

FILED

NOT FOR PUBLICATION

SEP 22 2022

UNITED STATES COURT OF APPEALS

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

No. 21-10295

Plaintiff-Appellee,

D.C. Nos.

v.

1:18-cr-00076-DAD-BAM-1
1:18-cr-00076-DAD-BAM

ALECIA TRAPPS,

MEMORANDUM*

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of California
Dale A. Drozd, District Judge, Presiding

Argued and Submitted August 29, 2022
San Francisco, California

Before: W. FLETCHER, BYBEE, and VANDYKE, Circuit Judges.

Appellant-Defendant Alecia Trapps was indicted in April 2018 for conspiracy to distribute and possess with intent to distribute controlled substances, in violation of 21 U.S.C. §§ 841(a)(1), 846. In October 2019, at a change-of-plea colloquy, held pursuant to Fed. R. Crim. P. 11 (Rule 11), Trapps pleaded guilty to

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

this single-charge indictment. In September 2021, she was sentenced to 252 months in custody.

On appeal, Trapps argues that her plea colloquy was deficient on two grounds.¹ First, she alleges that the district court erred by not comprehensively inquiring about her history of substance abuse as well as her physical and mental health—factors that she claims increased her susceptibility to pleading guilty involuntarily—in violation of Fed. R. Crim. P. 11(b)(2). Second, she alleges that the district court erred by not properly advising her under Fed. R. Crim. P. 11(b)(1).

We have appellate jurisdiction under 28 U.S.C. § 1291. Because Trapps did not raise a Rule 11 objection in the district court, we review the plea colloquy for plain error. *United States v. Ferguson*, 8 F.4th 1143, 1145 (9th Cir. 2021) (citing

¹ Trapps also contends that the district court erred by using federal law (instead of California state law) to determine whether she is a career offender under United States Sentencing Guideline § 4B1.1(a) due to her prior controlled-substance convictions in California state court. However, as Trapps herself concedes, this argument is foreclosed by our precedent in *United States v. Bautista*, 989 F.3d 698, 702 (9th Cir. 2021) (“We have interpreted the term ‘controlled substance’ as used in the Guidelines to mean a substance listed in the Controlled Substances Act.”). But even if she were to prevail on this point, her disposition would remain unchanged: her prior convictions were for the possession and sale of cocaine, a controlled substance under both California and federal law.

United States v. Fuentes-Galvez, 969 F.3d 912, 915 (9th Cir. 2020)). We find none and affirm the conviction.

1. The district court satisfied Rule 11(b)(2)'s requirement of adequately ensuring the voluntariness of Trapps's guilty plea. Trapps's reliance on *Fuentes-Galvez* is misguided. There, we explained that a Rule 11 plain error occurs if (1) the defendant is "especially vulnerable to entering an involuntary plea," *Fuentes-Galvez*, 969 F.3d at 917, quoted by *Ferguson*, 8 F.4th at 1146–47, and (2) this vulnerability resulted in a "reasonable probability that the district court's omissions could have affected [the defendant's] decision to continue in his guilty plea," *Fuentes-Galvez*, 969 F.3d at 916, quoted by *Ferguson*, 8 F.4th at 1147. In making this determination, we look at the "totality of the circumstances" as "informed by the entire record," *Fuentes-Galvez*, 969 F.3d at 916–17, and are not restricted "to the plea proceedings alone," *United States v. Monzon*, 429 F.3d 1268, 1271 (9th Cir. 2005).

Fuentes-Galvez's plea colloquy was "highly abbreviated" and combined with that of another, unrelated defendant. *Fuentes-Galvez*, 969 F.3d at 914. The judge did not make key inquiries regarding whether (1) the plea resulted from "force, threats, or promises," (2) his attorney thought the plea was knowing and voluntary, and (3) he "understood" or "felt fully satisfied" with his attorney. *Id.* at

915. Moreover, Fuentes-Galvez had “little schooling,” dealt with mental-health challenges, had “a long history of substance abuse,” and was “exclusively a Spanish speaker.” *Id.* at 916–17.

In contrast, Trapps’s plea colloquy (wherein she was the only defendant before the judge) reflects an informed willingness to plead guilty. She answered “No” when asked if her plea was the result of force, promises, threats, or “any particular pressure,” and she told the judge that she was pleading guilty of her own “free will.” Her attorney also explicitly denied there being “any reason . . . [the Court] should not now take the change of plea.” Moreover, Trapps is a native English speaker who attended (some) college, and she has not reported any current or past mental-health issues. Therefore, the only parallel between Fuentes-Galvez and Trapps is their substance-abuse histories—a similarity that does not overcome how inapposite any analogy between their situations would otherwise be. *See also*, e.g., *Ferguson*, 8 F.4th at 1146 (“Fuentes-Galvez’s finding of an impact on substantial rights was based on circumstances not present here.”); *United States v. Montano*, No. 19-10220, 2022 WL 72353, at *2 (9th Cir. Jan. 7, 2022), *petition for cert. filed*, No. 21-8125 (U.S. June 13, 2022) (“[T]he inquiry into competence and intelligence required in Fuentes-Galvez was driven by the defendant’s unique

susceptibility to coercion—special circumstances that are not present here.” (internal quotation marks omitted)).

In light of this analysis, we do not find that Trapps presented any evidence of “special circumstances”—with respect to either her personal history or the manner in which the colloquy was conducted—that would amount to a reasonable probability that Trapps would have abandoned her guilty plea had the district court been more careful or thorough. Nothing in the record points to any factors that would have imposed a heightened duty on the district court to probe further into Trapps’s history or current state in order to meet the requirements of Rule 11(b)(2).

Trapps also raises the possibility that her state of mind at the time of the colloquy was compromised due to her dependence on alcohol and drugs. But Trapps’s plea colloquy took place in October 2019, almost a full year after she had been remanded into custody—and there is nothing in the record to indicate that she relapsed during that time. At the colloquy, neither Trapps nor her attorney gave any indications that Trapps was, at the time, under the influence of drugs or alcohol, or that she was suffering from any symptoms of withdrawal. Nor did the district court make any observations indicating that she might be. In fact, the colloquy’s transcript reveals that Trapps expressed a sound understanding of her decision to plead guilty.

2. The district court properly advised Trapps of the rights she was giving up by pleading guilty as well as the consequences of doing so—in accordance with the requirements set out in Rule 11(b)(1). Trapps notes various ways in which the district judge deviated from the precise wording of Rule 11(b)(1), but this does not imply that the judge’s advisal fell outside of the rule’s strictures: “Questions need not be framed in the exact language of the rule so long as the judge uses rational means to determine the defendant’s understanding of the charges against him and the consequences of his plea.” *United States v. Youpee*, 419 F.2d 1340, 1344 (9th Cir. 1969). Here, the colloquy’s transcript shows that Trapps understood the various advisements pronounced in Rule 11(b)(1) as articulated by the district judge; at no point did she indicate an intention to withdraw her guilty plea. And although Trapps claims that the district court did not properly advise her as to “how the federal sentencing process operates under the Guidelines” as required by Rule 11(b)(1)(M), Trapps was informed about the mandatory minimum of ten years, the statutory maximum of life, and a possible supervised-release term. Consequently, it is not clear from the record that any further elaboration by the judge would have affected the likelihood that Trapps would have chosen not to plead guilty.

AFFIRMED.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
HON. LAWRENCE J. O'NEILL

UNITED STATES OF AMERICA, }
Plaintiff, } 1:18-cr-076 LJ0-BAM
vs. } CHANGE OF PLEA
ALECIA TRAPPS, }
Defendant. }

Fresno, California

Tuesday, October 15, 2019

REPORTER'S TRANSCRIPT OF PROCEEDINGS

APPEARANCES OF COUNSEL:

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BY: **MEGAN HOPKINS**
Assistant Federal Defender

REPORTED BY: PEGGY J. CRAWFORD, RDR, CRR, Official Reporter

Proceedings recorded by mechanical stenography, transcript produced by computer-aided transcription.

3 THE COURT: Let's call the case of Alecia Trapps,
4 Action Number 18-cr-76. Your appearances, please.

5 MS. MONTOYA: Laurel Montoya appearing on behalf of
6 the United States.

7 MS. HOPKINS: And good afternoon, your Honor. Megan
8 Hopkins here with Alecia Trapps, who is present, in custody,
9 for today's change of plea.

