

RECORD NO. _____

IN THE
Supreme Court of the United States

KENNETH RAGAN-ARMSTRONG,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

PETITION FOR WRIT OF CERTIORARI

Gary E. Proctor
LAW OFFICES OF
GARY E. PROCTOR, LLC
8 East Mulberry Street
Baltimore, MD 21202
410-444-1500
garyeproctor@gmail.com

Counsel for Appellant

Question Presented

Whether the district court plainly erred in imposing special conditions of supervision without explaining why such conditions were necessary or appropriate in Mr. Ragan-Armstrong's case?

Table of Contents

Question Presented.....	i
Table of Authorities	iii
Opinions and Orders Below.....	1
Jurisdiction	1
Pertinent Constitutional Provision	1
Statement of the Case	2
Argument	3
Conclusion	11
Appendix:	
Opinion of the United States Court of Appeals for the Fourth Circuit, dated April 20, 2023	A1
Judgment of the United States District Court for the District of Maryland, dated May 6, 2021.....	A5

Table of Authorities

Cases

<i>United States v. Anstice</i> , 930 F.3d 907 (7th Cir. 2019)	4
<i>United States v. Carr</i> , 2022 U.S. App. LEXIS 28072 (4th Cir. Oct. 7, 2022)	10
<i>United States v. Cisson</i> , 33 F.4th 185 (4th Cir. 2022)	6, 7
<i>United States v. Diggles</i> , 957 F.3d 551 (5th Cir. 2020)	4
<i>United States v. Elbaz</i> , 39 F.4th 214 (4th Cir. 2022)	10
<i>United States v. Johnson</i> , 2023 U.S. App. LEXIS 2665 (4th Cir. Feb. 2, 2023)	11
<i>United States v. Lewis</i> , 823 F.3d 1075 (7th Cir. 2016)	4
<i>United States v. Montoya</i> , 48 F.4th 1028 (9th Cir. 2022)	4
<i>United States v. Montoya</i> , 54 F.4th 1168 (9th Cir. 2022)	4
<i>United States v. Napier</i> , 463 F.3d 1040 (9th Cir. 2006)	4
<i>United States v. Ragan-Armstrong</i> , 2023 U.S. App. LEXIS 9430 (4th Cir. Apr. 20, 2023)	1
<i>United States v. Rogers</i> , 961 F.3d 291 (4th Cir. 2020)	1, 2, 4, 5, 6, 10
<i>United States v. Singletary</i> , 984 F.3d 341 (4th Cir. 2021)	1, 2, 6, 7, 10

Statutes

18 U.S.C. § 3583 5

28 U.S.C. § 1254 1

Other

Fed. R. Crim. P. 43 3

U.S.S.G. 5D1.3 3, 4, 6, 10

Petition for a Writ of Certiorari

Kenneth Ragan-Armstrong petitions this Court to issue a writ of certiorari to review the judgment of the United States Court of Appeal for the Fourth Circuit.

Opinions and Orders Below

The decision under review, *United States v. Ragan-Armstrong*, 2023 U.S. App. LEXIS 9430 (4th Cir. Apr. 20, 2023), was unpublished and is attached at Appendix A1. The Judgment of the United States District Court for the District of Maryland, dated May 6, 2021 is attached at Appendix A5.

Jurisdiction

The Court has 28 U.S.C. § 1254(1) jurisdiction over this petition, filed within 90 days after the Fourth Circuit entered judgment on April 20, 2023. (Appendix A1)

Pertinent Constitutional Provision

In *United States v. Rogers*, 961 F.3d 291, 296 (4th Cir. 2020), and again in *United States v. Singletary*, 984 F.3d 341, 345 (4th Cir. 2021), the Fourth Circuit announced a precise, bright rule, grounded in the Due Process Clause: “[I]n order to sentence a defendant to a non-mandatory condition of supervised release, the sentencing court must include that condition in its oral pronouncement of a defendant’s sentence in open court.” *Id.* Nothing short of this oral pronouncement of discretionary supervised release conditions in the defendant’s presence will suffice.

