

Appendix 1
Sixth Circuit Opinion Affirming
District Court's Judgment
(March 7, 2024)

No. 23-5584, *United States v. Lee*

just straight fentanyl, one bag contained just straight cocaine.” Trial Tr. Day 1, R. 71, PageID 342. The government also presented evidence that one of Lee’s other customers made Lee aware that he had sold that customer fentanyl instead of cocaine. And the government introduced a videotape from Lee’s interview with the police in which he confessed to selling F.E. narcotics, on which F.E. overdosed and died.

A day and a half into the trial, Lee indicated that he wanted to change his plea—he would plead guilty to Count 3 of the indictment and the government would dismiss the remaining counts. The district court excused the jury and proceeded to arraignment. The district court questioned Lee to ensure that his plea would be knowing and voluntary, that he was competent, and that he was satisfied with his counsel. With respect to his appeal rights, the district court explained that Lee “would be able to take an appeal to challenge the guilty plea, the conviction, or the sentence that would ultimately be imposed by the Court.” R. 73, Tr. of Rearraignment, PageID 497. Lee assured the district court that he had no questions about his appellate rights. The district court then explained the elements that the government would be required to prove at trial and asked Lee to describe the factual basis for his plea. Lee’s response: “I knowingly and willingly distributed a controlled substance. I knew at the time it was a controlled substance, and that controlled substance subsequently led to the death of [F.E.]” *Id.* at 502. The district court accepted Lee’s plea, finding a sufficient factual basis for the plea and that it was knowing and voluntary.

Two months later, after Lee’s presentence investigation report (PSR) was prepared, Lee’s trial counsel notified the district court that Lee wanted to withdraw his guilty plea. Believing that she could not file a motion to withdraw Lee’s plea consistent with her ethical obligations, she moved to withdraw from the representation. After being appointed new counsel, Lee moved to withdraw his plea, claiming that he did not understand that, by pleading guilty, he had waived his

No. 23-5584, *United States v. Lee*

right to appeal his guilt. The district court held a hearing on Lee’s motion to withdraw his plea. Concluding that Lee had not demonstrated a fair and just reason to withdraw his plea, the district court denied the motion. The district court sentenced Lee to 480 months’ imprisonment.

Lee timely appeals the district court’s denial of his motion to withdraw his plea.

II.

We review the district court’s denial of Lee’s motion to withdraw his plea for an abuse of discretion. *United States v. Bazzi*, 94 F.3d 1025, 1027 (6th Cir. 1996) (per curiam). “A district court abuses its discretion when it ‘relies on clearly erroneous findings of fact, improperly applies the law or uses an erroneous legal standard.’” *United States v. Goddard*, 638 F.3d 490, 493 (6th Cir. 2011) (quoting *United States v. Ellis*, 470 F.3d 275, 280 (6th Cir. 2006)).

A defendant who wishes to withdraw a plea before the court accepts it has a right to do so “for any reason or no reason” at all. Fed. R. Crim. P. 11(d)(1). But once the district court has accepted a plea, a defendant may withdraw it before sentencing only if he can “show a fair and just reason for requesting the withdrawal.” Fed. R. Crim. P. 11(d)(2)(B). There is no “absolute right to withdraw a guilty plea” that the court has accepted. *Ellis*, 470 F.3d at 280. That is because plea withdrawal is “inherently in derogation of the public interest in finality and the orderly administration of justice.” *Id.* (citation omitted). Thus, when a plea is knowing, voluntary, and taken “at a hearing at which [the defendant] acknowledged committing the crime,” plea withdrawal should seldom be allowed. *Id.* (citation omitted). After all, the rule permitting withdrawal does not exist “to allow a defendant to make a tactical decision to enter a plea, wait several weeks, and then obtain a withdrawal if he believes he made a bad choice.” *United States v. Bashara*, 27 F.3d 1174, 1181 (6th Cir. 1994) (cleaned up).

No. 23-5584, *United States v. Lee*

In *Bashara*, we identified several non-dispositive factors for differentiating pleas “entered hastily” from “those entered strategically.” *United States v. Hudson*, 2024 WL 140550, at *3 (6th Cir. Jan. 12, 2024). They include:

(1) the amount of time that elapsed between the plea and the motion to withdraw it; (2) the presence (or absence) of a valid reason for the failure to move for withdrawal earlier in the proceedings; (3) whether the defendant has asserted or maintained his innocence; (4) the circumstances underlying the entry of the guilty plea; (5) the defendant’s nature and background; (6) the degree to which the defendant has had prior experience with the criminal justice system; and (7) potential prejudice to the government if the motion to withdraw is granted.

