

NO. _____

In the
Supreme Court of the United States

JOSEPH IRA PATTERSON, III,
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

OFFICE OF THE FEDERAL PUBLIC DEFENDER
Southern District of West Virginia
300 Virginia Street, East, Room 3400
Charleston, West Virginia 25301
304/347-3350
jonathan_byrne@fd.org

Counsel for Petitioner

FILED: July 25, 2023

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 22-4481
(3:21-cr-00218-1)

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSEPH IRA PATTERSON, III, a/k/a Moe, a/k/a Killa Moe,

Defendant - Appellant.

O R D E R

Joseph Ira Patterson, III, seeks to appeal his 220-month prison sentence, arguing that his sentence was improperly enhanced and that his counsel provided ineffective assistance by failing to properly argue against the enhancement. The Government has moved to dismiss the sentencing claim as barred by Patterson's waiver of the right to appeal included in the plea agreement. In addition, the Government contends that the ineffective assistance claim is not cognizable on direct appeal. Upon review, we conclude that Patterson's waiver of appeal rights is valid and enforceable and that his challenge to the sentencing enhancement falls squarely within the scope of his waiver of appellate rights. We therefore grant the Government's motion to dismiss the appeal as to this challenge.

Patterson's challenge to the effectiveness of the assistance provided by trial counsel does not fall within the scope of the appeal waiver. Moreover, the Government has not shown that the cognizability of the claim is appropriate for disposition by motion prior to full briefing. We therefore deny the Government's motion to dismiss the appeal as to this appellate claim.

The Clerk shall reinstate the briefing schedule by separate order.

For the Court

/s/ Patricia S. Connor, Clerk

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JOSEPH IRA PATTERSON, III,
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APPENDIX B
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TO THE UNITED STATES COURT OF APPEALS
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Federal Public Defender

Jonathan D. Byrne
Appellate Counsel
Counsel of Record

OFFICE OF THE FEDERAL PUBLIC DEFENDER
Southern District of West Virginia
300 Virginia Street, East, Room 3400
Charleston, West Virginia 25301
304/347-3350
jonathan_byrne@fd.org

Counsel for Petitioner

2024 WL 489478

Only the Westlaw citation is currently available.

United States Court of Appeals, Fourth Circuit.

UNITED STATES of America, Plaintiff - Appellee,

v.

Joseph Ira PATTERSON, III, a/k/a [Moe](#), a/k/a Killa Moe, Defendant - Appellant.

No. 22-4481

|

Submitted: January 23, 2024

|

Decided: February 8, 2024

Appeal from the United States District Court for the Southern District of West Virginia, at Huntington. [Robert C. Chambers](#), District Judge. (3:21-cr-00218-1)

Attorneys and Law Firms

ON BRIEF: [Lucas R. White](#), GOODWIN & GOODWIN, LLP, for Appellant. [William S. Thompson](#), United States Attorney, [Jennifer Rada Herral](#), Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Charleston, West Virginia, for Appellee.

Before [HARRIS](#) and [HEYTENS](#), Circuit Judges, and [MOTZ](#), Senior Circuit Judge.

Opinion

Affirmed by unpublished per curiam opinion.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

***1** Joseph Ira Patterson, III, appeals from his 220-month prison sentence imposed pursuant to his guilty plea to possession with intent to distribute controlled substances. On appeal, Patterson challenges the district court's enhancement of his sentence under *U.S. Guidelines Manual* § 2D1.1(b)(12) (maintaining a premises for the purpose of distributing controlled substances). He also asserts that his attorney provided ineffective assistance in arguing against the enhancement. We previously granted the Government's motion to dismiss in part and dismissed the sentencing claim as barred by Patterson's appellate waiver. We now affirm his sentence.

Claims of ineffective assistance are cognizable on direct appeal “only where the record conclusively establishes ineffective assistance.” [*United States v. Baptiste*, 596 F.3d 214, 216 n.1 \(4th Cir. 2010\)](#). Generally, a defendant should instead raise ineffective assistance of counsel claims in a § 2255 motion, in order to permit sufficient development of the record. *Id.* We find that the record on appeal does not establish a conclusive claim.

Accordingly, we affirm. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

All Citations

Not Reported in Fed. Rptr., 2024 WL 489478

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In the
Supreme Court of the United States

JOSEPH IRA PATTERSON, III,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

APPENDIX C
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

OFFICE OF THE FEDERAL PUBLIC DEFENDER
Southern District of West Virginia
300 Virginia Street, East, Room 3400
Charleston, West Virginia 25301
304/347-3350
jonathan_byrne@fd.org

Counsel for Petitioner

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA, HUNTINGTON DIVISION
BEFORE THE HONORABLE ROBERT C. CHAMBERS, JUDGE

---o0o---

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. 3:21-CR-00218-1

JOSEPH IRA PATTERSON, III,
also known as Moe, also
known as Killa Moe,

Defendant.

