No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

LEON LITTLE,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

On Petition For a Writ of Certiorari
To the United States Court of Appeals
For the Third Circuit

PETITION FOR WRIT OF CERTIORARI
&
APPENDIX A-C

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QUESTION PRESENTED

I. Whether the Fifth and Sixth Amendments prohibit a federal court from basing a criminal defendant's sentencing on uncharged conduct which was never admitted by the defendant nor proven to a jury beyond a reasonable doubt and which was only found by the sentencing court to be proven by a preponderance of the evidence.

RELATED PROCEEDINGS

The following proceedings are directly related to this case within the meaning of Rule 14.1(b)(iii).

United States District Court (E.D. Pa.):

United States v. Leon Little, No. 2:13-cr-582-01 (Aug. 16, 2018)

United States v. Colise Harmon, No. 2:13-cr-582-02 (Jul. 25, 2018)

United States v. Heather Herzstein, No. 2:13-cr-582-03 (Dec. 21, 2017)

United States v. Aminah Shabazz, No. 2:13-cr-582-04 (Jul. 20, 2018)

United States v. Brendin Strand, No. 2:13-cr-582-05 (Apr. 5, 2017)

United States Court of Appeals (3d Cir.):

United States v. Leon Little, No. 18-2873 (Dec. 2, 2022)

United States v. Colise Harmon, No. 18-2683 (Dec. 2, 2022)

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The non-precedential December 2, 2022, opinion of the United States Court of Appeals for the Third Circuit is attached at Appendix § A, 1a-14a, and is available at *United States v. Little*, No. 18-2873, 2022 WL 17369594 (3d Cir. Dec. 2, 2022).

STATEMENT OF JURISDICTION

The judgment of the court of appeals was entered on December 2, 2022. *See* Appendix § A, 1a-14a. This Court has jurisdiction under 28 U.S.C. § 1254(1) to review the circuit court's decision on a timely filed petition for writ of certiorari.

CONSTITUTIONAL PROVISIONS INVOLVED

The Fifth Amendment to the United States Constitution provides, in relevant part: "No person shall . . . be deprived of life, liberty, or property, without due process of law . . . ." U.S. Const. amend. V.

The Sixth Amendment to the United States Constitution provides, in relevant part: "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury . . . ." U.S. Const. amend. VI.

STATEMENT OF THE CASE

This petition concerns the constitutionality of a common sentencing practice – whether jurists can enhance a defendant's sentence based solely on judge-found facts that were never admitted by the defendant nor proven to a jury beyond a reasonable doubt. A related question, the constitutionality of enhancing a defendant's sentence based on acquitted conduct, is presented in a petition for writ of certiorari filed in the matter of *United States v. McClinton*, 23 F.4th 732 (7th Cir. 2022), *petition for cert. filed* (U.S. Jun. 10, 2022) (No. 21-1557), currently pending before this Court.

Mr. Little was charged with being involved in a conspiracy to distribute prescription pills, specifically oxycodone and alprazolam. As part of the conspiracy, individuals were recruited to pretend to be legitimate medical patients in order to obtain prescriptions from a doctor who asked very few questions. The doctor's receptionist was part of and aided the conspiracy. The government alleged that Mr. Little was the head of this conspiracy. In the Third Superseding Indictment, Mr. Little was charged with a total of 50 counts: conspiracy to distribute oxycodone and alprazolam, in violation of 21 U.S.C. § 846 (Count 1); distribution of oxycodone and aiding and abetting, in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2 (Counts 2-10 & 16-30); obtaining oxycodone by fraud and aiding and abetting, in violation of 21 U.S.C. § 843(a)(3) & 18 U.S.C. § 2 (Counts 11-15 & 31-34); engaging in unlawful monetary transactions and aiding and abetting, in violation of 18 U.S.C. §§ 1957

and 2 (Count 35); and money laundering and aiding and abetting (Counts 36-50), in violation of 18 U.S.C. §§ 1956(a)(1)(B)(i) & 2. 25a-52a.

Count one, the conspiracy count, listed as overt acts certain drug prescriptions that were written and filled as part of the conspiracy. 29a-34a. In total, 57 unique prescriptions were listed representing 151.4 grams of oxycodone. *Id.* The prescriptions listed in the substantive drug counts (Counts 2-34) fully overlapped with the prescriptions described in the conspiracy count. In other words, each substantive drug count corresponded with a set of prescriptions listed in the conspiracy count. After an 18-day jury trial, Mr. Little was convicted on all counts.

The Presentence Investigation Report grouped all of Mr. Little's counts of convictions into one group and determined that the drug trafficking guideline, USSG § 2D1.1 (2016), produced the highest offense level and would be used to calculate the guideline range. PSR ¶ 47. The base offense level was calculated using a total drug quantity of 7,880.15 grams of oxycodone, which, after the appropriate conversion to the marijuana equivalent, resulted in a base offense level of 36. PSR ¶ 48-49. The PSR also attributed a two-level enhancement for obstruction of justice under USSG § 2D1.1(b)(15)(D) and a four-level enhancement for a leadership position under USSG § 3B1.1(a). PSR ¶ 50 & 52. The final offense level was 42. Mr. Little was in a criminal history category of V.

At the sentencing hearing, Mr. Little objected to drug quantity used to calculate the guidelines range and he objected to the obstruction of justice enhancement. 76a-77a, 94a. With regards to the drug quantity, Mr. Little argued

that the guidelines should be calculated solely based on the controlled substances, or prescriptions that were specifically charged in the indictment, for which the jury convicted him. 77a. Were the base offense level under USSG § 2D1.1 calculated solely based on the drugs listed in the indictment, the base offense level would have been 30. At sentencing, the government submitted a chart which purported to show all prescriptions signed by the doctor and passed by individuals whom the government had identified as part of the conspiracy. 89a. The chart listed 2,726 prescriptions, well beyond the 57 prescriptions that were the subject of the indictment. 88a. The sentencing court determined that the government's chart established the drug quantity upon which the guidelines should be based and determined the base offense level to be 36, as stated in the PSR. 89a, 94a, 174a

The government also presented testimony at the sentencing hearing to support the obstruction of justice enhancement. 95a-155a. No allegations related this enhancement were not contained in the indictment and the testimony presented at the sentencing hearing was not presented to the jury at trial. Based on the testimony presented by the government at sentencing, the court found that the two-level enhancement for obstruction of justice applied. 173a.

The sentencing court accepted the guideline calculation set forth the PSR, including the four-level role enhancement for being an organizer or leader. 174a. None of the charges against Mr. Little contained a leadership role as an element that had to be found by the jury beyond a reasonable doubt.

In total, the sentencing court determined that the final offense level was 42 and the final sentencing guideline range was 360 months to 10,152 months. 174a.

Had the sentencing court based the guideline range solely on the drug quantity alleged in the indictment and without any enhancements for obstruction of justice or leadership role, the final offense level would have been 32 (the money laundering guideline that did not apply due to the leadership enhancement would likely have been used). A final offense level of 32 would have resulted in a sentencing guideline range of 188 to 235 months.

The court sentenced Mr. Little to a total of 408 months' imprisonment. 227a. This sentence was 173 months over what the advisory guideline range would have been had it been calculated using solely the conduct that had been found by the jury beyond a reasonable doubt.

On direct appeal, Mr. Little argued that his sentence was substantively unreasonable and that enhancing his sentencing guideline range based solely on judge-found facts was unconstitutional. 12a-13a. The Court of Appeals affirmed the judgment and conviction. *Id.*

REASONS FOR ALLOWANCE OF THE WRIT

THE CONSTITUTIONALITY OF INCREASING THE SENTENCING GUIDELINE RANGE BASED SOLELY ON JUDICIAL FACTFINDING IS AN IMPORTANT QUESTION THAT SHOULD BE DIRECTLY ADDRESSED BY THIS COURT.

This Court has recently relisted five petitions for writ of certiorari all presenting the issue of whether the due process clause of the Fifth Amendment and

the jury-trial guarantee of the Sixth Amendment prohibit imposing sentencing enhancements on criminal defendants based on conduct of which the jury acquitted them: *United States v. McClinton*, 23 F.4th 732 (7th Cir. 2022), *petition for cert. filed* (U.S. Jun. 10, 2022) (No. 21-1557); *Luczak v. United States*, 26 F.4th 387 (7th Cir. 2022), *petition for cert. filed* (U.S. Jun. 21, 2022) (No. 21-8190); *Shaw v. United States*, No. 18-50384, 2022 WL 636639 (9th Cir. Mar. 4, 2022) (unpublished), *petition for cert. filed* (U.S. Aug. 1, 2022) (No. 22-118); *Karr v. United States*, No. 21-50219, 2022 WL 1499288 (5th Cir. May 12, 2022) (unpublished), *petition for cert. filed* (U.S. Aug. 10, 2022) (No. 22-5345); and *Bullock v. United States*, 35 F.4th 666 (8th Cir. 2022), *petition for cert. filed* (U.S. Oct. 11, 2022) (No. 22-5828).

Mr. Little's case presents the related issue of whether the due process clause and jury-trial guarantee of the Fifth and Sixth Amendments prohibits imposing sentencing enhancements based on conduct which was never charged in the indictment, never proven to a jury beyond a reasonable doubt, and never admitted by the defendant. In Mr. Little's case, the sentencing court's findings of fact increased the low end of his sentencing guideline range by 125 months over what the range would have been based solely on the conduct charged in the indictment and proven to the jury beyond a reasonable doubt. But for the judicial fact-finding, his sentence would have been substantively unreasonable and therefore illegal. *Rita v. United States*, 551 U.S. 338, 372 (2007) (Scalia, J., joined by Thomas, J. concurring in part and concurring in judgment).