The rule is only satisfied if the sentencing court, in fact, “impose[s]” “identifiable” conditions of supervised release by “expressly” announcing them in the defendant’s presence in *his* case at *his* sentencing. *Singletary*, 984 F.3d at 345-46; *Rogers*, 961 F.3d at 298-300. If this announcement is not made, then the supervised release conditions have not been imposed, and the sentence must be vacated. *Singletary*, 984 F.3d at 345.

Statement of the Case

Defendant was originally sentenced by the district court on July 28, 2014. 4th Cir ECF 32 at 8. On August 20, 2014 the court issued its Judgment and Commitment. Dist. Ct. ECF 539. In this Judgment and Commitment the district court outlined the Statutory, Standard and Additional Conditions of Supervised Release upon the Petitioner’s release from the Bureau of Prisons.

On June 10, 2020 the District of Maryland issued Standing Order 2020-13, that outlined the mandatory and standard conditions for a person upon their release from a sentence of confinement.¹ While there is some overlap of the conditions imposed on Petitioner some six (6) years earlier, there are also some material differences.

For unrelated reasons, Petitioner’s sentence was set aside and the district court conducted a resentencing. In preparation for the resentencing an updated Presentence Report was provided by the Probation Office for the District of Maryland. 4th Cir. ECF 33 at 135 *et seq.* In said Presentence Report the Probation

¹ Available at <https://www.mdd.uscourts.gov/sites/mdd/files/2020-13.pdf> (last visited 6/23/23).

Officer recommended the district's "mandatory and standard" conditions of Supervised Release, together with four (4) additional conditions. 4th Cir. ECF 33 at 178. Again, while there is some overlap, said conditions were not the same as initially imposed on Petitioner in 2014. Thus, for example, in 2014, Petitioner's conditions of release required him to seek alcohol treatment if necessary while, fast forward to 2021, and the Probation Officer is recommending that Ragan-Armstrong not be permitted to touch a drop of alcohol during his Supervised Release period. Dist. Ct. ECF 539 at 4; 4th Cir. ECF 33 at 178.

To further add to the confusion, the United States Sentencing Guidelines § 5D1.3(c) also detail conditions of supervised release.

At Defendant's resentencing hearing the Court simply announced that it was imposing the "standard and mandatory conditions of supervised release," together with those conditions recommended by the Probation Office. 4th Cir. ECF 32 at 115. Nowhere on the record before this Court does it state whether the "standard and mandatory" conditions are identical to those originally imposed by Petitioner, or the latter standard conditions adopted by the district court's standing order or, indeed, those promulgated by the Sentencing Guidelines. This Court will also find nothing on the record indicating that Petitioner was ever apprised of what those conditions are, or that he understood them.

Argument

The imposition of a sentence occurs at the sentencing hearing, so the district court must orally pronounce a sentence. Fed. R. Crim. P. 43(a)(3). The Fourth, Fifth,

and Seventh Circuit require that any non-mandatory conditions of supervised release, including the standard conditions of release contained in U.S.S.G. 5D1.3, must be orally pronounced at sentencing. *See United States v. Anstice*, 930 F.3d 907, 910 (7th Cir. 2019), *United States v. Diggles*, 957 F.3d 551, 557-59 (5th Cir. 2020) (*en banc*), and *United States v. Rogers*, 961 F.3d 291, 297-98 (4th Cir. 2020). Recently, the Ninth Circuit held that mandatory and standard conditions are "implicit in an oral sentence imposing supervised release" and that the conditions need not be orally pronounced. *United States v. Montoya*, 48 F.4th 1028, 1035 (9th Cir. 2022) (citing *United States v. Napier*, 463 F.3d 1040, 1043 (9th Cir. 2006)). That decision was vacated and set in for a hearing *en banc*. *United States v. Montoya*, 54 [F.4th](#) 1168 (9th Cir. 2022). While both the Fifth and Seventh Circuits have held that a judge pronouncing the "standard and mandatory conditions," suffices, they have qualified that pronouncement by highlighting that the preferred practice is that the presentence report recommends the conditions that the court adopts. *See United States v. Lewis*, 823 F.3d 1075, 1082 (7th Cir. 2016) (finding that there are no surprises on supervised conditions when PSR recommended the conditions that the court adopted), *United States v. Diggles*, 957 F.3d 551, 560-51 (5th Cir. 2020) (finding that PSR review suffices adoption of court-wide or judge specific standing orders);

