APPENDIX

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APPENDIX A

[DO NOT PUBLISH]

In the

United States Court of Appeals

For the Eleventh Circuit

No. 22-10910

Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

VICTOR RICARDO GRANT,

Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 8:20-cr-00050-WFJ-CPT-1

Before NEWSOM, GRANT, and LAGOA, Circuit Judges.

PER CURIAM:

Victor Ricardo Grant appeals his conviction for one count of possessing ammunition as a felon and his corresponding 262-month sentence of imprisonment. On appeal, Grant makes two arguments. First, he argues that the district court erred in denying his motion for judgment of acquittal because there was insufficient evidence for a jury to find that he possessed the ammunition. Second, he contends, for the first time on appeal, that the district court erred at sentencing when it found that his prior state drug convictions constituted "serious drug offense[s]" under the Armed Career Criminal Act ("ACCA"), because federal drug schedules did not prohibit the conduct underlying those convictions at the time of his federal ammunition offense. After careful review, we affirm.

I.

A federal grand jury indicted Grant for knowingly possessing ammunition after having been convicted of a felony in violation of 18 U.S.C. §§ 922(g)(1) and 924(e).

Grant proceeded to trial, and the parties stipulated that Grant had been convicted of felonies and had no right to possess a firearm or ammunition. At trial, FBI special agent Sarah Andreasen testified about a SWAT team's lawful search of Grant's family residence. Andreasen testified that the residence's master bedroom had two closets, with the closet to the left containing female clothing and a closet to the right containing male clothing. The right-

side closet with male clothing contained a black backpack, which itself contained four orange traffic vests, fifteen boxes of 7.62-millimeter ammunition, a plastic bag with additional ammunition, and earplugs. Law enforcement discovered a laundry receipt with Grant's name on it near the backpack. The residence's attic, the master bedroom's left-side closet, and a purse in the living room that belonged to Grant's wife all also contained ammunition.

Another law enforcement officer testified that he observed Grant take a black backpack out of his car and wear it at least four or five times when returning to his residence. Other detectives observed the same pattern of Grant taking the backpack out of his car and wearing it. An employee of the Hillsborough County Sheriff's Office testified that her unit did not find fingerprints on the ammunition uncovered by law enforcement. And a forensic analyst for the FBI testified that the agency did not recover DNA from the ammunition.

After the government rested, Grant moved for a judgment of acquittal, arguing that no reasonable juror could find that he possessed the ammunition seized by law enforcement. The district court denied the motion.

Grant then called his wife, Melissa Grant, as a witness. She testified that she moved her husband's black backpack from the living room to his closet before the search. She confirmed that the master bedroom's right-side closet containing male clothes was exclusively her husband's.

Grant also testified in his own defense. He testified that he knew nothing about and never possessed the ammunition seized by law enforcement. He acknowledged that the right-side closet was his, but he testified that he did not recall ever seeing or knowing about the black backpack found in the closet. Grant also admitted, however, that he used a black backpack to take spare clothes to work.

Grant renewed his motion for judgment of acquittal after the defense rested and again at the end of trial. The district court denied the motion both times. The jury returned a verdict finding Grant guilty.

The presentence investigation report ("PSI") described Grant's offense conduct by reference to the evidence presented at trial. Based on these facts, the PSI initially calculated a base offense level of 20, pursuant to U.S.S.G. § 2K2.1and added two points for obstruction of justice under U.S.S.G. § 3C1.1 based on Grant's false statements under oath about his offense. The PSI also applied an armed career criminal offense level enhancement under U.S.S.G. § 4B1.4 because Grant had at least three prior convictions for a violent felony or serious drug offense and was thus subject to an enhanced sentence under 18 U.S.C. § 924(e). The PSI applied the enhancement based on the following convictions: three in December 2001 for the sale of cocaine, and one for aggravated assault in 2005. Grant committed the three drug offenses on separate occasions in February and May of 2001. After this enhancement was applied, the PSI calculated a total offense level of 33 for Grant.