_____/

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REPORTER'S TRANSCRIPT OF PROCEEDINGS

PLEA HEARING

TUESDAY, APRIL 19, 2022, 11:00 A.M.

---o0o---

For the Government: UNITED STATES ATTORNEY'S OFFICE
300 Virginia Street East, Room 4000
Charleston, West Virginia 25301
BY: MONICA D. COLEMAN
Assistant United States Attorney

For the Defendant: R. LEE BOOTEN, II, ESQ.
637 7th Street
Huntington, West Virginia 25701

Reported by: KATHY L. SWINHART, CSR
Official Court Reporter
(304) 528-2244

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HUNTINGTON, WEST VIRGINIA

TUESDAY, APRIL 19, 2022, 11:02 A.M.

---o0o---

THE COURT: Good morning.

MR. BOOTEN: Good morning, Your Honor.

MS. COLEMAN: Good morning, Your Honor.

THE COURT: All right. Are we ready to proceed in
Mr. Patterson's case?

MR. BOOTEN: Yes, Your Honor.

MS. COLEMAN: Yes, Your Honor, the government is
ready.

THE COURT: All right. Mr. Booten, I understand that
Mr. Patterson has decided to plead guilty to Count Five; is
that correct?

MR. BOOTEN: That is correct, Your Honor.

THE COURT: Madam Clerk, please administer the oath to
Mr. Patterson.

THE CLERK: Please raise your right hand.

JOSEPH IRA PATTERSON, III, DEFENDANT, SWORN

THE DEFENDANT: Yes, ma'am.

THE CLERK: Thank you.

THE COURT: Mr. Patterson, do you understand that you
are now under oath, and if you answer any of my questions
falsely, you could be prosecuted for perjury or for making a
false statement?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Would you state your full name?

3 THE DEFENDANT: Jonathan Ira Patterson, III.

4 THE COURT: How old are you?

5 THE DEFENDANT: 38.

6 THE COURT: How far did you get in school?

7 THE DEFENDANT: Eleventh grade.

8 THE COURT: Can you read and write?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Have you recently been under the care of a
11 doctor, psychiatrist or other medical professional for any
12 serious physical or emotional illness?

13 THE DEFENDANT: No, sir.

14 THE COURT: Are you currently using any type of
15 controlled substance, medication or alcohol?

16 THE DEFENDANT: No, sir.

17 THE COURT: Are you able to understand fully what
18 we're doing in court today?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Mr. Booten, do you have any reason to
21 question the competence of your client?

22 MR. BOOTEN: No, Your Honor.

23 THE COURT: All right. Mr. Patterson, I find you are
24 competent and capable of entering an informed plea.

25 Have you had enough time to discuss your case with

1 Mr. Booten?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Has he been able to answer your questions
4 about what you should do?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Are you completely satisfied with the
7 legal advice he's given you?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Mr. Booten, has Mr. Patterson been
10 cooperative with you?

11 MR. BOOTEN: Yes, Your Honor.

12 THE COURT: And have you had enough time to
13 investigate his case and discuss it all with him?

14 MR. BOOTEN: Yes, sir, we have.

15 THE COURT: All right. I understand there's a
16 proposed plea agreement. Would you summarize it, Mr. Booten?

17 MR. BOOTEN: Yes, Your Honor.

18 Pending charges, he is charged in a six-count
19 indictment, Your Honor. Mr. Patterson will be pleading as the
20 resolution of these charges to Count Five. Upon sentencing,
21 Counts One through Four and Six will be dismissed by the
22 government.

23 The maximum penalty for this charge is imprisonment
24 for a mandatory minimum of ten years up to life; a possible
25 fine of \$10,000; supervised release of at least five years;

1 mandatory special assessment of a hundred dollars, which was
2 paid today; possible order of restitution; and denial of
3 certain benefits.

4 As again mentioned, Your Honor, the special assessment
5 has been paid.

6 If there is any monetary penalties, Mr. Patterson
7 agrees to pay those and not object to those as long as they
8 are within the statutory limits.

9 Mr. Patterson will cooperate and be forthright with
10 any inquiries made of him by the U.S. Attorney's office and
11 law enforcement officers. And in the event that he does, he
12 will receive immunity for those, ah, statements, and they
13 cannot be used against him in prosecutions or in figuring the
14 guidelines so long as he is truthful about that. The United
15 States reserves the right to use any information obtained by a
16 legitimate, independent source.