Multiple Supreme Court justices have opined that this scenario is unconstitutional. *Jones v. United States*, 135 S. Ct. 8 (2014) (Scalia, J., with whom Thomas, J. and Ginsberg, J., join, dissenting from denial of certiorari). The Fifth and Sixth Amendments require that each element of a crime be either admitted by the defendant or proved to the jury beyond a reasonable doubt. *Alleyne v. United States*, 570 U.S. 99, 104 (2013). Any fact that increases the penalty to which a defendant is exposed constitutes an element of a crime and must be found by a jury, not a judge. *Apprendi v. New Jersey*, 530 U.S. 466, 483 (2000); *Cunningham v. California*, 549 U.S. 270, 281 (2007). The Supreme Court has held that a substantively unreasonable sentence is illegal and must be set aside. *Gall v. United States*, 552 U.S. 38, 51 (2007). The logical conclusion from this string of cases is "that any fact necessary to prevent a sentence from being substantively unreasonable —thereby exposing the defendant to the longer sentence—is an element that must be either admitted by the defendant or found by the jury. It *may not* be found by a judge." *Jones*, 135 S. Ct. 8.

The constitutional violations inherent both the use of acquitted conduct or uncharged conduct to increase the sentence guideline range are the same – both seem "a dubious infringement of the rights to due process and to a jury trial." *United States v. Bell*, 808 F.3d 926, 928 (D.C. Cir. 2015) (Kavanaugh, J., concurring in denial of rhg *en banc*). As Justice Kavanaugh has previously written, "taken to its logical conclusion," the Court's approach as outlined in *Blakely v. Washington*, 542 U.S. 296 (2004) (holding that other than the fact of a prior conviction, any fact

that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury, and proved beyond a reasonable doubt), "would require a jury to find beyond a reasonable doubt the conduct used to set or increase a defendant's sentence, at least in structured or guided-discretion sentencing regimes." *Bell*, 808 F.3d at 927.

Like Justice Kavanaugh, Justice Gorsuch has also previously questioned the lawfulness of imposing sentences based on judge-found facts, writing that "[i]t is far from certain whether the Constitution allows" "a district judge [to] . . . increase a defendant's sentence (within the statutorily authorized range) . . . based on facts the judge finds without the aid of a jury or the defendant's consent." *United States v. Sabillon-Umana*, 772 F.3d 1328, 1331 (10th Cir. 2014).

Here, the jury was asked to consider substantive counts of drug trafficking and a conspiracy count which specifically alleged only 57 prescriptions and 151.4 grams of oxycodone. Yet Mr. Little was sentenced on the basis of 2,726 prescriptions and 7,880.15 grams of oxycodone, a drug quantity more than 50 times greater than that presented to the jury. Additionally, Mr. Little was punished for conduct amounting to obstruction of justice even though that conduct was never mentioned in the indictment nor presented to the jury. Based on these facts which were found by the judge only, Mr. Little's sentencing guideline range approximately doubled, going from 188 to 235 months of imprisonment to 360 months to life imprisonment. Were it not for the judge-found facts which increased the guideline range, the imposed sentence of 408 months' imprisonment would have been 175 months

greater than the top end of the sentencing guideline range. It is highly likely that such a large departure from the top end of the guidelines range would have been deemed substantively unreasonable and, therefore, illegal. Thus, the key to making such a long sentence legal were the judicially found facts. As the *Apprendi-Blakely-Alleyne* line of cases have held, any fact necessary to legally increase sentence must be admitted by the defendant or proved to a jury beyond a reasonable doubt. The sentencing proceeding here exemplifies the constitutional infirmities with allowing judicial fact-finding to increase the severity of a defendant's sentencing guideline range, as described by Justices Scalia, Ginsburg, Thomas, Kavanaugh, and Gorsuch.

As of the filing of this petition, this Court appears to have the appetite to clarify the constitutionality of using acquitted conduct to enhance a defendant's sentence. It is impossible to address that issue without also considering the constitutionality of using uncharged conduct to enhance a defendant's sentence. It is time for the Court to squarely address the conflict between the *Apprendi-Blakely-Alleyne* line of cases and our sentencing guideline regime in which judge-found facts can serve to greatly enhance a defendant's sentence beyond what would have otherwise been permissible based solely on the facts proven to the jury or admitted by the defendant.

CONCLUSION

The petition for writ of certiorari should be granted.

Respectfully submitted,

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APPENDIX

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

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Nos. 18-2683 & 18-2873

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UNITED STATES OF AMERICA

v.

COLISE HARMON
Appellant in No. 18-2683

_____

UNITED STATES OF AMERICA

v.

LEON LITTLE
Appellant in No. 18-2873

_____

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. Nos. 2-13-cr-00582-001 & 2-13-cr-00582-002)
District Judge: Honorable Cynthia M. Rufe

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Submitted Pursuant to Third Circuit L.A.R. 34.1(a)
November 9, 2022

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Before: CHAGARES, Chief Judge, JORDAN, and SCIRICA, Circuit Judges

(Opinion filed: December 2, 2022)

OPINION*

CHAGARES, Chief Judge.

These two separate appeals, consolidated for purposes of disposition, arise from guilty verdicts rendered after a jury trial on drug trafficking and related charges against appellants Leon Little and Colise Harmon. Little appeals various aspects of his conviction and sentence, while Harmon challenges his conviction and sentence due to an alleged conflict with his trial counsel. For the following reasons, we will affirm the judgments of conviction and sentence.

I.

We write solely for the parties and so recite only the facts necessary to our disposition. Harmon and Little were prosecuted for their involvement in a large-scale oxycodone drug trafficking operation ("DTO") operating in Philadelphia. The DTO's modus operandi was to recruit and pay individuals to pretend to be legitimate medical patients in order to obtain oxycodone prescriptions. Then, the fake patients would distribute their oxycodone pills to dealers and users. Evidence uncovered as part of the investigation into this DTO suggested that Little was the ringleader. Harmon contributed by, among other things, driving the fake patients to the doctor's office and pharmacies.

Little was charged with conspiracy to distribute controlled substances, multiple

* This disposition is not an opinion of the full Court and, pursuant to I.O.P. 5.7, does not constitute binding precedent.

counts of distribution of oxycodone and aiding and abetting that conduct, multiple counts of acquiring a controlled substance by fraud and aiding and abetting that conduct, engaging in unlawful monetary transactions and aiding and abetting that conduct, and, finally, multiple counts of money laundering and aiding and abetting that conduct. Harmon was charged with conspiracy to distribute controlled substances, as well as certain of the foregoing distribution of oxycodone and acquiring a controlled substance by fraud counts.

At trial, the prosecution relied in part on extensive testimony from the lead investigative agent, Special Agent Jeff Lauriha ("SA Lauriha"), who testified as both a lay and expert witness. The Government also presented, among other evidence, testimony from a drug dealer, fake patients, two of Little's senior lieutenants, the doctor's office receptionist who facilitated the scheme, and Little's wife. Little and Harmon were both convicted on all counts.

Little was sentenced, in relevant part, to 408 months of imprisonment, which was within the United States Sentencing Guidelines ("Guidelines") range of 360 months to 10,152 months of prison time but less than the 480 months sought by the Government. Little's sentence also included a two-level enhancement for obstruction of justice. The District Court imposed this enhancement based on an exchange between Little and another inmate, Jacob Mitchell, regarding the daughter of Little's co-conspirator, James Alexander. Alexander was cooperating with the prosecution and was thus separated from Little in prison. Little told Mitchell to pass along a message to Alexander telling him that his daughter had asked Little why she could not meet with Little and Alexander together.

The District Court deemed this to be witness intimidation.

Harmon was sentenced to 180 months of imprisonment. Following his conviction but prior to his sentencing, Harmon had written a pro se letter to the District Court claiming that his defense counsel had failed to inform him that the Government had sought a sentencing enhancement pursuant to 21 U.S.C. § 851 in November 2016 (the "§ 851 Notice"), which increased his statutory maximum sentence from 240 months to 360 months based on a prior felony drug offense. The District Court wrote back advising Harmon to discuss his concerns with his attorney. Harmon raised the issue again at his sentencing hearing. He claimed that he would have pled guilty had he known about the § 851 Notice. The District Court concluded that the sentencing proceedings were not the proper forum to consider Harmon's § 851 Notice allegations, though it did permit Harmon to make a record of his dissatisfaction with his counsel at multiple points during the sentencing hearing. Harmon's defense counsel continued to represent Harmon through sentencing and represents him in this timely appeal.

II.[1]

A.

We first consider Harmon's appeal. He challenges only the District Court's alleged failure to address adequately his attorney's purported conflict of interest, arising out of his post-trial assertions that counsel failed to inform him of the § 851 Notice. He claims that the District Court's failure on this front deprived him of his Sixth Amendment

[1] The District Court had subject matter jurisdiction pursuant to 18 U.S.C. § 3231 and we have jurisdiction pursuant to 28 U.S.C. § 1291 and 18 U.S.C. § 3742.

right to effective counsel. Ineffective assistance of counsel claims like this one, however, are generally "not cognizable in the first instance on direct appeal" and are better suited for review in collateral habeas proceedings where the record can be more fully developed. United States v. Morena, 547 F.3d 191, 198 (3d Cir. 2008).

