

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals**For the Seventh Circuit****Chicago, Illinois 60604**

Submitted February 24, 2025*

Decided February 24, 2025

BeforeMICHAEL B. BRENNAN, *Circuit Judge*AMY J. ST. EVE, *Circuit Judge*DORIS L. PRYOR, *Circuit Judge*

No. 24-1173

UNITED STATES OF AMERICA,
*Plaintiff-Appellee,**v.*CURTIS HARRIS,
*Defendant-Appellant.*Appeal from the United States District
Court for the Northern District of Illinois,
Eastern Division.

No. 1:19-CR-00804(1)

Sara L. Ellis,
*Judge.***ORDER**

Curtis Harris pleaded guilty to distributing fentanyl in violation of 21 U.S.C. § 841(a)(1). In the presentence investigation report, the probation officer determined that Harris's prior Illinois convictions for trafficking phencyclidine (PCP), *see* 720 ILCS

* We granted appellant's unopposed motion to waive oral argument FED. R. APP. P. 34(f). We have agreed to decide the appeal on the briefs and record because they adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

570/401(e), were for a “controlled substance offense” under the career offender provision of the Sentencing Guidelines and increased his offense level and criminal history category. *See* U.S.S.G. §§ 4B1.1, 4B1.2(b). Harris objected that the convictions were for simple possession, which do not qualify as controlled substance offenses. After the government presented evidence that the convictions were for distribution, the district court applied the career offender guideline—elevating the sentencing range from 30–37 months to 151–188 months—and sentenced Harris to 120 months’ imprisonment.

On appeal Harris argues that, applying the categorical approach, Illinois’s PCP-trafficking law is broader than the generic counterpart, which lacks any mention of salts or isomers. *Compare* 720 ILCS 570/206(e) *with* 21 U.S.C. § 812, Schedule III(b)(7). Therefore, he contends, the Illinois law should not count as a controlled substance offense under the Guidelines. Harris recognizes that his argument is foreclosed by our decisions in *United States v. Ruth*, 966 F.3d 642 (7th Cir. 2020) and *United States v. Wallace*, 991 F.3d 810 (7th Cir. 2021). He therefore seeks only to preserve his argument.

As an initial matter, the parties dispute whether Harris forfeited his argument by failing to raise this specific theory when objecting to the career offender enhancement. But *Ruth* dooms Harris’s argument whether we apply plain-error or de novo review. To the extent the government contends that Harris waived the argument, precluding appellate review altogether, we disagree. True, asserting some objections and not others can demonstrate the intentional, strategic relinquishment of an argument. *United States v. Hathaway*, 882 F.3d 638, 641 (7th Cir. 2018). But in this case, after Harris’s factual defense proved mistaken, Harris’s counsel stated that Harris did not wish to “waive anything” with respect to the application of the career offender guideline. And we can see no strategic reason why Harris would withhold an argument that, if accepted, would dramatically reduce his sentencing range. *See United States v. Hammond*, 996 F.3d 374, 399–400 (7th Cir. 2021). In any case, the district court could not have disregarded *Ruth* and accepted the argument. We decline to deem the argument waived.

On the merits, we can be brief. In *Ruth* we rejected the argument that the term “controlled substance” as defined in U.S.S.G. § 4B1.2(b) refers only to a substance banned by the federal Controlled Substances Act, 21 U.S.C. § 802(6). *Ruth*, 966 F.3d at 651, 654. The defendant there argued that because the Illinois statute prohibits distribution of “positional isomers” of cocaine and the Controlled Substances Act does not, a conviction under the Illinois statute does not count as a controlled substance offense under U.S.S.G. § 4B1.2(b). We disagreed, explaining that the term “controlled

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substance” in the Guidelines refers to the ordinary meaning of that term—not the definitions in the federal Controlled Substances Act—and therefore includes cocaine as defined by the Illinois statute. *Ruth*, 966 F.3d at 654. We were urged to overrule this decision in *Wallace*, among other cases, and we declined to do so. 991 F.3d at 817.

We decline once again to revisit *Ruth*. Harris’s prior convictions were under 720 ILCS 570/401(e), which criminalizes dealing non-methamphetamine schedule I and II controlled substances, rather than the cocaine-specific subsection at issue in *Ruth* and *Wallace*. But, as Harris recognizes, his argument is premised on the fact that 720 ILCS 570/206(e) defines PCP and “its salts, isomers, and salts of isomers” as a schedule II controlled substance. *Ruth* compels the conclusion that PCP is a controlled substance for purposes of the career offender guideline regardless of this language in the Illinois statutory definition. Harris has preserved his argument for further review, but we AFFIRM the judgment.

UNITED STATES DISTRICT COURT

Northern District of Illinois

UNITED STATES OF AMERICA

v.

CURTIS HARRIS

JUDGMENT IN A CRIMINAL CASE

Case Number: 1:19-CR-00804(1)

USM Number: 54647-424

Joshua B. Adams
Defendant's Attorney

THE DEFENDANT:

- pleaded guilty to count(s) One of 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:

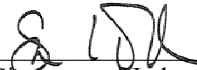
<u>Title & Section / Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
21 U.S.C. § 841(a)(1), 21 U.S.C. § 841(b)(1)(C) Distribution of a controlled substance	07/14/2019	1

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) 2 and 3 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.

January 12, 2024
Date of Imposition of Judgment


Signature of Judge
Sara L. Ellis, United States District Judge

Name and Title of Judge

January 26, 2024
Date

DEFENDANT: CURTIS HARRIS
CASE NUMBER: 1:19-CR-00804(1)

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 as to count 1

- The court makes the following recommendations to the Bureau of Prisons: that defendant be designated to FCI, Rochester and participate in the Bureau of Prisons Residential Drug and Alcohol Program (RDAP).
- The defendant is remanded to the custody of the United States Marshal.
- The defendant shall surrender to the United States Marshal for this district:
 - at _____ on _____
 - as notified by the United States Marshal.
 - The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
 - before 2:00 pm 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: CURTIS HARRIS
CASE NUMBER: 1:19-CR-00804(1)

MANDATORY CONDITIONS OF SUPERVISED RELEASE PURSUANT TO 18 U.S.C § 3583(d)

Upon release from imprisonment, you shall be on supervised release for a term of:
three (3) years.

The court imposes those conditions identified by checkmarks below:

During the period of supervised release:

- (1) you shall not commit another Federal, State, or local crime.
- (2) you shall not unlawfully possess a controlled substance.
- (3) you shall attend a public, private, or private nonprofit offender rehabilitation program that has been approved by the court, if an approved program is readily available within a 50-mile radius of your legal residence. [Use for a first conviction of a domestic violence crime, as defined in § 3561(b).]
- (4) you shall register and comply with all requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16913).
- (5) you shall cooperate in the collection of a DNA sample if the collection of such a sample is required by law.
- (6) you shall refrain from any unlawful use of a controlled substance AND submit to one drug test within 15 days of release on supervised release and at least two periodic tests thereafter, up to 104 periodic tests for use of a controlled substance during each year of supervised release. [This mandatory condition may be ameliorated or suspended by the court for any defendant if reliable sentencing information indicates a low risk of future substance abuse by the defendant.]

DISCRETIONARY CONDITIONS OF SUPERVISED RELEASE PURSUANT TO 18 U.S.C § 3563(b) AND 18 U.S.C § 3583(d)

Discretionary Conditions — The court orders that you abide by the following conditions during the term of supervised release because such conditions are reasonably related to the factors set forth in § 3553(a)(1) and (a)(2)(B), (C), and (D); such conditions involve only such deprivations of liberty or property as are reasonably necessary for the purposes indicated in § 3553 (a)(2) (B), (C), and (D); and such conditions are consistent with any pertinent policy statement issued by the Sentencing Commission pursuant to 28 U.S.C. 994a. The court imposes those conditions identified by checkmarks below:

During the period of supervised release:

- (1) you shall provide financial support to any dependents if you are financially able to do so.
- (2) you shall make restitution to a victim of the offense under § 3556 (but not subject to the limitation of § 3663(a) or § 3663A(c)(1)(A)).
- (3) you shall give to the victims of the offense notice pursuant to the provisions of § 3555, as follows: [REDACTED]
- (4) you shall seek, and work conscientiously at, lawful employment or, if you are not gainfully employed, you shall pursue conscientiously a course of study or vocational training that will equip you for employment.
- (5) you shall refrain from engaging in the following occupation, business, or profession bearing a reasonably direct relationship to the conduct constituting the offense, or engage in the following specified occupation, business, or profession only to a stated degree or under stated circumstances; (if checked yes, please indicate restriction(s)) [REDACTED].
- (6) you shall not knowingly meet or communicate with any person whom you know to be engaged, or planning to be engaged, in criminal activity and shall not:
 - visit the following type of places: [REDACTED].
 - knowingly meet or communicate with the following persons: [REDACTED].
- (7) you shall refrain from any or excessive use of alcohol (defined as having a blood alcohol concentration greater than 0.08; or), and from any use of a narcotic drug or other controlled substance, as defined in § 102 of the Controlled Substances Act (21 U.S.C. § 802), without a prescription by a licensed medical practitioner.
- (8) you shall not possess a firearm, destructive device, or other dangerous weapon.
- (9)
 - you shall participate, at the direction of a probation officer, in a substance abuse treatment program, which may include urine testing up to a maximum of 104 tests per year.
 - you shall participate, at the direction of a probation officer, in a mental health treatment program, and shall take any medications prescribed by the mental health treatment provider.
 - you shall participate, at the direction of a probation officer, in medical care; (if checked yes, please specify: [REDACTED].)