17 Mr. Patterson, pursuant to this agreement, stipulates
18 to facts, which is attached as Exhibit A. And he waives his
19 right pursuant to Federal Rule of Evidence 410 to object to
20 the introduction of his statement in the event he withdraws
21 his plea, and this matter goes to trial.

22 We have an agreement concerning the Sentencing
23 Guidelines -- of course, the Court is not bound by the
24 stipulation of facts, Your Honor.

25 We have an agreement concerning the Sentencing

1 Guidelines pursuant to U.S.S.G. 2D1.1, a base offense level of
2 36 and a two-point enhancement for possession of firearms.
3 The United States reserves the right to argue for a two-level
4 increase for storage or premises of drugs.

5 Mr. Patterson understands he is waiving his appeal
6 rights and collateral attack so long as the Court sentences
7 him within the statutory guidelines. And he also waives his
8 right for collateral attack or a 2255 on any grounds except
9 ineffective assistance of counsel.

10 He waives his Freedom of Information Act rights and
11 privacy rights in regards to obtaining information for use in
12 his presentence report.

13 At final disposition, the United States reserves the
14 right to inform the Court of any relevant facts, present
15 evidence and argument, to correct inaccuracies and
16 inadequacies in the presentence report, to respond to
17 statements made to the Court by Mr. Patterson, advise the
18 Court concerning the extent and nature of Mr. Patterson's
19 cooperation, and address the Court concerning his acceptance
20 of responsibility.

21 If either party breaches this agreement, the other
22 party may move the Court to void it.

23 This is the entire agreement, Your Honor, with the
24 exception of the stipulation of facts, which is attached
25 hereto.

1 THE COURT: All right. Is that a fair summary of the
2 agreement, Ms. Coleman?

3 MS. COLEMAN: Yes, Your Honor.

4 THE COURT: Mr. Patterson, do you understand what this
5 agreement does and what it requires of you?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Do you understand that part of the
8 agreement is a stipulation of facts that you signed, that may
9 be used against you for this plea as well as sentencing or
10 even at a trial?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Did you go over each of the paragraphs of
13 the plea agreement with your lawyer before you signed it?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Do you want me to accept the plea
16 agreement?

17 THE DEFENDANT: Please, Your Honor.

18 THE COURT: Well, I'm going to defer accepting the
19 agreement until I review a presentence report on you, but the
20 original agreement may be filed as a part of the record.

21 Have you received a copy of the indictment that was
22 returned against you?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Have you read it?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: I'm going to read Count Five to you and
2 then ask for your plea. Count Five is entitled Possession
3 with Intent to Distribute Methamphetamine, Cocaine, and
4 p-Fluorofentanyl.

5 On or about April 23rd, 2021, at or near Huntington,
6 Cabell County, West Virginia, and within the Southern District
7 of West Virginia, defendant Joseph Ira Patterson, III, also
8 known as "Moe" and "Killa Moe," knowingly and intentionally
9 possessed with intent to distribute 50 grams or more of
10 methamphetamine, its salts, isomers and salts of its isomers,
11 a quantity of cocaine, also known as "coke," both Schedule II
12 controlled substances, and 100 grams or more of a mixture and
13 substance containing a detectable amount of an analogue of
14 N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propanamide, also
15 known as "fentanyl," that is, (N-(4-Fluorophenyl)-N-[1-
16 (2-phenylethyl)-4-piperidinyl] propanamide), also known as
17 "p-Fluorofentanyl," a Schedule I controlled substance.

18 In violation of Title 21, United States Code, Section
19 841(a)(1).

20 Mr. Patterson, how do you plead?

21 THE DEFENDANT: Plead guilty.

22 THE COURT: All right. Before I accept your guilty
23 plea, I want to make sure there's a factual basis for it; that
24 you understand the nature of the charge and the consequence of
25 pleading guilty; that you understand the constitutional and

1 other rights you give up by pleading guilty; and that you're
2 pleading guilty voluntarily. So we'll go over the charge in
3 more detail.

4 You're charged with violating Section 841(a)(1), which
5 states in part: It shall be unlawful for any person knowingly
6 or intentionally to possess with intent to distribute a
7 controlled substance; in this case, methamphetamine, cocaine,
8 and p-Fluorofentanyl.

9 If the government had to go to trial on this charge,
10 the government would have to prove these elements against you
11 beyond a reasonable doubt: First, that you knowingly and
12 intentionally possessed 50 grams or more of methamphetamine, a
13 quantity of cocaine, and 100 grams or more of
14 p-Fluorofentanyl; and, second, you knew these were controlled
15 substances; and, third, you intended to distribute these
16 controlled substances.

