

APPENDIX

Table of Contents

Appendix A

United States Court of Appeals for the Ninth Circuit, published Opinion
entered March 4, 2022.....1a

Appendix B

United States Court of Appeals for the Ninth Circuit, unpublished Opinion
entered March 4, 2022.....10a

Appendix C

United States District Court for the Eastern District of Washington,
Transcript of May 10, 2023 Revocation of Supervised Release Hearing in
2:19-CR-00051-TOR-1.....16a

Appendix D

United States District Court for the Eastern District of Washington,
Supervised Release Revocation Petitions dated February 9, 2023 (ECF No.
41) and April 17, 2023 (ECF No. 51) in 2:19-CR-00051-TOR-1.....43a

Appendix E

United States District Court for the Eastern District of Washington,
Judgment on revocation of supervised release violations dated May 10, 2023
in 2:19-CR-00051-TOR-1.....47a

FOR PUBLICATION

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JACKSON DANIEL BOWERS,

Defendant - Appellant.

No. 23-902

D.C. No.
2:19-cr-00051-
TOR-1

OPINION

Appeal from the United States District Court
for the Eastern District of Washington
Thomas O. Rice, District Judge, Presiding

Argued and Submitted August 20, 2024
Seattle, Washington

Filed March 4, 2025

Before: Michael Daly Hawkins, M. Margaret McKeown,
and Ana de Alba, Circuit Judges.

Opinion by Judge de Alba

SUMMARY*

Criminal Law

The panel affirmed the district court's revocation of Jackson Daniel Bowers' supervised release in a case in which Bowers argued that Article III, section 2 of the Constitution affords supervisees the right to a jury trial in revocation proceedings held under 18 U.S.C. § 3583(e).

In Bowers' view, Article III and the Sixth Amendment are independent from each other and the Sixth Amendment trial-by-jury rights are more limited than those rights under Article III.

Joining the Seventh Circuit, the panel held that Article III's jury provision and the Sixth Amendment are equivalent in scope. Although there are textual differences between Article III's "all Crimes" and the Sixth Amendment's "all criminal prosecutions," Bowers' reading of this difference is not supported by the history of Article III and the Sixth Amendment. History and precedent make clear that the Sixth Amendment was meant to complement Article III, section 2, not to supersede or compete with it. It follows that a right not triggered by the Sixth Amendment cannot be independently triggered by Article III.

The panel disposed of Bowers' other claims in a concurrently filed memorandum disposition.

* This summary constitutes no part of the opinion of the court. It has been prepared by court staff for the convenience of the reader.

COUNSEL

Paul T. Crane (argued), Attorney, Appellate Section, Criminal Division; Lisa H. Miller, Deputy Assistant Attorney General; Nicole M. Argentieri, Acting Assistant Attorney General; United States Department of Justice, Washington, D.C.; Caitlin A. Baunsgard and Ian L. Garriques, Assistant United States Attorneys; Vanessa R. Waldref, United States Attorney; United States Attorney's Office, United States Department of Justice, Spokane, Washington; for Plaintiff-Appellee.

Molly Winston (argued), Assistant Federal Public Defender; Carter L. Powers Beggs, Trial Attorney; Federal Public Defenders of Eastern Washington and Idaho, Spokane, Washington; Colin G. Prince, Federal Public Defender, Connelly Law Offices PLLC, Tacoma, Washington; for Defendant-Appellant.

Jacob Schuman, Penn State Law School, University Park, Pennsylvania, for Amici Curiae Criminal Law Scholars.

OPINION

DE ALBA, Circuit Judge:

Jackson Daniel Bowers challenges his revocation of supervised release by presenting a novel constitutional argument: that Article III, section 2 of the Constitution affords supervisees the right to a jury trial in revocation proceedings held under 18 U.S.C. § 3583(e).¹ We disagree and find that Article III's jury trial guarantee is equivalent in scope to the Sixth Amendment's. As such, Bowers' Article III claim is foreclosed by circuit precedent, and we affirm the revocation of his supervised release.

I. Factual and Procedural Background

In 2019, pursuant to a guilty plea, Bowers was convicted of possession of heroin with intent to distribute in violation of 21 U.S.C. § 841(a)(1), (b)(C). He was sentenced to 36 months imprisonment to be followed by three years of supervised release. In 2023, after Bowers completed his prison time and while on supervised release, his probation officer filed two separate petitions with the district court alleging that Bowers violated his supervised release by committing two state crimes: (1) fourth-degree assault, and (2) violating a protective order. The probation officer recommended the district court revoke Bowers' supervised release. While the revocation hearing was pending, Bowers resolved his criminal charges in state court by entering a deferral agreement without admitting to guilt.

¹ We dispose of Bowers' other claims in a concurrently filed memorandum disposition.

Subsequently, the district court held a supervised release revocation hearing. During the hearing, Bowers invoked his right to a jury trial.² The district court denied Bowers' request and proceeded with the revocation hearing without empaneling a jury. After receiving evidence and listening to testimony, the district court found by a preponderance of the evidence that Bowers committed fourth-degree assault and violated a protective order in violation of his supervised release. The district court revoked Bowers' supervised release and resentenced him to nine months imprisonment followed by 36 months of supervised release. Bowers appealed the district court's order, arguing that, separate from the jury trial right contained in the Sixth Amendment, Article III, Section 2 of the Constitution guarantees the right to a jury trial at revocation hearings.

II. Legal Standard

We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo a claim that a sentence violates a defendant's constitutional right. *United States v. Henderson*, 998 F.3d 1071, 1073–74 (9th Cir. 2021).

III. Discussion

Bowers, conceding that circuit precedent forecloses any argument that the Sixth Amendment guarantees supervisees a right to a jury trial in revocation proceedings,³ urges us to

² The parties dispute whether Bowers properly raised his Article III argument below and, therefore, whether we should review his claim de novo or for plain error. We need not decide this question because, regardless of the standard of review, the result is the same.

³ We have consistently held that defendants facing revocation of supervised release pursuant to 18 U.S.C. § 3583(e) have no Sixth

locate such a right in Article III, Section 2, Clause 3 of the Constitution. He alleges that the jury trial guarantees in the Sixth Amendment and Article III are “markedly different” because the Sixth Amendment limits its scope to “all criminal prosecutions” while Article III applies to “all Crimes, except in Cases of Impeachment.” In short, Bowers sees Article III and the Sixth Amendment as independent from each other and the Sixth Amendment trial by jury rights as being more limited than those rights under Article III. Recently, in a similar claim, the Seventh Circuit declined to hold that supervisees have a right to a jury trial on supervised release proceedings under Article III. *See United States v. Carpenter*, 104 F.4th 655 (7th Cir. 2024). Bowers asks this Court to create a circuit split by being the first court to hold otherwise. We decline to do so.

In our system of criminal adjudication, one of the most fundamental and sacred procedural rights is that of a trial by jury. Our Founding Fathers considered this right so important that they enshrined it both in Article III of the Constitution and in the Sixth Amendment. Article III, enacted in 1787, states,

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial

Amendment right to a jury trial. *See, e.g., United States v. Henderson*, 998 F.3d 1071, 1072 (9th Cir. 2021); *United States v. Gavilanes-Ocaranza*, 772 F.3d 624, 629 (9th Cir. 2014); *United States v. Santana*, 526 F.3d 1257, 1262 (9th Cir. 2008); *United States v. Huerta-Pimental*, 445 F.3d 1220, 1224–25 (9th Cir. 2006).

shall be at such Place or Places as the Congress may by Law have directed.

U.S. Const. art. III, § 2, cl. 3. As relevant here, the Sixth Amendment, which was enacted in 1791, states, in part, that “[i]n all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed.” U.S. Const. amend. VI.

