

No. \_\_\_\_\_

---

IN THE SUPREME COURT OF THE UNITED STATES

---

JADEN RENE JOHNSON,

Petitioner

v.

UNITED STATES OF AMERICA,

Respondent

---

PETITION FOR WRIT OF CERTIORARI  
THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

Respectfully submitted,

Steve Hershberger, Attorney at Law  
Texas State Bar # 09543950  
600 No. Marienfeld St., Ste 1035  
432-570-4014

Attorney for Petitioner

QUESTION PRESENTED FOR REVIEW

Whether the District Court unreasonably sentenced Petitioner to a higher than necessary sentence by denying Petitioner's points for acceptance of responsibility based on unrelated, incarcerated conduct, thus depriving the Petitioner of liberty within the terms of 18 U.S.C. 3583 (c) and (d).

## TABLE OF CONTENTS

	<u>Page</u>
Question Presented for Review	1
Table of Contents	2
Table of Authorities	3
Opinion Below	5
Jurisdiction	6
Constitutional and Statutory Provisions Involved	6
Statement of the Case	6
Reasons for Granting the Writ	7
Conclusion	8
Prayer for Relief	8



## TABLE OF AUTHORITIES

	<u>Page</u>
<u>CASES</u>	
UNITED STATES SUPREME COURT	
<u>Calder v. Bull</u> , 390 Dall. (3 U.S.) 381 (1798).....	7
<u>Gozlon-Peretz v. United States</u> , 498 U.S. 395 (1991).....	7
<u>North Carolina v. Pearce</u> , 395 U.S. 711 (1969).....	8
<u>Puckett v. United States</u> , 556 U.S. 129 (2009).....	7
<u>United States v. Booker</u> , 5443 U.S. 270 (2005).....	7
<u>Johnson v. United States</u> , 529 U.S. 53 (2000).....	7
<u>United States v. Booker</u> , 543 U.S. 270 (2005).....	8
<u>United States v. Olano</u> , 507 U.S. 725 (1993).....	7
UNITED STATES COURT OF APPEALS	
<u>United States v. Kinder</u> , 946 F.3d 362 (5 <sup>th</sup> Cir. 1991), <u>cert. denied</u> 503 U.S. 987 (1991).....	8
<u>United States v. Shipley</u> , 963 F.3d 56 (5 <sup>th</sup> Cir. 1992) <u>cert. denied</u> 506 U.S. 925 (1992) .....	8
CONSTITUTION	
U.S.Const., Amend V.....	5
STATUTES	
<u>Federal</u>	
18 U.S.C. Sec. 3583(d).....	6
18 U.S.C. Sec. 3583(e)(3).....	6



28 U.S.C. Sec. 1254(a).....	6
18 U.S.S.G. Sec. 3E1.1.....	7

IN THE SUPREME COURT OF THE UNITED STATES

---

JADEN RENE JOHNSON,

Petitioner

v.

UNITED STATES OF AMERICA,

Respondent

---

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

---

TO THE HONORABLE JUSTICES OF THE UNITED STATES SUPREME COURT:

The Petitioner, JADEN RENE JOHNSON, Appellant in the United States Court of Appeals for the Fifth Circuit in Case No. 22-50851 and the Defendant in Case No. MO-22-CR-80, submits this Petition for Writ of Certiorari and respectfully prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Fifth Circuit entered on May 04, 2023.

OPINION BELOW

On May 04, 2023, the United States Court of Appeals for the Fifth Circuit entered its Opinion affirming the verdict guilty returned against Petitioner. A copy of the Opinion is attached as Appendix A.

The Criminal Judgment of the United States District Court, Western District of Texas is attached as Appendix B. A copy of the Judgment from Case No. MO-22-CR-80 is included within Appendix B.



## JURISDICTION

Jurisdiction of this Court is invoked under Title 28, United States Code sec. 1254(a).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fifth Amendment to the United States Constitution states, in pertinent part to the case *sub judice*:

No person...shall be deprived of life, liberty, or property, without due process of law...