17 Methamphetamine, cocaine, and p-Fluorofentanyl are
18 controlled substances under the law.

19 To possess something means to exercise control or
20 authority over it. With intent to distribute means to have in
21 mind or to plan in some way to deliver or transfer possession
22 or control over a thing to someone else.

23 An act is done knowingly when it is done voluntarily
24 and intentionally and not because of mistake or accident or
25 some innocent reason. And an act is done intentionally if it

1 is done knowing the act is one the law forbids and
2 purposefully intending to violate the law.

3 So, Mr. Patterson, considering this explanation, do
4 you believe you're guilty of this charge?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: Tell me what you did that makes you
7 guilty.

8 (Defendant conferring with his counsel.)

9 THE DEFENDANT: Okay. Ah, around about March, April,
10 I made two controlled buys.

11 Ah, then, around --

12 THE COURT: Wait a minute. You said made two
13 controlled buys.

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: You mean you made controlled sales?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: All right. Go ahead.

18 THE DEFENDANT: Then around April, like mid April, I
19 got pulled over with a large amount of methamphetamines.

20 Then around the same time, a house where I was
21 residing at was -- it was some drugs in that, and they were
22 mine.

23 Then also the storage unit that I used, I had hid some
24 drugs inside that at the storage unit.

25 THE COURT: Were the drugs that they found when they

1 searched both the residence and the storage unit drugs you
2 intended to sell or deliver to other people?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: All right. Do you remember the
5 stipulation of facts that was part of your plea agreement?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Did you go over it with your lawyer before
8 you signed it?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: It's true and accurate?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Does the stipulation provide a written
13 account of what you've just been describing to me that you
14 did?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: So as I read it, first, it discusses that
17 on March 29th, 2021, April 21st, 2021, and April 22nd, 2021,
18 you were involved in making sales of controlled substances
19 that are described specifically in the stipulation.

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: And so on the first two occasions, in
22 March and then on April 21st, you actually delivered the drugs
23 to someone you now know to be a confidential informant?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: And did those drugs include

1 methamphetamine, and was the methamphetamine tested so that
2 the stipulation identifies the purity of the meth?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: And then is it true on April 22nd, you
5 agreed to sell more methamphetamine to the same person?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: And on that day, is that when you went to
8 the storage unit to get the meth that you intended to
9 distribute to this informant?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Instead, was there a traffic stop of your
12 vehicle while you were on your way?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: And did the law enforcement officers find
15 methamphetamine that you intended to sell or deliver in your
16 vehicle?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: And that amount was over 900 grams of 87
19 percent pure methamphetamine, which also contained 789 grams
20 of actual meth?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: And then on April 22nd, the same day, did
23 the DEA conduct a search of the place you were living in on
24 Jackson Avenue here in Huntington, Cabell County, West
25 Virginia?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: And at that time, did they find over 58
3 grams of methamphetamine, an amount of cocaine base, and also
4 the p-Fluorofentanyl as well as some marijuana?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: And then on April 23rd, was a search
7 warrant executed at the storage unit that we've been talking
8 about?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: And at that time, did they find a
11 substantial amount of methamphetamine, p-Fluorofentanyl, as
12 well as some cocaine?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: And did you admit in the stipulation that
15 these were drugs you intended to sell and distribute to other
16 people?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: And were the -- all right. And so the
19 storage unit that was searched on April 23rd where they found
20 these various drugs, that's what you are pleading guilty to
21 under Count Five?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: And you understand that in the other parts
24 of the stipulation we've been describing, you've agreed to
25 other offense and relevant conduct that is used for sentencing

1 guideline purposes?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: All right. And is that what resulted in
4 the base offense level of 36 that you agreed to in the plea
5 agreement?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: And then you also agreed that you
8 possessed one or more firearms as part of your drug dealing
9 activities?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: And that results in the additional
12 two-level offense -- two-level increase in the offense
13 described in paragraph 10 of the plea agreement?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: And you also understand that the
16 government is retaining the right to argue that you should get
17 an additional increase in your offense level for maintaining
18 premises for drug distribution purposes?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: All right. And so you understand that in
21 Count Five, you've agreed that you possessed at least 50 grams
22 of methamphetamine and at least 100 grams or more of the
23 fentanyl and p-Fluorofentanyl?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: All right. You can sit down for a few

Brandon Harris - Direct (Coleman)

14

1 minutes.

2 Would the government offer evidence to show what it
3 could prove?

4 MS. COLEMAN: Yes, Your Honor. The United States
5 calls Special Agent Harris.

6 **BRANDON HARRIS, GOVERNMENT'S WITNESS, SWORN**

7 THE WITNESS: Yes, ma'am.

8 THE CLERK: Have a seat.

9 **DIRECT EXAMINATION**

10 BY MS. COLEMAN:

11 Q. Could you please state your name for the record.

12 A. Brandon Harris.

13 Q. And how are you employed?

14 A. Special agent with the Drug Enforcement Administration.

15 Q. And were you part of the team with the Drug Enforcement
16 Administration that was investigating the defendant, Joseph
17 Patterson?

