

No.

IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 2022

DAQUAN MADRID PRIDGEN, Petitioner,

v.

UNITED STATES OF AMERICA, Respondent

MOTION TO PROCEED IN FORMA PAUPERIS

Petitioner, Daquan Madrid Pridgen, 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 30th day of December, 2022.

Respectfully submitted,



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

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QUESTION PRESENTED

- I. WHETHER THE DISTRICT COURT COMMITTED STRUCTURAL ERROR BY FINDING THAT THE SENTENCE FOR A VIOLATION OF 18 U.S.C. § 2113(e) SHOULD BE 10 YEARS TO LIFE IMPRISONMENT, WHERE SAID STATUTE APPEARS TO CONTEMPLATE A SENTENCE OF 10 TO 25 YEARS UNLESS DEATH RESULTS, AND WHETHER THE FOURTH CIRCUIT ERRED IN AFFIRMING THE PETITIONER'S LIFE SENTENCE BY APPLYING A QUESTIONABLE "DEFAULT RULE" RATHER THAN THE RULE OF LENITY.
- II. WHETHER THE FIFTH AND SIXTH AMENDMENT CONSTITUTIONAL RIGHTS OF A DEFENDANT WHO CHOSE TO REPRESENT HIMSELF WERE VIOLATED WHERE HE WAS CONTINUALLY ADVISED THAT THE PENALTY FOR A VIOLATION OF 18 U.S.C. § 2113(e) WAS 10 TO 25 YEARS, AND THEN, AFTER VERDICT, IT WAS DETERMINED THAT THE MAXIMUM SENTENCE WAS LIFE IMPRISONMENT, AND A LIFE SENTENCE WAS IMPOSED.

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PETITION FOR WRIT OF CERTIORARI

Petitioner Daquan Madrid Pridgen, respectfully prays this Court that a writ of certiorari issue to review the opinion of the United States Court of Appeals for the Fourth Circuit, issued on October 3, 2022, affirming his judgment and sentence.

OPINION BELOW

The opinion of the United States Court of Appeals for the Fourth Circuit for which review is sought is United States v. Daquan Madrid Pridgen, No. 19-4864 (4th Cir., October 3, 2022). The opinion is unpublished. The opinion 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. A copy of the district court judgment for the Eastern District of North Carolina wherein Mr. Pridgen was sentenced to life imprisonment plus 10 years consecutive is reproduced as Appendix D.

JURISDICTION

The opinion and judgment of the United States Court of Appeals for the Fourth Circuit was issued on October 3, 2022. The jurisdiction of this court is invoked pursuant to 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

On February 22, 2018, Daquan Pridgen was charged along with three other individuals in a 5 count indictment with bank robbery and firearm offenses. Mr. Pridgen was charged in Count 1 with armed bank robbery and aiding and abetting,

in violation of 18 U.S.C. Sections 2113(a), 2113(d), and 2113(e) and 2, in Count 2 with using and carrying firearms and possessing firearms in furtherance of a crime of violence, said firearms being discharged, and aiding and abetting, in violation of 18 U.S.C. § 924(c)(1)(A)(iii) and 2, and in Count 4 with possession of a firearm by a felon in violation of 18 U.S.C. Sections 922(g)(1) and 924. A copy of the Bank Robbery statute, 18 U.S.C. § 2113, is reproduced as Appendix E. A copy of the indictment is reproduced as Appendix F.

This appeal concerns the proper maximum sentence where no death results under 18 U.S.C. § 2113(e) which provides ". . . shall be imprisoned not less than ten years, or if death results shall be punished by death or life imprisonment", and whether this issue should be decided by the "default rule" or the "rule of lenity".

This appeal also concerns whether the constitutional rights of the Petitioner under the Fifth and Sixth Amendments were violated where he was continuously advised that the penalty for a violation of 18 U.S.C. § 2113(e) was 10 to 25 years, and then, after verdict, it was determined that the maximum sentence was life in prison.

The verdict form in the instant case is reproduced as Appendix G. The Constitutional provisions involved are the Fifth Amendment and the Sixth Amendment to the United States Constitution, and are reproduced as Appendix H.

STATEMENT OF THE CASE

Procedural History

On February 22, 2018 the Federal Grand Jury indicted Demetris Robinson, Daquan Pridgen, Jeramie Vaughn, and Rashad Young for the armed robbery of the PNC bank in Lumberton, North Carolina on January 23, 2018. The charge also involved firearms and forcing a bank employee to accompany them without consent in violation of 18 U.S.C. § 2113(a), (d), and (e). Count 2 charged all defendants with using, carrying, possessing, and discharging firearms in violation of 18 U.S.C. § 924(c)(1)(A)(iii). Robinson, Pridgen, and Vaughn were each charged with possession of a firearm by felon pursuant to 18 U.S.C. § 922(g)(1).

Daquan Pridgen filed two motions to proceed *pro se*. On February 27, 2019, the Court entered an order granting Pridgen's motion to proceed *pro se*.

Defendants Vaughn and Young pled guilty and later testified for the Government. On April 22, 2019, the court entered an order severing the trials of Robinson and Pridgen. Robinson proceeded to trial at the April 29, 2019 term of court. On May 24, 2019, the court entered an order granting the appointment of standby counsel for Pridgen.

The case came on for trial at the May 28, 2019 term of court in Raleigh, North Carolina, in front of the Honorable Terrence W. Boyle, District Court Judge presiding. On May 30, 2019, the jury found Daquan Pridgen guilty on all charges.

The case came on for sentencing at the November 14, 2019 term of court in Raleigh. The court found the sentencing range for a conviction under § 2113(e) was

10 years to life imprisonment. The guideline range was determined to be 360 months to life imprisonment. The Petitioner received a sentence of life imprisonment plus a consecutive 120 month term for the § 924(c) conviction. Standby counsel filed a notice of appeal on the date of sentencing.

Statement of Facts

On the afternoon of January 23, 2018, four masked men entered the PNC Bank in Lumberton, North Carolina brandishing firearms and demanding money. Two of the robbers were wearing heavy duty masks and dressed as an elderly individual and a health care worker. The other two robbers dressed in hoodies entered shortly thereafter. The teller, Tenae Ward was involved in emptying teller drawers. Employee Malcolm Barrett was ordered into the vault. However he was new at that bank, and they had to get Ms. Ward to enter the combinations in the vault. They then ordered Ms. Ward to open another vault so they could get more money, however Ms. Ward told them there was a 15 minute delay. Employee Melissa Rossi was ordered into the lobby by one of the robbers with a gun. While the robbers were waiting in the lobby, one yelled the cops were coming, and the robbers darted out the door. They left in a gray Saturn automobile. No guns were fired in the bank, and no one was injured.

A high-speed chase developed with law enforcement from the Lumberton Police Department and the Robeson County Sheriff's Department pursuing the gray Saturn automobile. At various times, occupants of the Saturn automobile fired at

the pursuing officers. The officers were generally unable to return fire due to the traffic and pedestrians in the area.

At the Antioch Grocery Store, the subjects got out of the vehicle and fired toward the pursuing officers. One of the robbers fled the scene behind the grocery store, and the other three robbers sped away. The chase ended in Columbus County when the Saturn stopped again, and the three subjects escaped into the woods. While dangerous, no one was injured in the pursuit.

Procedural facts are also necessary to address the issues to be considered in this petition. At the initial appearance on February 8, 2018, Daquan Pridgen was advised that the statutory maximum for bank robbery was 25 years imprisonment. (App. I). At the arraignment on April 18, 2018, Pridgen was advised that the bank robbery penalty was 10 to 25 years. (App. J.). His request for new counsel was allowed, and the arraignment was continued.

At the conclusion of the motion hearing on November 1, 2018, the colloquy between the district court judge and the prosecutor showed some confusion about the statutory maximums and minimums. The prosecutor stated the sentence was 25 years with a mandatory 10 year minimum. (App. K). The initial penalty sheet issued on February 21, 2018 listed the bank robbery punishment as 10 to 25 years. (App. L). The amended penalty sheet on January 24, 2019 listed the penalty as 10 to 25 years. (App. M). And the second amended penalty sheet on May 28, 2019

listed the penalty as 10 years to life imprisonment.¹ (App. N). The actual penalties were not mentioned at the arraignment on May 28, 2019.

The initial Presentence Report filed on July 15, 2019 listed the penalty for bank robbery as 10 to 25 years. (App. O). The Government objected, and urged that the maximum penalty for bank robbery was life imprisonment. The final Presentence Report filed on November 13, 2019, listed the bank robbery penalty as 10 years to life imprisonment. (App. P). The sentencing hearing was held the next day, on November 14, 2019, wherein Daquan Pridgen received a life sentence on the bank robbery conviction.

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

REASONS FOR GRANTING THE PETITION

I. THE SENTENCE FOR A VIOLATION OF 18 U.S.C. § 2113(e) SHOULD BE 10 TO 25 YEARS UNLESS DEATH RESULTS, AND THE DISTRICT COURT THEREFORE ERRED IN SENTENCING THE PETITIONER TO LIFE IMPRISONMENT WHERE NO DEATH OCCURRED, AND THE FOURTH CIRCUIT ERRED IN AFFIRMING THE LIFE SENTENCE AND APPLYING THE “DEFAULT RULE” INSTEAD OF THE RULE OF LENITY.

As will be discussed in the next question presented, there was significant confusion as to the maximum penalty for a violation of 18 U.S.C. § 2113(e). At the Government’s urging, the final PSR indicated the penalty to be 10 years to life imprisonment, and the district judge so found. Daquan Pridgen contends that a plain reading of 18 U.S.C. § 2113(e) contemplates a sentence of 10 to 25 years unless death results. Subsection (e) provides:

¹ In the Eastern District of North Carolina, the penalty sheets are prepared by the Government, filed under seal, and not generally given to counsel.

“Whoever, in committing any offense defined in this section, or in avoiding or attempting to avoid apprehension for the commission of such offense, or in freeing himself or attempting to free himself from arrest or confinement for such offense, kills any person, or forces any person to accompany him without the consent of such person, shall be imprisoned not less than ten years, or if death results shall be punished by death or life imprisonment.” (App. E).