18 U.S.C. sec. 3583(d) provides, in part: The Court may order, as a further condition of supervised release, to the extent that such condition-

(2) involves no greater deprivation of liberty than is reasonably necessary for the purposes set forth in section 3553(a)(2)(B), (a)(2)(C), and (a)(2)(D); ...

## STATEMENT OF THE CASE

Petitioner pleaded guilty to the offense of Felon in Possession of a Firearm. 18 U.S.C. Sec. 922(g)(1) and 924(a)(2). While in pre-trial detention at the Rolling Plains Detention Center in Haskell, Texas, Petitioner got into a fight with a fellow pre-trial detainee, unrelated to the charged offense, er, over the cleanliness of the jail cell.

The charge arose out of an April 07, 2022, arrest of Petitioner by police officers with the Midland, Texas Police Department. Officers had encountered Johnson and a female at a parking lot of a Midland, Texas hotel. Officer subsequently searched a backpack, which contained a revolver. Johnson had a previous conviction from Andrews County, Texas.

On or about September 17, 2022, the United States District Court, Western District of Texas, sentenced Johnson to 41 months incarceration and three years of supervised release, among other things. On September 20, 2022, Johnson, through counsel filed a notice of appeal.

The sentence was affected by the District Court's denial of three downward levels to his



base offense level for acceptance of responsibility. The denial was based on an altercation Petitioner had with another inmate on or about May 2022 over the cleanliness of the jail cell.

#### REASON FOR GRANTING THE WRIT

There was no casual relation between a pre-trial detention altercation involving Petitioner and another detainee and the substantive offense.

The District Court, therefore, erred by imposing punishment involving a greater deprivation of liberty than is reasonably necessary to achieve the goal of deterrence, incapacitation and rehabilitation. Johnson v. United States, 529 U.S. 53, 59-60 (2000); Gozlon-Peretz v. United States, 498 U.S. 395, 400-401 (1991). The sentencing court denied Petitioner points for acceptance of responsibility under the Sentencing Guidelines paradigms for conduct that was unrelated to the charged offense.

Therefore, the United States District Court imposed a greater imposition on liberty than was necessary to meet sentencing objectives. United States v. Olano, 507 U.S. 725 (1993); Puckett v. United States, 556 U.S. 129, 135 (2009). Error was further compounded by the affirmance of the United States Court of Appeals for the Fifth Circuit.

The deprivation of liberty implicates constitutional protection. See Calder v. Bull, 390 Dall. (3 U.S.) 386 (1798). Here the sentence is a greater deprivation of liberty than is reasonably necessary to serve its purposes. Accord United States v. Booker, 543 U.S. 270 (2005). Paragraph 11 of the Pre-Sentence Report has a finding against acceptance of responsibility. A defendant is entitled to a two-level reduction to his offense level if he “clearly demonstrates acceptance of responsibility for the offense.” 18 U.S.S.G. Sec. 3E1.1(a). The defendant bears the burden of proving that he is entitled to the downward adjustment. United States v. Kinder, 946 F.2d 362,



367 (5<sup>th</sup> Cir. 1991), cert. denied 503 U.S. 987 (1992). The entry of a guilty plea prior to the commencement of trial is significant evidence of acceptance of responsibility but does not entitle the defendant to a reduction as a matter of right. 18 U.S.S.G. Sec. 3E1.1; United States v. Shipley, 963 F.2d 56, 58 (5<sup>th</sup> Cir. 1992), cert. denied 506 U.S. 925 (1992).

In this case, Johnson pleaded guilty and pleaded guilty in a timely manner. He accepted responsibility for his conduct in the criminal transaction. The Government was not put to the burden of going to trial and proving its case. This amount of incarceration is unreasonable as it fails to accord the imprisonment provided in the Bureau of Prisons. North Carolina v. Pearce, 395 U.S. 711 (1969).

Therefore, Petitioner requests that the United States Supreme Court grant this Petition for Writ of Certiorari on the ground that the sentencing ordered by the District Court place a greater deprivation on Petitioner's liberty than is necessary.