Though we have recognized an exception to this general rule where "facts showing an actual conflict of interest are clear on the record," id. at 198, this is not such a case. Harmon's attorney did tell the court at sentencing "I don't know how I can continue to represent him . . . [h]e has just called me ineffective on the record," App. 116, but the rest of the record suggests that, following this exchange, Harmon and his attorney reached an understanding on how to proceed. In fact, Harmon has retained the same counsel on appeal.

Harmon's judgments of conviction and sentence will therefore be affirmed, without prejudice to his ability to raise his claims in a petition for collateral review.

B.

Little alleges that the District Court erred by: 1) permitting SA Lauriha to testify as both a lay and expert witness and admitting his summary testimony and charts; 2) imposing a sentencing enhancement for obstruction of justice; 3) imposing a substantively unreasonable 408-month sentence; and 4) sentencing Little on facts not proven beyond a reasonable doubt. Each of these claims will be addressed in turn. None are meritorious.

1.

Generally, a district court's decision regarding the admissibility of evidence is

reviewed for abuse of discretion. United States v. Green, 617 F.3d 233, 239 (3d Cir. 2010). An evidentiary issue that was not preserved, however, is reviewed for plain error. United States v. Fulton, 837 F.3d 281, 289 (3d Cir. 2016). "To demonstrate 'plain error' an appellant bears the burden of proving that: (1) the court erred; (2) the error was 'plain' at the time of appellate consideration; and (3) the error affected substantial rights, usually meaning that the error must have affected the outcome of the district court proceedings." United States v. Glass, 904 F.3d 319, 321 (3d Cir. 2018). "If those three prongs are satisfied, we have 'the discretion to remedy the error—discretion which ought to be exercised only if the error seriously affect[s] the fairness, integrity, or public reputation of judicial proceedings.'" United States v. Stinson, 734 F.3d 180, 184 (3d Cir. 2013) (quoting Puckett v. United States, 556 U.S. 129, 135 (2009)).

Little did not object to the District Court's handling of SA Lauriha's dual testimony as both a lay and expert witness, so we review for plain error. Little asserts that it was plain error to allow SA Lauriha to give dual testimony, particularly since the District Court did not instruct the jury on how to separate his dual roles.

The District Court's decision to allow SA Lauriha to serve as both a lay and expert witness without a specific jury instruction on dual capacity testimony was not plainly erroneous. In fact, it was not error at all. Dual capacity testimony is "routinely upheld, particularly where experienced law enforcement officers were involved in the particular investigation at issue. . . ." United States v. Tucker, 714 F.3d 1006, 1016 (7th Cir. 2013) (quoting United States v. York, 572 F.3d 415, 425 (7th Cir. 2009)). Little has identified, and we have found, no case law from this Court or any other requiring a dual capacity

witness jury instruction in every circumstance, though some courts have certainly deemed one advisable. See United States v. Moralez, 808 F.3d 362, 366 (8th Cir. 2015) ("No circuit, it should be noted, has categorically prohibited the use of dual-role testimony by case agents, and failure to take these precautions has only occasionally merited reversal."). To the contrary, some courts have explicitly concluded that such an instruction is not necessary where other safeguards against prejudice exist. See, e.g., Tucker, 714 F.3d at 1016 (listing precautionary measures for dual capacity testimony). These safeguards can include "a properly structured direct examination which makes clear when the witness is testifying as to facts or when he is offering his expert opinion, establishing the proper foundation for the expert component of the testimony, and allowing for the rigorous cross-examination of the dual capacity witness." Id.

We are satisfied that adequate safeguards existed here. SA Lauriha's expert testimony was separated temporally from his lay testimony, and the Government clearly indicated when it was transitioning into exploring his expert opinions.[2] Little's counsel thoroughly cross-examined SA Lauriha after both stages of his testimony. The District Court gave fulsome jury instructions pertaining to the treatment of SA Lauriha's expert testimony as well, further curbing the risk that the jury might give his testimony undue

[2] It is true that certain aspects of SA Lauriha's examination – such as the Government's decision to lay the extensive foundation for his expert opinions prior to his lay testimony, instead of leaving this potentially prejudicial background for the immediate lead up to his testimony as an expert – did not always navigate the line between lay and expert testimony perfectly. But the fact that "dual capacity testimony could have been more deftly conducted" does not necessitate reversal if other safeguards sufficiently insulate the jury against the risk of prejudice. Tucker, 714 F.3d at 1016.

import.

Even if the absence of a dual capacity witness instruction here were error, it would not be "plain." For an error to be "plain," it must be "clear or obvious." United States v. Davis, 985 F.3d 298, 308 (3d Cir. 2021). There was nothing "clear or obvious" about applying a dual capacity jury instruction in this case. Little, for his part, failed to request a cautionary instruction, and there is no authority from this Court addressing, let alone requiring, one. Little argues that we may find an error to be "plain" even in the absence of controlling Third Circuit precedent so long as precedent from other jurisdictions is sufficiently clear, but the varied body of jurisprudence addressing this kind of jury instruction is anything but. As previously noted, no court has universally required a cautionary jury instruction, and many have looked to other safeguards of the type that existed here.[3] Any error in not providing a dual capacity jury instruction was thus not "plain" in nature.

Nor has Little met the third prong of the "plain error" analysis: whether the error affected substantial rights. The Government presented extensive other evidence establishing Little's guilt – including direct testimony from a wide array of co-conspirators – alongside SA Lauriha's testimony. Given this wealth of alternative proof supporting Little's conviction, any error here as to SA Lauriha's testimony is not likely to

[3] In fact, one court has even concluded that a cautionary instruction on dual capacity witness testimony can do more harm than good. See United States v. Moreland, 703 F.3d 976, 983–84 (7th Cir. 2012) ("Telling the jury that a witness is both a lay witness and an expert witness and will be alternating between the two roles is potentially confusing—and unnecessary.").

"have affected the outcome of the district court proceedings." Glass, 904 F.3d at 321. Little has therefore failed to satisfy any of the three "plain error" prongs. The District Court's handling of the dual capacity testimony was not plainly erroneous.

We consider, next, whether the District Court abused its discretion in admitting SA Lauriha's summary testimony and charts.[4] This challenge primarily centers on four charts SA Lauriha created drawing connections between thousands of phone records and members of the DTO, as well as his testimony associated with the charts. Little suggests this summary evidence was misleading, inaccurate, unduly prejudicial, and compounded the alleged intermingling of fact and expert testimony. These concerns are unavailing.

Courts must undoubtedly be cautious when admitting evidence summaries, but such summaries can be very helpful to juries where, as here, voluminous or complex evidence is involved. To this end, "[i]t is hard to imagine an issue on which a trial judge enjoys more discretion than as to whether summary exhibits will be helpful." Fraser v. Major League Soccer, L.L.C., 284 F.3d 47, 67 (1st Cir. 2002). The District Court here exercised this discretion with care, closely scrutinizing the charts and at several points requiring the Government to modify them for clarity and to lay further foundation for them prior to admission. Little's counsel then thoroughly cross-examined SA Lauriha on the charts, including on some of the same alleged issues with them that Little raises on appeal, and highlighted purported inconsistencies with them in his closing argument.

[4] The parties disagree over whether Little appropriately preserved his objections on this front and, thus, which standard of review to use. We will afford Little the benefit of the doubt and apply the abuse of discretion standard.

Finally, the District Court gave a cautionary jury instruction specifying that the summary charts were not evidence or proof. The District Court thus acted within its discretion in admitting these summary charts as well as SA Lauriha's testimony related to them.[5]

2.

Next, we turn to Little's claim that the District Court erroneously imposed a sentencing enhancement for obstruction of justice. The parties disagree over the appropriate standard of review. We "review factual findings relevant to the Guidelines for clear error and . . . exercise plenary review over a district court's interpretation of the Guidelines." United States v. Grier, 475 F.3d 556, 570 (3d Cir. 2007) (en banc). Little asserts that this appeal falls into the latter category and warrants de novo review, but his disagreement with the District Court is entirely fact-based. He does not challenge the District Court's interpretation of the meaning of any Guidelines definition or term, but rather with its interpretation of Little's conduct. Thus, clear error review is warranted. See United States v. Richards, 674 F.3d 215, 219 (3d Cir. 2012) ("[A] more deferential standard of review is appropriate where, as here, we consider a district court's application of the Guidelines to a specific set of facts, that is, where the district court determined whether the facts 'fit' within what the Guidelines prescribe.").[6]

[5] Little also briefly mentions two additional charts reviewed by SA Lauriha at trial, which linked certain evidence to parts of the indictment. Little's barebones assertions on this front fail for the same reasons his phone record summary chart claims do.

[6] Little's citation to United States v. Bell, 947 F.3d 49, 54 (3d Cir. 2020), which distinguished Richards, is not to the contrary. Bell centered on the meaning of the term "physical restraint" and whether it encompassed a certain type of restraint. Id. at 55–61. Here, Little does not contest the meaning of any Guidelines term, but rather disputes what

Under the clear error standard of review, a factual finding "will not be overturned unless it is (1) completely devoid of minimum evidentiary support displaying some hue of credibility, or (2) bears no rational relationship to the supportive evidentiary data." United States v. Williams, 898 F.3d 323, 332 (3d Cir. 2018) (quotations marks omitted). Applying that deferential standard here, Little's arguments fall short. While the relevant interaction between Little and the other inmate, Mitchell, appears innocuous enough on the surface – there is nothing overtly threatening about asking Mitchell to pass along a message to Little's co-conspirator Alexander – context renders the District Court's conclusion that this was "classic intimidation of a witness," App. 1328, eminently reasonable. Little's message was that he had met with Alexander's daughter and that the daughter had asked why she could not meet with Little and Alexander together. The reason Little and Alexander could not meet Alexander's daughter together was because Alexander was cooperating with the prosecution against Little. Thus, Little's message threatened that he 1) knew that Alexander was cooperating against him and 2) had access to Alexander's daughter. Such a conclusion does require some reading between the lines, but it is precisely this sort of factual assessment that the District Court is best positioned to make, having had the opportunity to assess fully the credibility of the relevant witnesses. The District Court made thorough findings of fact to this end, and we will not disturb them here given the deference afforded its judgment.