DEFENDANT: CURTIS HARRIS

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- (10) (intermittent confinement): you shall remain in the custody of the Bureau of Prisons during nights, weekends, or other intervals of time, totaling _____ [no more than the lesser of one year or the term of imprisonment authorized for the offense], during the first year of the term of supervised release (provided, however, that a condition set forth in **§3563(b)(10)** shall be imposed only for a violation of a condition of supervised release in accordance with **§ 3583(e)(2)** and only when facilities are available) for the following period _____.
- (11) (community confinement): you shall reside at, or participate in the program of a community corrections facility (including a facility maintained or under contract to the Bureau of Prisons) for all or part of the term of supervised release, for a period of _____ months.
- (12) you shall work in community service for _____ hours as directed by a probation officer.
- (13) you shall reside in the following place or area: _____, or refrain from residing in a specified place or area: _____.
- (14) you shall not knowingly leave from the federal judicial district where you are being supervised, unless granted permission to leave by the court or a probation officer. The geographic area of the Northern District of Illinois currently consists of the Illinois counties of Cook, DuPage, Grundy, Kane, Kendall, Lake, LaSalle, Will, Boone, Carroll, DeKalb, Jo Daviess, Lee, McHenry, Ogle, Stephenson, Whiteside, and Winnebago.
- (15) you shall report to the probation office in the federal judicial district to which you are released within 72 hours of your release from imprisonment. You shall thereafter report to a probation officer at reasonable times as directed by the court or a probation officer.
- (16) you shall permit a probation officer to visit you at any reasonable time or as specified: _____,
 at home at work at school at a community service location
 other reasonable location specified by a probation officer
 you shall permit confiscation of any contraband observed in plain view of the probation officer.
- (17) you shall notify a probation officer within 72 hours, after becoming aware of any change in residence, employer, or workplace and, absent constitutional or other legal privilege, answer inquiries by a probation officer. You shall answer truthfully any inquiries by a probation officer, subject to any constitutional or other legal privilege.
- (18) you shall notify a probation officer within 72 hours if after being arrested, charged with a crime, or questioned by a law enforcement officer.
- (19) (home confinement)
- (a)(i) (home incarceration) for a period of __ months, you are restricted to your residence at all times except for medical necessities and court appearances or other activities specifically approved by the court.
- (a)(ii) (home detention) for a period of __ months, you are restricted to your residence at all times except for employment; education; religious services; medical, substance abuse, or mental health treatment; attorney visits; court appearances; court-ordered obligations; or other activities pre-approved by the probation officer.
- (a)(iii) (curfew) for a period of __ months, you are restricted to your residence every day.
- from the times directed by the probation officer; or from __ to __.
- (b) your compliance with this condition, as well as other court-imposed conditions of supervision, shall be monitored by a form of location monitoring technology selected at the discretion of the probation officer, and you shall abide by all technology requirements.
- (c) you shall pay all or part of the cost of the location monitoring, at the daily contractual rate, if you are financially able to do so.
- (20) you shall comply with the terms of any court order or order of an administrative process pursuant to the law of a State, the District of Columbia, or any other possession or territory of the United States, requiring payments by you for the support and maintenance of a child or of a child and the parent with whom the child is living.
- (21) (deportation): you shall be surrendered to a duly authorized official of the Homeland Security Department for a determination on the issue of deportability by the appropriate authority in accordance with the laws under the Immigration and Nationality Act and the established implementing regulations. If ordered deported, you shall not remain in or enter the United States without obtaining, in advance, the express written consent of the United States Attorney General or the United States Secretary of the Department of Homeland Security.
- (22) you shall satisfy such other special conditions as ordered below.
- (23) You shall submit your person, property, house, residence, vehicle, papers [computers (as defined in 18 U.S.C. 1030(e)(1)), other electronic communications or data storage devices or media,] or office, to a search conducted by a United States Probation Officer(s). Failure to submit to a search may be grounds for revocation of release. You shall warn any other occupants that the premises may be subject to searches pursuant to this condition. An officer(s) may conduct a search pursuant to this condition only when reasonable suspicion exists that you have violated a condition of your 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.
- (24) Other:

DEFENDANT: CURTIS HARRIS

CASE NUMBER: 1:19-CR-00804(1)

SPECIAL CONDITIONS OF SUPERVISED RELEASE PURSUANT TO 18 U.S.C. 3563(b)(22) and 3583(d)

The court imposes those conditions identified by checkmarks below:

During the term of supervised release:

- (1) if you have not obtained a high school diploma or equivalent, you shall participate in a General Educational Development (GED) preparation course and seek to obtain a GED within the first year of supervision.
- (2) you shall participate in an approved job skill-training program at the direction of a probation officer within the first 60 days of placement on supervision.
- (3) you shall, if unemployed after the first 60 days of supervision, or if unemployed for 60 days after termination or lay-off from employment, perform at least 20 hours of community service per week at the direction of the probation office until gainfully employed. The total amount of community service required over your term of service shall not exceed 300 hours.
- (4) you shall not maintain employment where you have access to other individual's personal information, including, but not limited to, Social Security numbers and credit card numbers (or money) unless approved by a probation officer.
- (5) you shall not incur new credit charges or open additional lines of credit without the approval of a probation officer unless you are in compliance with the financial obligations imposed by this judgment.
- (6) you shall provide a probation officer with access to any requested financial information requested by the probation officer to monitor compliance with conditions of supervised release.
- (7) within 72 hours of any significant change in your economic circumstances that might affect your ability to pay restitution, fines, or special assessments, you must notify the probation officer of the change.
- (8) you shall file accurate income tax returns and pay all taxes, interest, and penalties as required by law.
- (9) you shall participate in a sex offender treatment program. The specific program and provider will be determined by a probation officer. You shall comply with all recommended treatment which may include psychological and physiological testing. You shall maintain use of all prescribed medications.
 - You shall comply with the requirements of the Computer and Internet Monitoring Program as administered by the United States Probation Office. You shall consent to the installation of computer monitoring software on all identified computers to which you have access and to which the probation officer has legitimate access by right or consent. The software may restrict and/or record any and all activity on the computer, including the capture of keystrokes, application information, Internet use history, email correspondence, and chat conversations. A notice will be placed on the computer at the time of installation to warn others of the existence of the monitoring software. You shall not remove, tamper with, reverse engineer, or in any way circumvent the software.
 - The cost of the monitoring shall be paid by you at the monthly contractual rate, if you are financially able, subject to satisfaction of other financial obligations imposed by this judgment.
 - You shall not possess or use at any location (including your place of employment), any computer, external storage device, or any device with access to the Internet or any online computer service without the prior approval of a probation officer. This includes any Internet service provider, bulletin board system, or any other public or private network or email system
 - You shall not possess any device that could be used for covert photography without the prior approval of a probation officer.
 - You shall not view or possess child pornography. If the treatment provider determines that exposure to other sexually stimulating material may be detrimental to the treatment process, or that additional conditions are likely to assist the treatment process, such proposed conditions shall be promptly presented to the court, for a determination, pursuant to **18 U.S.C. § 3583(e)(2)**, regarding whether to enlarge or otherwise modify the conditions of supervision to include conditions consistent with the recommendations of the treatment provider.
 - You shall not, without the approval of a probation officer and treatment provider, engage in activities that will put you in unsupervised private contact with any person under the age of 18, and you shall not knowingly visit locations where persons under the age of 18 regularly congregate, including parks, schools, school bus stops, playgrounds, and childcare facilities. This condition does not apply to contact in the course of normal commercial business or unintentional incidental contact
 - This condition does not apply to your family members: [Names]
 - Your employment shall be restricted to the judicial district and division where you reside or are supervised, unless approval is granted by a probation officer. Prior to accepting any form of employment, you shall seek the approval of a probation officer, in order to allow the probation officer the opportunity to assess the level of risk to the community you will pose if employed in a particular capacity. You shall not participate in any volunteer activity that may cause you to come into direct contact with children except under circumstances approved in advance by a probation officer and treatment provider.

DEFENDANT: CURTIS HARRIS

CASE NUMBER: 1:19-CR-00804(1)

- You shall provide the probation officer with copies of your telephone bills, all credit card statements/receipts, and any other financial information requested.
- You shall comply with all state and local laws pertaining to convicted sex offenders, including such laws that impose restrictions beyond those set forth in this order.
- (10) you shall pay to the Clerk of the Court any financial obligation ordered herein that remains unpaid at the commencement of the term of supervised release, at a rate of not less than 10% of the total of your gross earnings minus federal and state income tax withholdings.
- (11) you shall not enter into any agreement to act as an informer or special agent of a law enforcement agency without the prior permission of the court.
- (12) you shall pay to the Clerk of the Court \$300 as repayment to the United States of government funds you received during the investigation of this offense. (The Clerk of the Court shall remit the funds to Drug Enforcement Administration, Attn: Gloria Gomez, Fiscal Specialist Chicago Field Division, 230 South Dearborn Street, Suite 1200, Chicago, Illinois 60604.)
- (13) if the probation officer determines that you pose a risk to another person (including an organization or members of the community), the probation officer may require you to tell the person about the risk, and you must comply with that instruction. Such notification could include advising the person about your record of arrests and convictions and substance use. The probation officer may contact the person and confirm that you have told the person about the risk.
- (14) You shall observe one Reentry Court session, as instructed by your probation officer.
- (15) Other: [REDACTED]

DEFENDANT: CURTIS HARRIS
 CASE NUMBER: 1:19-CR-00804(1)

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	\$0.00	\$0.00	\$0.00	\$0.00

- 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.

