

## **APPENDIX**

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 21-2039

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UNITED STATES OF AMERICA

v.

JAMES WILLIAMS,  
Appellant

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On Appeal from the United States District Court  
for the Eastern District of Pennsylvania  
(D.C. Crim. No. 2:17-cr-00645-001)  
District Judge: Gene E.K. Pratter

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Submitted Under Third Circuit L.A.R. 34.1(a):  
April 6, 2023

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Before: CHAGARES, *Chief Judge*; GREENAWAY, JR., and PORTER,  
*Circuit Judges*.

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**JUDGMENT**

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This cause came to be considered on the record from the United States District Court for the Eastern District of Pennsylvania and was submitted on April 6, 2023. On consideration whereof, it is now

ORDERED and ADJUDGED by this Court that the District Court's judgment of conviction dated May 27, 2021, is hereby AFFIRMED as to Counts One, Two, and Three. The sentence imposed for Count Five is hereby VACATED. The matter is remanded for resentencing on Count Five only. All of the above in accordance with the Opinion of this Court. No costs shall be taxed.

ATTEST:

s/ Patricia S. Dodszuweit  
Clerk

Dated: April 14, 2023

**NOT PRECEDENTIAL**

**UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT**

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**No. 21-2039**

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**UNITED STATES OF AMERICA**

**v.**

**JAMES WILLIAMS,  
Appellant**

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**On Appeal from the United States District Court  
for the Eastern District of Pennsylvania  
(D.C. Crim. No. 2-17-cr-00645-001)  
District Judge: Honorable Gene E.K. Pratter**

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**Submitted Under Third Circuit L.A.R. 34.1(a):  
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**Before: CHAGARES, *Chief Judge*; GREENAWAY, JR., and PORTER,  
*Circuit Judges*.**

**(Filed: April 14, 2023)**

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**OPINION\***

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\* This disposition is not an opinion of the full Court and, under I.O.P. 5.7, is not binding precedent.

PORTER, *Circuit Judge.*

A jury convicted James Williams of various drug and firearm offenses, but he claims that the District Court denied him his Sixth Amendment right to represent himself and wrongfully applied the Sentencing Guidelines' career offender enhancement. We disagree. But Williams is correct that, in entering concurrent sentences of 162 months on the four counts of conviction, the District Court sentenced him beyond the statutory maximum term then authorized by 18 U.S.C. § 922(g)(1). So we will affirm the judgment of conviction as to counts one, two, and three, vacate the sentence imposed for count five, and remand for resentencing on count five only.<sup>1</sup>

I

We exercise plenary review of a claim that a district court violated a defendant's right to self-representation. *United States v. Peppers*, 302 F.3d 120, 127 (3d Cir. 2002). That right is firmly rooted in our legal system, "find[ing] support in the structure of the Sixth Amendment, as well as in the English and colonial jurisprudence from which the Amendment emerged." *Faretta v. California*, 422 U.S. 806, 818 (1975).

"It is undeniable that in most criminal prosecutions defendants could better defend with counsel's guidance than by their own unskilled efforts." *Id.* at 834. Thus, a defendant must state his request to proceed pro se "unambiguously to the court so that no reasonable person can say that the request was not made." *Buhl v. Cooksey*, 233 F.3d 783,

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<sup>1</sup> The District Court had jurisdiction under 18 U.S.C. § 3231. We have jurisdiction under 28 U.S.C. § 1291 and 18 U.S.C. § 3742(a).

790 n.9 (3d Cir. 2000) (quoting *Dorman v. Wainwright*, 798 F.2d 1358, 1366 (11th Cir. 1986)). And courts must “indulge in every reasonable presumption against waiver.” *Brewer v. Williams*, 430 U.S. 387, 404 (1977). Judges who receive a clear and unambiguous waiver must conduct a colloquy with the defendant and make him aware of “the dangers and disadvantages of self-representation.” *Faretta*, 422 U.S. at 835.

Before trial, Williams expressed dissatisfaction with defense counsel and asked to be appointed new representation. The District Court denied his request, a decision Williams does not challenge. Also before trial, Williams, defense counsel, and the government worked with the District Court to subpoena two cell phone providers for recordings of phone conversations involving his codefendant and a confidential informant. The providers responded that they did not possess responsive recordings. This was unsurprising because there was no record of a wiretap for those calls.

Nevertheless, at a hearing on April 4, 2019, defense counsel argued to the District Court that the providers’ responses were ambiguous and suggested that the defense might subpoena individuals from both providers. The District Court responded that it would not limit the defense’s ability to call witnesses, but that, in the Court’s view, the providers had complied with the subpoena and the testimony of individual employees of the providers would likely be irrelevant at trial. The Court also indicated that it was not inclined to delay trial, which was scheduled to begin in less than a week. The below exchange followed:

THE COURT: No, there’s no inference [that the recordings may exist]. The only thing is that the witness is called to come in and testify and take the

jury's time and they don't know anything on the point that you're asking them.

