

APPENDICES

8th Circuit Court of Appeals - *United States v. Anthony Fisher, 23-2738*

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Relevant Statutory Provisions

H – 18 U.S.C. § 922 (g) (1) and 18 U.S.C. § 924 (a) (2)

APPENDIX A

A—Order Denying *En Banc* Review (October 24, 2024)

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 23-2738

United States of America

Appellee

v.

Anthony Fisher

Appellant

Appeal from U.S. District Court for the Northern District of Iowa - Cedar Rapids
(1:22-cr-00013-LTS-1)

ORDER

The petition for rehearing en banc is denied. The petition for rehearing by the panel is also denied.

October 24, 2024

Order Entered at the Direction of the Court:
Acting Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Maureen W. Gornik

APPENDIX B

B – Order Extending *En Banc* Deadline to October 2, 2024 (Sept. 19, 2024)

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 23-2738

United States of America

Appellee

v.

Anthony Fisher

Appellant

Appeal from U.S. District Court for the Northern District of Iowa - Cedar Rapids
(1:22-cr-00013-LTS-1)

ORDER

The motion of appellant for an extension of time until October 2, 2024, to file a petition for rehearing is granted.

Electronically-filed petitions for rehearing must be received in the clerk's office on or before the due date.

The three-day mailing grace under Fed.R.App.P. 26(c) does not apply to petitions for rehearing.

September 19, 2024

Order Entered Under Rule 27A(a):
Acting Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Maureen W. Gornik

APPENDIX C

C – Judgment (Sept. 4, 2024)

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No: 23-2738

United States of America

Plaintiff - Appellee

v.

Anthony Fisher

Defendant - Appellant

Appeal from U.S. District Court for the Northern District of Iowa - Cedar Rapids
(1:22-cr-00013-LTS-1)

JUDGMENT

Before SMITH, KELLY, and KOBES, Circuit Judges.

This appeal from the United States District Court was submitted on the record of the district court and briefs of the parties.

After consideration, it is hereby ordered and adjudged that the judgment of the district court in this cause is affirmed in accordance with the opinion of this Court.

September 04, 2024

Order Entered in Accordance with Opinion:
Acting Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Maureen W. Gornik

APPENDIX D

D – Panel Opinion Affirming Conviction (Sept. 4, 2024)

United States Court of Appeals
For the Eighth Circuit

No. 23-2738

United States of America

Plaintiff - Appellee

v.

Anthony Fisher

Defendant - Appellant

Appeal from United States District Court
for the Northern District of Iowa - Cedar Rapids

Submitted: May 10, 2024
Filed: September 4, 2024

Before SMITH, KELLY, and KOBES, Circuit Judges.

SMITH, Circuit Judge.

While burglarizing a home, Anthony Fisher encountered a homeowner and shot him eight times. Because Fisher was a felon at the time, the federal government charged him with unlawful possession of ammunition, in violation of 18 U.S.C. § 922(g)(1). The case went to trial, and the jury found Fisher guilty. On appeal, Fisher challenges the sufficiency of the evidence supporting his conviction. Relying on *Rehaif v. United States*, 588 U.S. 225 (2019), he argues that he lacked knowledge

of his prohibited status when he possessed ammunition. The record sufficiently supports the jury's finding that Fisher had knowledge of his prohibited status. Therefore, we affirm the judgment of the district court.¹

I. Background

On February 16, 2021, Fisher, De'andrew Berry, Elisha Brooks, and Phoenix Sims-McGlothlin² plotted to burglarize Sage Miller's home. Fisher and his associates knew that Miller dealt marijuana, so they believed the home contained large sums of cash. The group traveled in Sims-McGlothlin's vehicle from Cedar Rapids, Iowa, to nearby Marion, Iowa. Sims-McGlothlin stayed inside the vehicle while Fisher, Berry, and Brooks entered the home. Miller was present. When Fisher saw Miller, Fisher pulled a firearm and shot Miller about eight times.³ Miller lost consciousness.