10 THE COURT: All right. My question first is, my
11 understanding is that this is not an 11(c) agreement, but
12 rather a straight-up plea; is that correct.

13 MS. HOPKINS: That is correct, your Honor.

14 THE COURT: All right.

15 BY THE COURT:

16 Q. Could you tell me your name, please.

17 | A. Alicia Trapps.

18 Q. Ms. Trapps, my understanding, based on what has been
19 presented to me, and based on what your lawyer said, and on
20 what the United States attorney has said, is that you wish to
21 plead guilty to the charge brought pursuant to the indictment
22 that was filed on April 5th, 2018.

23 Is that your understanding of what you want to do
24 today?

25 A. Yes, sir.

1 BY THE COURT:

2 Q. You understand that this is your decision, that you can
3 certainly talk with your lawyer and get recommendations, but
4 nobody can make the ultimate decision for you. You have to
5 make it yourself. Do you understand that? You have to speak
6 out loud.

7 A. Yes.

8 Q. And you understand that if you want to consult with your
9 lawyer, you certainly can. My understanding is you probably
10 have already. Correct?

11 A. Yes.

12 Q. Have you had enough time to talk with your lawyer about
13 this?

14 A. Yes.

15 Q. Do you understand that what you are being charged with,
16 and that is, conspiracy to distribute and to possess with the
17 intent to distribute a controlled substance, specifically,
18 methamphetamine and heroin?

19 A. Yes.

20 Q. And you understand that the allegation is that sometime
21 between -- actually, sometime beginning on a date unknown, but
22 not later than January 1st, 2015, and continuing to on or
23 about April 11, 2018, in the counties of Stanislaus and
24 Sacramento, in the State and Eastern District of California,
25 you knowingly and intentionally agreed with other people, some

1 have been charged in the indictment and some may not have been
2 charged in the indictment, but you are being charged with the
3 agreement to distribute and to possess with the intent to
4 distribute specific controlled substances that are felonies in
5 nature and against the federal law; do you understand that?

6 A. Yes.

7 Q. And there are special allegations in this first count, and
8 one of them is that the drug quantity that was attributable to
9 you is 50 grams or more of methamphetamine, and 500 grams or
10 more of a mixture or substance containing a detectible amount
11 of methamphetamine. Do you understand that?

12 A. Yes, sir.

13 Q. And do you also understand that the drug quantity
14 attributable to you is a hundred grams or more of a mixture or
15 substance containing a detectible amount of heroin, which
16 would also be in violation of the United States law?

17 A. Yes, sir.

18 Q. And as I understand the factual basis to be, beginning at
19 a time unknown, but not later than January 1st, 2017, and
20 continuing until on or about April 11, 2017 -- 2018, that you
21 conspired with others to purchase and distribute controlled
22 substances, specifically methamphetamine and heroin, between
23 the areas of Modesto, California, and Juneau, Alaska, and that
24 you conspired with others to ship more than 1300 grams of
25 methamphetamine and more than 250 grams of heroin from

1 Modesto, California to Juneau Alaska, during your
2 participation in the conspiracy, and that at all times, you
3 knew that methamphetamine and heroin are controlled
4 substances.

5 That's the factual statement. Do you understand it?

6 A. Yes, sir.

7 Q. And is it true?

8 A. Yes, sir.

9 Q. And you understand that the maximum possible sentence in
10 this case, there is a mandatory minimum of ten years'
11 imprisonment, a maximum of life, and a \$10 million fine; a
12 five-years-to-life supervised release term; a mandatory
13 penalty assessment of a hundred dollars. And, of course, your
14 appellate rights would remain intact. Do you understand?

15 A. Yes, sir.

16 MS. MONTOYA: Additionally, your Honor, there is a
17 forfeiture allegation, I believe.

18 THE COURT: Just looking right now.

19 MS. MONTOYA: Thank you.

20 BY THE COURT:

21 Q. There are certain things that, on page 2 and page 3 of the
22 indictment, that you are agreeing to give up; in other words,
23 it will be forfeited, you will be forfeiting it to the United
24 States Government permanently. Do you understand that?

25 A. Yes, sir.

1 MS. HOPKINS: Your Honor, before forfeiture judgment
2 is made final, we intend to address a number of items in the
3 forfeiture allegation.

4 BY THE COURT:

5 Q. Let's put it this way. You would be -- you may well be
6 obligated to forfeit certain things that are outlined at pages
7 2 and 3 of the indictment as a result of your change of plea;
8 do you understand that?

9 A. Yes, sir.

10 Q. Do you have any questions about what that means?

11 A. Um, should I ask him?

12 (Counsel and the defendant conferred off the record.)

13 THE DEFENDANT: Okay. Not at this time, sir.

14 BY THE COURT:

15 Q. Okay. You have no enough questions.

16 Do you understand that you cannot give a plea of this
17 nature if somebody is forcing you to do this?

18 A. Yes, sir.

19 Q. Is anybody forcing you to do this?

20 A. No, sir.

21 Q. Is anybody making any promises to you to get you to do
22 this?

23 A. No, sir.

24 Q. Is anybody making any threats to you to get you to do
25 this?

1 A. No, sir.

2 Q. Do you feel under any particular pressure to do this, or
3 are you feeling as though this is your own free will?

4 A. It is my free will.

5 Q. Do you have any questions about that?

6 A. No, sir.

7 Q. Do you understand that if you are going to admit this, you
8 are giving up a trial, by judge or by jury, your choice, but
9 you are giving up a trial?

10 A. Yes, sir.

11 Q. If you wanted to go to trial, all you would have to do is
12 tell me so and we would make sure the trial went to trial in a
13 timely fashion under the law. You would be there. Your
14 lawyer would be there for you.

15 The government would have the burden of proving the
16 case against you. They would attempt to meet that burden by
17 bringing in witnesses and evidence, and you would watch them
18 try to do that. You would watch them bring in witnesses, and
19 your attorney would ask those witnesses questions for you, or
20 cross-examine them.

21 If you wanted to take the witness stand and testify,
22 you could, but you wouldn't have to, and nobody would use that
23 against you if you didn't.

24 You could bring in witnesses and evidence. We would
25 help you get that here by the subpoena power of the Court, and

1 your trial would be open to the public, just like today's
2 hearing is.

3 Those are your trial rights. Do you understand them?

4 A. Yes, sir.

5 Q. And do you wish to give them up?

6 A. Yes.

7 Q. And do you wish to then plead guilty?

8 A. Yes.

9 THE COURT: Is there any reason, Counsel, I should
10 not now take the change of plea?

11 MS. HOPKINS: No, your Honor.

12 MS. MONTOYA: No, your Honor.

13 BY THE COURT:

14 Q. What I will do is I will read you the charge, and if you
15 get confused or you don't understand something, or you just
16 simply have a question that comes into your mind, you want to
17 huddle with your lawyer privately; in other words, just the
18 two of you, where nobody is listening, all you have to do is
19 tell me, and I will accommodate that and say fine.

20 Also if you want to ask me something here in open
21 court, you can do that too, but if any of those things happen,
22 I need you to interrupt me and tell me that; otherwise, I
23 won't know you have that want or need.

24 All right, is that fine?

25 A. Yes, sir.

1 Q. Okay. In the indictment in Count 1, the Grand Jury
2 charges you and others, defendants in this case, beginning at
3 a time unknown to the Grand Jury but not later than
4 January 1st, 2015, and continuing to on or about April 11,
5 2018, in the counties of Stanislaus and Sacramento, State and
6 Eastern District of California, and elsewhere, you knowingly
7 and intentionally agreed with each other and other
8 individuals, known and unknown to the Grand Jury, to
9 distribute and to possess with the intent to distribute
10 controlled substances; specifically, methamphetamine, a
11 Schedule II controlled substance, and heroin, a Schedule I
12 substance, in violation of Title 21 of United States Code
13 sections 846 and 841(a)(1).

14 As to that charge, how do you wish to plead, guilty
15 or not guilty?

16 MS. HOPKINS: Your Honor, just a clarification.
17 Although the indictment alleges an offense period ranging from
18 2015 forward, the factual basis, and our position, is that it
19 began in 2017, so with that correction, I think Miss Trapps is
20 ready to enter a plea.

