

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

No: 25-1305

Travis Broeker

Appellant

v.

United States of America

Appellee

Appeal from U.S. District Court for the Eastern District of Missouri - St. Louis
(4:22-cv-00457-HEA)

ORDER

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

June 04, 2025

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

/s/ Susan E. Bindler

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

No: 25-1305

Travis Broeker

Petitioner - Appellant

v.

United States of America

Respondent - Appellee

Appeal from U.S. District Court for the Eastern District of Missouri - St. Louis
(4:22-cv-00457-HEA)

JUDGMENT

Before GRUENDER, SHEPHERD, and KOBES, Circuit Judges.

This appeal comes before the court on appellant's application for a certificate of appealability. The court has carefully reviewed the original file of the district court, and the application for a certificate of appealability is denied. The appeal is dismissed.

April 02, 2025

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

/s/ Susan E. Bindler

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

TRAVIS BROEKER,)	
)	
Petitioner,)	
)	
v.)	No. 4:22CV457 HEA
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	
)	

OPINION, MEMORANDUM AND ORDER

On April 21, 2022, Petitioner filed this Motion to Vacate, Set Aside or Correct Sentence pursuant to 28 U.S.C. § 2255. This Court then ordered the United States to show cause why the relief requested in the motion should not be granted. On July 12, 2024, Petitioner filed a Motion to Supplement his Motion in which he seeks to add three additional claims. Based on the reasons set forth below, the Court will deny Petitioner's claims because they fail as a matter of law.

Background

On March 14, 2019, a Grand Jury returned an Indictment against Broeker and Barton, alleging one count of Distribution of Fentanyl Resulting in Death in violation of Title 21, United States Code, Section 841(a)(1), and one count of Conspiracy to Distribute Fentanyl, in violation of Title 21, United States Code, Sections 841(a)(1) and 846. (DCD 1). Barton entered a guilty plea to Conspiracy to

Distribute Fentanyl, the sole count with which she was charged. The case against Broeker proceeded to trial on September 14, 2019. At the conclusion of the evidence, Broeker made a motion for judgment of acquittal, which this Court denied. The jury found Broeker guilty of both counts charged in the indictment.

On March 15, 2021, Broeker was sentenced to an aggregate term of 276 months' imprisonment. Broeker timely filed Notice of Appeal. The Eighth Circuit Court of Appeals held that evidence was sufficient to support jury's finding that fentanyl was the cause of T.Z.'s death, and that Broeker waived challenge to credibility of witnesses' testimony by failing to raise the issue before the trial court. The Appellate Court agreed that a reasonable jury could have found Broeker guilty beyond a reasonable doubt, and therefore, reversal of the Court's denial of Broeker's motion for acquittal was inappropriate.

Legal Standard

In general, to state a claim for relief under Title 28, United States Code, Section 2255, a petitioner must prove one of the following: (1) his sentence was imposed in violation of the laws or Constitution of the United States; (2) the sentencing court did not have jurisdiction to impose the sentence; (3) his sentence exceeded the maximum allowed by law; or (4) the sentence is otherwise subject to collateral attack. 28 U.S.C. § 2255; *Hill v. United States*, 368 U.S. 424 (1962). The petitioner bears the burden of proving by a preponderance of the evidence that he

is entitled to relief in cases involving collateral attack on a criminal conviction.

United States v. Skinner, 326 F.2d 594, 597 (8th Cir. 1964).

Section 2255 is not designed to provide a remedy for “all claimed errors in conviction and sentencing.” *United States v. Addonizio*, 442 U.S. 178, 185 (1979).

Instead, a Section 2255 cause of action is intended only to correct an error which rises to the level of a “fundamental defect” which “inherently results in a complete miscarriage of justice.” *Hill*, 368 U.S. at 427.

