APPENDIX A

PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

_____

No. 21-2294

_____

UNITED STATES OF AMERICA

v.

STACY GALLMAN,
Appellant

_____

On Appeal from the United States District Court
For the Eastern District of Pennsylvania
(D.C. No. 2-20-cr-00298-001)
District Judge: Honorable Karen S. Marston

_____

Argued on November 16, 2022

Before: HARDIMAN, PORTER, and FISHER, *Circuit Judges*.

(Filed: January 9, 2023)

Keith M. Donoghue **[Argued]**
Brett G. Sweitzer

Leigh M. Skipper
Andrew Moon
Federal Community Defender Office
for the Eastern District of Pennsylvania
601 Walnut Street
The Curtis Center, Suite 540 West
Philadelphia, PA 19106

Counsel for the Appellant

Jennifer Arbittier Williams
Robert A. Zauzmer
Ashley N. Martin **[Argued]**
Office of United States Attorney
615 Chestnut Street, Suite 1250
Philadelphia, PA 19106

Counsel for the Appellee

_____

OPINION OF THE COURT

_____

HARDIMAN, *Circuit Judge*.

Stacy Gallman appeals his judgment of conviction following a jury trial. He claims the District Court erred when it: (1) closed part of his trial to the public in violation of the Sixth Amendment; and (2) admitted evidence of his prior felony conviction. Neither argument is persuasive, so we will affirm the judgment of the District Court.

I

This case arises from a traffic stop in Philadelphia, Pennsylvania. Two police officers, Joshua Kling and Thomas Nestel, stopped Gallman after they saw him run a stop sign. When Nestel approached Gallman's passenger, Nafese Kelly-Sizer, he saw a firearm magazine sticking out of Kelly-Sizer's pants pocket. Nestel handcuffed Kelly-Sizer and recovered a firearm from his waistband. After the firearm was recovered, Kling removed Gallman from the driver's seat and frisked him, uncovering nothing. Before returning to search the vehicle, Kling handed a handcuffed Gallman to Jesse Rosinski, an officer who had joined the stop with his partner, Zachary Stout. Rosinski brought Gallman to the patrol car and placed him in the back seat. Meanwhile, Kling discovered a firearm at the base of the driver's seat, so he asked Rosinski to remove Gallman from the patrol car to search him again. Upon doing so, Rosinski noticed a firearm magazine in the backseat of the patrol car that had not been there before. The officers later recovered more ammunition from Gallman's car.

Gallman, who had a prior conviction for first-degree robbery, was charged with one count of possession of a firearm by a felon in violation of 18 U.S.C. § 922(g)(1). Prior to trial, Gallman unsuccessfully moved to suppress the evidence recovered from the traffic stop. During the suppression hearing, the Government informed the District Court that there was an open Philadelphia Police Internal Affairs Division (IAD) investigation about Rosinski's failure to call a supervisor to a traffic stop. Following the hearing, the Court asked the Government to subpoena the IAD investigator so the Court could question him outside the presence of the jury. The Government agreed to do so. Separately, the Government emailed the Court *ex parte*, attaching an IAD memorandum

regarding a racial profiling complaint against Rosinski and Stout for the Court to review *in camera*. The Government advised that the matter was closed prior to Gallman's arrest and that the allegation of racial profiling was unfounded. The Government also argued that the information was not discoverable under *Brady v. Maryland*, 373 U.S. 83 (1963) or *Giglio v. United States*, 405 U.S. 150 (1972).

Gallman was tried in June 2021 according to a COVID-19 protocol adopted by the United States District Court for the Eastern District of Pennsylvania. The trial was conducted in one courtroom and video streamed to another (courtroom 7B), where members of the public and Gallman's family were seated. The Sixth Amendment issues on appeal arise from the alleged lack of a public video stream during two proceedings on the second day of trial.

A

The first challenged proceeding occurred after the jury had been selected and sworn. Before the jury was brought in for preliminary instructions and opening statements, the Court asked Gallman whether he wanted to stipulate to the fact of his prior felony conviction for first-degree robbery. The Court explained that if Gallman stipulated that his prior conviction was for a crime punishable by more than a year in prison, "that's the only thing the jury is going to hear." App. 723. The Court cautioned Gallman to think "very carefully" and consult his attorney about whether he wanted the jury to know the details of his prior conviction. App. 723. In response, Gallman stated "I am 31 years old. And that happened when I was 16 years old. So that's 15 years ago and I am not the same person. So I am open to them questioning me about that." App. 724.