- 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 .
 - the interest requirement for the is modified as follows:
- The defendant’s non-exempt assets, if any, are subject to immediate execution to satisfy any outstanding restitution or fine obligations.

* 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: CURTIS HARRIS
 CASE NUMBER: 1:19-CR-00804(1)

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
 - balance due 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 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
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See above for Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and 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.

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,) No. 19 CR 804
)
vs.) Chicago, Illinois
)
CURTIS HARRIS,)
) January 12, 2024
Defendant.) 11:30 a.m.

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HON. SARA L. ELLIS

APPEARANCES:

For the Government: MS. CHRISTINE M. O'NEILL
United States Attorney's Office,
219 South Dearborn Street, Room 500,
Chicago, Illinois 60604

For the Defendant: MR. JOSHUA B. ADAMS
Law Office of Joshua B. Adams, P.C.,
900 West Jackson Boulevard, Suite 7E,
Chicago, Illinois 60607

PATRICK J. MULLEN
Official Court Reporter
United States District Court
219 South Dearborn Street, Room 1412
Chicago, Illinois 60604
(312) 435-5565

1 (Proceedings in open court.)

2 THE CLERK: 2019 CR 804, U.S.A. versus Curtis Harris,
3 sentencing.

4 MS. O'NEILL: Good morning, Judge. Christine O'Neill
5 on behalf of the United States.

6 MR. ADAMS: Good morning, Your Honor. Joshua Adams
7 for Curtis Harris, who is present in custody.

8 THE COURT: All right. Good morning.
9 Good morning, Mr. Harris.

10 THE DEFENDANT: Good morning, Ms. Ellis.

11 MR. ADAMS: Judge Ellis.

12 THE DEFENDANT: Good morning, Judge Ellis.

13 MR. ADAMS: And, Your Honor, Mr. Harris submitted some
14 documents to me before you came out that I showed the
15 Government. May I tender them to the Court?

16 THE COURT: Sure.

17 MR. ADAMS: Thank you.

18 THE COURT: And then from probation?

19 MR. BUTLER: Good morning, Your Honor. Raquel Butler
20 in lieu of Melissa Ray from probation.

21 THE COURT: All right. Good morning.
22 Okay. Is everybody ready to proceed?

23 MS. O'NEILL: Yes, Your Honor.

24 MR. ADAMS: Yes, Your Honor.

25 THE COURT: Okay. I will give those back to

1 Mr. Harris since I don't want to keep his only copies.

2 MR. ADAMS: Thank you, Judge.

3 THE COURT: Thank you.

4 (Discussion off the record.)

5 THE COURT: All right. So, Mr. Harris, today is the
6 day that we set for sentencing in your case. I'll first
7 address any objections that have been made to the presentence
8 report that I'll refer to as the PSR. Then I'll make the
9 guideline calculations for you. After that, I'll have
10 Mr. Adams speak on your behalf, and then I'll have Ms. O'Neill
11 make any additional arguments on behalf of the United States.

12 Before I impose any sentence, I'll give you the
13 opportunity to address me directly. You don't to need say
14 anything if you don't want to, but that will be your
15 opportunity. If at any time during the hearing you'd like to
16 speak to Mr. Adams, let me know. I'll stop the hearing and
17 allow you to do so.

18 Before we go further, Ms. Butler, if you could, please
19 send my thanks to Ms. Ray for the helpful PSR.

20 I've read the PSR. I've read the materials that were
21 submitted by the Government as well as your attorney. I did
22 read the objection as well that you submitted yourself,
23 Mr. Harris, and I've now looked at the documents that you
24 provided, all of those certifications that you did and your
25 work history.

1 Mr. Adams, have you had a chance to review the PSR?

2 MR. ADAMS: Yes, Your Honor.

3 THE COURT: All right. And have you had a chance to
4 review it with Mr. Harris?

5 MR. ADAMS: Yes, Your Honor.

6 THE COURT: And other than the guideline calculations
7 and the application of the career offender enhancement, I don't
8 believe that you had any corrections or revisions to the PSR.
9 Is that correct?

10 MR. ADAMS: That's correct, Your Honor.

11 THE COURT: Okay. And, Ms. O'Neill, the Government
12 has no corrections or revisions to the PSR, is that correct?

13 MS. O'NEILL: I do have one thing I want to note since
14 the guidelines have changed.

15 THE COURT: Yes.

16 MS. O'NEILL: It doesn't change the calculations. It
17 used to be 4A1.1(d and now it's 4A1.1(e) that gives the
18 defendant two points for being under a criminal justice
19 sentence while he committed this offense. I believe he still
20 qualifies for it because he has seven other -- at least seven
21 other points, but I just want to make that clear for the
22 record.

23 THE COURT: Okay. All right. So I'm going to go
24 through the guideline calculations. So first looking at the
25 career offender enhancement, Mr. Adams, do you still stand on

1 your objection, given the additional records that I received
2 from the Government?

3 MR. ADAMS: Judge, I have looked at those records and
4 reviewed them. I would like to stand on the enhancement still.
5 I don't want to waive anything. Mr. Harris is still
6 maintaining he's not a career offender despite the transcripts
7 I've read that were put on file from the Government.

8 THE COURT: All right. But you don't have any
9 additional argument beyond that.

10 MR. ADAMS: No, correct.

11 THE COURT: All right. Then for Count 1, using the
12 2023 Guideline Manual, the base offense level is 14 because the
13 offense and relevant conduct involved 7.4 grams of fentanyl,
14 which is at least four but less than eight grams of fentanyl,
15 pursuant to Guidelines 2D1.1(a)(5) and (c)(13). There are no
16 adjustments for specific offense characteristics, victims, role
17 in the offense, or obstruction of justice, and the adjusted
18 offense level then is 14.

19 So then turning to the chapter 4 career offender
20 application, there are two prior felonies that Mr. Harris has
21 that were controlled substance offenses. So we've got Cook
22 County case number 10 CR 2115601, and it's actually 10 CR
23 2124701. The transcript that I have that's dated August -- I'm
24 sorry -- May 23rd, 2011, that is from pages 4 to 5 of that
25 transcript. The court in that case states:

1 "On November 12th, 2010, Mr. Harris committed the
2 offense of possession of a controlled substance with the intent
3 to deliver in that he unlawfully and knowingly possessed with
4 the intent to deliver otherwise than as authorized in the
5 Illinois Controlled Substances Act then in force and effect
6 less than 10 grams of a substance containing a certain
7 controlled substance, a drug commonly known as PCP, in
8 violation of Chapter 720-570/403(e) of the Illinois Compiled
9 Statutes, 1992, as amended, and contrary to the statute and
10 against the peace and dignity of the same people of the State
11 of Illinois."

12 The Court then asked Mr. Harris how he pled, guilty or
13 not guilty, and Mr. Harris pled guilty.

14 Sorry. The second one is 13 CR 2303202. Mr. Harris
15 pled guilty to the manufacture/delivery of a controlled
16 substance in Cook County on July 15th, 2014, according to the
17 certified copy of conviction. The offense was a manufacture
18 and delivery of a controlled substance, and during his guilty
19 plea on July 15th, 2014, the court in that case asked
20 Mr. Harris:

21 "Okay, Mr. Harris. You're pleading guilty to the
22 charge of delivery of PCP which is a Class 3 felony, and that's
23 contained in the indictment in Count 6. Is that your
24 understanding?"

25 Mr. Harris responded:

1 "Yes, sir."

2 That's on page 2 of the transcript. Mr. Harris pled
3 guilty and received 31 months in the Illinois Department of
4 Corrections on that date when he pled guilty and moved directly
5 to sentencing.

6 So I find that both of those convictions were of a
7 controlled substance offense pursuant to 4B1.1, that he was at
8 least 18 years old when he committed this offense, that this
9 offense is a felony that is a controlled substance offense, and
10 he has two prior felony convictions of a controlled substance
11 offense. So I find that the career offender guideline applies
12 pursuant to Guideline 4B1.1(b)(3), and that then shifts the
13 offense level from 14 to 32 because the statutory maximum term
14 of imprisonment is 20 years or more but less than 25 years.

15 All right. Then we've got the -- I find that
16 Mr. Harris has accepted responsibility and is entitled to a
17 three-level reduction pursuant to Guidelines 3E1.1(a) and (b),
18 which then brings the total offense level down to 29. We've
19 got then the relevant conduct which involves Victim LH.

20 So I do have in Mr. Harris's sentencing memorandum
21 Mr. Harris's objection through counsel that he's not
22 responsible for LH's death. I also have Mr. Harris's
23 separately filed objection stating that he should not be
24 responsible for an enhancement under 2D1.1(a)(2) for serious
25 bodily injury resulting from a narcotics distribution, and my

1 understanding in reading this is that Mr. Harris asserts that
2 he was not -- the phone number that was associated with him,
3 that that is not his phone number and that the Government
4 doesn't adequately link up any alleged narcotics that
5 Mr. Harris provided to LH with her subsequent death.

