

United States Court of Appeals For the First Circuit

No. 21-1487

UNITED STATES OF AMERICA,

Appellee,

v.

TERRICK BISHOFF,

Defendant, Appellant.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

[Hon. Timothy S. Hillman, U.S. District Judge]

Before

Kayatta, Thompson, and Gelpí,
Circuit Judges.

Christine DeMaso for appellant.

Karen L. Eisenstadt, Assistant United States Attorney, with
whom Rachel S. Rollins, United States Attorney, was on brief, for
appellee.

January 19, 2023

GELPÍ, Circuit Judge. Appellant Terrick Bishoff ("Bishoff") entered a straight plea to possessing or transferring a machinegun, dealing in firearms without a license, and possessing a firearm without a serial number. The district court, by way of downward variance, sentenced him to sixty months imprisonment. On appeal, Bishoff claims that the district court erred in imposing two four-level enhancements -- one for trafficking and one for possessing a firearm in connection with another felony -- and that his sentence is procedurally and substantively unreasonable. We affirm.

I. Background¹

Relevant Facts

In February 2019, a Confidential Source ("CS") informed the government that Bishoff was selling Glock-style "ghost" guns² in Fitchburg, Massachusetts. Consequently, the Bureau of Alcohol, Tobacco, Firearms, and Explosives ("ATF") utilized the CS and an Undercover Officer ("UC") to conduct undercover purchases as part of an ongoing investigation into Bishoff. The UC purchased

¹ We take the facts from the uncontested portions of the Presentence Report ("PSR") and the sentencing hearing transcript. United States v. Bermúdez-Meléndez, 827 F.3d 160, 162 (1st Cir. 2016).

² Ghost guns are firearms sold as sets of parts that can be assembled at home, and that typically lack markings such as serial numbers.

firearms and ammunitions from Bishoff on three separate occasions, which are detailed seriatim.

The May 10, 2019 Controlled Purchase

On May 10, 2019, the CS called Bishoff and informed him that his friend, the UC, wanted to buy the Glock-style ghost gun that Bishoff had previously offered to sell to the CS. The UC posed as a military veteran. Bishoff told the UC that he had to go get the firearm and would meet both the CS and UC shortly thereafter. Around 4:00 p.m. that same day, Bishoff, during a call with the CS, said that he was heading over to his supplier's house to get the firearm and that it was custom tailored to include a silencer.³ About fifteen minutes later, Bishoff called the CS to inform him that he had the gun and would meet him shortly. Once at the meeting point, the CS and the UC entered Bishoff's car, where Bishoff sold the UC the Glock-style ghost gun for \$580. Additionally, Bishoff provided the UC with one magazine and two boxes of ammunition. Bishoff told the UC that the firearm had no serial number and, thus, was untraceable. He also offered a fully automatic Uzi-style gun ("Uzi machinegun") with no serial number for \$2,500.

³ John Shaw, Bishoff's supplier, would later testify that Bishoff had provided drugs to Shaw (in addition to cash) in exchange for either guns or the assembly of guns. During one of the sales, Bishoff admitted to the UC that he was a drug dealer.

The May 15, 2019 Controlled Purchase

On May 13, 2019, the UC texted Bishoff regarding the Uzi machinegun. The pertinent text exchange follows:

UC: "I wanted to talk to you about the U... is it still available?"

Bishoff: "Yes"

UC: "Is it full rock and roll? An [sic] what about numbers?"

Bishoff: "Yes...2500"

UC: "No numbers?"

Bishoff: "No"
"None"

UC: [thumbs up emoji]
"Are you locked in at 25? Any wiggle room"

Bishoff: "Yes.....and not my price"

On May 15, 2019, the UC and Bishoff exchanged text messages regarding the availability and sale of the Uzi machinegun. They met in Fitchburg, MA and drove in Bishoff's car to a nearby cemetery. There, Bishoff exchanged with the UC the promised Uzi machinegun along with a twenty-five round magazine for \$2,500. The Uzi machinegun contained an obliterated serial number. They further spoke about other types of firearms that Bishoff's supplier could assemble, as well as a silencer for the pistol that the UC bought on May 10, 2019 (the first transaction between Bishoff and the UC). Bishoff told the UC that he did not know how long it

would take to procure the silencer, but he would ask his supplier and get back to him.