WILLIAMS: Can I proceed pro se for a minute?

THE COURT: Pardon?

WILLIAMS: Can I proceed pro se for a minute so I can speak for myself because there's case law specific to this situation.

THE COURT: No, there isn't, sir.

App. 80.

Williams then insisted that providers can be required to turn over responsive records, but he did not acknowledge that the providers in question had already informed the Court that they did not possess any. The Court responded, “[i]t's defense counsel's strategy and I'm not—” before defense counsel interrupted and Williams made what he claims was a clear, unequivocal request to proceed pro se:

DEFENSE COUNSEL: If my client is requesting I subpoena the individuals, then I'm going to have to subpoena them. If they're not available, then I would be requesting a continuance from the Court.

WILLIAMS: I would like to move pro se from this moment forward.

THE COURT: No, we're not going to do this again until you think it through.

WILLIAMS: I have. I have.

App. 81. The Court then addressed defense counsel and again advised her that she could call individuals from each provider, subject to objections about relevance, and that the Court was unlikely to issue a continuance.

In sum, Williams asked to “proceed pro se for a minute,” and then, a few minutes later, “to move pro se from this moment forward.” In many other contexts, these statements would be enough to effect a waiver of the right to counsel. But it is not clear

to us now, and it certainly was not clear to the District Court during the hearing in question, that Williams wanted to fire his appointed defense counsel and assume all aspects of his defense. Instead, we agree with the District Court that the record suggests that Williams wanted to “glide in and out of self-representation.” App. 279. There is no constitutional right to a hybrid arrangement where a defendant proceeds pro se at some points and is represented by counsel at others. *McKaskle v. Wiggins*, 465 U.S. 168, 183 (1984).

Williams proceeded to trial without further objection to his representation by counsel. After trial, Williams wrote a letter to the District Court and asked “to proceed[] in a pro se capacity . . . representing [himself]” with standby counsel. App. 106. The District Court held a hearing on the motion, conducted a *Faretta* colloquy, and allowed Williams to proceed pro se. In contrast to this unambiguous post-trial request, Williams’ pretrial statements about self-representation were far from clear and unambiguous, and the Supreme Court requires trial judges to “indulge in every reasonable presumption against waiver.” *Brewer*, 430 U.S. at 404. So we reject Williams’ claim that the District Court erred in denying him the right to proceed pro se before his trial.

## II

The career offender provision of the Guidelines dramatically increases a defendant’s sentencing range if he has previously been convicted of two “crimes of violence” or “controlled substance offenses.” U.S.S.G. § 4B1.1(a). Before his most recent arrest, Williams was twice convicted of violating 35 Pa. Stat. Ann. § 780-113(a)(30), which prohibits manufacturing, delivering, or possessing with the intent to manufacture

or deliver a controlled substance. The District Court correctly determined that these convictions were for controlled substance offenses as defined by the Guidelines and applied the enhancement.

Courts apply the categorical approach to determinate whether a state offense triggers an enhancement articulated in the Guidelines. *See United States v. Brasby*, 61 F.4th 127, 133–34 (3d Cir. 2023). That approach requires judges to ignore the defendant’s actual conduct and instead “compare the elements of [the state] statute with the relevant Guidelines provision—here, § 4B1.2(b)’s definition of a ‘controlled substance offense.’” *United States v. Dawson*, 32 F.4th 254, 260 (3d Cir. 2022). “If the statute proscribes a broader range of conduct than the Guideline, then a conviction for the state offense will not count as a controlled substance offense.” *Id.*

Williams originally argued that his prior convictions under § 780-113(a)(30) do not count as controlled substance offenses because the statute punishes the attempted transfer of a controlled substance. The Guidelines definition does not mention attempt offenses—it covers “manufacture, import, export, distribution or dispensing of a controlled substance”—so Williams maintained that § 780-113(a)(30) was not a categorical match. Appellant’s Br. at 32 (citing U.S.S.G. § 4B1.2(b)). We recently rejected Williams’ argument in *Dawson*. 32 F.4th at 258–59. We explained that “§ 780-113(a)(30) is a *completed* offense which, in one definition, uses the word ‘attempted’ in its ordinary sense.” *Id.* at 259 (citing *United States v. Havis*, 929 F.3d 317, 319 (6th Cir. 2019) (Sutton, J., concurring in the denial of en banc reconsideration)).