Bashara, 27 F.3d at 1181.

At the outset, we address a contention that Lee claims is relevant to numerous *Bashara* factors. While he does not expressly challenge the constitutionality of his plea, or the adequacy of the district court’s Rule 11 colloquy, he nonetheless asserts that he should have been allowed to withdraw his plea because it was unknowing. Lee maintains that he labored under the impression that, notwithstanding his guilty plea, he would be able to appeal his factual guilt. He argues that he was misinformed about his appellate rights, pointing to one portion of his colloquy in which the district court remarked that Lee could “take an appeal to challenge the guilty plea, the conviction, or the sentence that would ultimately be imposed by the Court.” R. 73, Tr. of Rearrangement, PageID 497.

The district court did not “[lead] Lee into an unknowing plea.” Appellant Br. at 6. Nothing in the record leading up to Lee’s plea-withdrawal motion supports the contention that Lee believed he could admit the factual basis of his guilt under oath only to immediately contradict that testimony on appeal. The district court explained Lee’s appellate rights and asked Lee directly if he “ha[d] any questions about [his] appellate rights in the case.” R. 73, Tr. of Rearrangement, PageID 497. Lee, who was represented by counsel, categorically replied that he did not. *Id.*

No. 23-5584, *United States v. Lee*

The district court’s brief statement about Lee’s ability to challenge “the guilty plea, the conviction, or the sentence” on appeal is neither misleading nor inaccurate: Lee maintained the right, at least, to challenge the knowing and voluntary nature of his plea, dispute the court’s jurisdiction, and raise any preserved objections to the sentence the court imposed. *See, e.g., United States v. Studabaker*, 578 F.3d 423, 429–30 (6th Cir. 2009).

Moreover, Lee testified that entering a guilty plea was his “knowing and voluntary determination.” R. 73, Tr. of Rearraignment, PageID 490. The district court carefully detailed the elements that the government would need to prove at trial, the penalties to which Lee would be subject, and the rights that Lee would be waiving. *Id.* at 494–95, 497–501. In short, “[t]he record reflects the care taken by the [district court] judge to ensure that [Lee] understood the ramifications of his plea and entered into it voluntarily and knowingly.” *United States v. Tudor*, 796 F. App’x 267, 270 (6th Cir. 2019); *see id.* at 268 (concluding that a plea was knowing and voluntary notwithstanding the defendant’s claim “that he was under the impression that he could later ‘undo’ his guilty plea”). A proper plea colloquy generally cures any misunderstandings a defendant may have regarding the implications of his plea. *Ramos v. Rogers*, 170 F.3d 560, 565 (6th Cir. 1999). Here, the district court’s plea colloquy was proper. The court had no obligation to “anticipate and negate” any uncommunicated and mistaken belief Lee may have subjectively maintained regarding his ability to end his trial by admitting his guilt and then challenge his guilt on appeal. *See United States v. Carson*, 32 F.4th 615, 623 (6th Cir. 2022); *see also Ramos*, 170 F.3d at 565. We turn next to what remains of Lee’s *Bashara* arguments.

Lee’s delay favored denial of his motion. We have considered delay of “a few days” as favoring plea withdrawal. *See United States v. Spencer*, 836 F.2d 236, 239 (6th Cir. 1987) (citation omitted). By contrast, we have considered delays of between one and two months as counseling

No. 23-5584, *United States v. Lee*

against permitting withdrawal. *See id.* (five weeks); *Bashara*, 27 F.3d at 1181 (six weeks). Lee pleaded guilty on January 18, 2023. His withdrawal motion came 121 days after his plea. Lee’s former counsel first notified the court of Lee’s desire to withdraw within sixty-five days, when counsel moved to withdraw from her representation. Even granting Lee the benefit of the earlier date, as did the district court, this factor counsels against permitting withdrawal. *See Spencer*, 836 F.2d at 239; *Bashara*, 27 F.3d at 1181.

In response, Lee notes that a delay of a “month or more” does not necessarily “shut the door to relief.” Appellant Br. at 7. But, setting aside whether there exists “a precise cut-off point beyond which delay is unreasonable,” *Carson*, 32 F.4th at 624 (citation omitted), the district court did not treat Lee’s delay as dispositive, and neither do we. Lee’s lengthy delay is simply one factor that cuts against him. *See id.* The district court did not abuse its discretion in analyzing this factor and concluding that it favors the government.