6 Have I adequately summarized Mr. Harris's position?

7 MR. ADAMS: Yes, Your Honor. If you can add, though,
8 the Court said that this was relevant conduct, and the PSR
9 found that it was offense behavior, not part of relevant
10 conduct. So I just wanted to clarify that for the record.

11 THE COURT: Oh, yes.

12 MR. ADAMS: And that's our position, too, that it is
13 not relevant conduct.

14 THE COURT: All right. So other than that, though,
15 have I summarized his position adequately?

16 MR. ADAMS: Yes.

17 THE COURT: All right. So then why don't I hear
18 argument from you, Mr. Adams, on that, and then I'll hear from
19 the Government.

20 MR. ADAMS: Thank you. And, Judge, I just want to
21 start my argument with nothing I'm saying here today is meant
22 to deprecate the seriousness of this case or the loss of a
23 child to a family. It is extremely serious and extremely
24 tragic. They are obviously deserving of respect, and any
25 argument here about Mr. Harris is not meant to denigrate that

1 at all.

2 Mr. Harris, also, though, is deserving of advocacy.
3 So our position is that while Mr. Harris did have contact with
4 LH prior to her death, especially as the PSR points out in
5 paragraphs 25 and 26 he spoke to her, I believe, June 28th at
6 10:37 p.m., that actually that's when she was found
7 unresponsive. I'm sorry. Let me back up, Judge.

8 On June 27th at 7:00 a.m. was the last time they had
9 contact. He did receive a call from LH on June 29th at 1:49,
10 but it doesn't sound like it was responded to. It's our
11 position, though, Judge, too much time has elapsed between the
12 time of the last contact and the time that LH was found
13 unresponsive and passed away, and it rises to the level of
14 beyond a preponderance that Mr. Harris supplied the controlled
15 substance that ultimately led to her passing.

16 THE COURT: All right. So there was a day -- if I'm
17 reading the PSR correctly, Mr. Harris last had contact with her
18 on June 27th, and then she died the following day on June 28th,
19 correct?

20 MR. ADAMS: Yes. So it looks like June 26th was the
21 last time their phones were close enough to each other. That's
22 in paragraph 26. On June 27th, LH's phone was used to call
23 Mr. Harris at 7:00 a.m. That call went unanswered, and that's
24 the -- according to the PSR, that's the last outgoing call or
25 text from her to Mr. Harris's phone.

1 THE COURT: Okay.

2 MR. ADAMS: Then on June 29th, so two days later,
3 Mr. Harris calls her at 1:49, and by then I think obviously she
4 already had passed. So I don't believe there's at least
5 sufficient evidence of contact between of the two of them
6 before her ultimate passing to show that Mr. Harris is the one
7 that met with her and supplied her with the narcotics that
8 ultimately led to her passing.

9 THE COURT: Okay. All right. So Mr. Harris does not
10 contest that he met with her on June 26th, though. Does he or
11 doesn't he?

12 MR. ADAMS: He does not contest that, Judge.

13 THE COURT: Okay.

14 MR. ADAMS: That's true.

15 THE COURT: All right. So he saw her on the 26th.

16 MR. ADAMS: Yes.

17 THE COURT: Then she died two days later of a drug
18 overdose.

19 MR. ADAMS: Yes.

20 THE COURT: All right. When Mr. Harris saw her on the
21 26th at 10:00, at some point on the 26th it looks like they
22 were -- the two phones were close together at 10:00 p.m. on the
23 26th.

24 MR. ADAMS: Yes.

25 THE COURT: Does Mr. Harris admit that he sold drugs

1 to her on the 26th?

2 (Discussion off the record.)

3 MR. ADAMS: No, Judge, he is not admitting that he
4 sold any controlled substance to her on the 26th.

5 THE COURT: Okay. Or that he provided her with
6 controlled substances on the 26th?

7 MR. ADAMS: Judge, may I have one moment?

8 THE COURT: Yes.

9 (Discussion off the record.)

10 MR. ADAMS: Yes, Your Honor, that -- well, I'll wait
11 for the Government.

12 THE COURT: Okay. Go ahead. Go ahead.

13 MR. ADAMS: Thank you, Judge. It's Mr. Harris's
14 position he did not provide her with any controlled substance
15 on the 26th --

16 THE COURT: Okay.

17 MR. ADAMS: -- either selling or sharing or providing
18 it in any way.

19 THE COURT: Okay. And had he provided her controlled
20 substances previously?

21 MR. ADAMS: Previously, yes.

22 THE COURT: Okay. And did he have an independent
23 relationship with her outside of providing her with controlled
24 substances?

25 MR. ADAMS: Yes, Your Honor.

1 THE COURT: All right. Ms. O'Neill?

2 MS. O'NEILL: Thank you, Judge. So I want to start on
3 June 26th, 2019. At that point, we know that Victim LH, who
4 I'll refer to as Lauren today, was living on the north side in
5 a group home. She had an approximately 11-minute call with the
6 defendant at 9:30 p.m. that night. We know from the
7 defendant's post-arrest statement and from his phone that she
8 was saved in his phone as "New P" and that she was his
9 narcotics customer.

10 At approximately 10:00 p.m. on the night of June 26th,
11 Lauren's phone travels to West Garfield Park and is in the same
12 area as the defendant's phone. They speak again at 10:35 p.m.
13 for about 51 seconds, which we would argue is consistent with,
14 you know: I'm on this corner. Are you on that corner?

15 So kind of a meet-up. She then travels back up to
16 Avondale at 10:45 p.m. that night.

17 Now here's where I think we may diverge on the facts.
18 Lauren was found deceased in her apartment on June 28th, but we
19 believe that she died on the morning of June 27th. Her last
20 outgoing call or any use of her phone was at 7:00 a.m. on June
21 27th. The cell site doesn't show her going anywhere, and so
22 that's -- you know, quite frankly she was found a day later,
23 but we think that she was deceased from June 27th at 7:00 a.m.

24 THE COURT: Was there an autopsy done?

25 MS. O'NEILL: There was, Your Honor.

1 THE COURT: And were they able to determine the time
2 of death during the autopsy?

3 MS. O'NEILL: I don't believe so, but let me take a
4 look at those documents again because we have them attached to
5 the PSR.

6 (Discussion off the record.)

7 THE COURT: When I was looking at it earlier, I did
8 not --

9 MS. O'NEILL: Our understanding, Judge, is that they
10 were not able to pinpoint the time beyond when she was found.

11 THE COURT: Okay. Okay, because I didn't see
12 anything. I saw the toxicology report, but that was it. Okay.
13 All right. Go ahead.

14 MS. O'NEILL: So, Judge, I don't think those facts are
15 really in dispute. We're just in disagreement about the
16 conclusions that you can draw from them. The defendant argues
17 essentially that there could have been some intervening event
18 that caused her death. We acknowledge, you know, there's a
19 small possibility of that, but we think that the weight of the
20 evidence under a preponderance standard shows that it was the
21 defendant's narcotics that caused her death.

22 THE COURT: And from what I see here and what you've
23 just said, her phone doesn't show any use after the morning of
24 the 27th, correct?

25 MS. O'NEILL: I will caveat by saying that we

1 eventually took her phone and used it to reach out to the
2 defendant, but that was several weeks after she was deceased.

3 THE COURT: Right.

4 MS. O'NEILL: But yes, the last call that she made was
5 at 7:00 a.m. on the morning of the 27th, and it went
6 unanswered.

7 THE COURT: And it did not show that her phone left
8 her apartment at any time after that.

9 MS. O'NEILL: That's right, yes.

10 THE COURT: Okay. All right. Anything else on that
11 aspect then?

12 MR. ADAMS: If I could just respond.

13 THE COURT: Okay.

14 MR. ADAMS: Thank you, Judge. With respect to what
15 the 59-second phone call would have or could have been about, I
16 think it's also speculation. It could also have been asking if
17 Mr. Harris had narcotics for sale, and he could have said that
18 he did not. I think you can draw a conclusion either way. I
19 think if that's possible, then the Government does not meet the
20 preponderance standard, and we would request that the Court not
21 consider this very tragic death in any way in fashioning a
22 sentence for Mr. Harris.

23 THE COURT: Well, except if I understand it correctly,
24 Mr. Harris admits that he met with Lauren on the night of the
25 26th, right?

1 MR. ADAMS: Yes, Your Honor.

2 THE COURT: And they had a conversation over the
3 phone. Then she went over and met with Mr. Harris, and they
4 had a brief, so less than a minute conversation over the phone,
5 right?

6 MR. ADAMS: Yes.

7 THE COURT: Then she goes back to her apartment,
8 right?

9 MR. ADAMS: Yes.

10 THE COURT: Okay. And I don't believe there's any
11 objection on the part of Mr. Harris that the evidence shows
12 that Lauren's phone was not used after the morning of the 27th
13 and that it didn't leave her apartment at any time before she
14 was found dead in her apartment the following day, right?

15 MR. ADAMS: Yes, Judge.

16 THE COURT: Okay. So, you know, the Government's
17 burden here is a preponderance. It's not beyond a reasonable
18 doubt. And, you know, using a preponderance standard, which is
19 that it's more likely true than not true, so not beyond a
20 reasonable doubt but more likely true than not true, I am to
21 use my common sense in determining whether it's more likely
22 true than not true that Mr. Harris is responsible for providing
23 Lauren with the drugs that led to her overdose.

