

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

IN THE SUPREME COURT OF THE UNITED STATES

---

RONALD RENE DELEON, JR.,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

---

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

APPENDIX

---

/s/ Kevin Joel Page

JASON HAWKINS  
Federal Public Defender  
Northern District of Texas  
TX State Bar No. 00759763  
525 Griffin Street, Suite 629  
Dallas, TX 75202  
(214) 767-2746  
(214) 767-2886 Fax

KEVIN J. PAGE \*\*  
Assistant Federal Public Defender  
Northern District of Texas  
TX State Bar No. 24042691  
525 Griffin Street, Suite 629  
Dallas, TX 75202  
(214) 767-2746  
(214) 767-2886

INDEX TO APPENDICES

Appendix A Opinion of Fifth Circuit, CA No. 22-10583, *United States v. Deleon*, 2023 WL 4118578 (5<sup>th</sup> Cir. June 22, 2023)(unpublished).

Appendix B Judgment and Sentence of the United States District Court for the Northern District of Texas, entered September 19, 2008. *United States v. Deleon*, Dist. Court 5:08-CR-23-H-BQ.

Appendix C Judgment and Sentence Revoking Supervised Release for the United States District Court for the Northern District of Texas entered June 2, 2022. *United States v. Deleon*, Dist. Court 5:08-CR-23-H-BQ.

## APPENDIX A

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

June 22, 2023

No. 22-10583

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

RONALD RENE DELEON, JR.,

*Defendant—Appellant.*

---

Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 5:08-CR-23-1

---

Before DENNIS, ENGELHARDT, and OLDHAM, *Circuit Judges*.

PER CURIAM:\*

The district court revoked Ronald Rene Deleon, Jr.’s supervised release and sentenced him to a 24-month term of imprisonment, followed by six years of supervised release. Deleon appeals the supervised release component of his revocation sentence. We affirm.

This case arises from a 2008 conviction. Deleon pled guilty to one methamphetamine-drug-conspiracy count, in violation of 21 U.S.C. §§ 846

---

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

No. 22-10583

and 841(a)(1). The district court sentenced him to 210 months' imprisonment, followed by six years of supervised release.

In 2014, Deleon filed an 18 U.S.C. § 3582(c)(2) motion requesting that the district court amend his sentence in light of changes to the United States Sentencing Guidelines. In 2016, the district court exercised discretion on Deleon's behalf: it granted his motion and reduced his term of imprisonment to 175 months.

Deleon finished his term of imprisonment and began supervised release in May 2021. But he violated his supervised release conditions within 30 days of release, specifically by using cocaine in June 2021. He tested positive for cocaine again in July 2021.

In September 2021, the district court held a revocation hearing. At the start, the district court told Deleon that "I could have revoked you immediately." Then the court announced that it had decided to give Deleon a second chance. At the close of the hearing the district judge told Deleon "I hope I don't see you again." Deleon replied: "You won't."

But Deleon continued to violate his release conditions, and in February 2022, the Government moved to revoke his supervised release. A magistrate judge ordered that Deleon be held in custody pending another appearance before the district court. In June 2022, the district court saw Deleon again, and sentenced him to 24 months' imprisonment plus a fresh six-year supervised release term.

Today, Deleon appeals the district court's revocation sentence. Specifically, he argues that the district court reversibly erred because it applied a mandatory minimum to his new supervised release term, when no such minimum applied. *See* 18 U.S.C. § 3582(h) (providing that a district court *may*, but need not necessarily, impose supervised release following any imprisonment for revocation of a prior supervised release term).

No. 22-10583

Because Deleon did not object below, he bears the “difficult” burden of showing that he is entitled to relief on plain error review. *United States v. Huor*, 852 F.3d 392, 398 (5th Cir. 2017) (quotation omitted). That, in turn, means “showing (1) that the district court committed an error (2) that is plain and (3) affects his substantial rights and (4) that failure to correct the error would seriously affect the fairness, integrity or public reputation of judicial proceedings.” *United States v. Cabello*, 33 F.4th 281, 285 (5th Cir. 2022) (quotation omitted).

