

NO. _____

IN THE SUPREME COURT OF THE UNITED STATES

TERRINDEZ XSIDRICK BRYANT, *Petitioner*,

v.

UNITED STATES OF AMERICA, *Respondent*.

APPENDIX A

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

**Wesley P. Page
Federal Public Defender**

**Jonathan D. Byrne
Appellate Counsel
*Counsel of Record***

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Counsel for Petitioner

2022 WL 17750684

Only the Westlaw citation is currently available.
United States Court of Appeals, Fourth Circuit.

UNITED STATES of America, Plaintiff - Appellee,
v.
Terrindez Xsidrick BRYANT, Defendant - Appellant.

No. 21-4460

|

Submitted: September 30, 2022

|

Decided: December 19, 2022

Appeal from the United States District Court for the Southern District of West Virginia, at Charleston. [David A. Faber](#), Senior District Judge. (2:19-cr-00244-1)

Attorneys and Law Firms

ON BRIEF: [Wesley P. Page](#), Federal Public Defender, [David R. Bungard](#), Assistant Federal Public Defender, Jonathan D. Byrne, OFFICE OF THE FEDERAL PUBLIC DEFENDER, Charleston, West Virginia, for Appellant. [William S. Thompson](#), United States Attorney, [Ryan A. Keefe](#), Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Charleston, West Virginia, for Appellee.

Before [NIEMEYER](#) and [RUSHING](#), Circuit Judges, and [KEENAN](#), Senior Circuit Judge.

Opinion

Affirmed by unpublished per curiam opinion.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

*1 Terrindez Xsidrick Bryant appeals his 84-month sentence imposed following a guilty plea to distribution of five grams or more of methamphetamine, in violation of [F21 U.S.C. § 841\(a\)\(1\)](#). On appeal, Bryant challenges the procedural reasonableness of his sentence, contending that the district court failed to address the merits of his argument for a downward variant sentence based on the disparate treatment of methamphetamine offenses under the Sentencing Guidelines. We affirm.

We “review all sentences—whether inside, just outside, or significantly outside the Guidelines range—under a deferential abuse-of-discretion standard.”  [United States v. Torres-Reyes, 952 F.3d 147, 151 \(4th Cir. 2020\)](#) (cleaned up). In conducting this review, we must first ensure that the sentence is procedurally reasonable, “consider[ing] whether the district court properly calculated the defendant's advisory [G]uidelines range, gave the parties an opportunity to argue for an appropriate sentence, considered the  [18 U.S.C. § 3553\(a\)](#) factors, and sufficiently explained the selected sentence.” *Id.* (internal quotation marks omitted). If “the district court has not committed procedural error,” we then assess the substantive reasonableness of the sentence. [United States v. Nance, 957 F.3d 204, 212 \(4th Cir. 2020\)](#).^{*}

^{*} Bryant does not lodge a separate substantive reasonableness challenge on appeal.

To meet the procedural reasonableness standard, the district court must make an individualized assessment based on the facts presented, state in open court the reasons supporting its chosen sentence, address the parties' non-frivolous arguments in favor of a particular sentence, and, if it rejects them, explain why in a manner allowing for meaningful appellate review.  [United States v. Provance, 944 F.3d 213, 218 \(4th Cir. 2019\)](#). “The adequacy of the sentencing court's explanation depends on the complexity of each case.”  [United States v. Blue, 877 F.3d 513, 518 \(4th Cir. 2017\)](#). “The appropriateness of brevity or length, conciseness or detail, when to write, what to say, depends upon the circumstances.” *Id.* (internal quotation marks omitted). “The sentencing court's explanation need not be extensive, but the record must make clear that the judge actually listened to, considered, and rendered a decision on the[parties'] arguments such that [we] can conduct a meaningful review of the sentence imposed.” [United States v. Harris, 890 F.3d 480, 485 \(4th Cir. 2018\)](#). Generally, an “explanation is sufficient if it, although somewhat briefly, outlines the defendant's particular history and characteristics not merely in passing or after the fact, but as part of its analysis of the statutory factors and in response to defense counsel's arguments” in mitigation.  [Blue, 877 F.3d at 519 \(cleaned up\)](#).