The Fourth Circuit, in its opinion denying, did not address the substance of the argument contained herein at all. The totality of their opinion with regard to the issue that brings Petitioner before the Court at bar was that the appellate court

“reviewed the entire record in this case and have found no meritorious grounds for appeal. We thus affirm the amended criminal judgment.” *United States v. Ragan-Armstrong*, 2023 U.S. App. LEXIS 9430, 4 (4th Cir. Apr. 20, 2023).

Accordingly, all this Court has to consider is the actions of the district court, which never announced the supposedly well-understood list of “standard” conditions. As in *Rogers*, therefore, “there is no ambiguity: [this Court] is left without any objective indication that at the time of sentencing—the time that counts, when the defendant is in the courtroom—the district court actually imposed the [‘standard’] conditions on [Mr. Ragan-Armstrong’s] supervised release.” *Rogers*, 961 F.3d at 299; *Singletary*, 984 F.3d at 345-46.

Moreover, *Rogers*’ rationale rested on more than the need to afford defendants notice. The Court in *Rogers* also rooted its holding in the need to create a record sufficient to permit meaningful appellate review. If the district court does not orally pronounce discretionary conditions, then the sentencing transcript will not “indicate objectively which conditions were imposed and why,” which would frustrate an appellate court’s ability to assess whether any discretionary supervised-release conditions satisfy the criteria in 18 U.S.C. § 3583(d)(1)-(3). *Rogers*, 961 F.3d at 298. Thus, whether Mr. Ragan-Armstrong was on notice or not, reversal would still be required under *Rogers*, 961 F.3d at 298.

To be clear, a district court may satisfy the oral-pronouncement requirement by “incorporating a written list of proposed conditions, such as the recommendations of the probation office set out in a defendant’s pre-sentence report” or “a court-wide standing order that lists certain conditions of supervised

release.” *Rogers*, 961 F.3d at 299. But it must also do this “expressly,” i.e., by adopting that pre-existing list at sentencing. In Mr. Ragan-Armstrong’s case, the Court did not do any such thing.

In *United States v. Cisson*, 33 F.4th 185, 194 (4th Cir. 2022), the defendant was back before the district court for a resentencing following a remand from the Fourth Circuit. In that instance the court below found that the “standard” conditions sufficed under *Rogers* and *Singletary* because the court *must* have been referring to the 13 standard discretionary conditions in the sentencing guidelines at U.S.S.G. § 5D1.3(c) (since there was no standing order in the District of South Carolina at the time of defendant’s sentencing). Because these same standard conditions also appeared in the written judgment, there was no *Rogers/Singletary* deficiency. *Id.*

Unlike in *Cisson*, Mr. Ragan-Armstrong was sentenced in the District of Maryland in 2021, where a standing order regarding the standard conditions of release was in place. *See In re: Conditions of Supervised Release*, 1:00-mc-00308, ECF No. 105, Standing Order 2020-13 (D. Md. June 10, 2020) (“Standing Order 2020-13). In addition, there are the 13 standard discretionary conditions in the sentencing guidelines at U.S.S.G. § 5D1.3(c). It is unclear what standard conditions of release the district court was referencing when it imposed the standard conditions of release. 4th Cir. ECF 32 at 115.

Courts have found that a presentence report can put a defendant on notice of the discretionary conditions of supervised release to which he might be subject.

Cisson, 33 F.4th at 193. The district court did confirm that Mr. Ragan-Armstrong had the opportunity to review the revised presentence report with counsel. App. B at 85. However, the presentence report did not put Mr. Ragan-Armstrong on notice of what conditions he would be subject to upon his release. Rather, in its recommendation of conditions to the court, the presentence report stated that the Court should impose “[t]he mandatory and standard conditions of supervision adopted by the Court,” in addition to several other special conditions. 4th Cir. ECF 33 at 178.