Petitioner is mindful that the Fourth Circuit previously addressed this issue in United States v. Turner, 389 F. 3d 111 (2004), which held that the statute specifying a 10 year minimum prison sentence for forced accompaniment during an armed bank robbery permitted a maximum sentence of life imprisonment, where no maximum sentence was specified. The Turner court noted that while Congress imposed a mandatory minimum term of 10 years, it left unstated any maximum punishment. It further noted that Turner’s offense forced accompaniment without death fit between the two extremes, of 25 years or life imprisonment, and that under the “default rule” the maximum was life. 389 F. 3d at 120-121.

Daquan Pridgen asked the Fourth Circuit to re-visit the Turner decision, however it declined. The Court stated that his argument was foreclosed by Turner. (A-2).

Several courts have considered § 2113(e), however, not under the facts and circumstances of this case. The issues appear to be the extent of accompaniment. In United States v. Whitfield, 695 F. 3d 288 (4th Cir. 2012), the defendant received a sentence of life plus 60 months for his role in a botched bank robbery and a mid-escape home intrusion, which ended tragically in the death of an elderly woman. The case was remanded, the defendant Whitfield was re-sentenced to a term of 264

months, and the Fourth Circuit affirmed. United States v. Whitfield, 548 Fed. Appx. 70 (4th Cir. 2013). Certiorari was granted, and the case was affirmed on the accompaniment issue in Whitfield v. United States, 574 U.S. 265, 135 S. Ct. 785, 190 L. Ed. 2d 656 (2015). The Supreme Court did not address the life imprisonment issue because a death actually resulted.

A 372 month sentence was also affirmed in United States v. Parks, 700 F. 3d 775 (6th Cir. 2012), where a death resulted in fleeing from a bank robbery. Said sentence honored a plea agreement, but the Sixth Circuit held that if a death results the mandatory minimum is life imprisonment or death. It also noted that if death does not result, no maximum penalty is set. 700 F. 3d at 778.

In United States v. Atkins, 558 F. 2d 133 (3rd Cir. 1977), the case was remanded for a single sentence under subsection (e) where a bank guard was killed during the robbery. While a new trial was ordered for a hearsay violation in one of the robberies, the Third Circuit clarified that subsection (e) of 18 U.S.C. § 2113 does not constitute a separate offense, but the maximum sentence for the robbery where a death results.

Several other cases regarding accompaniment did not address the maximum because the sentence was over 10 years and less than 25 years. See United States v. Reed, 26 F. 3d 523, 526 (5th Cir. 1994) (160 month sentence); United States v. Strobehn, 421 F. 3d 1017 (9th Cir. 2005) (no prison term indicated, however dissent complained that the conduct was insufficient to apply aggravated minimum sentence of 10 years).

Daquan Pridgen also requested that the Fourth Circuit consider the rule of lenity when addressing this issue, and cited it to its decision in United States v. Hilton, 701 F. 3d 959, 966 (4th Cir. 2012). In Hilton, the Fourth Circuit stated that criminal statutes are to be strictly construed and should not be interpreted to extend criminal liability beyond that which Congress has plainly and unmistakably proscribed. In finding that the identify theft statutes, 18 U.S.C. § 1028(a)(7) and § 1028A, were fatally ambiguous regarding whether they included the unauthorized use of the means of identification of a corporation, the Court stated “we will construe [a] criminal statute strictly and avoid interpretations not clearly warranted by the text.” 701 F. 3d at 966-967. Furthermore, the Hilton court based its decision on the rule of lenity. It stated:

“The rule of lenity is based on two substantial considerations. First, the rule recognizes that a “fair warning should be given to the world in language that the common world will understand, of what the law intends to do if a certain line is passed.’ *Yi v. Fed. Bureau of Prisons*, 412 F.3d 526, 535 (4th Cir. 2005) (quoting *Babbitt v. Sweet Home Chapter of Cmtys.*, 515 U.S. 687, 704 n. 18, 115 S.Ct. 2407, 132 L.Ed.2d 597 (1995)). Second, the rule acknowledges that Congress, rather than the judiciary, is the proper institution to define criminal conduct. *Id.*

Here, nothing in the text, structure, articulated purpose, or legislative history of the identity theft statutes compels the conclusion that Congress intended to make the theft of a corporation’s identity a crime under §§ 1028(a)(7) or 1028A.^{FN7} Accordingly, we are left with a ‘grievous ambiguity or uncertainty in the statute[s],’ and we decline to speculate regarding Congress’ intent. *Barber v. Thomas*, ___ U.S. ___, 130 S.Ct. 2499, 2508, 177 L.Ed.2d 1 (2010) (quoting *Muscarello*, 524 US at 139, 118 S.Ct. 1911). Instead, faced with the choice of two plausibly valid

interpretations, ‘we yield to the rule of lenity.’ *WEC Carolina Energy Solutions*, 687 F.3d at 205-06.”

701 F. 3d at 968-969.

The Fourth Circuit opinion herein did not address the rule of lenity.

To the extent that statutes are ambiguous, the rule of lenity requires the court to resolve all issues in favor of a defendant. As Justice Gorsuch recently noted in his concurring opinion in *Wooden v. United States*, ____ U.S. ___, 142 S. Ct. 1063, 1080, 212 L. Ed 2d 187 (2022), concerning the Armed Career Criminal Act (ACCA), a court balancing test may only offer a “judicial gloss on the statute’s terms . . .” The solution to statutory interpretation, urged by Justice Gorsuch, is the rule of lenity. “Under that rule, any reasonable doubt about the application of a penal law must be resolved in favor of liberty. *Id.* at 1081.

Justice Gorsuch went on to state that the “rule of lenity” is a new name for an old idea – the notion that “penal laws should be construed strictly.” *Id.* at 1082. He explained that the rule first appeared in English courts, justified in part on the assumption that when Parliament intended to inflict severe punishments, it would do so clearly. *Id.* at 1082. He further considered lenity’s relationship to due process, stating that under the Fifth and Fourteenth Amendments, neither the federal government nor the State’s may deprive individuals of “life, liberty, or property, without due process of law.” *Id.* at 1082. He concluded this portion of his concurrence stating:

“If the law inflicting punishment does not speak ‘plainly’ to the defendant’s conduct, liberty must prevail.” *Id.* at 1083.

The Supreme Court has long applied the rule of lenity to criminal conduct. In Bell v. United States, 349 U.S. 81, 75 S. Ct. 620, 99 L. Ed. 905 (1955), the Supreme Court, Mr. Justice Frankfurter, held that transportation of two women on the same trip and in the same vehicle in violation of the Mann Act constituted a single offense. The opinion concluded:

“When Congress leaves to the Judiciary the task of imputing to Congress an undeclared will, the ambiguity should be resolved in favor of lenity.” 349 U.S. at 83, 75 S. Ct. at 622.

Petitioner Daquan Pridgen respectfully contends that the ambiguity in the bank robbery statute regarding the maximum punishment should be resolved in favor of lenity.

Fortunately no death or serious injury occurred in this case. Therefore, there are two plausibly valid interpretations of the statute. Petitioner requests that this Court re-examine the maximum punishment under 18 U.S.C. § 2113(e) and award a new sentencing hearing.

II. THE CONSTITUTIONAL RIGHTS OF THE PETITIONER, WHO CHOSE TO REPRESENT HIMSELF, WERE VIOLATED UNDER THE FIFTH AND SIXTH AMENDMENTS WHERE HE WAS CONTINUOUSLY ADVISED THAT THE PENALTY FOR A VIOLATION OF 18 U.S.C. § 2113(e) WAS 10 TO 25 YEARS, AND THEN, AFTER VERDICT, IT WAS DETERMINED THAT THE MAXIMUM SENTENCE WAS LIFE IMPRISONMENT, AND A LIFE SENTENCE WAS IMPOSED.

Petitioner Daquan Pridgen chose to represent himself at the motion stage of the proceedings and at his trial. The question becomes whether he would have done this had he known that the maximum penalty for the bank robbery would be life

imprisonment. He is claiming that his constitutional rights, and in particular the Fifth and Sixth Amendments, were violated when he was continually advised that the sentencing range for a violation of 18 U.S.C. § 2113(e) was 10 to 25 years.

As previously noted, at the initial appearance and at the first arraignment Petitioner was advised that the bank robbery maximum penalty was 25 years. At the conclusion of the motion hearing on November 1, 2018, the maximum penalty was stated to be 25 years, and the combined mandatory minimums for the bank robbery under 18 U.S.C. § 2113(e) and the firearm discharge under 18 U.S.C. § 924(c) was no less than 20 years; and, the AUSA stated “or if death results shall be punished by death or life in prison.” Also, as previously noted, the initial penalty sheet issued in February, 2018, and the amended penalty sheet issued in January, 2019, listed the penalty as 10 to 25 years. The second amended penalty sheet was dated May 28, 2019, the first day of trial, and it listed the penalty as 10 years to life imprisonment.² (Appendix I, J, K, L, M, N).

After conviction, the initial Presentence Report filed on July 15, 2019 listed the penalty as 10 to 25 years. Based upon the Government’s objection, the final Presentence Report listed the bank robbery penalty as 10 years to life imprisonment. The final Presentence Report was filed on November 13, 2019, the day before the sentencing hearing. (Appendix O, P).

² As previously noted, in this District the penalty sheets are prepared by the Government, filed under seal, and not generally given to counsel. The penalties were not verbally mentioned at the final arraignment on May 28, 2019, prior to trial.

Daquan Pridgen respectfully contends that the maximum penalty for a violation of 18 U.S.C. § 2113(e) should be 25 years, not life imprisonment. Should this Court disagree, Petitioner further contends that the erroneously and belated advisement of the maximum penalties violated his constitutional rights. The Fifth Amendment of the Constitution provides as follows:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation. (App. H).

The Sixth Amendment of the Constitution provides as follows:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense. (App. H).

Petitioner contends that the erroneous advisement of the maximum penalty under the aforementioned bank robbery statute, failed to inform him of the nature and cause of the criminal charges of which he was accused, and denied him liberty without the due process of law. He also contends that the continuous erroneous advisement of the maximum penalty until after trial impliedly and effectively

denied him the assistance of counsel for his defense. There is no way to determine how Petitioner might have responded to the charges had he known he was looking at a life sentence. Would he have sought a plea arrangement and possibly cooperated and testified as two of the co-defendants did? Would he have sought a plea arrangement without cooperation? Or would he have persisted in representing himself? From this record we do not know.