3.

happened – whether his communication to Mitchell was actually an attempt to intimidate a witness or not. His appeal is therefore far afield from Bell.

Little next challenges the substantive reasonableness of his 408-month sentence. He claims that the District Court erroneously sentenced him to consecutive maximum terms of imprisonment for drug trafficking and money laundering because those counts are "essentially part of the same criminal offense." Little Br. at 41. He also argues that this unreasonableness was compounded by the fact that the sentence was much longer than any sentence previously imposed on Little. Neither of these arguments suffice to carry his burden of proving substantive unreasonableness, particularly considering the deference we owe to the District Court's determination that this sentence was warranted. See Gall v. United States, 552 U.S. 38, 51 (2007) (explaining that an appellate court must "give due deference" to the final sentence determination, in part because "the sentencing judge is in a superior position to find facts and judge their import").

Little's sentence does not violate the Guidelines policy of "imposing incremental punishment only for significant additional criminal conduct." See United States v. Velasquez, 304 F.3d 237, 246 (3d Cir. 2002) (quotation marks omitted). Drug trafficking and money laundering are substantively distinct conduct. Even where a drug dealing operation encompasses both, the facts underlying the drug dealing aspect of the operation do not necessarily overlap with the facts underlying the money laundering aspect of the operation.[7] Reflecting this distinction, the two offenses are codified in different titles of the criminal code and addressed in separate sections of the Guidelines. Put simply, the

[7] The Government suggests that this was precisely such a case where the money laundering and drug dealing activities were separated, and Little does not challenge this contention. To this end, Little's money laundering accomplice, his wife Aminah Shabazz, testified that she was not involved with the DTO's pill trafficking.

two types of conduct are not "realistically indistinct" in the sort of way that might suggest that the District Court unreasonably imposed incremental punishment. Cf. id. at 246.

Little's complaint that his sentence is 30 years longer than any other prior sentence imposed on him fares no better. The District Court provided a multifaceted justification for its sentencing decision. Its reference to Little's prior sentences and the need for specific deterrence does not require it to engage in a comparative analysis explicitly articulating why the increased sentence here was appropriate. Justification for the increase is implicit in the thorough reasoning the District Court provided. And, even if we were to give weight to Little's complaints about the significant jump in sentence length compared to his prior terms of imprisonment, "[t]he fact that the appellate court might reasonably have concluded that a different sentence was appropriate is insufficient to justify reversal of the district court." Gall, 552 U.S. at 51.

4.

Little claims, finally, that his constitutional rights were violated when he was sentenced based on judicial factfinding not proven beyond a reasonable doubt. But, as he recognizes, precedent authorizes a district court to base its Guidelines sentencing calculation on facts found by the court by a preponderance of the evidence. United States v. Grier, 475 F.3d 556, 563–68 (3d Cir. 2007) ("Judicial factfinding in the course of imposing a sentence within the permissible [Guidelines] range does not offend the Fifth and Sixth Amendment rights to a jury trial and proof beyond a reasonable doubt."). Little's constitutional challenge is thus unavailing.

III.

For the foregoing reasons, we will affirm the judgments of conviction and sentence of both Little and Harmon.

UNITED STATES DISTRICT COURT

Eastern District of Pennsylvania

UNITED STATES OF AMERICA
v.
LEON LITTLE

FILED
AUG 16 2018
KATE BARKMAN, Clerk
By _____ Dep. Clerk

JUDGMENT IN A CRIMINAL CASE

Case Number: DPAE2:13CR00582-001

USM Number: 70800-066

David Scott Nenner, Esquire
Defendant's Attorney

THE DEFENDANT:

☐ pleaded guilty to count(s) _____

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

X was found guilty on count(s) 1sss through 50sss. after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
21:846 & 841(a)(1), (b)(1)(c) & 2	Conspiracy to distribute controlled substances.	8-31-2012	1sss
21:841(a)(1) & (b)(1)(C) & 2	Distribution of oxycodone and aiding and abetting.	8-3-2010	2sss
21:841(a)(1) & (b)(1)(C) & 2	Distribution of oxycodone and aiding and abetting.	10-8-2010	3sss

The defendant is sentenced as provided in pages 2 through 10 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.

cc
Counsel
U.S. Probation (2)cc
U.S. Pretrial (1)cc
FLU (1) cc
U.S.M.S. (2)cc

August 15, 2018
Date of Imposition of Judgment

Cynthia M. Rufe, J.
Signature of Judge

Cynthia M. Rufe, USDJ EDPA
Name and Title of Judge

August 16, 2018
Date

KE

DEFENDANT: Little, Leon
CASE NUMBER: DPAE2:13CR00582-001

ADDITIONAL COUNTS OF CONVICTION

Title & Section	Nature of Offense	Offense Ended	Count
21:841(a)(1) & (b)(1)(C) & 2	Distribution of oxycodone and aiding and abetting.	11-1-2010	4sss
21:841(a)(1) & (b)(1)(C) & 2	Distribution of oxycodone and aiding and abetting.	12-2-2010	5sss
21:841(a)(1) & (b)(1)(C) & 2	Distribution of oxycodone and aiding and abetting.	12-31-2010	6sss
21:841(a)(1) & (b)(1)(C) & 2	Distribution of oxycodone and aiding and abetting.	12-30-2010	7sss
21:841(a)(1) & (b)(1)(C) & 2	Distribution of oxycodone and aiding and abetting.	1-27-2011	8sss
21:841(a)(1) & (b)(1)(C) & 2	Distribution of oxycodone and aiding and abetting.	3-14-2011	9sss
21:841(a)(1) & (b)(1)(C) & 2	Distribution of oxycodone and aiding and abetting.	4-18-2011	10sss
21:843(a)(3) and 2	Acquiring a controlled substance by fraud and aiding and abetting.	11-1-2010	11sss
21:843(a)(3) and 2	Acquiring a controlled substance by fraud and aiding and abetting.	12-13-2010	12sss
21:843(a)(3) and 2	Acquiring a controlled substance by fraud and aiding and abetting.	12-30-2010	13sss
21:843(a)(3) and 2	Acquiring a controlled substance by fraud and aiding and abetting.	1-27-2011	14sss
21:843(a)(3) and 2	Acquiring a controlled substance by fraud and aiding and abetting.	3-14-2011	15sss
21.841(a)(1) & (b)(1)(C) & 2	Distribution of oxycodone and aiding and abetting.	8-10-2010	16sss
21:841(a)(1) & (b)(1)(C) & 2	Distribution of oxycodone and aiding and abetting.	10-11-2010	17sss
21:841(a)(1) & (b)(1)(C) & 2	Distribution of oxycodone and aiding and abetting.	11-1-2010	18sss
21:841(a)(1) & (b)(1)(C) & 2	Distribution of oxycodone and aiding and abetting.	11-2-2010	19sss
21:841(a)(1) & (b)(1)(C) & 2	Distribution of oxycodone and aiding and abetting.	11-29-2010	20sss
21:841(a)(1) & (b)(1)(C) & 2	Distribution of oxycodone and aiding and abetting.	11-30-2010	21sss
21:841(a)(1) & (b)(1)(C) & 2	Distribution of oxycodone and aiding and abetting.	12-2-2010	22sss
21:841(a)(1) & (b)(1)(C) & 2	Distribution of oxycodone and aiding and abetting.	12-8-2010	23sss
21:841(a)(1) & (b)(1)(C) & 2	Distribution of oxycodone and aiding and abetting.	12-27-2010	24sss
21:841(a)(1) & (b)(1)(C) & 2	Distribution of oxycodone and aiding and abetting.	12-28-2010	25sss
21:841(a)(1) & (b)(1)(C) & 2	Distribution of oxycodone and aiding and abetting.	12-29-2010	26sss