Lee has not maintained his innocence. We have recognized that “vigorous and repeated protestations of innocence” can sometimes support a motion to withdraw a guilty plea. *E.g.*, *United States v. Dixon*, 479 F.3d 431, 437 (6th Cir. 2007) (citation omitted). Lee’s case falls far short of that mark. He points only to his initial not-guilty plea at arraignment and his not-guilty assertion at the plea-withdrawal hearing as evidence that he has maintained his innocence. But, as the district court correctly noted, his under-oath statements during his plea colloquy paint another picture.

Lee unambiguously testified that he was guilty during his colloquy: “I knowingly and willingly distributed a controlled substance. I knew at the time it was a controlled substance, and that controlled substance subsequently led to the death of [F.E.]” R. 73, Tr. of Rearraignment, PageID 502. An assertion of innocence this is not. To clarify, the district court asked Lee to

No. 23-5584, *United States v. Lee*

acknowledge “that while [he] may not have known that the substance [he] distributed was fentanyl, that it was in fact fentanyl.” *Id.* Lee so acknowledged. [*Id.*] Moreover, Lee agreed that F.E.’s “death resulted from his use of the fentanyl that [Lee] distributed to him” and that F.E. “would not have died but for the use of the fentanyl that [Lee] distributed.” *Id.* at 502–03. These admissions cut strongly against Lee’s argument that he has maintained his innocence, and the district court did not abuse its discretion in relying on Lee’s plea-colloquy statements to conclude that this factor counsels against permitting withdrawal.

Resisting this conclusion, Lee argues that it is inappropriate to consider a defendant’s plea colloquy when evaluating whether he has maintained his innocence. He argues that if defendants “must maintain their innocence when making the plea they seek to withdraw, there would be no plea to withdraw.” Reply Br. at 3. Lee cites no support for this proposition, and we can find none. To the contrary, this court has repeatedly considered statements made during a plea colloquy when analyzing this *Bashara* factor. *See, e.g., Carson*, 32 F.4th at 624; *United States v. Watkins*, 2022 WL 43291, at *2 (6th Cir. Jan. 5, 2022); *Goddard*, 638 F.3d at 494; *United States v. Baez*, 87 F.3d 805, 809 (6th Cir. 1996). Lee’s argument also ignores the possibility of an *Alford* plea, which allows a district court to conclude that there is a factual basis for a plea notwithstanding the defendant’s continued assertion of innocence. *See North Carolina v. Alford*, 400 U.S. 25, 38–39 (1970); *see also United States v. Tunning*, 69 F.3d 107, 111–12 (6th Cir. 1995). Accordingly, Lee’s argument is not persuasive.

Lee also argues that he maintained his innocence at the plea-withdrawal hearing itself. But the district court found that Lee’s belated assertions of innocence were not made “in good faith, but in an attempt to seek a new trial to lessen the potential penalty in the case.” R. 85, Tr. of Plea-Withdrawal Hr’g and Sentencing, PageID 580. Nothing in the record causes us to conclude that

No. 23-5584, *United States v. Lee*

this was an abuse of discretion. At the plea-withdrawal hearing, Lee never effectively repudiated his plea-colloquy statements. He claimed that he “never knew that [he] had fentanyl”—that “it was a mix-up,” that was “never intentional by any means.” *Id.* at 565. But these statements do not support Lee’s innocence because the government did not need to prove that Lee knew that the substance he sold F.E. was, in fact, fentanyl. *United States v. Villarce*, 323 F.3d 435, 439 (6th Cir. 2003) (“The government need not prove mens rea as to the type and quantity of the drugs in order to establish a violation of § 841.” (cleaned up)); *see also United States v. Dado*, 759 F.3d 550, 570 (6th Cir. 2014). Lee also professed a desire to challenge the government’s proof, including whether it “could prove all of the elements of the death charge.” R. 85, Tr. of Plea-Withdrawal Hr’g and Sentencing, PageID 566, 573. But that’s not the same thing as maintaining innocence. *United States v. Williams*, 852 F. App’x 992, 996–97 (6th Cir. 2021) (noting that “Williams’ contention that the government could not *prove*” the charge against him “is not an assertion of innocence” for purposes of this *Bashara* factor); *see also United States v. Davis*, 2023 WL 2487338, at *3 (6th Cir. Mar. 14, 2023) (“[A] desire to stand trial is not the same as declaring one’s innocence.”).