Claims of Ineffective Assistance of Counsel

Petitioner’s request for relief under Title 28, United States Code, Section 2255 rests primarily on claims of ineffective assistance of counsel. The standard that must be met to show ineffective assistance of counsel sets a high bar, e.g., *Love v. United States*, 949 F.3d 406, 410 (8th Cir. 2020), and “is never an easy task.” *Harrington v. Richter*, 562 U.S. 86, 105 (2011) (internal quotation marks and citation omitted). Errors alone do not meet the ineffective-assistance standard because the Sixth Amendment “does not require perfect trial performance; it requires only competence.” *Sherron v. Norris*, 69 F.3d 285, 290 (8th Cir. 1995). Courts have explained that the ineffective-assistance standard is “a most deferential one” that must be applied “with scrupulous care.” *Harrington*, 562 U.S. at 105. It is “all too tempting to second-guess counsel’s assistance after conviction or adverse sentence.” *Id.* (internal quotation marks and citation omitted). Nevertheless, the

question is “whether an attorney’s representation amounted to incompetence under prevailing professional norms, not whether it deviated from best practices or most common custom.” *Id.* (quoting *Strickland v. Washington*, 466 U.S. 668, 690 (1984)). To establish an ineffective-assistance claim, defendant must prove two separate prongs, referred to as the *Strickland* test. Failure to establish either component—deficient performance or prejudice—is fatal to a claim of ineffective assistance. *Worthington v. Roper*, 631 F.3d 487, 498 (8th Cir. 2011) (citing *Strickland*, 466 U.S. at 697). Courts do not have to evaluate both prongs of the *Strickland* test if defendant fails to establish one. *DeRoo v. United States*, 223 F.3d 919, 925 (8th Cir. 2000).

Performance Prong

First, Petitioner must show that counsel’s performance was deficient. “This requires showing that counsel made errors so serious that counsel was not functioning as the ‘counsel’ guaranteed the defendant by the Sixth Amendment.” *Strickland*, 466 U.S. at 687; *Love*, 949 F.3d at 410. “An attorney is not incompetent in exercising reasonable professional judgment even when, in hindsight, the decision may have been a mistake.” *Thomas v. United States*, 737 F.3d 1202, 1207 (8th Cir. 2013). Instead, the reasonableness of counsel’s conduct must be judged “on the facts of the particular case, viewed as of the time of counsel’s conduct.” *Strickland*, 466 U.S. at 690.

Furthermore, the test of whether counsel's performance was deficient does “not...consider [any] attorney error in isolation, but instead...assess[es] how the error fits into the big picture of what happened at trial.” *Jackson v. United States*, 956 F.3d 1001, 1006 (8th Cir. 2020) (internal quotation marks and citation omitted); see also *Davis v. United States*, 858 F.3d 529, 534 (8th Cir. 2017) (fair assessment requires that “every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's challenged conduct, and to evaluate the conduct from counsel's perspective at the time”) (internal quotation marks and citation omitted). Judicial scrutiny of counsel's performance is “highly deferential,” and there is “a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance.” *Strickland*, 466 U.S. at 689; *Harrington*, 562 U.S. at 104. Given that there are “countless ways to provide effective assistance in any given case,” strategic choices as to how to defend a case are “virtually unchallengeable.” *Strickland*, 466 U.S. at 689-90; see also *Hayes v. Lockhart*, 766 F.2d 1247, 1251 (8th Cir. 1985) (“An ineffective assistance of counsel claim cannot be based on a decision relating to a reasoned choice of trial strategy, even when proved improvident.”).

Prejudice Prong

Second, Petitioner must prove actual prejudice. “This requires showing that counsel's errors were so serious as to deprive the defendant of a fair trial, a trial

whose result is reliable.” *Strickland*, 466 U.S. at 687; accord, *Harrington v. Richter*, 562 U.S. 86, 104 (2011). Deprivation of a fair trial means that the Petitioner “must demonstrate a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different.” *Harrington*, 562 U.S. at 104 (internal quotation marks and citation omitted); see, e.g., *Bass v. United States*, 655 F.3d 758, 760 (8th Cir. 2011).