Although there are textual differences between Article III’s “all Crimes” and the Sixth Amendment’s “all criminal prosecutions,” Bowers’ reading of this difference is not supported by the history of Article III or the Sixth Amendment. Article III’s jury provision was enshrined in the Constitution to preserve the right to a jury trial that was recognized at common law. *See* Felix Frankfurter & Thomas G. Corcoran, *Petty Federal Offenses and the Constitutional Guaranty of Trial by Jury*, 39 Harv. L. Rev. 917, 968–70 (1926). During the ratification period, Article III’s jury provision was heavily scrutinized. *See Williams v. Florida*, 399 U.S. 78, 86–103 (1970) (summarizing the history of the common law understanding of the right to trial by jury and the criticism Article III, Section 2 received); *see also Callan v. Wilson*, 127 U.S. 540, 549–50 (1888). This scrutiny was the result of fears that the provision’s general language failed to preserve certain incidents of the common law rights to a jury trial such as a “jury of the vicinage” or a right to a jury trial in civil cases. *Williams*, 399 U.S. at 92–94 & n.35 (“While Article III provided for venue, it did not impose the explicit juror-residence requirement associated with the concept of ‘vicinage.’”); *see also Smith v. United States*, 599 U.S. 236, 248 (2023). It was also feared that the generality of Article III’s language would allow for secret trials, for the

government's ability to postpone proceedings indefinitely, or for the use of testimonial hearsay in place of live testimony. *Carpenter*, 104 F.4th at 661 (quoting *Schick v. United States*, 195 U.S. 64, 78 (1904) and citing *Crawford v. Washington*, 541 U.S. 36, 42–47 (2004)).

These concerns “furnished part of the impetus for introducing amendments to the Constitution that ultimately resulted in the jury trial provisions of the Sixth and Seventh Amendments.” *Williams*, 399 U.S. at 94; see *Schick*, 195 U.S. at 78 (“[I]n order to meet the objections of its opponents, and to remove all possible grounds of uneasiness on the subject, the 6th Amendment was adopted, in which the essential features of the trial required by § 2 of article 3 are set forth.”). In other words, the Sixth Amendment was adopted to remedy attacks on Article III, and the Supreme Court has consistently construed the former as reflecting the meaning of the latter rather than supplanting it. See *Callan*, 127 U.S. at 549; *Patton v. United States*, 281 U.S. 276, 298 (1930), *abrogated on other grounds by Williams v. Florida*, 399 U.S. 78 (1970); *United States v. Wood*, 299 U.S. 123, 142–43 (1936); *Ex parte Quirin*, 317 U.S. 1, 39 (1942); *Peña-Rodriguez v. Colorado*, 580 U.S. 206, 210 (2017). For these reasons, Bowers’ argument that Article III and the Sixth Amendment trial rights are “markedly different” is unsupported by history and precedent.

In *United States v. Carpenter*, the Seventh Circuit recently rejected a similar claim. After briefly addressing the history of Article III and the Sixth Amendment, the Seventh Circuit noted that “[h]istory and precedent make clear that the Sixth Amendment was meant to complement Article III, § 2, not to supersede or compete with it.” 104 F.4th at 662. It, therefore, held that both provisions are identical in scope and that “a proceeding that does not trigger

the Sixth Amendment cannot independently trigger Article III, § 2.” *Id.* For the reasons explained *supra*, we agree with this reasoning, and we now join the Seventh Circuit in holding that Article III’s jury provision and the Sixth Amendment are equivalent in scope.

IV. Conclusion

Current circuit precedent holds that supervisees do not have a right to a jury trial on supervised release proceedings under the Sixth Amendment and we are bound by this precedent. Since Article III’s jury provision and the Sixth Amendment’s are equivalent in scope, it follows that a right not triggered by the Sixth Amendment cannot be independently triggered by Article III. Accordingly, Bowers revocation of supervised release is **AFFIRMED**.

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 4 2025

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JACKSON DANIEL BOWERS,

Defendant – Appellant.

No. 23-902

D.C. No.

2:19-cr-00051-TOR-1

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of Washington
Thomas O. Rice, District Judge, Presiding

Argued and Submitted August 20, 2024
Seattle, Washington

Before: HAWKINS, McKEOWN, and DE ALBA, Circuit Judges.

Defendant-Appellant Jackson Daniel Bowers appeals the district court order revoking his supervised release and imposing a new sentence.¹ We have jurisdiction pursuant to 28 U.S.C. § 1291 and we affirm.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

¹ Bowers' claim that Article III, Section 2, Clause 3 of the Constitution guarantees the right to a jury trial in supervised release revocation proceedings is addressed in a concurrently filed opinion.

1. Bowers claims that the district court admitted hearsay from multiple declarants in violation of his right to confront witnesses under the Fifth Amendment's Due Process Clause and Federal Rule of Criminal Procedure 32.1. Specifically, at the revocation hearing, a probation officer testified to (1) statements that Ms. Mendoza provided to a police officer after Bowers allegedly assaulted her, (2) statements from the police officer who interviewed Ms. Mendoza, and (3) statements from a police officer who reviewed a jail call in which Bowers purportedly violated a restraining order. "Although the Federal Rules of Evidence do not strictly apply to revocation proceedings," *United States v. Hall*, 419 F.3d 980, 987 (9th Cir. 2005), admission of hearsay evidence must satisfy the Fifth Amendment right to due process. *See United States v. Perez*, 526 F.3d 543, 548 (9th Cir. 2008). Thus, "every releasee is guaranteed the right to confront and cross-examine adverse witnesses at a revocation hearing, unless the government shows good cause for not producing the witnesses." *United States v. Comito*, 177 F.3d 1166, 1170 (9th Cir. 1999); *see also* Fed. R. Crim. P. 32.1(b)(1)(B)(iii) (providing for an "opportunity to question adverse witnesses" at revocation hearings). "[T]he court must weigh the releasee's interest in his constitutionally guaranteed right to confrontation against the Government's good cause for denying it." *Comito*, 177 F.3d at 1170.

By objecting to the "nature of the proceedings" after the district court

admitted hearsay statements from Ms. Mendoza, Bowers preserved his claim for appeal. *See Holguin-Hernandez v. United States*, 589 U.S. 169, 174 (2020) (“The question is simply whether the claimed error was ‘brought to the court’s attention.’” (quoting Fed. R. Crim. P. 52(b))); *see also* Fed. R. Crim. P. 51(b). Thus, we review it de novo, *Perez*, 526 F.3d at 547, and subject it to harmless error analysis, *United States v. Verduzco*, 330 F.3d 1182, 1184 (9th Cir. 2003).

Here, the district court erred when it failed to perform the *Comito* balancing test or make an express finding that the interests of justice did not require Ms. Mendoza to appear at the hearing. *Comito*, 177 F.3d at 1170 (noting that a district court’s failure to perform the balancing test constitutes error). But the error was harmless because the probation officer’s testimony had substantial indicia of reliability and Bowers’ assertion of self-defense implied that an assault occurred. *State v. Pottorff*, 156 P.3d 955, 958 (Wash. Ct. App. 2007) (“A defendant asserting self-defense is ordinarily required to admit an assault occurred.”). Further, Bowers failed to produce evidence to support his self-defense argument.

Because Bowers did not object to the admission of hearsay statements of the officer who interviewed Ms. Mendoza, we review his claim for plain error. “Plain error is (1) error, (2) that is plain, and (3) that affects substantial rights.” *United States v. Depue*, 912 F.3d 1227, 1232 (9th Cir. 2019) (en banc) (quoting *United States v. Hammons*, 558 F.3d 1100, 1103 (9th Cir. 2009)). “If these conditions are

met, the reviewing court has the discretion to grant relief so long as the error ‘seriously affects the fairness, integrity, or public reputation of judicial proceedings.’” *Id.* (quoting *Hammons*, 558 F.3d at 1103).

