

APPENDIX

No. 21-2722

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED

Nov 2, 2022

DEBORAH S. HUNT, Clerk

UNITED STATES OF AMERICA,

)

Plaintiff-Appellee,

)

v.

)

MONQUEL DEJUAN-LEE PAULK,

)

Defendant-Appellant.

)

)

)

)

O R D E R

BEFORE: BOGGS, COLE, and GRIFFIN, Circuit Judges.

The court received a petition for rehearing en banc. The original panel has reviewed the petition for rehearing and concludes that the issues raised in the petition were fully considered upon the original submission and decision of the case. The petition then was circulated to the full court. No judge has requested a vote on the suggestion for rehearing en banc.

Therefore, the petition is denied.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk

fine, even without *quid pro quo* language, if it “sufficiently conveyed the essential idea of give-and-take.” 590 F.3d at 353 (quotation omitted). But in *Whitfield*, there was no concern about whether a payment was a gratuity or a bribe—*i.e.*, there was no debate about whether the payor got something in return; the only debate was about whether, when the payment was made, the payor and local official had in mind what the *quo* would be. *See id.* Here, the government proceeded on a gratuity theory and only now says that it could have won either way.

[7-9] The district court gave no instruction as to the meaning of “intent to influence or reward,” or that it requires a *quid pro quo* (because, of course, it did not think one was required), and its definition of “corruptly” said nothing about a formal this-for-that. And if a very capable and experienced district judge did not believe that the language of § 666 required a *quid pro quo*, it is hardly clear that lay jurors would have understood that based on the text alone. The lack of such a *quid pro quo* instruction rendered the jury instructions unclear, as the jurors were permitted to convict on an illegal-gratuity theory that does not exist in § 666.⁴ That is enough to justify vacating Hamilton’s conviction.⁵

* * *

4. As Hamilton notes, the Travel Act count did require a *quid pro quo*, and the jury acquitted Hamilton on that count. Instructing the jury on one count that a *quid pro quo* was required but not others may have further communicated that no *quid pro quo* was required for the § 666 counts.
5. We also alternatively conclude that Hamilton was entitled to an entrapment instruction, which would otherwise lead to the vacatur of his second substantive count of bribery. We review the denial of an entrapment instruction *de novo*. *United States v. Gutierrez*, 343 F.3d 415, 419 (5th Cir. 2003). Viewing the

Section 666 criminalizes only a *quid pro quo*, not mere gratuities. The district court’s instruction allowed the jury to convict based on mere gratuities. For these reasons, we VACATE Hamilton’s convictions and REMAND for proceedings consistent with this opinion.



UNITED STATES of America,
Plaintiff-Appellee,

v.

Monquel Dejuan-Lee PAULK,
Defendant-Appellant.

No. 21-2722

United States Court of Appeals,
Sixth Circuit.

Argued: June 8, 2022

Decided and Filed: August 17, 2022

Background: Defendant was convicted on guilty plea in the United States District Court for the Western District of Michigan, Hala Y. Jarbou, J., of possession of firearm by convicted felon and was sentenced as career offender under Armed

evidence in the light most favorable to Hamilton, we conclude that he made a *prima facie* showing (1) that he lacked the predisposition to bribe Caraway, and (2) that the government was involved in the operation beyond merely making the opportunity available to him. *See United States v. Stephens*, 717 F.3d 440, 444 (5th Cir. 2013). Indeed, the district court candidly observed that not giving the instruction “could be reversed.” As a result, Hamilton’s second substantive § 666 conviction would be vacated regardless of the preceding discussion about *quid pro quo* and § 666. *See Jarkey*, 34 F.4th at 459 n.9.

Career Criminal Act (ACCA). Defendant appealed.

Holdings: The Court of Appeals, Griffin, Circuit Judge, held that:

- (1) Court of Appeals' prior holding that Michigan's crime of third-degree home invasion was categorically equivalent to generic burglary, and thus constituted "violent felony" within meaning of ACCA, was not binding precedent on claim raised by defendant that prior case did not address, and
- (2) defendant failed to show that Michigan third-degree home invasion statute reached conduct outside generic burglary offense, and thus was not "violent felony," under ACCA.

Affirmed.