Rather, Lee’s testimony at the plea-withdrawal hearing was, again, quite damning. He once more admitted to selling F.E. “something.” R. 85, Tr. of Plea-Withdrawal Hr’g and Sentencing, PageID 562. He agreed that he “knew it was a controlled substance” but “just thought it was cocaine.” *Id.* at 565. He acknowledged that fentanyl was recovered from the safe in his house and inside a dollar bill recovered from F.E.’s wallet, and that F.E. died of a fentanyl overdose. And Lee did not protest when the district court asked if he remembered his previous testimony admitting that he was “guilty of the charge contained in Count 3 that did result in the

No. 23-5584, *United States v. Lee*

death of the victim.” *Id.* at 568. In sum, the district court did not abuse its discretion in weighing this factor against Lee.

The circumstances of Lee’s guilty plea do not favor withdrawal. Lee argues that the circumstances of the plea favor withdrawal, asserting that he talked to counsel about the plea for only two minutes during a break in his trial. Yet, as the district court recognized, additional facts undermine Lee’s argument. Lee’s trial counsel represented that Lee decided to plead guilty after the two conferred and after Lee received input and discussed the issue with his family. And counsel explained why Lee’s decision to plead guilty—after the government had presented the bulk of its evidence to the jury—made some sense: “[I]t’s one thing when you’re looking at the discovery and looking at the elements versus when you see it presented in front of you.” R. 72, Trial Tr. Day 2, PageID 485. Lee did not dispute or correct this representation. What’s more, Lee testified that he had reviewed the indictment and charges against him, had discussed the case with his attorney, and was satisfied with her representation. And, as the trial court noted, the court “took a break to allow further discussions about” the choice to plead guilty “after [Lee had] already indicated that he wished to enter a plea.” R. 85, Tr. of Plea-Withdrawal Hr’g and Sentencing, PageID 573. At no point did Lee ask for additional time to consider his decision or display any hesitancy with his guilty plea. Viewing the context and circumstances surrounding the plea as a whole, the district court did not abuse its discretion in concluding that this factor counsels against permitting withdrawal. *See United States v. Franklin*, 462 F. App’x 538, 543 (6th Cir. 2012) (“Given this record, this Court agrees with the district court that Franklin’s guilty plea was made knowingly and voluntarily and, consequently, finds that this factor also weighs against Franklin’s motion.”).

No. 23-5584, *United States v. Lee*

Lee's nature, background, and prior experience with the criminal justice system are not in his favor. Lee argues that these factors should be neutral because Lee graduated from high school, attended some college, and has only two prior convictions in state court, whereas this is his first experience with the federal system. He provides no authority that these factors should not weigh against him. To the contrary, this court has concluded that similar facts counsel against permitting withdrawal. *See United States v. Gray*, 627 F. App'x 465, 470 (6th Cir. 2015) (affirming the district court's consideration of the defendant's GED and work history as counseling against withdrawal); *United States v. Lewis*, 800 F. App'x 353, 359 (6th Cir. 2020) (rejecting an argument that the defendant had "only dealt with the state criminal justice system"). We cannot say that the district court abused its discretion in concluding that this factor did not favor permitting withdrawal.

Lee's reason for failing to move to withdraw earlier. Lee claims that he failed to move to withdraw earlier because he first learned that he would not be allowed to contest his factual guilt on appeal while discussing his PSR with his former counsel "around March 16." Reply Br. at 2. Lee's former counsel informed the court that Lee wished to withdraw his plea eight days later. We acknowledge that newly discovered relevant information followed shortly by a communicated desire for plea withdraw could support weighing this factor in a defendant's favor. But, as noted previously, the district court conducted a thorough Rule 11 colloquy to ensure that Lee's guilty plea was knowing and voluntary. Lee asserted that he had no questions about his appellate rights during that colloquy. And even if we were to conclude that this factor weighed in Lee's favor, we still would not deem the district court's "bottom-line" conclusion an abuse of discretion. *United States v. Crowe*, 2023 WL 4586154, at * 4 (6th Cir. July 18, 2023). The *Bashara* "factors exist to help courts distinguish withdrawal requests made for strategic reasons from those made for

No. 23-5584, *United States v. Lee*

legitimate ones.” *Id.* And “district courts bear the primary responsibility to resolve whether a defendant has identified a fair and just reason to withdraw a plea.” *Id.* Here, the district court determined that Lee’s reason for moving to withdraw his plea—his desire to contest his factual guilt—was not offered “in good faith, but in an attempt to seek a new trial to lessen the potential penalty in the case.” R. 85, Tr. of Plea-Withdrawal Hr’g and Sentencing, PageID 580. Our review of the record gives us no reason to disturb the district court’s judgment.