A reasonable probability is “a probability sufficient to undermine confidence in the outcome.” *Harrington*, 562 U.S. at 104 (internal quotation marks and citation omitted). It is “not enough” to show that counsel's errors had some conceivable effect on the outcome; rather counsel's errors “must be so serious as to deprive the defendant of a fair trial, a trial whose result is reliable.” *Id.* (quoting *Strickland*, 466 U.S. at 687). Only when the likelihood of a different outcome is “substantial, not just conceivable,” has *Strickland's* demanding standards been met. *Stewart v. Kelley*, 890 F.3d 1124, 1128 (8th Cir. 2018) (quoting *Harrington*). Importantly, speculation fails to satisfy the prejudice standard. For example, speculation about what witnesses might have said falls short. *Sanders v. Trickey*, 875 F.2d 205, 210 (8th Cir. 1989); see also *Morelos v. United States*, 709 F.3d 1246, 1250 (8th Cir. 2013). In addition, speculation about what experts might have opined, *Ashker v. Class*, 152 F.3d 863, 876 (8th Cir. 1998), alternative plea offers the government might have made, *Roundtree v. United States*, 751 F.3d 923, 927

(8th Cir. 2014), or whether different cross-examination techniques would have produced a confession do not suffice. See *Sherron v. Norris*, 69 F.3d 285, 290 (8th Cir. 1995) (“*Strickland* does not require perfect trial performance; it requires only competence.”)

The Need for an Evidentiary Hearing

Some ineffective assistance claims may require an evidentiary hearing. See, e.g. *Carnnahan v. United States*, 778 F. App'x 404 (8th Cir. 2019). However, many claims, such as those set forth by Petitioner, can be decided on the pleadings, particularly where the facts are not in dispute or where the record is fully developed. See, e.g., *Voytik v. United States*, 778 F.2d 1306, 1309 (8th Cir. 1985). No hearing is required where the allegations “cannot be accepted as true because they are contradicted by the record, inherently incredible, or conclusions rather than statements of fact.” *Engelen v. United States*, 68 F.3d 238, 240 (8th Cir. 1995); see also *Delgado v. United States*, 162 F.3d 981, 983 (8th Cir. 1998) (evidentiary hearing properly denied where defendant's assertions stated in a conclusory fashion); *Holloway v. United States*, 960 F.2d 1348, 1358 (8th Cir. 1992) (a single, self-serving, self-contradicting statement is insufficient to render the motion, files and records of a case inconclusive). Similarly, no hearing is required where a careful review of a fully developed record shows the petitioner is entitled to no relief. *Voytik*, 778 F.2d at 1309; see also *Larson v. United States*, 905 F.2d 218, 221

(8th Cir. 1990) (“There is no requirement that a district court must conduct an evidentiary hearing if the record is sufficient without it.”). Where the petitioner's allegations, if proven true, would entitle him to no relief regardless, an evidentiary hearing may be properly denied. *Winters v. United States*, 716 F.3d 1098, 1105 (8th Cir. 2013); see also *Hyles v. United States*, 754 F.3d 530, 534-35 (8th Cir. 2014) (evidentiary hearing properly denied because even if defendant's attorney advised her not to take the plea, defendant would be entitled to no relief under Strickland); *Doganieri v. United States*, 914 F.2d 165, 168 (9th Cir. 1990) (no evidentiary hearing was necessary where the court had before it the hearing transcript and the documentary record).

Petitioner's claims of ineffective assistance of counsel do not require an evidentiary hearing as there are no facts in dispute that are material to the Court's inquiry under Section 2255. Petitioner's claims are insufficient to state a colorable claim for relief, they are conclusory in nature, and are contradicted by the record.