Petitioner raised this issue in his Fourth Circuit appeal, citing the Fourth Circuit's recent decision in United States v. Lockhart, 947 F.3d 187 (4th Cir. 2020). In Lockhart the defendant pled guilty to possession of a firearm by a felon. He was advised that the maximum penalty was 10 years and not advised that there was a mandatory minimum of 15 years under ACCA. Based upon his prior record, he was an armed career criminal and received a 180 month sentence. The Fourth Circuit held that a failure to properly advise was plain error and affected Lockhart's substantial rights. The Court concluded:

"Before a defendant enters a plea of guilty, he is entitled to understand the nature of the offense to which he is admitting guilt and the consequences of his plea. *See Bousley*, 523 U.S. at 618-19, 118 S.Ct. 1604; *Hairston* 522 F.3d at 340; Fed. R. Crim. P. 11(b)(1)(G)-(I). The errors that occurred in this case prevented Lockhart from engaging in the calculus necessary to enter a plea on which this Court can rely in confidence. We therefore hold that those errors 'seriously affect[] the fairness, integrity, or public reputation of judicial proceedings.' *Olano*, 507 U.S. at 732, 113 S.Ct. 1770 (citation and internal quotation marks omitted). Accordingly, we exercise our discretion on plain error review and provide Lockhart with the remedy of vacating his guilty plea and conviction."

947 F.3d at 197.

In the instant case, the Fourth Circuit summarily declined to consider this issue pursuant to the Turner case.

While Lockhart was a guilty plea case, Daquan Pridgen contends the reasoning behind its decision is applicable to his case. One of the thrusts of Rule 11 of the Federal Rules of Criminal Procedure is to ensure that a defendant that pleads guilty does so with full comprehension of the specific attributes of the charge and the possible consequences of the plea. In fact, Daquan Pridgen contends that an uninformed defendant proceeding to trial is at an even greater risk than one who pleads guilty.

A statement of the applicable provisions of Rule 11 of the Federal Rules of Criminal Procedure bears repeating:

“Rule 11. Pleas

(b) Considering and Accepting a Guilty or Nolo Contendere Plea.

(1) Advising and Questioning the Defendant. Before the court accepts a plea of guilty or nolo contendere, the defendant may be placed under oath, and the court must address the defendant personally in open court. During this address, the court must inform the defendant of, and determine that the defendant understands, the following:

(G) the nature of each charge to which the defendant is pleading;

(H) any maximum possible penalty, including imprisonment, fine, and term of supervised release;

(I) any mandatory minimum penalty; . . .”

Fed. R. Crim. P. 11(b)(1)(G), (H), (I).

While being misinformed on several occasions of the maximum penalty for the bank robbery case, Daquan Pridgen chose to proceed *pro se* and have a jury trial. He ended up with a life sentence on the bank robbery conviction, a consecutive 120 month sentence on the § 924(c) conviction, and a 120 month concurrent sentence on the firearm by felon count. He contends that this procedure violated his constitutional rights and that he did not realize the consequences of his plea and going to trial. Petitioner Pridgen requests that his convictions on all counts be vacated so that he will have an opportunity to make a fully informed evaluation regarding another trial or guilty plea.

CONCLUSION

For the foregoing reasons, Petitioner Daquan Madrid Pridgen, respectfully requests that a Writ of Certiorari issue to review the decision of the United States Court of Appeals for the Fourth Circuit affirming his judgment and sentence.

This the 30th day of December, 2022.

DUNN, PITTMAN, SKINNER & CUSHMAN, PLLC
Counsel for Petitioner Daquan Madrid Pridgen

By:


RUDOLPH A. ASHTON, III
Panel Attorney
Eastern District of North Carolina
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New Bern, NC 28563
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Facsimile: (252) 633-6669
Email: RAshton@dunnpittman.com

No.

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 2022

DAQUAN MADRID PRIDGEN, 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 30th day of December, 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
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
950 Pennsylvania Ave., N.W.
Washington DC 20530-0001

This the 30th day of December, 2022.

Respectfully submitted,

Rudolph A. Ashton, III
RUDOLPH A. ASHTON, III
Panel Attorney,
Eastern District of North Carolina
N.C. State Bar No. 0125
Post Office Drawer 1389
New Bern, North Carolina 28563
Telephone: (252) 633-3800
Facsimile: (252) 633-6669
Email: RAshton@dunnpittman.com

Subscribed and Sworn to Before Me

This the 30th day of December, 2022.

Teresa K. Lewis
Notary Public

My Commission Expires: 03/19/2024



APPENDIX A

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-4864

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DAQUAN MADRID PRIDGEN,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at
Wilmington. Terrence W. Boyle, District Judge. (7:18-cr-00032-BO-2)

Submitted: August 30, 2022

Decided: October 3, 2022

Before RICHARDSON and RUSHING, Circuit Judges, and TRAXLER, Senior Circuit
Judge.

Affirmed by unpublished per curiam opinion.

ON BRIEF: Rudolph A. Ashton, III, DUNN PITTMAN SKINNER & CUSHMAN, PLLC, New Bern, North Carolina, for Appellant. G. Norman Acker, III, Acting United States Attorney, Jennifer P. May-Parker, David A. Bragdon, Assistant United States Attorneys, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Daquan Madrid Pridgen appeals his convictions and life sentence following a jury trial for armed bank robbery with forcible accompaniment and aiding and abetting, in violation of 18 U.S.C. §§ 2, 2113(a), (d), (e) (Count 1); discharging a firearm during and in relation to a crime of violence and aiding and abetting, in violation of 18 U.S.C. §§ 2, 924(c)(1)(A)(iii) (Count 2); and possession of a firearm by a convicted felon, in violation of 18 U.S.C. §§ 922(g)(1), 924(a) (Count 4). On appeal, Pridgen argues that the district court plainly erred by instructing the jury that armed bank robbery is a crime of violence; erred by denying his motions to suppress evidence seized during the searches of his getaway vehicle and phone and to suppress his statement to law enforcement; plainly erred by failing to dismiss the indictment or instruct the jury on all the elements of Count 4 in light of *Rehaif v. United States*, 139 S. Ct. 2191 (2019); erred by applying to his advisory Sentencing Guidelines range an attempted murder cross-reference, a six-level enhancement for assaulting a law enforcement officer, and a two-level reckless endangerment enhancement; and plainly erred by informing him of a different statutory maximum penalty for Count 1 prior to sentencing than it later determined applied to the offense.¹ We affirm.

¹ Pridgen also argues that the district court erred in finding that 18 U.S.C. § 2113 is a crime of violence under the force clause of § 924(c) and that the maximum sentence for § 2113(e) when death does not result is life imprisonment. However, as he acknowledges, these arguments are foreclosed by our prior decisions in *United States v. McNeal*, 818 F.3d 141, 152 (4th Cir. 2016) (holding 18 U.S.C. § 2113(a), (d) is crime of violence under § 924(c)), and *United States v. Turner*, 389 F.3d 111, 121 (4th Cir. 2004) (holding statutory penalty for forced accompaniment during bank robbery without resulting death is 10 years' to life imprisonment), respectively.

We generally “review a district court’s decision to give a particular jury instruction for abuse of discretion, and review whether a jury instruction incorrectly stated the law de novo.” *United States v. Hassler*, 992 F.3d 243, 246 (4th Cir. 2021) (internal quotation marks omitted). Because Pridgen did not object to the jury instruction at trial, however, our review is for plain error. *See United States v. Ali*, 991 F.3d 561, 572 (4th Cir.), *cert. denied*, 142 S. Ct. 486 (2021). On plain error review, Pridgen must establish “(1) that the [district] court erred, (2) that the error is clear and obvious, and (3) that the error affected his substantial rights”; if he makes this showing, we may exercise our discretion to correct the error only if it “seriously affects the fairness, integrity, or public reputation of judicial proceedings.” *Id.* (internal quotation marks omitted). The district court did not plainly err by instructing the jury that armed bank robbery is a crime of violence under § 924(c)(3)(A). *See McNeal*, 818 F.3d at 151; *United States v. Adkins*, 937 F.2d 947, 950 n.2 (4th Cir. 1991) (“Whether an offense is a crime of violence is a question of law for the court, and not a question of fact for the jury.” (internal quotation marks omitted)).

Next, Pridgen argues that the district court erred by finding that he did not have a reasonable expectation of privacy in either the getaway vehicle or his phone at the time they were searched. We review de novo a district court’s legal conclusions made in denying a motion to suppress and review its factual findings for clear error, viewing the evidence in the light most favorable to the Government. *United States v. Pulley*, 987 F.3d 370, 376 (4th Cir. 2021). “The Fourth Amendment protects the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.” *United States v. Small*, 944 F.3d 490, 501 (4th Cir. 2019) (cleaned up).

However, “[t]he law is well established that a person who voluntarily abandons property loses any reasonable expectation of privacy in the property and is consequently precluded from seeking to suppress evidence seized from the property.” *United States v. Ferebee*, 957 F.3d 406, 412 (4th Cir. 2020) (internal quotation marks omitted). In determining whether a person has abandoned property, we “focus[] on objective evidence of the intent of the person who is alleged to have abandoned the place or object.” *Id.* at 413 (internal quotation marks omitted). “Intent to abandon may be inferred from words spoken, acts done, and other objective facts.” *Small*, 944 F.3d at 502 (cleaned up). Our review of the record leads us to conclude that the district court did not clearly err by finding that Pridgen abandoned the getaway vehicle and his cell phone, and, thus, the court did not err by finding that he lacked a reasonable expectation of privacy in those items when they were searched.

Pridgen also argues that the district court erred by denying his motion to suppress his statement to law enforcement because (a) the *Miranda*² warnings he was given did not adequately explain his rights, and (b) his decision not to sign a written waiver form shows that he did not consent to questioning. Confessions made during custodial interrogations will be suppressed “unless a defendant is advised of his Fifth Amendment rights pursuant to *Miranda* and voluntarily waives those rights.” *United States v. Azua-Rinconada*, 914 F.3d 319, 325 (4th Cir. 2019). “[N]o precise formulation of the warnings or talismanic incantation is required to satisfy *Miranda*’s strictures.” *United States v. Dire*, 680 F.3d 446, 474 (4th Cir. 2012) (cleaned up); *see Florida v. Powell*, 559 U.S. 50, 60 (2010).

² *Miranda v. Arizona*, 384 U.S. 436 (1966).