DEFENDANT: Little, Leon
CASE NUMBER: DPAE2:13CR00582-001

ADDITIONAL COUNTS OF CONVICTION

Title & Section	Nature of Offense	Offense Ended	Count
21:841(a)(1) & (b)(1)(C) & 2	Distribution of oxycodone and aiding and abetting.	1-24-2011	27sss
21:841(a)(1) & (b)(1)(C) & 2	Distribution of oxycodone and aiding and abetting.	1-25-2011	28sss
21:841(a)(1) & (b)(1)(C) & 2	Distribution of oxycodone and aiding and abetting.	1-27-2011	29sss
21:841(a)(1) & (b)(1)(C) & 2	Distribution of oxycodone and aiding and abetting.	2-25-2011	30sss
21:843(a)(3) and 2	Acquiring a controlled substance by fraud and aiding and abetting.	11-2-2010	31sss
21:843(a)(3) and 2	Acquiring a controlled substance by fraud and aiding and abetting.	12-28-2010	32sss
21:843(a)(3) and 2	Acquiring a controlled substance by fraud and aiding and abetting.	1-25-2011	33sss
21:843(a)(3) and 2	Acquiring a controlled substance by fraud and aiding and abetting.	2-25-2011	34sss
18:1957 and 2	Engaging in unlawful monetary transactions and aiding and abetting.	3-18-2011	35sss
18:1956(a)(1)(B)(i) and 2	Money laundering and aiding and abetting.	11-17-2011	36sss
18:1956(a)(1)(B)(i) and 2	Money laundering and aiding and abetting.	11-17-2011	37sss
18:1956(a)(1)(B)(i) and 2	Money laundering and aiding and abetting.	11-17-2011	38sss
18:1956(a)(1)(B)(i) and 2	Money laundering and aiding and abetting.	11-17-2011	39sss
18:1956(a)(1)(B)(i) and 2	Money laundering and aiding and abetting.	11-17-2011	40sss
18:1956(a)(1)(B)(i) and 2	Money laundering and aiding and abetting.	11-17-2011	41sss
18:1956(a)(1)(B)(i) and 2	Money laundering and aiding and abetting.	11-17-2011	42sss
18:1956(a)(1)(B)(i) and 2	Money laundering and aiding and abetting.	11-18-2011	43sss
18:1956(a)(1)(B)(i) and 2	Money laundering and aiding and abetting.	11-18-2011	44sss
18:1956(a)(1)(B)(i) and 2	Money laundering and aiding and abetting.	11-21-2011	45sss
18:1956(a)(1)(B)(i) and 2	Money laundering and aiding and abetting.	11-21-2011	46sss
18:1956(a)(1)(B)(i) and 2	Money laundering and aiding and abetting.	11-22-2011	47sss
18:1956(a)(1)(B)(i) and 2	Money laundering and aiding and abetting.	11-22-2011	48sss
18:1956(a)(1)(B)(i) and 2	Money laundering and aiding and abetting.	11-22-2011	49sss
18:1956(a)(1)(B)(i) and 2	Money laundering and aiding and abetting.	11-30-2011	50sss

DEFENDANT: Little, Leon
CASE NUMBER: DPAE2:13CR00582-001

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of:
240 months on each of counts 1sss through 10sss, 16sss through 30sss and 36sss through 50sss, all terms of sentence shall run concurrently to each other; 120 months on count 35, to run consecutively to the terms of sentence imposed on counts 1sss through 10sss, 16sss through 30sss and 36sss through 50sss; and 48 months on each of counts 11sss through 15sss and 31sss through 34sss, to run consecutively to all other sentences imposed, for a total term of 408 months.

X The court makes the following recommendations to the Bureau of Prisons:
The Court recommends that defendant be classified to an institution as close to the Delaware Valley as possible where he may participate in the Bureau of Prisons Inmate Financial Responsibility Program and remain close to his family.

X 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: Little, Leon
CASE NUMBER: DPAE2:13CR00582-001

ADDITIONAL IMPRISONMENT TERMS

The Court directs that defendant be given credit for all the time served since his date of arrest in this matter.

DEFENDANT: Little, Leon

CASE NUMBER: DPAE2:13CR00582-001

SUPERVISED RELEASE

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

5 years on each of counts 1sss through 10sss and 16sss through 30sss; 1 year on each of counts 11sss through 15sss and 31 through 34sss; and 3 years on each of counts 35sss through 50sss, all terms of sentence shall run concurrently to each other, for a total of 5 years.

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

   ☐ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. (check if applicable)

4. ☐ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. X You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in 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: Little, Leon
CASE NUMBER: DPAE2:13CR00582-001

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 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: Little, Leon
CASE NUMBER: DPAE2:13CR00582-001

SPECIAL CONDITIONS OF SUPERVISION

The defendant shall provide his probation officer with full disclosure of his financial records to include yearly income tax returns upon request. The defendant shall cooperate with his probation officer in the investigation of his financial dealings and shall provide truthful monthly statements of his income, if requested.

The defendant shall not incur any new credit card charges or open additional lines of credit without the approval of his probation officer unless he in compliance with a payment schedule for any Court-ordered financial obligation. Defendant shall not encumber or liquidate interest in any assets unless it is in direct service his Court-ordered financial obligation or otherwise has the express approval of the Court.

The defendant shall refrain from the illegal possession and/or use of drugs and shall submit to urinalysis or other forms of testing to ensure compliance. Defendant shall participate in substance abuse treatment as recommended, abide by the rules of any program and remain in treatment until satisfactorily discharged.

The defendant shall refrain from all gambling activities, legal or otherwise. The defendant shall attend Gambles Anonymous, or similar treatment, and remain in treatment until satisfactorily discharged.

DEFENDANT: Little, Leon
CASE NUMBER: DPAE2:13CR00582-001

CRIMINAL MONETARY PENALTIES

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

	Assessment	JVTA Assessment*	Fine	Restitution
TOTALS	$ 5,000.00	$ N/A	$ 50,000.00	$ N/A

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

Name of Payee	Total Loss**	Restitution Ordered	Priority or Percentage

TOTALS $ $

☐ Restitution amount ordered pursuant to plea agreement $

X 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 ☐ fin ☐ restitution.

☐ the interest requirement for ☐ 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: Little, Leon
CASE NUMBER: DPAE2:13CR00582-001

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 $ _____ due immediately, balance due

☐ not later than _____, or
☐ in accordance with ☐ C ☐ D, ☐ E, or ☐ F below; or

B X Payment to begin immediately (may be combined with ☐ C, ☐ D, or X 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 X Special instructions regarding the payment of criminal monetary penalties:

If defendant should become employed while incarcerated then monies earned may be applied to his Court-ordered financial obligations at a minimum rate of $25.00 per quarter. All remaining balances of Court-ordered financial obligations shall become a condition of defendant's supervised release and paid at a rate of no less than $100.00 per month. Payments shall begin 60 days upon defendant's release from custody.

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

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

☐ Joint and Several

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

☐ The defendant shall pay the cost of prosecution.

☐ The defendant shall pay the following court cost(s):

X The defendant shall forfeit the defendant's interest in the following property to the United States:
$2,825,045 in United States currency

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.

CMR

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	**CRIMINAL NO. 13-582**
v.	:	**DATE FILED: May 4, 2016**
LEON LITTLE,	:	**VIOLATIONS:**
a/k/a "Bo,"		**21 U.S.C. § 846 (conspiracy to distribute**
a/k/a "Lebo,"	:	**controlled substances - 1 count)**
a/k/a "Big Homey,"		**21 U.S.C. § 841(a)(1) (distribution of**
COLISE HARMON,	:	**oxycodone - 24 counts)**
a/k/a "Khali,"		**21 U.S.C. § 843(a)(3) (acquiring a**
BRENDIN STRAND	:	**controlled substance by fraud - 9 counts)**
		18 U.S.C. § 1957 (engaging in an unlawful
	:	**monetary transaction – 1 count)**
		18 U.S.C. § 1956 (money laundering – 15
	:	**counts)**
		18 U.S.C. § 2 (aiding and abetting)
	:	**Notices of forfeiture**

THIRD SUPERSEDING INDICTMENT

COUNT ONE

THE GRAND JURY CHARGES THAT:

At all times material to this Indictment:

BACKGROUND

1. The Controlled Substances Act governs the manufacture, distribution, and dispensing of controlled substances in the United States. Under the Controlled Substances Act, there are five schedules of controlled substances – Schedules I, II, III, IV, and V. Controlled substances are scheduled into these levels based upon their potential for abuse or dependence, among other things. Schedule I contains the most dangerous drugs that have the highest potential

for abuse or dependence, and Schedule V contains the least dangerous controlled substances.

2. Oxycodone is a narcotic analgesic that is similar to morphine and is classified as a Schedule II controlled substance, sometimes prescribed under the brand name Oxycontin. Oxycodone is used to treat severe pain, and, even if taken only in prescribed amounts, can cause physical and psychological dependence when taken for a long time. Oxycodone is used in pain relief drugs in varying strengths, including 5, 10, 30, 40, 60, and 80 milligram amounts. For example, Percocet is manufactured by numerous pharmaceutical companies under the following brand names: Endocet, Roxicet, Roxilox and Tylox. Percocet, which contains 10 milligrams of oxycodone, is used to treat moderate to moderately severe pain, and contains two drugs, oxycodone and acetaminophen. Even if taken only in prescribed amounts, pills containing amounts as low as 10 milligrams of oxycodone can cause physical and psychological dependence when taken for a long time.

THE CONSPIRACY

3. From in or about July 2010 through in or about August 2012, in the Eastern District of Pennsylvania, defendants

LEON LITTLE,
a/k/a "Bo,"
a/k/a "Lebo,"
a/k/a "Big Homey,"
COLISE HARMON,
a/k/a "Khali," and
BRENDIN STRAND

conspired and agreed together with others known and unknown to the grand jury, to knowingly and intentionally distribute a mixture and substance containing a detectable amount of oxycodone, a Schedule II controlled substance, and a mixture and substance containing a detectable amount of

alprazolam, a Schedule IV controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1), (b)(1)(C), (b)(2).

MANNER AND MEANS

It was part of the conspiracy that:

4. Defendant LEON LITTLE ran the LITTLE DRUG ORGANIZATION (LDO) that operated in Philadelphia, Pennsylvania and distributed oxycodone and alprazolam in Philadelphia, Pennsylvania and elsewhere.

5. The LDO recruited individuals known and unknown to the grand jury to pose as legitimate patients (hereinafter referred to as "pseudo-patient") and obtain prescriptions for controlled substances, specifically, pills containing oxycodone, a Schedule II controlled substance, and alprazolam, a Schedule IV controlled substance.

6. The LDO scheduled appointments for pseudo-patients at the medical office of L.B., a licensed physician known to the grand jury, located in Bala Cynwyd, Pennsylvania.