Discussion

Grounds One and Four

Trial counsel did not discuss or explore with Petitioner the option of obtaining an expert to render his or her own opinion as to T.Z.'s cause of death on behalf of Petitioner

The Eighth Circuit gives great deference to counsel's judgment in selecting witnesses. *Hanes v. Dormire*, 240 F.3d 694, 698 (8th Cir. 2001). The decision

whether to call witnesses ... may be a matter of trial strategy. *Hall*, 296 F.3d at 694; *Battle v. Delo*, 19 F.3d 1547,1556 (8th Cir. 1994). Counsel's decision to call an expert is a matter of trial strategy and will not be disturbed. *Strickland*, 466 U.S. at 690, 104 S.Ct. 2052.

Moreover, Petitioner fails to present any argument regarding the prejudice prong of *Strickland*. He has failed to demonstrate any prejudice in not having any expert testimony. *Hadley v. Goose*, 97 F.3d 1131, 1135 (8th Cir. 1996)(internal citation and quotation omitted)

Ground Two

Trial counsel was ineffective in failing to make offers of proof concerning evidence of T.Z.'s alternative sources of drugs which limited the appeal concerning the trial court's rulings.

As Respondent correctly argues, this claim fails. Petitioner can show no prejudice because appellate counsel raised this issue on appeal and the Appellate Court rejected the claim for reasons unrelated to trial counsel's performance.

Additionally, Petitioner again fails to present an offer of proof as to what the evidence would have been and how it would have changed the outcome of the trial.

Ground Three and Ground Six

Petitioner was not fully advised as to the ramifications of the pre-trial offer made by the Government nor fully advised about the trial process, his trial rights, and the evidence against him.

The record belies Petitioner's argument. On July 15, 2020, the Court held a *Frye* hearing. The Government expressly stated that an offer of pleading guilty to a distribution of controlled substance and that the Government would agree to recommend a sentence of 18 years, with moving to dismiss Court 2 of the indictment. Petitioner admitted in open court that he had been advised of the offer and that he elected to proceed to trial. He also admitted having discussed how that might affect his possible sentence.

Ground Five

Trial counsel was ineffective in failing to file a complete/or proper motion for new trial which limited the appeal concerning the trial court's rulings.

Petitioner fails to articulate any specific failure of counsel. Petitioner filed an appeal. In affirming Petitioner's conviction, the Appellate Court found the Government's evidence overwhelmingly supported his conviction.

Broeker appeals the district court's denial of his motions for acquittal and a new trial. Because his arguments in support of both motions are almost identical, we address the motions contemporaneously. First, Federal Rule of Criminal Procedure 29(a) requires a district court to "enter a judgment of acquittal of any offense for which the evidence is insufficient to sustain a conviction." When reviewing a district court's denial of a motion for acquittal, "[w]e apply the same standard of review to the district court's ruling on a motion for judgment of acquittal as we do to a sufficiency of the evidence challenge." *United States v. Aungie*, 4 F.4th 638, 643 (8th Cir. 2021) (citation omitted). Reviewing this denial de novo, we "view[] the entire record in the light most favorable to the government, resolv[ing] all evidentiary conflicts accordingly, and accept[ing] all reasonable inferences supporting the jury's verdict." *Id.* (citation omitted). We will reverse a district court's denial of a motion for acquittal "only 'if there is no interpretation of the evidence that would allow a reasonable jury to find the

defendant guilty beyond a reasonable doubt.’ ” See *United States v. Gonzalez*, 826 F.3d 1122, 1126 (8th Cir. 2016) (citation omitted); see also *United States v. Hassan*, 844 F.3d 723, 726 (8th Cir. 2016) (“In evaluating a motion for judgment of acquittal, we cannot pass upon the credibility of witnesses or the weight to be given their testimony, as this is uniquely within the province of the trier of fact, and entitled to special deference.”).

