

APPENDIX

APPENDIX

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[DO NOT PUBLISH]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 19-13704

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RASHID TURNER,

Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 8:18-cr-00080-WFJ-JSS-2

Before LAGOA, BRASHER, and TJOFLAT, Circuit Judges.

PER CURIAM:

Rashid Turner was convicted of bank robbery, Hobbs Act robbery, and the use of firearms in relation to those robberies. Among other things, Turner appeals the denial of his motion to suppress evidence obtained from a warrantless search of his cell-phone. We conclude that this evidence was correctly admitted based on the good-faith exception to the exclusionary rule. Because Turner's other arguments also fail, we affirm the conviction and sentence.

I. BACKGROUND

In July of 2017, Rashid Turner met Petrie Addison in Fort Myers, Florida, where they commiserated over their financial problems and set off on a months-long robbery spree. On November 18, 2017, they drove to a Wells Fargo bank in a Hyundai rented by a third party. While waiting in the Hyundai for the bank to open, Turner answered a call on his LG cellphone. Turner left his phone in the car while he and Addison robbed the bank.

After robbing the bank, Addison and Turner tried to flee in the rented Hyundai. But Addison had left the car keys inside the bank. When Addison went back inside to retrieve the keys, Turner fled in another vehicle, leaving his LG Phone in the rented Hyundai.

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Turner got away, but the police pursued Addison. After a chase, Addison crashed the Hyundai and was apprehended. Addison confessed shortly after he was arrested. The next day, Turner replaced his phone using the same phone number as the LG phone.

The police took possession of the Hyundai, with the LG phone still inside. Upon executing a warrant to search the car, the police seized the locked, password-protected LG phone that was still inside. The phone was put into evidence but was not searched.

Several days after the robbery, Detective Thomas Breedlove prepared an affidavit for a warrant to search the LG phone. His supervisor approved the warrant application, but Detective Breedlove put it back in the case file without presenting it to a judge.

Nonetheless, apparently assuming that a search warrant had been issued, the police extracted data from the phone using a special machine. A few days later, Detective Breedlove realized that he had never obtained a warrant to search the phone. He then brought the affidavit to a state court judge, explaining what had happened. Satisfied with Detective Breedlove's representations, the judge issued the warrant. No one ever claimed ownership of the phone or asked for its return.

A federal grand jury indicted Turner with conspiracy to commit Hobbs Act robbery in violation of 18 U.S.C. § 1951(a) (Count One); four counts of Hobbs Act robbery, in violation of Section 1951(a) and 18 U.S.C. § 2 (Counts Two, Four, Six, and Nine); two counts of bank robbery, in violation of 18 U.S.C. §§ 2113(a) and

2 (Counts Seven and Ten); and four counts of using, carrying, and brandishing a firearm during and in relation to the robberies, in violation of 18 U.S.C. §§ 924(c) and 2 (Counts Three, Five, Eight, and Eleven).

Turner moved to dismiss some of the robbery counts under the Double Jeopardy Clause, contending that two of the Hobbs Act robbery charges addressed the same conduct as the two bank robbery charges. After conducting a hearing, the district court denied the motion.

Turner also moved to suppress cell-site location information that law enforcement had obtained *via* court order, and evidence obtained from searching the phone. The district court denied both motions. As to the first motion, the district court held that, at the time of the search, our caselaw established that no warrant was required to obtain cell-site information. As to the second motion, the district court held that the officers had acted in good faith and that Turner had abandoned the phone in the rental car.

At trial, Turner objected to the district court's admission of testimony from Special Agent Loretta Bush regarding her use of a software called PenLink to map out Turner's locations using cell-tower data. He argued that Agent Bush lacked credibility because she had no formal training in the software. The district court reserved ruling at that time but noted that the objection had been preserved.

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Following a five-day trial, a jury found Turner guilty of all charges except one of the robbery charges and its accompanying firearm charge (Counts Two and Three). Turner later moved to strike the jury's verdicts on the Section 924(c) counts on the ground that they were premised on crimes that qualified as crimes of violence only under Section 924(c)'s unconstitutionally vague residual clause. The district court denied the motion.

