

PETITION APPENDIX

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APPENDIX A

FILED
United States Court of Appeals
Tenth Circuit

PUBLISH

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

September 18, 2023

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

No. 22-3122

LARRY COATES,

Defendant - Appellant.

**Appeal from the United States District Court
for the District of Kansas
(D.C. No. 6:21-CR-10037-EFM-1)**

Paige A. Nichols, Assistant Federal Public Defender (Melody Bannon, Federal Public Defender, with her on the briefs), Office of the Federal Public Defender, Topeka, Kansas, for Defendant – Appellant.

Sonja M. Ralston, Attorney, Appellate Section (Duston Slinkard, United State Attorney; James Brown, Assistant United States Attorney, Appellate Chief, D. Kansas; Kenneth A. Polite, Jr., Assistant Attorney General; Lisa H. Miller, Deputy Assistant Attorney General, with her on the brief), Criminal Division, United States Department of Justice, Washington, D.C., for Plaintiff – Appellee.

Before **MORITZ**, **BALDOCK**, and **MURPHY**, Circuit Judges.

MURPHY, Circuit Judge.

I. Introduction

In 2019, Larry Coates was caught in possession of child pornography. At that time, he was serving supervised release for Kansas-state child exploitation violations. Coates pleaded guilty to a single count of violating 18 U.S.C. § 2252A(a)(5)(B), (b)(2). In anticipation of sentencing, the probation office prepared a presentence investigative report (“PSR”). The PSR recommended a pattern of activity enhancement pursuant to U.S.S.G. § 2G2.2(b)(5). Although § 2G2.2(b)(5) does not define what qualifies as a “pattern,” corresponding commentary states a pattern may arise from offenses unrelated to the underlying crime. Coates objected to the enhancement, reasoning it could only apply if the commentary’s definition of pattern was used. In doing so, Coates advocated the district court rely on the Supreme Court’s recent decision in *Kisor v. Wilkie*, 139 S. Ct. 2400, 2414 (2019), which determined courts can only defer to commentary accompanying executive agency regulations when the associated regulation is “genuinely ambiguous.” Absent express guidance from this court, the district court declined to apply *Kisor* and it did not otherwise believe the commentary inconsistent with the guideline. This court recently confirmed this approach in *United States v. Maloid*, 71 F.4th 795 (10th Cir. 2023). There, we held *Kisor* does not apply to the Sentencing Commission, and therefore, its commentary should be relied upon unless “plainly erroneous or inconsistent” with the guidelines. *Id.* at 805–06 (citing *Stinson v. United States*, 508 U.S. 36, 47 (1993)). We conclude § 2G2.2’s commentary presents no such inconsistency, and thus,

exercising our jurisdiction pursuant to 28 U.S.C. § 1291 and 18 U.S.C. § 3742, **affirm** the district court's sentencing decision.

II. Background

Between February 1, 2001, and May 21, 2002, Coates sexually abused his niece, a minor, on multiple occasions. Coates forced her to perform sexual acts, and on at least two occasions he took photos of this exploitation. Following investigation, Coates pleaded guilty in state court to three counts of aggravated indecent liberties and three counts of sexual exploitation of a child. He received a sentence of 184 months' imprisonment, followed by thirty-six months' post-release supervision.

In February 2019, while still on parole, Coates was the subject of a second investigation. This time, the National Center for Missing and Exploited Children tipped the Wichita Police Department that someone at Coates's address had repeatedly uploaded child pornography online and attempted several reverse-image searches to find similar photographs. Upon obtaining a search warrant for his electronic devices, authorities discovered hundreds of images and videos of child pornography. On May 19, 2021, a federal grand jury indicted Coates for one count of child pornography possession in violation of 18 U.S.C. § 2252(A)(a)(5)(B) and (b)(2), to which he pleaded guilty.