The PSI further calculated that Grant had a criminal history score of 10, establishing a criminal history category of V under U.S.S.G. § 4B1.4(c)(1). Based on Grant's total offense level of 33 and criminal history category of V, the PSA calculated that Grant's guideline range was 210 to 262 months' imprisonment, subject to a statutory minimum of 15 years imprisonment. Before sentencing, Grant objected to the PSI's obstruction-of-justice enhancement. But Grant did not object to the PSI's finding that his state drug convictions qualified as "serious drug offense[s]" under the ACCA.

At the sentencing hearing, the district court found that the PSI properly calculated Grant's guideline range and therefore overruled Grant's objection to the obstruction-of-justice enhancement. Grant sought a downward variance and a sentence of only 185 months' imprisonment or, alternatively, a sentence at the low end of his guidelines range. Grant, again, did not object to the PSI's determination that his state drug convictions were "serious drug offense[s]" under the ACCA. The government argued that Grant should be sentenced at the high end of his guidelines range given the totality of the circumstances of the case. The district court then sentenced Grant to 262 months' imprisonment, followed by five years of supervised release. After sentencing Grant, the district court asked if Grant had any further objections, and Grant's counsel answered that he did not.

This timely appeal ensued.

II.

We review *de novo* the denial of a defendant's properly preserved motion for judgment of acquittal, "viewing the evidence in the light most favorable to the government and drawing all reasonable factual inferences in favor of the jury's verdict." *United States v. Jiminez*, 564 F.3d 1280, 1284 (11th Cir. 2009). We will uphold the district court's denial of a motion for judgment of acquittal "if a reasonable trier of fact could conclude that the evidence establishes the defendant's guilt beyond a reasonable doubt." *United States v. Rodriguez*, 218 F.3d 1243, 1244 (11th Cir. 2000). "It is not necessary that the evidence exclude every reasonable hypothesis of innocence or be wholly inconsistent with every conclusion except that of guilt, provided a reasonable trier of fact could find that the evidence establishes guilt beyond a reasonable doubt." *United States v. Vera*, 701 F.2d 1349, 1357 (11th Cir. 1983) (alteration omitted) (quoting *United States v. Bell*, 678 F.2d 547, 549 (5th Cir. Unit B 1982) (en banc)). This is so because "[a] jury is free to choose among reasonable constructions of the evidence." *Id.* (quoting *Bell*, 678 F.2d at 549). Thus, "we must sustain the verdict where there is a reasonable basis in the record for it." *United States v. Farley*, 607 F.3d 1294, 1333 (11th Cir. 2010) (quoting *United States v. Brown*, 415 F.3d 1257, 1270 (11th Cir. 2005)).

"The test for sufficiency of evidence is identical regardless of whether the evidence is direct or circumstantial, and 'no distinction is to be made between the weight given to either direct or circumstantial evidence.'" *United States v. Mieres-Borges*, 919 F.2d 652, 656–57 (11th Cir. 1990) (quoting *United States v. Gonzalez*, 719 F.2d 1516, 1521 (11th Cir. 1983)). But when "the government relies on

circumstantial evidence, reasonable inferences, not mere speculation, must support the conviction." *United States v. Mendez*, 528 F.3d 811, 814 (11th Cir. 2008).

We generally review *de novo* challenges to an enhancement under the ACCA. *United States v. Smith*, 983 F.3d 1213, 1222 (11th Cir. 2020). When a defendant does not state the grounds for an objection in the district court, however, we review for plain error. *United States v. Zinn*, 321 F.3d 1084, 1087 (11th Cir. 2003). To prevail under plain-error review, a defendant must demonstrate "that there is: '(1) error, (2) that is plain, and (3) that affects substantial rights.'" *United States v. Jones*, 743 F.3d 826, 829 (11th Cir. 2014) (quoting *United States v. Rodriguez*, 398 F.3d 1291, 1298 (11th Cir. 2005)). Once the defendant makes that showing, we have discretion to notice the forfeited error "only if (4) the error seriously affects the fairness, integrity, or public reputation of judicial proceedings." *Id.* (quoting *Rodriguez*, 398 F.3d at 1298).

III.