21 MS. MONTOYA: We have no objection to that
22 correction, your Honor.

23 BY THE COURT:

24 Q. Other than what the correction is, and that is the time
25 frame, the time frame that you would be pleading to then would

1 be not later than January 1st, 2017, and continuing until on
2 or about April 11, 2018, how do you wish to plead, guilty or
3 not guilty?

4 A. Guilty, sir.

5 Q. It is further alleged that the drug quantity attributable
6 to you is 50 grams or more of methamphetamine, and 500 grams
7 or more of a mixture or substance containing a detectible
8 amount of methamphetamine, its salts, isomers, or salts of its
9 isomers, all in violation of Title 21 of United States Code
10 section 846 and 841(a)(1) and (b)(1)(A) subdivision (viii).

11 Do you admit that allegation or do you deny that
12 allegation?

13 A. I admit it.

14 Q. And finally, the drug quantity attributable to you is a
15 hundred grams or more of a mixture or substance containing a
16 detectible amount of heroin, all in violation of Title 21
17 United States Code section 846 and 841(a)(1) and (b)(1)(B)(i).

18 Do you admit that or do you deny that?

19 A. Admit.

20 Q. You do understand that with regard to the forfeiture
21 allegations, that there are certain matters that the
22 government is going to be seeking pursuant to 21 of United
23 States Code section 853(p), as incorporated in a different
24 section, 28 United States Code section 2461(c), to seek
25 forfeiture of any property of yours up to the value of the

1 property subject to forfeiture under law.

2 Do you understand that?

3 A. Yes, sir.

4 Q. And do you have any questions about that?

5 A. No.

6 THE COURT: The Court accepts the knowing,
7 intelligent, and voluntary waiver of rights, knowing,
8 intelligent, and voluntary change of plea. And as a result,
9 how does January 6 look for judgment and sentencing?

10 MS. HOPKINS: Your Honor, if I could request
11 January 21st, I will be traveling from out of town, and I have
12 other matters on that date.

13 THE COURT: Any objection?

14 MS. MONTOYA: No, your Honor.

15 THE COURT: What time would you like it?

16 MS. HOPKINS: Your Honor, if I could request 9:30 or
17 later, that would be my preference.

18 MS. MONTOYA: That would be our preference too. I
19 don't know if I will be covering this or Ms. Alsworth will be
20 covering this matter.

21 THE COURT: How about 10:00 o'clock then?

22 MS. HOPKINS: Thank you, your Honor. Yes.

23 THE COURT: Anything else?

24 MS. HOPKINS: No, your Honor, not on behalf of the
25 defense. Thank you.

1 MS. MONTOYA: No, your Honor. Thank you.

2 (The proceedings were concluded at 2:49 p.m.)

3 I, PEGGY J. CRAWFORD, Official Reporter, do hereby
4 certify the foregoing transcript as true and correct.

5

6 Dated: 7th of December, 2021. /s/ Peggy J. Crawford
7 PEGGY J. CRAWFORD, RDR-CRR

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
HON. DALE A. DROZD

UNITED STATES OF AMERICA, } 1:18-cr-00076-DAD-BAM
Plaintiff, } SENTENCING
vs. }
ALECIA TRAPPS, }
Defendant. }

10 | Fresno, California Friday, September 17, 2021

Friday, September 17, 2021

12 | REPORTER'S TRANSCRIPT OF PROCEEDINGS

13 APPEARANCES OF COUNSEL:

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23 REPORTED BY: RACHAEL LUNDY, CSR, RPR, Official Reporter

24 Proceedings recorded by mechanical stenography, transcript
25 produced by computer-aided transcription.

1 Friday, September 17, 2021 Fresno, California
2 11:26 a.m.

3 (The following proceedings were held remotely and
4 telephonically.)

5 THE CLERK: The Court calls United States vs. Alecia
6 Trapps, case number 18-cr-76, scheduled for sentencing.

7 THE COURT: And please state your appearances,
8 beginning with counsel for the government.

9 MS. ALSWORTH: Good morning, Your Honor. Melanie
10 Alsworth and Laurel Montoya appearing on behalf of the United
11 States.

12 MS. HOPKINS: Good morning, Your Honor.
13 Megan Hopkins here on behalf of Office of the Federal
14 Defender, and Alecia Trapps, who's present, in custody, for
15 today's sentencing hearing.

16 THE COURT: And we -- let's see. We have Probation
17 Officer Pascual with us on this one?

18 PROBATION OFFICER: Sure.

19 THE COURT: Sure. Although Probation Officer Modica
20 from the Sacramento Probation Office was the author of the
21 presentence report.

22 So the matter is on calendar for imposition of
23 judgment and sentence. In connection with sentencing, the
24 Court has received and read the presentence report, filed back
25 on March 2nd, 2021; defense formal objections and motion to

1 correct, filed September 3rd, docket 343; the defendant's
2 sentencing memorandum with Exhibits A through J, docket number
3 344, filed September 8th; all of the many exhibits, the 84
4 pages of exhibits; the government's sentencing memorandum and
5 incorporated response to defendant's formal objections, docket
6 number 345, filed September 21st; it's got Exhibits A through
7 J attached, including audio recordings. That's -- well, I'm
8 not sure actually whether Exhibit A is a transcript of the
9 recordings I listened to or not.

10 MS. ALSWORTH: I don't believe so, Your Honor. I
11 think they may have been some duplicates, but for the most
12 part, there was just the recordings. And then on A-1, that
13 included some transcripts. And to note for the record, you
14 said government's sentencing memorandum September 21st. It
15 was September 10th.

16 THE COURT: September 10th, yes, September 10,
17 2020 -- and the government's most recent submission.

18 Is there anything else I should have reviewed in
19 connection with sentencing?

20 MS. HOPKINS: No, Your Honor. Although, I do want to
21 note that present in the courtroom are Tracy Anderson, and
22 Venice, who are both first cousins of Ms. Trapps.

23 Ms. Anderson wanted to provide some insight to the
24 Court but believed that she could do so in person rather than
25 by writing a letter. I advised her that that would be a

1 request we would make. And my understanding is the government
2 didn't object, but if the Court, prior to imposing a sentence,
3 would be open to hearing just a brief statement from
4 Ms. Anderson, that would be an additional request.

5 THE COURT: So Tracy Anderson and who? I didn't get
6 the other name.

7 MS. HOPKINS: Venice is also a first cousin. She's
8 seated next to Ms. Anderson, but I believe it's only
9 Ms. Anderson that wishes to address the Court.

10 THE COURT: Are you saying "Anaise"?

11 MS. HOPKINS: Venice, V-E-N-I-C-E, I'm not sure of
12 the last name.

13 THE COURT: Thank you. And they're both the
14 defendant's cousin?

15 MS. HOPKINS: Yes, Your Honor.

16 THE COURT: All right.

17 All right. Ms. Hopkins, have you had the opportunity
18 to review the presentence report and discuss it with your
19 client in detail?

20 MS. HOPKINS: Yes, Your Honor.

21 THE COURT: And Ms. Trapps, have you reviewed the
22 presentence report in your case and had the opportunity to
23 discuss it with your attorney in detail?

24 THE DEFENDANT: Yes, I have --

25 THE COURT: Thank you.

1 THE DEFENDANT: -- sir.

2 THE COURT: Before we begin to address the defense
3 objections, I'd -- and I don't mean to harp on this, but
4 again, in this case, Ms. Hopkins, you did make, at least in
5 passing reference as in that earlier case, about the defendant
6 having been awaiting sentencing so long.

7 And again, first, I have been accommodating in-person
8 sentencing for many months now post -- even while we've been
9 dealing with the pandemic. And so I just want the record to
10 be quite clear that in-person sentencing have been available
11 in front of me for many months now.

12 And you've explained in connection with another case,
13 Yes, Judge, I understand that the Court has been available,
14 but the pandemic has made a number of things difficult, which
15 have all served to delay the defense even being prepared to go
16 forward with sentencing.

17 But do I think the record should be clear that the
18 Court is available, has been available for in-person
19 sentencing where they are requested for quite some time now.

20 MS. HOPKINS: Yes, Your Honor, and I wouldn't
21 disagree with that. The Court has been very accommodating,
22 certainty in the past year and offered.

23 I want to clarify that -- and I think the docket
24 reflected this in our request -- stipulated request for
25 continuances -- but the pandemic posed a threat to family

1 members that wanted to be here and were unvaccinated. It
2 delayed investigation. It made it very difficult to make the
3 arrangements necessary for a sentencing of this gravity to
4 proceed in-person until today.