The Court then advised Gallman that the Government had disclosed *ex parte* potential *Brady* or *Giglio* material: a formal complaint against Rosinski and Stout for racial profiling. The Court explained that the complaint had not been sustained; the IAD found only that the officers failed to maintain their patrol log, and the investigation was closed two months prior to Gallman's arrest. The Court then ruled that, based on its *in camera* review, the Government did not have to turn over the IAD investigative file to Gallman.

Gallman asked the Court whether he could cross-examine Rosinski and Stout about the racial profiling allegations. The Government opposed that request because the complaint was unfounded. Gallman responded that it was up to the jury to weigh the officers' credibility. The Government then pointed out that Rosinski and Stout were "backup officers" for Gallman's search and arrest. Though Gallman disputed that characterization, the Court agreed with the Government, noting that it "might be a different scenario if we were dealing with the two officers that actually conducted the stop." App. 733–34. The Court also found it "important" that the IAD complaint "was not founded at all." App. 734. So the Court did not allow Gallman to cross-examine Rosinski and Stout about the racial profiling allegations.

The record does not expressly indicate whether the video stream to courtroom 7B was on during the proceeding just described. And although the transcript of the proceeding was sealed, it is unclear whether that occurred at the behest of one or both parties, or the Court.

B

The second closed proceeding occurred later that same day, after the Court excused the jury for lunch. It too involved an IAD investigation, but this one remained pending and involved Rosinski alone. The Court called a lieutenant from the IAD, Dennis Keenan, into the courtroom for questioning about the investigation. After an inadvertent interruption by a juror at the start of the questioning, the Court stated "we can lock that door, right? I think 7B can be on. The only people that cannot be in here is the jury." App. 182. Gallman's counsel responded: "I didn't know if there was anything that the Government wanted to seal." App. 182. In response, the Government moved to seal Keenan's testimony because it concerned "an open investigation." *Id.* The Court then stated "Okay. Let's turn off 7B." *Id.* Gallman's counsel did not object.

Upon questioning by both parties and the Court, Keenan testified that he investigated a complaint that Rosinski failed to call a supervisor to a traffic stop. Keenan added that the complaint was unfounded because Rosinski's partner had called a supervisor to the scene. But Keenan's superiors had not yet approved his report, so the matter remained open. After the questioning, the Government withdrew its motion to seal the transcript.

C

Gallman's trial lasted four days. Before admitting evidence regarding Gallman's prior conviction, the Court gave him another chance to stipulate. Gallman declined. The Government then introduced certified copies of Gallman's fingerprint card from his prior conviction and of the conviction itself. The Government also read into the record that Gallman

"was convicted of first degree felony robbery and was sentenced to a term of not less than five years and not more than ten years of incarceration." App. 501. Before the prior-conviction evidence was introduced, the Court instructed the jury that it could not consider the evidence for any purpose except to prove that Gallman had been convicted of a crime punishable by imprisonment for a term exceeding one year. The jury found Gallman guilty on one count of violating § 922(g)(1) and the Court sentenced him to 42 months' imprisonment. Gallman timely appealed.

II

The District Court had subject matter jurisdiction under 18 U.S.C. § 3231. We have appellate jurisdiction under 28 U.S.C. § 1291. Because Gallman did not object to the closure of the two proceedings by the District Court, plain-error review applies to his argument that those closures violated his Sixth Amendment right to a public trial. *United States v. Williams*, 974 F.3d 320, 340 (3d Cir. 2020). We review the District Court's decision to admit the evidence of Gallman's prior conviction for abuse of discretion. *United States v. Starnes*, 583 F.3d 196, 213–14 (3d Cir. 2009).

III

We first consider whether the District Court committed plain error in violation of Gallman's Sixth Amendment public-trial right by closing two proceedings to the public. To succeed on plain-error review, Gallman must show: (1) an "error" that (2) is "plain" and (3) "affects substantial rights." *United States v. Olano*, 507 U.S. 725, 732 (1993) (alteration omitted) (quoting Fed. R. Crim. P. 52(b)). If all three conditions are satisfied, it is "within [our] sound discretion" to correct the

error—but only if it (4) "seriously affects the fairness, integrity or public reputation of judicial proceedings." *Id.* (alteration omitted) (quoting *United States v. Young*, 470 U.S. 1, 15 (1985)).