The July 24, 2019 Controlled Purchase

On July 18, 2019, the UC and Bishoff met once again in Fitchburg, MA and Bishoff showed the UC a Glock-style ghost gun that was available for \$800. Bishoff informed the UC that the gun had no serial number. On July 24, the UC completed a controlled purchase of said ghost gun and one magazine for \$800. The UC asked why he had driven a different car to this meeting. Bishoff explained that he swapped cars every two weeks because he was also a fentanyl dealer. During the meeting, they also discussed possible future transactions, specifically the sale of an assault rifle and a silencer for the previously purchased Glock-style ghost gun. Bishoff stated that he was going to give money to his supplier so that he could order the parts for the assault rifle, and once it was assembled, Bishoff would contact the UC. Bishoff added that the assault rifle would be fully automatic and have no serial number.

Procedural History

Bishoff was arrested on September 24, 2019 after being charged in a three-count indictment with (1) possession or transfer of a machinegun in violation of 18 U.S.C. § 922(o); (2) dealing firearms without a license in violation of 18 U.S.C. § 922(a)(1)(A); and (3) possession of a firearm (Uzi machinegun)

without a serial number in violation of 26 U.S.C. § 5861(i). His supplier, John Shaw, was also indicted and arrested. In a post-arrest interview, Shaw admitted to assembling the firearms for Bishoff. Although both men pled guilty, only Shaw entered into a plea agreement with the government. Under his plea and cooperation agreement, Shaw received a base offense level of 20, with a two-level enhancement because the offense involved three to seven firearms, and a three-level reduction for acceptance of responsibility. Bishoff, on the other hand, decided to enter a straight plea. At his plea hearing, the district court explained that it could not calculate Bishoff's sentencing range until it had his PSR. The district court also asked the government for its position as to the Sentencing Guidelines. The prosecutor understood Bishoff's base offense level to be 18, that a two-level enhancement applied because the offense involved three to seven firearms, and that Bishoff qualified for a three-level reduction for acceptance of responsibility -- resulting in a total offense level of 17 and a Guidelines sentencing range of "roughly 24 to 30 months" imprisonment.

Bishoff's PSR ultimately upended the government's estimate by calculating a total offense level of 27 and a Guidelines sentencing range of 70 to 87 months. The PSR contained two additional four-level enhancements, one under Guidelines

section 2K2.1(b) (5)⁴ for trafficking and another under Guidelines section 2K2.1(b) (6) (B)⁵ for possessing a firearm "in connection with [a] felony offense." Bishoff objected to both four-level enhancements, arguing that the trafficking enhancement was inappropriate because he had no reason to know that the sale would result in further unlawful conduct, and that the other-felony-offense enhancement was improper because his supplier's statement, that Bishoff exchanged guns for drugs, was not credible.

At the sentencing hearing, the district court noted Bishoff's objections to the PSR. The government called Shaw and the UC to testify in support of the enhancements. The government argued that the section 2K2.1(b) (5) trafficking enhancement applied because Bishoff "had every reason to know that the person he was selling to would be using those guns unlawfully." It further argued that the section 2K2.1(b) (6) (B) other-felony-

⁴ Section 2K2.1(b) (5) applies to defendants who "engaged in the trafficking of firearms." The guideline commentary provides a two-part definition of trafficking. See USSG § 2K2.1(b) (5) cmt. n.13(A). The commentary states, in relevant part, that the defendant must have "kn[own] or had reason to believe that such conduct would result in the transport, transfer, or disposal of a firearm" either to a person "whose possession or receipt of the firearm would be unlawful" or to a person "who intended to use or dispose of the firearm unlawfully." Id. cmt. n.13(A) (ii) (I)-(II).