5 And so the delay that I referenced was in no way
6 meant to be a comment on the Court's lack of accommodations,
7 but simply the fact that Ms. Trapps has spent a very extensive
8 amount of time in local custody awaiting sentencing. And the
9 pandemic certainly didn't make that any easier.

10 THE COURT: The second thing I would note in this
11 case is, the parties have spent quite a bit of time arguing
12 about the revocation of Ms. Trapps' release. Because she was
13 originally released under pretrial services' supervision in
14 this very case, that release was revoked.

15 I think at some point in time the defense has -- had
16 maybe even brought a motion before me seeking reconsideration
17 of a denial of a release order, at least I have a vague
18 recollection.

19 MS. HOPKINS: Yes.

20 THE COURT: But in any event, none of that is -- I
21 don't -- I mean, that's of very minimal relevance to me in
22 terms of ultimate sentencing. But I would observe that, you
23 know, any delay that occurred in terms of sentencing and the
24 fact that it -- that Ms. Trapps was in local custody while her
25 sentencing was awaiting, you know, I think it's only fair to

1 Modesto contacts but also Alaska contacts. It was a
2 significant organization. And it went on for a substantial
3 period of time before she was caught. And I think all of
4 these facts together justify the four-level enhancement that's
5 recommended by the probation officer.

6 THE COURT: I'm going to overrule the defense
7 objection to role in the offense. I think a four-level
8 increase under the applicable guideline section for role in
9 the offense is justified and appropriate based upon the facts
10 under guideline section 3B1.1(a) and the objection is
11 overruled.

12 I think the more difficult one to resolve, because I
13 just -- again, I don't mean to be overly critical, but because
14 I just don't have much information, is the defense objection
15 to maintaining a place under guideline section 2B1.1(b)(12), a
16 two-point upward adjustment.

17 The presentence report concludes that defendant and
18 Brantley maintained a premises in Manteca primarily for the
19 purpose of distributing methamphetamine and heroin.
20 Accordingly, a two-level increase is warranted.

21 Well, that's not sufficient. That's completely
22 conclusory. It tells me nothing about the situation and
23 whether that location was, in fact, used primarily for that
24 purpose.

25 I think somewhere in all of papers that I've read in

1 recognize the Court has scraped with the Ninth Circuit's
2 failure to overturn a remand on some decisions it affirms, but
3 I don't think this Court's purpose in this inquiry is to
4 determine whether or not a determination by this Court would
5 be affirmed or really getting to the right result. And I
6 think here this was a home.

7 THE COURT: Okay.

8 MS. HOPKINS: It was a new home. But it was a home
9 with the same household Ms. Trapps had had for quite some
10 time, and it was used as a home.

11 And if the Court wishes to hear from Ms. Anderson, I
12 believe she can speak to many of the family activities she
13 attended there, which I don't think would have taken place
14 there if the primary purpose of this home was something that I
15 think Ms. Trapps knows Ms. Anderson would not approve of.

16 THE COURT: Anything the government wanted to say in
17 closing on this issue?

18 MS. ALSWORTH: No, Your Honor.

19 THE COURT: The objection is sustained. Relying on
20 the holding of the *United States vs. Mancuso*, 718 F.3d at 795,
21 796, from the Ninth Circuit, I feel too here it's not at all
22 clear that the evidence of the activities -- drug-related
23 activities that occurred at the Manteca residence are
24 sufficient to pass the principal use formulation when
25 considered alongside the fact that individuals, co-defendants

1 or co-participants, were definitely residing at the residence.
2 And at least the argument that during some period of time
3 Ms. Trapps was residing there as well and didn't have another
4 separate residence apart from this location.

5 And based upon that finding, I find that I simply
6 don't have sufficient facts upon which to base the maintaining
7 of a place enhancement -- or upward adjustment under
8 2D1.1.(b)12, which has been challenged by way of objection.

9 Having upheld the rule upward adjustment and rejected
10 the maintaining the place, I believe that the adjusted offense
11 level here would be 37.

12 MS. HOPKINS: I agree, Your Honor.

13 THE COURT: The government?

14 MS. ALSWORTH: Yes, your Honor. And just to note
15 that would be the 36 based off this level, plus four for the
16 role enhancement, and --

17 (Court reporter requests clarification.)

18 MS. ALSWORTH: That's a 36 base offense level, plus
19 four for the role enhancement, and minus three for acceptance,
20 to arrive at the 37.

21 THE COURT: Yes. So I find that after ruling on the
22 objections that the adjusted offense level here is 37, that
23 Ms. Trapps' criminal history would normally place her in
24 category Roman Numeral III, but because she's found to be a
25 career offender, her criminal history category becomes Roman

1 Numeral VI. The result is an advisory sentencing guideline
2 range calling for a term of imprisonment of between 262 and
3 327 months.

4 The sentencing guidelines are only the beginning
5 point in the sentencing process. The Court is ultimately to
6 impose a sentence that is reasonable as that term has been
7 used by the Supreme Court in its decisions in *Booker* and *Fan*
8 *Fan*. Therefore, in addition to the guidelines, the Court will
9 give due weight to the statutory factors set forth at
10 18 U.S.C. Section 3553(a).

11 Is there any legal cause why judgment and sentence
12 should not now be pronounced?

13 MS. ALSWORTH: No, Your Honor. If I can go back to
14 the guidelines --

15 THE COURT: Yes.

16 MS. ALSWORTH: -- for just a sec. You note the 37
17 and the six corresponds to 262 --

18 THE COURT: Strike that. That was wrong.

19 MS. ALSWORTH: I believe it should be 361.

20 THE COURT: That was the wrong note.

21 It's 37 and 6, which results in an advisory
22 sentencing guideline range calling for a term of imprisonment
23 of between 360 months and life in prison.

24 If it had been a criminal history category III,
25 absent career offender status, it would be 262 to 327. I was

1 looking at the wrong note. Thanks for that correction.

2 Any legal cause judgment and sentence should not now
3 be pronounced?

4 MS. HOPKINS: No, Your Honor.

5 MS. ALSWORTH: No, Your Honor.

6 THE COURT: Let me just quickly get to the heart of
7 the matter.

8 The defense sentencing memorandum makes a number of
9 arguments, really everything in the kitchen sink. From the
10 "That these guidelines are being influenced by meth purity,"
11 that "They're unfairly being influenced by career offender
12 status in light of those prior convictions." There's a lot of
13 other stuff in there, some of which I cannot accept at all. I
14 think it is -- I mean, it's a point of view about why we're --
15 we're where we're at. It is a point of view. It's not one
16 that I ascribe to.

17 In my mind, reading everything I've read, Ms. Trapps
18 has been a small-time drug dealer for a long, long, long time.
19 Hard to put any lipstick on that one.

20 Why? Well, yeah, there's a lot of reasons why
21 anybody would get wrapped up in that. And some, you know,
22 tragic, some pretty much your own choice how you decide you're
23 going to conduct yourself.

24 You know, certainly tragic things and influences
25 happen to a lot of people, and not all of them decide that

1 120 months and was sentenced to 32.

2 Ms. Canejo had some very mitigating circumstances and
3 received probation. And Mr. Brantley -- you know,
4 Mr. Brantley. Mr. Brantley didn't get all that much of a
5 break. Mr. Brantley is serving his ten-year minimum mandatory
6 sentence. And Ms. Trapps was the one responsible for getting
7 him involved in the first place, and she's going to have to
8 live with that forever.

9 So it's not going to be 360, but it can't be anywhere
10 close to 120 or 150, wouldn't be fair. Ms. Trapps made this
11 all happen. She did it for -- a lot of background reasons,
12 but when it comes down to it, she did it for the money.

13 And from the sound of those calls and the transcript,
14 she somewhat enjoyed it. As the defense said, she was a
15 business person. Got in the wrong business. Going to have to
16 pay now. I don't know how much that helps you, but it gives
17 you some parameters of what I'm thinking about.

18 Ms. Alsworth, the government's position? I know that
19 ultimately you've recommended 324 months. If I grant the
20 government's motion, which I intend to do, anything you want
21 to add about sentencing and why I should do that? Sounds like
22 a heck of a long time for a 57-year-old woman with that
23 record, a bad record, but not the record of the century.

