

NO. _____

In the
Supreme Court of the United States

RE'SHAUN LAMONTE WILBORNE,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

APPENDIX A

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

Wesley P. Page
Federal Public Defender

Jonathan D. Byrne
Appellate Counsel
Counsel of Record

Rachel E. Zimarowski
Assistant Federal Public Defender
OFFICE OF THE FEDERAL PUBLIC DEFENDER
Southern District of West Virginia
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Counsel for Petitioner

2023 WL 7319448

Only the Westlaw citation is currently available.
United States Court of Appeals, Fourth Circuit.

UNITED STATES of America, Plaintiff – Appellee,
v.
Re'Shaun Lamonte WILBORNE, Defendant – Appellant.

No. 22-4452

|

Argued: September 20, 2023

|

Decided: November 7, 2023

Appeal from the United States District Court for the Southern District of West Virginia, at Charleston. [Joseph R. Goodwin](#), District Judge. (2:21-cr-00162-1)

Attorneys and Law Firms

ARGUED: [Rachel Elizabeth Zimarowski](#), OFFICE OF THE FEDERAL PUBLIC DEFENDER, Charleston, West Virginia, for Appellant. Monica D. Coleman, OFFICE OF THE UNITED STATES ATTORNEY, Charleston, West Virginia, for Appellee. ON BRIEF: [Wesley P. Page](#), Federal Public Defender, Jonathan D. Byrne, OFFICE OF THE FEDERAL PUBLIC DEFENDER, Charleston, West Virginia, for Appellant. [William S. Thompson](#), United States Attorney, [Negar M. Kordestani](#), Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Charleston, West Virginia, for Appellee.

Before [AGEE](#), [RUSHING](#) and [BENJAMIN](#), Circuit Judges.

Opinion

Affirmed by unpublished per curiam opinion.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

*1 Re'Shaun Wilborne appeals from the district court's order denying his motion to suppress evidence of a firearm discovered in his backpack after his arrest. The district court denied the motion because it found that the firearm would have been inevitably discovered pursuant to a lawful inventory search. For the reasons discussed below, we affirm.

I.

Wilborne was arrested outside of a Family Dollar store based on an active state arrest warrant. After he was handcuffed, the police recovered his belongings from inside the Family Dollar, including a backpack and two bags of clothes. The police searched the backpack and found a loaded firearm. Wilborne, the backpack, and the clothing bags were subsequently transported to the Charleston Police Department (“CPD”) station.

At the time of Wilborne's arrest, CPD had a policy requiring all property seized with an arrestee to be inventoried at the police station. Pursuant to this policy, the police were required to fill out a property report listing the seized items and indicating whether they constituted evidence that had to remain at the station or personal property that could go with the arrestee to jail. And under the jail's policy, all personal property taken to the jail was required to be searched for safety purposes before entering the jail.

Based on CPD's policy, when Wilborne's property arrived at the station, CPD Detective Jordan Hilbert searched the clothing bags and filled out two property reports. In one report, he identified the two bags of clothes and indicated that Wilborne's mother could retrieve them. In the other report, he described Wilborne's backpack and noted that it contained a firearm and would be put into safekeeping pending trial. Wilborne was then interviewed and transported to the regional jail.

Based on his possession of a firearm at the time of his arrest, Wilborne was indicted in the United States District Court for the Southern District of West Virginia on one count of being a felon in possession of a firearm. He filed a motion to suppress the evidence derived from the search of his backpack. The district court denied the motion following an evidentiary hearing, reasoning that the firearm would have been inevitably discovered by a lawful inventory search at the police station prior to Wilborne's transport to jail.

Following this decision, Wilborne pleaded guilty but preserved his right to appeal the district court's denial of his suppression motion. The court sentenced Wilborne to thirty-seven months' imprisonment, and he filed a timely notice of appeal. We have jurisdiction under  [28 U.S.C. § 1291](#).

II.

Wilborne argues that the district court erred in denying his motion to suppress because CPD's policy lacked standardized criteria to guide inventory searches and thus was legally insufficient. Reviewing the district court's factual findings for clear error and legal conclusions *de novo*,  [United States v. Bullette, 854 F.3d 261, 265 \(4th Cir. 2017\)](#), we disagree.