The probation office prepared a PSR containing several offense level enhancements, including one for pattern of activity pursuant to U.S.S.G. § 2G2.2(b)(5). The enhancement was applied based on Coates's previous child exploitation crimes from 2001 and 2002. The guideline, which falls under the

heading, “specific offense characteristics,” provides: “[i]f the defendant engaged in a pattern of activity involving the sexual abuse or exploitation of a minor, increase by 5 levels.” U.S.S.G. § 2G2.2(b)(5). The commentary to the guideline defines “pattern of activity” as “any combination of two or more separate instances of the sexual abuse or sexual exploitation of a minor by the defendant, *whether or not* the abuse or exploitation (A) occurred during the course of the offense; (B) involved the same minor; or (C) resulted in a conviction for such conduct.” *Id.* § 2G2.2 cmt. n.1 (emphasis added).

Coates objected to the application of the pattern enhancement. He reasoned the text of U.S.S.G. §§ 2G2.2(b)(5) and 1B1.3(a)(1)(A) unambiguously show a pattern of activity can only be based on conduct related to the underlying offense. He argued the commentary to § 2G2.2, therefore, plainly conflicts with the sentencing guidelines by allowing pattern enhancements based on prior conduct. In turn, Coates urged this court to apply the Supreme Court’s decision in *Kisor*, which only permits reliance on executive agency commentary where “genuine ambiguity” in the regulation exists. 139 S. Ct. at 2414. The district court overruled Coates’s objection, explaining that without further direction as to whether *Kisor* applies to the sentencing guidelines, it would continue to generally defer to Commission commentary. Similarly, the district court could not identify a fundamental inconsistency between the guidelines and the § 2G2.2 commentary that would upset this deference. Applying the enhancement, Coates was sentenced to 180 months’ imprisonment, followed by ten years of supervised release.

III. Analysis

“When evaluating sentence enhancements under the Sentencing Guidelines, this court reviews the district court’s factual findings for clear error and questions of law *de novo.*” *United States v. McDonald*, 43 F.4th 1090, 1095 (10th Cir. 2022).

a. *Kisor* Application

In *Stinson*, the Supreme Court analyzed to what degree sentencing guidelines commentary can be relied upon for sentencing decisions. 508 U.S. at 42. The Court concluded, “provided an agency’s interpretation of its own regulations does not violate the Constitution or a federal statute, it must be given ‘controlling weight unless it is plainly erroneous or inconsistent with the regulation.’” *Id.* at 45 (quoting *Bowles v. Seminole Rock & Sand Co.*, 325 U.S. 410, 414 (1945)). This interpretation of commentary’s effect was derived from well-established notions of agency deference that prioritize the expertise of rule-making bodies. *Id.*; *Kisor*, 139 S. Ct. at 2412. Since *Stinson*, this court has regularly applied broad deference to the Commission’s commentary where no inconsistency is otherwise present. *See, e.g.*, *United States v. Babcock*, 40 F.4th 1172, 1184 (10th Cir. 2022); *United States v. Martinez*, 602 F.3d 1166, 1173–74 (10th Cir. 2010); *United States v. Morris*, 562 F.3d 1131, 1135 (10th Cir. 2009).

In *Kisor*, the Supreme Court adapted these principles of deference as applied to executive agencies. 139 S. Ct. at 2414–15. There, the Court determined, “[f]irst and foremost, a court should not afford . . . deference unless the regulation is genuinely ambiguous. If uncertainty does not exist, there is no plausible reason for

deference.” *Id.* at 2415 (citation omitted). The Court added, “before concluding that a rule is genuinely ambiguous, a court must exhaust all the ‘traditional tools’ of construction.” *Id.* (quoting *Chevron U. S. A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 843, n.9 (1984)). The Court’s renewed interpretation of deference, however, did not discuss either the sentencing guidelines or *Stinson*. *Maloid*, 71 F.4th at 804. Without clear direction as to whether *Kisor*’s stricter concept of deference applies to the Sentencing Commission, circuit courts are split as to how to treat sentencing commentary. *See, e.g., United States v. Vargas*, 74 F.4th 673, 679 (5th Cir. 2023); *United States v. Castillo*, 69 F.4th 648, 657–58 (9th Cir. 2023); *United States v. Nasir*, 17 F.4th 459, 470–71 (3d Cir. 2021) (en banc); *United States v. Dupree*, 57 F.4th 1269, 1275 (11th Cir. 2023) (en banc); *United States v. Riccardi*, 989 F.3d 476, 484–85 (6th Cir. 2021); *United States v. Lewis*, 963 F.3d 16, 24–25 (1st Cir. 2020).