Alternatively, we review a district court's denial of a motion for a new trial under the stricter, abuse-of-discretion standard. See *Manning v. Jones*, 875 F.3d 408, 410 (8th Cir. 2017) (explaining the “key question [is] whether a new trial is necessary to prevent a miscarriage of justice”). Federal Rule of Criminal Procedure 33(a) provides that a district court “may vacate any judgment and grant a new trial if the interest of justice so requires.” However, “Rule 33 motions are ‘disfavored’ and a district court ‘must exercise [] Rule 33 authority sparingly and with caution.’ ” *United States v. Harriman*, 970 F.3d 1048, 1058 (8th Cir. 2020) (alteration in original) (citation omitted); see also *United States v. Stacks*, 821 F.3d 1038, 1045 (8th Cir. 2016) (explaining new trials are “reserved for exceptional cases in which the evidence preponderates heavily against the verdict” (citation omitted)).

To convict a defendant of distribution of a controlled substance—here, fentanyl—resulting in death, the government must prove, beyond a reasonable doubt, *1336 that the defendant knowingly or intentionally distributed a controlled substance and that death resulted from the use of that drug. See *Burrage v. United States*, 571 U.S. 204, 210, 134 S.Ct. 881, 187 L.Ed.2d 715 (2014); see also 21 U.S.C. § 841(a)(1) (criminalizing the knowing or intentional distribution of a controlled substance); 21 U.S.C. § 841(b)(1)(A)-(C) (imposing increased sentences when “death or serious bodily injury results from the use of [the distributed controlled substance]”). In *Burrage*, the Supreme Court explained that Congress, in choosing to use the phrase “results from” in § 841(b)(1), “import[ed] but-for causality.” See 571 U.S. at 216, 134 S.Ct. 881. Since then,

at least where use of the drug distributed by the defendant is not an independently sufficient cause of the victim's death or serious bodily injury, a defendant cannot be liable under the penalty enhancement provision of 21 U.S.C. § 841(b)(1)(C) unless such use is a but-for cause of the death or injury.

Id. at 218-19, 134 S.Ct. 881. Because Broeker admitted to distributing fentanyl to T.Z. immediately prior to T.Z.'s death, the parties only contest whether that fentanyl caused T.Z.'s death.

In his motion for acquittal, Broeker argued that the government presented insufficient evidence of causation. In his view, the government only presented evidence that Broeker sold fentanyl to T.Z. and that the sale occurred in close temporal proximity to T.Z.'s first overdose, and this alone is insufficient to show that the fentanyl he distributed caused T.Z.'s death. See, e.g., R. Doc. 150, at 4 ("None of the witnesses could testify as to whether the drugs causing T.Z.'s death were the same substance(s) allegedly sold to T.Z. by Mr. Broeker. Nor did the government present any physical or documentary evidence establishing such a nexus.").

However, we find that the government's evidence overwhelmingly supports Broeker's conviction.

United States v. Broeker, 27 F.4th 1331, 1335–36 (8th Cir. 2022).

The Appellate Court addressed Petitioner's claims and the evidence presented to support the conviction. Petitioner's vague and unsupported claims of ineffective assistance regarding his post-trial motion do not in any way present a valid claim of ineffective assistance of counsel with regard to either *Strickland* prong.

Conclusion


For the foregoing reasons, this Court will deny Petitioner's § 2255 motion and the supplement thereto without an evidentiary hearing.

Accordingly,

IT IS HEREBY ORDERED that Petitioner's Motion to Vacate, Set Aside or Correct Sentence is **DENIED**.

IT IS FURTHER ORDERED this Court will not issue a certificate of appealability because Petitioner has not made a substantial showing of the denial of federal constitutional right.

Dated this 2nd day of January, 2025.


HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI

UNITED STATES OF AMERICA

v.