#### CONCLUSION

For the foregoing reasons, Petitioner respectfully submits that the Petition for Writ of Certiorari should be granted and prays that the District Court's sentence be vacated, and the case be remanded for re-sentencing pertaining to the supervision revocation.

Separately Petitioner prays for such relief, in law or in equity in which he is entitled.

#### PRAYER FOR RELIEF

Petitioner, Jaden Johnson, requests that the Petition for Writ of Certiorari be granted for the reasons stated and that the conviction entered against him be vacated and this case remanded for re-sentencing, and such other relief to which Petitioner would be entitled to receive in law or in equity.



Respectfully submitted,

Steve Hershberger, Attorney at Law  
600 No. Marienfeld St., Ste. 1035  
Midland, TX 79701  
432-570-4014

By: /s/ Steve Hershberger  
Steve Hershberger  
Texas State Bar # 09543950

Attorney for Petitioner



APPENDIX A

(Opinion of the United States Court of Appeals, for the Fifth Circuit)

United States Court of Appeals  
for the Fifth Circuit

---

No. 22-50851  
Summary Calendar

---

United States Court of Appeals  
Fifth Circuit

**FILED**

May 4, 2023

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

JADEN RENE JOHNSON,

*Defendant—Appellant.*

---

Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 7:22-CR-80-1

---

Before WIENER, ELROD, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:\*

Defendant-Appellant Jaden Rene Johnson pleaded guilty to possession of a firearm by a convicted felon in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2). Johnson was sentenced to forty-one months imprisonment and three years supervised release. He appeals the district

---

\* This opinion is not designated for publication. See 5TH CIR. R. 47.5.



No. 22-50851

court's refusal to apply an offense level reduction based on acceptance of responsibility. For the reasons below, we AFFIRM.

After Johnson was indicted and before he pled guilty, he assaulted another detainee in a detention facility. When computing Johnson's offense level, the probation officer did not apply a decrease for acceptance of responsibility under U.S.S.G. § 3E1.1 because of that assault. Johnson submitted objections to the presentencing report ("PSR"), in which he took issue with the lack of reduction in his offense level. The district court adopted all of the findings in the PSR and declined to apply a reduction for acceptance of responsibility, imposing a within-guidelines sentence of forty-one months imprisonment. Johnson claims that the district court erred by denying him an offense level decrease for acceptance of responsibility.

We review a district court's interpretation or application of the Sentencing Guidelines *de novo* and its findings of fact for clear error. *United States v. Juarez-Duarte*, 513 F.3d 204, 208 (5th Cir. 2008). However, the district court's denial of a reduction for acceptance of responsibility will be affirmed unless the decision was "without foundation." *Id.* at 211. This standard of review is "more deferential than the clearly erroneous standard." *United States v. Anderson*, 174 F.3d 515, 525 (5th Cir. 1999).

Here, the district court did not err in refusing to grant a reduction for acceptance of responsibility. While in detention pending the disposition of his case, Johnson assaulted another detainee. The district court properly considered that incident in determining whether Johnson was eligible for a reduction because the Sentencing Guidelines direct district courts to consider whether "the defendant withdrew from criminal conduct after being charged in the pending offense." *United States v. Franks*, 46 F.3d 402, 406 (5th Cir. 1995) (per curiam) (citing § 3E1.1, comment n.1(B)). Whether Johnson's conduct was related to the charged offense of possession of a



No. 22-50851

firearm by a convicted felon is irrelevant because “[a] district court may also consider *any* violation of the defendant’s pretrial release conditions.” *United States v. Hinojosa-Almance*, 977 F.3d 407, 411 (5th Cir. 2020) (emphasis added); *see also United States v. Watkins*, 911 F.2d 983, 985 (5th Cir. 1990) (holding that “acceptance of responsibility includes refraining from any violations of the law”).

Because Johnson engaged in criminal conduct after being charged with the instant offense, the district court’s denial of a reduction was not without foundation. The sentence imposed by the district court is **AFFIRMED**.