Quite recently, our court weighed-in on the issue. In *Maloid*, we concluded, “if the Supreme Court meant *Kisor* to reach sentencing, it would have said so.” 71 F.4th at 809. We determined *Kisor*’s concept of deference applied especially to executive agencies and *Stinson* continued to govern sentencing commentary. *Id.* at 806–08. As applied, *Maloid* decided the district court did not err in deferring to § 2K2.1 and § 4B1.2 commentary because it did not conflict with the underlying rules. *Id.* at 813. Contrary to both parties’ arguments in this case, therefore, *Kisor* does not apply to sentencing guideline commentary and the *Stinson* standard controls. *Id.* at 805. This conclusion forecloses much of Coates’s argument, including his contention that the

guidelines are not ambiguous, and thus the more expansive definition of pattern included in the § 2G2.2 commentary cannot be relied upon under *Kisor*.¹

b. *Stinson* Analysis

Coates's remaining arguments posit the § 2G2.2 commentary is inconsistent with the guidelines, and therefore inapplicable under *Stinson*. He identifies two potential conflicts: first, § 2G2.2(b)(5) is classified as a “specific offense characteristic,” and cannot be interpreted to include conduct not specific to the underlying offense; and second, § 1B1.3(a), which governs what is classified as relevant conduct for calculating sentencing ranges, disallows the broader definition of “pattern” included in the § 2G2.2 commentary. This court concludes neither guideline renders the § 2G2.2 commentary plainly erroneous or inconsistent.

Although we have yet to scrutinize the § 2G2.2 pattern enhancement under *Stinson*, this court has helpfully interpreted the guideline in other contexts. In *United States v. Groves*, we described the commentary’s definition of pattern as “at least a fair interpretation of [§ 2G2.2(b)(5)]” pursuant to ex post facto clause analysis. 369 F.3d 1178, 1184 (10th Cir. 2004). While considering procedural reasonableness in *United States v. Lucero*, this court also determined the commentary to § 2G2.2

¹ Coates also argues the rule of lenity should be used as a “traditional tool[] of construction” prior to making a determination that a guideline is genuinely ambiguous under *Kisor*. 139 S. Ct. at 2414–15. This argument is similarly foreclosed by *Maloid* because exhaustion of traditional tools of construction is not required prior to deferring to the commentary under *Stinson*. 71 F.4th at 809; *see also infra* n.3. The same is true for Coates’s contention that the § 2G2.2 commentary cannot be relied upon because it does not “implicate [the agency’s] substantive expertise.” *Kisor*, 139 S. Ct. at 2417. This expertise-based standard is not applicable under *Stinson*.

“makes clear that the pattern of activity need not be contextually related to the offense for which the defendant is being sentenced.” 747 F.3d 1242, 1248 (10th Cir. 2014). These statements demonstrate a history of harmonizing § 2G2.2 commentary with the text of the guidelines despite the use of the “specific offense characteristic” heading and presence of § 1B1.3(a).

Several other guidelines and their application notes reinforce that it is a “fair interpretation” to conclude pattern enhancements as incorporating conduct not contemporaneous to the underlying offense. In addition to § 2G2.2, “specific offense characteristics” included in three other guidelines allow recidivism to increase a defendant’s offense level. *See* U.S.S.G. § 2A6.2 cmt. n.1 (“Pattern of activity involving stalking . . . the same victim, whether or not such conduct resulted in a conviction”); *Id.* § 2B1.6 cmt. n.6 (“pattern of misconduct involving cultural heritage resources . . . that did not occur during the course of the offense”); *Id.* § 2S1.3 cmt. n.3 (“pattern of unlawful activity . . . without regard to whether any such occasion occurred during the course of the offense”). Given the frequency of this construction, it is reasonable to conclude these guidelines specifically identify recidivist behavior that especially heightens the severity of certain crimes. Contrary to Coates’s argument, therefore, patterns incorporating separate, prior conduct can be offense-specific when the guidelines expressly make recidivism relevant. In turn, the

inclusion of § 2G2.2(b)(5) under the heading “specific offense characteristic” does not categorically render it irreconcilable with the guidelines under *Stinson*.²