When Miller regained consciousness, he called 911. First responders rushed him to a hospital in Cedar Rapids. Among other injuries, Miller was suffering from respiratory failure, liver failure, a kidney laceration, and fractured vertebrae. Miller survived. On subsequent days, investigators tried to interview Miller, but he was unconscious or intubated and unable to communicate.

¹The Honorable Leonard T. Strand, then Chief Judge, now United States District Judge for the Northern District of Iowa.

²In the record materials and the appellate briefs, Phoenix's surname is alternatively spelled "Sims-McGlothlin" and "Sims-McGlothin." *See, e.g.*, R. Doc. 93, at 1 (district court order using both spellings); Appellant's Br. at 2 (using both spellings). Here, we will use the spelling "Sims-McGlothlin."

³The exact number is unclear. Fisher bragged that he shot Miller five times, Berry recalled eight or nine shots, and law enforcement recovered eight shell casings. The hospital could not determine how many times Miller was shot because "multiple bullets" lodged together inside a single wound. R. Doc. 104, at 5.

When Miller regained his ability to speak, he described the shooter's race, sex, and clothing but could not provide additional identifying information. Fisher, meanwhile, boasted to friends on social media that he was the perpetrator. Officers learned of Fisher's boasting and arrested him. Based on Fisher's criminal history, the federal government charged him with illegally possessing ammunition after a felony conviction, in violation of 18 U.S.C. § 922(g)(1).

At trial, Fisher argued that he lacked knowledge of his status as a felon when he possessed the ammunition used in the shooting. The jury returned a guilty verdict. The Sentencing Guidelines advised the district court to sentence Fisher to 235 to 293 months' imprisonment. The court sentenced Fisher to 120 months, which was the applicable statutory maximum. Fisher appeals.

II. Discussion

In *Rehaif*, the Supreme Court held that, to obtain a conviction under 18 U.S.C. §§ 922(g) and 924(a), the government must prove that the defendant knew of his prohibited status when he possessed ammunition or a firearm. 588 U.S. at 227; *see also United States v. Parsons*, 946 F.3d 1011, 1014 (8th Cir. 2020) (listing all four elements of the offense). Here, the government had to prove that Fisher knew of his status as a felon when he possessed ammunition on February 16, 2021.

Fisher admits that he pleaded guilty to an Iowa felony in 2020. *See Iowa Code § 719.1(1)(f)* ("interference with official acts"). He also admits that the state court accepted his guilty plea, granted him a deferred judgment, and imposed a term of three years' probation. In this appeal, Fisher does not contest the legal basis of his felon-in-possession conviction. The legal basis is clear.⁴ Instead, Fisher contests the

⁴*See 18 U.S.C. § 921(a)(20)* ("What constitutes a conviction of [a felony] shall be determined in accordance with the law of the jurisdiction in which the proceedings were held."); *State v. Tong*, 805 N.W.2d 599, 603 (Iowa 2011) ("[A] deferred judgment constitutes a [felony] conviction . . . where the defendant (as here) has not completed his term of probation."); *United States v. Reth*, 258 F. App'x 68, 69 (8th Cir. 2007) (unpublished per curiam) (same interpretation of Iowa law).

factual basis. He argues that he did not understand the legal implications of his 2020 Iowa proceedings when he possessed ammunition on February 16, 2021. He claims that, at the time, he did not know that he was a felon.

When a defendant brings a *Rehaif* claim, arguing that the knowledge-of-status evidence was insufficient to support his conviction, we review the claim de novo. *United States v. Marin*, 31 F.4th 1049, 1053 (8th Cir. 2022). We examine the knowledge-of-status evidence “in its totality.” *United States v. Atilano*, 101 F.4th 977, 983 (8th Cir. 2024) (quoting *United States v. Spencer*, 50 F.4th 685, 686 (8th Cir. 2022)). And we consider this evidence “in the light most favorable to the verdict.” *United States v. Sholley-Gonzalez*, 996 F.3d 887, 895 (8th Cir. 2021) (quoting *United States v. Sainz Navarrete*, 955 F.3d 713, 718 (8th Cir. 2020)). A *Rehaif* claim will succeed—and we will reverse the district court—only if “no reasonable jury could have found guilt beyond a reasonable doubt.” *United States v. Burning Breast*, 8 F.4th 808, 812, 815 (8th Cir. 2021) (quoting *United States v. Mabery*, 686 F.3d 591, 598 (8th Cir. 2012)).