*2 Under the inevitable-discovery doctrine, evidence obtained through an unreasonable search is admissible if the Government shows by a preponderance of the evidence that police would have “ultimately or inevitably” discovered the evidence by “lawful means,” such as through a lawful inventory search. *Id.* (citation omitted). In order for an inventory search to be permissible, “the search must have been conducted according to standardized criteria, such as a uniform police department policy, and performed in good faith.” [United States v. Seay, 944 F.3d 220, 223 \(4th Cir. 2019\)](#) (cleaned up). Such a policy need not be in writing, *id.*;  [Bullette, 854 F.3d at 266](#), nor must the government “elicit step-by-step testimony concerning such a policy to meet its burden,”  [Bullette, 854 F.3d at 267](#). Instead, there must simply be sufficient evidence to show that law enforcement had a standard inventory procedure “and would have inevitably discovered the challenged evidence by conducting an inventory search according to routine and standard ... procedures.”  [Id. at 266](#).

In this case, the evidence presented to the district court clearly supported its finding that the police would have inevitably discovered the firearm during a standardized inventory search of the backpack. Detective Hilbert testified, without contradiction elsewhere in the record, that whenever CPD officers arrest a suspect and there is no one at the scene of the arrest to take the arrestee's personal property—as was the case here—the police transport that property to the station. At the station, officers then inventory the property to determine whether it is personal property that could go with the arrestee to the jail or evidence that must stay at the police station.

Based on this uniform policy, even if the CPD had not searched Wilborne's backpack at the scene of his arrest, they still would have transported Wilborne and his personal effects to the police station; searched the bags while filling out the property reports and characterizing the items as personal property or evidence; and inevitably discovered the firearm in the backpack. Therefore, the district court did not clearly err in concluding that Wilborne's firearm would have been inevitably discovered pursuant to a lawful inventory search.

III.

For the foregoing reasons, we affirm the district court's denial of Wilborne's motion to suppress.

AFFIRMED

All Citations

Not Reported in Fed. Rptr., 2023 WL 7319448

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APPENDIX B

**TO PETITION FOR WRIT OF CERTIORARI
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jonathan_byrne@fd.org

Counsel for Petitioner

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION

UNITED STATES OF AMERICA,

v.

CRIMINAL ACTION NO. 2:21-cr-00162

RE'SHAUN LAMONTE WILBORNE

ORDER

Pending before the court is Defendant, Re'Shaun Wilborne's Motion to Suppress. [ECF No. 30]. Mr. Wilborne asks this court to suppress evidence found pursuant to a warrantless search of his backpack. A hearing for this motion was held on November 15, 2021, after which supplemental briefing was ordered. That briefing concluded on February 9, 2022. This motion is now ripe for review. For the reasons stated below, the Motion is **DENIED**.

I. Background

Mr. Wilborne was arrested on July 20, 2021. After his arrest, the arresting officers conducted a warrantless search of his personal belongings, specifically a black Adidas backpack. Mr. Wilborne now asks this court to suppress the evidence obtained from that search. On the afternoon of his arrest, Mr. Wilborne walked into a Family Dollar store with some bags. He placed two of the bags by the store's front door and one bag, the black Adidas backpack, behind the store's counter. He then browsed the store, bought some items, retrieved his backpack, and placed it with his other belongings near the front door. Unbeknownst to Mr. Wilborne, two Charleston Police Department ("CPD") detectives had watched him enter the store and recognized him. Upon

recognizing Mr. Wilborne, the detectives confirmed that he had an active arrest warrant and arrested him inside the store.

During their arrest of Mr. Wilborne, the detectives did not collect any of the bags Mr. Wilborne had brought into the store. Instead, they escorted him out of the Family Dollar and handcuffed him against the police car. Once they were in the parking lot, the store clerk came outside and asked the officers to collect the bags Mr. Wilborne had left in the store. Detective Smith collected the items the clerk indicated: a clear trash bag, a white tote bag, and a black Adidas backpack. Mr. Wilborne did not denounce ownership of the items. Detective Smith placed the backpack on the hood of the police car and searched it in front of Mr. Wilborne, asking him about the contents. The search produced a gun, a glass smoking pipe, and various personal items belonging to Mr. Wilborne.

Mr. Wilborne asks this court to suppress the evidence seized from the backpack as fruit of an illegal search. He argues that the search was not a proper search incident to arrest because at the time the bags were given to police and searched, he was already handcuffed, and the bags were not within his immediate control. He further argues that the search was not a proper inventory search because it was not conducted in accordance with a standardized policy. The Government argues that the items would inevitably have been discovered when the officers conducted an inventory search while processing Mr. Wilborne's arrest.

A hearing was held on this matter on November 15, 2021, at which time Detective Hilbert testified about the arrest and about the CPD's search and seizure policies. He testified that upon arrest, personal effects are transported to the station with the arrestee. Tr., at 28:25–29:4. Once a person is arrested and brought to the station, their arrest is processed, at which point officers will fill out an incident report, take fingerprints, make criminal complaints, fill out property and

evidence receipts, and inventory any items transported with the person. Tr., at 20:3–13. He further testified that arrestees are allowed to bring personal items with them to the jail but that those items must be searched first. Tr., at 26:12–23.