7. The LDO transported pseudo-patients to and/or from L.B.'s medical office and various pharmacies in Philadelphia, Pennsylvania so they could obtain oxycodone and alprazolam tablets.

8. The LDO paid the office visit charges at L.B.'s medical office and the costs for the prescriptions at the pharmacies for the pseudo-patients. The LDO also paid the pseudo-patients for obtaining and transferring the oxycodone and alprazolam tablets to LDO associates.

9. The LDO procured prescriptions for oxycodone using L.B.'s prescription pad and without L.B.'s consent. The LDO distributed the forged prescriptions to pseudo-patients

and paid the costs for the forged prescriptions at the pharmacies for the pseudo-patients. The LDO also paid the pseudo-patients for obtaining and transferring the oxycodone to LDO associates.

10. After collecting the pills from the pseudo-patients, the LDO counted and packaged the pills for redistribution and sold the pills to others.

11. Defendant LEON LITTLE was assisted in the operation of the LDO by the following conspirators, and others known and unknown to the grand jury:

a Defendant COLISE HARMON, as well as James Alexander and John Baldwin, charged elsewhere, transported pseudo-patients to and/or from L.B.'s medical office and various pharmacies, provided money to pseudo-patients to pay for charges at L.B.'s medical office and the costs for the prescriptions at the pharmacies, and paid pseudo-patients for obtaining and transferring oxycodone and alprazolam tablets to the LDO. Defendant HARMON, as well as Alexander and Baldwin, also pretended to be a pseudo-patient and obtained oxycodone tablets through the use of prescriptions that they obtained from L.B. and others.

b. Heather Herzstein, charged elsewhere, scheduled appointments for pseudo-patients at the medical office of L.B. Herzstein also prepared prescriptions for oxycodone using L.B.'s prescription pad and without L.B.'s consent and distributed the forged prescriptions to the LDO. Herzstein falsely verified with pharmacies that the forged prescriptions received from LDO pseudo-patients were legitimate.

c. Defendant BRENDIN STRAND received oxycodone pills from defendant LEON LITTLE as well as from John Baldwin at the direction of defendant LITTLE. Defendant STRAND subsequently distributed the pills to customers, including customers in

Delaware. Defendant LITTLE provided the pills to defendant STRAND on consignment, which allowed defendant STRAND to pay defendant LITTLE with the drug proceeds from the sale of the pills.

12. Defendant LEON LITTLE paid defendant COLISE HARMON, Heather Herzstein, James Alexander, and John Baldwin, as well as others known and unknown to the grand jury, a fee for their participation in the scheduling, transportation and/or coordination of pseudo-patients.

13. Defendants LEON LITTLE, COLISE HARMON, BRENDIN STRAND, James Alexander, and John Baldwin, as well as others known and unknown to the grand jury, used residences to meet with each other, and to collect, process, store and/or distribute the narcotics and drug proceeds.

14. Defendants LEON LITTLE, COLISE HARMON, BRENDIN STRAND, Heather Herzstein, James Alexander, and John Baldwin, as well as others known and unknown to the grand jury, used telephones to communicate with each other regarding the scheduling, transportation and/or coordination of pseudo-patients, as well as the collection, processing, storing and/or distribution of oxycodone and drug proceeds.

OVERT ACTS

In furtherance of the conspiracy and to accomplish its object, defendants LEON LITTLE, COLISE HARMON, BRENDIN STRAND, and others known and unknown to the grand jury, committed the following overt acts, among others, in the Eastern District of Pennsylvania:

1. On or about the dates listed in the chart below, at various pharmacies throughout Philadelphia, defendant LEON LITTLE obtained oxycodone tablets, in the dosages

and quantities listed below, through the use of prescriptions that he obtained from L.B. and Heather Herzstein, each date constituting a separate overt act, and, after obtaining the oxycodone tablets, re-distributed the oxycodone tablets:

Overt Act	*Date*	*Rx Number*	*Dosage*	*Quantity*	*Location*
A	8/3/2010	N40292	10 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	8/3/2010	N40293	80 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
B	10/8/2010	2585328	10 mg	120	Philly Pharmacy, 210 Market Street
	10/8/2010	2585329	30 mg	120	Philly Pharmacy, 210 Market Street
C	11/1/2010	N47974	10 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	11/1/2010	N47973	30 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	11/1/2010	2586496	10 mg	120	Philly Pharmacy, 210 Market Street
	11/1/2010	2586495	30 mg	120	Philly Pharmacy, 210 Market Street
D	12/2/2010	550925	10 mg	120	Pharmacy of America, 1500 E. Erie Ave.
	12/2/2010	550924	30 mg	120	Pharmacy of America, 1500 E. Erie Ave.
E	12/13/2010	N51764	10 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	12/13/2010	N51765	30 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
F	12/30/2010	N53272	10 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	12/30/2010	N53273	30 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	12/30/2010	554965	10 mg	120	Pharmacy of America, 1500 E. Erie Ave.
	12/30/2010	554966	30 mg	120	Pharmacy of America, 1500 E. Erie Ave.

G	1/27/2011	559366	10 mg	120	Pharmacy of America, 1500 E. Erie Ave.
	1/27/2011	559367	30 mg	120	Pharmacy of America, 1500 E. Erie Ave.
	1/27/2011	2591086	10 mg	120	Philly Pharmacy, 210 Market Street
	1/27/2011	2591085	30 mg	120	Philly Pharmacy, 210 Market Street
H	3/14/2011	N60371	10 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	3/14/2011	N60370	30 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	3/14/2011	566766	10 mg	120	Pharmacy of America, 1500 E. Erie Ave.
	3/14/2011	566765	30 mg	120	Pharmacy of America, 1500 E. Erie Ave.
I	4/18/2011	572848	10 mg	120	Pharmacy of America, 1500 E. Erie Ave.
	4/18/2011	572846	30 mg	120	Pharmacy of America, 1500 E. Erie Ave.

2. On or about the dates listed in the chart below, at various pharmacies throughout Philadelphia, defendant COLISE HARMON obtained oxycodone tablets, in the dosages and quantities listed below, through the use of prescriptions that he obtained from L.B. and others, each date constituting a separate overt act, and, after obtaining the oxycodone tablets, distributed the oxycodone tablets to defendant LEON LITTLE or one of defendant LITTLE's workers for re-distribution:

Overt Act	***Date***	***Rx Number***	***Dosage***	***Quantity***	***Location***
A	8/10/2010	N40850	10 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	8/10/2010	N40849	80 mg	130	Northeast Pharmacy, 6730 Bustleton Ave.

B	10/11/2010	N46134	10 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	10/11/2010	N46133	30 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
C	11/1/2010	N47962	10 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	11/1/2010	N47963	30 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
D	11/2/2010	2586553	10 mg	120	Philly Pharmacy, 210 Market Street
	11/2/2010	2586552	30 mg	120	Philly Pharmacy, 210 Market Street
E	11/29/2010	2588085	10 mg	120	Philly Pharmacy, 210 Market Street
	11/29/2010	2588086	30 mg	120	Philly Pharmacy, 210 Market Street
F	11/30/2010	N50436	30 mg	135	Northeast Pharmacy, 6730 Bustleton Ave.
G	12/2/2010	N50637	10 mg	135	Northeast Pharmacy, 6730 Bustleton Ave.
H	12/8/2010	551742	10 mg	120	Pharmacy of America, 1500 E. Erie Ave.
	12/8/2010	551741	30 mg	120	Pharmacy of America, 1500 E. Erie Ave.
I	12/27/2010	554563	10 mg	120	Pharmacy of America, 1500 E. Erie Ave.
	12/27/2010	554564	30 mg	120	Pharmacy of America, 1500 E. Erie Ave.
J	12/28/2010	N53006	10 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	12/28/2010	N53005	30 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
K	12/29/2010	2589405	30 mg	120	Philly Pharmacy, 210 Market Street
L	1/24/2011	558953	10 mg	120	Pharmacy of America, 1500 E. Erie Ave.
	1/24/2011	558952	30 mg	120	Pharmacy of America, 1500 E. Erie Ave.
M	1/25/2011	N55738	10 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	1/25/2011	N55737	30 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.

N	1/27/2011	2591079	10 mg	120	Philly Pharmacy, 210 Market Street
	1/27/2011	2591078	30 mg	120	Philly Pharmacy, 210 Market Street
O	2/25/2011	N58756	10 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	2/25/2011	N58757	30 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	2/25/2011	563980	10 mg	120	Pharmacy of America, 1500 E. Erie Ave.
	2/25/2011	563979	30 mg	120	Pharmacy of America, 1500 E. Erie Ave.
	2/25/2011	2592710	10 mg	120	Philly Pharmacy, 210 Market Street
	2/25/2011	2592709	30 mg	180	Philly Pharmacy, 210 Market Street

3. On or about the dates listed in the chart below, defendant LEON LITTLE obtained oxycodone tablets, in the dosages and quantities listed below, through the use of the forged prescriptions obtained from Heather Herzstein, with each date constituting a separate overt act:

Overt Act	***Date***	***Rx Number***	***Dosage***	***Quantity***	***Location***
A	11/1/2010	N47974	10 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	11/1/2010	N47973	30 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
B	12/13/2010	N51764	10 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	12/13/2010	N51765	30 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
C	12/30/2010	N53272	10 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	12/30/2010	N53273	30 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.

D	1/27/2011	2591086	10 mg	120	Philly Pharmacy, 210 Market Street
	1/27/2011	2591085	30 mg	120	Philly Pharmacy, 210 Market Street
E	3/14/2011	N60371	10 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	3/14/2011	N60370	30 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.