Regarding the standard conditions contained in Standing Order 2020-13, the Standing Order states “absent unusual circumstances, these conditions are to be included in every judgment imposing a term of Supervised Release.” Standing Order 2020-13 at 2. However, the Court did not incorporate the standard conditions as contained in the Standing Order, as contained in the Guidelines, or as stated in a presentence report. The district court merely stated it was imposing the “mandatory and standard conditions.” 4th Cir. ECF 32 at 115. Thus, it would have taken an act of divination on the part of Petitioner to ascertain what conditions he must abide by upon release.

Because the district court did not orally announce the non-mandatory conditions at Mr. Ragan-Armstrong’s sentencing hearing, a *Rogers/Singletary* error occurred. As a result of the failure to clearly articulate what non-mandatory conditions of release Mr. Ragan-Armstrong would be subject to at the time of his sentencing, Mr. Ragan-Armstrong is entitled to a resentencing in this matter. *Singletary*, 984 F.3d at 345.

Indeed, the fact that Mr. Ragan-Armstrong was before the district court for resentencing makes it even more important that the list of standard conditions of supervision imposed was specific because the standard conditions of supervision imposed at the time of his resentencing were different from that imposed at the time of his original sentencing. There are several key differences, beginning with the fact that there were fourteen standard conditions of supervision imposed at the time of his first sentencing, while only thirteen at the time of his second sentencing. Dist. Ct. ECF 539 at 3-4, 4th Cir. ECF 32 at 130–31. The standard conditions of release imposed at the time of his resentencing included three conditions that were not included at the time of his original sentence:

- o Standard Condition One “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.” 4th Cir. ECF 32 at 130.

- o Standard Condition 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).” 4th Cir. ECF 32 at 131.

- o Standard Condition 13 – “You must follow the instructions of the probation officer related to the conditions of supervision.” 4th Cir. ECF 32 at 131.

In addition to these added conditions, the amended judgment contains conditions of release that deal with similar themes, but add additional rules and regulations to those conditions. The fifth and seventh standard conditions in the

amended judgment are similar to those contained in fourth, fifth, and sixth standard conditions imposed in Mr. Ragan-Armstrong's original judgment, but add the requirement that the probation officer must be notified of an unexpected change in living circumstances or employment within 72 hours of the time that Mr. Ragan-Armstrong becomes aware. 4th Cir. ECF 32 at 130, Dist. Ct. ECF 539 at 3. The seventh standard condition in the amended judgment also adds requirements to Petitioner's employment that were not contained in the previous standard conditions of release. 4th Cir. ECF 32 at 130, Dist. Ct. ECF 539 at 3. Mr. Ragan-Armstrong's prior standard conditions of release required that he "support his or her dependents and meet other family responsibilities," and "work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or acceptable reasons." Dist Ct. ECF 539 at 3. The seventh standard condition in the amended judgment adds to those conditions that Mr. Ragan-Armstrong must work "at least 30 hours per week," and that if he does not have "full-time employment" he must attempt to find it. 4th Cir. ECF 32 at 130.

The standard conditions of release imposed in Mr. Ragan-Armstrong's amended judgment are materially different from those imposed in his original judgment. Given these material differences, it was even more important that the standard conditions of release being imposed on Mr. Ragan-Armstrong were clearly stated at the time of his resentencing. The district court only stated that the "standard and mandatory conditions of supervised release" would be imposed. 4th Cir. ECF 32 at 115. The revised presentence report only recommended the

“mandatory and standard conditions of supervision adopted by the Court” be imposed. 4th Cir. ECF 33 at 177. The district court did nothing to alert Mr. Ragan-Armstrong to the fact that these standard conditions were those contained in the most recent version of U.S.S.G. § 5D1.3(c) or Standing Order 2020-13, and not those imposed at the time of his original sentencing. Unlike Mr. Ragan-Armstrong’s case, many of the cases where appellate courts have found a general imposition of “the standard conditions of release” to be a sufficient oral pronouncement of non-mandatory conditions, the defendant was being sentenced for the first time and as such, the only standard conditions of release the defendant would have been on notice of were those in place at the time of their sentencing. *See e.g. United States v. Carr*, 2022 U.S. App. LEXIS 28072 (4th Cir. Oct. 7, 2022) (defendant appealing from their original judgment of conviction and district court’s imposition of the “mandatory and standard conditions of release” was sufficient), *United States v. Elbaz*, 39 F.4th 214 (4th Cir. 2022) (defendant appealing from their original judgment of conviction where “the standard and mandatory conditions were imposed”).