On cross examination, Detective Hilbert conceded that the CPD does not have a detailed, written inventory search procedure. Tr., at 34:22–35:4. The only written CPD policy regarding warrantless searches of personal effects states: “A custodial search of an arrestee’s personal effects may be justified as either a delayed search incident to arrest or as an inventory procedure. Once an officer has taken the property into his or her control, a further search is no longer incident to arrest.” CPD Policy and Procedures Manual § 21.6.5; Tr., at 35:10–11. He further conceded that there is no policy dictating which items are seized as an arrestee’s personal effects and that had an appropriate third party been with Mr. Wilborne, he would have released Mr. Wilborne’s personal items to that person. Tr., at 43:18–19.

II. Discussion

The Fourth Amendment protects “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.” U.S. Const. amend. IV. Generally, the government is prohibited from using evidence discovered in an unlawful search against the individual whose constitutional right was violated. *United States v. Doyle*, 650 F.3d 460, 466 (4th Cir. 2011). However, this rule is subject to certain exceptions. *Utah v. Strieff*, 579 U.S. 232, 238 (2016). One such exception is the search incident to arrest, under which officers may search “the arrestee’s person and the area ‘within his immediate control’—construing that phrase to mean the area from within which he might gain possession of a weapon or destructible evidence.” *Chimel v. California*, 395 U.S. 752, 763 (1969).

Another exception to the warrant requirement is the inevitable discovery doctrine. The inevitable discovery doctrine allows the government to use evidence gathered in an otherwise unreasonable search if it can prove by a preponderance of the evidence “that law enforcement would have ‘ultimately or inevitably’ discovered the evidence by ‘lawful means.’” *United States v. Bullette*, 854 F.3d 261, 265 (4th Cir. 2017) (quoting *Nix v. Williams*, 467 U.S. 431, 444 (1984)). “Lawful means” include searches that fall into an exception to the warrant requirement, “such as an inventory search[] that would have inevitably uncovered the evidence in question.” *Id.* “For the inventory search exception to apply, the search must have ‘be[en] conducted according to standardized criteria,’ such as a uniform police department policy[,] and performed in good faith.” *United States v. Matthews*, 591 F.3d 230, 235 (4th Cir. 2009) (quoting *Colorado v. Bertine*, 479 U.S. 367, 374 n.6 (1987)). “That standardized criteria must sufficiently limit a searching officer’s discretion to prevent his search from becoming ‘a ruse for a general rummaging in order to discover incriminating evidence.’” *Id.* (quoting *Florida v. Wells*, 495 U.S. 1, 4 (1990)). Overall, the government meets its burden to show that a standardized inventory policy exists if the court “can assess the inevitability and reasonableness of a hypothetical inventory search from testimony provided by a law enforcement official.” *Bullette*, 854 F.3d at 267. The government may demonstrate a standardized criteria “by reference to either written rules and regulations *or* testimony regarding standard practices.” *United States v. Clarke*, 842 F.3d 288, 294 (4th Cir. 2016) (emphasis in original); *Bullette*, 854 F.3d at 265 (finding that the inventory exception applied based solely on DEA agent’s testimony concerning DEA standard practice).

If a standardized policy is in place, officers can generally subject any properly seized personal effects to an inventory search. *South Dakota v. Opperman*, 428 U.S. 371 (1976) (“when the police take custody of any sort of container . . . it is reasonable to search the container to itemize

the property to be held by the police.”); *Illinois v. Lafayette*, 462 U.S. 640, 648 (1983) (finding an inventory search of the arrestee’s shoulder bag seized during arrest reasonable). Because the Fourth Amendment protects against *unreasonable* searches and seizures, a court must look at the circumstances of the arrest to determine if the officers acted reasonably in seizing the arrestee’s personal effects. *United States v. Banks*, 482 F.3d 733, 739–41 (4th Cir. 2007) (finding that officers’ warrantless seizure of two duffel bags in the trunk of a car was reasonable).

Here, as an initial matter, I must decide whether the officers properly seized the bags that Mr. Wilborne carried into the store with him. I find that they did. At the time of the arrest, after the officers escorted Mr. Wilborne out of the store, the store clerk came out to inform the officers about Mr. Wilborne’s bags. In light of the fact that the store clerk declined to take custody of the bags and identified them as Mr. Wilborne’s, it was reasonable for the officers to secure the bags to both protect Mr. Wilborne’s property and to keep any potential contraband out of the hands of the public.