24 In looking at the evidence that I have before me, what
25 I have is this. Mr. Harris admits that he provided narcotics

1 previously to Lauren. He admits that he met with Lauren on the
2 evening of the 26th, that there was two phone calls in varying
3 lengths between them, and he doesn't object to the fact that
4 after they met she went back to her apartment, her phone never
5 left the apartment after that, and she was found dead at least
6 a day later.

7 So there's a couple scenarios, some that are more
8 likely than others. So one scenario is that when Lauren met
9 with Mr. Harris he provided her with drugs which she then took
10 back to her apartment, used, overdosed and died. Another
11 scenario could be that he met with Lauren, she said hello, he
12 said hello, nothing was exchanged, and she went back to her
13 apartment and somebody else either brought her drugs or she had
14 a different stash of drugs and she died.

15 It would seem much more unlikely to me that that
16 second scenario is what happened, and this is why. In this day
17 and age, nobody goes anywhere without their phones. So the
18 fact that Lauren's phone never left her apartment before she
19 died tells me that it is more likely than not that she never
20 left her apartment before she died. People don't use smoke
21 signals to communicate. They use their phones. The fact that
22 her phone was not used after that would tell me that she didn't
23 talk to anybody else to get drugs.

24 And most people don't just show up on your doorstep
25 anymore. People call or they text before they come over saying

1 "I'm coming, I'm here," something along those lines. So the
2 fact that her phone wasn't used tells me that she wasn't
3 communicating with anybody else to bring her drugs. So what I
4 would be left with is that she had some secret stash somewhere
5 in her apartment that she was keeping for a rainy day and
6 that's what killed her, and I don't find that particularly
7 likely.

8 Given the fact that I was a criminal defense attorney
9 for 20 years and I have been a judge for 10, I have seen -- and
10 I've run a drug court for the last 10 years, addicts don't keep
11 stashes for a rainy day. They can't. It's too much. If they
12 have it, they're going to use it. So the likelihood that
13 Lauren had something in her apartment that she was keeping in
14 case she couldn't get something is really low.

15 Mr. Harris, I don't believe that she would have called
16 you and gone to see you if she had drugs in her apartment. If
17 you've got them, you're going to use them. So I do believe
18 that the Government has shown beyond -- well, at least to a
19 preponderance that it's more likely than not that what happened
20 is Lauren called you and asked you to give her drugs. You met
21 with her and said yes and gave it to her, and she went back to
22 her apartment and she used and died. When she didn't show up
23 to where she was supposed to show up on the 28th, somebody came
24 looking for her and found that she had died.

25 That's the risk that people take in using drugs, and

1 that is the risk that people take in selling drugs. Lauren did
2 not go to CVS and walk up to the counter and get a prescription
3 where she knew what was in it. She rolled the dice, and what
4 was being sold to her contained fentanyl. Because it keeps
5 people coming back, it's highly addicted and it's cheap. You
6 can fill in whether it's cocaine, PCP, heroin, cannabis.
7 Whatever it is, it can be used as a filler so that you are
8 using less of the expensive stuff and more of the cheap stuff.
9 Then you make more money. The problem is fentanyl kills
10 people, and that's what happened here.

11 So I'm overruling Mr. Harris's objection, and I find
12 that the Government has proved by a preponderance of the
13 evidence that Mr. Harris is responsible for Lauren's death here
14 and I will consider that as a factor in the appropriate
15 sentence.

16 I don't believe the Government was looking for an
17 enhancement under the guidelines, correct?

18 MS. O'NEILL: No, Your Honor. The Seventh Circuit
19 caselaw says we need a jury finding for that.

20 THE COURT: Right. Okay. So then turning to
21 finalizing the guideline calculations, let me -- here we go.
22 Looking to the criminal history computations, all right, based
23 on Mr. Harris's criminal history, he has 14 criminal history
24 points. You agree with that, right, Mr. Adams?

25 MR. ADAMS: Yes, Your Honor.

1 THE COURT: Because he committed this offense while
2 under a criminal justice sentence in Cook County case 18 DV
3 7542201, there would be one point added under 4A1.1(e). That
4 would bring him up to 15 criminal history points, which places
5 him in a criminal history category 6. At a level 29 and a
6 criminal history category 6, the applicable guideline range
7 then is 151 to 188 months.

8 Other than the objections that I've overruled, but do
9 the parties -- I understand you're standing on those
10 objections, do the parties agree then that that's the guideline
11 range under the guidelines?

12 MR. ADAMS: Yes, Your Honor.

13 MS. O'NEILL: Yes, Your Honor.

14 THE COURT: All right. Then, Mr. Adams, you can then
15 argue any additional factors you'd like me to consider,
16 including factors under section 3553(a).

17 MR. ADAMS: Thank you, Your Honor. I wanted to argue
18 the career offender enhancement as a 3553 factor. The Court
19 cited two of Mr. Harris's conviction that qualify, and it's
20 paragraphs 41 and 44 of the PSR. Looking at paragraph 41,
21 that's case 10 CR 2115601. The conduct in that case was \$30, a
22 \$30 sale of PCP. Because of his history, you know, he becomes
23 extendable and eligible for a higher sentence, but I just
24 wanted to point out that the total amount that he was selling
25 in that case is extremely low. Paragraph 44 is also a PCP

1 transaction for \$20. So for \$50, Mr. Harris is looking at this
2 enhanced sentence because of the career offender enhancement in
3 the guidelines.

4 It's our position that Mr. Harris's personal history
5 and characteristics is not the type that the career offender
6 guideline is meant to apply to. He has a history of addiction
7 and a history of using and selling in order to use. If the
8 Court looks at his first conviction here, he was 14 years old.
9 I think that's particularly illuminating in that he was
10 adjudicated a ward of the state. I'm on paragraph 33 of the
11 PSR, and specifically it says in the disposition:

12 "Minor adjudicated a ward of the court, finding in
13 best interest for removal from home."

14 As a 14-year-old boy, I find that extremely traumatic,
15 and I think it would create long-lasting trauma for Mr. Harris
16 that results in continuing convictions, continuing use of
17 drugs, and continuing addiction. He did participate in the
18 TASC probation in that case, but I think without continued drug
19 treatment, continued mental health treatment, all you see are
20 continuing arrests and convictions for possession of cannabis,
21 possession, manufacture, and delivery of controlled substances,
22 and it goes on and on.

23 Again, as a young boy, as a teenager, 13 or 14 years
24 old, to be taken out of your home, get involved in the criminal
25 justice system on an ongoing basis -- and I think the

1 Government identified that he was in jail for a majority of his
2 adult life -- I think on this case, I don't like saying "wakeup
3 call," but I think Mr. Harris now realizes when he's in federal
4 court and looking at a significant sentence that he doesn't
5 want to live this kind of life anymore, that he wants a way
6 out.

7 He is illiterate. He doesn't know how to read and
8 write, and in our society when you don't know how to read and
9 write the options for you are extremely limited. It doesn't
10 justify selling drugs as a way to make a living to support
11 yourself, but he finds himself in a situation where he's had it
12 very hard since he was a little boy.

13 Growing up like that, again, without treatment,
14 without addressing those root causes, it just snowballs. He
15 gets case after case, which eventually they become extendable
16 under state law, like the two cases that qualify him for the
17 career offender, and he becomes career offender-eligible in
18 federal court for two transactions that were undercover. His
19 guidelines are significantly less if he's not a career offender
20 in this case, which the Court obviously knows. So that kind of
21 meshes together the career offender enhancement but also his
22 history and characteristics.

23 He did suffer, I think, extreme hardships as a young
24 child that hopefully will be addressed when he is either in BOP
25 custody or in the terms of his supervised release. I hope that

1 he, Mr. Harris, takes advantage of mental health treatment the
2 federal system does provide, and I think it's much better than
3 the state system because in state court, you know, if you get
4 charged with manufacture/delivery, you're in custody for a
5 year, you get sentenced to two years, and you're out. Then
6 nothing happens. You just go back. The cycle repeats himself
7 over and over, and nothing ever gets fixed, and he finds
8 himself here looking at a lot of time.

9 So I think it's in the best interest of not only
10 society but Mr. Harris, though, too, so that he's not going
11 back to selling drugs, putting him back into the public so that
12 this doesn't happen again, the very unfortunate and tragic
13 death of this young woman. The irony is that could have been
14 Mr. Harris. It could have been Mr. Harris in any one of these
15 cases. Thank God it's not. Thank God that did not happen.

16 But I think he realizes now how dangerous and how
17 life-threatening it is to get involved in these serious drugs.
18 I'm not talking marijuana. I'm talking about PCP, heroin,
19 stuff like that that is -- you don't know what's in it. He
20 didn't know there was fentanyl in this. Again, that's not a
21 defense to anything, but that's how dangerous fentanyl is. You
22 don't know where it is. It could be in anything.

23 When you use it, you're taking an extreme risk. When
24 you're selling it, you're taking a very big risk. He doesn't
25 want to take those risks anymore. He doesn't want to live in

1 prison. He doesn't want to live an adult life where all he
2 knows is prison. He's got children that he does not have a
3 relationship with because he's spent his life in prison, and he
4 doesn't want that anymore.

5 I think it's admirable to recognize you have a
6 problem, but I think you have to take the steps to address it.
7 I think coming here and spending almost four -- well, over four
8 years in custody gives him time to think. He's taken advantage
9 of his time. The Court saw the certificates he's done. He
10 hasn't just sat on his hands, and I find that mitigating.