Based on the record, we conclude that a reasonable jury could have found that Fisher knew that he was a felon on February 16, 2021. First, when Fisher pleaded guilty to an Iowa felony in 2020, he signed a plea document that identified his crime as a felony. Second, Fisher made a remote appearance in an Iowa state court. The court accepted Fisher’s guilty plea, granted him a deferred judgment, and imposed a three-year term of probation. Third, Fisher signed an Iowa probation agreement. The agreement again informed Fisher that his crime was a felony. It also stated: “If I am on probation for a felony, . . . I will not own, possess, use or transport a firearm or other dangerous weapon until that right is restored to me.” R. Doc. 77-41, at 2. Fourth, Fisher’s Iowa probation officer appeared as a witness at trial and testified that Fisher’s 2020 Iowa deferred judgment hindered Fisher’s efforts to obtain and maintain employment. At least twice, Fisher failed criminal background checks and was denied work. Whether or not any one of these four pieces of evidence would have been enough, collectively they sufficed. *See Atilano*, 101 F.4th at 983

(explaining that we examine the totality of the evidence rather than individual pieces of evidence in isolation).

Resisting this conclusion, Fisher points to our decision in *United States v. Davies*, 942 F.3d 871 (8th Cir. 2019). However, the facts of *Davies* were unique. In subsequent cases, we have repeatedly distinguished *Davies* and cabined that decision to its specific facts. *See, e.g.*, *United States v. Bull*, 8 F.4th 762, 770 (8th Cir. 2021); *Sholley-Gonzalez*, 996 F.3d at 896–97; *United States v. Brooks-Davis*, 984 F.3d 695, 699 (8th Cir. 2021). In *Davies*, a district court in our circuit found the defendant, Christopher Davies, guilty of a felon-in-possession offense. 942 F.3d at 872. When Davies was tried, our circuit precedent held that the firearm-possession statute did not require the government to prove a defendant’s knowledge of his prohibited status. *See Rehaif*, 588 U.S. at 256 & n.6 (Alito, J., dissenting) (citing *United States v. Kind*, 194 F.3d 900, 907 (8th Cir. 1999)); *United States v. Davies*, No. 17-CR-26-LRR, 2018 WL 839388, at *2 (N.D. Iowa Feb. 12, 2018) (omitting a knowledge-of-status element). While Davies appealed his felon-in-possession conviction to our court, the Supreme Court decided *Rehaif* and held that proof of knowledge of prohibited status is necessary. 588 U.S. at 227. Davies submitted a Rule 28(j) letter that cited *Rehaif* and asked us to reverse his conviction. *Davies*, 942 F.3d at 872–73; *see Fed. R. App. P. 28(j)*. We vacated Davies’s conviction and remanded for a new trial. *Davies*, 942 F.3d at 874. We reasoned (1) that the government had not proved Davies’s knowledge of his prohibited status at his pre-*Rehaif* trial and (2) that there was “a reasonable probability” that a new trial could result in a different verdict. *Id.* at 873–74. Specifically, when Davies possessed a firearm, he had pleaded guilty to two state felonies, but the state court had not sentenced him yet. *Id.* at 872. Presented with evidence of what Davies knew about his then-ongoing state proceedings, a jury could find that Davies lacked knowledge that he had recently become a convicted felon. *Id.* at 874.