TRAVIS BROEKER

Date of Original Judgment: 3/15/2021

§ **AMENDED JUDGMENT IN A CRIMINAL CASE**

§

§

§ Case Number: 4:19-CR-00207-HEA(1)

§ USM Number: 48784-044

§ **Matthew Sander**

§ Defendant's Attorney

THE DEFENDANT:

<input type="checkbox"/>	pleaded guilty to count(s)	
<input type="checkbox"/>	pleaded guilty to count(s) before a U.S. Magistrate Judge, which was accepted by the court.	
<input type="checkbox"/>	pleaded nolo contendere to count(s) which was accepted by the court	
<input checked="" type="checkbox"/>	was found guilty on count(s) after a plea of not guilty	One and Two of the Indictment on September 17, 2020

The defendant is adjudicated guilty of these offenses:

Title & Section / Nature of Offense

21 U.S.C. § 841(a)(1), 21 U.S.C. § 841(b)(1)(C) and 18 U.S.C. § 2

Distribution of Fentanyl Resulting in Death

21 U.S.C. § 841(a)(1), 21 U.S.C. § 841(b)(1)(C) and 21 U.S.C. § 846

Conspiracy to Distribute Fentanyl

Offense Ended

02/28/2018

03/2018

Count

1r

2r

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

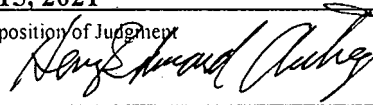
☐ The defendant has been found not guilty on count(s)

☐ Count(s) ☐ is ☐ are dismissed on the motion of the United States

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

March 15, 2021

Date of Imposition of Judgment



Signature of Judge

HENRY EDWARD AUTREY

UNITED STATES DISTRICT JUDGE

Name and Title of Judge

June 30, 2025

Date

DEFENDANT: TRAVIS BROEKER
CASE NUMBER: 4:19-CR-00207-HEA(1)

IMPRISONMENT

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

276 months.

This term consists of 276 months on each of counts one and two to be served concurrently.

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

That the defendant be evaluated for participation in the Residential Drug Abuse Program. It is also recommended the defendant be evaluated for participation in an Occupation/Educational program, specifically, in roofing. It is also recommended that the defendant be placed as close to St. Louis, Missouri, if possible, to FCI Greenville, or FCI Marion, or FCI Forrest City. It is recommended that the defendant participate in the Financial Responsibility Program while incarcerated, if that is consistent with Bureau of Prisons policies. Such recommendations are made to the extent they are consistent with the Bureau of Prisons policies.

☒ 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.

MARSHALS RETURN MADE ON SEPARATE PAGE

DEFENDANT: TRAVIS BROEKER
CASE NUMBER: 4:19-CR-00207-HEA(1)

SUPERVISED RELEASE

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

This term consists of three years on each of counts one and two to be served concurrently

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
 - ☐ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. ☒ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. ☒ You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. ☐ You must participate in an approved program for domestic violence. *(check if applicable)*

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

DEFENDANT: TRAVIS BROEKER
CASE NUMBER: 4:19-CR-00207-HEA(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 answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.
14. You must participate in screenings for any re-entry court as directed by the probation officer.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. I understand additional information regarding these conditions is available at the www.uscourts.gov.

Defendant's Signature _____

Date _____

DEFENDANT: TRAVIS BROEKER
CASE NUMBER: 4:19-CR-00207-HEA(1)

SPECIAL CONDITIONS OF SUPERVISION

While on supervision, the defendant shall comply with the standard conditions that have been adopted by this Court and shall comply with the following additional conditions. If it is determined there are costs associated with any services provided, the defendant shall pay those costs based on a co-payment fee established by the probation office.

You must 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. You must warn any other occupants that the premises may be subject to searches pursuant to this condition. The probation officer may conduct a search under this condition only when reasonable suspicion exists that you have violated a condition of supervision and that the areas to be searched contain evidence of this violation.

You must submit to substance abuse testing to determine if you have used a prohibited substance. You must not attempt to obstruct or tamper with the testing methods.

You must participate in a substance abuse treatment program and follow the rules and regulations of that program. The probation officer will supervise your participation in the program (provider, location, modality, duration, intensity, etc.).