Even if the current standard conditions included in U.S.S.G. § 5D1.3(c) and those included in Standard Order 2020-13 are materially the same, as argued by Respondent in the Court below, *see* Gov’t Resp at 55, it was not evident at the time of Mr. Ragan-Armstrong’s resentencing that those were the standard conditions being imposed. Because the district court did not clearly articulate Petitioner’s conditions of release being imposed on him, a *Rogers/Singletary* error occurred and

Mr. Ragan-Armstrong is entitled to a resentencing in this matter. *See United States v. Johnson*, 2023 U.S. App. LEXIS 2665 (4th Cir. Feb. 2, 2023) at *4 (holding that the court “did not comply with this directive with respect to non-mandatory conditions of supervision appearing in the judgment” and remanded the case for a full resentencing); *see also United States v. Johnson*, Crim. D.Md. No. ELH-14-345, ECF 75 at 53 (district court “imposing the mandatory and standard conditions of supervision adopted by the Court and the Probation Office.”).

Conclusion

Because Petitioner was not and is not on reasonable notice of what he must do to avoid being sent back to prison upon his release, in violation of the Due Process Clause, this Court should grant the petition for writ of certiorari.

/S/ Gary E. Proctor
Gary E. Proctor
LAW OFFICES OF
GARY E. PROCTOR, LLC
8 East Mulberry Street
Baltimore, MD 21202
410-444-1500
garyeproctor@gmail.com
Counsel for Appellant

RECORD NO. _____

IN THE
Supreme Court of the United States

KENNETH RAGAN-ARMSTRONG,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

APPENDIX

Gary E. Proctor
LAW OFFICES OF
GARY E. PROCTOR, LLC
8 East Mulberry Street
Baltimore, MD 21202
410-444-1500
garyeproctor@gmail.com

Counsel for Appellant

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-4246

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KENNETH RAGAN-ARMSTRONG, a/k/a Keezy,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Baltimore.
George L. Russell, III, District Judge. (1:13-cr-00229-GLR-16)

Submitted: March 20, 2023

Decided: April 20, 2023

Before HEYTENS, Circuit Judge, and MOTZ and KEENAN, Senior Circuit Judges.

Affirmed by unpublished per curiam opinion.

ON BRIEF: Gary E. Proctor, LAW OFFICES OF GARY E. PROCTOR, LLC, Baltimore, Maryland, for Appellant. Erek L. Barron, United States Attorney, Michael C. Hanlon, Assistant United States Attorney, OFFICE OF UNITED STATES ATTORNEY, Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kenneth Ragan-Armstrong pled guilty pursuant to a plea agreement to conspiracy to participate in a racketeering enterprise, in violation of 18 U.S.C. § 1962(d) (Count 1), and using, carrying, and brandishing a firearm during and in relation to and in furtherance of crimes of violence, in violation of 18 U.S.C. §§ 2, 924(c) (Count 9). In the plea agreement, the parties stipulated and agreed pursuant to Fed. R. Crim. P. 11(c)(1)(C) that a sentence of between 120 and 205 months' imprisonment was the appropriate disposition of the case, and in 2014 the district court sentenced Ragan-Armstrong to 109 months' imprisonment on Count 1 and a consecutive term of 84 months' imprisonment on Count 9, for a total prison term of 193 months. This court dismissed Ragan-Armstrong's initial appeal. Ragan-Armstrong's conviction on Count 9 later was vacated, and at resentencing in 2021, the district court calculated his advisory imprisonment range under the U.S. Sentencing Guidelines Manual at 97 to 121 months. The court imposed an upward variance and sentenced Ragan-Armstrong to 193 months' imprisonment and three years of supervised release.