1. Criminal Law \bowtie 1030(1)

The Court of Appeals reviews for plain error an objection that was not raised before the district court, which requires him to show (1) error (2) that was obvious or clear, (3) that affected his substantial rights and (4) that affected the fairness, integrity, or public reputation of the judicial proceedings.

2. Sentencing and Punishment \bowtie 1285

A state burglary statute qualifies as a "violent felony" under the Armed Career Criminal Act (ACCA), such that a prior conviction under the state burglary statute will serve as a predicate that subjects a defendant to a mandatory minimum term of 15 years, if the statute has the basic elements of unlawful or unprivileged entry into, or remaining in, a building or structure, with intent to commit a crime. 18 U.S.C.A. § 924(e)(1).

See publication Words and Phrases for other judicial constructions and definitions.

3. Sentencing and Punishment \bowtie 1284

A conviction under a state statute will qualify as a "violent felony," within the meaning of Armed Career Criminal Act (ACCA), only if the statute's elements are the same as, or narrower than, those of the generic "violent felony" offense, and to conduct this analysis, called the "categorical approach," the court evaluates only whether the state statute is equivalent to or narrower than the generic offense, and it ignores the actual facts of the underlying case. 18 U.S.C.A. § 924(e)(1).

See publication Words and Phrases for other judicial constructions and definitions.

4. Courts \bowtie 90(1)

Sentencing and Punishment \bowtie 1285

Court of Appeals' prior holding that Michigan's crime of third-degree home invasion was categorically equivalent to generic burglary, and thus constituted "violent felony" within meaning of Armed Career Criminal Act (ACCA), was not binding precedent on claim raised by defendant that prior case did not address, specifically, that Michigan's third-degree home invasion statute reached broader conduct than generic burglary, and thus did not constitute "violent felony" under ACCA, because it did not require proof of intent. 18 U.S.C.A. § 924(e)(1).

5. Courts \bowtie 90(1)

Questions which merely lurk in the record, neither brought to the attention of the Court of Appeals nor ruled upon, are not to be considered as having been so decided as to constitute precedents.

6. Sentencing and Punishment \bowtie 1284

In order to show that a state statute under which a defendant suffered a prior conviction swept more broadly than the generic felony offense, and thus was not "violent felony," within the meaning of Armed Career Criminal Act (ACCA), the

defendant must show a realistic probability, not a theoretical possibility, that the State would apply its statute to conduct that falls outside the generic definition of the crime. 18 U.S.C.A. § 924(e)(1).

7. Sentencing and Punishment \Leftrightarrow 1285

Defendant failed to show realistic probability that Michigan applied third-degree home invasion statute to conduct that fell outside generic definition of burglary, and thus that prior Michigan conviction was not categorically “violent felony” that subjected defendant to mandatory minimum 15-year sentence on subsequent conviction for possession of firearm by convicted felon, under Armed Career Criminal Act (ACCA), despite defendant’s presentation of hypotheticals where Michigan could charge offense based on unwanted touching without intent to harm; while plausible, hypotheticals were just that, and defendant failed to identify any case where Michigan charged person with offense based on unwanted touching. 18 U.S.C.A. § 924(e)(1); Mich. Comp. Laws Ann. § 750.110a(4).

See publication Words and Phrases for other judicial constructions and definitions.

8. Assault and Battery \Leftrightarrow 113

Under Michigan law, a battery is an intentional, unconsented and harmful or offensive touching of the person of another.

Appeal from the United States District Court for the Western District of Michigan at Grand Rapids. No. 1:20-cr-00146-1—Hala Y. Jarbou, District Judge.

ARGUED: Daniel S. Harawa, Courtney C. Burress, Katherine Elizabeth Griffin, WASHINGTON UNIVERSITY SCHOOL OF LAW, St. Louis, Missouri, for Appellant. David N. Goldman, UNITED STATES DEPARTMENT OF JUSTICE,

Washington, D.C., for Appellee. ON BRIEF: Daniel S. Harawa, Courtney C. Burress, Katherine Elizabeth Griffin, James O. Akinleye, WASHINGTON UNIVERSITY SCHOOL OF LAW, St. Louis, Missouri, for Appellant. Kathryn M. Dallzell, UNITED STATES ATTORNEY’S OFFICE, Grand Rapids, Michigan, for Appellee.

Before: BOGGS, COLE, and GRIFFIN, Circuit Judges.