In evaluating a sentence, we “may not guess at the district court's rationale, searching the record for statements by the Government or defense counsel or for any other clues that might explain a sentence.”  [United States v. Ross, 912 F.3d 740, 745 \(4th Cir. 2019\)](#) (internal quotation marks omitted). In certain circumstances, however, “[t]he context surrounding a district court's explanation may imbue it with enough content for us to evaluate both whether the court considered the  [§ 3553\(a\)](#) factors and whether it did so properly.” [United States v. Montes-Pineda, 445 F.3d 375, 381 \(4th Cir. 2006\)](#).

^{*2} Although the district court rejected Bryant's argument that it should recalculate his offense level based on perceived discrepancies in the Guidelines, noting its belief that Congress or the Sentencing Commission should be the entities making these official adjustments, the

court recognized its authority to deviate from the Guidelines based on this discrepancy by acknowledging that its brother courts had done so. In declining to follow these courts, the district court did not indicate that it believed the Guidelines were mandatory but rather that granting a variance on the proffered basis was not warranted.

However, the district court explained that it still gave Bryant's arguments "compelling weight" as "at least a mitigating factor" for determining "where [Bryant] should be sentenced within the [G]uidelines." (J.A. 86). The court then imposed a sentence at the low end of the Guidelines range, stating its belief that the chosen sentence "under all the facts and circumstances of this case is sufficient but not greater than necessary to adequately punish the defendant for his serious offense behavior, to instill within the defendant and the public a proper respect for the law, and to provide for a proper period of incapacitation and rehabilitation." (J.A. 93-94). Thus, the court made clear that it had listened to and considered Bryant's arguments, but ultimately weighed them differently than he urged. We find that the district court's explanation for declining to impose a variant sentence does not amount to procedural error.

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

AFFIRMED

All Citations

Not Reported in Fed. Rptr., 2022 WL 17750684

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APPENDIX B

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Counsel for Petitioner

1 In *United States against Cooper*, 410 F. Supp. 3d 769,
2 Judge Goodwin indicated that listing the crime of conspiracy
3 in the commentary does more than interpret or explain the
4 guideline text and instead adds an entirely new offense to
5 the definition of crimes of violence. Thus, the commentary
6 is plainly inconsistent with the text of the guidelines and
7 any inconsistency should be in favor of the text. Similar
8 was the decision by Judge Chambers in *United States v. Bond*,
9 418 F. Supp. 3d 121.

10 I think we've got some pretty clear and district law on
11 this point and I'm going to follow those decisions and I
12 think they're consistent with evolving Circuit Court
13 decisions such as *United States v. Nasir*, N-a-s-i-r, at 982
14 F.3d 144.

15 So, I believe that since this -- the conspiracy here is
16 an inchoate offense and it's not to be included in the
17 definition of predicate crimes where the career offender
18 status under Section 4B1.2(b). Therefore, for all of these
19 reasons, the objection of the government is overruled.

20 Mr. Bungard, did that get it?

21 Mr. Bungard, do you want to address your objections?

22 MR. BUNGARD: Yes, Your Honor. Let me start with
23 the calculation of the Base Offense Level. And the basis
24 for this objection is that with the probation officer's
25 utilization of the ICE guideline the starting Base Offense

1 Level in this case is 26. If it was considered as a mixture
2 of meth, the starting Base Offense Level would drop to an
3 18. So, it's a pretty significant jump here.

4 And the problem with using the ICE guideline, I think,
5 goes back to the fact that when this guideline was created
6 the Sentencing Commission used the same logic that they did
7 when they established the crack cocaine guideline. They set
8 the standard based upon the mandatory minimums that were
9 going to be imposed. So the 10:1 ratio actually comes from
10 the fact that there's a five-year mandatory minimum if you
11 are -- if you are stuck -- if you are caught distributing
12 five grams of ICE versus -- and the same amount -- the
13 amount for mixed meth would be 50 grams. So, that's where
14 the 10:1 comes from. It doesn't come from any empirical
15 study or anything like that. And that type of ratio-based
16 analysis was criticized by the Supreme Court in *Kimbrow*
17 where the 100:1 ratio for crack to powder offenses, that
18 distinction was found not to be reasonable and the District
19 Courts had the discretion to vary downward in that.

20 I would just note that on the crack guideline today
21 there is legislation pending in Congress that may ultimately
22 direct that there is no more disparity between crack and
23 powder, that that actually may go to a 1:1. But the fact
24 that it's taken almost 40 years for that to happen
25 demonstrates that, just the fact that the Sentencing

1 Commission may have decided something years ago doesn't mean
2 it needs to stay the same over time.

3 The other problem is, is that this type of ratio no
4 longer reflects the culpability of someone like Mr. Bryant
5 who was not involved with the production of meth, who was
6 just basically a distributor, and I think if you look at how
7 the cases were initially prosecuted back in the 2000s,
8 anybody that was charged with a meth case was basically
9 making it themselves in their houses. They were using a
10 cook recipe and, half the time, they ended up burning their
11 houses down because they didn't get it right.