The district court committed error, and the error was plain, by failing to conduct the *Comito* balancing test. *Comito*, 177 F.3d at 1170; *Valdivia v. Schwarzenegger*, 599 F.3d 984, 990 (9th Cir. 2010) (“The application of a balancing test to the admission of hearsay evidence in [supervised release] revocation hearings is not an open question in this circuit.”). But Bowers’ substantial rights were not affected because the probation officer’s testimony had substantial indicia of reliability. Bowers impliedly admitted to the assault by asserting self-defense, and Bowers failed to produce any evidence to support his defense. *See United States v. Olano*, 507 U.S. 725, 734 (1993) (stating that an error “affect[s] substantial rights” when it “affected the outcome of the district court proceedings.”).

We also review the admission of hearsay statements from the officer who reviewed the jail call for plain error. As with the admission of the other two hearsay statements, the district court erred by failing to conduct a *Comito* balancing test. But here too, the district court’s error did not affect Bowers’ substantial rights. Although the evidence before the district court lacked indicia of reliability because the police officer’s statements were neither written nor sworn,

Bowers admitted to contacting Ms. Mendoza, claiming that the call was accidental. Nevertheless, he failed to provide evidence to support this defense or explain how he “accidentally” dialed Ms. Mendoza’s number from jail. Thus, Bowers cannot show that his substantial rights were affected.

2. We review for plain error Bowers’ claim that the district court violated the party presentation principle. Bower alleges that the district court was the “grand jury, prosecutor, petit jury, and sentencing court” and that it left the role of the prosecution in limbo by not accepting the parties’ recommendation to dismiss the violations. The party presentation principle requires “the parties to frame the issues for decision and assign[s] to courts the role of neutral arbiter.” *Greenlaw v. United States*, 554 U.S. 237, 243 (2008). Here, the district court did not violate the party presentation principle because it acted well within its statutory sentencing discretion, which includes monitoring a defendant’s supervision. *See* 18 U.S.C. § 3583(a), (e) (authorizing district courts to impose, terminate, extend, or revoke a defendant’s term of supervised release). Also, the district court’s power to supervise defendants on supervised release necessarily includes the power to approve or disapprove any agreement between the prosecution and the defendant.

3. Finally, Bowers claims that the district court has insufficient evidence to conclude that he violated the terms of his supervised release by committing assault and violating a protective order. “On a sufficiency-of-the-evidence challenge to a

supervised release revocation, we ask whether, viewing the evidence in the light most favorable to the government, any rational trier of fact could have found the essential elements of a violation by a preponderance of the evidence.” *United States v. King*, 608 F.3d 1122, 1129 (9th Cir. 2010) (quoting *United States v. Jeremiah*, 493 F.3d 1042, 1045 (9th Cir. 2007)) (internal quotation marks omitted).

As discussed above, the district court had sufficient evidence, including admissions from Bowers about engaging in the conduct in question, to find him in violation of his supervised release by a preponderance of the evidence.

AFFIRMED.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,) Case No. 2:19-cr-00051-TOR-1
)
Plaintiff,) May 10, 2023
) Spokane, Washington
vs.)
) Revocation of Supervised
JACKSON DANIEL BOWERS,) Release Hearing
)
Defendant.) Pages 1 - 27

BEFORE THE HONORABLE THOMAS O. RICE
UNITED STATES DISTRICT COURT JUDGE

APPEARANCES:

For the Plaintiff: CAITLIN A. BAUNSGARD
U.S. Attorney's Office
920 W. Riverside Ave., Ste. 300
P.O. Box 1494
Spokane, Washington 99210-1494

For the Defendant: CARTER L. POWERS BEGGS
Federal Defenders of Eastern
Washington & Idaho
10 N. Post St., Ste. 700
Spokane, Washington 99201

Official Court Reporter: Allison R. Anderson, RMR, CRR, CCR
United States District Courthouse
P.O. Box 700
Spokane, Washington 99210
(509) 458-3465

Proceedings reported by mechanical stenography; transcript
produced by computer-aided transcription.

1 (Court convened on May 10, 2023, at 8:57 a.m.)

2 THE COURTROOM DEPUTY: The matter now before the Court
3 is *The United States of America versus Jackson Daniel Bowers*,
4 Case No. 2:19-cr-0051-TOR. This is the time set for a
5 revocation of supervised release hearing.

6 Counsel, please state your appearances for the Court and
7 record, beginning with the government.

8 MS. BAUNSGARD: Good morning, Your Honor. Caitlin
9 Baunsgard on behalf of the United States.

10 THE COURT: Good morning.

11 MR. POWERS BEGGS: Good morning, Your Honor. Carter
12 Powers Beggs on behalf of Jackson Bowers.

13 THE COURT: And good morning to both of you.

14 This is the time set to resolve the two allegations of
15 violation of supervised release.

16 Mr. Powers Beggs, I understand from your memo that your
17 client's not admitting the violations.

18 MR. POWERS BEGGS: That is correct, Your Honor.

19 THE COURT: All right. Ms. Hanson, could I have you
20 come forward and take the witness stand, please. I'll have you
21 sworn in by the clerk.

22 MELISSA HANSON,
23 having first been duly sworn,
24 testified under oath as follows:
25

1 EXAMINATION

2 BY THE COURT:

3 Q Just for the record, Ms. Hanson, could you state your
4 occupation.

5 A I'm a United States probation officer.

6 Q And are you familiar with Mr. Bowers?

7 A Yes, I am.

8 Q How?

9 A I've supervised Mr. Bowers as of recent.

10 Q All right. And the Court has received two violation
11 reports. Could we go over those?

12 A Yes, we can.

13 Q The first violation report indicates that the defendant
14 allegedly committed --

15 MR. POWERS BEGGS: Your Honor? Apologies, Your Honor.
16 I just wanted to be clear that our -- the parties here's
17 position going into this hearing was a joint recommendation to
18 dismiss the violations. Obviously, the Court would have to go
19 forward with that recommendation, but I just didn't want -- if
20 the Court was inclined to grant that, I didn't want to waste any
21 time.

22 THE COURT: The Court -- the allegations are that
23 Mr. Bowers violated the trust that the Court placed in him.
24 It's not up to the U.S. Attorney's Office or the defense
25 attorney to dismiss the charges. It's up to the Court.

USA v. Bowers/Case No. 2:19-cr-00051-TOR-1
Revocation of Supervised Release Hearing
M. Hanson - Examination by The Court

4

1 MR. POWERS BEGGS: Yes, Your Honor. I just wanted to
2 on the record make sure that that was clear and there wasn't any
3 confusion about that. Thank you, Your Honor.

4 THE COURT: I understand.

5 Q (BY THE COURT) Mr. Bowers was arrested for alleged
6 violation of fourth-degree assault; is that correct?

7 A That is correct. However, he wasn't initially arrested
8 under those charges. He had come into the Probation Office, and
9 with our warrant being issued for that allegation is when he was
10 arrested.

11 Q I see. And then your report is signed under the penalty of
12 perjury. Instead of going through the entire report, the
13 report's part of the file. Are there any corrections that you'd
14 like to make to your report on that issue?

15 A No corrections outside of what Mr. Powers Beggs has -- had
16 noted, that the parties have an agreement.

17 Q Yes. The agreement doesn't bind the Court, though.

18 A Correct.

19 THE COURT: And then so the Court accepts -- and I
20 believe it's ECF -- well, on my docket, it's ECF 22, but that's
21 violation No. 1, a report dated February 9th, 2023.