Rather, “[t]he relevant inquiry is simply whether the warnings reasonably convey[ed] to a suspect his rights as required by *Miranda*.” *Dire*, 680 F.3d at 474 (internal quotation marks omitted). Moreover, a valid waiver of those rights need not be explicit and may be inferred from all the circumstances. *See United States v. Cardwell*, 433 F.3d 378, 389-90 (4th Cir. 2005). The district court did not err in finding that Pridgen was adequately advised of his rights and validly waived them before making his statement to law enforcement.

Next, Pridgen argues that his § 922(g) conviction is invalid in light of *Rehaif* because the indictment did not charge each element of the offense and the jury was not instructed on each element of the offense. Because Pridgen did not raise these arguments before the district court, our review is for plain error. *United States v. Caldwell*, 7 F.4th 191, 213 (4th Cir. 2021) (“[P]lain-error review applies to unpreserved *Rehaif* errors.”). To succeed on a *Rehaif* claim on plain error review, a defendant must “make[] a sufficient argument or representation on appeal that he would have presented evidence at trial that he did not in fact know he was a felon.” *Greer v. United States*, 141 S. Ct. 2090, 2100 (2021). In light of the evidence presented at trial and Pridgen’s arguments on appeal, we conclude that he has not made such a showing.

Moving to Pridgen’s challenges to his sentence, Pridgen argues that the district court erred by applying a cross reference for attempted first degree murder to determine his base offense level, U.S. Sentencing Guidelines Manual §§ 2A2.1(a)(1), 2K2.1(c)(1)(A), 2X1.1(c)(1) (2018), a six-level enhancement for assaulting a law enforcement officer during flight, USSG § 3A1.2(c)(1), and a two-level reckless endangerment enhancement, USSG § 3C1.2, when calculating his advisory Guidelines range. “We review all

sentences—whether inside, just outside, or significantly outside the Guidelines range—under a deferential abuse-of-discretion standard.” *United States v. McDonald*, 28 F.4th 553, 561 (4th Cir. 2022) (internal quotation marks omitted). In reviewing whether a sentence is reasonable, we first “ensure that the district court committed no significant procedural error, such as failing to calculate (or improperly calculating) the Guidelines range.” *Id.* (internal quotation marks omitted). “When evaluating a sentencing court’s calculation of the advisory Guidelines range, this [c]ourt reviews the district court’s factual findings, and its judgment regarding factual disputes, for clear error.” *United States v. Medley*, 34 F.4th 326, 337 (4th Cir. 2022) (internal quotation marks omitted). The government must show by a preponderance of the evidence that a Guidelines enhancement applies. *United States v. Arbaugh*, 951 F.3d 167, 173 (4th Cir. 2020).

Pursuant to USSG § 3A1.2(c), a defendant qualifies for a six-level enhancement if, knowing or having reasonable cause to believe that a person is a law enforcement officer, he assaults the officer in a manner creating a substantial risk of serious bodily injury during an offense or during immediate flight from the offense. USSG § 3A1.2(c)(1). There was a distinct and sufficient factual basis for the application of this enhancement that was not already accounted for by Pridgen’s § 924(c) convictions. *See United States v. Robinson*, 858 F. App’x 627, 630 (4th Cir. 2021) (No. 19-4943). We further conclude that there were also distinct factual bases for the application of this enhancement and the reckless endangerment enhancement under USSG § 3C1.2. Finally, because the attempted murder cross-reference is not a specific offense characteristic, it is not expressly prohibited by the commentary to the Guidelines on which Pridgen relies. *See* USSG § 2K2.4 cmt. n.4. Thus,

we presume that any double-counting that resulted from the application of that provision was permissible, and Pridgen has not rebutted that presumption. *See United States v. Hampton*, 628 F.3d 654, 664 (4th Cir. 2010). Accordingly, Pridgen's sentence is procedurally reasonable.

Finally, Pridgen argues that the district court plainly erred by advising him of different statutory penalties for Count 1 prior to sentencing than it ultimately determined applied to that offense. Our review of the record reveals no basis to suggest that any potential error affected Pridgen's substantial rights. *See Ali*, 991 F.3d at 572 (noting that error affects defendant's substantial rights if it "affected the outcome of the district court proceedings" (internal quotation marks omitted)).

We therefore affirm the district court's judgment. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

APPENDIX B

FILED: October 3, 2022

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-4864
(7:18-cr-00032-BO-2)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

DAQUAN MADRID PRIDGEN

Defendant - Appellant

JUDGMENT

In accordance with the decision of this court, the judgment of the district court is affirmed.

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: October 25, 2022

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-4864
(7:18-cr-00032-BO-2)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

DAQUAN MADRID PRIDGEN

Defendant - Appellant

M A N D A T E

The judgment of this court, entered October 3, 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 |) | JUDGMENT IN A CRIMINAL CASE |
| v. |) | |
| Daquan Madrid Pridgen |) | Case Number: 7:18-CR-00032-2BO |
| |) | USM Number: 64573-056 |
| |) | Hayes S. Ludlum |
| |) | Defendant's Attorney |

THE DEFENDANT:

pleaded guilty to count(s) _____

pleaded nolo contendere to count(s) _____ which was accepted by the court.

was found guilty on count(s) 1,2 and 4 after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

| Title & Section | Nature of Offense | Offense Ended | Count |
|--|---|------------------|-------|
| 18 U.S.C. § 2113(a), 18 U.S.C. § 2113(e), 18 U.S.C. § 2113(d), and 18 U.S.C. § 2 | Armed Bank Robbery and Aiding and Abetting. | January 23, 2018 | 1 |

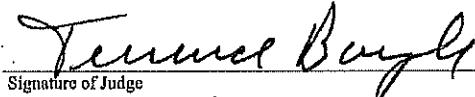
The defendant is sentenced as provided in pages 2 through 8 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The defendant has been found not guilty on count(s) _____

Count(s) _____ is 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.

11/14/2019
Date of Imposition of Judgment


Signature of Judge

Terrence W. Boyle, Chief US District Judge
Name and Title of Judge

11/14/2019
Date

DEFENDANT: Daquan Madrid Pridgen
CASE NUMBER: 7:18-CR-00032-2BO

ADDITIONAL COUNTS OF CONVICTION

| <u>Title & Section</u> | <u>Nature of Offense</u> | <u>Offense Ended</u> | <u>Count</u> |
|---|--|----------------------|--------------|
| 18 U.S.C. § 924(c), 18 U.S.C. § 924(c)(1)(A) (iii), and 18 U.S.C. § 2 | Discharging a Firearm in Furtherance of a Crime of Violence and Aiding and Abetting. | January 23, 2018 | 2 |
| 18 U.S.C. § 922(g)(1), 18 U.S.C. § 924(a)(2) | Possession of a Firearm by a Convicted Felon. | January 23, 2018 | 4 |

DEFENDANT: Daquan Madrid Pridgen
CASE NUMBER: 7:18-CR-00032-2BO

IMPRISONMENT

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

Count 1 - LIFE
Count 2 - 120 months and shall run consecutive to Count 1.
Count 4 - 120 months and shall run concurrent with Count 1.

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: Daquan Madrid Pridgen

CASE NUMBER: 7:18-CR-00032-2BO

SUPERVISED RELEASE

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

Counts 1 and 2 - 5 years - concurrent.

Count 4 - 3 years - concurrent with Counts 1 and 2.

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.

DEFENDANT: Daquan Madrid Pridgen
CASE NUMBER: 7:18-CR-00032-2BO

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

DEFENDANT: Daquan Madrid Pridgen
CASE NUMBER: 7:18-CR-00032-BO

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.

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 the defendant's dependent(s) and meet other family responsibilities.

DEFENDANT: Daquan Madrid Pridgen
CASE NUMBER: 7:18-CR-00032-2BO**CRIMINAL MONETARY PENALTIES**

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

| TOTALS | <u>Assessment</u> | <u>JVTA Assessment*</u> | <u>Fine</u> | <u>Restitution</u> |
|---------------|-------------------|-------------------------|-------------|--------------------|
| | \$ 300.00 | \$ | \$ | \$ 40,302.00 |

The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

| <u>Name of Payee</u> | <u>Total Loss**</u> | <u>Restitution Ordered</u> | <u>Priority or Percentage</u> |
|------------------------------|---------------------|----------------------------|-------------------------------|
| PNC Bank - ATTN: Restitution | | \$40,302.00 | |

| | | |
|---------------|----------------|---------------------|
| TOTALS | \$ <u>0.00</u> | \$ <u>40,302.00</u> |
|---------------|----------------|---------------------|

Restitution amount ordered pursuant to plea agreement \$ _____

The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

The court determined that the defendant does not have the ability to pay interest and it is ordered that:

the interest requirement is waived for the fine restitution.

the interest requirement for the fine restitution is modified as follows:

* 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: Daquan Madrid Pridgen
CASE NUMBER: 7:18-CR-00032-2BO**SCHEDULE OF PAYMENTS**

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

A Lump sum payment of \$ _____ 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. Payment of restitution shall be due and payable in full immediately. However, if the defendant is unable to pay in full immediately, the special assessment and restitution may be paid through the Inmate Financial Responsibility Program (IFRP). The court orders that the defendant pay a minimum payment of \$25 per quarter through the IFRP, if available. The court, having considered the defendant's financial resources and ability to pay, orders that any balance still owed at the time of release shall be paid in installments of \$100 per month to begin 60 days after the defendant's release from prison. At the time of the defendant's release, the probation officer shall take into consideration the defendant's ability to pay the restitution ordered and shall notify the court of any needed modification of the payment schedule.

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.

Demetris Sean Robinson 7:18-CR-32-1BO
 Jeramie Ross Vaughn 7:18-CR-32-3BO
 Rashad Devonte Young 7:18-CR-32-4BO

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:
 Preliminary Order of Forfeiture of Property filed in open court on 11/14/2019.

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.

APPENDIX E

Ch. 103

ROBBERY AND BURGLARY

18 § 2113

mail, telegraph, telephone, radio, or television, to communicate with or broadcast to any person or group of persons prior to such overt acts, such travel or use shall be admissible proof to establish that such defendant traveled in or used such facility of interstate or foreign commerce.

(e) A judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any prosecution hereunder for the same act or acts.