⁵ Section 2K2.1(b) (6) (B) applies to defendants who use or possess "any firearm or ammunition in connection with another felony offense; or possessed or transferred any firearm or ammunition with knowledge, intent, or reason to believe that it would be used or possessed in connection with another felony offense."

offense enhancement applied because Bishoff gave Shaw drugs in exchange for either the guns or the assembly of the guns. The district court found that the government had proven the elements of both enhancements but varied downward and sentenced Bishoff to 60 months imprisonment.⁶ Bishoff objected to both four-level enhancements, as well as to the substantive and procedural reasonableness of his sentence.

II. Standard of Review

This appeal contests specific components of Bishoff's sentence and challenges the overall reasonableness of the sentence. We review a preserved procedural Guidelines challenge for abuse of discretion. In applying this standard, we review factual findings for clear error, and the "interpretation and application of the [S]entencing [G]uidelines de novo." United States v. Ilarraza, 963 F.3d 1, 7-8 (1st Cir. 2020). Additionally, we remain mindful that the government must prove the enhancements' applicability by a preponderance of the evidence. Id. at 8.

In assessing a sentence's procedural and substantive reasonableness, "[o]ur review process is bifurcated: we first determine whether the sentence imposed is procedurally reasonable and then determine whether it is substantively reasonable." United

⁶ Shaw's sentencing occurred months later. He was sentenced to 21 months in prison as per the parties' joint recommendation. Shaw also testified for the government at Bishoff's sentencing hearing.

States v. Flores-Quiñones, 985 F.3d 128, 133 (1st Cir. 2021) (quoting United States v. Reyes-Torres, 979 F.3d 1, 6-7 (1st Cir. 2020)).

III. Discussion

Trafficking Enhancement

We first address Bishoff's contention that the district court erred in applying the four-level trafficking enhancement, USSG § 2K2.1(b)(5). Bishoff challenges the district court's interpretation of the enhancement, arguing that he only sold one unserialized machinegun, while the enhancement requires that two or more guns be sold with knowledge or reason to believe that the UC would possess or use them unlawfully. To this second factor, he further argues that the district court erred because there is no evidence that he knew or had reason to believe that the UC intended to use any of the guns unlawfully. Rather, he claims that the UC presented himself as a military veteran who "acted like a firearm aficionado excited about unique, customizable guns."

We review the district court's presumed interpretation of the enhancement de novo. Ilarraza, 963 F.3d at 8. The Sentencing Guidelines' commentary provides a two-part definition of trafficking. See USSG § 2K2.1(b)(5) cmt. n.13(A). First, the defendant must have "transported, transferred, or otherwise disposed of two or more firearms to another individual," or

received two or more firearms with the intention to do so. Id. cmt. n.13(A)(i). Next, he must have "kn[own] or had reason to believe that such conduct would result in the transport, transfer, or disposal of a firearm" to a person "whose possession or receipt of the firearm would be unlawful" or "who intended to use or dispose of the firearm unlawfully." Id. cmt. n.13(A)(ii). Plainly read, the enhancement applies if Bishoff transferred two or more guns while having reason to believe that at least one of them would be used or possessed unlawfully. As the government does not seek affirmance based upon an unlawful possession theory, we focus on whether Bishoff knew or had reason to believe that the UC intended to use or dispose of at least one of the purchased firearms unlawfully. We review the district court's factual findings on this question for clear error. Ilarraza, 963 F.3d at 8.

Although the district court did not make an explicit finding as to the enhancement, there is no need for the same as its basis is "clear from context." See id. at 12; see also United States v. Carbajal-Váldez, 874 F.3d 778, 783 (1st Cir. 2017) (noting court may "implicitly" adopt findings and resolve factual questions). "[W]e think it pellucid that the [district] court adopted the government's view that [Bishoff] had . . . reason[s] to believe that [the UC] intended to [use or] dispose of the firearms unlawfully." Ilarraza, 963 F.3d at 12 (reviewing the court's factual finding for clear error).