OPINION

GRIFFIN, Circuit Judge.

Defendant Monquel Paulk was sentenced as a career offender under the Armed Career Criminal Act. He now challenges that sentence, arguing that his 2011 conviction for Michigan third-degree home invasion is not a predicate conviction supporting his career-offender status. We disagree and affirm.

I.

Paulk pleaded guilty to being a felon in possession of a firearm, in violation of 18 U.S.C. §§ 922(g)(1), 921(a), and 924(e). The presentence investigation report concluded that three of Paulk’s prior convictions were “violent felon[ies]” as defined by the Armed Career Criminal Act, 18 U.S.C. § 924(e) (ACCA). He did not object to that finding. The district court sentenced him as a career offender and imposed a sentence of 180 months’ imprisonment. Paulk timely appealed.

II.

[1] ACCA imposes a mandatory minimum sentence of fifteen years for a § 922(g) conviction if the defendant has three or more previous convictions for “violent felon[ies],” “serious drug offense[s],” or both. § 924(e)(1). On appeal, Paulk chal-

lenges the district court's conclusion that his prior conviction for Michigan third-degree home invasion constitutes a "violent felony" under ACCA. Because he did not object in the district court, we review his challenge for plain error, which requires him to show "(1) error (2) that was obvious or clear, (3) that affected [his] substantial rights and (4) that affected the fairness, integrity, or public reputation of the judicial proceedings." *United States v. Vonner*, 516 F.3d 382, 386 (6th Cir. 2008) (en banc) (internal quotation marks omitted). For the reasons set forth below, we discern no error (let alone a plain one) in the district court's judgment.

[2, 3] A state burglary statute qualifies as a "violent felony" under ACCA if the statute has the "basic elements of unlawful or unprivileged entry into, or remaining in, a building or structure, with intent to commit a crime." *Taylor v. United States*, 495 U.S. 575, 599, 110 S.Ct. 2143, 109 L.Ed.2d 607 (1990). A conviction under a state statute will "qualif[y] as an ACCA predicate only if the statute's elements are the same as, or narrower than, those of the generic offense." *Descamps v. United States*, 570 U.S. 254, 257, 133 S.Ct. 2276, 186 L.Ed.2d 438 (2013). To conduct this analysis (called the "categorical approach"), we evaluate only whether the state statute is equivalent to or narrower than generic burglary, and we ignore the actual facts of the underlying case. *Id.*; see also *Mathis v. United States*, 579 U.S. 500, 503, 136 S.Ct. 2243, 195 L.Ed.2d 604 (2016).

This case illustrates yet again the paradox of the categorical approach: Paulk broke into a dwelling and committed a misdemeanor larceny (an intent-based crime), which satisfied all the elements of third-degree home invasion. But the categorical approach instructs us to reject this case's reality and turn instead to Paulk's contention that another individual could be

convicted of the same crime without forming criminal intent. See, e.g., *Cradler v. United States*, 891 F.3d 659, 672 (6th Cir. 2018) (Kethledge, J., concurring) ("[W]e can readily tell that Cradler was in fact convicted of a violent felony. Yet under the categorical approach we cannot consider that reality.").

We begin under the categorical approach with the statutory language. Michigan's third-degree home invasion statute provides that:

- [a] person is guilty of home invasion in the third degree if the person does either of the following:
 - (a) Breaks and enters a dwelling with intent to commit a misdemeanor in the dwelling, enters a dwelling without permission with intent to commit a misdemeanor in the dwelling, or breaks and enters a dwelling or *enters a dwelling without permission and, at any time while he or she is entering, present in, or exiting the dwelling, commits a misdemeanor.*
 - (b) Breaks and enters a dwelling or enters a dwelling without permission and, at any time while the person is entering, present in, or exiting the dwelling, *violates any of the following ordered to protect a named person or persons:*
 - (i) *A probation term or condition.*
 - (ii) *A parole term or condition.*
 - (iii) *A personal protection order term or condition.*
 - (iv) *A bond or bail condition or any condition of pretrial release.*

Mich. Comp. Laws § 750.110a(4) (emphasis added). Paulk argues this statute is broader than generic burglary because the emphasized provisions lack an intent element, positing that an individual could be convicted of home invasion if he entered a home without permission and then either

(1) committed a strict liability misdemeanor, (2) committed a misdemeanor with a mens rea of recklessness or negligence, or (3) violated a court-ordered condition. Thus, he argues, the Michigan statute is far more expansive than generic burglary and cannot serve as an ACCA-predicate conviction.