12 THE COURT: And injuring their children, right?

13 MR. BUNGARD: And potentially inuring folks, too,
14 that's correct, Your Honor.

15 But the quality of meth that was -- that came out at
16 that time was very poor. It was not -- you didn't get these
17 people on home cooks making ICE. They were lucky to get
18 25-30 percent meth out of it, depending on if they knew what
19 they were doing.

20 But that's not the case today because of the
21 restrictions that the West Virginia Legislature and other
22 states have put on the ability of people to go in and
23 purchase pseudoephedrine. That limits the amount of people
24 that could do home cooks.

25 But the other fact is that meth is being imported today

1 from labs outside of the country. They've brought the price
2 point down to where ICE is no longer the expensive product
3 that it was, and it's cheaper for people to buy it being
4 imported than trying to make it themselves.

5 THE COURT: You've got a lab report in this case
6 that shows that this was ICE, right?

7 MR. BUNGARD: Yes. That's correct, Your Honor,
8 yes. And also, I think I mentioned in my sentencing
9 memorandum that the DEA has said that all samples of meth
10 that came in in 2018 measured 97.2 percent of purity. So,
11 that's the -- that is the product that's on the market right
12 now that people are using. It wasn't like that when the
13 guideline was originally set up, you know, some 20 years
14 ago.

15 The other factor that I would ask the court to consider
16 is that the decision to test for meth purity is arbitrary
17 and it varies case to case depending on whether the lab --
18 the drugs were sent to the West Virginia State Police Lab,
19 which will simply test to see if the product contains
20 methamphetamine. They will not do a purity analysis.

21 If the drugs are sent out of state as they were in this
22 case to a DEA lab, then they are tested for purity. So,
23 you've got some instances where some defendants are subject
24 to this higher purity amount just because of where the lab
25 work was sent, as opposed to anything they did in the case.

1 I would just point out that we do have three district
2 judges in this district that have agreed that the 10:1 ratio
3 is outdated and it's not worthy of deference. And they are
4 sentencing folks treating ICE meth within the mixed meth
5 guideline. So, I would ask the court to consider that.

6 Now, with respect to the second objection that I had
7 with respect to the conversion of money, the first -- the
8 first part of that is that the \$230 that's being considered,
9 the government does not have sufficient evidence to show
10 that that cash actually constituted drug proceeds and the
11 burden is on the government to do that.

12 The case that I cited in my memorandum, the *Hicks* case,
13 had vastly different facts where you had a defendant that
14 had hundreds of thousands of dollars in his house with a lot
15 of drugs and an admission that the cash came from
16 transactions that he had sold drugs in the past.

17 You don't have that evidence here. There's no -- the
18 only drugs that -- there were no drugs found on Mr. Bryant's
19 person when he got pulled over. All the drugs had been left
20 at the house. You know, the sum of \$230 is, I would submit,
21 is an ordinary amount of money that most people probably
22 have in their wallets. It's not automatically something
23 that should be converted to drugs or one would think that
24 that's readily provable that that's drug money.

25 And Mr. Bryant was never questioned by the police about what

1 that money was, so you don't have any information that
2 suggests that the money should be converted.

3 THE COURT: Was he asked about it when he was
4 debriefed after he agreed to plead guilty?

5 MR. BUNGARD: He was not debriefed in this case,
6 Your Honor.

7 THE COURT: Oh, okay.

8 MR. BUNGARD: The other part is to the extent that
9 the court --

10 THE COURT: There's no plea agreement here; is
11 that right?

12 MR. BUNGARD: There is no plea agreement, that's
13 correct.

14 THE COURT: Okay, yeah.

15 MR. BUNGARD: That's correct.

16 And should the court decide to use the ICE guideline,
17 my fallback objection is, if the court is going to consider
18 the cash, that the cash should not be considered as being
19 converted to ICE because, again, there's no evidence that
20 that money came from ICE, as opposed to any other drug.