We have said that applying a mandatory minimum to a supervised release term following revocation can constitute plain error. *See United States v. Campos*, 922 F.3d 686, 688–89 (5th Cir. 2019). In *Campos*, the district court applied a nonexistent minimum, stating that the supervised release range was “not less than eight years to life” before imposing eight years of supervision. *Id.* at 687.

Here, by contrast, the district court did not apply a mandatory minimum. Instead, relying on a probation officer’s report, it said the “maximum” supervised release term was “six years to life, minus any revocation sentence that I impose.” That is an important distinction from *Campos* and enough to render any error not “plain.” *See United States v. Bishop*, 603 F.3d 279, 280 (5th Cir. 2010).

Nor has Deleon shown prejudice to his substantial rights. We do not infer that the district court’s comment affected the district court’s actual sentence because the low-end of the court’s stated maximum—six years minus the two years of prison time—would have generated a four-year “maximum” term of supervised release. Yet the district court imposed six years of supervised release, which suggests the court’s oral reference to a “maximum” supervised-release term was a mere slip of the tongue and did not affect its revocation sentence.

No. 22-10583

In any event, we correct plain error only where it “seriously affects the fairness, integrity or public reputation of judicial proceedings.” *United States v. Olano*, 507 U.S. 725, 732 (1993) (quotation omitted). Said differently, relief “is discretionary, and only particularly egregious errors” merit reversal. *Cabello*, 33 F.4th at 285 (quotation omitted). And here, no discretion is warranted. That’s primarily because Deleon has already received and abused the benefit of several favorable exercises of federal court discretion. First, the district court granted his § 3582(c) motion and reduced the term applicable to his 2008 conviction; absent that mercy Deleon would have still been incarcerated when the violations giving rise to this proceeding took place. And second, the district court generously declined to imprison Deleon in September 2021, saying that it preferred to “g[ive] this guy another chance.” The significant patience the district court has shown toward Deleon precludes us from deciding that our justice system has been unfair to him. Deleon’s case thus would fail the fourth prong of plain error review, even if it made it that far.

AFFIRMED.

## APPENDIX B

**United States District Court**  
**Northern District of Texas**  
**Lubbock Division**

UNITED STATES OF AMERICA

v.

RONALD RENE DELEON, JR.  
 Defendant.

U.S. DISTRICT COURT  
 NORTHERN DISTRICT OF TEXAS  
**FILED**

SEP 19 2008
CLERK, U.S. DISTRICT COURT
By _____ Deputy

Case Number 5:08-CR-023-01-C  
 USM No. 34834-177

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

The defendant, RONALD RENE DELEON, JR., was represented by Arthur Aguilar, Jr.

On motion of the United States, the court has dismissed the original indictment as to this defendant.

The defendant pleaded guilty to count 1 of the superseding information filed on 06/12/2008. Accordingly, the court has adjudicated that the defendant is guilty of the following offenses:

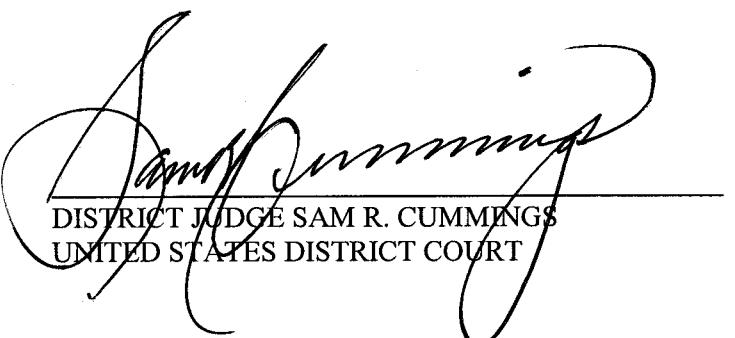
<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Date of Offense</u>	<u>Count Number</u>
21 USC §§ 846 [21 USC § 841(a)(1) & (b)(1)(C)] & 851	Conspiracy to Distribute and Possess With Intent to Distribute Methamphetamine	03/01/2008	1

As pronounced on 09/19/2008, the defendant is sentenced as provided in pages 1 through 5 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$100.00, for count 1, which shall be due immediately. Said special assessment shall be made to the Clerk, U.S. District Court.

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 the 19th day of September, 2008.