18 A. Yes, ma'am.

19 Q. And did members of the Drug Enforcement Administration
20 utilize a confidential informant on March 29th, 2021, to make
21 a controlled buy from Mr. Patterson?

22 A. Yes, ma'am.

23 Q. And that buy took place at his residence on Jackson Avenue
24 in Huntington, Cabell County, West Virginia?

25 A. Yes, ma'am.

Brandon Harris - Direct (Coleman)

15

1 Q. That was for methamphetamine?

2 A. That's correct.

3 Q. And that methamphetamine was sent to the lab and
4 confirmed?

5 A. Yes, ma'am.

6 Q. And did the DEA utilize the same CI to make a controlled
7 buy from the defendant on April 21st, 2021?

8 A. Yes, ma'am.

9 Q. Again, at his residence on Jackson Avenue?

10 A. Correct.

11 Q. And again, that methamphetamine was sent away to the lab
12 and confirmed to be meth?

13 A. Yes, ma'am.

14 Q. On April 22nd of 2021, did Mr. Patterson agree to sell,
15 ah, an amount of methamphetamine to the same CI again?

16 A. Yes, ma'am.

17 Q. And on this occasion, was he going to bring that
18 methamphetamine to the CI in Charleston, Kanawha County, West
19 Virginia?

20 A. Yes, ma'am.

21 Q. Prior to the delivery, was a traffic stop done on
22 Mr. Patterson?

23 A. Yes, ma'am, it was.

24 Q. And, again, there was methamphetamine recovered from him
25 intended for the CI?

Brandon Harris - Direct (Coleman)

16

1 A. Correct.

2 Q. That was sent to the lab and tested?

3 A. Yes, ma'am.

4 Q. As part of that investigation that day, did officers come
5 to learn Mr. Patterson had traveled to a storage unit prior to
6 traveling to meet the CI?

7 A. Yes, ma'am.

8 Q. And that was the Storage King in Huntington, Cabell
9 County, West Virginia?

10 A. Yes, ma'am.

11 Q. And through communications with the manager of that unit,
12 were they -- or the storage facility, were they able to
13 identify the unit number?

14 A. Yes, ma'am.

15 Q. That was Unit No. 82?

16 A. That's correct.

17 Q. And they were able to see from the surveillance video a
18 red Camry pulling up, and a male exiting and entering storage
19 unit near that area?

20 A. That's correct.

21 Q. And at the traffic stop, Mr. Patterson was driving a red
22 Camry?

23 A. Correct.

24 Q. And did he also have on him that day of the traffic stop
25 keys that fit the storage unit, Unit No. 82?

Brandon Harris - Direct (Coleman)

17

1 A. Yes, ma'am.

2 Q. And based on all of that information, did officers obtain
3 a search warrant for that storage unit?

4 A. We did.

5 Q. And that was executed on or about April 23rd, 2022?

6 A. Yes, ma'am.

7 Q. And during the search of that unit, did officers locate,
8 ah, suspected methamphetamine, fentanyl and cocaine?

9 A. Yes, ma'am.

10 Q. Along with digital scales and approximately nine firearms?

11 A. That's correct.

12 Q. And those drugs were sent to the DEA lab for testing?

13 A. Yes, ma'am.

14 Q. And the methamphetamine was confirmed to be 282.97 grams
15 of a hundred percent pure methamphetamine?

16 A. Yes, ma'am.

17 Q. And 231.7 grams of p-Fluorofentanyl?

18 A. Yes, ma'am.

19 Q. And that is a fentanyl analogue?

20 A. That's correct.

21 Q. And approximately 15.7 grams of cocaine?

22 A. Yes, ma'am.

23 Q. And cocaine and methamphetamine are Schedule II controlled
24 substances?

25 A. That's correct.

Brandon Harris - Cross (Booten)

18

1 Q. And the fentanyl analogue p-Fluorofentanyl is a Schedule I
2 controlled substance?

3 A. That's correct.

4 Q. Based on your training and experience, is possession of
5 those amounts of drugs along with the digital scales, the
6 firearms and the circumstances surrounding the investigation,
7 consistent with distribution or personal use?