11 There are cases, several cases of minor possessions of
12 heroin, less than 15 grams. I mean, I would argue no
13 possession of heroin is minor, but it's small amounts of heroin
14 as a young man. He still is a young boy. At 18 years old,
15 you're still a boy and, you know, his mother died. Looking at
16 paragraph 89, Judge, his half-sister died of a drug overdose,
17 so this is a sad case all around.

18 Unfortunately, trauma follows Mr. Harris, and he wants
19 to break that cycle and he wants to have a stable home. His
20 mother was a drug addict. She was in and out of jail. It's
21 sad. Paragraph 90, his mother was unable to care for him. I
22 think as a young boy not having a mother, not having a stable
23 home, it creates this long-lasting effect that just creates
24 destruction, and you wind up in and out of jail. Mr. Harris
25 unfortunately is one of many individuals that come into these

1 courtrooms in this building that have suffered that, and he has
2 to break it. He has to break that cycle. He doesn't want his
3 children then to grow up without a father and they wind up
4 here, and I think the best way for that is mental health
5 treatment, is drug treatment, is learning skills so that he can
6 live a life that's law-abiding and not in a courtroom and not
7 in a jail.

8 I just think that, you know, the PSR, his personal
9 history, which I know the Court read, is extremely harrowing.
10 I just think that it explains a lot about Mr. Harris's history.
11 He's not just somewhere out there. He's not a drug dealer.
12 He's not just a drug dealer who's there selling drugs. He's
13 trying to survive the best he can, and he was, I think, dealt a
14 very bad hand and he needs to change the way things are because
15 it keeps getting worse with each case that you get.

16 With respect to other 3553 factors, the need again for
17 just punishment, while the guideline is 151 on the low end,
18 we're respectfully requesting, Judge, notwithstanding what the
19 Court found with respect to LH, we're asking for a sentence of
20 time served. This is the longest I believe he's ever served in
21 custody.

22 The state cases, that's probably why the Federal
23 Government brought this case here. The state cases aren't
24 doing anything. You go in and you get time. You know, most of
25 the time you spend it in Cook County Jail, and then you're

1 done. You don't get any treatment in Cook County Jail. You're
2 just there biding your time. But he is in dire need of
3 treatment and help, and I think if that is given to him and
4 provided for him, I think that he can break that cycle and not
5 wind up in and out of court the rest of his adult life. He's
6 still young enough to change. I think every human being is
7 capable of change and capable of choosing a better path to go
8 on.

9 So for those reasons, Judge, and for the reasons in
10 our memorandum, we're respectfully requesting a sentence of
11 time served.

12 THE COURT: All right. Thank you, Mr. Adams.

13 MR. ADAMS: Thank you, Judge.

14 THE COURT: All right. Ms. O'Neill?

15 MS. O'NEILL: Judge, Lauren's parents are here and
16 would like to address the Court.

17 THE COURT: Sure.

18 MS. O'NEILL: Do you want me to go first, or would you
19 like --

20 THE COURT: They can go first, and then you can go.

21 MS. O'NEILL: Okay.

22 MR. HILL: I'd like to thank the Court for allowing me
23 to speak and tell you about our late daughter Lauren and to
24 give you an insight about our lives without her. Each and
25 every night before we go to bed, we turn on Lauren's bedroom

1 light. It shines all night until morning's light. It was in
2 her bedroom in her bed where Lauren felt safe and had time to
3 think about things. When she was a girl at Christmastime, she
4 wrote this:

5 "If I was homeless, the thing I would miss most would
6 be my bed. I love my bed because it's a safe place. My bed is
7 the place where you can be safe and think about things in life
8 and try to figure them out. It's a place where memories of
9 waiting up to hear Santa's reindeer bells on Christmas Eve are
10 still vivid in my mind. All my stuffed animals are in my bed
11 waiting for me to come to bed every night. My bed is a place
12 to cuddle up on a warm winter's night. My bed is place of
13 comfort and memories. I love my bed."

14 Our daughter Lauren will always be a life incomplete.
15 For us, we've lost a beloved child we created and nurtured and
16 loved. For us, not having her means a lifetime of loss and
17 sorrow and an emptiness that will never be filled or replaced.
18 Our daughter now has no sister. Our other daughter now has no
19 sister, the only other relative she had besides us since we
20 have no other living family members.

21 Beautiful Lauren with her life cut short had been
22 moving forward with her personal and professional future as a
23 registered nurse with three degrees, including from the
24 University of Illinois, using her very sharp and inquisitive
25 mind and the sense of duty to serve others. Lauren especially

1 enjoyed one-to-one patient contact. She was routinely
2 mentioned by them as their most favorite nurse ever.

3 Lauren was kind and sensitive, bright and precise, and
4 as a writer sophisticated and engaging both orally and in
5 written form. She had the gift of a strong intellect and an
6 ability to communicate in all forms and in various situations
7 to all types of people.

8 Her caring extended beyond nursing with her personal
9 activities focused on those in need. One example is what she
10 did for the homeless. She thought it was important to treat
11 them with respect, as she felt strongly they were entitled to
12 basic human dignity. It troubled her that they were so often
13 overlooked and invisible to others.

14 She often prepared gift baskets, not of food, but of
15 something they really needed based on her research, like socks
16 and underwear, a toothbrush, soap and a washcloth. In
17 addition, the baskets for women contained specific things for
18 females. She then distributed them to the homeless at
19 underpasses where they lived. Those who received these baskets
20 felt that someone cared about them so she could be -- so they
21 could be warmer, cleaner, and a little more secure as human
22 beings.

23 She did so much for others in spite of physical pain
24 and unimaginable suffering for almost ten years due to a leg
25 injury. It left her near death due to complications and, as a

1 result, in constant pain. Because of the accident, she became
2 handicapped, wore a brace, and had limits on her mobility. The
3 pain was constant, yet she endured it and carried on. She did
4 it because she loved her family and she loved her work serving
5 others.

6 Losing her has caused a profound change in your lives.
7 Lauren spent at least one night a week with us, and we always
8 looked forward to her visits. We cared for her little dog, as
9 her nursing schedule did not allow for his best care, so she
10 visited him at our house as well. We were all very, very
11 close.

12 Even after four years, there is still emptiness, and
13 what's so debilitating is that we have reluctantly come to the
14 realization that it is lifelong. We will never be reunited, so
15 our family will always be incomplete.

16 When she died and for an extended period of time, I
17 could not bear to process her loss myself. What my mind did
18 was to create another person, someone who was close to me but
19 not me. He had the loss of a daughter, not me. It couldn't be
20 happening to me. It was someone else. This was done on an
21 involuntary basis. My mind, in order to protect me from the
22 pain, diverted the burden of loss to another person who my mind
23 had created. This is what profound loss can do to someone, and
24 it happened to me. It helped me survive the depths of loss and
25 sadness about her death.

1 For us, we have no other living family -- we have no
2 other living relatives, so losing her is literally losing
3 one-half of our entire family. Our loss is especially evident
4 during the holidays, which used to be our happiest time and now
5 our saddest. At Thanksgiving and Christmas, we now have a
6 place setting for Lauren at the table so we never forget she
7 was part of our family. We honor her spirit at those times and
8 also on a daily basis. We hope she can see how much we still
9 love her for where she is -- from wherever she is.

10 We are lost without her and sometimes struggle to find
11 reason to move forward with her lives carrying the burden of
12 her loss. We were very much looking forward to having
13 grandchildren since our other daughter cannot have children.
14 So regarding family, there is very little to look forward to,
15 just more loneliness and the loss of Lauren. When I see
16 various pictures of Lauren at our house, I look at her and for
17 an instance she's there with me, and then just as suddenly I
18 realize she isn't there. She's gone forever, so it's a
19 constant pain losing her.

20 As I mentioned, Lauren loved her bed. She always felt
21 safe in her bed, but the last time in her bed she was not safe.
22 She just wanted her leg pain to stop. Instead, her life
23 stopped. She was in mortal danger and didn't know it. She was
24 found by her sister, cold to the touch, another trauma for her
25 sister that she has to live with, which has been very difficult

1 for her.

2 We are haunted that we didn't get to say goodbye to
3 her or comfort her at her passing. Instead, she was alone in
4 bed dying. We will keep the light on for her each and every
5 night, always, and hoping against reality that somehow she will
6 return to us knowing we still care and want her back.

7 Again, Your Honor, I appreciate this opportunity to
8 talk about our experience and our loss. Thank you.

9 THE COURT: You're welcome.

10 MS. O'NEILL: Judge, we are joining probation and
11 asking for a sentence of 120 months imprisonment, which is
12 below the career offender guideline range of 151 to 188 months.
13 I actually want to start by talking about the defendant's
14 history and characteristics which, as Mr. Adams discussed at
15 length, are heartbreaking.

16 He started selling drugs at age 11. He was expelled
17 from school at age 12. I didn't even know that that could
18 happen to a child. He had no parents to look after him. He
19 did have some positive family members, but he certainly had
20 nothing resembling the support structure that a child needs.

21 Defendant is about to be 35 years old, though, Judge.
22 This is his sixth felony conviction. As we've laid out in our
23 memo, he has had his bond revoked multiple times. He's
24 reoffended while on parole multiple times. His behavior shows
25 a pattern of narcotics distribution and domestic violence.

