadings, which was passed on in the jury instructions. Even if those instructions might have confused the jury or given the witnesses an unwarranted aura, *see Haines*, 803 F.3d at 730–31, the effect would have been slight—the instructions stressed that the jury did not have to accept expert opinions and “should judge such testimony like any other testimony.” It strains credulity to maintain the verdict would have been different but for that instruction. Thus, any error was harmless. Because Molina did not object and give the district court a chance to resolve the issue, her challenge on appeal fails.

III.

Molina’s next challenge is to the PSR, which the district court adopted. Molina presents three theories regarding that adoption. First, she says, the court did not make explicit findings regarding the amount of meth attributable to her. Second, the court clearly erred with regard to the quantity of the meth. Third, it clearly erred with regard to the meth’s quality.

We disagree with all three theories. The trial court *did* make findings by rejecting Molina’s objections and adopting the PSR. And those findings are supported by sufficient evidence to make them plausible in light of the record as a whole.

No. 20-11232

A.

Molina timely objected on this issue. But “the quantity of drugs involved in an offense is a factual determination” and thus is reviewed only for clear error. *United States v. Alford*, 142 F.3d 825, 831 (5th Cir. 1998). Thus, this court must affirm if the decision is “plausible in light of the record as a whole.” *Ibid.* (quotation omitted). Moreover, factual findings in support of a sentence need be supported only by a preponderance of the evidence, with the burden on the government. *See United States v. Betancourt*, 422 F.3d 240, 247 (5th Cir. 2005). If the district court failed to find relevant facts in support of a sentence, remand for further proceedings is appropriate. *See, e.g., United States v. Carreon*, 11 F.3d 1225, 1228 (5th Cir. 1994).

B.

The district court made sufficiently explicit findings about the amount and quality of the meth attributable to her. The PSR concluded that Molina was accountable for thirteen kilograms of ice. Molina objected to both the amount and the characterization as ice, and the district court overruled both objections and adopted the PSR. A district court may make findings of fact by adopting the PSR even without “a catechismic regurgitation of each fact determined.” *United States v. Rodriguez-Rodriguez*, 388 F.3d 466, 468 n.8 (5th Cir. 2004) (per curiam) (quotation omitted). Such a formality is particularly unnecessary after the court has rejected challenges to the PSR concerning the precise facts in dispute. Thus, the court found that Molina was accountable for thirteen kilograms of ice.

Molina’s contrary position rests on *Carreon* and an unpublished decision, *United States v. Ramos*, 545 F. App’x 301, 309 (5th Cir. 2013) (per curiam). But remand in *Carreon* was warranted by special circumstances: This court was “unable to determine how the district court resolved the[] issues”—the district court’s rejection of one portion of the PSR made it

No. 20-11232

difficult to see how another portion could still be right. *Carreon*, 11 F.3d at 1231. There is no similar unclarity in this case. *Ramos*, however, could be read to require explicit factfindings regardless of circumstance. *See Ramos*, 545 F. App'x at 308–09. But that case is not binding, and insofar as *Ramos* requires district courts verbally to regurgitate factual findings of the PSR, even after specifically rejecting objections to those same findings, we decline to follow it as contrary to *Rodriguez-Rodriguez*. Molina's first theory challenging the district court's adoption of the PSR fails.

Turning to Molina's second theory, the finding that Molina was accountable for thirteen kilograms of meth was not clearly erroneous. No meth belonging to Molina was seized in this case, but drug quantities may be inferred as long as the evidence the district court relies on has "sufficient indicia of reliability to support its probable accuracy." *Betancourt*, 422 F.3d at 247 (quotation omitted). That bar can be cleared by, among other things, testimony of a co-conspirator. *United States v. Arayatanon*, 980 F.3d 444, 451 (5th Cir. 2020).

Both cooperating witnesses testified to selling meth to Molina. The first testified to a kilogram, and the second testified that he had sold her several kilograms at a time more than three times. Molina attacks the second witness's credibility based on (minor) inconsistencies and the witness's drug use. But there is also hard evidence linking Molina to the transactions, including text messages and wire transfers to Mexico for roughly the wholesale value of a kilogram of meth. In light of that evidence, the district court's acceptance of the thirteen-kilogram estimate easily crosses the threshold of plausibility.

As for Molina's third theory, the finding that Molina's meth qualified as ice was also not clearly erroneous. Ice is defined as meth that is "at least 80% purity." U.S. SENT'G GUIDELINES MANUAL § 2D1.1(c) n.(C)

No. 20-11232

(U.S. SENT’G COMM’N 2021). The district court cannot assume that a particular quantity of meth clears the bar, but it can infer that unrecovered drugs have purity levels similar to those that are tested. *See, e.g., United States v. Rodriguez*, 666 F.3d 944, 947 (5th Cir. 2012).