The circumstantial evidence presented at the sentencing hearing established by a preponderance of the evidence that Bishoff knew or had reason to believe that the UC intended to use or dispose of each of the firearms illegally. The government did not need to prove that Bishoff "had specific knowledge of any specific felonious plans" or present direct evidence to prove Bishoff's knowledge. See United States v. Marceau, 554 F.3d 24, 32 (1st Cir. 2009). Here, Bishoff and the UC discussed on at least five occasions the lack of serial numbers on the firearms. For example, during a text message exchange before the Uzi machinegun transaction, the UC asked Bishoff to confirm that the gun would have "no numbers," which Bishoff confirmed. Days later, the UC also questioned whether the offered assault rifle would have "numbers on it." Possessing a machinegun lacking a serial number, such as the Uzi relevant here, is prohibited under federal law. 26 U.S.C. § 5861(i). While the fact "that a person seeks to purchase firearms unlawfully is insufficient, in and of itself, to put the seller on notice that the buyer has plans to use or dispose of the firearms in connection with criminal activity," Ilarraza, 963 F.3d at 12, the "removal of a serial number is indicative of 'anticipation that the gun will be used in criminal activity,' and thus that [Bishoff] knew or should have known that [the UC] intended to use or dispose of the firearm unlawfully." United States v. Taylor, 845 F.3d 458, 460 (1st Cir. 2017) (quoting

Marceau, 554 F.3d at 32). Here, neither of the two Glock-style ghost guns had serial numbers and the Uzi machinegun had an obliterated serial number.

Further, Bishoff fails to persuade us that he had no reason to believe that the firearms would be used for an unlawful purpose. Although he maintains that the UC was purportedly a gun aficionado who wanted "unique," custom guns, none of the guns were in fact customized for him (and yet, sold significantly above market value). The first Glock-style ghost gun was offered to the CS before the UC decided to buy it, and he did not know the Uzi machinegun was a combination of old and new parts until he saw it. The second Glock-style ghost gun was not the one Bishoff had previously shown him, but a similar one. While not dispositive, these facts create a reasonable inference that the desire to purchase the custom, untraceable weapons instead stemmed from a desire to use them to unlawful ends. This is bolstered by other circumstantial evidence before the court, such as the fact that the sales were conducted in clandestine locations and that Bishoff and the UC had briefly discussed drugs in the course of the third sale. Combining all the facts surrounding each sale, we find that the district court, thus, did not abuse its discretion by finding that the government had met its burden, and applying the trafficking enhancement accordingly.

Other-Felony-Offense Enhancement

Bishoff asserts that the district court erred by applying a four-level enhancement based on his possession of firearms "in connection with another felony" without any explanation. USSG § 2K2.1(b)(6)(B). The government argues that Shaw's testimony claiming he exchanged the guns for drugs from Bishoff is credible and supports the district court's application of said enhancement.

A four-level enhancement applies to a defendant who possesses "any firearm or ammunition in connection with another felony offense." USSG § 2K2.1(b)(6)(B). The Sentencing Commission has explained that the requirement is met "if the firearm . . . facilitated, or had the potential of facilitating, another felony offense." Id. cmt. n.14(A). At the sentencing hearing, the district court asked, "if I believe that they didn't trade guns for drugs then it wouldn't apply; and if they did, it would, right?" Thus, the court clearly considered evidence of such a trade when it applied the enhancement. Based on the record before us, including the district court's firsthand impression of the evidence, we conclude that the court did not abuse its discretion.

In imposing the enhancement, the district court rejected Bishoff's argument alleging inconsistencies in Shaw's testimony and concluded that the government had met its burden. Bishoff

implies that we must "distrust" Shaw's testimony because Shaw had significant reason to lie and shift blame to Bishoff in order to minimize his own role in the distribution of the guns. He also posits that Shaw was inconsistent about the facts surrounding their exchanges, including whether he was paid in cash or drugs for assembling the guns. We find both contentions unpersuasive. Shaw's statements establish that Bishoff gave him drugs in exchange for guns, for either the firearms themselves or just their assembly. For our purposes, it does not matter which. Likewise, while Bishoff did mention to the UC that the price for the Uzi machinegun was not fixed by him, this does not evidence that Shaw never got paid with drugs.⁷ We similarly reject Bishoff's contention that the district court's sentence implied that "two addicts sharing drugs" constituted "another felony" for the purposes of this enhancement. Rather, we see no abuse of discretion in the district court implicitly finding Shaw's statements to be credible, and imposing the other-felony-offense enhancement accordingly.