For post-*Rehaif* cases, in which the government has produced knowledge-of-status evidence at trial, *Davies* has limited relevance. When the factfinder has found knowledge of status, as the jury did here, we need not engage in the same sort of

analysis that we carried out in *Davies*. As *Davies* made clear, *Rehaif* does not require the government to prove that the defendant “knew the ins and outs of [state] law.” *Id.* (internal quotation marks omitted). “[T]he knowledge requisite to [a] knowing violation of [the firearm-possession] statute is *factual knowledge* as distinguished from knowledge of the law.” *Bryan v. United States*, 524 U.S. 184, 192 (1998) (emphasis added) (quoting *Boyce Motor Lines, Inc. v. United States*, 342 U.S. 337, 345 (1952) (Jackson, J., dissenting)). To satisfy the knowledge-of-status element, the government simply must prove that, when the defendant possessed a firearm or ammunition, he knew the fact of his own prohibited status. *Davies*, 942 F.3d at 874. This burden is not difficult to meet in most cases. *See Atilano*, 101 F.4th at 982; *Sholley-Gonzalez*, 996 F.3d at 895; *see also Greer v. United States*, 593 U.S. 503, 509 (2021) (“[A]bsent a reason to conclude otherwise, a jury will usually find that a defendant *knew* he was a felon based on the fact that he *was* a felon.”). And the government met its burden here. The evidence against Fisher “adequately supports the [jury’s] guilty verdict and its implicit finding of subjective knowledge.” *United States v. Jawher*, 85 F.4th 868, 872 (8th Cir. 2023) (affirming a firearm-possession conviction based on a defendant’s unlawful immigration status).

III. Conclusion

We reject Fisher’s *Rehaif* claim. Taken together, the four pieces of evidence described above sufficiently support the jury’s finding that Fisher knew that he was a felon. The judgment of the district court is affirmed.

APPENDIX E

E – Order Appointing Criminal Justice Act Counsel (July 28, 2023)

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 23-2738

United States of America

Appellee

v.

Anthony Fisher

Appellant

Appeal from U.S. District Court for the Northern District of Iowa - Cedar Rapids
(1:22-cr-00013-LTS-1)

ORDER

Attorney Rockne Ole Cole is hereby appointed to represent appellant in this appeal under the Criminal Justice Act. Information regarding the CJA appointment and vouchering process in eVoucher will be emailed to counsel shortly.

July 28, 2023

Order Entered under Rule 27A(a);
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

APPENDIX F

F – Notice of Appeal (July 28, 2023)

IN UNITED STATES DISTRICT COURT
FOR NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION

UNITED STATES OF AMERICA,)
) Case No. 1:22-CR-00013-LTS-MAR
)
)
Plaintiff,)
)
)
v.)
)
)
ANTHONY FISHER,)
)
)
Defendant.)

NOTICE OF APPEAL
IFP PREVIOUSLY GRANTED

Through counsel, Defendant Anthony Fisher files his notice of appeal of the final criminal judgment entered on July 26, 2023 at R. Doc. 110. In support, Defendant states:

1. Defendant appeals the final judgment entered at R. Doc. 110 and all adverse evidentiary and legal rulings during trial and following trial, including, but not limited to the Order Denying the Motion or Judgment of Acquittal at R. Doc. 93.
2. Defendant was appointed counsel under the Criminal Justice Act and seeks Counsel's appointment on appeal.

RESPECTFULLY SUBMITTED,
/s/ Rockne Cole

ROCKNE O. COLE
Cole Law Firm, PC

200 S. West Street
P.O. Box 68
Ossian, IA 52161
(319)519-2540
(319)359-4009 **FAX**
rocknecole@gmail.com
Iowa Pin AT1675
ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on July 28, 2023, I electronically filed the foregoing with the Clerk of the Court using the ECF system which will send notification of such filing to the parties or attorneys of record.

/s/ Rockne Cole

APPENDIX G

G – Judgment (Sept. 19, 2023)

UNITED STATES DISTRICT COURT

Northern District of Iowa

UNITED STATES OF AMERICA

v.

ANTHONY FISHER

JUDGMENT IN A CRIMINAL CASE

)

) Case Number: 0862 1:22CR00013-001

)

) USM Number: 84825-509

)

Rockne Cole

Defendant's Attorney

 ORIGINAL JUDGMENT AMENDED JUDGMENT

Date of Most Recent Judgment:

THE DEFENDANT:

pleaded guilty to count(s) _____

pleaded nolo contendere to count(s) _____ which was accepted by the court.

was found guilty on count(s) 1 of the Indictment filed on February 1, 2022 after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. §§ 922(g)(1) and 924(a)(2)	Possession of Ammunition by a Felon	02/16/2021	1

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) _____ 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.