1 Candidly, he has one conviction for domestic violence, but
2 there are a number of arrests involving other females that are
3 very troubling.

4 I understand that some of his qualifying convictions
5 involve low levels of narcotics, but they also involve low
6 sentences. Those were his wakeup calls. The boot camp
7 sentence, the short sentences, nothing worked. That's why
8 we're here, and that's why we are asking for a significant
9 sentence here, Your Honor. We think that there is a need to
10 protect the public from Mr. Harris, and I don't say that
11 lightly.

12 But given his history and his sort of revolving door
13 of reoffending, his history and characteristics point towards a
14 significant sentence. Because of his background which we've
15 discussed already, a significant sentence is needed to
16 specifically deter him as well from future conduct. His
17 history reflects a complete lack of respect for the law and for
18 the criminal justice system.

19 Your Honor, the offense conduct, the charged conduct,
20 defendant was on probation for domestic battery for punching a
21 woman in the face. That woman had an order of protection
22 against him. That's the woman who helped him distribute drugs
23 in this case. That's the woman who helped him distribute drugs
24 in this case. They had a one-year-old child at the time, and
25 they distributed these drugs literally from their backyard.

1 That is aggravating despite the small amounts. Two of those
2 transactions involved just fentanyl, and one was heroin and
3 fentanyl mixed together.

4 Judge, you have already heard from Lauren's parents,
5 and there is nothing else that I can say that would better
6 incapsulate what defendant's conduct has set in motion here.
7 We appreciate Mr. Adams acknowledging the risks involved with
8 selling any drugs, not knowing what's in it, not knowing what
9 it could cause.

10 Judge, I know that you see a lot of narcotics cases,
11 and we often kind of skip over the seriousness of the offense.
12 So we thought it was important to bring this case and to bring
13 in Lauren's parents so that the victims of these types of
14 crimes are heard from.

15 We are not asking that you hold Mr. Harris accountable
16 for, you know, all the ills that plague Chicago, all the drug
17 trafficking that goes on. He did not cause the broken system,
18 and I honestly don't think he meant to cause Lauren's death.
19 But we are asking that you consider the seriousness of this
20 offense and the death that he caused when fashioning his
21 sentence.

22 THE COURT: Thank you.

23 Mr. Adams?

24 MR. ADAMS: May I just respond briefly to one point
25 the Government made about Mr. Harris having wakeup calls from

1 his previous state cases? Without anything more than just
2 incarceration, that's all it is. It's just time behind bars.
3 So it's no wonder it hasn't worked, because he hasn't received
4 anything besides prison time, and I guess that's my point.

5 THE COURT: And I hear you, Mr. Adams. But, you know,
6 at some point even with all the supports in the world, right,
7 you have to decide: I don't want to live like this anymore.

8 And whether you get those supports or you don't, at
9 some point you say to yourself: I don't want to be in a
10 jumpsuit anymore.

11 Whether it's a sentence of one year, 10 years, or
12 15 years, you say: Enough is enough. The other things in my
13 life are more important to me than being in custody.

14 You know, you may not have all of the tools you need
15 to not be there anymore, but the biggest tool that is within
16 Mr. Harris's control is his own desire not to be there anymore.

17 So I get your point. I hear your point but, you know,
18 there's a balance between the lack of resources in any
19 particular system and the determination of any individual to
20 say: I don't want to do this anymore.

21 Mr. Harris, you don't need to say anything before I
22 impose a sentence, but if you'd like to, I'm happy to hear what
23 you would like to say.

24 THE DEFENDANT: Yes, Your Honor. I just want to say
25 thank you all for being here, coming this morning. I know the

1 weather is rough out there, so I appreciate you all being here
2 today.

3 The next thing I want to say, I want to say I'm sorry
4 to you, Ms. Ellis, to the courts, to everyone that's here
5 today.

6 I'm not going to go all the way in detail with how I
7 grew up or whatever the case may be because that really don't
8 concern. You know, I made a lot of bad choices in my life, but
9 that don't give me the opportunity that knowing that what I did
10 was wrong. I was just surviving out there. That's all I knew.

11 So while being here, I have learned to control myself,
12 learned new things, picking up and trying to learn to help
13 myself how to read, you know, getting an opportunity. Like
14 they say, in state, you don't have the opportunity. You know,
15 the only thing they do is just put you in a cell. So you don't
16 do nothing but get to know other people. You know what I'm
17 saying? They don't help you there. Here I did have help. I
18 had somebody to sit there to say: Okay. This is what this
19 say. This is what this mean.

20 Without that, I would have been sitting here sending
21 motions to you on my own or anything like that. But I had help
22 since I've been here. I've been in all type of classes. I
23 have been in no trouble since I've been here, all four years,
24 no contact with nothing. So I'm here trying to better myself.
25 I'm here trying to do something with myself.

1 You know, I can say sorry to Lauren's people, but like
2 I was saying, I can't really pray for myself and say I'm the
3 one that really did it because I know, I know that while I was
4 in contact with her, you know --

5 THE COURT: Here's the thing, Mr. Harris. Here's the
6 thing, right? And I say this in every single drug case I have,
7 every single one. If you think about all the people you sold
8 to over the years, some of these people came and went you never
9 saw them again, right? You know, for some people, they've got
10 a relationship with their drug dealer. Other people, you know,
11 if I buy it from you, I might find somebody else to buy from
12 who's cheaper or closer or whatever, and I never see you again
13 and we don't have a relationship.

14 You will never, ever, ever know whether the drugs you
15 gave somebody caused them to overdose. You're never going to
16 know that. But given the likelihood with the number of people
17 you sold to and the fact that there was fentanyl in what you
18 were selling, you probably killed somebody. It just happens
19 that the Government was able to try to link up one person, but
20 you have no idea. And the reality, Mr. Harris, is that you
21 have to live with that for the rest of your life.

22 You're not only responsible probably for killing
23 someone, but certainly you are responsible for kids going to
24 bed at night without a parent there, for kids going to school
25 and having nobody to show up for parent/teacher conferences or

1 to pack them lunch or to ask them at the end of the day "how
2 was your day today" while they're having a snack and going over
3 their homework.

4 All those things, when you think about how you wish
5 you grew up, right, when you were in school and you saw other
6 kids who on a day like today had a mom make sure that they had
7 a coat and a hat and a scarf and gloves and boots so that they
8 would be warm, somebody who would write a note and stick it in
9 their lunch box saying "I'm thinking about you today, I hope
10 you have a great day," and if you went back to the six-year-old
11 Curtis who was looking around and thinking "I wanted my mom to
12 do those things for me, I wanted my mom to make me chicken soup
13 and crackers when I don't feel well," your mom couldn't do that
14 because she was using, and you by selling this have now
15 sentenced I don't know how many kids to that same experience
16 that you hated. You have sentenced your own children to that
17 same experience.

18 And, Mr. Harris, I have three kids. They're adults
19 now, but one of my favorite times of the day was giving them a
20 bath and hearing their stories and watching them play before
21 they went to bed, picking out books and sitting in their bed
22 with the three of them reading a story and using our
23 imaginations to do something where we would take a trip in our
24 mind. The reason I was able to do that is because I was
25 present and I was healthy and I was there.

1 That is how kids are supposed to grow up. It's one
2 thing to say "I never had that myself," and that is definitely
3 mitigating. I agree with the Government, and I agree with
4 Mr. Adams, and I agree with you. No 11-year-old or
5 six-year-old or three-year-old should ever go through what you
6 went through, ever. It's not normal, and it's not right. You
7 should never take an 11-year-old and put him in the hospital
8 for two years because he's lashing out and angry and because
9 you can't be bothered to take care of him. That's not normal
10 and that's not okay, and it's certainly not a surprise that
11 then you started using drugs to escape.

12 But it's a whole other thing then to create those same
13 experiences that were horrific for you for other kids, and
14 that's why this has to stop. You see, you know, nobody forced
15 and nobody is saying that you forced Lauren to use, right?
16 Nobody is saying that. Nobody is saying that you stood over
17 her and jammed a needle into her arm, but what you did do is
18 participate in the system that allowed her to do that to
19 herself, and you participated in a system where you were okay
20 rolling the dice selling her something either that time or
21 before, right, and just got lucky, that you didn't know what
22 was in it. You're not a pharmacist. I know you had no idea
23 how much fentanyl was in any of those packages.

24 But what you did know is that fentanyl can and does
25 kill people, not to mention heroin, and her family will never,

1 ever, ever, ever be the same. She was, at least from
2 everything I've read, in a sober living facility. Her parents
3 thought: Maybe we finally put this behind us, and she's
4 getting better and we will get the old Lauren back. Then we
5 don't have to worry anymore that we're going to get a phone
6 call that she has died, at least not in this way.

7 As a parent, you always worry, but at least not
8 actively this way. Instead of having some hope that she was
9 getting better, they got the phone call that they never, ever
10 wanted to get. That, as you can see and hear, has shattered
11 them, and they will never be the same. Whether you were
12 responsible for giving Lauren that particular dose, it really
13 doesn't matter because you were actively participating in that
14 system.

15 That's why when I talk about in these drug cases the
16 seriousness of the offense, it is profoundly serious,
17 profoundly serious for Lauren's family, for millions of other
18 families, for your own family. You have four kids, four kids
19 that you have not been able to put to bed or give a bath or sit
20 and watch them open presents on Christmas morning for the last
21 four years. And your decisions have not just impacted
22 yourself, but they have created trauma, not just for Lauren's
23 family and other families, but your own children. When you
24 think back about how painful it was to not have your parents
25 around, you're doing the same thing to your own kids.