24 MS. ALSWORTH: I certainly understand, Your Honor,
25 and I understand that the Court is oftentimes troubled with

1 having to impose heavy sentences, especially in circumstances
2 like this where it's an older defendant who's facing a
3 substantial period of time.

4 And if you just look at her priors that get her to
5 the career offender status -- I certainly take the Court's
6 point well, but I think the problem that the government is
7 having with that is that when you look at her history as a
8 whole there's a pattern there. And there's not just a pattern
9 of drug trafficking activity, there's a pattern where she is
10 expanding her business, she's becoming a more sophisticated
11 criminal, she's figuring out how to fly under the government's
12 radar. And we see all of this culminate in the government's
13 investigation, which lead to her arrest.

14 She wasn't a small-time drug dealer. Maybe she
15 started off that way, but that's not what she grew into. In
16 fact, she did grow into a substantial drug dealer and she was
17 making substantial profits and she was running a substantial
18 sophisticated organization.

19 I would encourage the Court if you're even
20 considering a sentence lower than what the government has
21 recommended, the 324 months, just to take a look at the
22 guidelines. I believe it's 4A1.3 that talks about the
23 standard for departing downward. If the Court finds that the
24 priors that support the career offender designation are
25 overstated, and it kind of lays out what may be prohibited in

1 that at all. And this has taken away really the rest of
2 her -- the value -- most valuable years of her life. And
3 that's something that she cannot undue.

4 And as the Court noted she regrets very deeply she
5 has to live with, for the rest of her life, that she's taken
6 ten years from a nephew that she loves very much.

7 And so, you know, I -- I think ultimately -- and I
8 recognize the Court maybe isn't inclined to follow my
9 recommendation of 120 months. I'm not surprised to hear that.
10 Although I stand by my recommendation. I believe it is just.
11 And I know that if the Court had an opportunity, if the
12 statutory scheme had allowed it, this Court would not have
13 sentence Jimmy Brantley to 120 months. I don't believe it for
14 a moment, particularly given his performance on pretrial
15 release, his performance in and Better Choices Court. But
16 this Court's hands were tied.

17 And so to start the sliding scale of appropriate
18 sentences there at least we have to acknowledge that congress
19 said ten years is a minimum and not because that was warranted
20 in that case.

21 Now, in Ms. Taylor's case perhaps 150 months is
22 warranted. I didn't participate in that sentencing
23 proceeding. But I would say that if we're looking at a
24 sliding scale here, a sentence of 200 months is significantly
25 more than Ms. Taylor received. It would result in nearly

1 more than that here.

2 And I just watched this Court sentence in a case that
3 it described as one of the worst cases it had ever come before
4 it, and it sentenced that individual to 225 months, after a
5 violent spree.

6 And Ms. Trapps has never engaged in any violence.
7 There are no indications that there were threats or violence
8 used here. There was -- there were no firearms whatsoever.
9 And I -- I know the drugs are dangerous, and they're toxic to
10 the community. And I think Ms. Trapps will speak to her own
11 reflections on that, but she didn't kill anybody. And we're
12 talking about the rest of her life, so I encourage the Court
13 to consider a ceiling of 200 months and a scale just based on
14 the practical impact on the years of her life.

15 And I also encourage the Court to despite earlier
16 comments, to consider my recommendations of ten years, which
17 is three times the longest sentence she has ever served.

18 And I think the Court should hear from Ms. Anderson
19 just briefly, and I would ask to do that now.

20 THE COURT: Ms. Anderson, would you like to speak to
21 the Court? And if so, ma'am, come on up to the podium, all
22 the way up here. Yes.

23 MS. ANDERSON: Thank you, Your Honor, for allowing me
24 to speak today. I have grappled with this, coming before you
25 for the past couple of months. I haven't known what I would

1 say about my cousin. We love her. She's been an intricate
2 part of our family all my life. She is 58 years old.

3 And what I would say in regards to Lecia and her
4 criminal history, if I had to say anything, like her lawyer
5 said, we do come from a God-fearing family. And we did
6 wonder -- you know, Lecia fell on her head when she was
7 younger. She has been very strong, very rebellious for good
8 reason.

9 One of the things that have not been mentioned -- you
10 have everything in front of you. We're not denying what she's
11 did. She's not denying her crime. But the one thing that has
12 been left out of all of this is the fact that Lecia has had to
13 be the woman that she has become because of some extenuating
14 circumstances. I don't know where I would be without the Lord
15 in my life. If I hadn't gotten saved at 14 years old, had I
16 been -- if somebody had attempted to rape me in my youth as
17 they did with her, I don't know where I would be. If I hadn't
18 lost every member of my family, my mother, my brother, my
19 sister, my grandmother -- if I had lost all of those people in
20 my immediate family, I don't know where I would be today.

21 How she dealt with her pain, and that's the element
22 that's missing here today. When we talk about her motivating
23 factors, you say that her motivating factors were greed and
24 rebellion and some other things. The motivating factor here
25 is some unresolved pain that never -- she's never received

1 grief counseling. She's never received the counseling that
2 she deserved after being -- attempted to be raped as a young
3 teenager. She never received any help in those areas.

4 Instead, she turned to the street life. She turned
5 to the drug life. We know that addiction, once you're in
6 addiction, there's no far -- there's no telling how far you'll
7 go up the chain. And so to say -- to simply say, Oh, she's a
8 career criminal, oh, she did this. She did that, well, when
9 you're in a life of sin, there's no telling what you would do.
10 If you're in a life of pain, abuse, there's no telling what
11 you would do.

12 And to cap it off with months in prison, you know,
13 I -- you know, I can't speak about the scales of justice
14 only -- only that when you do your crime, you have to pay.
15 You know, you have to pay the time. And she knows that.

16 This is my first time seeing my cousin cry in I don't
17 know how long: So that tells me that being incarcerated has
18 humbled her, but I also know that a change can happen with
19 anybody. And so today I just want to plead mercy. I just
20 want to plead leniency. And I just want to plead compassion
21 on the part of my cousin. We love her.

22 And that home that you guys talked about, we had many
23 family functions there. I didn't even know she was involved
24 as highly as I came to find out that she was. So today, I
25 just come before you pleading leniency on behalf of my cousin.

1 We love you, Lecia. We're going to be here for you.
2 It's good to see you, and all of that.

3 Thank you.

4 THE COURT: Thank you, ma'am.

5 And just so the record is clear, yes, some of the
6 matters that Ms. Anderson referred to in her statement to the
7 Court, those were covered quite a bit at length in the
8 materials that I've reviewed, Ms. Anderson. Just so you know,
9 I'm aware of everything you're talking about.

10 MS. ANDERSON: Thank you, sir.

11 THE COURT: Ms. Alsworth, anything in closing for the
12 government before I turn finally to Ms. Trapps herself?

13 MS. ALSWORTH: No, Your Honor. Thank you.

14 THE COURT: Ms. Trapps, is there anything that you
15 would like to say to me before I impose sentence in your case?
16 And I have read your letter, ma'am, but feel free to say
17 anything you wish.

18 THE DEFENDANT: First, I want to first give a moment
19 to God right now.

20 And second, to my family, the little family I have
21 left.

22 Third, I want to give honor to my amazing lawyer
23 that's really been here for me. Megan has been here for me
24 like no other lawyer has. I can call her a friend now.

25 She answers all my calls when I call. She comes to

1 see me. She used to pull me out of Fresno at least twice a
2 week before this pandemic. She'd comes on Zoom at least once
3 a week while I'm in Bakersfield. I've been in Bakersfield for
4 35 months.

5 I'm going to tell you something, for the first time
6 in my life, I have changed. I changed when those people came
7 into my house in Manteca and drew guns on me and killed all
8 three child -- all three of my chihuahuas. That's when I
9 changed. I knew I had to change. I changed. Addiction is
10 real. It's not all about selling dope. It's about using
11 alcohol, drugs, around the wrong crowd, the wrong -- wrong
12 people. Yes, I should have stayed in college, but I had to
13 take care of my grandmother on that end when she was living.

14 My addiction, I started really looking at my
15 addiction when I went to Westcare. I finally got a counselor.
16 It took me a minute to open up, because I was so closed. But
17 I finally opened up to Ms. Green.

18 I told Ms. Green things that I have never told
19 anyone, and it kind of hurted me later because Ms. Green was
20 taking my private conversations and taking them to the
21 government, but that's okay. I forgave her.