***United States Court of Appeals***

FIFTH CIRCUIT  
OFFICE OF THE CLERK

LYLE W. CAYCE  
CLERK

TEL. 504-310-7700  
600 S. MAESTRI PLACE,  
Suite 115  
NEW ORLEANS, LA 70130

May 04, 2023

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW

Regarding: Fifth Circuit Statement on Petitions for Rehearing  
or Rehearing En Banc

No. 22-50851 USA v. Johnson  
USDC No. 7:22-CR-80-1

Enclosed is a copy of the court's decision. The court has entered judgment under **FED. R. APP. P. 36**. (However, the opinion may yet contain typographical or printing errors which are subject to correction.)

**FED. R. APP. P. 39** through **41**, and **5TH CIR. R. 35**, **39**, and **41** govern costs, rehearings, and mandates. **5TH CIR. R. 35 and 40 require you to attach to your petition for panel rehearing or rehearing en banc an unmarked copy of the court's opinion or order.** Please read carefully the Internal Operating Procedures (IOP's) following **FED. R. APP. P. 40** and **5TH CIR. R. 35** for a discussion of when a rehearing may be appropriate, the legal standards applied and sanctions which may be imposed if you make a nonmeritorious petition for rehearing en banc.

Direct Criminal Appeals. **5TH CIR. R. 41** provides that a motion for a stay of mandate under **FED. R. APP. P. 41** will not be granted simply upon request. The petition must set forth good cause for a stay or clearly demonstrate that a substantial question will be presented to the Supreme Court. Otherwise, this court may deny the motion and issue the mandate immediately.

Pro Se Cases. If you were unsuccessful in the district court and/or on appeal, and are considering filing a petition for certiorari in the United States Supreme Court, you do not need to file a motion for stay of mandate under **FED. R. APP. P. 41**. The issuance of the mandate does not affect the time, or your right, to file with the Supreme Court.

Court Appointed Counsel. Court appointed counsel is responsible for filing petition(s) for rehearing(s) (panel and/or en banc) and writ(s) of certiorari to the U.S. Supreme Court, unless relieved of your obligation by court order. If it is your intention to file a motion to withdraw as counsel, you should notify your client promptly, **and advise them of the time limits for filing for rehearing and certiorari.** Additionally, you **MUST** confirm that this information was given to your client, within the body of your motion to withdraw as counsel.



Sincerely,

LYLE W. CAYCE, Clerk



By: \_\_\_\_\_  
Casey A. Sullivan, Deputy Clerk

Enclosure(s)

Ms. Elizabeth Berenguer  
Mr. Joseph H. Gay Jr.  
Mr. James Steven Hershberger



APPENDIX B

(Criminal Judge of the United States District Court for the Western District of Texas, Midland Division)



UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
MIDLAND-ODESSA DIVISION

UNITED STATES OF AMERICA

v.

Case Number: 7:22-CR-00080(1) DC  
USM Number: 95557-509

**JADEN RENE JOHNSON**

Alias(es):

**AKA** Rene Johnson,; **AKA** Jaden R Johnson,; **AKA** Jayden  
Johnson,; **AKA** Jaden Johnson,; **AKA** Jayden Rene Johnson,;  
Defendant.

**JUDGMENT IN A CRIMINAL CASE**  
(For Offenses Committed On or After November 1, 1987)

The defendant, Jaden Rene Johnson, was represented by Steve Hershberger.

The defendant pled guilty to Count(s) 1, of the Indictment on June 8, 2022. Accordingly, the defendant is adjudged guilty of such Count(s), involving the following offense(s):

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count(s)</u>
18 U.S.C. § 922(g)(1), 18 U.S.C. § 924(a)(2)	Possession of a Firearm by a Convicted Felon	April 7, 2022	1

As pronounced on September 6, 2022, the defendant is sentenced as provided in pages 2 through 6 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid. If ordered to pay restitution, the defendant shall notify the Court and United States Attorney of any material change in the defendant's economic circumstances.