To convict a defendant of being a felon in possession of ammunition under 18 U.S.C. § 922(g)(1), the government must prove beyond a reasonable doubt that (1) the defendant knowingly possessed a firearm or ammunition, (2) the defendant was a felon, and (3) the firearm or ammunition was in or affecting interstate commerce. *United States v. Green*, 873 F.3d 846, 852 (11th Cir. 2017).

Possession can be actual or constructive. *See United States v. Ochoa*, 941 F.3d 1074, 1104–05 (11th Cir. 2019) (concluding that the jury had sufficient evidence to find that the defendant

constructively possessed ammunition after tying him to the bedroom where it was found through his phones, personal identification cards, and travel papers in the room, along with a driver's license that bore the address of the residence in question). Constructive possession may be exclusive or shared with others. *See United States v. Flanders*, 752 F.3d 1317, 1332 (11th Cir. 2014). To establish constructive possession, whether exclusive or joint, the government must offer evidence showing that the "defendant has ownership, dominion, or control over an object or the premises where the object is found." *Id.* "[A] defendant's mere presence in the area of [an object] or awareness of its location is not sufficient to establish possession." *Green*, 873 F.3d at 852–53 (second alteration in original) (quoting *United States v. Beckles*, 565 F.3d 832, 841 (11th Cir. 2009)). A defendant has constructive possession of ammunition or a firearm if the government proves, either through direct or circumstantial evidence, that he "(1) was aware or knew of [its] presence and (2) had the ability and intent to later exercise dominion and control over [it]." *United States v. Perez*, 661 F.3d 568, 576 (11th Cir. 2011); *see also United States v. Molina*, 443 F.3d 824, 830 (11th Cir. 2006) (reversing a grant of judgment of acquittal where a reasonable jury could have found that the defendant exerted dominion or control over a firearm because it was in her bedroom nightstand that also contained her passport).

We have also held that if a defendant takes the stand and testifies, the factfinder not only does not have to believe his testimony, but it can also take the opposite position and consider his testimony as evidence of his guilt. *See United States v. Hughes*, 840 F.3d 1368,

1385 (11th Cir. 2016) ("[A] statement by a defendant, if disbelieved by the jury, may be considered as substantive evidence of the defendant's guilt." (quoting *United States v. McDowell*, 250 F.3d 1354, 1367 (11th Cir. 2001))).

Viewing the evidence in the light most favorable to the government, we conclude that the district court properly denied Grant's motion for judgment of acquittal because the evidence was sufficient for a reasonable jury to find beyond a reasonable doubt that he constructively possessed the ammunition. *See Jiminez*, 564 F.3d at 1284. The evidence elicited at trial showed that law enforcement found the ammunition in Grant's closet, inside his black backpack, and near a laundry receipt with his name on it. That evidence permitted a reasonable inference that Grant constructively possessed the ammunition. *See, e.g.*, *Ochoa*, 941 F.3d at 1105; *Molina*, 443 F.3d at 829–830; *see also United States v. Brown*, 587 F.3d 1082, 1091–92 (11th Cir. 2009) (holding that sufficient evidence supported jury's finding that the defendant possessed a firearm when law enforcement found seven firearms in a bedroom closet and the defendant's identification cards in the bedroom).

And despite Grant's testimony that he did not know about the ammunition in the closet and that his wife put the backpack in his closet, the jury was entitled to disbelieve him. *See Hughes*, 840 F.3d at 1385. The jury likewise was entitled to view his testimony as substantive evidence of his guilt. *See id.* Indeed, Grant's testimony that he wore a black backpack to work, viewed in the light most favorable to the jury's verdict, supported the government's

argument that Grant possessed the ammunition in the backpack found in his closet.

We thus affirm the district court's denial of Grant's motion for judgment of acquittal.

IV.