A

Did the District Court err when it closed the two proceedings?[1] This is a close question on the facts of this case, which involve a jury trial conducted during a pandemic.

The Sixth Amendment requires that "[i]n all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial." U.S. CONT. amend. VI. In addition to the proof offered at trial, the Supreme Court has held that the right attaches to pre-trial suppression hearings, *Waller v. Georgia*, 467 U.S. 39, 47 (1984), and jury selection, *Presley v. Georgia*, 558 U.S. 209, 213 (2010) (per curiam). The public-trial right likely does not extend to sidebars or chambers conferences, however. *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 598 n.23 (1980) (Brennan, J., concurring in the judgment); *United States v. Smith*, 787 F.2d 111, 114 (3d Cir.

[1] The parties dispute whether the first proceeding was in fact closed to the public. Gallman claims the video stream to courtroom 7B was inactive during the first alleged closure because the transcript of the proceedings describes them as under seal. The Government counters that there is no evidence in the record that the first closure occurred because the trial transcript says nothing about the video feed at that time. We assume both proceedings were closed for purposes of this appeal.

1986). Nor is the public-trial right absolute. The Supreme Court has reiterated:

> the party seeking to close the hearing must advance an overriding interest that is likely to be prejudiced, the closure must be no broader than necessary to protect that interest, the trial court must consider reasonable alternatives to closing the proceeding, and it must make findings adequate to support the closure.

Presley, 558 U.S. at 214 (alteration omitted) (*quoting Waller*, 467 U.S. at 48). The District Court made no findings before closing either proceeding at issue here.

Gallman argues that the public-trial right attaches to the first proceeding by analogizing it to suppression hearings described in *Waller*. Some similarities do exist—here, counsel at the first proceeding argued whether certain evidence should be presented to the jury, and the court excluded that evidence from trial, in part based on the resolution of a factual dispute (whether Rosinksi and Stout were backup officers). *See Waller*, 467 U.S. at 47. Further, the *Waller* Court noted that the need for public suppression hearings is particularly important because they "frequently attack[] the conduct of police and prosecutor," and the public "has a strong interest in exposing substantial allegations of police misconduct to the salutary effects of public scrutiny." *Id.* The same strong public interest is present in this case, where the District Court reviewed police misconduct investigations to determine whether they constituted *Brady* or *Giglio* material.

On the other hand, the determination of whether certain information is subject to disclosure under *Brady* or *Giglio* is

routinely handled outside of public view, without any hearing at all. *See United States v. Wecht*, 484 F.3d 194, 214 (3d Cir. 2007), *as amended* (July 2, 2007) (approving of *in camera* review of potential *Brady* or *Giglio* material). Likewise, the scope of cross-examination is typically adjudicated during sidebars to which the public are not privy. *See Smith*, 787 F.2d at 114 (noting that "the public and press may be justifiably excluded from sidebar and chambers conferences even when substantive rulings are made"); *United States v. Norris*, 780 F.2d 1207, 1209–11 (5th Cir. 1986) (holding that the right to a public trial does not extend to non-public chambers and bench conferences on evidentiary questions, technical legal issues, and routine administrative matters).

The second closed proceeding in this case is even less like suppression hearings and the "actual proof" presented at trial. *Waller*, 467 U.S. at 44. Lieutenant Keenan was not a witness for either party; the hearing was not conducted pursuant to a motion by either party; the parties did not make argument at the hearing; and the Court did not make an evidentiary or other substantive ruling based on Keenan's testimony. It thus does not "resemble[] a bench trial" nor was it "as important as the trial itself." *Id.* at 46–47.

Whether the Sixth Amendment public-trial right attaches to proceedings like these is a close question. If it does, the District Court's failure to explain why they were closed was erroneous. *See id.* at 47–48. But for an error to be *plain*, the correct resolution must be "'clear' or 'obvious'" under current law. *United States v. Scott*, 14 F.4th 190, 198 (3d Cir. 2021) (quoting *Olano*, 507 U.S. at 734). It is not here.

Neither the Supreme Court nor our Court has decided whether the Sixth Amendment public-trial right attaches to

proceedings like those at issue in this case—brief, investigatory hearings related to potential *Brady* or *Giglio* material. And the cases Gallman cites do not demonstrate a "consensus among the Circuits" necessary to make plain that the Sixth Amendment covers these proceedings. *Scott*, 14 F.4th at 199.