22 And I moved on. I went to sober living, where I got
23 outpatient. I did so much. And within 30 days, I got a job
24 at Foster Farms.

25 I did NA classes, AA classes. I wanted to know what

1 was going on with me, you know? I got really serious about my
2 sobriety. I wasn't drinking no more. I wasn't sneaking. I
3 wasn't doing any of that. I was serious about my outpatient.

4 What I -- when I went back to jail, when I went to
5 Bakersfield -- I've been in Bakersfield for 35 months. Before
6 I went to Bakersfield, I went in front of Judge Boone,
7 prosecutors, and pretrial. And I have to deal with this,
8 because they laughed at me, Judge. They laughed at me. They
9 wouldn't let me say anything. They wouldn't let me speak like
10 I'm speaking now. They pretty much threatened me if I talked.
11 I'm gone, and that wasn't right, but it's okay, though,
12 because I forgave them again.

13 But I moved on to Bakersfield. I stayed there. I've
14 been there for 35 months, but I'm going to tell you why I
15 changed. I asked every counselor, every C.O. over there,
16 asked them, What's going on with your classes? I need to get
17 in every class I possibly can.

18 So I did. I got into SAT program. SAT program is
19 the drug program. I had to find out what was going on with me
20 using and selling.

21 So I started getting into anger management. I wanted
22 to see if -- if I had a problem in that domestic violence that
23 I got into. These are classes that I never gotten in trouble
24 for in my life on my record. But I wanted to see what was
25 going on with these classes. So I did. I got -- I got into

1 them. I took three classes. Since I've been there, I've been
2 in every class three times apiece.

3 I went to the food server because cooking is my
4 passion in life, period. I stayed in them classes --
5 cafeteria classes. When I was there, I started bugging the
6 C.O.'s every day. And I know in our contract, we cannot work.
7 But God made it possible for me to work, because I kept on. I
8 became the top food server in Bakersfield. Then they made me
9 a trainer where I trained all of the inmates.

10 But as I'm going to training, I started really
11 working on myself. These classes had me looking at me for the
12 first time in a long time, what I needed to work on while I'm
13 here, see.

14 But the government didn't know I was the middle man
15 from Alaska to California. It was wrong, Your Honor. I'm
16 getting profit for getting people drugs in California. No,
17 I'm going to tell the truth here. I did that for a whole
18 year, and I'm not proud of it. But at the time, it was pride
19 and greed. It was.

20 I have never in my life had that kind of people
21 paying me money like that, but it happened a year. I'm
22 58 years old. What about my other 56 years? It doesn't add
23 up. The time that the government is trying to give me is
24 cruel. We need reform, as in diversity. All this time, you
25 know? It's majority of time. The Africans Americans and the

1 Latinos are the only ones getting this time like this. The
2 world is changing. Washington is changing. Diversity is
3 here.

4 But I have to really look down inside my soul and
5 find out, why do I keep using and going around these certain
6 people?

7 But see, the government makes it seem like, Your
8 Honor, a year, but they not going back and saying -- telling
9 me -- telling you that, yeah, it was back in a day, it was
10 small amounts of crack cocaine, using and abusing. But I'm
11 clean and sober today, yes, I am. I'm clean and sober, and
12 I'm in my right mind today.

13 . I was -- it's been three and a half years since I've
14 been locked up from Westcare to clean and sober and back into
15 Bakersfield. It was wrong what I was doing. I was poisoning
16 myself and poisoning my community with drugs -- drugs, and
17 alcohol, heroin, meth. I was poisoning myself and my
18 community.

19 I did feel like I was living two lives. My
20 culture -- people don't know about my culture and what I've
21 been through.

22 I want to apologize, and I take full responsibility
23 today, Your Honor, for the things that I have caused.

24 This has been the worst thing I've ever done. It
25 is -- this amount of drugs. And I do apologize, and I hope

1 the Court can really forgive me for this, because I'm really
2 working on myself right now.

3 Judge Drozd, I understand the consequences. I really
4 do, and I'm so sorry. I've been through a lot. And it's
5 wrong, but I'm sorry. It was really wrong, and I'm doing
6 everything I possibly can to make up for it right now.

7 And I'm working so hard. I'm doing all these classes
8 and myself, so I don't never in my life have to do this again,
9 Your Honor. Never.

10 I mean, this was the worst-most mistake that I've
11 ever made for one year. And you're right, we -- if I hadn't
12 been caught, I don't know what would happen. I don't really
13 have a lot of family left, but the family I do have asks you
14 for mercy today. So I just want more time with them and my
15 community, giving back, back in church. Redemption, it's
16 real. Redemption is real. And -- and I've been really in
17 that five-by-eleven cell every day for 35 months getting my
18 relationship back with God that I lost.

19 And the government, I'm so sorry. Please forgive me
20 that you have to run around and do this work behind somebody
21 like me. Please forgive me today, and I'm so sorry. But I'll
22 tell you what, I'll never in my life drink again, and I will
23 never in my life ever sell a piece of drug ever in my life
24 again after this. This was it. Three years I've been working
25 on myself. And if you guys will forgive me, I'd really

1 appreciate it, because God has forgiven me, and that's why I'm
2 back on track. I am really an example for rehabilitation. I
3 still keep in touch with Teen Challenge. I talk to people
4 there. I have five roommates that you sentenced. They're all
5 doing good. They all write me, Judge. The one you sent to
6 Teen Challenge, she's facing 20 years. She's doing so good.
7 And I'm so proud of all of them.

8 I can change. I can change. I have. But I'm not
9 the monster that you think I am. I'm not. People just don't
10 know what I went through in life. People just don't know what
11 I went through but my family. I kept a lot of things in. I
12 kept so much stuff in. I should have talked to somebody, but
13 I didn't have the money to do it at the time.

14 I just ask you, Judge, to give me a chance to show
15 you how much I will never be back in your courtroom in my life
16 again. It's been hard on me. Thank you.

17 Please forgive me, government.

18 THE COURT: Are you done, ma'am?

19 THE DEFENDANT: (Nods head.)

20 THE COURT: All right. The Court is going to vary
21 downward from the sentencing guideline range. Vary. I'm not
22 departing.

23 Under the guidelines section 4A1.3, I am varying
24 downward from the guideline under 18 U.S.C. 3553(a) in light
25 of the history and characteristics of the defendant, which

1 have been gone through in great detail here on the record.

2 I've already made my comments about the prior
3 criminal conduct that results in her career offender. I do
4 also note she is, at this time, 58 years of age, and to me
5 that has to be taken into account.

6 I also take into account that I think all empirical
7 studies establish that as one as one grows older one is much
8 less likely to recidivate, and I certainly think someone being
9 released from custody in their 70s is much less likely to
10 recidivate than someone their early to mid 50s.

11 And then lastly, although not putting a lot of weight
12 on this, because it is in large part Ms. Trapps' own conduct
13 that placed her in local custody, instead of on pretrial
14 services supervision. Nonetheless, she has been in custody in
15 local confinement for the last 35 months through all the
16 months of a global pandemic, and that has been a difficult and
17 trying time because of limited access to the outside,
18 quarantines, lockdowns, everything that has gone with that.
19 And that's harder time than Bureau of Prisons time. I'm also
20 taking that into account in arriving at this sentence.

21 And finally, I'm looking at sentencing disparity and
22 relative culpability of the parties in connection with this
23 sentences that they've already received and imposed by Judge
24 O'Neill, the judge originally assigned to this case.
25 Therefore, taking all of that into account, I'm varying

1 downward.

2 Pursuant to the Sentencing Reform Act of 1984, it's
3 the judgment of the Court that the defendant Alecia Trapps is
4 hereby committed to the custody of the U.S. Bureau of Prisons
5 to be imprisoned for a term of 252 months. The defendant shall
6 pay a special assessment of \$100; payment to begin
7 immediately. The Court finds the defendant does not have the
8 ability to pay a fine, imposition of a fine is waived.

9 Upon release from imprisonment, the defendant shall
10 be placed on supervised release for a term of 60 months.
11 Within 72 hours of release from the custody of the Bureau of
12 Prisons, the defendant shall report in person to the probation
13 office in the district to which she is released.

14 While on supervised release, she shall not commit
15 another federal, state, or local crime, and shall not
16 illegally possess controlled substances. She shall cooperate
17 in the collection of a DNA sample as directed by her probation
18 officer and shall comply with the standard conditions which
19 have been recommended by the U.S. Sentencing Commission and
20 adopted by this Court.