22 Q (BY THE COURT) And then there was a second report
23 concerning allegations that he violated the state's no-contact
24 order, and that report is dated April 17th, 2023. Do you have
25 any corrections to make to that report?

USA v. Bowers/Case No. 2:19-cr-00051-TOR-1
Revocation of Supervised Release Hearing
M. Hanson - Examination by The Court

5

1 A I do not.

2 MR. POWERS BEGGS: Your Honor?

3 THE COURT: Yes.

4 MR. POWERS BEGGS: I would object on two fronts. One,
5 Mr. Bowers has not been arraigned on that violation No. 2 is my
6 understanding. Additionally, Mr. Bowers wishes to formally
7 invoke his Sixth Amendment right to a jury trial on these
8 matters. The --

9 THE COURT: He doesn't have a jury trial right on
10 supervised release.

11 MR. POWERS BEGGS: Your Honor, there are four justices
12 in the majority in *Haymond* in 2019 who would support that there
13 would be a jury trial. I understand the case law is against me,
14 but I did want to preserve that issue.

15 THE COURT: Mr. Bowers, did you get a copy of the
16 petition alleging violation No. 2?

17 THE DEFENDANT: Yeah. Yes, sir.

18 THE COURT: And you understand you have a right to
19 counsel, which you have. You have a right to remain silent
20 because anything you say can and will be used against you. You
21 have a right to a probable cause hearing with respect to
22 violation No. 2. Are there any other rights that I need to
23 advise you of?

24 Mr. Powers Beggs?

25 MR. POWERS BEGGS: I believe he has a right to remain

USA v. Bowers/Case No. 2:19-cr-00051-TOR-1
Revocation of Supervised Release Hearing
M. Hanson - Cross-Examination by Mr. Powers Beggs

6

1 silent as well.

2 THE COURT: I said that.

3 MR. POWERS BEGGS: Apologies if you said that. None
4 other that I would point to, Your Honor, although we are --
5 maintain that he has a right to a jury trial, but understood.

6 THE COURT: No, he doesn't.

7 All right. The Court accepts the statements of Officer
8 Hanson in the second violation as well.

9 Mr. Powers Beggs, do you want to cross-examine Ms. Hanson?

10 MR. POWERS BEGGS: I would, Your Honor. Thank you.

11 CROSS-EXAMINATION

12 BY MR. POWERS BEGGS:

13 Q Good morning, Ms. Hanson.

14 A Good morning.

15 Q How long have you been a probation officer for?

16 A For this district, approximately just short of ten years.

17 Q And how long have you been supervising Mr. Bowers for?

18 A I didn't initially supervise him when he released; so
19 roughly six months.

20 Q There's two violations before the Court; and while they are
21 factually connected, I would like to address each of them kind
22 of in turn. I'll start with violation No. 2. You stipulated
23 that this report was correct to the best of your knowledge.

24 A Correct.

25 Q Okay. However, it states that on February 2nd, Mr. Jackson

USA v. Bowers/Case No. 2:19-cr-00051-TOR-1
Revocation of Supervised Release Hearing
M. Hanson - Cross-Examination by Mr. Powers Beggs

7

1 Bowers was served in Spokane County jail; is that correct?

2 A Yes.

3 Q Okay. Well, it is my understanding that Mr. Bowers was not
4 detained until February 9th, 2023, following the February 8th,
5 2023, incident.

6 A I believe that is correct; so there may be a typo in my
7 date.

8 Q Okay. Understood. And what investigation did you take
9 into these violations?

10 A For violation No. 2?

11 Q No. 2, sorry.

12 A For No. 2?

13 Q Yes.

14 A The information I received from the -- I believe it was the
15 detective indicated that they reviewed his jail phone calls and
16 that there's a PIN code or something of the sort that the
17 inmates at the Spokane County jail use, and his was used to call
18 the victim of the no-contact order.

19 Q What was the manner of your communication with the
20 detective?

21 A By telephone, I believe.

22 Q Phone call. Okay. Did the detective provide any written
23 documentation of this or any other evidence of this?

24 A No.

25 Q Okay. Did the detective mention any other phone calls made

1 by Mr. Bowers that day on that PIN number?

2 A No.

3 Q Okay. Did he -- detective mention the length of the phone
4 call?

5 A It was very brief.

6 Q Very brief. Did he -- detective mention anything that was
7 said on the phone call?

8 A I believe both individuals had said hi to each other.

9 Q Okay.

10 A And after the victim had inquired who was calling, I
11 believe the phone call was ended after that.

12 Q Okay. And to be clear, that is from the detective telling
13 you what was on the phone call, not that you had personally
14 reviewed it.

15 A Correct.

16 Q Okay. So just to clarify, then, just to lay it out, you
17 were contacted by the detective by phone. He told you what the
18 prospective violation was.

19 A Yes.

20 Q And that is all of the evidence that we have before the
21 Court at this moment.

22 A I believe so.

23 Q Okay. And no other evidence was provided to Mr. Bowers or
24 any of the parties beyond that?

25 A Not -- not by myself.

USA v. Bowers/Case No. 2:19-cr-00051-TOR-1
Revocation of Supervised Release Hearing
M. Hanson - Cross-Examination by Mr. Powers Beggs

9

1 MR. POWERS BEGGS: Okay. I have no further questions
2 on that.

3 THE COURT: Ms. Baunsgard, any questions?

4 MS. BAUNSGARD: I do not.

5 THE COURT: Ms. Hanson --

6 MR. POWERS BEGGS: Oh, I apologize, Your Honor. I was
7 -- just for violation No. 2. I do have questions for
8 violation 1 if you would rather me to go up there as well.
9 Sorry.

10 THE COURT: Please finish.

11 Q (BY MR. POWERS BEGGS) Ms. Hanson, in regard to the events
12 of February 8th, when were you first made aware of these events?

13 A I believe it was the next -- it was either that day or the
14 next day; I can't recall at the moment.

15 Q And to be clear, you -- what action did you take after
16 receiving those -- that news?

17 A I completed a petition for the Court.

18 Q Okay. Did you contact Mr. Bowers as well?

19 A I did at some point because he came into the office; and by
20 that time, the warrant was issued, and so he was taken into
21 custody at the Probation Office.

22 Q So he turned himself in on the violations, correct?

23 A He -- I wouldn't say he turned himself in on the
24 violations, but he did report as directed.

25 Q Okay. And what -- what evidence was underlying your filing

1 of the violation report in this -- in this case?

2 A In part, it was the police reports I had received. I did
3 review some body cam footage, and I don't recall if that came --
4 it had to have come after, I think. This petition came rather
5 quickly so I think the body cam footage came after the fact.

6 Q Did you review the body cam footage at all?

7 A In part. I don't think I saw it in entirety.

8 MR. POWERS BEGGS: And I would just clarify the
9 Court's record that we have been provided the body cam footage
10 and the arrest reports.

11 Q (BY MR. POWERS BEGGS) Have you had any contact with
12 Ms. Diaz-Mendoza, like, after this -- like, leading up or before
13 these events in question?