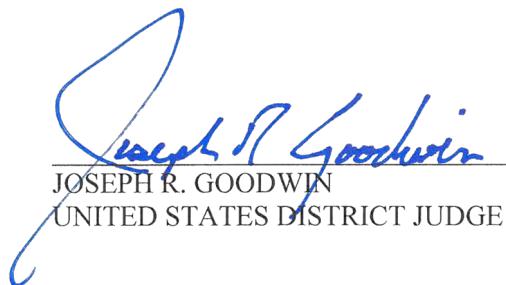
Having found that the officers reasonably seized the items at the scene, I turn to whether the warrantless search of those items was proper. I must therefore decide whether any exceptions to the warrant requirement apply. The search was not a proper search incident to arrest because the bags were not within Mr. Wilborne’s immediate control when he was arrested, and the officer’s search of the contents was conducted well after Mr. Wilborne was restrained. Nor does the search fall immediately into the inventory search exception. The officers here made no effort to inventory the items in the bag, nor does the CPD have a policy of searching all bags before transporting them—as evidenced by the fact that the officers here only searched one of three bags. Because neither of these exceptions apply, I must decide whether the inevitable discovery doctrine applies with regard to the evidence found in Mr. Wilborne’s backpack. I find that it does.

Detective Hilbert provided sufficient testimony to assess the inevitability and reasonableness of a hypothetical inventory search, despite CPD's lack of a detailed written policy. He testified that every time an arrestee is processed by CPD, the arresting officer categorizes the arrestee's personal effects as either property, which can go with the arrestee to the jail, or evidence, which must remain in the station. Tr., at 20:3–22:21; Tr., at 39:8–15. Any item that goes with the arrestee to the jail must be searched before it is allowed into the jail. Tr., at 26:18–22. He testified that this procedure was in place to protect CPD from allegations of theft and to keep dangerous items from traveling into the jail. Based on this testimony, I find that Mr. Wilborne's backpack would have been searched and inventoried when his arrest was processed pursuant to CPD's standard procedure. I further find that such an inventory search would have been a reasonable administrative step to avoid sending contraband into the jail and to avoid accusations of theft. Accordingly, Mr. Wilborne's Motion to Suppress is **DENIED**.

III. Conclusion

For the reasons stated above, Mr. Wilborne's Motion to Suppress is **DENIED**. The court **DIRECTS** the Clerk to send a copy of this Order to the defendant and counsel, the United States Attorney, the United States Probation Office, and the United States Marshal.

ENTER: April 12, 2022



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE

NO. _____

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APPENDIX C

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Counsel for Petitioner

UNITED STATES DISTRICT COURT

Southern District of West Virginia

UNITED STATES OF AMERICA

v.

RE'SHAUN LAMONTE WILBORNE

JUDGMENT IN A CRIMINAL CASE

Case Number: 2:21-cr-00162

USM Number: 14421-088

Rachel Zimarowski

Defendant's Attorney

THE DEFENDANT:

 pleaded guilty to count(s) one 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:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 USC §§ 922 (g) (1) and 924 (a) (2)	Felon in Possession of a Firearm	7/20/2021	One

The defendant is sentenced as provided in pages 2 through 8 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

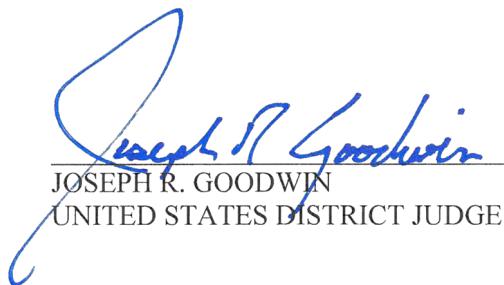
The defendant has been found not guilty on count(s) _____

Count(s) _____ is 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.

8/4/2022

Date of Imposition of Judgment



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE

8/4/2022

Date

DEFENDANT: RE'SHAUN LAMONTE WILBORNE

CASE NUMBER: 2:21-cr-00162

IMPRISONMENT

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

The court makes the following recommendations to the Bureau of Prisons:
that the defendant receive psychiatric medical treatment.

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: RE'SHAUN LAMONTE WILBORNE

CASE NUMBER: 2:21-cr-00162

SUPERVISED RELEASE

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

3 years

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
 - The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in 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: RE'SHAUN LAMONTE WILBORNE
CASE NUMBER: 2:21-cr-00162

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.