Grant also appeals his sentence on the ground that his prior state drug convictions were not "serious drug offense[s]" within the meaning of the ACCA. The ACCA requires that any person who violates 18 U.S.C. § 922(g) serve a mandatory minimum sentence of fifteen years when the defendant has three prior convictions for violent felonies or serious drug offenses committed on occasions different from one another. 18 U.S.C. § 924(e)(1). The ACCA defines a "serious drug offense," in relevant part, as "an offense under State law, involving manufacturing, distributing, or possessing with intent to manufacture or distribute, a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. § 802))." *Id.* § 924(e)(2)(A)(ii). We have held that federal law governs the meaning of terms in the ACCA and state law governs the elements of state law crimes. *Jackson v. United States* (*Jackson II*), 55 F.4th 846, 850 (11th Cir. 2022), *cert. granted*, 143 S. Ct. 2457 (2023).

Section 102 of the Controlled Substances Act defines a "controlled substance" as any substance on the federal controlled substances schedules. *See* 21 U.S.C. §§ 802(6), 812. The current version of the federal drug schedules expressly excludes ioflupane. 21 C.F.R. § 1308.12(b)(4)(ii). But the federal drug schedules included ioflupane until 2015. *Jackson II*, 55 F.4th at 851 & n.4.

At the time of Grant's drug offenses in February and May 2001, the list of "controlled substances" in Florida included "[c]ocaine or ecgonine, including any of their stereoisomers, and any salt, compound, derivative, or preparation of cocaine or ecgonine." Fla. Stat. § 893.03(2)(a)(4) (amendments effective from October 1, 2000, to June 30, 2001). It did not specifically include or exclude ioflupane. *Id.*

We apply the categorical approach to determine whether a defendant's state conviction is a serious drug offense under the ACCA. *Jackson II*, 55 F.4th at 850. Under the categorical approach, we consider the statutory definition of the state offense rather than the facts of the crime itself. *Id.* A state conviction qualifies only if the state statute under which the conviction occurred defines the offense in the same way as, or more narrowly than, the ACCA's definition of a serious drug offense. *Id.*

In *Jackson I*, decided in June 2022 after Grant's sentencing, we vacated a defendant's ACCA-enhanced sentence, holding that his Florida cocaine-related offenses did not qualify as serious drug offenses under the ACCA. *United States v. Jackson* (*Jackson I*), 36 F.4th 1294, 1306 (11th Cir. 2022). We determined that the federal controlled substances schedules that defined a serious drug offense under the ACCA were those in effect when the defendant committed his federal offense and that those schedules did not cover ioflupane at the time he committed his federal offense. *See id.* at 1299–302. Since the relevant Florida statute covered ioflupane when he was convicted of his prior cocaine-related offenses, we

held that the state statute was broader than the relevant version of the federal controlled substances schedules, and the defendant's prior cocaine-related convictions thus did not qualify as serious drug offenses. *Id.* at 1303–04.

In December 2022, however, we vacated our decision in *Jackson I* and held, in *Jackson II*, that the defendant's Florida cocaine-related convictions qualified as serious drug offenses. *Jackson II*, 55 F.4th at 861–62. We held that the ACCA's definition of a serious drug offense incorporates the version of the federal controlled substances schedules in effect when the defendant was convicted of the prior state drug offense. *Id.* at 854. We then concluded that the defendant's 1998 and 2004 Florida cocaine-related convictions qualified because Florida's controlled substances schedules included ioflupane until 2017 and the federal controlled substance schedules also included ioflupane until 2015. *Id.* at 851 & nn.3–4. We determined that the Florida controlled substances schedules included ioflupane because Florida later amended its schedules to exclude ioflupane. *Id.* at 851 n.3. Jackson then sought certiorari, which the Supreme Court granted in May 2023. The Supreme Court also consolidated *Jackson II* with another case, *see United States v. Brown*, 47 F. 4th 147 (3d Cir. 2022), *cert. granted*, 143 S. Ct. 2458 (2023), and the cases remain pending.

Again, because Grant did not object to the PSI's finding that his state drug convictions qualified as "serious drug offense[s]" under the ACCA, we review his ACCA enhancement for plain error. *Zinn*, 321 F.3d at 1087.