Turner was sentenced to concurrent terms of 240 months' imprisonment on the conspiracy, Hobbs Act robbery, and bank robbery convictions, and three consecutive seven-year terms of imprisonment on the Section 924(c) convictions, for a total of 492 months' imprisonment. Turner timely appealed.

II. STANDARDS OF REVIEW

"We review a district court's denial of a motion to suppress evidence as a mixed question of law and fact, with rulings of law reviewed *de novo* and findings of fact reviewed for clear error, in the light most favorable to the prevailing party in district court." *United States v. Lindsey*, 482 F.3d 1285, 1290 (11th Cir. 2007).

We review *de novo* whether the good-faith exception to the exclusionary rule applies to a search, but "'the underlying facts upon which that determination is based are binding on appeal unless clearly erroneous.'" *United States v. Martin*, 297 F.3d 1308, 1312 (11th Cir. 2002) (quoting *United States v. Norton*, 867 F.2d 1354, 1360 (11th Cir. 1989)).

We review the district court's evidentiary rulings for abuse of discretion. *See United States v. Barsoum*, 763 F.3d 1321, 1338 (11th Cir. 2014).

For jury instructions generally, the standard of review "is simultaneously *de novo* and deferential." *Bhogaita v. Altamonte Heights Condo. Ass'n, Inc.*, 765 F.3d 1277, 1285 (11th Cir. 2014).

We generally review claims of double jeopardy *de novo*. *United States v. Bobb*, 577 F.3d 1366, 1371 (11th Cir. 2009).

III. DISCUSSION

Turner makes five arguments on appeal. He argues that the district court erred in denying 1) his motion to suppress the contents of his cellphone; 2) his motion to suppress his cell-site records; 3) his motion to strike the jury's verdicts on the Section 924(c) counts; 4) his motion to dismiss based on double jeopardy; and 5) his motion to strike Agent Bush's testimony at trial. We address each of these arguments in turn.

A. Motion to Suppress Phone Contents

We turn first to the district court's decision to deny Turner's motion to suppress the contents of his cellphone.¹ Turner contends

¹ The government argues that Turner waived his challenge to the district court's order because he "has not identified the specific evidence that the district court supposedly admitted in violation of his Fourth Amendment rights." Although he does not include record cites in his brief, Turner makes clear that he is challenging the search of the contents of his phone, including, the "text

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that the government lacked good faith in searching the phone before securing a warrant. He also argues that he did not abandon his phone because it was password protected. Because we disagree with Turner's first argument, we need not address his second.

The Fourth Amendment's warrant requirement contains a good-faith exception, and evidence should not be suppressed where it was obtained by law enforcement who act on a good-faith belief that their conduct does not violate the Fourth Amendment. *United States v. Leon*, 468 U.S. 897, 922 (1984).

Turner argues that the good-faith exception does not apply here because the warrant affidavit "inaccurate[ly]" stated that "the LG cellphone was not claimed by Addison." Because the police did not question Addison about the phone, Turner contends that the fact that the phone was not claimed "misle[d]" the judge into believing Addison denied ownership. We disagree. Stating that Addison did not claim ownership of the phone does not imply that he was specifically asked about the phone or that he denied ownership. Nor would Addison's denial have changed the probable cause required to issue the warrant. Regardless of whether Addison was questioned about the phone, the phone was found in the getaway car of a bank robbery.

evidence, cell phone calls, cell site pickup, Google Searches, [and] photographs." Accordingly, we conclude that Turner has properly preserved and raised this issue. *See Mendoza v. U.S. Att'y Gen.*, 327 F.3d 1283, 1286 n.4 (11th Cir. 2003).

Turner also argues the good-faith exception is inapplicable here because Detective Breedlove “recklessly” asked Sergeant Power to search the phone without a valid warrant. But the district court found that Detective Breedlove “made a mistake and attempted to rectify it.” Thus, the court concluded that police acted in “good faith” and “the Fourth Amendment exclusionary rule [did not] require[] any further activity to inculcate these police officers who know quite well how to conduct themselves.” Reviewing this finding for clear error and in the light most favorable to the government, we agree. Upon realizing that he had failed to have the warrant signed by a judge, Detective Breedlove immediately notified Sergeant Power of the mistake. The same day, he explained what happened before a state court judge who then signed the warrant. Thus, we agree that Detective Breedlove acted in good faith rather than “some sort of strategic action.” Based on this finding, we affirm the district court’s denial of Turner’s motion to suppress. *See Leon*, 468 U.S. at 922.