Williams also argued that § 780-113(a)(30) punishes the “administering” of controlled substances, while the Guidelines do not go so far. *See* § 780-102(b). We considered this theory in *United States v. Womack* and found it without merit. 55 F.4th 219, 238–40 (3d Cir. 2022). We held that § 780-113(a)(30) “expressly excludes the possibility that ‘administering,’ as defined in Section 780-102, falls within its scope.” *Id.* at 239.

In a letter filed with the Court, Williams commendably acknowledged that *Dawson* and *Womack* foreclose his arguments that his convictions under § 780-113(a)(30) do not qualify as controlled substance offenses under the Guidelines. As a result, all agree that the District Court properly applied the career offender enhancement.

### III

The District Court sentenced Williams to four concurrent terms of 162 months. One of the counts of conviction, count five, was for possession of a firearm as a prohibited person in violation of 18 U.S.C. § 922(g)(1). When Williams was arrested, that offense had a maximum sentence of 10 years, so the District Court’s sentence of 162 months was improper. *See* 18 U.S.C. § 924(a)(2) (2017).<sup>2</sup> Williams did not object when the District Court imposed this sentence. Had he done so, we are confident the District

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<sup>2</sup> Congress recently increased the maximum penalty to 15 years. Bipartisan Safer Communities Act, Pub. L. 117-159, 136 Stat. 1313, 1329 (2022), codified at 18 U.S.C. § 924(a)(8). The revised penalty does not apply to Williams because a law “that *changes the punishment*, and inflicts a *greater punishment*, than the law annexed to the crime, when committed,” violates the ex post facto clause, U.S. Const. art. 1, § 9, cl. 3. *Calder v. Bull*, 3 U.S. 386, 390 (1798) (emphasis added).

Court would have corrected the error in real time. But a sentence that exceeds the statutory maximum is plainly erroneous, so we will remand for the District Court to resentence Williams on count five only. *United States v. Gunter*, 527 F.3d 282, 288 (3d Cir. 2008), *vacated on other grounds*, 129 S. Ct. 2051 (2009).

#### IV

We reject Williams's claims that he was denied the right to represent himself and that the District Court improperly sentenced him as a career offender, but he is correct that the Court sentenced him beyond the statutory maximum under § 922(g)(1). We will affirm the judgment of conviction on counts one, two, and three. We will vacate the sentence imposed for count five and remand solely for resentencing on that count.

## UNITED STATES DISTRICT COURT

Eastern District of Pennsylvania

UNITED STATES OF AMERICA

v.

JAMES WILLIAMS

## JUDGMENT IN A CRIMINAL CASE

Case Number: DPAE2:17CR000645-001  
 USM Number: 69751-066  
 James Williams, Pro Se /  
Kathleen Gaughan, Esquire (Stand-by counsel)  
 Defendant's Attorney

## THE DEFENDANT:

pleaded guilty to count(s) \_\_\_\_\_

pleaded nolo contendere to count(s) \_\_\_\_\_ which was accepted by the court.

was found guilty on count(s) 1, 2, 3, and 5 of the Indictment after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
21:841(a)(1), (b)(1)(C); 18:2	Distribution of heroin and aiding and abetting	07/18/2017	1
21:841(a)(1), (b)(1)(C)	Possession with intent to distribute heroin and aiding and abetting	07/18/2017	2
21:841(a)(1), (b)(1)(C); 18:2	Possession with intent to distribute cocaine base ("crack") and aiding and abetting	07/18/2017	3
18:922(g)(1)	Possession of a firearm by a convicted felon	07/18/2017	5

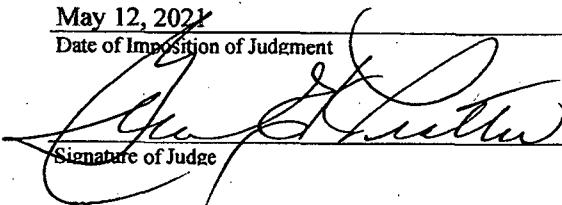
The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The defendant has been found not guilty on count(s) 4 of the Indictment

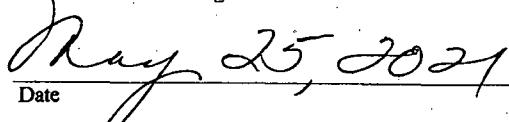
Count(s) \_\_\_\_\_  is  are dismissed on the motion of the United States.