Grant concedes that, under our current precedent, the district court committed no error in applying an ACCA enhancement to his sentence. Grant acknowledges that our decision in *Jackson II* forecloses his argument that his prior state drug convictions were not serious drug offenses because the federal and Florida drug schedules in effect at the time of those convictions included ioflupane. That concession fully resolves Grant's appeal because we, as a panel, are bound by *Jackson II*'s holding. Under our prior precedent rule, we must follow a prior panel precedent "unless and until it is overruled by this court en banc or by the Supreme Court." *United States v. Brown*, 342 F.3d 1245, 1246 (11th Cir. 2003). Although the Supreme Court will soon review *Jackson II*, a grant of certiorari by the Supreme Court does not in itself change the law. *See Rutherford v. McDonough*, 466 F.3d 970, 977 (11th Cir. 2006).

In addition, the error that Grant asserts the district court committed was not plain. We have made clear that "[w]here the explicit language of a statute or rule does not specifically resolve an issue, there can be no plain error where there is no precedent from the Supreme Court or this Court directly resolving it." *United States v. Verdeza*, 69 F.4th 780, 791 (11th Cir. 2023) (quoting *United States v. Chau*, 426 F.3d 1318, 1322 (11th Cir. 2005)). Indeed, an error qualifies as plain only if it is "'obvious' or 'clear under current law.'" *United States v. Laines*, 69 F.4th 1221, 1233 (11th Cir. 2023) (quoting *United States v. Candelario*, 240 F.3d 1300, 1309 (11th Cir. 2001)). Here, we have directly resolved the relevant issue *against* Grant's position. *See Jackson II*, 55 F.4th at 854, 861–62. And because the district court's decision to enhance Grant's sentence under the

ACCA is consistent with our current law, the alleged error is, by definition, not plain. *See, e.g.*, *Laines*, 69 F.4th at 1233–34 (holding that the defendant did not carry his burden of showing plain error because our precedents expressly rejected his argument that an error occurred, and he did not identify any decision abrogating or overruling these precedents).

In short, we conclude that the district court did not plainly err when it enhanced Grant's sentence under the ACCA. Accordingly, we affirm Grant's sentence.

AFFIRMED.

APPENDIX B

In the

United States Court of Appeals

For the Eleventh Circuit

No. 22-10910

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

VICTOR RICARDO GRANT,

Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 8:20-cr-00050-WFJ-CPT-1

ORDER:

The motion of Appellant Victor Grant to stay the issuance of the mandate pending a petition for writ of certiorari is DENIED.

DAVID J. SMITH
Clerk of the United States Court of
Appeals for the Eleventh Circuit

ENTERED FOR THE COURT - BY DIRECTION

APPENDIX C

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

v.

VICTOR RICARDO GRANT

Case Number: 8:20-cr-50-WFJ-CPT

USM Number: 73276-018

Grady C. Irvin, Jr., CJA

JUDGMENT IN A CRIMINAL CASE

The Defendant was found guilty to Count One of the Superseding Information. The Defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18 U.S.C. §§ 922(g)(1) and 924(e)	Felon in Possession of Ammunition	January 22, 2020	One

The Defendant is sentenced as provided in the following pages of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The underlying indictment is dismissed.

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 shall notify the court and United States Attorney of any material change in the Defendant's economic circumstances.

Date of Imposition of Judgment:

March 21, 2022

WILLIAM F. JUNG
UNITED STATES DISTRICT JUDGE

March 21, 2022

IMPRISONMENT

The Defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of **TWO HUNDREND SIXTY-TWO (262) MONTHS.**

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

- Defendant be incarcerated at FCI Jesup.
- Defendant be allowed to receive vocational training in heating, ventilation and air conditioning (HVAC).

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

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

SUPERVISED RELEASE

Upon release from imprisonment, the Defendant will be on supervised release for a term of **FIVE (5) YEARS**.

MANDATORY CONDITIONS

1. Defendant shall not commit another federal, state or local crime.
2. Defendant shall not unlawfully possess a controlled substance.
3. Defendant shall refrain from any unlawful use of a controlled substance. Defendant shall 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.
4. Defendant shall cooperate in the collection of DNA as directed by the Probation Officer.