Sentence Reasonableness

This brings us to Bishoff's final claim, which challenges the district court's allegedly disparate treatment of

⁷ Bishoff also posits that the fact that Shaw was able to buy a \$200 3D printer suggests that he paid Shaw in cash. We are not convinced. Shaw could have certainly obtained income from other sources.

him at sentencing. He argues that the disparity between his sixty-month sentence and Shaw's twenty-one-month sentence (which has already been served) makes his sentence procedurally and substantively unreasonable.

We undertake challenges to the reasonableness of a sentence by analyzing the procedural aspects of sentencing and the sentence's substance. See Marceau, 554 F.3d at 33; Flores-Quiñones, 985 F.3d at 133. First, we look for any procedural errors, "such as failing to calculate (or improperly calculating) the Guidelines range, treating the Guidelines as mandatory, failing to consider the § 3553(a) factors, selecting a sentence based on clearly erroneous facts, or failing to adequately explain the chosen sentence -- including an explanation for any deviation from the Guidelines range." Marceau, 554 F.3d at 33 (quoting United States v. Politano, 522 F.3d 69, 72 (1st Cir. 2008)). Here, we already found, supra, that the sentencing court committed no procedural error in calculating the applicable guidelines, and thus review the substantive reasonableness of the sentence for abuse of discretion. Id.

Sentencing courts must consider "the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct." 18 U.S.C. § 3553(a)(6). This provision is primarily aimed at national disparities, rather than those between codefendants. United

States v. Candelario-Ramos, 45 F.4th 521, 526 (1st Cir. 2022). However, "we have 'recognize[d] that "legitimate concerns may arise" if a judge sentences "similarly situated coconspirators or codefendants" to "inexplicably disparate" terms.'" Id. (quoting United States v. Romero, 906 F.3d 196, 211 (1st Cir. 2018)). With that in mind, this court has still rejected disparity claims when a defendant "fail[s] to acknowledge material differences between [his] own circumstances and those of [his] more leniently punished [codefendant]." United States v. Reyes-Santiago, 804 F.3d 453, 467 (1st Cir. 2015). In sentence disparity claims, a defendant must compare apples to apples. United States v. Mateo-Espejo, 426 F.3d 508, 514 (1st Cir. 2005).

Bishoff claims that the district court's divergent approach to common issues resulted in disparate sentences despite Shaw and Bishoff being "similar in many ways." We disagree. First, as Bishoff himself acknowledges, he and Shaw were charged with different offenses. Bishoff was charged with possession or transfer of a machinegun, dealing firearms without a license, and possession of a machinegun without a serial number, while Shaw was charged with being a felon in possession of ammunition and possession of a machinegun without a serial number. Moreover, the court could not have explained the reasons for the disparity during Bishoff's sentencing hearing because Bishoff was sentenced five months before Shaw and, at that point, there was no disparity to

consider or justify. See United States v. McDowell, 676 F.3d 730, 733 (8th Cir. 2012) ("[S]entencing judges . . . are not required to consider events that have not yet occurred."). Further, Bishoff and Shaw were situated differently. After being arrested, Shaw immediately started cooperating with law enforcement and negotiated a plea agreement. In contrast, Bishoff entered a straight plea and did not cooperate. "'[M]aterial differences' between [Bishoff] and [Shaw] such as 'dissimilar criminal involvement . . . or cooperation with the government' destroy a disparity claim." Candelario-Ramos, 45 F.4th at 526 (quoting Romero, 906 F.3d at 211-12). We have previously pointed out that "the permissible distinction between co-defendants who go to trial and those who plead guilty, [and] between those who cooperate and those who do not, . . . undermine an assertion of unjustified disparity." United States v. Reyes-Santiago, 804 F.3d 453, 467 (1st Cir. 2015) (internal citations omitted). Thus, without appropriate comparators, Bishoff's disparity claim fails. See United States v. González-Barbosa, 920 F.3d 125, 131 (1st Cir. 2019).