14 A We had some minimal contact prior, but most of the contact
15 has been after -- after the incident.

16 Q Okay. So you have maintained contact with Ms. Diaz-Mendoza
17 after the violation officially was filed?

18 A I'm sorry. Can you repeat that?

19 Q You have -- you've maintained contact or communication with
20 Diaz-Mendoza after --

21 A There has been some communication, yes.

22 Q Okay. When Mr. Bowers came in, did you ask him about any
23 of the events in question?

24 A I think all I said was I asked him what was going on.

25 Q Do you remember what he responded?

1 A He -- he had indicated it was self-defense.

2 MR. POWERS BEGGS: Okay. I have no further questions
3 on this, Your Honor. Thank you.

4 THE COURT: Ms. Baunsgard, any questions?

5 MS. BAUNSGARD: No questions from me, Judge.

6 THE COURT: All right.

7 RE-EXAMINATION

8 BY THE COURT:

9 Q Ms. Hanson, on violation No. 2, was the defendant served
10 with a no-contact order prior to communicating with the victim
11 on February 22nd, 2023?

12 A He was. And again, I apologize. The February 2nd date has
13 to be a typo.

14 Q Yes, I understand. But he was served with the no-contact
15 order prior to the phone call?

16 A Yes, he was.

17 THE COURT: All right. I have no further questions.
18 You can step down.

19 Mr. Powers Beggs, any witnesses or testimony?

20 MR. POWERS BEGGS: Your Honor, I have several
21 declarations and statements from Mr. Bowers' family law case
22 that I would like to introduce. Additionally, I have Mr. Drake
23 White, who was with Ms. Bowers -- Mr. Bowers on February 8th who
24 would -- we would like to call as -- for testimony as well.

25 THE COURT: Please proceed.

USA v. Bowers/Case No. 2:19-cr-00051-TOR-1
Revocation of Supervised Release Hearing
D. White - Direct Examination by Mr. Powers Beggs

12

1 MR. POWERS BEGGS: I would like to call Mr. Drake
2 White to the witness stand.

3 THE COURT: Sir, if you could raise your right hand
4 and be sworn by the clerk.

5 DRAKE WHITE,
6 called as a witness by the Defendant,
7 having first been duly sworn,
8 testified under oath as follows:

9 THE COURT: Come over here. Make yourself comfortable
10 on the witness stand. The microphone's adjustable. Use it.

11 THE WITNESS: Okay.

12 THE COURT: Thank you.

13 DIRECT EXAMINATION

14 BY MR. POWERS BEGGS:

15 Q Good morning, Mr. White.

16 A Good morning.

17 Q What is your true and full and correct name?

18 A Drake Anthony White.

19 Q And how old are you?

20 A 29.

21 Q Okay.

22 THE COURT: You're going to have to speak into the
23 microphone.

24 A 29. Sorry.

25 Q (BY MR. POWERS BEGGS) How long have you known Mr. Bowers

USA v. Bowers/Case No. 2:19-cr-00051-TOR-1
Revocation of Supervised Release Hearing
D. White - Direct Examination by Mr. Powers Beggs

13

1 for?

2 A About 15 years.

3 Q And have you stayed in pretty good contact with Mr. Bowers
4 during that period?

5 A Yeah.

6 Q Okay. So you would say that you know him quite well?

7 A Yeah.

8 Q That being said, would you take that friendship into
9 account and try to lie and -- or cover for him in any sense --

10 A No.

11 Q -- in a court proceeding?

12 A Not a chance.

13 Q Okay. Were you with Mr. Bowers on February 8th?

14 A Yes, sir.

15 Q Okay. When did you first encounter Mr. Bowers on that day?

16 A We went to Planet Fitness in the Valley to work out, as we
17 were just getting back in the gym. He was kind of pushing me.

18 Q And so you had been going to the gym for a little bit
19 before that?

20 A Possibly a week.

21 Q And what happened at the gym?

22 A His phone started ding, ding; you know, it was like the
23 find-my-iPhone tone.

24 Q And do you have any -- like, can you explain to the Court
25 what the find-my-iPhone feature is?

1 A Like, if someone else on the other end is -- say you lose
2 your phone and you're trying to find it, they can ping it.

3 Like, if you lose it in the couch at home, you can press the
4 button over and over, and it will ding-ding-ding consistently.

5 That was happening until I had looked over, and he got off the
6 treadmill and was walking outside. I shortly followed.

7 Q Okay. And what happened after Mr. Bowers walked outside?

8 A I believe they were in a -- like, getting in an argument,
9 but to my understanding what I had heard when I walked out was
10 her threatening, you know, to throw stuff in the dumpster and
11 him say he'll just come get his stuff right now and move out.

12 Q And did you take Mr. Bowers back home at that time?

13 A No, he drove himself, but he did ask me to use my truck to
14 help move if things were bad; and he called me shortly after,
15 and that's what I did was went over there with my pickup and
16 grabbed garbage bags full of his clothing.

17 Q And did you hear anything else on that call when Mr. Bowers
18 was speaking to you?

19 A No, not off the top of my head that I can recall. It was,
20 you know, pretty -- pretty normal, just an argument, and the
21 threatening of throwing his belongings away was pretty common.

22 Q Okay. And what happened when you arrived at the residence?

23 A When I arrived, I had walked upstairs. There's three
24 flights of stairs. And we just did legs so I was Snapchatting
25 him, kind of telling him I wasn't too happy with him about

1 walking up the stairs. And then I proceeded to knock on the
2 door, which Jackson answered the door bleeding from his lip.
3 And Katia was screaming -- or Valerie. I know her as Valerie.
4 But, yeah, she was screaming. And then the door -- you know, he
5 closed the door and, like, her -- I could hear her screaming and
6 some thuds. And then he handed me a couple garbage bags, and it
7 looked like the head area and -- like, he was bleeding from his
8 lip still. But I told him to take pictures and to just stay
9 calm and grab what he could grab and it was time to go. Like,
10 he needs to leave this residence.

11 Q I mean, did you hear any -- what the contents of the
12 screaming was inside or was it hard to decipher?

13 A Derogatory terms. I don't know what I'm allowed to say
14 here. She, you know, called him a derogatory F-word and the B-
15 word.

16 Q Did Mr. Bowers -- did you hear anything of Mr. Bowers
17 responding?

18 A Yeah. "Stop hitting me," and then "Get off," and then the
19 next time he had opened the door is when I told him, "We're
20 leaving." Like, you know, this isn't normal.

21 Q And did Ms. Mendoza -- did she talk to you at all during
22 this time?

23 A Yes. In between one of the times he was giving me garbage
24 bags so I could run them down and put them in my truck, she
25 opened the door and was asking me to leave and said she had

1 everything under control and I was scaring her kids, which then
2 I proceeded to wave to J. and H. They know me. They weren't
3 scared of me. I think they were, you know, scared of her. But
4 as most kids, you know, when there's an argument going on,
5 they're going to react.

6 Q And you mentioned the photos that Mr. Bowers took. Did he
7 send any of those to you?

8 A Yeah, the ones that I had provided to the other guy's
9 email.

10 Q And was -- was it this photo?

11 A Yes.

12 MR. POWERS BEGGS: I would just like to provide the
13 Court the photo of Mr. Bowers.

14 Q (BY MR. POWERS BEGGS) And you observed Mr. Bowers had a
15 split lip; is that correct?

16 A Yeah, and just, like, red marks, you know, on his head and
17 neck. When I observed Ms. Diaz, I mean, when we were speaking,
18 she looked like she was fresh off, you know, work. It wasn't --
19 it didn't look like she was in a scuffle. Her hair was
20 flattened straight is one of the main things I noticed. Just --
21 I don't know. That's something I just noticed. Her clothes
22 weren't sagging or anything, and she wanted me to leave, which,
23 I don't know, kind of made me think, you know, she wasn't
24 getting assaulted by any means. Because we knew each other well
25 enough that if -- she knows me. I wouldn't just sit by and

1 watch any woman get hurt by a man. I -- I do believe that she
2 would've asked me for some kind of help if that was what was
3 going on. She's had me help with the kids. But there was none
4 of that. She just wanted me to abruptly leave and not help him
5 move out.