Gallman first points to *U. S. ex rel. Bennett v. Rundle*, 419 F.2d 599 (3d Cir. 1969) (en banc) and *United States v. Smith*, 787 F.2d 111 (3d Cir. 1986) to establish that his Sixth Amendment right attached to the closed proceedings. *Bennett* addressed a suppression hearing regarding a defendant's confession, 419 F.2d at 603, and for reasons already explained, the proceedings here differ from suppression hearings in material respects (particularly because *Brady* and *Giglio* determinations are routinely made out of public view). While we did say in *Bennett* that "a hearing which … is held as part of the trial and after the jury has been sequestered, falls within the [public-trial] guarantee," 419 F.2d at 606, we did not hold that *any* proceeding occurring after the jury is empaneled is "part of the trial." Such an inference goes too far, particularly since *Bennett* was decided before *Waller* and *Presley*.

Smith is even further afield—it considered the First Amendment right of the public and the press to access transcripts of sidebars and chambers conferences. 787 F.2d at 113. While the Supreme Court has said "the explicit Sixth Amendment right of the accused is no less protective of a public trial than the implicit First Amendment right of the press and public," *Waller*, 467 U.S. at 46, it has also said that "[t]he extent to which the First and Sixth Amendment public trial rights are coextensive is an open question," *Presley*, 558 U.S. at 213. And we recognized in *Smith* that there may be no "constitutional . . . right of contemporaneous presence" with

respect to sidebar and chambers conferences, such that "the public and press may be justifiably excluded" from those proceedings. 787 F.2d at 114. Even if the Sixth Amendment public-trial right also attaches to transcripts of sidebars and chambers conferences (like the First Amendment right does), *Smith* did not establish that the right attaches to public observation of the somewhat analogous proceedings here—at least not with sufficient clarity to make any error plain.

Gallman also cites three nonbinding cases which fail to establish that any error here was plain: *United States v. Waters*, 627 F.3d 345 (9th Cir. 2010); *Rovinsky v. McKaskle*, 722 F.2d 197 (5th Cir. 1984); and *State v. Morales*, 932 N.W.2d 106 (N.D. 2019). *Rovinsky*, 722 F.2d at 200, and *Morales*, 932 N.W.2d at 114–15, held that the Sixth Amendment public-trial right attached to motion in limine hearings. But the hearings here were not on motions in limine; they were not on motions at all. And two years after *Rovinsky*, after *Waller* was decided, the Fifth Circuit reaffirmed that the public-trial right does not attach to closed proceedings that involve "technical legal questions" and "evidentiary rulings." *Norris*, 780 F.2d. at 1210. Other circuits too have questioned the implications of *Rovinsky*'s holding. *See, e.g.*, *United States v. Vazquez-Botet*, 532 F.3d 37, 52 n.10 (1st Cir. 2008). Further, the North Dakota Supreme Court in *Morales* relied on its own caselaw and *Waller* to reverse and remand following the closure of a motion in limine hearing. 932 N.W.2d at 114–15, 120.

These authorities fall well short of the requisite "consensus" among our sister circuits, particularly because the hearings here are only somewhat like motion in limine hearings. *See Scott*, 14 F.4th at 199; *see also Smith v. Titus*, 958 F.3d 687, 692–93 (8th Cir. 2020) (stating that it is an "open question" whether the public-trial right encompasses motion in

limine proceedings), *cert. denied*, 141 S. Ct. 982 (2021). Nor does *Waters* advance Gallman's argument. There, the Ninth Circuit held that the public-trial right attaches to a hearing on a motion to dismiss an indictment for governmental misconduct, 627 F.3d at 360—a substantively different proceeding from those here, and one that was likely dispositive. *See Waller*, 467 U.S. at 46–47.

In sum, any error in closing the video livestream to the public did not constitute reversible plain error because it was not "clear under current law" that the Sixth Amendment public-trial right attached to the closed proceedings. *Olano*, 507 U.S. at 734.

B

Even assuming that any error was plain and that it affected substantial rights, we would decline to exercise our discretion to grant Gallman a new trial. *Olano* requires us to "weigh[] the costs to the fairness, integrity, and public reputation of judicial proceedings that would result from allowing the error to stand with those that would alternatively result from providing a remedy." *Williams*, 974 F.3d. at 344. We hold that Gallman cannot satisfy that high standard. Several factors lead us to this conclusion.

First, the closures here were brief and resulted from the challenges of conducting a trial during a pandemic rather than any substantive decision by the District Court. The public had access to almost all of Gallman's trial, including jury selection and the pre-trial suppression hearing. *See id.* at 346.