Coates’s argument that the § 2G2.2 commentary presents inconsistency with § 1B1.3(a) similarly fails. Section 1B1.3 states that “specific offense characteristics . . . shall be determined on the basis of . . . all acts willfully caused by the defendant . . . that occurred during the commission of the offense.” The guideline creates a presumption that only conduct related to the underlying offense will be used in evaluating specific offense characteristics like § 2G2.2(b)(5)’s pattern enhancement. *United States v. Holbert*, 285 F.3d 1257, 1260 (10th Cir. 2002). We note, however, that § 1B1.3(a) includes an important qualifier. It states that such relevant conduct shall be used “[u]nless otherwise specified.” Here, the commentary clearly expresses otherwise. As the Commission noted when it expanded the commentary, “the conduct considered for purposes of the ‘pattern of activity’ enhancement is broader than the scope of relevant conduct typically considered under § 1B1.3.” U.S. Sentencing Comm’n, Amendment 537, Reason for Amendment. Other circuits agree with this conclusion. *See, e.g., United States v. McGarity*, 669 F.3d 1218, 1259 (11th Cir. 2012) (finding “no difficulty in reconciling” § 2G2.2 application note 1 and

² The same conclusion applies to Coates’s argument that recidivism can only be considered in chapter four of the guidelines while calculating criminal history. A crime prone to repeat offense, like child exploitation, may be specifically enhanced by the act of recidivism itself. *See* U.S. Sentencing Comm’n, *The History of Child Pornography Guidelines* 30 (2009) (“The Commission’s research demonstrated that those offenders who had a prior history of abusing children should receive lengthier sentences due to a propensity to recidivate.”).

§ 1B1.3(a)); *United States v. Williamson*, 439 F.3d 1125, 1140 (9th Cir. 2006) (noting the court was “satisfied that U.S.S.G. § 2G2.2(b)(5) falls under the category of ‘unless otherwise specified’”); *United States v. Ashley*, 342 F.3d 850, 852 (8th Cir. 2003) (holding § 2G2.2 is broader than the scope of conduct considered by § 1B1.3); *United States v. Lovaas*, 241 F.3d 900, 904 (7th Cir. 2001) (concluding the “phrase ‘unless otherwise specified’ . . . permits courts to consider additional conduct” as described by § 2G2.2’s commentary). We adopt this same reasoning in concluding § 1B1.3(a) is consistent with application note 1 to § 2G2.2.

Coates argues only a guideline, not commentary, can create an exception under § 1B1.3(a). To support this contention, he points to § 1B1.3(a)(4), which states specific offense characteristics can be determined on the basis of “any other information specified in the applicable *guideline*” (emphasis added). The absence of commentary from this phrase, Coates posits, demonstrates an application note cannot introduce previous, non-contemporaneous conduct alone. This interpretation, however, does not align with our precedent. We have previously deferred to commentary to clarify whether § 1B1.3 applies. *See United States v. Zarate-Suarez*, 970 F.3d 1330, 1337 (10th Cir. 2020); *United States v. Pena-Sarabia*, 297 F.3d 983, 987–88 (10th Cir. 2002). The commentary in § 2G2.2 is the type of “more explicit instructions in the context of the specific guideline” contemplated by the Commission when it expanded the pattern enhancement by amendment. U.S.S.G. § 1B1.3 cmt. background. The commentary, thus, functions to “interpret the guideline or explain how it is to be applied.” *Id.* § 1B1.7. Given this context, we do not perceive any

inconsistency just because commentary is not explicitly referred to in § 1B1.3(a)(4).

United States v. Jones, 15 F.4th 1288, 1291 (10th Cir. 2021) (“When interpreting the Guidelines, we must determine the intent of the Sentencing Commission.” (quotation omitted)).³ As we have previously concluded under *Stinson*, the commentary is authoritative and should be relied upon unless plainly erroneous or inconsistent with the Constitution, federal statute, or the guidelines. *Babcock*, 40 F.4th at 1184. A thorough review of the guidelines and our precedent reveals no such inconsistency here.

IV. Conclusion

The sentence entered by the United States District Court for the District of Kansas is hereby **affirmed**.