B. Motion to Suppress Cell-Site Data

Turner argues that the district court erred in denying his motion to suppress his cell-site records. Under the Stored Communications Act, 18 U.S.C. § 2703(d), police can acquire cell-site records from cellular providers if they have “reasonable grounds to believe that the contents of a wire or electronic communication, or the records or other information sought, are relevant and material to an ongoing criminal investigation.” In *Carpenter v. United States*, the Supreme Court held that “[t]he Government’s

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acquisition of . . . cell-site records was a search within the meaning of the Fourth Amendment,” and that “the Government must generally obtain a warrant supported by probable cause before acquiring such records.” 138 S. Ct. 2206, 2220-21 (2018). In *United States v. Joyner*, we held that searches of cell-site records obtained under Section 2703(d) trigger the good faith exception to the warrant requirement if they were conducted before *Carpenter* was decided. 899 F.3d 1199, 1204–05 (11th Cir. 2018) (citing *United States v. Leon*, 468 U.S. 897 (1984)).

Here, the Section 2703(d) order for Turner’s cell-site records was issued on March 9, 2018, almost three months before *Carpenter* was decided. Turner argues that the government, while not required to be omniscient with regards to future rulings of the Supreme Court, “should have exercised caution and sought a warrant instead of taking any risks especially considering the seriousness of the crimes alleged.” Turner cites no authority, persuasive or otherwise, for this proposition. And because *Joyner* squarely forecloses Turner’s argument, the district court did not err in denying his motion to suppress the cell-site records.

C. Testimony of Special Agent Bush

Turner argues that the district court abused its discretion by allowing Special Agent Bush to testify about the cell-site data because she was not an expert in the PenLink software. But Special Agent Bush never used the PenLink software to produce the data. Instead, she took the data to another detective who was

experienced with PenLink to put it in a “user-friendly” format. Thus, the fact that Special Agent Bush lacked specialized training in PenLink would have had no bearing on the admissibility of her testimony. And Special Agent Bush testified that her use of the PenLink data consisted of entering location points into Google Earth. Accordingly, permitting this testimony was not an abuse of discretion.

D. Motion to Strike Portions of the Verdict

Turner also argues that the district court erred in denying his motion to strike Counts Five, Eight, and Eleven of the jury’s verdict. He asserts that the verdict form for those counts contained the same language as Section 924(c)’s residual clause, which the Supreme Court held to be unconstitutionally vague in *United States v. Davis*, 139 S. Ct. 2319, 2336 (2019). So, he argues, the jury’s guilty verdict on those counts was based on an unconstitutional statute. But Turner concedes that his argument is foreclosed by our decision in *United States v. St. Hubert*, 909 F. 3d 335 (11th Cir. 2018), in which we held that Hobbs Act robbery “independently qualifies as a crime of violence under § 924(c)(3)(A)’s use-of-force clause.” *Id.* at 345. Because he raises the issue only “to preserve it in case the Supreme Court overrules [*St. Hubert*],” we decline to address it further.

Turner’s motion is also procedurally defective since he explicitly approved of the verdict form. *See United States v. Silvestri*, 409 F.3d 1311, 1337 (11th Cir. 2005) (holding that, by expressly

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accepting jury instructions, a party invites any error therein). Thus, he has failed to properly preserve any challenge to it.

E. Double Jeopardy

Turner argues that the Second Superseding Indictment violated the Double Jeopardy Clause with regards to Counts Six, Seven, Nine, and Ten. The Indictment twice charged Turner with the same act of robbing the Wells Fargo on November 18, 2017: Count Six charged Turner under the Hobbs Act, 18 U.S.C. § 1951, and Count Seven charged him under the Federal Bank Robbery Act, 18 U.S.C. § 2113. Likewise, the Indictment charged Turner twice with the same act of robbing a Seacoast Bank on December 4, 2017: Count Nine charged Turner under the Hobbs Act and Count Ten charged him under the Bank Robbery Act.