Second, some of the topics discussed at the closed proceedings were discussed in open court—the misconduct

investigations were referenced generally at the suppression hearing, and Rosinski testified at trial regarding the open IAD investigation.

Third, the District Court was prompted to close the second proceeding by counsel (first, for Gallman; then the Government) after originally suggesting merely locking the courtroom door to prevent jurors from re-entering. *Cf. Williams*, 974 F.3d at 346 (noting that the district court issued a closure order *sua sponte*, thereby stamping the closure with the "imprimatur of the federal judiciary").

Most significantly, Gallman's trial "possessed the publicity, neutrality, and professionalism that are essential components of upholding an accused's right to a fair and public trial." *Id.* at 347. There is no "suggestion of misbehavior by the prosecutor, judge, or any other party." *Id.* (quoting *Weaver v. Massachusetts*, 137 S. Ct. 1899, 1913 (2017)). And the costs of retrial would greatly outweigh any benefit given the brevity and collateral nature of the closed proceedings. *See Williams*, 974 F.3d at 347 (retrial demands "'a high degree of caution'" even absent "heavy burdens") (quoting *Rosales-Mireles v. United States*, 138 S. Ct. 1897, 1909 (2018)).

So even assuming plain error here, it would not be appropriate for us to exercise our discretion at prong four of *Olano* to remand for a new trial.

IV

We next consider Gallman's argument that the District Court abused its discretion under *Old Chief v. United States*, 519 U.S. 172 (1997), and Rule 403 of the Federal Rules of Evidence by admitting evidence that he had pleaded guilty to

robbery and had been sentenced to five to ten years' imprisonment.

In *Old Chief*, the Supreme Court held that, in a § 922(g)(1) prosecution, it is an abuse of discretion under Federal Rule of Evidence 403 for a trial court to reject a defendant's offer to stipulate or admit to a prior conviction and instead admit the full record of conviction. 519 U.S. at 174. The Court explained that, where such evidence is relevant only to prove the fact of the prior felony conviction, the prejudicial effect of the conviction record substantially outweighs any probative value. *Id.* at 191.

Gallman claims the District Court erred when it did not exclude all the evidence regarding his prior conviction beyond the fact of his prior felony conviction. Emphasizing that he admitted (to the Court, not the jury) that he knew he was a felon and had no objection to questioning about that prior conviction, he claims entitlement to the protections of *Old Chief*. We disagree.

Old Chief is a shield, not a sword. Before the Supreme Court's decision in *Rehaif v. United States*, 139 S. Ct. 2191 (2019), defendants charged with violating § 922(g)(1) routinely sought the protections of *Old Chief* by stipulating to the fact that they had been previously convicted of a crime punishable by more than a year in prison. *Rehaif* brought a sea change to these cases, however, by requiring the prosecution to prove not only the fact of the prior conviction, but also the defendant's knowledge of it. 139 S. Ct. at 2200. So in this case, the Government had to prove, beyond a reasonable doubt, that Gallman knew he was a felon prohibited from carrying a firearm.

Instead of stipulating to both status and knowledge, Gallman stated merely that he was "open to [the Government] . . . questioning [him] about [his prior conviction]." App. 724. In fact, Gallman *declined* to stipulate to the fact of his prior conviction on multiple occasions. His words are a far cry from the "conclusive evidence" that a stipulation or admission affords the prosecution in a § 922(g)(1) case, particularly after *Rehaif*. *Old Chief*, 519 U.S. at 186. In sum, Gallman did not concede his status as a "prohibited person" under § 922(g)(1), as was his right. But he had no right to impair the Government's ability to prove its case.

Nor did the District Court abuse its discretion in admitting the prior-conviction evidence. Rule 403 authorizes exclusion of relevant evidence when its "probative value is substantially outweighed by a danger of . . . unfair prejudice." Fed. R. Evid. 403.

Here, the District Court admitted a certified copy of Gallman's fingerprint card from his prior conviction and portions of a certified copy of his criminal conviction. Those documents showed that Gallman pleaded guilty to robbery and was sentenced to five to ten years' imprisonment. The Court explained on the record why the prior-conviction evidence was probative—it demonstrated Gallman's felon status and made it more likely that Gallman was aware of it.