1 No matter what sentence I impose, Mr. Harris, you have
2 to decide what you're going to do with the rest of your life
3 and what kind of life you want your children to have, what kind
4 of life you want to have, and how you are going to carry the
5 responsibility of creating all that harm. You have a choice.
6 I think that, you know, you are trying to address some of that
7 harm by taking advantage of the things that have been made
8 available to you, like these classes, being able to work and
9 being productive, getting counseling, and I think that is
10 worthwhile and commendable.

11 You know, I think the fact that you haven't had any
12 disciplinary issues in the last four years again shows that you
13 are taking this seriously and that you are going to make the
14 most of the time and opportunities that you have, and the truth
15 is, you know, you and I will never know 100 percent whether
16 you're responsible for Lauren's death, but I think that you do
17 have a responsibility to her family as well as to all the other
18 people you affected to make something productive out of your
19 life so that you are never in the position of harming anybody
20 else again.

21 Whatever you do is never going to bring Lauren back.
22 Whatever you do is never going to erase the harm and pain that
23 your children have suffered. But what you can do going forward
24 is try to show that you have learned from these experiences and
25 that this awful suffering has meant something. You can do

1 that, and I think that would be a very worthwhile endeavor.

2 You know, I'm tasked with imposing a sentence that's
3 sufficient but not greater than necessary to comply with the
4 purposes of sentencing. The purposes of sentencing as set
5 forth in 18 United States Code section 3553(a) (2) are to
6 reflect the seriousness of the offense, promote respect for the
7 law and provide just punishment for the offense, to afford
8 adequate deterrence, that is, to discourage you from committing
9 further crimes and to discourage others who know you or know
10 about you from committing the same sort of crime by reinforcing
11 that there will be consequences if you get caught, protecting
12 the public from further crimes, and providing you with
13 training, medical care, and other treatment so that when you're
14 no longer under your sentence you'll be law-abiding citizen and
15 have the tools you need to live a law-abiding life.

16 I'm also to consider factors such as the nature and
17 circumstances of the offense, your history and characteristics,
18 the sentencing range under the guidelines, the kinds of
19 sentences available, the need to avoid unwarranted sentence
20 disparities among defendants with similar records who have been
21 found guilty of similar conduct, and the need to provide
22 restitution to any victims of the offense.

23 I've considered all the arguments presented to me by
24 your attorney and the Government. I've considered everything
25 that was submitted on your behalf and the statement that you

1 made today. I've considered the sentencing guidelines as
2 advisory. I've taken into consideration all the factors
3 provided in section 3553(a) and considered the totality of the
4 circumstances in this case in determining a sentence that is
5 sufficient but not greater than necessary.

6 So, you know, I do know, Mr. Harris, you know, that
7 the guideline range in this case is high and that the career
8 offender enhancement, if it didn't apply, the guideline range
9 would be 30 to 37 months. That's a big difference than 155 to
10 188 months or 151 to 188 months, and the career offender
11 enhancement is triggered by cases that are involving small,
12 relatively small amounts of drugs.

13 But the point of the career offender enhancement is to
14 recognize when somebody basically makes a career out of doing
15 something illegal over and over and over again, whether it's a
16 crime of violence or narcotics, you know. If we are looking
17 big picture, that's the point. It's that the sentencing
18 guidelines at some point want to say to somebody: If you won't
19 stop doing this over and over again, you're going to get a
20 sentence that's long enough to stop you.

21 So I understand that, you know, yes, these are
22 relatively small amounts, but what's troubling is that even
23 without any enhancement or anything else, you know, you're
24 looking at 15 criminal history points, and that places you
25 well within a criminal history category 6, which says that this

1 is still a pattern of behavior, right, a pattern of poor
2 choices.

3 As a judge, I have to look and see, well, why is he
4 making these poor choices over and over again. I need to
5 consider that, and I think it's pretty easy to see that for
6 these choices that you've made, you haven't had all the
7 opportunities and resources that would enable you to make
8 different choices. That's mitigation, right? I think the
9 Government recognizes that, too, in asking for a sentence that
10 is below the guideline range.

11 In mitigation as well, I think the fact that you have
12 spent the last four years in custody, three of which were
13 during the pandemic where the conditions under which you served
14 that time were more severe than anybody had anticipated, I
15 think that that also then would push the sentence below the
16 guideline range in this case.

17 So then the question is what's the appropriate
18 sentence. I don't think a sentence of time served is
19 appropriate here. I think you're on your way, Mr. Harris, to
20 making some significant changes, but I do think that you need a
21 sentence that holds you responsible for what you did and the
22 harm that you caused.

23 I recognize that you haven't done a lot of time
24 before, and maybe, you know, who knows, maybe if you had had a
25 chance to have other resources we wouldn't be here today.

1 Nonetheless, we have to look and see what you did, and I do
2 believe that a sentence of 120 months is one that is sufficient
3 but not greater than necessary in this case. This is a
4 sentence that I recognize, Mr. Harris, is substantial. It's
5 the longest sentence you will have ever served. I am hoping
6 that it is the last sentence that you will ever serve.

7 I will recommend that you participate in RDAP. I
8 think that you are in need of drug treatment and mental health
9 treatment and that that will help you when you get out so that
10 you don't find yourself in the position of selling drugs in
11 order to use.

12 Mr. Adams, have you had a chance to look at the
13 proposed conditions of supervised release?

14 MR. ADAMS: Yes, Your Honor.

15 THE COURT: And do you have any objection to any of
16 those?

17 MR. ADAMS: No objections, Your Honor.

18 THE COURT: All right. I did want to add special
19 condition number 1 if there's no objection, that he receive a
20 GED, because I think Mr. Harris is on his way to getting that
21 but it would ensure that he has it.

22 MR. ADAMS: Oh, yes, no objection at all.

23 THE COURT: Okay. And I also wanted to add under
24 number 9, discretionary condition number 9, that he participate
25 in mental health treatment as well. Any objection?

1 MR. ADAMS: No objection.

2 THE COURT: All right. Then pursuant to the
3 Sentencing Reform Act of 1984, it's the judgment of the Court
4 that the defendant, Curtis Harris, is hereby committed to the
5 custody of the Bureau of Prisons to be imprisoned for a total
6 term of 120 months on Count 1. I find that he doesn't have the
7 ability to pay a fine and thereby waive the fine as well as the
8 costs of imprisonment and supervision. I'm ordering him to pay
9 a special assessment fee of \$100 due immediately.

10 Upon release from imprisonment, he'll serve a term of
11 supervised release of three years. Within 72 hours of release
12 from the custody of the Bureau of Prisons, he'll report in
13 person to the probation office in the district to which he's
14 been released.

15 Mr. Adams, do you waive the reading of all the
16 conditions as well as my justification for them?

17 MR. ADAMS: Yes, Your Honor.

18 THE COURT: While on supervised release, Mr. Harris
19 will comply with the mandatory, discretionary, and special
20 conditions delineated in Part D of the PSR.

21 Are there any counts we need to dismiss?

22 MS. O'NEILL: Yes, Your Honor, Counts 2 and 3.

23 THE COURT: All right. We will dismiss those.

24 Mr. Harris, you have the right to file an appeal if
25 you'd like to. If you want to file an appeal, you need to file

1 your notice of appeal within 14 days of the entry of this
2 judgment.

3 Are there any recommendations in terms of a placement?

4 (Discussion off the record.)

5 MR. ADAMS: Anywhere with a mental health hospital. I
6 think Rochester might have one.

7 THE COURT: All right.

8 MR. ADAMS: Rochester, Minnesota, please.

9 THE COURT: All right. So we'll make a recommendation
10 to Rochester. Mr. Harris, it's not a guarantee. It's just a
11 recommendation, and the Bureau of Prisons, based on your
12 security classification and housing availability, they'll make
13 the designation.

14 I want to thank Lauren's family for coming today and
15 making the statement that you made. I know it was really hard
16 to be here, and I'm very sorry for your loss. You know, I
17 understand that while participating today might bring you some
18 sense of closure, I know it doesn't bring you any sense of
19 peace. Whatever happened today is not going to bring your
20 daughter back, and I'm very sorry that your life has come to
21 the point that it has.

22 All right. Are there any arguments or issues that I
23 need to address that I've failed to address?

24 MR. ADAMS: No, Your Honor.

25 MS. O'NEILL: No, Your Honor.

1 THE COURT: All right. Then, Mr. Harris, I wish you
2 luck, and I hope that you spend this time using the time as
3 productively as you have and, you know, that you decide that
4 you don't want to live this kind of life anymore. All right?
5 So good luck.

6 THE DEFENDANT: Thank you.

7 THE COURT: You're welcome.

8 MS. O'NEILL: Thank you.

9 MR. ADAMS: Thank you.

10 (Proceedings concluded.)

11 C E R T I F I C A T E

12 I, Patrick J. Mullen, do hereby certify that the
13 foregoing is a complete, true, and accurate transcript of the
14 proceedings had in the above-entitled case before the Honorable
15 SARA L. ELLIS, one of the judges of said Court, at Chicago,
16 Illinois, on January 12, 2024.

17

18 /s/ Patrick J. Mullen
19 Official Court Reporter
20 United States District Court
 Northern District of Illinois
 Eastern Division

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