(d) Whenever, in the opinion of the Attorney General or of the appropriate officer of the Department of Justice charged by law or under the instructions of the Attorney General with authority to act, any person shall have violated this chapter, the Department shall proceed as speedily as possible with a prosecution of such person hereunder and with any appeal which may lie from any decision adverse to the Government resulting from such prosecution.

(e) Nothing contained in this section shall be construed to make it unlawful for any person to travel in, or use any facility of interstate or foreign commerce for the purpose of pursuing the legitimate objectives of organized labor, through orderly and lawful means.

(f) Nothing in this section shall be construed as indicating an intent on the part of Congress to prevent any State, any possession or Commonwealth of the United States, or the District of Columbia, from exercising jurisdiction over any offense over which it would have jurisdiction in the absence of this section; nor shall anything in this section be construed as depriving State and local law enforcement authorities of responsibility for prosecuting acts that may be violations of this section and that are violations of State and local law.

(Added Pub.L. 90-284, Title I, § 104(a), Apr. 11, 1968, 82 Stat. 75; amended Pub.L. 99-386, Title I, § 106, Aug. 22, 1986, 100 Stat. 822; Pub.L. 103-322, Title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147; Pub.L. 104-294, Title VI, § 601(f)(15), Oct. 11, 1996, 110 Stat. 3500.)

¹ So in original. Probably should be "paragraph (1), (2), (3), or (4) of this subsection".

² So in original. Probably should be "paragraph (1), (2), (3), or (4) of subsection (a)".

§ 2102. Definitions

(a) As used in this chapter, the term "riot" means a public disturbance involving (1) an act or acts of violence by one or more persons part of an assemblage of three or more persons, which act or acts shall constitute a clear and present danger of, or shall result in, damage or injury to the property of any other person or to the person of any other individual or (2) a threat or threats of the commission of an act or acts of violence by one or more persons part of an assemblage of three or more persons having, individually or collectively, the ability of immediate execution of such threat or threats, where the performance of the threatened act or acts of violence would constitute a clear and present danger of, or would result in, damage or injury to the property of any other person or to the person of any other individual.

(b) As used in this chapter, the term "to incite a riot", or "to organize, promote, encourage, participate in, or carry on a riot", includes, but is not limited to, urging or instigating other persons to riot, but shall not be deemed to mean the mere oral or written (1) advocacy of ideas or (2) expression of belief, not involving advocacy of any act or acts of violence or assertion of the rightness of, or the right to commit, any such act or acts.

(Added Pub.L. 90-284, Title I, § 104(a), Apr. 11, 1968, 82 Stat. 76.)

CHAPTER 103—ROBBERY AND BURGLARY

(June 25, 1948, c. 645, 62 Stat. 796; Pub.L. 103-322, Title XXXII, § 320903(a)(2), Sept. 13, 1994, 108 Stat. 2124.)

§ 2113. Bank robbery and incidental crimes

(a) Whoever, by force and violence, or by intimidation, takes, or attempts to take, from the person or presence of another, or obtains or attempts to obtain by extortion any property or money or any other thing of value belonging to, or in the care, custody, control, management, or possession of, any bank, credit union, or any savings and loan association; or

Whoever enters or attempts to enter any bank, credit union, or any savings and loan association, or any building used in whole or in part as a bank, credit union, or as a savings and loan association, with intent to commit in such bank, credit union, or in such savings and loan association, or building, or part thereof, so used, any felony affecting such bank, credit union, or such savings and loan association and in violation of any statute of the United States, or any larceny—

Shall be fined under this title or imprisoned not more than twenty years, or both.

(b) Whoever takes and carries away, with intent to steal or purloin, any property or money or any other thing of value exceeding \$1,000 belonging to, or in the care, custody, control, management, or possession of any bank, credit union, or any

Sec.
2111. Special maritime and territorial jurisdiction.
2112. Personal property of United States.
2113. Bank robbery and incidental crimes.
2114. Mail, money, or other property of United States.
2115. Post office.
2116. Railway or steamboat post office.
2117. Breaking or entering carrier facilities.
2118. Robberies and burglaries involving controlled substances.
2119. Motor vehicles.

2111. Special maritime and territorial jurisdiction

Whoever, within the special maritime and territorial jurisdiction of the United States, by force and violence, or by intimidation, takes or attempts to take from the person or presence of another anything of value, shall be imprisoned not more than ten years.

(25, 1948, c. 645, 62 Stat. 796; Pub.L. 103-322, Title XXXII, § 320903(a)(1), Sept. 13, 1994, 108 Stat. 2124.)

2112. Personal property of United States

Whoever robs or attempts to rob another of any kind or portion of personal property belonging to the United States shall be imprisoned not more than fifteen years.

18 § 2113

GENERAL PROVISIONS

Part 1

savings and loan association, shall be fined under this title or imprisoned not more than ten years, or both; or

Whoever takes and carries away, with intent to steal or purloin, any property or money or any other thing of value not exceeding \$1,000 belonging to, or in the care, custody, control, management, or possession of any bank, credit union, or any savings and loan association, shall be fined under this title or imprisoned not more than one year; or both.

(c) Whoever receives, possesses, conceals, stores, barters, sells, or disposes of, any property or money or other thing of value which has been taken or stolen from a bank, credit union, or savings and loan association in violation of subsection (b), knowing the same to be property which has been stolen shall be subject to the punishment provided in subsection (b) for the taker.

(d) Whoever, in committing, or in attempting to commit, any offense defined in subsections (a) and (b) of this section, assaults any person, or puts in jeopardy the life of any person by the use of a dangerous weapon or device, shall be fined under this title or imprisoned not more than twenty-five years, or both.

(e) Whoever, in committing any offense defined in this section, or in avoiding or attempting to avoid apprehension for the commission of such offense, or in freeing himself or attempting to free himself from arrest or confinement for such offense, kills any person, or forces any person to accompany him without the consent of such person, shall be imprisoned not less than ten years, or if death results shall be punished by death or life imprisonment.

(f) As used in this section the term "bank" means any member bank of the Federal Reserve System, and any bank, banking association, trust company, savings bank, or other banking institution organized or operating under the laws of the United States, including a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), and any institution the deposits of which are insured by the Federal Deposit Insurance Corporation.

(g) As used in this section the term "credit union" means any Federal credit union and any State-chartered credit union the accounts of which are insured by the National Credit Union Administration Board, and any "Federal credit union" as defined in section 2 of the Federal Credit Union Act. The term "State-chartered credit union" includes a credit union chartered under the laws of a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(h) As used in this section, the term "savings and loan association" means—

(1) a Federal savings association or State savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))) having accounts insured by the Federal Deposit Insurance Corporation; and

(2) a corporation described in section 3(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(1)(C)) that is operating under the laws of the United States.

(June 25, 1948, c. 645, 62 Stat. 796; Aug. 3, 1950, c. 516, 64 Stat. 394; Apr. 8, 1952, c. 164, 66 Stat. 46; Pub.L. 86-354, § 2, Sept. 22, 1959, 73

Stat. 639; Pub.L. 91-468, § 8, Oct. 19, 1970, 84 Stat. 1017; Pub.L. 98-473, Title II, § 1106, Oct. 12, 1984, 98 Stat. 2145; Pub.L. 99-646, § 68, Nov. 10, 1986, 100 Stat. 3616; Pub.L. 101-73, Title IX, § 962(a)(7), (d), Aug. 9, 1989, 103 Stat. 502, 503; Pub.L. 101-647, Title XXV, § 2597(l), Nov. 29, 1990, 104 Stat. 4911; Pub.L. 103-322, Title VI, § 60003(a)(9), Title XXXII, § 320608, Title XXXIII, § 330016(I)(K), (L), Sept. 13, 1994, 108 Stat. 1969, 2120, 2147; Pub.L. 104-294, Title VI, §§ 606(a), 607(d), Oct. 11, 1996, 110 Stat. 3511; Pub.L. 107-273, Div. B, Title IV, § 4002(d)(1)(C)(ii), Nov. 2, 2002, 116 Stat. 1809.)

HISTORICAL NOTES

References in Text

Section 1(b) of the International Banking Act of 1978, referred to in subsec. (f), is classified to 12 U.S.C.A. § 3101.

Section 2 of the Federal Credit Union Act, referred to in subsec. (g), is classified to 12 U.S.C.A. § 1752.

Severability of Provisions

If any provision of Pub.L. 101-73 or the application thereof to any person or circumstance is held invalid, the remainder of Pub.L. 101-73 and the application of the provision to other persons not similarly situated or to other circumstances not to be affected thereby, see section 1221 of Pub.L. 101-73, set out as a note under section 1811 of Title 12, Banks and Banking.

§ 2114. Mail, money, or other property of United States

(a) **Assault.**—A person who assaults any person having lawful charge, control, or custody of any mail matter or of any money or other property of the United States, with intent to rob, steal, or purloin such mail matter, money, or other property of the United States, or robs or attempts to rob any such person of mail matter, or of any money, or other property of the United States, shall, for the first offense, be imprisoned not more than ten years; and if in effecting or attempting to effect such robbery he wounds the person having custody of such mail, money, or other property of the United States, or puts his life in jeopardy by the use of a dangerous weapon, or for a subsequent offense, shall be imprisoned not more than twenty-five years.

(b) **Receipt, possession, concealment, or disposal of property.**—A person who receives, possesses, conceals, or disposes of any money or other property that has been obtained in violation of this section, knowing the same to have been unlawfully obtained, shall be imprisoned not more than 10 years, fined under this title, or both.

(June 25, 1948, c. 645, 62 Stat. 797; Pub.L. 98-473, Title II, § 223(d), Oct. 12, 1984, 98 Stat. 2028; Pub.L. 101-647, Title XXXV, § 3562, Nov. 29, 1990, 104 Stat. 4927; Pub.L. 103-322, Title XXXII, §§ 320602, 320903(a)(3), Sept. 13, 1994, 108 Stat. 2115, 2124; Pub.L. 104-294, Title VI, § 604(b)(17), Oct. 11, 1996, 110 Stat. 3507.)

HISTORICAL NOTES

Effective and Applicability Provisions

1996 Acts. Amendment by section 604 of Pub.L. 104-294 effective Sept. 13, 1994, see section 604(d) of Pub.L. 104-294, set out as a note under 18 U.S.C.A. § 13.