Signed this 7th day of September, 2022.



David Counts  
United States District Judge



DEFENDANT: JADEN RENE JOHNSON  
CASE NUMBER: 7:22-CR-00080(1) DC

## IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a term of **Forty-One (41) months. This term to run consecutive to any sentence imposed in Docket No. 7573 pending revocation; Evading Arrest, Resist Arrest Search or Transport pending in Andrews Police Department, Andrews, TX, and concurrent with any sentence imposed in Case Nos. CR57922 pending in 441<sup>st</sup> Judicial District Court, F4220124 Pending in Justice Court, CR178121 Pending in Midland County Court all in Midland, TX, with credit for time served while in custody for this federal offense pursuant to 18 U.S.C. § 3585(b).**

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

That the defendant be admitted to the (500 hour) Comprehensive Drug Abuse Treatment Program.

That the defendant participate in the Bureau of Prisons' Job Training Program with incarcerated.

The defendant shall remain in custody pending service of sentence.

## RETURN

I have executed this judgment as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
at \_\_\_\_\_ with a certified copy of the Judgment.

\_\_\_\_\_  
United States Marshal



DEFENDANT: JADEN RENE JOHNSON  
CASE NUMBER: 7:22-CR-00080(1) DC

### **SUPERVISED RELEASE**

Upon release from imprisonment, the defendant shall be on supervised release for a term of **Three (3) years**.

While on supervised release, the defendant shall comply with the mandatory, standard and if applicable, the special conditions that have been adopted by this Court and shall comply with the following additional conditions:

The defendant shall submit his or her 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. The defendant shall 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 the defendant has violated a condition of supervision and that the areas to be searched contain evidence of this violation. Any search shall be conducted at a reasonable time and in a reasonable manner.



DEFENDANT: JADEN RENE JOHNSON  
CASE NUMBER: 7:22-CR-00080(1) DC

**CONDITIONS OF SUPERVISED RELEASE**  
(As Amended November 28, 2016)

It is ORDERED that the Conditions of Probation and Supervised Release applicable to each defendant committed to probation or supervised release in any division of the Western District of Texas, are adopted as follows:

Mandatory Conditions:

- [1] The defendant shall not commit another federal, state, or local crime during the term of supervision.
- [2] The defendant shall not unlawfully possess a controlled substance.
- [3] The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release on probation or supervised release and at least two periodic drug tests thereafter (as determined by the court), but the condition stated in this paragraph may be ameliorated or suspended by the court if the defendant's presentence report or other reliable sentencing information indicates low risk of future substance abuse by the defendant.
- [4] The defendant shall cooperate in the collection of DNA as instructed by the probation officer, if the collection of such a sample is authorized pursuant to section 3 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. § 14135a).
- [5] If applicable, the defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et. seq.) as instructed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which the defendant resides, works, is a student, or was convicted of a qualifying offense.
- [6] If convicted of a domestic violence crime as defined in 18 U.S.C. § 3561(b), the defendant shall participate in an approved program for domestic violence.
- [7] If the judgment imposes a fine or restitution, it is a condition of supervision that the defendant pay in accordance with the Schedule of Payments sheet of the judgment.
- [8] The defendant shall pay the assessment imposed in accordance with 18 U.S.C. § 3013.
- [9] The defendant shall notify the court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution, fines or special assessments.

Standard Conditions:

- [1] The defendant shall report to the probation office in the federal judicial district where he or she is authorized to reside within 72 hours of release from imprisonment, unless the probation officer instructs the defendant to report to a different probation office or within a different time frame.
- [2] After initially reporting to the probation office, the defendant will receive instructions from the court or the probation officer about how and when to report to the probation officer, and the defendant shall report to the probation officer as instructed.
- [3] The defendant shall not knowingly leave the federal judicial district where he or she is authorized to reside without first getting permission from the court or the probation officer.
- [4] The defendant shall answer truthfully the questions asked by the probation officer.