21 Further, she shall refrain from any unlawful use of a
22 controlled substance and shall submit to one drug test within
23 15 days of release from imprisonment and at least two periodic
24 drug tests thereafter, not to exceed four drug tests per
25 month.

1 The Court also adopts the special conditions
2 recommended by the probation officer on page 25 of the
3 presentence report, and imposes all of those listed as special
4 conditions.

5 Ms. Hopkins, are you still requesting a
6 recommendation for designation in California, and if so, to
7 any specific institution?

8 MS. HOPKINS: Yes, Your Honor. We would request a
9 designation to Dublin, California, the women's facility.

10 THE COURT: The Court will recommend to the Bureau of
11 Prisons that the defendant be designated to serve the
12 remainder of her sentence at the Bureau of Prisons facility
13 located in Dublin, California. That recommendation is only
14 imposed to the extent consistent with security classification
15 and space availability. The Court also recommends that the
16 defendant be allowed to participant in the 500-hour Bureau of
17 Prisons Substance Abuse Treatment Program.

18 There are no remaining counts to dismiss.

19 Ms. Trapps, I will advise you that if you wish to
20 appeal from the sentence that I've just imposed, you must file
21 a written notice of appeal with the Court within 14 days of
22 today's date. If you cannot afford an attorney in connection
23 with that appeal, the Court would appoint one for you. Is
24 there anything further in this case?

25 MS. HOPKINS: No.

1 MS. ALSWORTH: No, Your Honor.

2 MS. HOPKINS: Yes, Your Honor. Just very briefly, I
3 would ask the Court entertain Ms. Trapps' family's request to
4 just give her one more embrace before she goes into custody.
5 I understand the government doesn't object, and it's --

6 THE COURT: I'll ask the marshals.

7 MS. HOPKINS: In light of the sentencing, would it be
8 acceptable?

9 THE COURT: Marshals, do we feel comfortable with
10 that or not?

11 USMC OFFICER: Not necessarily, Your Honor. But if
12 you asked, we'll --

13 THE COURT: Do you think we can handle that, and if
14 so, where?

15 USMC OFFICER: Right here. Right in the back of the
16 court.

17 THE COURT: Right here at counsel table?

18 USMC OFFICER: The family has to stay on the other
19 side. We can walk her to the front.

20 THE COURT: I'll allow her cousins to give her a very
21 brief embrace. Please make it quick. We'll do it right here
22 at the -- if the Marshals can take Ms. Trapps over there.

23 MS. HOPKINS: Thank you, Your Honor.

24 THE COURT: I know I'm not making a habit of this,
25 but I know there's been no visitation to speak of during the

1 pandemic.

2 And I would ask that the family be respectful and
3 make it relatively brief.

4 All right. Thank you.

5 Thank you, Marshals, for accommodating that request.

6 All right. Ms. Trapps, anything further?

7 MS. HOPKINS: Nothing further, Your Honor. Thank
8 you.

9 THE COURT: Court will stand in recess.

10 (Proceedings were concluded at 1:15 p.m.)

11

12

13 I, RACHAEL LUNDY, Official Reporter, do hereby
14 certify the foregoing transcript as true and correct.

15

16 Dated: January 5, 2022

/s/ Rachael Lundy
RACHAEL LUNDY, CSR-RPR

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UNITED STATES DISTRICT COURT
Eastern District of California

UNITED STATES OF AMERICA

v.

ALECIA TRAPPS

AKA: Alecia Michelle Trapps; Alicia Trapps; Michelle Box, Alecia
Michell Boxx; Lisa Trapps; Alecia Mechelle Trapps

THE DEFENDANT:

pleaded guilty to count(s) 1 of the Indictment.
 pleaded nolo contendere to count(s) ___, which was accepted by the court.
 was found guilty on count(s) ___ after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

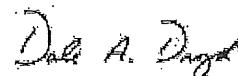
Title & Section	Nature of Offense	Offense Ended	Count
21 U.S.C. §§ 846 and 841(a)(1)	Conspiracy to Distribute and Possess with Intent to Distribute Controlled Substances (Methamphetamine, Heroin) (Class A Felony)	4/11/2018	1

The defendant is sentenced as provided in pages 2 through ___ 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) ___ dismissed on the motion of the United States.
 Indictment is to be dismissed by District Court on motion of the United States.
 Appeal rights given. Appeal rights waived.

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 or fine, the defendant must notify the court and United States attorney of material changes in economic circumstances.

9/17/2021
Date of Imposition of Judgment



Signature of Judicial Officer
Dale A. Drozd, United States District Judge

Name & Title of Judicial Officer

9/21/2021
Date

DEFENDANT: ALECIA TRAPPS
CASE NUMBER: 1:18CR00076-001

IMPRISONMENT

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

- No TSR: Defendant shall cooperate in the collection of DNA.
- The court makes the following recommendations to the Bureau of Prisons:
The court recommends that the defendant be incarcerated in at Dublin California facility, but only insofar as this accords with security classification and space availability. The court recommends the defendant participate in the 500-Hour Bureau of Prisons Substance Abuse Treatment Program.
- 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 ____ 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 ____ on ____.
 - as notified by the United States Marshal.
 - as notified by the Probation or Pretrial Services Officer.If no such institution has been designated, to the United States Marshal for this district.

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: ALECIA TRAPPS
CASE NUMBER: 1:18CR00076-001

SUPERVISED RELEASE

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

MANDATORY CONDITIONS

You must not commit another federal, state or local crime.

You must not unlawfully possess a controlled substance.

You must refrain from any unlawful use of controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two (2) periodic drug tests thereafter, not to exceed four (4) drug tests per month.

- The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse.
- You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution.
- You must cooperate in the collection of DNA as directed by the probation officer.
- You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense.
- You must participate in an approved program for domestic violence.

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: ALECIA TRAPPS
CASE NUMBER: 1:18CR00076-001

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 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 the 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: ALECIA TRAPPS
CASE NUMBER: 1:18CR00076-001

SPECIAL CONDITIONS OF SUPERVISION

1. The defendant shall provide the probation officer with access to any requested financial information.
2. As directed by the probation officer, the defendant shall participate in an outpatient correctional treatment program to obtain assistance for drug or alcohol abuse.
3. As directed by the probation officer, the defendant shall participate in a program of testing (i.e., breath, urine, sweat patch, etc.) to determine if she has reverted to the use of drugs or alcohol.
4. The defendant shall abstain from the use of alcoholic beverages and shall not enter, visit, or be present at those places where alcohol is the chief item of sale.
5. As directed by the probation officer, the defendant shall participate in a co-payment plan for treatment or testing and shall make payment directly to the vendor under contract with the United States Probation Office of up to \$25 per month.
6. The defendant shall submit to the search of her person, property, house, residence, vehicle, papers, computer, other electronic communication or data storage devices or media, and effects at any time, with or without a warrant, by any law enforcement or probation officer in the lawful discharge of the officer's supervision functions with reasonable suspicion concerning unlawful conduct or a violation of a condition of probation or supervised release. Failure to submit to a search may be grounds for revocation. The defendant shall warn any other residents that the premises may be subject to searches pursuant to this condition.
7. The defendant shall register, as required in the jurisdiction in which she resides, as a drug offender.

DEFENDANT: ALECIA TRAPPS
CASE NUMBER: 1:18CR00076-001

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the Schedule of Payments on Sheet 6.

TOTALS

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

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

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.

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:

If incarcerated, payment of any unpaid criminal monetary penalties in this case is due during imprisonment at the rate of 10% of the defendant's gross income per month or \$25 per quarter, whichever is greater. Payment shall be made through the Bureau of Prisons Inmate Financial Responsibility Program.

Other:

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

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

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

DEFENDANT: ALECIA TRAPPS
CASE NUMBER: 1:18CR00076-001

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 \$ 100.00 due immediately, balance due
 - Not later than ___, or
 - in accordance C, D, E, or F below; or
- B. Payment to begin immediately (may be combined with C, D, or F below); or
- C. Payment in equal ___ (e.g. weekly, monthly, quarterly) installments of \$ ___ over a period of ___ (e.g. months or years), to commence ___ (e.g. 30 or 60 days) after the date of this judgment; or
- D. Payment in equal ___ (e.g. weekly, monthly, quarterly) installments of \$ ___ over a period of ___ (e.g. months or years), to commence ___ (e.g. 30 or 60 days) after release from imprisonment to a term of supervision; or
- E. Payment during the term of supervised release/probation 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:

If incarcerated, payment of any unpaid criminal monetary penalties in this case is due during imprisonment at the rate of 10% of the defendant's gross income per month or \$25 per quarter, whichever is greater. Payment shall be made through the Bureau of Prisons Inmate Financial Responsibility Program.