³ Coates argues that at the very least, there is ambiguity in the guideline, and therefore the rule of lenity should apply. As previously discussed, no such ambiguity exists because the *Stinson* standard allows us to rely on the commentary which expressly instructs how to apply the rule. *United States v. Randall*, 472 F.3d 763, 766–67 (10th Cir. 2006) (the rule of lenity only applies to sentencing guidelines “where there is a grievous ambiguity or uncertainty in the language and structure of a provision”).

APPENDIX B

United States District Court

District of Kansas

UNITED STATES OF AMERICA

v.

Larry Coates

JUDGMENT IN A CRIMINAL CASE

Case Number: 6:21CR10037 - 001

USM Number: 46805-509

Defendant's Attorney: Jennifer A. Amyx
Kirk C. Redmond

THE DEFENDANT:

- pleaded guilty to count: 1 of the 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.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18 U.S.C. § 2252A(a)(5)(B)	Possession of Child Pornography, a Class C Felony	08/12/2019	1

The defendant is sentenced as provided in pages 1 through 8 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) ___.
- Count(s) ___ is dismissed on the motion of the United States.

IT IS 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 material changes in economic circumstances.

06/30/2022

Date of Imposition of Judgment

s/ Eric F. Melgren

Signature of Judge

Honorable Eric F. Melgren, Chief U.S. District Judge

Name & Title of Judge

7/1/2022

Date

DEFENDANT: Larry Coates
CASE NUMBER: 6:21CR10037 - 001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 180 months.

- The Court makes the following recommendations to the Bureau of Prisons:
At the request of defense counsel, the Court recommends the defendant be designated to FCI Englewood as it is a safe location for the defendant's offense of conviction.
- 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 __ 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 __ on __.
 - as notified by the United States Marshal.
 - as notified by the Probation or Pretrial Services Officer.

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: Larry Coates
CASE NUMBER: 6:21CR10037 - 001

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of 10 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, not to exceed eight (8) drug tests per month.
 - 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: Larry Coates

CASE NUMBER: 6:21CR10037 - 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, after obtaining court approval, require you to notify the person about the risk and you must comply with that instruction.
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 the www.uscourts.gov.

Defendant's Signature _____ Date _____

DEFENDANT: Larry Coates
CASE NUMBER: 6:21CR10037 - 001**SPECIAL CONDITIONS OF SUPERVISION**

1. You must have no contact with any person under the age of 18 except: (1) in the presence of an adult who is aware of the nature of your background and offense(s), and who has been approved by the court; (2) in the course of legitimate commercial business; or (3) in other cases of unintentional and incidental contact.
2. You are permitted access to a computer and Internet services for legitimate and necessary purposes. You shall cooperate with and abide by the policies of the United States Probation Office's Computer and Internet Monitoring Program. This includes restrictions related to: computer and Internet usage, possession and use of electronic, cellular, gaming, and Internet appliance devices; possession and use of computer hardware and software, encryption hardware or software, and accessing certain types of web sites to include: social networking, chat rooms, and those depicting sexually explicit conduct or pornographic material. You will also be subject to computer monitoring and will provide the United States Probation Office with a complete inventory of all electronic and Internet capable devices, user account information as well as password(s). To ensure compliance with the computer monitoring condition, you must allow the probation officer to conduct initial and periodic unannounced searches of any computers subject to computer monitoring. These searches shall be conducted to determine whether the computer contains any prohibited data prior to installation of the monitoring software, whether the monitoring software is functioning effectively after its installation, and whether there have been attempts to circumvent the monitoring software after its installation. You shall pay the cost of Internet monitoring.
3. You must not incur new credit charges or open, or attempt to open, additional lines of credit, without the prior approval of the U.S. Probation Officer. You must also execute any release of information forms necessary for the probation officer to monitor your compliance with the credit restrictions.
4. You must immediately provide the U.S. Probation Officer with access to any and all requested financial information, to include executing any release of information forms necessary for the probation office to obtain and/or verify said financial information.
5. You must submit your person, property, house, residence, vehicle, papers, computers (as defined in 18 U.S.C. § 1030(e)(1)), other electronic communications or data storage devices or media, or office, to a search conducted by a United States Probation Officer. Failure to submit to a search may be grounds for revocation of release. You must warn any other occupants that the premises may be subject to searches pursuant to this condition. An officer may conduct a search pursuant to this condition only when reasonable suspicion exists that you have violated a condition of supervision and that the areas to be searched contain evidence of this violation. Any search must be conducted at a reasonable time and in a reasonable manner.
6. You must successfully participate in a mental health treatment program and/or sex offender treatment program. You must follow the program rules, requirements, and conditions of the sex offender treatment program, which may include polygraph, and visual reaction testing to assess your risk level and determine compliance with the conditions of supervision. When submitting to any polygraph examination, you retain your 5th Amendment rights. You will abstain from the use of alcohol and other intoxicants while enrolled in sex offender treatment. You must contribute to the cost based on the ability to pay.