21 And I would just note that in cases where we've had
22 historical evidence of people being involved in meth in the
23 past or as relevant conduct where there's no lab report that
24 says the purity, that meth is simply treated as a mixture
25 meth. So, here --

1 THE COURT: While there's a thought in my mind, I
2 just said a few minutes ago that I was going to follow the
3 decisions of my brother judges on the -- on the earlier
4 point, the commentary and its impact. I hesitate to follow
5 them on this point. I think this is a different situation.

6 Here -- here, they're just basically arbitrarily
7 changing what the guidelines are and, in that situation,
8 they were making a decision whether and to what effect they
9 should -- to what extent they should give effect to the
10 commentary note. So, I just want to make clear that I think
11 I'm -- my hands aren't tied on this point by the ruling I
12 made on the other point a minute ago. I just want to make
13 that clear on the record.

14 You can go ahead.

21 THE COURT: Okay. Let me hear from the government
22 on these points.

23 MR. KEEFE: Thank you, Your Honor. The government
24 agrees with the Probation Office and the fact remains that
25 the sentencing guideline 2D1.1 is still valid. That's the

1 law. That's -- that's on the books. So, there's really
2 nothing that the government can say about that.

3 And in the government's eye, it's not really the
4 defendant who has been victimized or treated unfairly due to
5 the disparity in terms of the ICE or actual versus the
6 mixture. It's really the communities at large that have
7 been more victimized by more pure meth that's been coming in
8 from out of state, out of country labs and, frankly, the
9 defendant's receiving the benefit of that by selling a
10 better, more potent product.

11 So, the government does believe that this confirmed --
12 I believe it's 87 percent purity methamphetamine ICE should
13 count as ICE.

14 In terms of the money that the defendant was
15 mentioning, the case agent indicated that the defendant had
16 previously sold to the CI for this case about a week or so
17 prior to this offense, prior to him being found with the
18 \$230 on him, in addition to the buy money. And, as the
19 Probation Office notes, the defendant was not employed at
20 the time of this offense. So, the government does believe
21 that this money should be attributed to drug weight.

22 THE COURT: All right. The court is going to
23 sustain the objection to the conversion of the \$230 to
24 methamphetamine weight here. It's a -- it is a rather small
25 amount of money inconsistent with the -- with, in the

1 court's experience, with the amounts of cash that are found
2 on people who are dealing drugs. I think it's a rational
3 argument to say that this may not have come from drug
4 proceeds and I think it has to be proven in order to be
5 counted. I believe there's insufficient proof that it was
6 proceeds of drug sales.

7 The defendant was not questioned about the source of
8 the \$230 by law enforcement. He never admitted it was
9 proceeds from drug dealing. And it's not so large an amount
10 of money for the court to circumstantially conclude it was
11 drug proceeds.

12 So, that objection is sustained. And that reduces the
13 total drug weight here to 28.02 grams resulting in a Base
14 Offense Level of 26.

15 I'm going to deny the objection based on the 10:1
16 calculation. Here, the lab analysis showed that this was
17 pure methamphetamine.

18 I respectfully disagree with my brother judges on the
19 role of the court in situations like this. I think if the
20 perceived unfairness is to be corrected, it's up to Congress
21 and the Sentencing Commission to do so. I have a problem
22 with the courts changing it arbitrarily by their judicial
23 decisions.

24 I think this would amount to an arbitrary judicial
25 amendment of the guidelines and I think if the guidelines

1 are to be amended, Congress and the Sentencing Commission
2 ought to be the ones to do so. So, I'm going to deny that
3 objection.

4 I do think, however, that the argument contains
5 compelling weight and should be considered by the court as
6 at least a mitigating factor when I look at the guidelines
7 and where the defendant should be sentenced within the
8 guidelines.

9 I'm not sure there was a motion for a downward variance
10 based on this argument, but if there is, I think at least by
11 implication there is, and the court would deny any motion
12 for a downward variance here, but I believe that the point
13 here is mitigating and should be given serious consideration
14 in selection of the point within the guidelines where the
15 defendant is to be sentenced.

16 Is there anything else the court needs to rule on
17 before we proceed with the sentencing?

18 MR. KEEFE: No, Your Honor.

19 THE COURT: Mr. Bungard?

20 MR. BUNGARD: No, Your Honor.

21 THE COURT: Mr. Bryant, pursuant to the sentencing
22 guidelines at your original plea hearing, I deferred the
23 adjudication of guilt pending receipt of the Presentence
24 Report.