Prejudice to the government. Having concluded that Lee had not “put forth a fair and just reason for allowing withdrawal of his plea,” the district court was not required to consider prejudice to the government. *United States v. Catchings*, 708 F.3d 710, 719 (6th Cir. 2013). Even so, the district court concluded that the United States would suffer prejudice if Lee were permitted to withdraw his plea “at this point in the proceedings.” R. 85, Tr. of Plea-Withdrawal Hr’g and Sentencing, PageID 581. Lee contends that the district court erred in finding prejudice because the government “always has to spend time and money trying a case,” so the “time and expense of trial constitutes prejudice only when” the government must spend extra resources preparing for trial. Appellant Br. 9 (quoting *United States v. Osborne*, 565 F. Supp. 2d 927, 939 (E.D. Tenn. 2008)). But Lee “fails to consider the point to which his case had proceeded when he entered his plea.” *United States v. Murray*, 66 F. App’x 600, 605 (6th Cir. 2003). Lee changed his plea in the middle of trial, after the bulk of the prosecution’s case had been presented. “[F]orcing the government to prepare its case once again” obviously entails the expenditure of extra resources. *See United States v. Durham*, 178 F.3d 796, 799 (6th Cir. 1999). The district court did not abuse its discretion in holding this factor against Lee.

No. 23-5584, *United States v. Lee*

In sum, we hold that the district court did not abuse its discretion in denying Lee's motion to withdraw his plea.

* * *

We AFFIRM.

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

No. 23-5584

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KEON LAMONT LEE,

Defendant - Appellant.

FILED
Mar 07, 2024
KELLY L. STEPHENS, Clerk

Before: BOGGS, McKEAGUE, and LARSEN, Circuit Judges.

JUDGMENT

On Appeal from the United States District Court
for the Eastern District of Kentucky at Lexington.

THIS CAUSE was heard on the record from the district court and was submitted on the briefs without oral argument.

IN CONSIDERATION THEREOF, it is ORDERED that the judgment of the district court is AFFIRMED.

ENTERED BY ORDER OF THE COURT



Kelly L. Stephens, Clerk

Appendix 2
District Court Order Denying Lee's
Motion To Withdraw His Guilty Plea
(June 9, 2023)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION AT LEXINGTON
CRIMINAL MINUTES – SENTENCING

Case No. 5:22-CR-026-DCR-1 At Lexington Date June 9, 2023

USA vs. Keon Lamont Lee x present x custody bond OR Age

DOCKET ENTRY: The parties appeared for motion and sentencing hearings as noted. United States Probation Officer Troy Brown also was present. Defendant's testimony was presented regarding his motion to withdraw plea of guilty [R. 74]. Having considered arguments of counsel, and testimony presented, the Court **DENIED** the defendant's motion for the reasons stated on the record. The Court adopts the findings contained in the Presentence Report ("PSR"). However, the guideline calculations were modified to reflect removal of credit for acceptance of responsibility by the defendant, resulting in a Total Offense Level of 43 in the case. The PSR shall be filed in the record under seal. The government's oral motion to dismiss the remaining Counts 1, 2, 4, 5 and 6 of the Indictment is **SUSTAINED**, effective upon entry of the Judgment.

PRESENT: HON. DANNY C. REEVES, CHIEF U. S. DISTRICT JUDGE

<u>Dulce Combs</u> Deputy Clerk	<u>Elaine Haberer</u> Court Reporter	<u>None</u> Interpreter	<u>Gary Todd Bradbury</u> Assistant U.S. Attorney
Counsel for Defendant <u>John Kevin West</u>	<u> </u> x present	<u> </u> retained	<u> </u> x appointed

PROCEEDINGS: **MOTION HEARING AND SENTENCING** (evidentiary)

 Objection to Presentence Report.

 x No objection to Presentence Report.

 x After the fourteen-day period has passed for filing a notice of appeal, counsel for the defendant is directed to file a notice with the Court confirming that he has again conferred with the defendant regarding his appellate rights and, if the defendant chooses not to file a notice of appeal, indicating such in the notice. If a notice of appeal is filed, counsel need not file this information with the Court.

 x Court's Advice of Right to Appeal provided to defendant.

 x Transcript shall be deemed as written findings of Court.

 x Judgment shall be entered (See Judgment & Commitment.)

 x Defendant remanded to custody of United States Marshal pending designation by Bureau of Prisons.