1984 Acts. Amendment by Pub.L. 98-473 effective on the first day of first calendar month beginning thirty six months after Oct. 12, 1984, applicable only to offenses committed after taking effect of sections 211 to 239 of Pub.L. 98-473, and except as otherwise provided for therein, see section 235 of Pub.L. 98-473, as amended, set out as a note under section 3551 of this title.

APPENDIX F

FILED IN OPEN COURT

ON 3/22/18 NB

Peter A. Moore, Jr., Clerk
US District Court
Eastern District of NC

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

NO. 7:18-CR-32-BO(4)

The United States charges that:

COUNT ONE

On or about January 23, 2018, in the Eastern District of North Carolina, the defendants, DEMETRIS SEAN ROBINSON, also known as "Bo Bo," DAQUAN MADRID PRIDGEN, JERAMIE ROSS VAUGHN, also known as "Vido," and RASHAD DEVONTE YOUNG, also known as "Rep," aiding and abetting each other, by force, violence, and intimidation did take from the person and presence of another, United States Currency, belonging to and in the care, custody, control, management, and possession of PNC Bank, located at 700 North Chestnut Drive, Lumberton, NC 28358, the deposits of which were then insured by the Federal Deposit Insurance Corporation, and in committing such offense, the defendants, aiding and abetting each other, did

assault and put in jeopardy the life of another person by the use of a dangerous weapon, that is a firearm; and further, in committing such offense the defendants, aiding and abetting each other, did force another to accompany them without the consent of such person, in violation of Title 18, United States Code, Sections 2113(a), 2113(d), and 2113(e) and 2.

COUNT TWO *PBW*

On or about January 23, 2018, ⁱⁿ the Eastern District of North Carolina, the defendants, DEMETRIS SEAN ROBINSON, also known as "Bo Bo," DAQUAN MADRID PRIDGEN, JERAMIE ROSS VAUGHN, also known as "Vido," and RASHAD DEVONTE YOUNG, also known as "Rep," during and in relation to a crime of violence for which they may be prosecuted in a court of the United States, that is, bank robbery, in violation of Title 18, United States Code, Section 2113, as charged in Count One of this Indictment, did knowingly use and carry firearm(s), and did possess said firearm(s) in furtherance of said crime of violence, and said firearm(s) were discharged, and did aid and abet each other in so doing all in violation of Title 18, United States Code, Sections 924(c)(1)(A)(iii) and 2. *PBW* *BW*

COUNT THREE

On or about January 23, 2018, in the Eastern District of North Carolina, the defendant, DEMETRIS SEAN ROBINSON, also known as "Bo Bo," having been convicted of a crime punishable by imprisonment for a term exceeding one (1) year, did knowingly possess, in and

affecting commerce, a firearm, to wit, a DP-12, 12-gauge shotgun, in violation of Title 18, United States Code, Sections 922(g)(1) and 924.

COUNT FOUR

On or about January 23, 2018, in the Eastern District of North Carolina, the defendant, DAQUAN MADRID PRIDGEN, having been convicted of a crime punishable by imprisonment for a term exceeding one (1) year, did knowingly possess, in and affecting commerce, a firearm, to wit, a Glock, Model 43, semi-automatic pistol, in violation of Title 18, United States Code, Sections 922(g)(1) and 924.

COUNT FIVE

On or about January 23, 2018, in the Eastern District of North Carolina, the defendant JERAMIE ROSS VAUGHN, also known as "Vido," having been convicted of a crime punishable by imprisonment for a term exceeding one (1) year, did knowingly possess, in and affecting commerce, a firearm, in violation of Title 18, United States Code, Sections 922(g)(1) and 924.

FORFEITURE NOTICE

The Defendants are given notice of the provisions of Title 18, United States Code, Section 981(a)(1)(C) and Title 18, United States Code, Section 924(d)(1) (both as made applicable by Title 28, United States Code, Section 2461(c)), that all of their interest in all property specified herein is subject to forfeiture.

As a result of the foregoing offense in Count One, the defendants shall forfeit to the United States any and all property constituting, or derived from, any proceeds the defendants obtained directly or indirectly as a result of the said offense. As a result of the foregoing offenses in Counts Two through Five, the defendants shall forfeit to the United States any and all firearms or ammunition involved in or knowingly used in the offenses. The property to be forfeited includes, but is not limited to:

- (a) Glock, Model 43, 9mm semi-automatic pistol, bearing Serial Number #BCUB850;
- (b) Palmetto State Armory, multiple caliber rifle, with scope, model PA-10, Serial Number #PF018738;
- (c) DP-12, 12-gauge shotgun, bearing Serial Number #DP19872;
- (d) Tech-9 style semi-automatic pistol;
- (e) All ammunition related to the seized firearms; and
- (f) \$40,302 in gross proceeds from the offense stated in Count One, inclusive of the recovered proceeds of \$265.00.

If any of the above-described forfeitable property, as a result of any act or omission of the defendant,

- (1) cannot be located upon the exercise of due diligence;
- (2) has been transferred or sold to, or deposited with, a third person;
- (3) has been placed beyond the jurisdiction of the Court;
- (4) has been substantially diminished in value; or
- (5) has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the above forfeitable property.

A TRUE BILL:

REDACTED VERSION

Pursuant to the E-Government Act and the federal rules, the unredacted version of this document has been filed under seal.

FOREPERSON

DATE:

2/21/18

ROBERT J. HIGDON, JR.
United States Attorney

BY: PEGGAH B. WILSON
Assistant United States Attorney

APPENDIX G

FILED IN OPEN COURT *UD*
ON 5/30/2019

Peter A. Moore, Jr., Clerk
US District Court
Eastern District of NC

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

CASE NO. 7:18-CR-32-BO-2

UNITED STATES OF AMERICA

SPECIAL VERDICT FORM

v.

DAQUAN MADRID PRIDGEN

1. How do you find the defendant, DAQUAN MADRID PRIDGEN, as to COUNT ONE?

Guilty Not Guilty _____

a. If you have found the defendant guilty of COUNT ONE, do you find that the defendant assaulted or put in jeopardy the life of another person using a dangerous weapon or device?

Yes No _____

AND

b. If you have found the defendant guilty of COUNT ONE, do you find that the defendant forced a person to accompany him without the consent of that person?

Yes No _____

2. How do you find the defendant, DAQUAN MADRID PRIDGEN, as to COUNT TWO?

Guilty Not Guilty _____

a. If you have found the defendant guilty of COUNT TWO, do you find that a firearm was discharged during the course of the offense?

Yes No _____

3. How do you find the defendant, DAQUAN MADRID PRIDGEN, as to COUNT FOUR?

Guilty

Not Guilty _____

So say we all, this 30 day of May, 2019.

REDACTED VERSION
Pursuant to the E-Government Act and the
federal rules, the unredacted version of
this document has been filed under seal.

Signature of Foreperson

Amend. V

CONSTITUTION

AMENDMENT V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

AMENDMENT VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

AMENDMENT VII

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law.

AMENDMENT VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

AMENDMENT IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

1 that the release is revoked and the defendant is returned to
2 prison. In that circumstance, the law places a maximum on the
3 term of imprisonment that may be imposed. You will be advised
4 of that.

5 You'll also hear reference made to a special
6 assessment. That is a fee, it's in the nature of a fee. It's
7 a hundred dollars for every felony of which a person is
8 convicted in the federal court system. A felony is a crime, of
9 course, punishable by a term of imprisonment exceeding one
10 year. And these offenses here are both felony offenses. The
11 key there is to realize that this special assessment fee of a
12 relatively nominal, the nominal amount of a hundred dollars is
13 a different number from the fine. The maximum fine is a much
14 larger number and it's in the nature of punishment as opposed
15 to a fee.

16 Ms. Wilson, ma'am, could you please advise Mr. Pridgen
17 of the penalties he faces on these charges?

18 MS. WILSON: Yes, your Honor.

19 With respect to bank robbery, the maximum penalties
20 are as follows: Up to 25 years imprisonment, a fine not to
21 exceed \$250,000, or both fine and imprisonment, not more than 3
22 years supervised release, not more than 2 years imprisonment
23 upon revocation of supervised release, a \$100 special
24 assessment, and restitution.

25 With respect to the second count, discharging a

1 firearm in furtherance of a crime of violence, the maximum
2 penalties are as follows: Not less than 10 years and up to
3 life imprisonment, to run consecutive to any other term of
4 imprisonment imposed. A second or subsequent conviction would
5 be not less than 25 years imprisonment and up to life, to run
6 consecutive to any other term of imprisonment imposed, a
7 \$250,000 fine, or both fine and imprisonment, not more than 5
8 years supervised release, upon revocation of supervised release
9 not more than 5 years imprisonment, a \$100 special assessment,
10 and restitution.

11 And the Government is seeking detention.

12 THE COURT: Okay. Thank you, ma'am.

13 I'm going to come back to this issue of detention,
14 Mr. Pridgen, in a few minutes.

15 Let me explain the rights that you have in connection
16 with the fact that you've been charged with felony offenses by
17 way of a criminal complaint.

18 Your case cannot proceed all the way to trial, that
19 is, an actual trial or entry of a guilty plea in place of a
20 trial, simply on the basis of this criminal complaint. Rather,
21 in, in order for your case to reach this trial phase it must be
22 presented to a grand jury and the grand jury must indict you.
23 Let me tell you more about this grand jury indictment process.

24 A grand jury is a group of between 16 and 23 people
25 who are drawn randomly from the public. The prosecutor, that

APPENDIX J

1 P R O C E E D I N G S

2 (Commencing at 10:15 a.m.)

3 THE COURT: Okay. Daquan Pridgen.

4 Good morning.

5 MS. WILSON: Good morning, Your Honor.

6 THE COURT: Good morning.

7 MR. SUN: Good morning, Your Honor.

8 (Defendant present.)

9 THE COURT: Good morning. You're Daquan Pridgen?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: On Count I, bank robbery and aiding and
12 abetting in that, carries a punishment of no less than
13 10 years and as much as 25 years.

14 How do you plead to that, guilty or not guilty?

15 THE DEFENDANT: Not guilty.

16 THE COURT: Count II, discharging a firearm in a
17 crime of violence; namely, the bank robbery, that carries a
18 punishment of 10 years to life in addition to any other
19 punishments that you're given.