Defendant's Signature _____

Date _____

DEFENDANT: RE'SHAUN LAMONTE WILBORNE
CASE NUMBER: 2:21-cr-00162

ADDITIONAL SUPERVISED RELEASE TERMS

While on supervised release, the defendant must not commit another federal, state, or local crime; the defendant must not unlawfully possess a controlled substance. The defendant also must comply with the standard terms and conditions of supervised release as recommended by the U.S. Sentencing Commission and as adopted by this Court.

In addition, the defendant shall comply with the Standard Conditions of Supervision adopted by the Southern District of West Virginia in Local Rule of Criminal Procedure 32.3, as follows:

- 1) If the offender is unemployed, the probation officer may direct the offender to register and remain active with Workforce West Virginia.
- 2) Offenders shall submit to random urinalysis or any drug screening method whenever the same is deemed appropriate by the probation officer and shall participate in a substance abuse program as directed by the probation officer. Offenders shall not use any method or device to evade a drug screen.
- 3) As directed by the probation officer, the defendant will make copayments for drug testing and drug treatment services at rates determined by the probation officer in accordance with a court-approved schedule based on ability to pay and availability of third-party payments.
- 4) A term of community service is imposed on every offender on supervised release or probation. Fifty hours of community service is imposed on every offender for each year the offender is on supervised release or probation. The obligation for community service is waived if the offender remains fully employed or actively seeks such employment throughout the year.
- 5) The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.
- 6) The defendant shall not purchase, possess, or consume any organic or synthetic intoxicants, including bath salts, synthetic cannabinoids, or other designer stimulants.

DEFENDANT: RE'SHAUN LAMONTE WILBORNE

CASE NUMBER: 2:21-cr-00162

SPECIAL CONDITIONS OF SUPERVISION

The defendant 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.

The defendant will participate in a mental health treatment program and follow the rules and regulations of the program. The probation officer, in consultation with the treatment provider, will supervise your participation in the program.

The defendant shall submit to an evaluation by a qualified mental health professional, approved by the probation officer, who is experienced in treatment of sexual offenders. The defendant shall take all medications reasonably related to treatment of his condition, complete all treatment recommendations, and abide by all rules, requirements and conditions imposed by the professional. The defendant must do so until discharged from treatment by the professional. Prior to being required to submit any proposed course of treatment, the defendant or the United States may seek review by the presiding district judge of any facet of the prescribed course of treatment. The United States and the defendant shall also have the right to seek review by the presiding district judge of any continuation or discontinuation of such treatment.

The defendant shall submit to risk assessments, psychological and physiological testing, which may include, but is not limited to, a polygraph examination or other specific tests to monitor the defendant's compliance with probation or supervised release treatment conditions, at the direction of the probation officer.

The defendant must participate in a mental health treatment program and follow the rules and regulations of the program. The probation officer, in consultation with the treatment provider, will supervise your participation in the program.

The defendant shall submit his person, property, house, residence, vehicle, papers, or office to a search conducted by a United States probation officer when there is reasonable suspicion that the defendant has violated a condition of supervision. Prior to the search, the Probation Officer must obtain approval for the search from the Court. The search must be conducted at a reasonable time and in a reasonable manner. Failure to submit to a search may be grounds for revocation of release. The defendant shall inform other occupants that the premises may be subject to searches pursuant to this condition.

DEFENDANT: RE'SHAUN LAMONTE WILBORNE
CASE NUMBER: 2:21-cr-00162

CRIMINAL MONETARY PENALTIES

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

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

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>
TOTALS	\$ 0.00	\$ 0.00	

Restitution amount ordered pursuant to plea agreement \$ _____

The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

The court determined that the defendant does not have the ability to pay interest and it is ordered that:

the interest requirement is waived for the fine restitution.

the interest requirement for the fine restitution is modified as follows:

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.

** Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: RE'SHAUN LAMONTE WILBORNE

CASE NUMBER: 2:21-cr-00162

ADDITIONAL TERMS FOR CRIMINAL MONETARY PENALTIES

The \$100 special assessment will be paid through participation in the Inmate Financial Responsibility Program. The defendant shall pay the fine in payments of not less than \$25 per quarter through participation in the Bureau of Prisons' Inmate Financial Responsibility Program in quarterly installments of \$25. Any remaining balance shall be paid during the term of supervised release in minimum installments of no less than \$25 per month, with the first installment to be paid within 30 days of release from incarceration, until the full amount has been paid. Payments shall be paid to the Clerk of the Court at the following address: United States District Clerk's Office, Robert C. Byrd Federal Building, United States Courthouse, 300 Virginia Street East, Charleston, West Virginia, 25301