The Court ensured that the probative value of the evidence was not substantially outweighed by the danger of unfair prejudice. It excluded certain evidence related to the prior conviction, including a police report and statements identifying the statutory maximums on all the charges Gallman faced. And, when the prior-conviction evidence was admitted, the Court instructed the jury to consider it only for the purpose

of proving that Gallman had been convicted of a crime punishable by imprisonment for more than a year. The Court reiterated this limited purpose in its final instructions to the jury.

For these reasons, the Court's decisions under Rule 403 were well within its broad discretion.

* * *

The closure of two proceedings during Gallman's trial was not plainly erroneous and did not affect the fairness, integrity, or public reputation of judicial proceedings. Nor did the District Court abuse its discretion in admitting evidence of Gallman's prior conviction. We will affirm.

APPENDIX B

AO 245B (Rev. 09/19) Judgment in a Criminal Case
Sheet 1

UNITED STATES DISTRICT COURT

Eastern District of Pennsylvania

UNITED STATES OF AMERICA
v.
STACY GALLMAN

JUDGMENT IN A CRIMINAL CASE

Case Number: DPAE2:20CR000298-001

USM Number: 09802-509

Andrew Moon
Defendant's Attorney

THE DEFENDANT:

☐ pleaded guilty to count(s) _____

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

☑ was found guilty on count(s) 1
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18:922(g)(1)	Possession of a firearm by a felon	12/27/2019	1

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) _____

☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

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

10/19/2021
Date of Imposition of Judgment

Karen Spencer Marston
Signature of Judge

Hon. Karen Spencer Marston , USDJ
Name and Title of Judge

10/19/2021
Date

DEFENDANT: STACY GALLMAN
CASE NUMBER: DPAE2:20CR000298-001

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of:
42 months as to count 1 of the indictment.

☑ The court makes the following recommendations to the Bureau of Prisons:
The Court recommends that defendant be designated to an institution in close proximity to Philadelphia where his family resides .

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

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

☐ at _____ ☐ a.m. ☐ p.m. on _____ .

☐ as notified by the United States Marshal.

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

☐ before 2 p.m. on _____ .

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____ , with a certified copy of this judgment.

_____
UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: STACY GALLMAN
CASE NUMBER: DPAE2:20CR000298-001

SUPERVISED RELEASE

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

3 years .

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
   - ☐ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. ☐ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. ☑ You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. ☐ You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

DEFENDANT: STACY GALLMAN
CASE NUMBER: DPAE2:20CR000298-001

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature _____ Date _____

DEFENDANT: STACY GALLMAN
CASE NUMBER: DPAE2:20CR000298-001

ADDITIONAL SUPERVISED RELEASE TERMS

The defendant shall refrain from the illegal possession and/or use of drugs and shall submit to urinalysis or other forms of testing to ensure compliance. It is further ordered that the defendant shall participate in drug treatment and abide by the rules of any such program until satisfactorily discharged.
The defendant shall participate in a program at the direction of the probation officer aimed at learning a vocation or improving the defendant's education level or employment skills in order to develop or improve skills needed to obtain and maintain gainful employment. The defendant shall remain in any recommended program until completed or until such time as the defendant is released from attendance by the probation officer.

DEFENDANT: STACY GALLMAN
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CRIMINAL MONETARY PENALTIES

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

	Assessment	Restitution	Fine	AVAA Assessment*	JVTA Assessment**
TOTALS	$ 100.00	$	$	$	$

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

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

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

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

TOTALS	$ 0.00	$ 0.00

☐ Restitution amount ordered pursuant to plea agreement $ _____

☐ The defendant must pay interest on restitution and a fine of more than $2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.
** Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.
*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

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SCHEDULE OF PAYMENTS

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

A ☑ Lump sum payment of $ 100.00 due immediately, balance due

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

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

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

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

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

F ☑ Special instructions regarding the payment of criminal monetary penalties:
The special assessment is due immediately , It is recommended that the defendant participate in the BOP inmate financial responsibility program and provide a minimum of $25 per quarter towards the special assessment. If the entire amount is not paid prior to the commencement of supervision the defendant shall satisfy the amount due in monthly installments of not less then $25 , to commence 30 days after release from confinement.

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

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

☐ Joint and Several

Case Number Defendant and Co-Defendant Names *(including defendant number)*	Total Amount	Joint and Several Amount	Corresponding Payee, if appropriate

☐ 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:
one Glock, model 30, .45 caliber semiautomatic pistol, bearing serial number DSE775US; Thirty-one live rounds of ammunition; and any and all other ammunition;

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.