  
 DISTRICT JUDGE SAM R. CUMMINGS  
 UNITED STATES DISTRICT COURT

Defendant: RONALD RENE DELEON, JR.  
Case Number: 5:08-CR-023-01-C

Judgment--Page 2 of 5

### **IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 210 months with this term of imprisonment to be served consecutive with any sentence imposed in Case Nos. 2007-C076 and 2007-C0874 pending in Hale County Court, Hale County, Texas, and Case No. B17551 pending in the 242<sup>nd</sup> District Court, Hale County Texas. Additionally, this term of imprisonment shall be served concurrently with any sentence imposed in Case Nos. 2008-420,024, 2008-420,020, 2008-420,021, and 2008-419,964 pending in the 137<sup>th</sup> District Court, Lubbock County, Texas, and Case No. B17554 pending in the 242<sup>nd</sup> District Court, Hale County, Texas.

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 this Judgment.

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

By \_\_\_\_\_  
Deputy Marshal

**SUPERVISED RELEASE**

Upon release from imprisonment, the defendant shall be on supervised release for a term of 6 years.

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.

The defendant shall not commit another federal, state, or local crime.

The defendant shall not illegally possess a controlled substance.

*For offenses committed on or after September 13, 1994:*

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 from imprisonment and at least two periodic drug tests thereafter, as directed by the probation officer.

- The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse.
- The defendant shall not possess a firearm, destructive device or any other dangerous weapon.

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Fine and Restitution sheet of the judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant shall also comply with the additional conditions on the attached page.

**STANDARD CONDITIONS OF SUPERVISION**

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer at least ten days prior to any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

Defendant: RONALD RENE DELEON, JR.

Judgment--Page 4 of 5

Case Number: 5:08-CR-023-01-C

**SPECIAL CONDITIONS OF SUPERVISION**

While the defendant is on supervised release pursuant to this Judgment:

1. The defendant shall participate in a program (inpatient and/or outpatient) approved by the U.S. Probation Office for treatment of narcotic, drug, or alcohol dependency, which will include testing for the detection of substance use or abuse. The defendant shall abstain from the use of alcohol and/or all other intoxicants during and after completion of treatment. The defendant shall contribute to the costs of services rendered (copayment) at a rate of at least \$15.00 per month.
2. The defendant shall forfeit all property interest in a Howa, Model 150, .30-06-caliber rifle, bearing Serial No. 8070018; a Colt, Model Commander, .45-caliber semi-automatic pistol, bearing Serial No. CLW039684; a Harrington and Richardson, .410-gauge shotgun, bearing Serial No. B8421033; \$2,627.00 in United States currency seized on January 12, 2006; a digital camera; a camera media memory card; two Polaroid monitors; a DVD player; an Astek wireless video receiver and wireless video camera; a Ruger, Model SP-101, .357-caliber revolver, bearing Serial No. 572-39696; \$782.00 in United States currency seized from the defendant on January 15, 2008; a set of digital scales; a Sony Cybershot digital camera; two cellular telephones; a Winchester, Model 62A, .22-caliber pump action rifle, bearing Serial No. 365019; an Arminius, .22-caliber revolver, bearing Serial No. 708344; a Kimber, Model Eclipse Custom II, .45-caliber semi-automatic pistol, bearing Serial No. K121684; a "Scarface light"; a Sanyo Vizion television; a Curtis flat screen television; a Visio flat screen television; a Compaq Presario laptop computer; a Sony Playstation 3; a thumb drive; a Glock, Model 27, .40-caliber semi-automatic pistol, bearing Serial No. HWC185; \$2,500.00 in United States currency seized from the defendant on March 1, 2008; and a black stun gun. The defendant shall also forfeit any other property interests he has in all currency and/or personal property which has been seized by the Drug Enforcement Administration, the Lubbock County Sheriff's Office, the Lubbock Police Department, the Hale County Sheriff's Office, and/or the Hale County Constable's Office, not previously mentioned.
3. The defendant shall cooperate in the collection of DNA as directed by the probation officer, as authorized by the Justice for All Act of 2004.

Defendant: RONALD RENE DELEON, JR.