The Fifth Amendment's Double Jeopardy Clause provides that no person may be "twice put in jeopardy" "for the same offence." U.S. Const. amend. V. "Where the same conduct violates two statutory provisions, the first step in the double jeopardy analysis is to determine whether the legislature . . . intended that each violation be a separate offense.'" *United States v. Smith*, 532 F.3d 1125, 1128 (11th Cir. 2008) (quoting *Williams v. Singletary*, 78 F.3d 1510, 1512 (11th Cir. 1996)). If the legislative intent is unclear, we apply the same elements test set forth in *Blockburger v. United States*, 284 U.S. 299, 304 (1932). *Id.*

The *Blockburger* test "is one of statutory interpretation in which we examine the elements of each offense to determine

whether Congress intended to authorize cumulative punishments.” *United States v. Williams*, 527 F.3d 1235, 1240 (11th Cir. 2008). Under that test, two offenses are different for double jeopardy purposes “if each ‘requires proof of an additional fact which the other does not.’” *Smith*, 532 F.3d at 1128 (quoting *Cole v. United States Dep’t of Agric.*, 133 F.3d 803, 805 (11th Cir. 1998)). Comparing criminal statutes for purposes of Double Jeopardy “requires a strictly textual comparison.” *United States v. Bobb*, 577 F.3d 1366, 1373 (11th Cir. 2009) (citing *Carter v. United States*, 530 U.S. 255, 260-61 (2000)). The key question is whether “a scenario exist[s] where the hypothetical defendant might violate one section without violating the other.” *United States v. Hassoun*, 476 F.3d 1181, 1189 (11th Cir. 2007).

Turner’s double jeopardy argument rests primarily on legislative intent. He contends that the legislative history of the Bank Robbery Act “clearly imported” that bank robberies should be prosecuted solely under the Bank Robbery Act to the exclusion of the Hobbs Act. But we are limited to a “strictly textual comparison” when comparing criminal statutes for double jeopardy purposes. *Bobb*, 577 F.3d at 1373. Thus, Turner’s argument relying on legislative history is unpersuasive.

Looking at the text of the statutes, we conclude that they satisfy *Blockburger* because each requires proof of a fact that the other does not. In pertinent part, the Bank Robbery Act criminalizes the forceful taking of property from “any bank, credit union, or any savings and loan association.” 18 U.S.C. § 2113(a). In

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contrast, the Hobbs Act provides criminal penalties for anyone who “obstructs, delays, or affects commerce . . . by robbery.” 18 U.S.C. 1951(a). Thus, under the Hobbs Act, a robbery or attempted robbery must affect commerce, an element not required for the Bank Robbery Act. On the other hand, the Bank Robbery Act, but not the Hobbs Act, requires that the crime be perpetrated against a “bank, credit union, or any savings and loan association.” 18 U.S.C. 2113.

Finally, to the extent Turner argues that the current prosecution is unconstitutional because one act simultaneously violates two different statutes, that argument is meritless. “[D]ouble jeopardy is not implicated simply because a factual situation might exist where a defendant could commit one act that satisfies the elements of two distinct offenses.” *Hassoun*, 476 F.3d at 1188-89. Thus, the district court was correct in denying Turner’s motion to dismiss on double jeopardy grounds.

IV. CONCLUSION

For the foregoing reasons, we conclude that all of Turner’s arguments on appeal are without merit. Accordingly, we **AFFIRM**.

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 19-13704-CC

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

RASHID TURNER,

Defendant - Appellant.

Appeal from the United States District Court
for the Middle District of Florida

ON PETITION(S) FOR REHEARING AND PETITION(S) FOR REHEARING EN BANC

BEFORE: LAGOA, BRASHER, and TJOFLAT, Circuit Judges.

PER CURIAM:

The Petition for Rehearing En Banc is DENIED, no judge in regular active service on the Court having requested that the Court be polled on rehearing en banc. (FRAP 35) The Petition for Rehearing En Banc is also treated as a Petition for Rehearing before the panel and is DENIED. (FRAP 35, IOP2)

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

Case Number: 8:18-cr-80-T-02JSS

v.