6 Q And you have -- you have helped care for their kids before?

7 A Yeah.

8 Q And then what happened as you left the residence?

9 A I don't know if they were sheriffs or police officers, but
10 they -- they were walking up. I mean, I waved at them to see if
11 they, you know, needed to talk to us, whatever. They didn't say
12 anything. So when we got on Pines, an officer got behind me. I
13 tried to pull over. I throw my hands up at him to ask if he
14 wanted to ask questions if he was, you know, following behind me
15 because he wanted to talk. He then took a left, and, you know,
16 we didn't ever have to -- you know, we didn't speak to any
17 police officers that night. I -- they all seen me.

18 Q And Mr. Bowers stayed the night at your place that night?

19 A Yeah.

20 MR. POWERS BEGGS: Okay. I have no further questions.
21 Thank you.

22 THE COURT: Any cross-examination, Ms. Baunsgard?

23 MS. BAUNSGARD: Nothing from the government.

24 THE COURT: All right. You can step down.

25 THE WITNESS: Thank you.

1 MR. POWERS BEGGS: The only final thing I would like
2 to add in terms of evidence is this sworn statement from Kenny
3 Heaton, who is Jackson's sister's husband, that was submitted as
4 a declaration in the family law proceedings. And I would just
5 bring the Court's attention to about halfway through, that
6 Jackson had left; and just a few minutes later, Val got up to go
7 outside also. "Both children jumped up and grabbed onto Val,
8 begging her to leave Daddy alone and sit down with them. She
9 refused, handed the kids her phone to play on and stormed
10 outside. I was concerned so shortly after I went outside for a
11 smoke. Jackson was outside already smoking. I looked at him
12 and noticed the side of his face was red and he looked like he
13 had been punched. I asked what happened. He said that Val had
14 slapped him."

15 In terms of evidence, I have no -- nothing else to provide
16 the Court.

17 THE COURT: Mr. Powers Beggs, this declaration of
18 Mr. Heaton, H-E-A-T-O-N, concerns December 16th of 2022.

19 MR. POWERS BEGGS: Yes, Your Honor. I offered it
20 to --

21 THE COURT: What's the point?

22 MR. POWERS BEGGS: Just to prove that Mr. Bowers had
23 been -- there was evidence of Mr. Bowers being physically abused
24 by Ms. Mendoza previous to the events in question.

25 THE COURT: All right. Anything else?

1 MR. POWERS BEGGS: Nothing evidentiary. I would like
2 to address the evidence before the Court at this time.

3 THE COURT: Go ahead.

4 MR. POWERS BEGGS: The key issue before the Court at
5 the moment is that Mr. Bowers has defenses to both these
6 charges, and the Court must find by a preponderance of the
7 evidence that he committed a state law violation.

8 In regards to violation No. 1, he is asserting self-
9 defense, and that is -- and I'm reading from *State v. Woods*, a
10 Washington appellate case, that a jury may find self-defense on
11 the basis of the defendant's subjective reasonable belief of
12 imminent harm from the victim. Mr. Bowers had an imminent
13 threat of harm. There was sounds, from Mr. White's testimony,
14 that he had -- that she (sic) said, "Stop hitting me." He had a
15 split lip and has provided enough evidence to shift the burden
16 to the prosecution to prove beyond a reasonable doubt -- in this
17 case, I guess, a preponderance otherwise. And the standard does
18 not necessitate actual injury, but certainly actual injury would
19 make this inquiry simpler.

20 Additionally, in regards to the protective order, there
21 just simply has not been enough evidence provided for Mr. Bowers
22 to contest this charge. I've spoken with Mr. Bowers. During
23 his state hearing, there was mention of a second exculpatory
24 phone call that he made to his mother shortly afterwards in
25 which -- paraphrasing -- said that he had accidentally made

1 contact with the person in question. And that's incredibly
2 important -- and it also lines up with the very brief nature of
3 this phone call -- and that's because there needs to be a
4 willful element to violate a protective order. And I'm reading
5 from *State v. Sisemore*, another Washington appellate case, in
6 that a defendant acts willfully if he acts knowingly with
7 respect to the material elements, including the contact element.

8 Thus Sisemore, in this case, violated the no-contact order
9 if he knowingly acted to contact or continued contact after an
10 original accidental contact. However, he did not violate the
11 no-contact order if he accidentally or inadvertently contacted the
12 person in question but immediately broke it off. That's a very
13 valid defense to these charges, and it's not one that we have
14 either been provided evidence under 32.1 to contest fully or
15 that Mr. Bowers has had the opportunity to go with and prove
16 with that, and it's a defense, and it's one that should negate
17 the preponderance in this case with no actual evidence beyond a
18 phone call from a detective on the basis.

19 I also want for the Court's record to lay out a very brief
20 timeline of the impact that this has had on Mr. Bowers's life.
21 He was arrested on February 9th. He was arraigned. He went to
22 a detention hearing in which he did not have the normal standard
23 for people accused of crimes in the first instance. He had to
24 prove by clear and convincing evidence that he wasn't a danger
25 to the community or a flight risk.

1 He then had a parenting plan hearing on February 16th that
2 he could not make because he was in federal custody, and then he
3 was eventually able to get transferred into state custody to
4 hopefully resolve the state matter on March 1st.

5 This entire proceeding has started with -- before any state
6 charges were actually filed. Mr. Bowers has lost a lot from
7 this entire proceeding, and we would object to that, and we
8 would again maintain our procedural objection to Mr. Bowers'
9 lack of a jury trial in the sense to prove beyond a reasonable
10 doubt that he did not commit these violations. That is all I
11 had prepared, Your Honor.

12 THE COURT: All right. Ms. Baunsgard, any statements?

13 MS. BAUNSGARD: No, thank you.

14 THE COURT: All right. The Court finds, based on the
15 sworn testimony before the Court, that there's actually no
16 evidence of self-defense. The Court is aware that fourth-degree
17 assault, both parties may receive injuries. The injuries were
18 observed by the deputies responding to the victim's allegation
19 of fourth-degree assault. She had a cut lip, and she had -- I
20 don't want to say bruises. She had swelling on her head where
21 she had been hit in the head. Additionally, the evidence shows
22 that that phone call was made in violation of the no-contact
23 order.

24 So the evidence from Mr. White, he was outside the
25 apartment and did not witness the fourth-degree assault; and

1 therefore, his testimony doesn't go to the merits of the
2 allegations.

3 The Court finds by a preponderance of the evidence that the
4 defendant committed fourth-degree assault and violated the no-
5 contact order. These are grade C violations. The defendant
6 presents to the Court with a criminal history III. The
7 guideline range is 5 to 11 months. The Court can impose up to
8 two years imprisonment with supervision to follow.

9 Mr. Bowers, you have an opportunity to make a statement.
10 You can make a statement in explanation or any statement you
11 want to make before the Court imposes sentence.

12 MR. POWERS BEGGS: Mr. Bowers will invoke his Fifth
13 Amendment and would not want to say anything at this time.

14 THE COURT: Mr. Bowers has no statements to make. Is
15 that what I'm hearing?

16 MR. POWERS BEGGS: That is correct, Your Honor. And I
17 would additionally object to the nature of the proceedings in
18 that Mr. Bowers has not had the opportunity to confront the
19 primary witness against him, Ms. Katia Mendoza.