4. On or about the dates listed in the chart below, defendant COLISE HARMON obtained oxycodone tablets, in the dosages and quantities listed below, through the use of the forged prescriptions obtained from defendant LEON LITTLE and Heather Herzstein, with each date constituting a separate overt act:

Overt Act	***Date***	***Rx Number***	***Dosage***	***Quantity***	***Location***
A	11/2/2010	2586553	10 mg	120	Philly Pharmacy, 210 Market Street
	11/2/2010	2586552	30 mg	120	Philly Pharmacy, 210 Market Street
B	12/28/2010	N53006	10 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	12/28/2010	N53005	30 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
C	1/25/2011	N55738	10 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	1/25/2011	N55737	30 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
D	2/25/2011	N58756	10 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	2/25/2011	N58757	30 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.

5. On or about March 17, 2011, defendant BRENDIN STRAND drove to Philadelphia to receive oxycodone pills from the LDO. Defendant STRAND subsequently communicated with customers in text messages that he had oxycodone pills for sale.

6. On or about April 3, 2011, defendant BRENDIN STRAND drove to Philadelphia to receive oxycodone pills from the LDO. The next day, defendant STRAND communicated with customers in text messages that he had oxycodone pills for sale.

On or about May 9, 2011

7. At approximately 12:49 p.m., A.H, a person known to the grand jury, sent a text message to defendant BRENDIN STRAND stating, "I need more Jawns," meaning he needed a re-supply of oxycodone pills.

8. Between approximately 8:54 p.m. and 10:32 p.m., John Baldwin, at defendant LEON LITTLE's instruction, spoke to defendant BRENDIN STRAND by telephone to arrange a meeting location and time in Philadelphia to receive oxycodone pills from John Baldwin and provide cash to John Baldwin from the sale of oxycodone pills.

9. Shortly after approximately 10:32 p.m., at defendant LEON LITTLE's instruction, John Baldwin met with defendant BRENDIN STRAND to transfer oxycodone pills and receive cash from defendant STRAND.

10. On or about March 13, 2012, at the instruction of defendant LEON LITTLE, James Alexander met with John Baldwin to transfer narcotics obtained by pseudo-patients of the LDO who James Alexander had transported from L.B.'s medical office to a pharmacy.

On or about March 15, 2012:

11. At the instruction of defendant LEON LITTLE, James Alexander met with John Baldwin to transfer narcotics obtained by pseudo-patients of the LDO who James Alexander had transported from L.B.'s medical office to and from a pharmacy.

12. At the direction of defendant LEON LITTLE, James Alexander transferred to John Baldwin approximately 330 pills each containing 30 milligrams of oxycodone, a Schedule II narcotic, 160 pills each containing 10 milligrams of oxycodone, a Schedule II narcotic, and the pill bottles in the names of pseudo-patients Edward Jones and Anthony Minnick, charged elsewhere.

On or about April 2, 2012:

13. At the instruction of defendant LEON LITTLE, James Alexander met with John Baldwin to transfer narcotics obtained by pseudo-patients of the LDO who James Alexander had transported from L.B.'s medical office to and from a pharmacy.

14. James Alexander transferred to John Baldwin approximately 120 pills each containing 30 milligrams of oxycodone, a Schedule II narcotic, 120 pills each containing 10 milligrams of oxycodone, a Schedule II narcotic, and the pill bottles in the name of pseudo-patient Carla Trippett, charged elsewhere.

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

COUNTS TWO THROUGH TEN

THE GRAND JURY FURTHER CHARGES THAT:

On or about each of the dates listed in the chart below, in Philadelphia, in the Eastern District of Pennsylvania, defendants

LEON LITTLE,
a/k/a "Bo,"
a/k/a "Lebo,"
a/k/a "Big Homey,"

knowingly and intentionally distributed, and aided and abetted the distribution of, a mixture and substance containing a detectable amount of oxycodone, a Schedule II controlled substance, in the dosages and quantities specified below, with each date constituting a separate count:

Count	*Date*	*Rx Number*	*Dosage*	*Quantity*	*Location*
2	8/3/2010	N40292	10 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	8/3/2010	N40293	80 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
3	10/8/2010	2585328	10 mg	120	Philly Pharmacy, 210 Market Street
	10/8/2010	2585329	30 mg	120	Philly Pharmacy, 210 Market Street
4	11/1/2010	N47974	10 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	11/1/2010	N47973	30 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	11/1/2010	2586496	10 mg	120	Philly Pharmacy, 210 Market Street
	11/1/2010	2586495	30 mg	120	Philly Pharmacy, 210 Market Street
5	12/2/2010	550925	10 mg	120	Pharmacy of America, 1500 E. Erie Ave.
	12/2/2010	550924	30 mg	120	Pharmacy of America, 1500 E. Erie Ave.

6	12/13/2010	N51764	10 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	12/13/2010	N51765	30 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
7	12/30/2010	N53272	10 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	12/30/2010	554965	10 mg	120	Pharmacy of America, 1500 E. Erie Ave.
	12/30/2010	N53273	30 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	12/30/2010	554966	30 mg	120	Pharmacy of America, 1500 E. Erie Ave.
8	1/27/2011	559366	10 mg	120	Pharmacy of America, 1500 E. Erie Ave.
	1/27/2011	2591086	10 mg	120	Philly Pharmacy, 210 Market Street
	1/27/2011	559367	30 mg	120	Pharmacy of America, 1500 E. Erie Ave.
	1/27/2011	2591085	30 mg	120	Philly Pharmacy, 210 Market Street
9	3/14/2011	N60371	10 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	3/14/2011	566766	10 mg	120	Pharmacy of America, 1500 E. Erie Ave.
	3/14/2011	N60370	30 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	3/14/2011	566765	30 mg	120	Pharmacy of America, 1500 E. Erie Ave.
10	4/18/2011	572848	10 mg	120	Pharmacy of America, 1500 E. Erie Ave.
	4/18/2011	572846	30 mg	120	Pharmacy of America, 1500 E. Erie Ave.

All in violation of Title 21, United States Code, Section 841(a)(1), (b)(1)(C), and Title 18, United States Code, Section 2.

COUNTS ELEVEN THROUGH FIFTEEN

THE GRAND JURY FURTHER CHARGES THAT:

On or about each of the dates listed in the chart below, in Philadelphia, in the Eastern District of Pennsylvania, defendants

LEON LITTLE,
a/k/a "Bo,"
a/k/a "Lebo,"
a/k/a "Big Homey,"

knowingly and intentionally acquired, and aided and abetted the acquisition of, oxycodone, a Schedule II controlled substance, by misrepresentation, fraud, forgery, deception, and subterfuge, that is, defendant LITTLE presented, and aided and abetted the presentation of, fraudulent prescriptions for oxycodone tablets in the dosages and quantities specified below, which were created without the knowledge or permission of the physician to whom the prescriptions were attributed and signed with forgeries of the physician's signature, with each date constituting a separate count:

Count	*Date*	*Rx Number*	*Dosage*	*Quantity*	*Location*
11	11/1/2010	N47974	10 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	11/1/2010	N47973	30 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
12	12/13/2010	N51764	10 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	12/13/2010	N51765	30 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
13	12/30/2010	N53272	10 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	12/30/2010	N53273	30 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.

14	1/27/2011	2591086	10 mg	120	Philly Pharmacy, 210 Market Street
	1/27/2011	2591085	30 mg	120	Philly Pharmacy, 210 Market Street
15	3/14/2011	N60371	10 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	3/14/2011	N60370	30 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.

All in violation of Title 21, United States Code, Section 843(a)(3), and Title 18, United States Code, Section 2.

COUNTS SIXTEEN THROUGH THIRTY

THE GRAND JURY FURTHER CHARGES THAT:

On or about of the dates listed in the chart below, in Philadelphia, in the Eastern District of Pennsylvania, defendants

LEON LITTLE,
a/k/a "Bo,"
a/k/a "Lebo,"
a/k/a "Big Homey," and
COLISE HARMON,
a/k/a "Khali,"

knowingly and intentionally distributed, and aided and abetted the distribution of, a mixture and substance containing a detectable amount of oxycodone, a Schedule II controlled substance, in the dosages and quantities specified below, with each date constituting a separate count:

Count	*Date*	*Rx Number*	*Dosage*	*Quantity*	*Location*
16	8/10/2010	N40850	10 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	8/10/2010	N40849	80 mg	130	Northeast Pharmacy, 6730 Bustleton Ave.
17	10/11/2010	N46134	10 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	10/11/2010	N46133	30 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
18	11/1/2010	N47962	10 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	11/1/2010	N47963	30 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
19	11/2/2010	2586553	10 mg	120	Philly Pharmacy, 210 Market Street
	11/2/2010	2586552	30 mg	120	Philly Pharmacy, 210 Market Street

20	11/29/2010	2588085	10 mg	120	Philly Pharmacy, 210 Market Street
	11/29/2010	2588086	30 mg	120	Philly Pharmacy, 210 Market Street
21	11/30/2010	N50436	30 mg	135	Northeast Pharmacy, 6730 Bustleton Ave.
22	12/2/2010	N50637	10 mg	135	Northeast Pharmacy, 6730 Bustleton Ave.
23	12/8/2010	551742	10 mg	120	Pharmacy of America, 1500 E. Erie Ave.
	12/8/2010	551741	30 mg	120	Pharmacy of America, 1500 E. Erie Ave.
24	12/27/2010	554563	10 mg	120	Pharmacy of America, 1500 E. Erie Ave.
	12/27/2010	554564	30 mg	120	Pharmacy of America, 1500 E. Erie Ave.
25	12/28/2010	N53006	10 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	12/28/2010	N53005	30 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
26	12/29/2010	2589405	30 mg	120	Philly Pharmacy, 210 Market Street
27	1/24/2011	558953	10 mg	120	Pharmacy of America, 1500 E. Erie Ave.
	1/24/2011	558952	30 mg	120	Pharmacy of America, 1500 E. Erie Ave.
28	1/25/2011	N55738	10 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	1/25/2011	N55737	30 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
29	1/27/2011	2591079	10 mg	120	Philly Pharmacy, 210 Market Street
	1/27/2011	2591078	30 mg	120	Philly Pharmacy, 210 Market Street

30	2/25/2011	N58756	10 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	2/25/2011	N58757	30 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	2/25/2011	563980	10 mg	120	Pharmacy of America, 1500 E. Erie Ave.
	2/25/2011	563979	30 mg	120	Pharmacy of America, 1500 E. Erie Ave.
	2/25/2011	2592710	10 mg	120	Philly Pharmacy, 210 Market Street
	2/25/2011	2592709	30 mg	180	Philly Pharmacy, 210 Market Street

All in violation of Title 21, United States Code, Section 841(a)(1), (b)(1)(C), and Title 18, United States Code, Section 2.