[4, 5] The government asserts that we resolved this question in *United States v. Quarles*, which held that “Michigan’s crime of third-degree home invasion is categorically equivalent to generic burglary.” 850 F.3d 836, 837 (6th Cir. 2017), *aff’d*, — U.S. —, 139 S. Ct. 1872, 1875, 204 L.Ed.2d 200 (2019). Despite this broad statement, *Quarles* did not consider the specific issue presented here. The defendant there argued that *Taylor*’s requirement of criminal intent to be present upon entry meant that Michigan’s third-degree home invasion statute was broader than the definition of generic burglary because it also criminalized “remaining-in” burglary. We concluded, *id.* at 840, and the Supreme Court affirmed, 139 S. Ct. at 1875, that remaining-in burglary is part of generic burglary. But we did not consider the argument Paulk makes today—that third-degree home invasion does not include an intent element at all. Indeed, the Supreme Court explicitly declined to answer that question. *Quarles*, 139 S. Ct. at 1880 n.2 (“Quarles alternatively suggests that Michigan’s home-invasion statute actually does not require that the defendant have *any* intent to commit a crime at *any* time while

unlawfully present in a dwelling. . . . Quarles did not preserve that argument, and we do not address it.”). And “questions which merely lurk in the record, neither brought to the attention of the court nor ruled upon, are not to be considered as having been so decided as to constitute precedents.” *Wright v. Spaulding*, 939 F.3d 695, 702 (6th Cir. 2019) (citation omitted). Because the issue presented here was not ruled upon in *Quarles*, either by this court or the Supreme Court, *Quarles* is not dispositive.

[6, 7] We therefore consider for the first time whether Michigan’s third-degree home invasion statute sweeps more broadly than generic burglary by criminalizing actions that do not require criminal intent. The Supreme Court has explained that “to find that a state statute creates a crime outside the generic definition of a listed crime in a federal statute requires more than the application of legal imagination to a state statute’s language.” *Gonzales v. Duenas-Alvarez*, 549 U.S. 183, 193, 127 S.Ct. 815, 166 L.Ed.2d 683 (2007). To succeed, Paulk must show “a realistic probability, not a theoretical possibility, that the State would apply its statute to conduct that falls outside the generic definition of a crime.” *Id.*; *see also United States v. Burris*, 912 F.3d 386, 397–98 (6th Cir. 2019).¹ Paulk argues that it is possible to imagine scenarios in which there is no intent to commit a crime, yet a defendant could be convicted of third-degree home invasion.

1. The Supreme Court’s recent decision in *United States v. Taylor*, — U.S. —, 142 S. Ct. 2015, 213 L.Ed.2d 349 (2022), does not modify this standard. *Taylor* declined to apply the “realistic probability” test to determine whether attempted Hobbs Act robbery was an ACCA-predicate conviction, and in doing so, the Court distinguished *Duenas-Alvarez* for two reasons. First, *Duenas-Alvarez* interpreted a state statute, whereas the Court in *Taylor* was asked “only whether the elements of one

federal law align with those prescribed in another.” *Id.* at 2025. Second, in *Duenas-Alvarez*, the “elements of the relevant state and federal offenses clearly overlapped,” and the question before the Court was whether the state offense was overbroad; in *Taylor*, “there [was] no overlap to begin with.” *Id.* Here, Paulk asks us to interpret a state statute that overlaps, in large part, with the elements of generic burglary. Therefore, *Duenas-Alvarez*, not *Taylor*, applies to our analysis.

This creative legal imagination is insufficient.

[8] His main argument centers on assault, which is often an underlying act for a third-degree home invasion conviction. Michigan defines an assault as “either an attempt to commit a battery or an unlawful act that places another in reasonable apprehension of receiving an immediate battery.” *People v. Starks*, 473 Mich. 227, 701 N.W.2d 136, 140 (2005). “A battery is an intentional, unconsented and harmful or offensive touching of the person of another” *People v. Reeves*, 458 Mich. 236, 580 N.W.2d 433, 435 n.4 (1998). Crucial to Paulk’s the-statute-sweeps-broader argument, simple criminal assault is a general intent crime: the government need only prove an intent to commit the unlawful act, and not a specific intent to harm. *People v. Frazier*, 100 Mich.App. 776, 300 N.W.2d 408, 410 (1980).