Meth recovered from the second cooperating witnesses was tested and proved to be ice, along with meth believed to trace back to the first cooperating witness. The second cooperating witness also provided subjective descriptions of the meth he imported and cooked, describing it as “crystal.” Molina points out that no meth was ever seized from her, meaning that attributing a purity level to her requires an inferential step beyond just assuming that all drugs belonging to one person were similar in purity. *See, e.g., Rodriguez*, 666 F.3d at 947; *United States v. Dinh*, 920 F.3d 307, 313 (5th Cir. 2019). But such an inference is justified where, as here, the meth was seized from the same co-conspirators who supplied the defendant. The finding regarding the quality of meth attributable to Molina was not error.

IV.

Molina’s final challenge centers on the trial judge’s stated reasoning for sentencing Molina to 292 months’ imprisonment. That sentence was at the low end of the guideline range proposed by the PSR, and Molina does not challenge its substantive reasonableness. Instead, she points to various statements made by the judge and contends that the judge sought to punish Molina for exercising her Sixth Amendment right to stand trial. We conclude that the judge’s remarks, considered in proper context, reveal no such intention, so we reject Molina’s challenge.

A.

The standard of review is unclear. Molina asks for *de novo* review, while the government asks for plain error. There is an unpublished decision applying plain-error review in partially analogous circumstances. *See United*

No. 20-11232

States v. Guy, 633 F. App'x 851, 855 (5th Cir. 2015) (per curiam). But a subsequent published decision noted that the issue was still open. *See United States v. Gozes-Wagner*, 977 F.3d 323, 335 n.7 (5th Cir. 2020). We confront the question here.

We conclude that *de novo* review is appropriate. A court “by definition abuses its discretion when it makes an error of law.” *Kane v. Nat’l Union Fire Ins. Co.*, 535 F.3d 380, 384 (5th Cir. 2008) (per curiam) (quotation omitted). To punish a defendant for exercising her trial rights would be a constitutional violation, *see Gozes-Wagner*, 977 F.3d at 334–35; *Bordenkircher v. Hayes*, 434 U.S. 357, 363 (1978), making it an error of law. Sentences are within a trial court’s discretion, but reliance on an impermissible factor is a *per se* abuse of discretion, *see, e.g., In re Volkswagen AG*, 371 F.3d 201, 206 (5th Cir. 2004) (en banc), further indicating that *de novo* review is appropriate.

Moreover, plain error is premised on a defendant’s failure to object. *See Puckett*, 556 U.S. at 134. Though there might be room for objections during the sentencing hearing, *see Gozes-Wagner*, 977 F.3d at 335 n.7, the court’s final explanation of a sentence is not to be interrupted, and it ends the proceedings. A defendant like Molina would thus have no opportunity to object to comments made for the first time at that stage. Plain error would be legally and practically inapposite to review legal errors committed by a district judge while announcing a sentence, so we apply *de novo* review.

B.

Although some of the district court’s statements raise eyebrows when read out of context, we conclude the court did not err. The judge said that if Molina had “pled to this,” the judge would have “look[ed] at this far differently.” She complained that Molina “sat through a full proffer . . . and . . . still wouldn’t take [a sentence of] four or five years. And . . . then [she] insisted on going to trial.” Molina also points out that her co-conspirators

No. 20-11232

typically received lighter sentences,¹ and the judge noted that she “ha[d] gone way down” from the guidelines range in analogous cases.

But “[o]ne stray comment does not create error when it can be understood in the context of a lengthy sentencing hearing,” *Gozes-Wagner*, 977 F.3d at 340 n.12, and we read the district judge’s overall point as innocuous. “[T]he key for [her]” was “the testimony at trial,” and specifically the fact that Molina provided some of it. Molina’s willingness to perjure herself demonstrated dishonesty and lack of contrition. The judge also referred to “all the evidence [that] came out at trial.” It is not constitutionally problematic that “in the course of the proof at trial the judge may gather a fuller appreciation of the nature and extent of the crimes charged.” *Alabama v. Smith*, 490 U.S. 794, 801 (1989). With her fuller understanding of Molina, the judge saw her to be someone who “felt [she was] smarter than everybody else here.”

Thus, in the district court’s understanding, Molina was someone who thought she could outsmart the system and did not mind lying to do so. Her willingness to go to trial rather than plead was evidence of that tendency, but the decision backfired because it allowed so much evidence of Molina’s true self to be presented. We have no occasion to question that understanding; we relate it only to explain our inference that the district court did not treat Molina’s decision to stand trial as a discrete offense. Because the district court did not punish Molina for exercising her trial right, we reject this challenge to her sentence.²

AFFIRMED.