USM Number: 70856-018

RASHID TURNER

Michael P. Maddux, CJA

JUDGMENT IN A CRIMINAL CASE

The defendant was found guilty of Counts One, Four, Five, Six, Seven, Eight, Nine, Ten, and Eleven of the Second Superseding Indictment. The defendant is adjudicated guilty of these offenses:


<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Numbers</u>
18 U.S.C. § 1951(a)	Conspiracy to Interfere with Commerce by Robbery	January 15, 2018	One
18 U.S.C. §§ Sections 1951(a) and 2	Interference with Commerce by Robbery	October 28, 2017	Four
18 U.S.C. §§ 924(c)(1)(A)(ii) and 2	Brandishing a Firearm During or in Relation to a Crime of Violence	October 28, 2017	Five
18 U.S.C. §§ Sections 1951(a) and 2	Interference with Commerce by Robbery	November 18, 2017	Six
18 U.S.C. §§ 2113(a) and 2	Bank Robbery	November 18, 2017	Seven
18 U.S.C. §§ 924(c)(1)(A)(ii) and 2	Brandishing a Firearm During or in Relation to a Crime of Violence	November 18, 2017	Eight
18 U.S.C. §§ Sections 1951(a) and 2	Interference with Commerce by Robbery	December 4, 2017	Nine
18 U.S.C. §§ 2113(a) and 2	Bank Robbery	December 4, 2017	Ten
18 U.S.C. §§ 924(c)(1)(A)(ii) and 2	Brandishing a Firearm During or in Relation to a Crime of Violence	December 4, 2017	Eleven

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

Superseding Indictment is 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 shall notify the court and United States Attorney of any material change in the defendant's economic circumstances.

Date of Imposition of Judgment: September 13, 2019


WILLIAM F. JUNG
UNITED STATES DISTRICT JUDGE

September 13th, 2019

App. 15

Rashid Turner
8:18-cr-80-T-02JSS

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of **FOUR HUNDRED NINETY-TWO (492) MONTHS**. This consists of concurrent terms of 240 months on each of Counts One, Four, Six, Seven, Nine, and Ten; a 7-year term on Count Five, consecutive to Counts One, Four, Six, Seven, Nine, and Ten; a 7-year term on Count Eight, consecutive to Count Five; and a 7-year term on Count Eleven, consecutive to Count Eight.

The Court recommends to the Bureau of Prisons that the defendant: Be confined at USP McCreary in Kentucky or USP Lee in Virginia.

The defendant is remanded to the custody of the United States Marshal.

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 U.S. Marshal

Rashid Turner
8:18-cr-80-T-02JSS

SUPERVISED RELEASE

Upon release from imprisonment, the defendant will be on supervised release for a term of **FIVE (5) YEARS**. This consists of a 3-year term as to Counts One, Four, Six, Seven, Nine, and Ten, and a 5-year term as to Counts Five, Eight, and Eleven, all such terms to run concurrently.

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 controlled substance. You must submit to one drug test within 15 days of placement on supervision and at least two periodic drug tests thereafter as directed by the probation officer. You must submit to random drug testing not to exceed 104 tests per year.
4. You must cooperate in the collection of DNA as directed by the Probation Officer.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below).

The defendant shall also comply with the additional conditions on the attached page.

Rashid Turner
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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. After initially reporting to the Probation Office, the defendant will receive instructions from the court or the Probation Officer about how and when the defendant must report to the Probation Officer, and the defendant must report to the Probation Officer as instructed.
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: _____

Rashid Turner
8:18-cr-80-T-02JSS

ADDITIONAL CONDITIONS OF SUPERVISED RELEASE

1. You shall submit to a search of your person, residence, place of business, any storage units under your control, or vehicle, conducted by the United States Probation Officer at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. You shall inform any other residents that the premises may be subject to a search pursuant to this condition. Failure to submit to a search may be grounds for revocation.
2. You shall be prohibited from incurring new credit charges, opening additional lines of credit, or obligating yourself for any major purchases without approval of the probation officer.
3. You shall provide the probation officer access to any requested financial information.

Rashid Turner
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CRIMINAL MONETARY PENALTIES

The defendant must pay the following total criminal monetary penalties under the schedule of payments set forth in the Schedule of Payments.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$900.00	WAIVED	\$103,782.78

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(l), all nonfederal victims must be paid in full prior to the United States receiving payment.