20 How do you plead to that, guilty or not guilty?

21 THE DEFENDANT: Not guilty.

22 THE COURT: In Count IV, possessing a firearm by a
23 convicted felon, that carries a punishment of 10 years in
24 addition to any other punishment. And if you're an armed
25 career criminal because of your criminal history, the

APPENDIX K

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1 THE COURT: Are they just facing --

2 MS. BLONDEL: Yes.

3 THE COURT: -- a 924(c) with a 10-year add-on?

4 MS. BLONDEL: Yes. It's a 10-year 924(c). It's an
5 armed bank robbery charge, so there's --

6 THE COURT: Zero to 25 is armed bank robbery.

7 MS. BLONDEL: I think there's a statutory mandatory
8 minimum on this one because of the discharge of the firearms
9 and because of the use of the firearms during the robbery. I
10 believe it's a 20-year mandatory minimum. Honestly, I'd have
11 to doublecheck myself on that. But -- and then there's
12 possession of a firearm by a convicted felon. They're looking
13 at substantial time in this case, Your Honor.

14 THE COURT: The firearm by a felon, that will blow
15 away.

16 MS. BLONDEL: Right. So --

17 THE COURT: So they're facing, you think, a minimum
18 20 on the bank robbery?

19 MS. BLONDEL: I think it's a minimum of 30. Because
20 of the 924(c), it's run concurrently.

21 THE COURT: No, it's a maximum. There's no minimum
22 on bank robbery.

23 MS. BLONDEL: I'm sorry. The bank robbery is a 10 to
24 25. So there is in this case, Your Honor.

25 THE COURT: There's a 10-year mandatory minimum?

1 MS. BLONDEL: I believe so. Yes. It's 10 to 25,
2 Your Honor.

3 THE COURT: Why is that? I mean, bank robbery that's
4 not armed is 0 to 20. Armed bank robbery is 0 to 25. Where
5 does the 10 come from?

6 MS. BLONDEL: I know it's either the discharge of the
7 firearms or the use of the firearms.

8 THE COURT: No, no, no. The discharge is 924(c).

9 MS. BLONDEL: I know, Your Honor, but there is
10 also -- in the bank robbery statute, there's enhancement for
11 what happens during the bank robbery.

12 THE COURT: And you go to the Grand Jury on that.
13 Apprendi makes you get an indictment on that.

14 MS. BLONDEL: It says -- subsection E provides that
15 whoever in committing a -- this offense or in avoiding or
16 attempting to avoid apprehension or in freeing himself for such
17 offense, kills any person or forces any person to accompany him
18 without the consent of such person shall be imprisoned not less
19 than 10 years, or if death results shall be punished by death
20 or life in prison. I believe that was the offense that was --
21 I believe that was charged in this case, Your Honor.

22 THE COURT: Well, that's kidnapping or -- that's not
23 true here. What's the kicker that gives you the 10 years?

24 MS. BLONDEL: I believe that that was charged. I
25 imagine it's based on what happened at the bank, people being

1 held up at gunpoint and moved to different parts of the bank,
2 but I am -- I was not the charging AUSA in this case, Your
3 Honor, and honestly, I've been focused on other aspects of the
4 case.

5 THE PROBATION OFFICER: Your Honor, could she provide
6 me with the United States Code, and I'll look it up for you?

7 MS. BLONDEL: It's 2113.

8 THE PROBATION OFFICER: Thank you.

9 MS. BLONDEL: If I recall, I believe that was the --

10 MS. SALMON: Your Honor, in Count 1 they've charged
11 2113(e), and it says that they specifically alleged did force
12 another to accompany them without the consent of such person.
13 And that's the 2113(e) allegation that appears --

14 THE COURT: Where is that in the facts?

15 MS. SALMON: I would assume that her representation
16 is that the forcing people to be moved by gunpoint.

17 THE COURT: Inside the bank?

18 MS. SALMON: Inside the bank, yes, Your Honor.

19 THE COURT: Okay. I've never -- I don't ever
20 remember having that as a charge on an armed bank robbery.

21 MS. BLONDEL: I haven't either, Your Honor, but --

22 THE COURT: What I'm getting at is, you know, the
23 first thing anybody cares about is, you know, what kind of time
24 am I facing?

25 MS. BLONDEL: Yes.

1 THE COURT: And so you're saying they're facing no
2 less than 20?

3 MS. BLONDEL: Correct, Your Honor.

4 THE COURT: Statutory punishment of no less than 20.

5 MS. BLONDEL: Correct, Your Honor.

6 THE COURT: Okay. Well, I think that wraps it all
7 up.

8 MS. SALMON: Can I just address something factually,
9 Your Honor?

10 THE COURT: Yes.

11 MS. SALMON: Exhibit A, which is the February 6th
12 interview where this supposed private conversation occurs, the
13 portion that they're talking about is within the first 10
14 minutes. And since it's into evidence and the Court will
15 review it, you hear him say, "I just want to talk to you."

16 We may need more factual development of the record.
17 Mr. Robinson says he doesn't recall his attorney ever leaving
18 the room and did not ask his attorney to leave the room. It
19 certainly would be unusual, even if they were having a little
20 sidebar conversation, for an attorney to walk out and leave the
21 room.

22 And then the entire remaining one hour and 47
23 minutes, Danny Britt is clearly in the room. He's the last
24 person that you hear. So if the idea is that any word said as
25 an aside to an agent somehow eviscerates the invocation of the

APPENDIX L

NAME: Daquan Madrid PridgenDate: 02/21/18INSTRUMENT: INDICTMENT*Count One: Bank Robbery and Aiding and Abetting**18 U.S.C. §§ 2113 (a), (d), and (e) and 18 U.S.C. §2.**Penalty:*

| | |
|--|---------------------------------------|
| <i>Not less than 10 years imprisonment and not more than 25 years imprisonment</i> | <i>18 U.S.C. § 2113(e)</i> |
| <i>A fine not to exceed \$250,000, or both fine & imprisonment</i> | <i>18 U.S.C. § 3571(b)(3), (d)</i> |
| <i>Not more than 3 years supervised release</i> | <i>18 U.S.C. § 3583(e)(3)</i> |
| <i>Not more than 2 years imprisonment upon revocation of supervised release</i> | <i>18 U.S.C. § 3583(e)(3)</i> |
| <i>\$100 special assessment</i> | <i>18 U.S.C. § 3013(a)(2)(A)</i> |
| <i>Restitution</i> | <i>18 U.S.C. 3663, 3663A and 3664</i> |

*Count Two: Discharging a firearm in furtherance of a crime of violence ; aiding and abetting**18 U.S.C. § 924 (c) (1)(A)(iii) and 2**Penalty:*

| | |
|---|--|
| <i>Not less than 10 years, not more than life imprisonment; to run consecutive to any other term of imprisonment imposed</i> | <i>18 U.S.C. § 924(c)(1)(A)(i) and 18 U.S.C. § 924 (c)(1)(D)(ii)</i> |
| <i>A second or subsequent conviction would be not less than 25 years not more than life imprisonment; to run consecutive to any other term of imprisonment imposed.</i> | |
| <i>\$250,000 fine, or both</i> | <i>18 U.S.C. § 3571(b)(3)</i> |
| <i>Not more than 5 years supervised release</i> | <i>18 U.S.C. § 3583(b)(1)</i> |
| <i>Upon revocation of supervised release, not more than 5 years imprisonment</i> | <i>18 U.S.C. § 3583(e)(3)</i> |
| <i>\$100.00 special assessment</i> | <i>18 U.S.C. § 3013(a)(2)(A)</i> |
| <i>Restitution</i> | <i>18 U.S.C. §§ 3663, 3663A and 3664</i> |

Count Four: Possession of a Firearm by a Convicted Felon***18 U.S.C. §§ 922(g)(1) and 924*****Penalty:*****Non-Armed Career Criminal***

| | |
|---|---|
| <i>Not more than 10 years imprisonment</i> | <i>18 U.S.C. §924(a)(2)</i> |
| <i>A fine not to exceed \$250,000, or both fine & imprisonment</i> | <i>18 U.S.C. §3571(b)(3)</i> |
| <i>Not more than 3 years supervised release</i> | <i>18 U.S.C. §3583(b)(2)</i> |
| <i>Not more than 2 years imprisonment upon revocation of supervised release</i> | <i>18 U.S.C. §3583(e)(3)</i> |
| <i>\$100 special assessment</i> | <i>18 U.S.C. §3013(a)(2)(A)</i> |
| <i>Restitution</i> | <i>18 U.S.C. §§3663, 3663A and 3664</i> |

Armed Career Criminal

| | |
|---|---|
| <i>A term of imprisonment not less than 15 years, but not more than life imprisonment</i> | <i>18 U.S.C. §924(e)(1)</i> |
| <i>A fine not to exceed \$250,000, or both fine & imprisonment</i> | <i>18 U.S.C. §3571(b)(3)</i> |
| <i>Not more than 5 years supervised release</i> | <i>18 U.S.C. §3583(b)(1)</i> |
| <i>Not more than 5 years imprisonment upon revocation of supervised release</i> | <i>18 U.S.C. §3583(e)(3)</i> |
| <i>\$100 special assessment</i> | <i>18 U.S.C. §3013(a)(2)(A)</i> |
| <i>Restitution</i> | <i>18 U.S.C. §§3663, 3663A and 3664</i> |

APPENDIX M

NAME: Daquan Madrid Pridgen
INSTRUMENT: INDICTMENT

CASE NO.: 7:18-CR-00032-BO-2
DATE: JANUARY 24, 2019

Count One: Bank Robbery and Aiding and Abetting
 18 U.S.C. §2113 (a), (d), and (e) and 18 U.S.C. §2

Penalty:

| | |
|--|-----------------------------------|
| <i>Not less than 10 years imprisonment and not more than 25 years imprisonment</i> | 18 U.S.C. §2113(e) |
| <i>A fine not to exceed \$250,000, or both fine & imprisonment</i> | 18 U.S.C. §3571(b)(3), (d) |
| <i>Not more than 3 years supervised release</i> | 18 U.S.C. §3583(e)(3) |
| <i>Not more than 2 years imprisonment upon revocation of supervised release</i> | 18 U.S.C. §3583(e)(3) |
| <i>\$100 special assessment</i> | 18 U.S.C. §3013(a)(2)(A) |
| <i>Restitution</i> | 18 U.S.C. §3663, §3663A and §3664 |