8 A. Distribution.

9 MS. COLEMAN: That's all the questions I have, Your
10 Honor.

11 THE COURT: Any questions, Mr. Booten?

12 MR. BOOTEN: Briefly, Your Honor.

13 THE COURT: All right.

14 **CROSS-EXAMINATION**

15 BY MR. BOOTEN:

16 Q. Agent Harris, were you present during the search of Unit
17 No. 82?

18 A. Yes, sir, I was.

19 Q. There were -- was the drugs actually laying around outside
20 for -- in plain view or were they hidden somewhere in the
21 storage unit?

22 A. They were inside bags and stuff inside the unit. We had
23 to search. It wasn't in plain view right away.

24 Q. Okay. And there was a number of other items in there,
25 such as furniture and maybe some kids toys and stuff like

Brandon Harris - Cross (Booten)

19

1 that, wasn't there?

2 A. There were quite -- quite a bit of items as well. I don't
3 remember exactly which furniture and kids items. There were
4 other items in the storage unit, sir.

5 MR. BOOTEN: That's all I have, Your Honor.

6 THE COURT: All right. You can step down, Agent.
7 Thank you.

8 THE WITNESS: Thank you, sir.

9 THE COURT: All right. Mr. Patterson, Mr. Booten, if
10 you would again stand.

11 Mr. Patterson, was the agent's testimony substantially
12 correct?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Mr. Booten, are you satisfied that if this
15 case went to trial, there would be no meritorious legal
16 defense to this charge?

17 MR. BOOTEN: Yes, Your Honor.

18 THE COURT: Are you satisfied your client's
19 constitutional and other rights have been observed fully?

20 MR. BOOTEN: Yes, Your Honor.

21 THE COURT: All right. Mr. Patterson, I find there's
22 a sufficient factual basis for your guilty plea.

23 Now, do you understand you're pleading guilty to a
24 felony?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: Do you understand that judgment will
2 deprive you of valuable civil rights, such as your right to
3 vote, your right to hold public office, your right to serve on
4 a jury, and your right to possess any kind of firearm or gun?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: Do you understand that you expose yourself
7 to a mandatory minimum sentence of at least ten years of
8 imprisonment by entering this plea agreement?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Do you understand you also expose yourself
11 to a maximum penalty of up to life imprisonment by entering
12 this plea agreement?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Do you understand you would be subject to
15 supervised release for at least five years?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: Do you understand that supervised release
18 means, after imprisonment, you would be supervised by the
19 probation office under conditions set by the Court, and if you
20 violate those conditions, the Court could send you back to
21 prison for an additional period?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: Do you understand you could be fined up to
24 \$10 million?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: Do you understand you'll have to pay a
2 \$100 special assessment for this conviction?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Do you understand that the Court could
5 also deny you certain federal benefits for up to five years?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Do you understand that I could order you
8 to make restitution to any crime victims?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Now, have you and your lawyer discussed
11 the Sentencing Guidelines and how they might apply to your
12 case?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Do you understand the Court cannot
15 determine the guideline sentence for your case until a
16 presentence report is done, and both sides have a chance to
17 review it and challenge it if either side thinks it's wrong?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: Do you understand that the sentence I may
20 impose could be different from any estimate your lawyer has
21 given you?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: Do you understand that although I have to
24 consider the Sentencing Guidelines, I could impose a sentence
25 more severe or less severe than the guidelines might call for?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Do you understand that parole has been
3 abolished, and you will not be released on parole?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Do you understand that even if you do not
6 like the sentence I impose, you will still be bound by this
7 guilty plea and have no right to withdraw it?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Do you understand that if you violate the
10 plea agreement or withdraw from it and go to trial on these
11 charges, you've agreed that the government may use the
12 stipulation of facts against you at trial, and you're giving
13 up any objection you might have to that?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Do you understand you've agreed to a base
16 offense level of 36 with a two-level increase for possession
17 of a firearm and the possibility of another two-level increase
18 for maintaining premises for the storage and distribution of
19 controlled substances?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Now, do you understand that while you and
22 the government have agreed on some of these guidelines, the
23 probation office and the Court are not bound by that
24 agreement, and you will have no right to withdraw from the
25 plea agreement if you disagree with my calculation of the

1 appropriate guideline?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Do you understand that in the plea
4 agreement, you agreed to give up any right you may have to
5 obtain from any federal agency or department any of the
6 records pertaining to the investigation or prosecution of your
7 case following final disposition of these charges?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Now, do you understand you may have the
10 right to appeal your conviction subject to the waiver of
11 appeal you agreed to in your plea agreement, if you believe
12 your guilty plea was unlawful or involuntary or that there is
13 some defect in these proceedings that you haven't waived by
14 pleading guilty?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: All right. Do you understand that both
17 you and the government may have the right to appeal the
18 sentence I impose except to the extent that you've waived or
19 limited your rights in your plea agreement?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Now, in your plea agreement, you agreed to
22 waive your right to appeal your conviction, your sentence or
23 the manner in which your sentence is determined on any ground
24 whatsoever, except for a claim based on ineffective assistance
25 of counsel. You do retain the right to appeal a sentence that

1 exceeds the maximum penalty allowed by the law.