<u>Name of Payee</u>	<u>Total Loss</u>	<u>Restitution Ordered</u>
Dollar General 1154 Alabama Road, South Lehigh Acres, Florida 33974	\$6,050.58	\$6,050.58
Wells Fargo 319 Commercial Way Spring Hill, Florida 34606	\$21,745.00	\$21,745.00
Seacoast Bank 1601 East Oak Street Arcadia, Florida 34266	\$75,987.20	\$75,987.20

SCHEDULE OF PAYMENTS

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

Special Assessment shall be paid in full and is due immediately.

While in Bureau of Prisons custody, you shall either (1) pay at least \$25 quarterly if you have a non-Unicor job or (2) pay at least 50% of your monthly earnings if you have a Unicor job. Upon release from custody, you shall pay restitution at the rate of at least \$100.00 per month.

Unless the court has expressly ordered otherwise in the special instructions above, if this judgment imposes a period of imprisonment, payment of criminal monetary penalties shall be 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, unless otherwise directed by the court, the Probation Officer, or the United States attorney.

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

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.

Joint and Several

Restitution to Dollar General shall be paid jointly and severally with Petrie Addison and Dakiriyah Lias. Restitution to Wells Fargo shall be paid jointly and severally with Petrie Addison. Restitution to Seacoast Bank shall be paid jointly and severally with Petrie Addison and Zachary Gloster.

Rashid Turner
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FORFEITURE

Defendant shall forfeit to the United States those assets previously identified in the Order of Forfeiture and Preliminary Order of Forfeiture for Direct Assets, that are subject to forfeiture. **[SEE ORDER OF FOREFEITURE AND PRELIMINARY ORDER OF FORFEITURE FOR DIRECT ASSETS ATTACHED.]**

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

v.

Case No. 8:18-cr-80-T-02JSS

RASHID TURNER

**ORDER OF FORFEITURE AND PRELIMINARY
ORDER OF FORFEITURE FOR DIRECT ASSETS**

THIS CAUSE comes before the Court upon the United States of America's motion for:

1. An order of forfeiture against the defendant in the amount of \$79,260.28; and
2. A preliminary order of forfeiture for a silver Browning Arms handgun, serial number 437351, with magazine.

Being fully advised of the relevant facts, the Court hereby finds that at least \$79,260.28 was obtained by the defendant as a result of his participation in the robbery conspiracy and robbery offenses, for which he was found guilty.

The Court further finds that the firearm, with magazine, identified above was involved or used in the robbery conspiracy and robbery offenses, for which the defendant was found guilty.

Accordingly, it is hereby:

ORDERED, ADJUDGED, and DECREED that for good cause shown, the United States' motion is GRANTED.

It is FURTHER ORDERED that, pursuant to 18 U.S.C. § 981(a)(1)(C), 28 U.S.C. § 2461(c), and Rule 32.2(b)(2) of the Federal Rules of Criminal Procedure, the defendant shall be held liable for an order of forfeiture in the amount of \$79,260.28.

It is FURTHER ORDERED that, because the \$79,260.28 in proceeds was dissipated by the defendant, the United States may seek, as a substitute asset, pursuant to 21 U.S.C. § 853(p), as incorporated by 28 U.S.C. § 2461(c), forfeiture of any of the defendant's property up to the value of \$79,260.28.

It is FURTHER ORDERED that, pursuant to 18 U.S.C. § 924(d), 28 U.S.C. § 2461(c), and Rule 32.2(b)(2), the firearm identified above is hereby forfeited to the United States for disposition according to law.

It is FURTHER ORDERED that this order shall become a final order of forfeiture as to the defendant at sentencing.

The Court retains jurisdiction to address any third party claim that may be asserted in these proceedings, to enter any further order necessary for the forfeiture and disposition of such property, and for any substitute assets that

the United States may be entitled to seek up to the amount of the order of forfeiture.

DONE and ORDERED in Tampa, Florida, this 13th day
of August, 2019.



WILLIAM F. JUNG
UNITED STATES DISTRICT JUDGE

Copies to:
Suzanne C. Nebesky, AUSA
Counsel of Record