ACKNOWLEDGMENT OF CONDITIONS:

I have read or have had read to me the conditions of supervision set forth in this judgment; and I fully understand them. I have been provided a copy of them. I understand upon finding of a violation of probation or supervised release, the Court may (1) revoke supervision, (2) extend the term of supervision and/or (3) modify the conditions of supervision.

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AO 245B (Rev. 09/19 - D/KS 04/20) Judgment in a Criminal Case
Sheet 3C - Supervised Release

Judgment - Page 6 of 8

DEFENDANT: Larry Coates

CASE NUMBER: 6:21CR10037 - 001

Defendant's Signature ————— Date —————

USPO Signature ————— Date —————

DEFENDANT: Larry Coates
CASE NUMBER: 6:21CR10037 - 001**CRIMINAL MONETARY PENALTIES**

The defendant must pay the total criminal monetary penalties under the Schedule of Payments set forth in this Judgment.

<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
TOTALS	\$100	\$6,000	Waived	\$1,000
				Waived

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

The defendant shall make restitution (including community restitution) to the following payees in the amounts 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>
Jan_Socks1 Series		\$3,000	
Jenny Series		\$3,000	
TOTALS		\$6,000	

Restitution amount ordered pursuant to plea agreement \$.

The defendant shall pay interest on any fine or restitution of more than \$2,500, unless the fine or restitution is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options set forth in this Judgment 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 and/or restitution.

the interest requirement for the fine and/or 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: Larry Coates
CASE NUMBER: 6:21CR10037 - 001**SCHEUDLE OF PAYMENTS**

Criminal monetary penalties are due immediately. Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows, but this schedule in no way abrogates or modifies the government's ability to use any lawful means at any time to satisfy any remaining criminal monetary penalty balance, even if the defendant is in full compliance with the payment schedule:

- A Lump sum payment of \$__ 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 monthly installments of not less than 5% of the defendant's monthly gross household income over a period of __ years to commence __ days after the date of this judgment; or
- D Payment of not less than 10% of the funds deposited each month into the inmate's trust fund account and monthly installments of not less than 5% of the defendant's monthly gross household income over a period of 10 years, to commence 30 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:

If restitution is ordered, the Clerk, U.S. District Court, may hold and accumulate restitution payments, without distribution, until the amount accumulated is such that the minimum distribution to any restitution victim will not be less than \$25.

Payments should be made to Clerk, U.S. District Court, U.S. Courthouse - Room 204, 401 N. Market, Wichita, Kansas 67202, or may be paid electronically via Pay.Gov.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during 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

Defendant and Co-Defendant Names and Case Numbers (*including defendant number*), Total Amount, Joint and Several Amount and corresponding payee, if appropriate.

Case Number	Defendant and Co-Defendant Names (<i>including defendant number</i>)	Total Amount	Joint and Several Amount	Corresponding Payee, if appropriate
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- 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 against any money judgment ordered as part of a forfeiture order should be made payable to the United States of America, c/o United States Attorney, Attn: Asset Forfeiture Unit, 1200 Epic Center, 301 N. Main, Wichita, Kansas 67202.
 - A. A Samsung phone (Model SM-S327VL Galaxy J3 Luna Pro; IMEI: 354308080745127), and
 - B. A 16GB Staples brand USB device (Serial Number – 27988); and
 - C. A Seagate hard drive (160 GB) (Model ST9160412AS, Serial Number 5VG7WXGJ); and
 - D. A Dell Laptop, (Model E6410, serial number (partial) 7PQT2 (unreadable)).

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.