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

May 12, 2021  
Date of Imposition of Judgment

  
Signature of Judge

GENE E.K. PRATTER, USDJ  
Name and Title of Judge

  
Date

DEFENDANT: **JAMES WILLIAMS**  
CASE NUMBER: **DPAE2:17CR000645-001**

## **IMPRISONMENT**

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

162 months each on Counts 1, 2, 3, and 5, all such terms to be served concurrently. This Court would not object if the 162 months sentence runs in part concurrently, pursuant to 5G1.3, with any state sentence that is imposed after the date of this order either for a parole violation or otherwise relating to the conduct that was part of the federal prosecution.

The court makes the following recommendations to the Bureau of Prisons:  
Defendant be designated to an institution in close proximity to Philadelphia, Pennsylvania where his family resides.

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

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

at \_\_\_\_\_  a.m.  p.m. on \_\_\_\_\_

as notified by the United States Marshal.

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

before 2 p.m. on \_\_\_\_\_

as notified by the United States Marshal.

as notified by the Probation or Pretrial Services Office.

## **RETURN**

I have executed this judgment as follows:

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

\_\_\_\_\_  
**UNITED STATES MARSHAL**

By \_\_\_\_\_  
**DEPUTY UNITED STATES MARSHAL**

DEFENDANT: JAMES WILLIAMS

CASE NUMBER: DPAE2:17CR000645-001

**SUPERVISED RELEASE**

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

6 years on each of Counts 1, 2, and 3, and 3 years on Count 5, all such terms to run concurrently.

**MANDATORY CONDITIONS**

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

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

DEFENDANT: **JAMES WILLIAMS**  
CASE NUMBER: **DPAE2:17CR000645-001**

## STANDARD CONDITIONS OF SUPERVISION

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

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

## U.S. Probation Office Use Only

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

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

Date \_\_\_\_\_

DEFENDANT: JAMES WILLIAMS  
CASE NUMBER: DPAE2:17CR000645-001

### **ADDITIONAL SUPERVISED RELEASE TERMS**

The Defendant shall refrain from the illegal possession and/or use of drugs and shall submit to urinalysis or other forms of testing to ensure compliance. It is further ordered that the Defendant shall participate in drug treatment and abide by the rules of any such program until satisfactorily discharged.

The Defendant shall provide the U.S. Probation Office with full disclosure of his financial records to include yearly income tax returns upon the request of the U.S. Probation Office. The Defendant shall cooperate with the probation officer in the investigation of his financial dealings and shall provide truthful monthly statements of his income.

The Defendant is prohibited from incurring any new credit charges or opening additional lines of credit without the approval of the probation officer, unless the defendant is in compliance with a payment schedule for any fine or restitution obligation. The Defendant shall not encumber or liquidate interest in any assets unless it is in direct service of the fine or restitution obligation or otherwise has the express approval of the Court.

DEFENDANT: **JAMES WILLIAMS**  
CASE NUMBER: **DPAE2:17CR000645-001**

### **CRIMINAL MONETARY PENALTIES**

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

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
<b>TOTALS</b>	\$ 400.00	\$ 0.00	\$ 0.00	\$	\$

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

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

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

<u>Name of Payee</u>	<u>Total Loss***</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
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<b>TOTALS</b>	\$ _____	\$ _____	
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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  fine  restitution.

the interest requirement for  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: JAMES WILLIAMS  
CASE NUMBER: DPAE2:17CR000645-001**SCHEDULE OF PAYMENTS**

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

A  Lump sum payment of \$ 400.00 due immediately, balance due  
 not later than \_\_\_\_\_, or  
 in accordance with  C  D,  E, or  F below; or

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

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

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

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

F  Special instructions regarding the payment of criminal monetary penalties:

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

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

Joint and Several

Case Number

Defendant and Co-Defendant Names  
(including defendant number)

Total Amount

Joint and Several  
AmountCorresponding 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:  
 a) one (1) Ruger, Model SR22P, .22 handgun, serial number 362-76709; and  
 b) nine (9) rounds of .22 caliber ammunition;

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTA assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 21-2039

---

UNITED STATES OF AMERICA

v.

JAMES WILLIAMS,  
Appellant

---

(D.C. Crim. No. 2-17-cr-00645-001)

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ORDER

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Present: CHAGARES, Chief Judge, JORDAN, HARDIMAN, GREENAWAY, JR.\*,  
SHWARTZ, KRAUSE, RESTREPO, BIBAS, PORTER, MATEY, PHIPPS,  
MONTGOMERY-REEVES and CHUNG, Circuit Judges

The petition for rehearing filed by appellant in the above-entitled case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the Court en banc, is denied.

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\* The Honorable Joseph A. Greenaway, Jr. was a member of the merits panel. Judge Greenaway retired from the Court on June 15, 2023 and did not participate in the consideration of the petition for rehearing.

**Additional material  
from this filing is  
available in the  
Clerk's Office.**