Leonard T. StrandChief United States District Court Judge

Name and Title of Judge

Signature of Judge

July 26, 2023

Date of Imposition of Judgment

Date



DEFENDANT: **ANTHONY FISHER**
CASE NUMBER: **0862 1:22CR00013-001**

Judgment — Page 2 of 7

PROBATION

The defendant is hereby sentenced to probation for a term of:

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of:
120 months on Count 1 of the Indictment.

The court makes the following recommendations to the Federal Bureau of Prisons:
It is recommended that the defendant be designated to a Bureau of Prisons facility as close as possible to the defendant's family in Iowa, commensurate with the defendant's security and custody classification needs.

It is recommended that the defendant participate in the Bureau of Prisons' 500-Hour Comprehensive Residential Drug Abuse Treatment Program or an alternate substance abuse treatment program.

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

The defendant must surrender to the United States Marshal for this district:

at _____ a.m. p.m. on _____
 as notified by the United States Marshal.

The defendant must surrender for service of sentence at the institution designated by the Federal Bureau of Prisons:

before 2 p.m. on _____
 as notified by the United States Marshal.
 as notified by the United States 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: **ANTHONY FISHER**
CASE NUMBER: **0862 1:22CR00013-001**

SUPERVISED RELEASE

■ Upon release from imprisonment, the defendant will be on supervised release for a term of:
3 years on Count 1 of the Indictment.

MANDATORY CONDITIONS OF SUPERVISION

- 1) The defendant must not commit another federal, state, or local crime.
- 2) The defendant must not unlawfully possess a controlled substance.
- 3) The defendant must refrain from any unlawful use of a controlled substance.
The defendant 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 the defendant poses a low risk of future controlled substance abuse. (Check, if applicable.)
- 4) ■ The defendant must cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- 5) The defendant must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where the defendant resides, works, and/or is a student, and/or was convicted of a qualifying offense. (Check, if applicable.)
- 6) The defendant must participate in an approved program for domestic violence. (Check, if applicable.)

The defendant 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: **ANTHONY FISHER**
CASE NUMBER: **0862 1:22CR00013-001**

STANDARD CONDITIONS OF SUPERVISION

As part of the defendant's supervision, the defendant must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for the defendant's 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 the defendant's conduct and condition.

- 1) The defendant must report to the probation office in the federal judicial district where the defendant is authorized to reside within 72 hours of the time the defendant was sentenced and/or released from imprisonment, unless the probation officer instructs the defendant to report to a different probation office or within a different time frame.
- 2) After initially reporting to the probation office, the defendant will receive instructions from the court or the probation officer about how and when the defendant must report to the probation officer, and the defendant must report to the probation officer as instructed. The defendant must also appear in court as required.
- 3) The defendant must not knowingly leave the federal judicial district where the defendant is authorized to reside without first getting permission from the court or the probation officer.
- 4) The defendant must answer truthfully the questions asked by the defendant's probation officer.
- 5) The defendant must live at a place approved by the probation officer. If the defendant plans to change where the defendant lives or anything about the defendant's living arrangements (such as the people the defendant lives with), the defendant 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, the defendant must notify the probation officer within 72 hours of becoming aware of a change or expected change.
- 6) The defendant must allow the probation officer to visit the defendant at any time at the defendant's home or elsewhere, and the defendant must permit the probation officer to take any items prohibited by the conditions of the defendant's supervision that he or she observes in plain view.
- 7) The defendant must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses the defendant from doing so. If the defendant does not have full-time employment, the defendant must try to find full-time employment, unless the probation officer excuses the defendant from doing so. If the defendant plans to change where the defendant works or anything about the defendant's work (such as the defendant's position or the defendant's job responsibilities), the defendant 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, the defendant must notify the probation officer within 72 hours of becoming aware of a change or expected change.
- 8) The defendant must not communicate or interact with someone the defendant knows is engaged in criminal activity. If the defendant knows someone has been convicted of a felony, the defendant must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
- 9) If the defendant is arrested or questioned by a law enforcement officer, the defendant must notify the probation officer within 72 hours.
- 10) The defendant 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) The defendant 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) As directed by the probation officer, the defendant must notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and must permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 13) The defendant must follow the instructions of the probation officer related to the conditions of supervision.