20 THE COURT: Mr. Bowers, we've had a long history. We
21 started out in 2015, and you were sentenced in that case and
22 revoked a couple of times, two or three times, and now we've got
23 this new case. Again, you've breached the trust of the Court.
24 This is unacceptable conduct. And I don't have the date on it,
25 but you were using cocaine, and I accepted the recommendation of

1 the Probation Office previously that they were going to work
2 with you; so we didn't have a supervised release revocation
3 hearing with respect to your use of illicit drugs.

4 In any event, the two violations before me that I find by a
5 preponderance of the evidence has been proven are serious
6 allegations and are unacceptable to the Court. It is the
7 decision to sentence you to nine months in the custody of the
8 federal Bureau of Prisons. You're remanded to the custody of
9 the Marshals. I'm placing you back on a term of supervised
10 release for 36 months.

11 The mandatory conditions apply. You must not commit
12 another federal, state, or local crime. You must not unlawfully
13 possess any controlled substance, including marijuana. The 13
14 standard conditions of supervision that you've been on are
15 reimposed. Do you waive reading of those 13 standard
16 conditions?

17 THE DEFENDANT: What's that?

18 THE COURT: Do you waive the reading of the 13
19 standard conditions of supervision?

20 THE DEFENDANT: Yes.

21 THE COURT: And then I'm imposing five special
22 conditions of supervision.

23 No. 1, you must reside in a residential reentry center for
24 a period of up to 180 days at the direction of your supervising
25 officer. Your participation in the programs offered by the RRC

1 are limited to employment, education, treatment, religious
2 services, at the direction of your supervising officer. You
3 shall abide by the rules and requirements of the facility.

4 No. 2, you must submit your person, residence, office,
5 vehicle, and belongings to a search conducted by a probation
6 officer at a sensible time and manner based upon reasonable
7 suspicion of contraband or evidence of a violation of a
8 condition of supervision. Failure to submit to search is
9 grounds for revocation. You must warn persons with whom you
10 share a residence that the premises may be subject to search.

11 No. 3, you must undergo substance abuse evaluations and, if
12 indicated by a licensed/certified treatment provider, enter into
13 and successfully complete approved substance abuse treatment
14 programs, which could include inpatient treatment and aftercare
15 upon further order of the Court. You must contribute to the
16 cost of treatment according to your ability and allow full
17 reciprocal disclosure between your supervising officer and
18 treatment provider.

19 No. 4, you must abstain from the use of illegal controlled
20 substances and must submit to urinalysis and sweat patch testing
21 as directed by your supervising officer, but no more than six
22 tests per month, in order to confirm abstinence from these
23 substances.

24 No. 5, you must not enter into or remain in any
25 establishment where alcohol is the primary item of sale. You

1 must abstain from all alcohol and must submit to urinalysis and
2 breathalyzer testing as directed by your supervising officer,
3 but no more than six tests per month, in order to confirm
4 abstinence from this substance.

5 You have a right to appeal this sentence. If you intend to
6 appeal, you must file a notice of appeal within 14 days. You're
7 entitled to a transcript of this hearing. As well, you're
8 entitled to counsel at no expense to you.

9 Mr. Bowers, do you have any questions of the Court?

10 THE DEFENDANT: No, sir.

11 THE COURT: Mr. Bowers, you know, we've been doing
12 this for eight years now, and this is unacceptable to the Court.
13 The next time something like this happens, it's going to be a
14 much longer sentence.

15 Mr. Powers Beggs, anything further?

16 MR. POWERS BEGGS: No, no, Your Honor. I would just
17 maintain the objections entered previously. Thank you.

18 THE COURT: Ms. Baunsgard, anything more?

19 MS. BAUNSGARD: No, thank you.

20 THE COURT: We'll be in recess.

21 (Court adjourned on May 10, 2023, at 9:36 a.m.)
22
23
24
25

WITNESS INDEX**PAGE**

MELISSA HANSON

BY THE COURT

3

BY MR. POWERS BEGGS

6

BY THE COURT

11

DRAKE WHITE

BY MR. POWERS BEGGS

12

C E R T I F I C A T E

I, ALLISON R. ANDERSON, do hereby certify:

That I am an Official Court Reporter for the United States District Court for the Eastern District of Washington in Spokane, Washington;

That the foregoing proceedings were taken on the date and place as shown on the first page hereto; and

That the foregoing proceedings are a full, true, and accurate transcription of the requested proceedings, duly transcribed by me or under my direction.

The conversion of certain names to initials in the transcript was done to comply with Federal Rule of Criminal Procedure 49.1.

I do further certify that I am not a relative of, employee of, or counsel for any of said parties, or otherwise interested in the event of said proceedings;

DATED this 31st day of May, 2023.



ALLISON R. ANDERSON, RMR, CRR
Washington CCR No. 2006
Official Court Reporter
Spokane, Washington

PROB 12C
(6/16)

Report Date: February 9, 2023

United States District CourtFILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

for the

Feb 09, 2023

SEAN F. MCAVOY, CLERK

Eastern District of Washington**Petition for Warrant or Summons for Offender Under Supervision**

Name of Offender: Jackson Daniel Bowers

Case Number: 0980 2:19CR00051-TOR-1

Address of Offender: [REDACTED] Spokane Valley, Washington 99216

Name of Sentencing Judicial Officer: The Honorable Thomas O. Rice, U.S. District Judge

Date of Original Sentence: June 26, 2019

Original Offense: Possession with Intent to Distribute Heroin, 21 U.S.C. § 842(a)(1), (b)(1)(C)

Original Sentence: Prison - 36 months;
TSR - 36 months

Type of Supervision: Supervised Release

Asst. U.S. Attorney: Caitlin A. Baunsgard

Date Supervision Commenced: February 25, 2022

Defense Attorney: Amy Rubin

Date Supervision Expires: February 24, 2025

PETITIONING THE COURT

To issue a warrant.

On February 25, 2022, a supervision intake was completed. Jackson Bowers acknowledged an understanding of the conditions imposed by the Court and signed a copy of his judgment.

The probation officer believes that the offender has violated the following condition(s) of supervision:

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
-------------------------	--------------------------------

1	<u>Mandatory Condition #1:</u> You must not commit another federal, state or local crime.
---	--

Supporting Evidence: It is alleged that Jackson Bowers violated the terms of his supervised release by committing Fourth Degree Assault-Domestic Violence, in violation of RCW 9A.36.041, a gross misdemeanor, on or about February 8, 2023.

On February 8, 2023, deputies with the Spokane County Sheriff's Office responded to Jackson Bowers' residence in response to a domestic violence report.

Deputies made contact with the victim, who resides at the residence with her three children. The victim reported that she and Mr. Bowers have been having relationship issues and arguing a lot. The victim reported that when Mr. Bowers gets angry, he gets physical. The victim showed the deputies pictures of previous injuries and advised she had not attempted to leave due to threats Mr. Bowers makes and being afraid for her safety.

Prob12C

Re: Bowers, Jackson Daniel**February 9, 2023****Page 2**

The victim advised that on the evening of February 8, 2023, she and Mr. Bowers were arguing, Mr. Bowers wrapped his arm across her shoulder by the base of her neck and slammed her down into the ground. She began crying and advised her children saw her being assaulted. After she hit the ground, Ms. Bowers struck her an unknown number of times on her head. A deputy could feel an area on the victim's head which felt swollen. The victim advised Ms. Bowers struck her in the head again before leaving the apartment with some of his belongings.

She further reported that Mr. Bowers head butted her the night before, causing a small cut on the inside of her lip. A deputy observed a small cut on the inside of her lip.

Probable cause was determined to arrest Ms. Bowers for fourth degree assault-domestic violence. His whereabouts were unknown at the time and a warrant was requested.