COUNTS THIRTY-ONE THROUGH THIRTY-FOUR

THE GRAND JURY FURTHER CHARGES THAT:

On or about each of the dates listed in the chart below, in Philadelphia, in the Eastern District of Pennsylvania, defendants

LEON LITTLE,
a/k/a "Bo,"
a/k/a "Lebo,"
a/k/a "Big Homey," and
COLISE HARMON,

knowingly and intentionally acquired, and aided and abetted the acquisition of, oxycodone, a Schedule II controlled substance, by misrepresentation, fraud, forgery, deception, and subterfuge, that is, defendants LITTLE and HARMON presented, and aided and abetted the presentation of, fraudulent prescriptions for oxycodone tablets in the dosages and quantities specified below, which were created without the knowledge or permission of the physician to whom the prescriptions were attributed and signed with forgeries of the physician's signature, with each date constituting a separate count:

Count	*Date*	*Rx Number*	*Dosage*	*Quantity*	*Location*
31	11/2/2010	2586553	10 mg	120	Philly Pharmacy, 210 Market Street
	11/2/2010	2586552	30 mg	120	Philly Pharmacy, 210 Market Street
32	12/28/2010	N53006	10 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	12/28/2010	N53005	30 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
33	1/25/2011	N55738	10 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	1/25/2011	N55737	30 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.

34	2/25/2011	N58756	10 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.
	2/25/2011	N58757	30 mg	120	Northeast Pharmacy, 6730 Bustleton Ave.

All in violation of Title 21, United States Code, Section 843(a)(3), and Title 18, United States Code, Section 2.

COUNT THIRTY-FIVE

THE GRAND JURY FURTHER CHARGES THAT:

On or about March 18, 2011, in Bensalem, in the Eastern District of Pennsylvania, defendant

LEON LITTLE,
a/k/a "Bo,"
a/k/a "Lebo,"
a/k/a "Big Homey,"

knowingly engaged in, and aided, abetted and willfully caused, a monetary transaction affecting interstate commerce in criminally derived property of a value greater than $10,000, that is the purchase of a 2010 Can-Am Spyder, VIN: 2BXJAKA18AV000122, for $15,548.46 from East Coast Cycle Center, and such property was derived from a specified unlawful activity, that is, drug trafficking, in violation of Title 21, United States Code, Section 841(a)(1).

In violation of Title 18, United States Code, Sections 1957 and 2.

COUNTS THIRTY-SIX THROUGH FIFTY

THE GRAND JURY FURTHER CHARGES THAT:

1. On or about the dates set forth below, in the Eastern District of Pennsylvania, defendant

LEON LITTLE,
a/k/a "Bo,"
a/k/a "Lebo,"
a/k/a "Big Homey,"

knowingly conducted, and aided, abetted and willfully caused, the following financial transactions affecting interstate commerce, with each transaction constituting a separate count:

Count	Date	Financial Institution	Description	Account Number Ending
36	November 17, 2011	Beneficial Bank, Philadelphia	$9,000 cash deposit and issuance of $9,000 check	2825
37	November 17, 2011	TD Bank, Philadelphia	$9,000 check deposit	6160
38	November 17, 2011	Citizen's Bank, Philadelphia	$9,000 cash deposit and issuance of $9,000 check	1141
39	November 17, 2011	TD Bank, Philadelphia	$9,000 check deposit	6152
40	November 17, 2011	Boeing Helicopter Credit Union, Ridley	$26,970 cash deposit and issuance of $27,000 check	0966
41	November 17, 2011	Bank of America, Philadelphia	$10,000 cash deposit	7338
42	November 17, 2011	Bank of America, Philadelphia	$10,000 cash deposit	8994
43	November 18, 2011	Bank of America, Philadelphia	$10,000 cash deposit	7338
44	November 18, 2011	Bank of America, Philadelphia	$10,000 cash deposit	8994

Count	Date	Financial Institution	Description	Account Number Ending
45	November 21, 2011	Bank of America, Philadelphia	$20,000 transfer	8994
46	November 21, 2011	Bank of America, Philadelphia	$40,000 check deposit	3134
47	November 22, 2011	Beneficial Bank, Philadelphia	$9,000 check deposit	2825
48	November 22, 2011	Beneficial Bank, Philadelphia	$5,040 check deposit	2825
49	November 22, 2011	Bank of America, Philadelphia	$27,000 check deposit	3134
50	November 30, 2011	Bank of America, Philadelphia	$14,000 check deposit	3354

2. When conducting, and aiding, abetting and willfully causing, the financial transactions described in paragraph 1 above, defendant LEON LITTLE knew that the property involved in those financial transactions represented the proceeds of some form of unlawful activity.

3. The financial transactions described in paragraph 1 above involved the proceeds of a specified unlawful activity, that is, drug trafficking, in violation of Title 21, United States Code, Section 841(a)(1), and defendant LEON LITTLE acted knowing that the transaction was designed in whole and in part to conceal and disguise the nature, location, source, ownership and control of the proceeds of the specified unlawful activity.

All in violation of Title 18, United States Code, Sections 1956(a)(1)(B)(i) and 2.

NOTICE OF FORFEITURE #1

THE GRAND JURY FURTHER CHARGES THAT:

1. As a result of the violations of Title 21, United States Code, Sections 846, 841(a)(1) and 843(a)(3), set forth in this superseding indictment, defendants

LEON LITTLE,
a/k/a "Bo,"
a/k/a "Lebo,"
a/k/a "Big Homey,"
COLISE HARMON,
a/k/a "Khali," and
BRENDIN STRAND

shall forfeit to the United States of America:

(a) any property used or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such offenses, including, but not limited to, $9,700; and

(b) any property constituting, or derived from, proceeds obtained directly or indirectly from the commission of such offenses, including, but not limited to:

(1) $3,004,147.50,

(2) a 2010 Can-Am Spyder, VIN: 2BXJAKA18AV000122,

(3) a 2011 Dodge Ram 1500, VIN: 1D7RV1CT5BS603222, and

(4) a 2001 Nissan Xterra, VIN: 5N1ED28Y01C502972.

2. If any of the property subject to forfeiture, as a result of any act or omission of the defendant(s):

(a) cannot be located upon the exercise of due diligence;

(b) has been transferred or sold to, or deposited with, a third party;

(c) has been placed beyond the jurisdiction of the Court;

(d) has been substantially diminished in value; or

(e) has been commingled with other property which cannot be divided without difficulty; it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant(s) up to the value of the property subject to forfeiture.

All pursuant to Title 21, United States Code, Section 853.

NOTICE OF FORFEITURE #2

THE GRAND JURY FURTHER CHARGES THAT:

1. As a result of the violations of Title 18, United States Code, Sections 1956 and 1957, set forth in this superseding indictment, defendant

LEON LITTLE,
a/k/a "Bo,"
a/k/a "Lebo,"
a/k/a "Big Homey,"

shall forfeit to the United States of America any and all property involved in such offense, and any property traceable to such property, including, but not limited to:

(a) $15,548.46,

(b) $9,000,

(c) $9,000,

(d) $26,970,

(e) $10,000,

(f) $10,000,

(g) $10,000, and

(h) $10,000.

2. If any of the property subject to forfeiture, as a result of any act or omission of the defendant:

(a) cannot be located upon the exercise of due diligence;

(b) has been transferred or sold to, or deposited with, a third party;

(c) has been placed beyond the jurisdiction of the Court;

(d) has been substantially diminished in value; or

(e) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 18, United States Code, Section 982(b), incorporating Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendants up to the value of the property subject to forfeiture.

All pursuant to Title 18, United States Code, Section 982.

A TRUE BILL:

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FOREPERSON

ZANE DAVID MEMEGER
United States Attorney

CERTIFICATE OF SERVICE

I, Susan M. Lin, hereby certify that I have, this 1st day of March, 2023, served, in the manner noted below, true and correct copies of the attached (1) Motion to Proceed In Forma Pauperis and (2) Petition for Writ of Certiorari upon counsel for the Respondents:

Via First-Class Mail and Electronic Mail:
Matthew Newcomer
Assistant United States Attorney
Eastern District of Pennsylvania
615 Chestnut Street, Suite 1250
Philadelphia, PA 19106
Matthew.newcomer@usdoj.gov

/s/ Susan M. Lin

Susan M. Lin