2 This type of waiver is usually enforceable, but if you
3 believe it's not enforceable, you'll have to present that
4 claim in the courts.

5 Do you understand that?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Also in your plea agreement, you agreed to
8 give up your right to challenge your guilty plea, your
9 conviction and your sentence in any collateral attack, except
10 for a claim based on ineffective assistance.

11 This type of waiver is also usually enforceable, but
12 if you believe this waiver is unenforceable, you'll have to
13 present that claim in the courts.

14 Do you understand that?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: Do you understand with few exceptions, any
17 notice of appeal must be filed within 14 days of judgment
18 being entered in your case?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: I find you understand the charge and the
21 consequences of pleading guilty. Now let's go over the rights
22 you give up by pleading guilty.

23 Do you understand you have a right to plead not guilty
24 to this charge?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: Do you understand that by pleading guilty,
2 you're giving up your right to a speedy and public jury trial?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Do you understand that by pleading guilty,
5 you're giving up your right to force the government to produce
6 witnesses and evidence against you?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Do you understand you would be presumed
9 innocent until the government presented enough evidence to
10 convince the judge and the jury that you were guilty beyond a
11 reasonable doubt?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Do you understand when you admit your
14 guilt, as you have here today, you relieve the government of
15 the burden of proving your guilt?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: Do you understand you and your lawyer
18 could confront the witnesses, and he could cross-examine them
19 to test the truth of what they said?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: All right. Do you understand that by
22 pleading guilty, you're giving up that right?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: Do you understand if you went to trial,
25 you would be entitled to bring witnesses to court under

1 subpoena?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Do you understand that by pleading guilty,
4 you're giving up the right to call witnesses except for the
5 limited purposes of a sentencing hearing?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Do you understand you would have the right
8 to go to trial and remain silent; that is, you wouldn't have
9 to testify or even present any evidence?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Do you understand I would instruct the
12 jury that they could not even discuss the fact you have
13 exercised these rights, and in any event they could convict
14 you only if the government proves its case beyond a reasonable
15 doubt?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: All right. I find you understand the
18 rights you're giving up.

19 Knowing all this, do you still want to plead guilty?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Has anyone forced you, threatened you or
22 talked you into pleading guilty against your will?

23 THE DEFENDANT: No, Your Honor.

24 THE COURT: Are you acting voluntarily and of your own
25 free will in entering this guilty plea?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Is pleading guilty your own idea?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Has anyone promised you anything or told
5 you something different from what we've discussed in court
6 today to get you to plead guilty?

7 THE DEFENDANT: No, Your Honor.

8 THE COURT: All right. I find your guilty plea is
9 voluntary.

10 At this time, do you have any questions or second
11 thoughts about pleading guilty?

12 THE DEFENDANT: No, Your Honor.

13 THE COURT: If not, please sign a plea of guilty and
14 ask Mr. Booten to sign it.

15 (Brief pause in proceedings.)

16 MR. BOOTEN: May I approach, Your Honor?

17 THE COURT: You may.

18 All right. The record will reflect that Mr. Patterson
19 has signed a plea of guilty, Mr. Booten has signed it, and
20 it's filed with the clerk.

21 I find Mr. Patterson is competent. There's a
22 sufficient factual basis. He understands the charge, he
23 understands the rights he's giving up, and his plea is
24 voluntary.

25 Now, I've deferred accepting your plea agreement until

1 I can review a presentence report on you, Mr. Patterson, but I
2 accept your guilty plea. You are now adjudged guilty and
3 stand convicted of violating 21, United States Code, Section
4 841(a)(1).

5 I direct the probation office to conduct a presentence
6 investigation of Mr. Patterson, draft a presentence report and
7 disclose it to both sides by July 5th. Objections are due by
8 July 18th. The final report is due to the Court August 1st.
9 If either side wants to file a sentencing memorandum, they
10 should do so by August 8th. And I'm setting the case down for
11 sentencing on August 15th, 2022, at 1:30 p.m. here in
12 Huntington.

13 So, Ms. Coleman, I understand that the government
14 reserves the right in the plea agreement to argue for a
15 two-level premises enhancement.

16 Other than that and what's already stated and agreed
17 as part of the stipulation in the plea agreement, do you
18 envision any other relevant or offense conduct being at issue
19 at sentencing?