IV. Conclusion

For the foregoing reasons, Bishoff's sentence is **affirmed**.

UNITED STATES DISTRICT COURT

District of Massachusetts

UNITED STATES OF AMERICA

v.

Terrick Bishoff

JUDGMENT IN A CRIMINAL CASECase Number: **4 19 CR 40047 - 001 - TSH**

USM Number: 01802-138

Timothy G. Watkins

Defendant's Attorney

THE DEFENDANT:☒ pleaded guilty to count(s) 1-3☐ 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>
18 U.S.C. § 922(o)	Possession or Transfer of a Machine Gun	05/19/19	1
18 U.S.C. § 922(a)(1)(A)	Dealing in Firearms without a License	07/24/19	2
26 U.S.C. § 5861(i)	Possession of a Firearm without a Serial Number	05/15/19	3

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.

5/26/2021

Date of Imposition of Judgment

/s/ Timothy S. Hillman

Signature of Judge

The Honorable Timothy S. Hillman

U.S. District Judge

Name and Title of Judge

6/4/2021

Date

DEFENDANT: Terrick Bishoff
CASE NUMBER: **4 19 CR 40047 - 001 - TSH**

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of: **60 months**

This term consists of terms of 60 months on Counts 1-3, to be served concurrently.

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

Participation in the Bureau of Prisons' Residential Drug Abuse Program (RDAP). If the defendant completes the Residential Drug Abuse Program (RDAP), he shall be considered for the Bureau of Prisons' Alternative Community Placement Program.

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

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

☐ at _____ ☐ 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 _____
a _____ , with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Terrick Bishoff

CASE NUMBER: **4 19 CR 40047 - 001 - TSH****SUPERVISED RELEASE**

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

3 year(s)

This term consists of terms of 3 years on Counts 1-3, 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 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. *(check if applicable)*
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)*

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: Terrick Bishoff
CASE NUMBER: **4 19 CR 40047 - 001 - TSH**

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: Terrick Bishoff

CASE NUMBER: **4 19 CR 40047 - 001 - TSH**

SPECIAL CONDITIONS OF SUPERVISION

1. You must participate in a program for substance abuse counseling as directed by the Probation Office, which program may include testing, not to exceed 104 drug tests per year to determine whether you have reverted to the use of alcohol or drugs.
2. You are prohibited from consuming any alcoholic beverages.
3. You must participate in a mental health treatment program as directed by the Probation Office.
4. You must participate in an educational services program or vocational services training program, as directed by the Probation Office. Such program may include GED preparation, job readiness training and/or skills development training.
5. You shall be required to contribute to the costs of evaluation, treatment, programming, and/or monitoring (see Special Conditions #1, 3, and 4), based on the ability to pay or availability of third-party payment.

DEFENDANT: Terrick Bishoff

CASE NUMBER: **4 19 CR 40047 - 001 - TSH**

CRIMINAL MONETARY PENALTIES

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

	<u>Assessment</u>	<u>JVTA Assessment*</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 300.00	\$	\$	\$

☐ 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:

* 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: Terrick Bishoff

CASE NUMBER: 4 19 CR 40047 - 001 - TSH

SCHEDULE OF PAYMENTS

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

- A ☐ Lump sum payment of \$ _____ due immediately, balance due
- ☐ not later than _____, or
- ☐ in accordance with ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☒ 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:

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

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

- ☐ Joint and Several

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

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ 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) fine principal, (5) fine interest, (6) community restitution, (7) JVT A assessment, (8) penalties, and (9) costs, including cost of prosecution and court costs.