Copies: COR, USP, USM

Initials of Deputy Clerk: dc
TIC: 1/21

Appendix 3
District Court's Final Judgment
(June 9, 2023)

UNITED STATES DISTRICT COURT

Eastern District of Kentucky – Central Division at Lexington

Eastern District of Kentucky

FILED

JUN 09 2023

AT LEXINGTON
ROBERT R. CARR

CLERK U.S. DISTRICT COURT

UNITED STATES OF AMERICA

v.

Keon Lamont Lee

JUDGMENT IN A CRIMINAL CASE

Case Number: 5:22-CR-026-DCR-01

USM Number: 89537-509

John Kevin West

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) 3 of the Indictment [DE #1]

☐ 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
21:841(a)(1)	Distribution of a Mixture or Substance Containing Fentanyl Resulting in an Overdose Death	February 8, 2021	3

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

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

☒ Count(s) 1, 2, 4-6 of the Indictment [DE #1] ☐ 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.

June 9, 2023

Date of Imposition of Judgment

Signature of Judge

Honorable Danny C. Reeves, Chief U.S. District Judge

Name and Title of Judge

June 9, 2023

Date

DEFENDANT: Keon Lamont Lee
CASE NUMBER: 5:22-CR-026-DCR-01

IMPRISONMENT

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

FOUR HUNDRED EIGHTY (480) MONTHS

- ☒ The court makes the following recommendations to the Bureau of Prisons:
That the defendant participate in treatment programs for alcohol and controlled substance addiction and abuse.

- ☒ 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: Keon Lamont Lee
CASE NUMBER: 5:22-CR-026-DCR-01

SUPERVISED RELEASE

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

FOUR (4) 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: Keon Lamont Lee
CASE NUMBER: 5:22-CR-026-DCR-01

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.
14. You must comply strictly with the orders of your physicians or other prescribing source with respect to the use of any prescribed controlled substances. You must report any changes regarding your prescriptions to your probation officer immediately (i.e., no later than 72 hours). The probation officer may verify your prescriptions and your compliance with this paragraph.

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: Keon Lamont Lee
CASE NUMBER: 5:22-CR-026-DCR-01

SPECIAL CONDITIONS OF SUPERVISION

1. You must abstain from the use of alcohol.
2. You may not use or consume marijuana or marijuana products, even if that controlled substance were to be prescribed to you by a physician, licensed professional or other person.
3. You must participate in urinalysis testing, or any other form of substance abuse testing, as directed by the probation office. You must refrain from obstructing or attempting to obstruct or tamper, in any fashion, with the efficiency and accuracy of any substance abuse testing required as a condition of your release. You must not knowingly use or consume any substance that interferes with the accuracy of substance abuse testing.
4. You must submit your person, offices, properties, homes, residences, vehicles, storage units, papers, computers, other electronic communications or cloud storage locations, data storage locations or media, to a search conducted by the United States probation office. Failure to submit to a search will be grounds for revocation of supervision. You must warn any other occupants that the premises may be subject to searches pursuant to this condition.
5. You must provide the probation office with access to any requested financial information.

DEFENDANT: Keon Lamont Lee
CASE NUMBER: 5:22-CR-026-DCR-01

CRIMINAL MONETARY PENALTIES

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

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
TOTALS	\$ 100.00	\$ None	\$ Waived	\$ N/A	\$ N/A

- ☐ 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	\$ _____	\$ _____
---------------	----------	----------

- ☐ 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: Keon Lamont Lee
CASE NUMBER: 5:22-CR-026-DCR-01

SCHEDULE OF PAYMENTS

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

- A** ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than _____, or
- ☒ in accordance with ☐ C, ☐ D, ☐ E, or ☒ F below; or
- B** ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C** ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D** ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E** ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F** ☒ Special instructions regarding the payment of criminal monetary penalties:

Criminal monetary penalties are payable to:
Clerk, U. S. District Court, Eastern District of Kentucky
101 Barr Street, Room 206, Lexington, KY 40507

INCLUDE CASE NUMBER WITH ALL CORRESPONDENCE

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

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

- ☐ Joint and Several

Case Number

Defendant and Co-Defendant Names

(Including defendant number)

Total Amount

Joint and Several Amount

Corresponding Payee, if appropriate

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

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