Count Two: Discharging a firearm in furtherance of a crime of violence; aiding and abetting
 18 U.S.C. §924 (c) (1)(A)(iii) and 2

Penalty:

| | |
|--|--|
| <i>Not less than 10 years, not more than life imprisonment; to run consecutive to any other term of imprisonment imposed</i> | 18 U.S.C. §924(c)(1)(A)(i) and 18 U.S.C. §924(c)(1)(D)(ii) |
| <i>**In case of a violation that occurs after a prior violation under this subsection has become final, the penalty would be not less than 25 years not more than life imprisonment; to run consecutive to any other term of imprisonment imposed.</i> | |
| <i>\$250,000 fine, or both</i> | 18 U.S.C. §3571(b)(3) |
| <i>Not more than 5 years supervised release</i> | 18 U.S.C. §3583(b)(1) |
| <i>Upon revocation of supervised release, not more than 5 years imprisonment</i> | 18 U.S.C. §3583(e)(3) |
| <i>\$100.00 special assessment</i> | 18 U.S.C. §3013(a)(2)(A) |
| <i>Restitution</i> | 18 U.S.C. §3663, §3663A and §3664 |

Count Four: Possession of a Firearm by a Convicted Felon
18 U.S.C. §§922(g)(1) and 924

Penalty:

Non-Armed Career Criminal

| | |
|---|--|
| <i>Not more than 10 years imprisonment</i> | <i>18 U.S.C. §924(a)(2)</i> |
| <i>A fine not to exceed \$250,000, or both fine & imprisonment</i> | <i>18 U.S.C. §3571(b)(3)</i> |
| <i>Not more than 3 years supervised release</i> | <i>18 U.S.C. §3583(b)(2)</i> |
| <i>Not more than 2 years imprisonment upon revocation of supervised release</i> | <i>18 U.S.C. §3583(e)(3)</i> |
| <i>\$100 special assessment</i> | <i>18 U.S.C. §3013(a)(2)(A)</i> |
| <i>Restitution</i> | <i>18 U.S.C. §3663, §3663A and §3664</i> |

Armed Career Criminal

| | |
|---|--|
| <i>A term of imprisonment not less than 15 years, but not more than life imprisonment</i> | <i>18 U.S.C. §924(e)(1)</i> |
| <i>A fine not to exceed \$250,000, or both fine & imprisonment</i> | <i>18 U.S.C. §3571(b)(3)</i> |
| <i>Not more than 5 years supervised release</i> | <i>18 U.S.C. §3583(b)(1)</i> |
| <i>Not more than 5 years imprisonment upon revocation of supervised release</i> | <i>18 U.S.C. §3583(e)(3)</i> |
| <i>\$100 special assessment</i> | <i>18 U.S.C. §3013(a)(2)(A)</i> |
| <i>Restitution</i> | <i>18 U.S.C. §3663, §3663A and §3664</i> |

Forfeiture Notice: No Yes

To be dismissed at sentencing: _____

Release Status: in Custody On Bond

Detain: _____

Release: _____

Conditions:

Victims: No Yes

AUSA: Erin C. Blondel

Defense Counsel: Hayes S. Ludlum

APPENDIX N

NAME: Daquan Madrid Pridgen
 INSTRUMENT: INDICTMENT

CASE NO.: 7:18-CR-00032-BO-2
 DATE: May 28, 2019

Count One: Bank Robbery and Aiding and Abetting
 18 U.S.C. §§ 2113 (a), (d), and (e) and 2

Penalty:

| | |
|---|---|
| <i>Not less than 10 years imprisonment and not more than life imprisonment</i> | <i>18 U.S.C. § 2113(e)</i> |
| <i>A fine not to exceed \$250,000, or both fine & imprisonment</i> | <i>18 U.S.C. § 3571(b)(3), (d)</i> |
| <i>Not more than 3 years supervised release</i> | <i>18 U.S.C. § 3583(e)(3)</i> |
| <i>Not more than 2 years imprisonment upon revocation of supervised release</i> | <i>18 U.S.C. § 3583(e)(3)</i> |
| <i>\$100 special assessment</i> | <i>18 U.S.C. § 3013(a)(2)(A)</i> |
| <i>Restitution</i> | <i>18 U.S.C. § 3663, § 3663A and § 3664</i> |

Count Two: Discharging a firearm in furtherance of a crime of violence; aiding and abetting
 18 U.S.C. §924 (c) (1)(A)(iii) and 2

Penalty:

| | |
|--|--|
| <i>Not less than 10 years, not more than life imprisonment; to run consecutive to any other term of imprisonment imposed</i> | <i>18 U.S.C. § 924(c)(1)(A)(i) and 18 U.S.C. § 924 (c)(1)(D)(ii)</i> |
| <i>**In case of a violation that occurs after a prior violation under this subsection has become final, the penalty would be not less than 25 years not more than life imprisonment; to run consecutive to any other term of imprisonment imposed.</i> | |
| <i>\$250,000 fine, or both</i> | <i>18 U.S.C. § 3571(b)(3)</i> |
| <i>Not more than 5 years supervised release</i> | <i>18 U.S.C. § 3583(b)(1)</i> |
| <i>Upon revocation of supervised release, not more than 5 years imprisonment</i> | <i>18 U.S.C. § 3583(e)(3)</i> |
| <i>\$100.00 special assessment</i> | <i>18 U.S.C. § 3013(a)(2)(A)</i> |

| | |
|--------------------|---|
| <i>Restitution</i> | <i>18 U.S.C. § 3663, § 3663A and § 3664</i> |
|--------------------|---|

Count Four: Possession of a Firearm by a Convicted Felon
18 U.S.C. §§ 922(g)(1) and 924

Penalty:

Non-Armed Career Criminal

| | |
|---|---|
| <i>Not more than 10 years imprisonment</i> | <i>18 U.S.C. § 924(a)(2)</i> |
| <i>A fine not to exceed \$250,000, or both fine & imprisonment</i> | <i>18 U.S.C. § 3571(b)(3)</i> |
| <i>Not more than 3 years supervised release</i> | <i>18 U.S.C. § 3583(b)(2)</i> |
| <i>Not more than 2 years imprisonment upon revocation of supervised release</i> | <i>18 U.S.C. § 3583(e)(3)</i> |
| <i>\$100 special assessment</i> | <i>18 U.S.C. § 3013(a)(2)(A)</i> |
| <i>Restitution</i> | <i>18 U.S.C. § 3663, § 3663A and § 3664</i> |

Armed Career Criminal

| | |
|---|---|
| <i>A term of imprisonment not less than 15 years, but not more than life imprisonment</i> | <i>18 U.S.C. § 924(e)(1)</i> |
| <i>A fine not to exceed \$250,000, or both fine & imprisonment</i> | <i>18 U.S.C. § 3571(b)(3)</i> |
| <i>Not more than 5 years supervised release</i> | <i>18 U.S.C. § 3583(b)(1)</i> |
| <i>Not more than 5 years imprisonment upon revocation of supervised release</i> | <i>18 U.S.C. § 3583(e)(3)</i> |
| <i>\$100 special assessment</i> | <i>18 U.S.C. § 3013(a)(2)(A)</i> |
| <i>Restitution</i> | <i>18 U.S.C. § 3663, § 3663A and § 3664</i> |

Forfeiture Notice: _____ No Yes

To be dismissed at sentencing: _____

Release Status: in Custody _____ On Bond

Detain: _____

Release: _____

Conditions:

Victims: _____ No Yes

AUSA: Erin C. Blondel

Defense Counsel: Pro Se (Hayes S. Ludlum, Standby Counsel)

APPENDIX O

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA**

UNITED STATES OF AMERICA)
vs.) PRESENTENCE INVESTIGATION REPORT
DAQUAN MADRID PRIDGEN) Docket No.: 0417 7:18CR00032BO-002
)
)

Prepared for: The Honorable Terrence W. Boyle
Chief United States District Judge

Prepared by: Christopher Patrick Eiden
U.S. Probation Officer
Raleigh, NC
919-861-8809

Assistant U.S. Attorney
Erin C. Blondel
310 New Bern Avenue, Suite 800
Raleigh, NC 27601
919-856-4004

Defense Counsel
Pro Se

Robert J. Dodson
310 New Bern Avenue, Suite 800
Raleigh, NC 27601
919-856-4487

Sentence Date: August 19, 2019

Offense: **Count 1:** Armed Bank Robbery and Aiding and Abetting
18 U.S.C. § 2113(a), 18 U.S.C. § 2113(e), 18 U.S.C. § 2113(d), and 18 U.S.C. § 2113(h)
10 years to 25 years imprisonment/\$250,000 fine
Class B Felony

Count 2:
Discharging a Firearm in Furtherance of a Crime of Violence and Aiding and Abetting
18 U.S.C. § 924(c), 18 U.S.C. § 924(c)(1)(A)(iii), and 18 U.S.C. § 2
10 years to life imprisonment/\$250,000 fine
Class A Felony

APPENDIX P

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA**

UNITED STATES OF AMERICA)
vs.) PRESENTENCE INVESTIGATION REPORT
DAQUAN MADRID PRIDGEN) Docket No.: 04177:18CR00032BO-002
)

Prepared for: The Honorable Terrence W. Boyle
Chief United States District Judge

Prepared by: Christopher Patrick Eiden
U.S. Probation Officer
Raleigh, NC
919-861-8809

| | |
|--|--|
| Assistant U.S. Attorney Erin C. Blondel 310 New Bern Avenue, Suite 800 Raleigh, NC 27601 919-856-4004 | Defense Counsel Hayes S. Ludlum Post Office Box 711 Warsaw, NC 28398 910-293-2000 |
|--|--|

Robert J. Dodson
310 New Bern Avenue, Suite 800
Raleigh, NC 27601
919-856-4487

Sentence Date: September 3, 2019

Offense: **Count 1:**
Armed Bank Robbery and Aiding and Abetting
18 U.S.C. § 2113(a), 18 U.S.C. § 2113(e), 18 U.S.C. § 2113(d), and 18 U.S.C. § 2
10 years to life imprisonment/\$250,000 fine
Class A Felony

Count 2:
Discharging a Firearm in Furtherance of a Crime of Violence and Aiding and Abetting
18 U.S.C. § 924(c), 18 U.S.C. § 924(c)(1)(A)(iii), and 18 U.S.C. § 2
10 years to life imprisonment/\$250,000 fine
Class A Felony