On appeal from the amended criminal judgment, Ragan-Armstrong's counsel initially filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), asserting that there are no meritorious grounds for appeal but raising as an issue for review whether the district court procedurally erred when it imposed the 193-month prison term without addressing the need to avoid unwarranted sentencing disparities among defendants with similar records who have been found guilty of similar conduct. Ragan-Armstrong filed a pro se supplemental brief in which he questions whether: (1) his prison sentence imposed

on resentencing violates the Double Jeopardy Clause of the Constitution; (2) the Government breached the plea agreement; (3) there is an unwarranted sentencing disparity among similarly situated defendants; (4) the district court abused its discretion by not addressing the nonfrivolous argument made by counsel regarding an unwarranted sentencing disparity, by not considering Ragan-Armstrong's mental health issues and other mitigating issues, and by telling counsel the court did not want to hear from counsel; and (5) the prosecuting attorney acted vindictively and violated Ragan-Armstrong's right to due process at the resentencing hearing. The Government did not file a response brief.

After conducting our *Anders* review, we ordered supplemental briefing to address the potentially meritorious issues of (1) whether the Government had breached the plea agreement at resentencing by stating that Ragan-Armstrong's total offense level under the Sentencing Guidelines was 28, and (2) whether there is reversible error in this case under *United States v. Rogers*, 961 F.3d 291 (4th Cir. 2020), and *United States v. Singletary*, 984 F.3d 341 (4th Cir. 2021). The parties filed supplemental briefs addressing these issues.*

We have reviewed the record with regard to the issues raised in Ragan-Armstrong's counsel's *Anders* brief, Ragan-Armstrong's pro se supplemental brief, and in the supplemental briefing ordered by this Court, and we find no reversible error. In accordance

* The Government has not asserted that the appellate waiver in Ragan-Armstrong's plea agreement bars this appeal. We therefore may consider the issues raised by counsel and conduct an independent review of the record pursuant to *Anders*. See *United States v. Poindexter*, 492 F.3d 263, 271 (4th Cir. 2007).

with *Anders*, we also have reviewed the entire record in this case and have found no meritorious grounds for appeal. We thus affirm the amended criminal judgment.

This court requires that counsel inform Ragan-Armstrong, in writing, of the right to petition the Supreme Court of the United States for further review. If Ragan-Armstrong requests that a petition be filed, but counsel believes that such a petition would be frivolous, then counsel may move in this court for leave to withdraw from representation. Counsel's motion must state that a copy thereof was served on Ragan-Armstrong.

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

JK

United States District Court

District of Maryland

UNITED STATES OF AMERICA

v.

KENNETH RAGAN-ARMSTRONG**AMENDED JUDGMENT IN A CRIMINAL CASE**

(For Offenses Committed on or After November 1, 1987)

Case Number: GLR-1-13-CR-00229-016

Defendant's Attorney: Gary Proctor; Jennifer Smith (CJA)

Assistant U.S. Attorney: Sandra Wilkinson

Date of Original Judgment: July 28, 2014

(or date of last amended judgment)

THE DEFENDANT:

- ☒ pleaded guilty to count 1s of the Superseding Indictment.
- ☐ pleaded nolo contendere to count(s) _____, which was accepted by the court.
- ☐ was found guilty on count(s) _____ after a plea of not guilty.

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
18:1962(d)	Conspiracy to Participate in a Racketeering Enterprise	May 8, 2013	1s

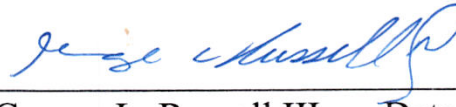
The defendant is adjudged guilty of the offenses listed above and sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984 as modified by U.S. v. Booker, 543 U.S. 220 (2005).

- ☐ The defendant has been found not guilty on count(s) _____
- ☒ Count 9s- vacated is dismissed on the motion of the United States.

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.

May 4, 2021

Date of Imposition of Judgment


5/6/2021

George L. Russell III Date
United States District Judge

Name of Court Reporter: Nadine Gazic

DEFENDANT: Kenneth Ragan-Armstrong

CASE NUMBER: GLR-1-13-CR-00229-016

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of **193 months as to Count 1s.**

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

(1) The defendant shall continue to participate in any substance abuse program for which he may be eligible, including the Residential Drug Abuse Program (RDAP).