¹ That point has limited relevance, however, because “a defendant who cooperates with the Government is not similarly situated to one who refuses to do so.” *Gozes-Wagner*, 977 F.3d at 337.

² Because we do not remand for resentencing, we need not consider Molina’s request that the case be reassigned to a different judge.

United States Court of Appeals
for the Fifth Circuit

No. 20-11232

United States Court of Appeals
Fifth Circuit

FILED

August 31, 2022

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

MAYELI MOLINA,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:17-CR-341-15

Before SMITH, DUNCAN, and OLDHAM, *Circuit Judges.*

J U D G M E N T

This cause was considered on the record on appeal and the briefs on file.

IT IS ORDERED and ADJUDGED that the judgment of the District Court is AFFIRMED.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

v.

MAYELI MOLINACase Number: **3:17-CR-00341-B(15)**USM Number: **56319-177****Sheldon Weisfeld**

Defendant's Attorney

THE DEFENDANT:

<input type="checkbox"/>	pleaded guilty to count(s)	
<input type="checkbox"/>	pleaded guilty to count(s) before a U.S. Magistrate Judge, which was accepted by the court.	
<input type="checkbox"/>	pleaded nolo contendere to count(s) which was accepted by the court	
<input checked="" type="checkbox"/>	was found guilty on count(s) after a plea of not guilty	Count 1 of the three-count superseding Indictment filed September 26, 2017

The defendant is adjudicated guilty of these offenses:

Title & Section / Nature of Offense**Offense Ended****Count**

21 U.S.C. §§ 846, 841(a)(1) & (b)(1)(A) Conspiracy to Distribute a Controlled Substance

09/26/2017

1

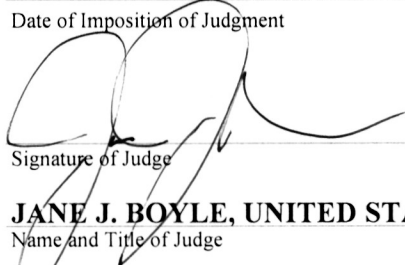
The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

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

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

December 10, 2020

Date of Imposition of Judgment



Signature of Judge
JANE J. BOYLE, UNITED STATES DISTRICT JUDGE

Name and Title of Judge

December 14, 2020

Date

DEFENDANT: MAYELI MOLINA
CASE NUMBER: 3:17-CR-00341-B(15)

IMPRISONMENT

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

292 months as to count 1.

- ☒ The court makes the following recommendations to the Bureau of Prisons:
That the defendant be allowed to serve her sentence at a Bureau of Prisons facility as close to the North Texas region as possible that can treat her medical conditions.
- ☒ 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: MAYELI MOLINA
CASE NUMBER: 3:17-CR-00341-B(15)

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of : **five (5) years.**

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
☐ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. ☐ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. ☒ You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. ☐ You must participate in an approved program for domestic violence. *(check if applicable)*

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

DEFENDANT: MAYELI MOLINA
CASE NUMBER: 3:17-CR-00341-B(15)

STANDARD CONDITIONS OF SUPERVISION

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

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

U.S. Probation Office Use Only

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

Defendant's Signature _____

Date _____

DEFENDANT: MAYELI MOLINA
CASE NUMBER: 3:17-CR-00341-B(15)

SPECIAL CONDITIONS OF SUPERVISION

As a condition of supervised release, upon the completion of the sentence of imprisonment, the defendant shall be surrendered to a duly-authorized immigration official for deportation in accordance with the established procedures provided by the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq. As a further condition of supervised release, if ordered deported or removed, the defendant shall remain outside the United States.

In the event the defendant is not deported upon release from imprisonment, the defendant shall comply with the standard conditions contained in this Judgment and shall comply with the mandatory and special conditions stated herein.

DEFENDANT: MAYELI MOLINA
CASE NUMBER: 3:17-CR-00341-B(15)

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the Schedule of Payments page.

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
TOTALS	\$100.00	\$0.00	\$0.00	\$0.00	\$0.00

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

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

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

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.

** Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22

*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: MAYELI MOLINA
CASE NUMBER: 3:17-CR-00341-B(15)

SCHEDULE OF PAYMENTS

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

- A ☐ Lump sum payments of \$ _____ due immediately, balance due
☐ not later than _____, or
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:
It is ordered that the Defendant shall pay to the United States a special assessment of \$100.00 for Count 1, which shall be due immediately. Said special assessment shall be paid to the Clerk, U.S. District Court.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- ☐ Joint and Several
See above for Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.
- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

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