25 Having now received that report and ruled upon the

NO. _____

IN THE SUPREME COURT OF THE UNITED STATES

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APPENDIX C

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Counsel for Petitioner

UNITED STATES DISTRICT COURT

Southern District of West Virginia

UNITED STATES OF AMERICA

v.

TERRINDEZ XSIDRICK BRYANT

JUDGMENT IN A CRIMINAL CASE

Case Number: 2:19-cr-00244

USM Number: 07666-088

David R. Bungard

Defendant's Attorney

THE DEFENDANT:

 pleaded guilty to count(s) 1 of a 1-count superseding 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:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
21 U.S.C. § 841(a)(1)	Distribution of 5 grams or more of methamphetamine, its salts, isomers, and salts of its isomers	6/24/2019	1

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984. The defendant has been found not guilty on count(s) _____ Count(s) _____ is are dismissed on the motion of the United States.

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

8/16/2021

Date of Imposition of Judgment



Signature of Judge

David A. Faber, Senior United States District Judge

Name and Title of Judge

8/26/2021

Date

DEFENDANT: TERRINDEZ XSIDRICK BRYANT
CASE NUMBER: 2:19-cr-00244

IMPRISONMENT

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

84 months

The court makes the following recommendations to the Bureau of Prisons:

that the defendant (1) be incarcerated at the nearest suitable facility to Logan County, West Virginia; (2) receive intensive drug counseling and treatment, or such drug treatment as may be available; (3) receive a mental health evaluation; and (4) receive an orthopedic evaluation (in regards to problems with his shoulder).

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: TERRINDEZ XSIDRICK BRYANT

CASE NUMBER: 2:19-cr-00244

SUPERVISED RELEASE

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

4 years

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
 - The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in 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: TERRINDEZ XSIDRICK BRYANT
CASE NUMBER: 2:19-cr-00244

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: TERRINDEZ XSIDRICK BRYANT

CASE NUMBER: 2:19-cr-00244

ADDITIONAL STANDARD CONDITIONS OF SUPERVISION

The defendant shall comply with the Standard Conditions of Supervision adopted by the Southern District of West Virginia as contained in Local Rule of Criminal Procedure 32.3 as follows:

- 1) If the offender is unemployed, the probation officer may direct the offender to register and remain active with Workforce West Virginia.
- 2) Offenders shall submit to random urinalysis or any drug screening method whenever the same is deemed appropriate by the probation officer and shall participate in a substance abuse program as directed by the probation officer. Offenders shall not use any method or device to evade a drug screen.
- 3) As directed by the probation officer, the defendant will make copayments for drug testing and drug treatment services at rates determined by the probation officer in accordance with a court-approved schedule based on ability to pay and availability of third-party payments.
- 4) A term of community service is imposed on every offender on supervised release or probation. Fifty hours of community service is imposed on every offender for each year the offender is on supervised release or probation. The obligation for community service is waived if the offender remains fully employed or actively seeks such employment throughout the year.
- 5) The defendant shall not possess a firearm, ammunition, destructive device, or any other 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), and shall reside in a residence free from such items.
- 6) The defendant shall not purchase, possess, or consume any organic or synthetic intoxicants, including bath salts, synthetic cannabinoids, or other designer stimulants.

DEFENDANT: TERRINDEZ XSIDRICK BRYANT
CASE NUMBER: 2:19-cr-00244**CRIMINAL MONETARY PENALTIES**

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

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

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

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

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

<u>Name of Payee</u>	<u>Total Loss***</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
TOTALS	\$ 0.00	\$ 0.00	

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:

* 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: TERRINDEZ XSIDRICK BRYANT
CASE NUMBER: 2:19-cr-00244**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 with C, D, E, or F below; or

B Payment to begin immediately (may be combined with C, D, or F below); or

C Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or

D Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or

E Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or

F Special instructions regarding the payment of criminal monetary penalties:
If not paid immediately, the defendant shall pay any remaining balance of the \$100 special assessment in payments of \$25 per quarter through participation in the Bureau of Prisons' Inmate Financial Responsibility Program. Any remaining balance shall be paid during the term of supervised release in payments of not less than \$25 per month commencing 30 days after release from imprisonment.

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

Case Number Defendant and Co-Defendant Names (including defendant number)	Total Amount	Joint and Several Amount	Corresponding Payee, if appropriate
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The defendant shall pay the cost of prosecution.
 The defendant shall pay the following court cost(s):
 The defendant shall forfeit the defendant's interest in the following property to the United States:

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