20 MS. COLEMAN: No, Your Honor.

21 THE COURT: All right. The defendant has been
22 detained.

23 Is there anything else we need to take up in his case?

24 MR. BOOTEN: No, Your Honor.

25 MS. COLEMAN: No, Your Honor.

1 THE COURT: There is one other matter I'll bring up,
2 then.

3 Mr. Patterson wrote me a lengthy letter complaining
4 about conditions at Western Regional Jail. Is that where you
5 have been?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Where will he go now that he's entered a
8 guilty plea?

9 THE MARSHAL: We spoke to the attorney before the
10 hearing. We're going to be moving him to Boyd County.

11 THE COURT: All right. I assume that's more to your
12 liking from the way you described your concerns at Western; is
13 that right?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: All right. If there is nothing else, then
16 we'll stand in a brief recess before the next case.

17 THE COURT SECURITY OFFICER: All rise. Court is in
18 recess.

19 (Proceedings were concluded at 11:31 a.m.)

20 ---o0o---

1 CERTIFICATION:

2 I, Kathy L. Swinhart, CSR, certify that the foregoing
3 is a correct transcript from the record of proceedings in the
4 above-entitled matter as reported on August 15, 2022.

5
6
7 November 3, 2022

8 DATE

9 /s/ Kathy L. Swinhart

10 KATHY L. SWINHART, CSR
11
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NO. _____

In the
Supreme Court of the United States

JOSEPH IRA PATTERSON, III,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

APPENDIX D
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

OFFICE OF THE FEDERAL PUBLIC DEFENDER
Southern District of West Virginia
300 Virginia Street, East, Room 3400
Charleston, West Virginia 25301
304/347-3350
jonathan_byrne@fd.org

Counsel for Petitioner

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AO 245B (Rev. 09/19) Judgment in a Criminal Case
Sheet 1

UNITED STATES DISTRICT COURT

Southern District of West Virginia

UNITED STATES OF AMERICA

v.

JOSEPH IRA PATTERSON, III

JUDGMENT IN A CRIMINAL CASE

Case Number: 3:21-00218

USM Number: 07859-088

R. Lee Booten II

Defendant's Attorney

THE DEFENDANT:☒ pleaded guilty to count(s) five 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:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
21 U.S.C. § 841(a)(1)	Possession with Intent to Distribute Methamphetamine, Cocaine, and p-Fluorofentanyl	4/23/2021	5

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) One, Two, Three, Four, & Six ☐ 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.

8/15/2022

Date of Imposition of Judgment


 ROBERT C. CHAMBERS
 UNITED STATES DISTRICT JUDGE
8/17/2022

Date

AO 245B (Rev. 09/19) Judgment in Criminal Case
Sheet 2 — Imprisonment

Judgment — Page 2 of 8

DEFENDANT: JOSEPH IRA PATTERSON, III
CASE NUMBER: 3:21-00218

IMPRISONMENT

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

220 months.

☒ The court makes the following recommendations to the Bureau of Prisons:
that the defendant be housed as close to Huntington, WV, as possible.

☒ 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: JOSEPH IRA PATTERSON, III
CASE NUMBER: 3:21-00218

SUPERVISED RELEASE

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

5 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.

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AO 245B (Rev. 09/19) Judgment in a Criminal Case
Sheet 3A — Supervised ReleaseJudgment—Page 4 of 8DEFENDANT: JOSEPH IRA PATTERSON, III
CASE NUMBER: 3:21-00218**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 _____

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AO 245B (Rev. 09/19) Judgment in a Criminal Case
Sheet 3B — Supervised Release

Judgment—Page 5 of 8

DEFENDANT: JOSEPH IRA PATTERSON, III
CASE NUMBER: 3:21-00218

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.

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AO 245B (Rev. 09/19) Judgment in a Criminal Case
Sheet 3D — Supervised Release

Judgment—Page 6 of 8

DEFENDANT: JOSEPH IRA PATTERSON, III
CASE NUMBER: 3:21-00218

SPECIAL CONDITIONS OF SUPERVISION

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: JOSEPH IRA PATTERSON, III

CASE NUMBER: 3:21-00218

CRIMINAL MONETARY PENALTIES

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.

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTa Assessment**</u>
TOTALS	\$ 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
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☐ Restitution amount ordered pursuant to plea agreement \$ _____

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

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

☐ the interest requirement is waived for 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.

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AO 245B (Rev. 09/19) Judgment in a Criminal Case
Sheet 5A — Criminal Monetary Penalties

Judgment—Page 8 of 8

DEFENDANT: JOSEPH IRA PATTERSON, III
CASE NUMBER: 3:21-00218

ADDITIONAL TERMS FOR CRIMINAL MONETARY PENALTIES

The special assessment will be paid through participation in the Inmate Financial Responsibility Program.