The defendant shall make payments toward any unpaid criminal monetary penalties in this case during supervision at the rate of at least 10% of your gross monthly income. Payments are to commence no later than 60 days from placement on supervision. This payment schedule does not prohibit the United States from collecting through all available means any unpaid criminal monetary penalties at any time, as prescribed by law.

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

Joint and Several

Defendant and Co-Defendant Names and Case Numbers (*including defendant number*), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate:

- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court cost(s):
- The defendant shall forfeit the defendant's interest in the following property to the United States: The Preliminary Order of Forfeiture is hereby made final as to this defendant and shall be incorporated into the Judgment.

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

FILED

APR 05 2018

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY DEPUTY CLERK

SEALED

1 McGREGOR W. SCOTT
2 United States Attorney
3 MELANIE L. ALSWORTH
4 LAUREL J. MONToya
5 Assistant United States Attorneys
6 2500 Tulare Street, Suite 4401
7 Fresno, CA 93721
8 Telephone: (559) 497-4098
9 Facsimile: (559) 497-4099

10 Attorneys for Plaintiff

11 IN THE UNITED STATES DISTRICT COURT
12
13 EASTERN DISTRICT OF CALIFORNIA

14 UNITED STATES OF AMERICA,

15 Plaintiff,

16 v.

17 ALECIA TRAPPS,
18 JIMMY BRANTLEY,
19 CARMEN CONEJO,
20 ERNEST WESTLEY,
21 SHEENA TAYLOR, and
22 JOSEPH VASQUEZ, JR.,

23 Defendants.

24 CASE NO. 18 CR 00076 DAD BAM

25 VIOLATIONS: 21 U.S.C. §§ 846,
26 841(a)(1) – Conspiracy to Distribute and
27 Possess with Intent to Distribute a
28 Controlled Substances
(Methamphetamine, Heroin); and 18
U.S.C. § 924(d)(1), 21 U.S.C. § 853(a),
and 28 U.S.C. § 2461(c) - Criminal
Forfeiture Allegation

29 INDICTMENT

30 COUNT ONE: [21 U.S.C. §§ 846, 841(a)(1) – Conspiracy to Distribute and Possess with
31 Intent to Distribute Controlled Substances (Methamphetamine, Heroin)]

32 The grand jury charges: THAT

33 ALECIA TRAPPS,
34 JIMMY BRANTLEY,
35 CARMEN CONEJO,
36 ERNEST WESTLEY,
37 SHEENA TAYLOR, and
38 JOSEPH VASQUEZ, JR.,

39 defendants herein, beginning at a time unknown to the grand jury but not later than January 1, 2015
40 and continuing to on or about April 11 2018, in the Counties of Stanislaus and Sacramento, State and
41 Eastern District of California, and elsewhere, did knowingly and intentionally agree with each other

1 and other individuals known and unknown to the Grand Jury, to distribute and possess with intent to
2 distribute controlled substance, to wit: methamphetamine, a Schedule II controlled substance, and
3 heroin, a Schedule I controlled substance, in violation of Title 21, United States Code, §§ 846 and
4 841(a)(1).

5 The drug quantity attributable to Alecia Trapps, Jimmy Brantley, Carmen Conejo, Ernest
6 Westley, Sheena Taylor and Joseph Vasquez, Jr. is 50 grams or more of methamphetamine and 500
7 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its
8 salts, isomers, or salts of its isomers, all in violation of Title 21, United States Code, §§ 846,
9 841(a)(1) and (b)(1)(A)(viii).

10 The drug quantity attributable to Alecia Trapps, Jimmy Brantley, and Ernest Westley is 100
11 grams or more of a mixture or substance containing a detectable amount of heroin, all in violation of
12 Title 21, United States Code, §§ 846, 841(a)(1) and (b)(1)(B)(i).

13 FORFEITURE ALLEGATION: [18 U.S.C. § 924(d)(1), 21 U.S.C. § 853(a), 28 U.S.C.
14 § 2461 - Criminal Forfeiture]

15 The allegations in this indictment are hereby realleged and incorporated by reference for the
16 purpose of alleging forfeiture.

17 Upon conviction of one or more of the offenses alleged as Counts One through Five, and
18 Seven through Nine of this Indictment, the defendant(s) shall forfeit to the United States pursuant to
19 21 U.S.C. § 853, all property constituting, or derived from, proceeds obtained, directly or indirectly,
20 as a result of the said violation and any property used, or intended to be used, in any manner or part,
21 to commit, or to facilitate the commission of the said violation.

22 Upon conviction of one or more of the offenses alleged as Count Six of this Indictment, the
23 defendant(s) shall forfeit to the United States pursuant to 18 U.S.C. § 924(d)(1) and 28 U.S.C.
24 § 2461, all property involved in or used in any knowing violation of 18 U.S.C. § 922.

25 If any property subject to forfeiture as a result of the offenses alleged in the Indictment:

26 (1) cannot be located upon exercise of due diligence;
27 (2) has been transferred or sold to, or deposited with, a third person;
28 (3) has been placed beyond jurisdiction of the Court;

1 (4) has been substantially diminished in value; or
2 (5) has been commingled with other property which cannot be subdivided without
3 difficulty;

4 it is the intent of the United States pursuant to 21 U.S.C. § 853(p), as incorporated by 28 U.S.C.
5 § 2461(c), to seek forfeiture of any other property of said defendant(s) up to the value of the property
6 subject to forfeiture.

7 A TRUE BILL.

8 */s/* Signature on file w/AUSA

9
10 FOREPERSON

11 MCGREGOR W. SCOTT
12 United States Attorney

13 By *Kirk E. Sheriff*
14 KIRK E. SHERIFF,
15 Assistant U.S. Attorney
16 Chief, Fresno Office

17

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19

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21

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25

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27

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No. _____

SEALED **FILED**

UNITED STATES DISTRICT COURT

APR 05 2018

Eastern District of California

Criminal Division

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY *[Signature]*

THE UNITED STATES OF AMERICA

vs.

ALECIA TRAPPS,
JIMMY BRANTLEY,
CARMEN CONEJO,
ERNEST WESTLEY,
SHEENA TAYLOR, and
JOSEPH VASQUEZ, JR.

1:18 CR 00076 DAD BAM

INDICTMENT

VIOLATION(S): 21 U.S.C. §§ 846, 841(a)(1) – Conspiracy to Distribute and Possess with Intent to Distribute a Controlled Substances (Methamphetamine, Heroin); and
18 U.S.C. § 924(d)(1), 21 U.S.C. § 853(a), and 28 U.S.C. § 2461(o) - Criminal Forfeiture Allegation

A true bill,

[Signature]
Roremam.

Filed in open court this _____ day

of _____, A.D. 20 ____

Clerk.

Bail, \$

NO BAIL WARRANT

All defendants.

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

ALECIA TRAPPS,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

**On Petition for A Writ of *Certiorari* to The United States Court of Appeals for
the Ninth Circuit**

PROOF OF SERVICE

I, David A. Schlesinger, declare that on December 21, 2022, as required by Supreme Court Rule 29, I served Petitioner Alecia Trapps's MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on counsel for Respondent by depositing an envelope containing the motion and the petition in the United States mail (Priority, first-class), properly addressed to her, and with first-class postage prepaid.

The name and address of counsel for Respondent is as follows:

The Honorable Elizabeth B. Prelogar, Esq.
Solicitor General of the United States
United States Department of Justice
950 Pennsylvania Ave., N.W., Room 5614
Washington, DC 20530-0001
Counsel for Respondent

Additionally, I mailed a copy of the motion and the petition to my client, Petitioner Alecia Trapps, by depositing an envelope containing the documents in the United States mail, postage prepaid, and sending it to the following address:

Alecia Trapps
Register No. 77322-097
Aliceville FCI
Federal Correctional Institution
P.O. Box 4000
Aliceville, AL 35442

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 21, 2022



DAVID A. SCHLESINGER
Declarant