You must provide the probation officer with access to any requested financial information and authorize the release of any financial information. The probation office may share financial information with the U.S. Attorney's Office.

You must not incur new credit charges, or open additional lines of credit without the approval of the probation officer.

You must apply all monies received from any anticipated and/or unexpected financial gains, including any income tax refunds, inheritances, or judgments, to the outstanding Court-ordered financial obligation. You must immediately notify the probation office of the receipt of any indicated monies.

If the judgment imposes a financial penalty, you must pay the financial penalty in accordance with the Schedule of Payments sheet of the judgment. You must also notify the court of any changes in economic circumstances that might affect the ability to pay this financial penalty.

DEFENDANT: TRAVIS BROEKER
CASE NUMBER: 4:19-CR-00207-HEA(1)

CRIMINAL MONETARY PENALTIES

	Assessment	Restitution	Fine	AVAA Assessment*	JVTA Assessment**
TOTALS	\$200.00	\$4,910.00	\$0.00		

- ☐ The determination of restitution is deferred until *An Amended Judgment in a Criminal Case* (AO245C) will be entered after such determination.
- ☒ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

The defendant must pay the total criminal monetary penalties under the schedule of payments page.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

Restitution of \$4,910.00 to:

IT IS FURTHER ORDERED that pursuant to 18 U.S.C. § 3663A, the defendant shall make restitution in the total amount of \$4,910.00 to:

Non -Public Victim

St. Louis, Missouri 63139 \$500.00

Non-Public Victim

House Springs, Missouri 63051 \$4,410.00

Payments of restitution shall be made to the Clerk of the Court for transfer to the victims. The interest requirement for the restitution is waived.

All criminal monetary penalties are due in full immediately. The defendant shall pay all criminal monetary penalties through the Clerk of Court. If the defendant cannot pay in full immediately, then the defendant shall make payments under the following minimum payment schedule: During incarceration, it is recommended that the defendant pay criminal monetary penalties through an installment plan in accordance with the Bureau of Prisons' Inmate Financial Responsibility Program at the rate of 50% of the funds available to the defendant. If the defendant owes any criminal monetary penalties when released from incarceration, then the defendant shall make payments in monthly installments of at least \$150, or no less than 10% of the defendant's gross earnings, whichever is greater, with payments to commence no later than 30 days after release from imprisonment. Until all criminal monetary penalties are paid in full, the defendant shall notify the Court and this district's United States Attorney's Office, Financial Litigation Unit, of any material changes in the defendant's economic circumstances that might affect the defendant's ability to pay criminal monetary penalties. The defendant shall notify this district's United States Attorney's Office, Financial Litigation Unit, of any change of mailing or residence address that occurs while any portion of the criminal monetary penalties remains unpaid.

- ☐ 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 the schedule of payments page 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:
- | | | |
|--|-------------------------------|--|
| <input checked="" type="checkbox"/> the interest requirement is waived for the | <input type="checkbox"/> fine | <input checked="" type="checkbox"/> restitution |
| <input type="checkbox"/> the interest requirement for the | <input type="checkbox"/> fine | <input type="checkbox"/> restitution is modified as follows: |

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

** Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22

*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: TRAVIS BROEKER
CASE NUMBER: 4:19-CR-00207-HEA(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 payments of \$ 5,110.00 due immediately, balance due
☐ not later than _____, or
☒ in accordance ☐ 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 20 (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:
It is ordered that the Defendant shall pay to the United States a special assessment of \$200.00 for Counts 1r and 2r, which shall be due immediately. Said special assessment shall be paid to the Clerk, U.S. District Court. See page 6 of this judgment regarding payments of restitution.

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
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.
- ☐ Defendant shall receive credit on his restitution obligation for recovery from other defendants who contributed to the same loss that gave rise to defendant's restitution obligation.
- ☐ 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) JVTa assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.