(2) The defendant shall continue to participate in any appropriate mental health evaluation and treatment program.

(4) The defendant shall continue to participate in any educational/vocational program that are offered, for which he is eligible.

(3) The defendant will remain where he is currently housed at the Bureau of Prisons.

☒ 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, at his/her own expense, to the institution designated by the Bureau of Prisons at the date and time specified in a written notice to be sent to the defendant by the United States Marshal. If the defendant does not receive such a written notice, defendant shall surrender to the United States Marshal:

☐ before _____ a.m. on _____.

A defendant who fails to report either to the designated institution or to the United States Marshal as directed shall be subject to the penalties of Title 18 U.S.C. §3146. If convicted of an offense while on release, the defendant shall be subject to the penalties set forth in 18 U.S.C. §3147. For violation of a condition of release, the defendant shall be subject to the sanctions set forth in Title 18 U.S.C. §3148. Any bond or property posted may be forfeited and judgment entered against the defendant and the surety in the full amount of the bond.

RETURN

I have executed this judgment as follows:

Defendant delivered on ____ to ____ at ____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By: _____
DEPUTY U.S. MARSHAL

DEFENDANT: Kenneth Ragan-Armstrong**CASE NUMBER: GLR-1-13-CR-00229-016****SUPERVISED RELEASE**

Upon release from imprisonment, the defendant shall be on supervised release for a term of **3 years as to Count 1s.**

The defendant shall comply with all of the following conditions:

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

A. 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.
- 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

B. 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.

DEFENDANT: Kenneth Ragan-Armstrong

CASE NUMBER: GLR-1-13-CR-00229-016

- 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.

C. SUPERVISED RELEASE ADDITIONAL CONDITIONS

You shall satisfactorily participate in a treatment program approved by the probation officer relating to substance and/or alcohol abuse, which may include evaluation, counseling, and testing as deemed necessary by the probation officer.

You shall satisfactorily participate in a mental health treatment program approved by the probation officer, which may include evaluation, counseling, and testing as deemed necessary by the probation officer.

You shall satisfactorily participate in a vocational or educational program.

You shall not consume alcohol during the period of probation.

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: Kenneth Ragan-Armstrong

CASE NUMBER: GLR-1-13-CR-00229-016

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 5B.

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
TOTALS	\$100.00	\$0.00	Waived	\$0.00	

☐ CVB Processing Fee \$30.00☐ 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.

<u>Name of Payee</u>	<u>Total Loss***</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
		\$0.00	

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.

DEFENDANT: Kenneth Ragan-Armstrong

CASE NUMBER: GLR-1-13-CR-00229-016

SCHEDULE OF PAYMENTS

Payment of the total fine and other criminal monetary penalties shall be due as follows:

- A ☒ In full immediately; or
- B ☐ \$_____ immediately, balance due (in accordance with C, D, or E); or
- C ☐ Not later than _____; or
- D ☐ Installments to commence _____ day(s) after the date of this judgment.
- E ☐ In _____ (e.g. *equal weekly, monthly, quarterly*) installments of \$_____ over a period of _____ year(s) to commence when the defendant is placed on supervised release.

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

Unless the court expressly orders otherwise, if this judgment imposes a period of imprisonment, payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Bureau of Prisons Inmate Financial Responsibility Program, are to be made to the Clerk of the Court.

☒ **NO RESTITUTION OR OTHER FINANCIAL PENALTY SHALL BE COLLECTED THROUGH THE INMATE FINANCIAL RESPONSIBILITY PROGRAM.**

If the entire amount of criminal monetary penalties is not paid prior to the commencement of supervision, the balance shall be paid:

- ☐ in equal monthly installments during the term of supervision; or
- ☐ on a nominal payment schedule of \$_____ per month during the term of supervision.

The U.S. probation officer may recommend a modification of the payment schedule depending on the defendant's financial circumstances.

Special instructions regarding the payment of criminal monetary penalties:

- ☐ 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:

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) JVT assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.