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

As part of your supervised release, Defendant shall 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. Defendant shall 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. After initially reporting to the Probation Office, the Defendant will receive instructions from the court or the Probation Officer about how and when the Defendant must report to the Probation Officer, and the Defendant must report to the Probation Officer as instructed.
2. After initially reporting to the Probation Office, you will receive instructions from the court or the Probation Officer about how and when Defendant shall report to the Probation Officer, and Defendant shall report to the Probation Officer as instructed.
3. Defendant shall 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. Defendant shall answer truthfully the questions asked by your Probation Officer
5. Defendant shall 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), Defendant shall notify the Probation Officer at least 10 days before the change. If notifying the Probation Officer in advance is not possible due to unanticipated circumstances, Defendant shall notify the Probation Officer within 72 hours of becoming aware of a change or expected change.
6. Defendant shall allow the Probation Officer to visit you at any time at your home or elsewhere, and Defendant shall permit the Probation Officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. Defendant shall 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 Defendant shall 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), Defendant shall notify the Probation Officer at least 10 days before the change. If notifying the Probation Officer at least 10 days in advance is not possible due to unanticipated circumstances, Defendant shall notify the Probation Officer within 72 hours of becoming aware of a change or expected change.
8. Defendant shall not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, Defendant shall 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, Defendant shall notify the Probation Officer within **72 hours**.
10. Defendant shall not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. Defendant shall not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the Probation Officer determines that you pose a risk to another person (including an organization), the Probation Officer may require you to notify the person about the risk and Defendant shall comply with that instruction. The Probation Officer may contact the person and confirm that you have notified the person about the risk.
13. Defendant shall follow the instructions of the Probation Officer related to the conditions of supervision.

U.S. Probation Office Use Only

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

Defendant's Signature:_____ Date:_____

ADDITIONAL CONDITIONS OF SUPERVISED RELEASE

1. The Defendant shall submit to a search of your person, residence, place of business, any storage units under the Defendant's control, computer, or vehicle, conducted by the United States Probation Officer at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. You shall inform any other residents that the premises may be subject to a search pursuant to this condition.

CRIMINAL MONETARY PENALTIES

The Defendant must pay the following total criminal monetary penalties under the schedule of payments set forth in the Schedule of Payments.

Assessment	Restitution	Fine	AVAA Assessment*	JVTA Assessment**
$100.00	N/A	WAIVED	N/A	N/A

SCHEDULE OF PAYMENTS

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

Special Assessment shall be paid in full and is due immediately.

Unless the court has expressly ordered otherwise in the special instructions above, 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 Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court, unless otherwise directed by the court, the Probation Officer, or the United States attorney.

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

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

FORFEITURE

Defendant shall forfeit to the United States those assets previously identified in the Order of Forfeiture, that are subject to forfeiture.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

v. Case No. 8:20-cr-50-WFJ-CPT

VICTOR RICARDO GRANT

PRELIMINARY ORDER OF FORFEITURE

THIS CAUSE comes before the Court upon the United States of America's Motion for a Preliminary Order of Forfeiture for approximately 354 rounds of Wolf ammunition and approximately 40 rounds of Federal ammunition, seized from the defendant's home on or about January 22, 2020.

The Court hereby finds that, based on the facts at trial and the jury's finding of guilt on Count One, the defendant possessed the ammunition identified above, for which he has been convicted.

Accordingly, it is hereby:

ORDERED, ADJUDGED, and DECREED that for good cause shown, the United States' motion is GRANTED.

It is FURTHER ORDERED that, pursuant to 18 U.S.C. § 924(d), 28 U.S.C. § 2461(c), and Rule 32.2(b)(2) of the Federal Rules of Criminal Procedure, the assets identified above are hereby forfeited to the United States for disposition according to law.

It is FURTHER ORDERED that the preliminary order of forfeiture become final as to the defendant at sentencing.

The Court retains jurisdiction to address any third-party claim that may be asserted in these proceedings, and to enter any further order necessary for the forfeiture and disposition of such property.

DONE and ORDERED in Tampa, Florida, this 3rd day of February, 2022.

WILLIAM F. JUNG
UNITED STATES DISTRICT JUDGE

Copies to:
Suzanne C. Nebesky, AUSA
Counsel of Record