DEFENDANT: JADEN RENE JOHNSON  
CASE NUMBER: 7:22-CR-00080(1) DC

- [5] The defendant shall live at a place approved by the probation officer. If the defendant plans to change where he or she lives or anything about his or her living arrangements (such as the people the defendant lives with), the defendant shall 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, the defendant shall notify the probation officer within 72 hours of becoming aware of a change or expected change.
- [6] The defendant shall allow the probation officer to visit the defendant at any time at his or her home or elsewhere, and the defendant shall permit the probation officer to take any items prohibited by the conditions of the defendant's supervision that are observed in plain view.
- [7] The defendant shall work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses the defendant from doing so. If the defendant does not have full-time employment, he or she shall try to find full-time employment, unless the probation officer excuses the defendant from doing so. If the defendant plans to change where the defendant works or anything about his or her work (such as the position or job responsibilities), the defendant shall 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, the defendant shall notify the probation officer within 72 hours of becoming aware of a change or expected change.
- [8] The defendant shall not communicate or interact with someone the defendant knows is engaged in criminal activity. If the defendant knows someone has been convicted of a felony, the defendant shall not knowingly communicate or interact with that person without first getting the permission of the probation officer.
- [9] If the defendant is arrested or questioned by a law enforcement officer, the defendant shall notify the probation officer within 72 hours.
- [10] The defendant shall 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] The defendant shall 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 the defendant poses a risk to another person (including an organization), the probation officer may require the defendant to notify the person about the risk and the defendant shall comply with that instruction. The probation officer may contact the person and confirm that the defendant has notified the person about the risk.
- [13] The defendant shall follow the instructions of the probation officer related to the conditions of supervision.
- [14] If the judgment imposes other criminal monetary penalties, it is a condition of supervision that the defendant pay such penalties in accordance with the Schedule of Payments sheet of the judgment.
- [15] If the judgment imposes a fine, special assessment, restitution, or other criminal monetary penalties, it is a condition of supervision that the defendant shall provide the probation officer access to any requested financial information.
- [16] If the judgment imposes a fine, special assessment, restitution, or other criminal monetary penalties, it is a condition of supervision that the defendant shall not incur any new credit charges or open additional lines of credit without the approval of the probation officer, unless the defendant is in compliance with the payment schedule.
- [17] If the defendant is excluded, deported, or removed upon release on probation or supervised release, the term of supervision shall be a non-reporting term of probation or supervised release. The defendant shall not illegally re-enter the United States. If the defendant is released from confinement or not deported, or lawfully re-enters the United States during the term of probation or supervised release, the defendant shall immediately report in person to the nearest U.S. Probation Office.



DEFENDANT: JADEN RENE JOHNSON  
CASE NUMBER: 7:22-CR-00080(1) DC

### **CRIMINAL MONETARY PENALTIES/ SCHEDULE**

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth. Unless the Court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. Criminal Monetary Penalties, except those payments made through Federal Bureau of Prisons' Inmate Financial Responsibility Program shall be paid through the Clerk, United States District Court, 200 E. Wall St. Room 222, Midland, TX 79701 or online by Debit (credit cards not accepted) or ACH payment (direct from Checking or Savings Account) through pay.gov (link accessible on the landing page of the U.S. District Court's Website). **Your mail-in or online payment must include your case number in the exact format of DTXW722CR000080-001 to ensure proper application to your criminal monetary penalty.**

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

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
TOTAL:	\$100.00	\$0.00	\$0.00	\$0.00	\$0.00

#### **Special Assessment**

It is ordered that the defendant shall pay to the United States a special assessment of **\$100.00**.

#### **Fine**

The fine is waived because of the defendant's inability to pay.

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 above. However, pursuant to 18 U.S.C. §3664(i), all non-federal victims must be paid before the United States is paid.

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. §3614.

The defendant shall pay interest on any fine or restitution of more than \$2,500.00, unless the fine or restitution is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. §3612(f). All payment options may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. §3612(g).

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.

\* 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.