The U.S. Probation Office respectfully recommends the Court issue a warrant requiring the offender to appear to answer to the allegation(s) contained in this petition.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 02/09/2023

s/Melissa Hanson

Melissa Hanson
U.S. Probation Officer

THE COURT ORDERS

- ☐ No Action
☒ The Issuance of a Warrant
☐ The Issuance of a Summons
☐ Other



Thomas O. Rice
United States District Judge

February 9, 2023

Date

Report Date: April 17, 2023

United States District Court**for the****Eastern District of Washington**FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON**Apr 17, 2023**

SEAN F. MCAVOY, CLERK

Petition for Warrant or Summons for Offender Under Supervision

Name of Offender: Jackson Daniel Bowers

Case Number: 0980 2:19CR00051-TOR-1

Address of Offender: Spokane County Jail

Name of Sentencing Judicial Officer: The Honorable Thomas O. Rice, U.S. District Judge

Date of Original Sentence: June 26, 2019

Original Offense: Possession with Intent to Distribute Heroin, 21 U.S.C. § 842(a)(1), (b)(1)(C)

Original Sentence: Prison - 36 months;
TSR - 36 months

Type of Supervision: Supervised Release

Asst. U.S. Attorney: Caitlin A. Baunsgard

Date Supervision Commenced: February 25, 2022

Defense Attorney: Carter Liam Powers Beggs

Date Supervision Expires: February 24, 2025

PETITIONING THE COURT

To incorporate the violation(s) contained in this petition in future proceedings with the violation(s) previously reported to the Court on 2/9/2023.

The probation officer believes that the offender has violated the following condition(s) of supervision:

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
-------------------------	--------------------------------

2

Mandatory Condition # 1: You must not commit another federal, state or local crime.**Supporting Evidence:** It is alleged that Jackson Bowers violated the terms of his supervised release by committing violation of a no contact order, on or about February 22, 2023.

On February 2, 2023, Jackson Bowers was served, while in the Spokane County Jail, with a petition for protection order and temporary protection order and hearing notice to protect the alleged victim in this matter. A hearing was held and the no contact order is currently active until March 1, 2028.

According to Hall County Georgia Sheriff's Office report for case number 2023-016508, a deputy responded to a harassment report on February 22, 2023. The victim informed the deputy that she received a call from Jackson Bowers from the Spokane County Jail at approximately 12:14 p.m. on February 22, 2023. The victim advised that they were involved in a domestic violence case and provided the deputy with copies of the temporary protection order from the Spokane County Superior Court.

Prob12C

Re: Bowers, Jackson Daniel**April 17, 2023****Page 2**

Additionally, the victim showed the deputy her call log, which revealed she received a call from a number that is a common number that appears when inmates call from the Spokane County Jail.

On April 12, 2023, a detective with the Spokane County Sheriffs Office contacted the undersigned officer. They advised the allegation of the protection order has been investigated and charges are forthcoming. Mr. Bowers' jail calls were reviewed and his specific jail pin number was used on February 22, 2023, at approximately 9:13 a.m. to call the victim that has a protection order in place prohibiting Mr. Bowers from contacting them.

The U.S. Probation Office respectfully recommends the Court to incorporate the violation(s) contained in this petition in future proceedings with the violation(s) previously reported to the Court.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 04/17/2023

s/Melissa Hanson

Melissa Hanson
U.S. Probation Officer

THE COURT ORDERS

- ☐ No Action
- ☐ The Issuance of a Warrant
- ☐ The Issuance of a Summons
- ☒ The incorporation of the violation(s) contained in this petition with the other violations pending before the Court.
- ☒ Defendant to appear before the Judge assigned to the case.
- ☐ Defendant to appear before the Magistrate Judge.
- ☒ Other: *The Revocation of Supervised Release scheduled for 5/11/2023 remains set.*



Thomas O. Rice
United States District Judge
April 17, 2023

Date

UNITED STATES DISTRICT COURT May 10, 2023

SEAN F. MCAVOY, CLERK

Eastern District of Washington

UNITED STATES OF AMERICA

v.

JACKSON DANIEL BOWERS

Judgment in a Criminal Case(For **Revocation** of Probation or Supervised Release)

Case No. 2:19CR00051-TOR-1

USM No. 20006-085

Carter Liam Powers Beggs

Defendant's Attorney

THE DEFENDANT:

☒ was found in violation of condition(s) MC1 after denial of guilt.
The defendant is adjudicated guilty of these violations:

<u>Violation No.</u>	<u>Nature of Violation</u>	<u>Violation Ended</u>
1	Committing a federal, state, or local crime.	02/08/2023
2	Committing a federal, state, or local crime.	02/22/2023

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has not violated condition(s) _____ and is discharged as to such violation(s) condition.

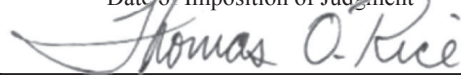
It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

Last Four Digits of Defendant's Soc. Sec. No.: 3623Defendant's Year of Birth: 1993

City and State of Defendant's Residence:

Spokane, Washington05/10/2023

Date of Imposition of Judgment



Signature of Judge

Thomas O. Rice



Judge, U.S. District Court

Name and Title of Judge

05/10/2023

Date

DEFENDANT: JACKSON DANIEL BOWERS
CASE NUMBER: 2:19CR00051-TOR-1

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of : 9 months.

☐ The court makes the following recommendations to the Bureau of Prisons:

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

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

☐ at _____ ☐ a.m. ☐ p.m. on _____ .

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____ .

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____ with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: JACKSON DANIEL BOWERS

CASE NUMBER: 2:19CR00051-TOR-1

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of: 36 months.

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance, including marijuana, which remains illegal under federal law.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
☐ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. ☐ You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
5. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
6. ☐ You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

DEFENDANT: JACKSON DANIEL BOWERS
CASE NUMBER: 2:19CR00051-TOR-1

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must be truthful when responding to the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If this judgment imposes restitution, a fine, or special assessment, it is a condition of supervised release that you pay in accordance with the Schedule of Payments sheet of this judgment. You shall notify the probation officer of any material change in your economic circumstances that might affect your ability to pay any unpaid amount of restitution, fine, or special assessments.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the standard conditions, mandatory conditions, and special conditions (if applicable) specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature _____

Date _____

DEFENDANT: JACKSON DANIEL BOWERS
CASE NUMBER: 2:19CR00051-TOR-1

SPECIAL CONDITIONS OF SUPERVISION

1. You must reside in a residential reentry center (RRC) for a period up to 180 days at the direction of the supervising officer. Your participation in the programs offered by the RRC is limited to employment, education, treatment, and religious services at the direction of the supervising officer. The defendant shall abide by the rules and requirements of the facility.
2. You must submit your person, residence, office, vehicle and belongings to a search, conducted by a probation officer, at a sensible time and manner, based upon reasonable suspicion of contraband or evidence of violation of a condition of supervision. Failure to submit to search is grounds for revocation. You must warn persons with whom you share a residence that the premises may be subject to search.
3. You must undergo substance abuse evaluations and, if indicated by a licensed/certified treatment provider, enter into and successfully complete approved substance abuse treatment programs, which could include inpatient treatment and aftercare upon further order of the court. You must contribute to the cost of treatment according to your ability to pay. You must allow full reciprocal disclosure between the supervising officer and treatment provider.
4. You must abstain from the use of illegal controlled substances, and must submit to urinalysis and sweat patch testing, as directed by the supervising officer, but no more than 6 tests per month, in order to confirm continued abstinence from these substances.
5. You must not enter into or remain in any establishment where alcohol is the primary item of sale. You must abstain from all alcohol and must submit to urinalysis and Breathalyzer testing as directed by the supervising officer, but no more than 6 tests per month, in order to confirm continued abstinence from this substance.