Paulk argues that an individual could touch someone—intending to touch them but without possessing the criminal intent to harm—and be convicted of third-degree home invasion based on that underlying assault and battery. This plausible hypothetical falls short of satisfying his realistic-probability burden. Pointing only to *Quarles*, Paulk argues that Michigan secures third-degree-home-invasion convictions on assault charges. We are not convinced. *Quarles* described the defendant’s underlying assault as “an attempt to chase down an ex-girlfriend who had sought refuge in a nearby apartment,” which does not imply that any unwanted touching occurred. 139 S. Ct. at 1876. Without more, Paulk has not demonstrated a “realistic probability” that Michigan would charge an individual with third-degree home invasion based on an unwanted touching. While this is a plausible hypothetical, it remains just that—hypothetical.

The remainder of Paulk’s arguments fare no better. He offers several scenarios

that might lead to a third-degree home invasion conviction, including: a teenage couple with a five-year age difference engaging in sexual conduct in seemingly abandoned homes; breaking-and-entering and then violating a court-ordered condition; and several strict-liability misdemeanors that might be committed in another’s home. But Paulk has not pointed to any Michigan caselaw involving a third-degree home invasion conviction predicated on these fact patterns, and we have not been able to independently locate any. Thus, he has demonstrated at best “a theoretical possibility[] that [Michigan] would apply its statute to conduct that falls outside the generic definition of [burglary].” *Duenas-Alvarez*, 549 U.S. at 193, 127 S.Ct. 815. That is insufficient. *Id.*

The district court did not err (let alone plainly so) when it considered Paulk’s conviction a “violent felony” for ACCA purposes.

III.

For these reasons, we affirm the sentence imposed by the district court.



UNITED STATES of America,
Plaintiff-Appellee,

v.

James CLARK, III, Defendant-
Appellant.

No. 21-6038

United States Court of Appeals,
Sixth Circuit.

Argued: June 15, 2022

Decided and Filed: August 18, 2022

Background: Defendant was convicted upon guilty plea in the United States Dis-

UNITED STATES DISTRICT COURT
Western District of Michigan

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

-VS-

MONQUEL DEJUAN-LEE PAULK

Case Number: 1:20-cr-146

USM Number: 12273-509

Charles E. Chamberlain Jr.
Defendant's Attorney

THE DEFENDANT:

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

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. §§ 922(g)(1), 921(a), and 924(e) Felon in Possession of Firearm	August 19, 2020	One

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.

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 the United States attorney of material changes in economic circumstances.

Date of Imposition of Sentence: July 14, 2021

Dated: July 15, 2021

/s/ Hala Y. Jarbou

HALA Y. JARBOU
UNITED STATES DISTRICT JUDGE

AO 245B (MIWD Rev. 12/16)- Judgment in a Criminal Case

Judgment – Page 2

Defendant: MONQUEL DEJUAN-LEE PAULK

Case Number: 1:20-cr-146

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of **one hundred and eighty (180) months**.

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

That the defendant be placed in a correctional facility as close as possible to his family in or near Lansing, Michigan.

That the defendant receives a substance abuse evaluation and given the opportunity to participate in substance abuse programming.

That the defendant receives a mental health evaluation and given the opportunity to participate in mental health programs as needed.

That the defendant receives educational and vocational programming, with emphasis on obtaining and maintaining employment skills.

That the defendant be screened for 500-hour Residential Drug Abuse Program and participate in the program if deemed qualified.

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

The defendant shall surrender to the United States Marshal for this district:

at _____ on _____

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

before 2:00 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

AO 245B (MIWD Rev. 12/16)- Judgment in a Criminal Case

Judgment – Page 3

Defendant: MONQUEL DEJUAN-LEE PAULK

Case Number: 1:20-cr-146

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of **four (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 cooperate in the collection of DNA as directed by the probation officer.
5. 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)*
6. You must participate in an approved program for domestic violence. *(check if applicable)*
7. 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)*

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.