DEFENDANT: **ANTHONY FISHER**
CASE NUMBER: **0862 1:22CR00013-001**

SPECIAL CONDITIONS OF SUPERVISION

The defendant must comply with the following special conditions as ordered by the Court and implemented by the United States Probation Office:

1. The defendant must not have contact during the defendant's term of supervision with the individual(s) set forth in paragraph 63 of the presentence report, in person or by a third party. This includes no direct or indirect contact by telephone, mail, email, or by any other means. The United States Probation Office may contact the aforementioned individual(s) to ensure the defendant's compliance with this condition.
2. The defendant must submit the defendant's person, property, house, residence, vehicle, papers, computers [as defined in 18 U.S.C. § 1030(e)(1)], other electronic communications or data storage devices or media, or office, to a search conducted by a United States Probation Officer. Failure to submit to a search may be grounds for revocation of release. The defendant must warn any other occupants that the premises may be subject to searches pursuant to this condition. The United States Probation Office may conduct a search under this condition only when reasonable suspicion exists that the defendant has violated a condition of supervision and that the areas to be searched contain evidence of this violation. Any search must be conducted at a reasonable time and in a reasonable manner.
3. The defendant must participate in an evaluation for anger management and/or domestic violence. The defendant must complete any recommended treatment program, and follow the rules and regulations of the treatment program.
4. The defendant must participate in a substance abuse evaluation. The defendant must complete any recommended treatment program, which may include a cognitive behavioral group, and follow the rules and regulations of the treatment program. The defendant must participate in a program of testing for substance abuse. The defendant must not attempt to obstruct or tamper with the testing methods.
5. If not employed at a lawful type of employment as deemed appropriate by the United States Probation Office, the defendant must participate in employment workshops and report, as directed, to the United States Probation Office to provide verification of daily job search results or other employment related activities. In the event the defendant fails to secure employment, participate in the employment workshops, or provide verification of daily job search results, the defendant may be required to perform up to 20 hours of community service per week until employed.

These conditions have been read to me. I fully understand the conditions and have been provided a copy of them. Upon a finding of a violation of supervision, I understand the Court may: (1) revoke supervision; (2) extend the term of supervision; and/or (3) modify the condition of supervision.

Defendant

Date

United States Probation Officer/Designated Witness

Date

DEFENDANT: **ANTHONY FISHER**
CASE NUMBER: **0862 1:22CR00013-001**

CRIMINAL MONETARY PENALTIES

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

TOTALS	<u>Assessment</u> \$ 100	<u>AVAA Assessment¹</u> \$ 0	<u>JVTA Assessment²</u> \$ 0	<u>Fine</u> \$ 0	<u>Restitution</u> \$ 0
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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.

Name of Payee	Total Loss ³	Restitution Ordered	Priority or Percentage
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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:

¹Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.

²Justice for Victims of Trafficking Act of 2015, 18 U.S.C. § 3014.

³Findings 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: **ANTHONY FISHER**
CASE NUMBER: **0862 1:22CR00013-001**

SCHEDULE OF PAYMENTS

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

A \$ 100 due immediately;

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:

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

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

Joint and Several

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

The defendant must pay the cost of prosecution.

The defendant must pay the following court cost(s):

The defendant must 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) JVTA assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

APPENDIX H

H – Relevant Statutory Provisions

18 U.S.C. § 922 (g) (1)

(g)It shall be unlawful for any person—

(1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year.

18 U.S.C. § 924 (a) (2)

(2)Whoever knowingly violates subsection (a)(6), (h), (i), (j), or (o) of section 922 shall be fined as provided in this title, imprisoned not more than 10 years, or both.