Judgment--Page 5 of 5

Case Number: 5:08-CR-023-01-C

**FORFEITURE**

The defendant shall forfeit all property interest in a Howa, Model 150, .30-06-caliber rifle, bearing Serial No. 8070018; a Colt, Model Commander, .45-caliber semi-automatic pistol, bearing Serial No. CLW039684; a Harrington and Richardson, .410-gauge shotgun, bearing Serial No. B8421033; \$2,627.00 in United States currency seized on January 12, 2006; a digital camera; a camera media memory card; two Polaroid monitors; a DVD player; an Astek wireless video receiver and wireless video camera; a Ruger, Model SP-101, .357-caliber revolver, bearing Serial No. 572-39696; \$782.00 in United States currency seized from the defendant on January 15, 2008; a set of digital scales; a Sony Cybershot digital camera; two cellular telephones; a Winchester, Model 62A, .22-caliber pump action rifle, bearing Serial No. 365019; an Arminius, .22-caliber revolver, bearing Serial No. 708344; a Kimber, Model Eclipse Custom II, .45-caliber semi-automatic pistol, bearing Serial No. K121684; a "Scarface light"; a Sanyo Vizion television; a Curtis flat screen television; a Visio flat screen television; a Compaq Presario laptop computer; a Sony Playstation 3; a thumb drive; a Glock, Model 27, .40-caliber semi-automatic pistol, bearing Serial No. HWC185; \$2,500.00 in United States currency seized from the defendant on March 1, 2008; and a black stun gun. The defendant shall also forfeit any other property interests he has in all currency and/or personal property which has been seized by the Drug Enforcement Administration, the Lubbock County Sheriff's Office, the Lubbock Police Department, the Hale County Sheriff's Office, and/or the Hale County Constable's Office, not previously mentioned.

## APPENDIX C

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
LUBBOCK DIVISION

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE  
(For Revocation of Probation or Supervised Release)

v.

RONALD RENE DELEON, JR.

Case Number: 5:08-CR-00023-H-BQ(1)

USM Number: 34834-177

Wade William Iverson

Defendant's Attorney

THE DEFENDANT:

<input checked="" type="checkbox"/>	admitted guilt to violation of condition(s)	Three (3) Mandatory Conditions; Standard Condition No. 7; and Special Condition No. 1 of the term of supervision.
<input type="checkbox"/>	was found in violation of condition(s)	after denial of guilt.

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

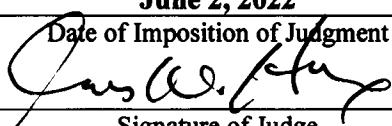
The defendant has not violated condition(s) and is discharged as to such violation(s) condition.

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.

Last Four Digits of Defendant's Soc. Sec. 7433

June 2, 2022

Date of Imposition of Judgment

  
Signature of Judge

Defendant's Year of Birth: 1981

City and State of Defendant's Residence:  
Lubbock, Texas

James Wesley Hendrix  
United States District Judge  
Name and Title of Judge

June 2, 2022

Date

DEFENDANT: RONALD RENE DELEON, JR.  
CASE NUMBER: 5:08-CR-00023-H-BQ(1)

## IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:  
Twenty-four (24) months.

The court makes the following recommendations to 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 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: RONALD RENE DELEON, JR.  
CASE NUMBER: 5:08-CR-00023-H-BQ(1)

## SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: Six (6) 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 which 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 additional conditions on the attached page.

DEFENDANT: RONALD RENE DELEON, JR.  
CASE NUMBER: 5:08-CR-00023-H-BQ(1)

## 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. I understand additional information regarding these conditions is available at [www.txnp.uscourts.gov](http://www.txnp.uscourts.gov).

Defendant's Signature \_\_\_\_\_

Date \_\_\_\_\_

DEFENDANT: RONALD RENE DELEON, JR.  
CASE NUMBER: 5:08-CR-00023-H-BQ(1)

**SPECIAL CONDITIONS OF SUPERVISION**

1. The defendant shall participate in an outpatient program approved by the probation officer for the treatment of narcotic, drug, or alcohol dependency that will include testing for the detection of substance use, abstaining from the use of alcohol and all other intoxicants during and after completion of treatment, and contributing to the cost of services rendered (copayment) at the rate of at least \$15.00 per month.