AO 245B (MIWD Rev. 12/16)- Judgment in a Criminal Case

Judgment – Page 4

Defendant: MONQUEL DEJUAN-LEE PAULK

Case Number: 1:20-cr-146

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 _____

AO 245B (MIWD Rev. 12/16)- Judgment in a Criminal Case

Judgment – Page 5

Defendant: MONQUEL DEJUAN-LEE PAULK

Case Number: 1:20-cr-146

SPECIAL CONDITIONS OF SUPERVISION

1. You must participate in a program of testing and treatment for substance abuse, as directed by the probation officer, and follow the rules and regulations of that program until such time as you are released from the program by the probation officer and must pay at least a portion of the cost according to your ability, as determined by the probation officer.
2. You must not use or possess any controlled substances without a valid prescription. If you have a valid prescription, you must follow the instructions on the prescription. You must not possess, use, or sell marijuana or any marijuana derivative (including THC) in any form (including edibles) or for any purpose (including medical purposes). You are also prohibited from entering any marijuana dispensary or grow facility.
3. You must participate in a program of anger management treatment, as directed by the probation officer, and follow the rules and regulations of that program until such time as you are released from the program by the probation officer and must pay at least a portion of the cost according to your ability, as determined by the probation officer.
4. If you are unemployed after the first 60 days of supervision, or for 60 days after termination or layoff from employment, you must perform at least 30 hours of community service work per week, as directed by the probation officer until gainfully employed full-time.
5. You must provide the probation officer with access to any requested financial information and authorize the release of any financial information. The probation office will share financial information with the U.S. Attorney's Office.
6. You must submit your person, property, house, residence, vehicle, papers, computers (as defined in 18 U.S.C. § 1030(e)(1)), other electronic communications or data storage devices or media, or office, to a search conducted by a United States probation officer. Failure to submit to a search may be grounds for revocation of release. You must warn any other occupants that the premises may be subject to searches pursuant to this condition.

The probation officer may conduct a search under this condition only when reasonable suspicion exists that you have violated a condition of supervision and that the areas to be searched contain evidence of this violation. Any search must be conducted at a reasonable time and in a reasonable manner.

AO 245B (MIWD Rev. 12/16)- Judgment in a Criminal Case

Judgment – Page 6

Defendant: MONQUEL DEJUAN-LEE PAULK

Case Number: 1:20-cr-146

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the Schedule of Payments on the following pages.

<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
\$100.00	\$4,000.00	-0-	-0-	-0-

- The determination of restitution is deferred until _____. An Amended Judgment in a Criminal Case (AO 245C) will be entered after such a 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.
 - the interest requirement is waived for the restitution.
 - the interest requirement for the fine is modified as follows: _____
 - the interest requirement for the 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.

AO 245B (MIWD Rev. 12/16)- Judgment in a Criminal Case

Judgment – Page 7

Defendant: MONQUEL DEJUAN-LEE PAULK

Case Number: 1:20-cr-146

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 _____ installments of \$_____ over a period of _____, to commence _____ after the date of this judgment; or

D Payment in equal _____ installments of \$_____ over a period of _____, to commence _____ after release from imprisonment to a term of supervision; or

E Payment during the term of supervised release will commence within _____ 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:
The restitution and/or fine is to be paid in minimum quarterly installments of \$25.00 based on IFRP participation, or minimum monthly installments of \$20.00 based on UNICOR earnings, during the period of incarceration, to commence 60 days after the date of this judgment. Any balance due upon commencement of supervision shall be paid, during the term of supervision, in minimum monthly installments of \$30.00 to commence 60 days after release from imprisonment. The defendant shall apply all monies received from income tax refunds, lottery winnings, judgments, and/or any other anticipated or unexpected financial gains to any outstanding court-ordered financial obligations.

Unless the court has expressly ordered otherwise in the special instructions above, 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, 399 Federal Building, 110 Michigan N.W., Grand Rapids, MI 49503, 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.

Joint and Several

Case Number

Defendant and Co-Defendant Names
(including defendant number)

Total Amount

Joint and Several
AmountCorresponding Payee,
if appropriate

The defendant shall pay the cost of prosecution.
 The defendant shall pay the following court cost(s):
 The defendant shall forfeit the defendant's interest in the following property to the United States:

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.