Petitioner's Appendix A

United States of America
v.
Avis Coward

Order of the United States

Court of Appeals for the Sixth Circuit

(unpublished)

Docket Number 24-1885

Issued September 22, 2025

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

Kelly L. Stephens
Clerk

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Filed: September 22, 2025

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Re: Case No. 24-1885*, USA v. Avis Coward*
Originating Case No. : 1:23-cr-00150-1

Dear Counsel,

The Court issued the enclosed opinion today in this case.

Enclosed are the court's unpublished opinion and judgment, entered in conformity with Rule 36, Federal Rules of Appellate Procedure.

Sincerely yours,

s/Cathryn Lovely
Opinions Deputy

cc: Ms. Ann E. Filkins

Enclosures

Mandate to issue

NOT RECOMMENDED FOR PUBLICATION
File Name: 25a0432n.06

No. 24-1885

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Sep 22, 2025
KELLY L. STEPHENS, Clerk

UNITED STATES OF AMERICA, Plaintiff-Appellee, v. AVIS COWARD, Defendant-Appellant.	)	ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MICHIGAN OPINION

Before: THAPAR, READLER, and HERMANDORFER, Circuit Judges.

THAPAR, Circuit Judge. Avis Coward pled guilty to being a felon in possession of a firearm. He now challenges the federal law that bars him from owning a gun as violating the Second Amendment, and he appeals an enhancement applied to his sentence for organizing criminal activity. Seeing no error, we affirm.

I. FACTUAL BACKGROUND

In October 2024, Avis Coward drove with Emma Huver and her two-year-old son K.M. to a nearby gas station in Huver's white Yukon. Coward brought his .45-caliber handgun with him and left it unattended in the car when he went to pay for the gas. While Coward was inside the gas station, K.M. released himself from his car seat and crawled into the front seat. He picked up Coward's firearm, pointed it at his head, and shot himself. He tragically passed away the next morning.

Coward is a felon many times over, so federal law bars him from owning a firearm. *See* 18 U.S.C. § 922(g)(1). So, when he saw the bleeding toddler, Coward began a campaign to destroy evidence that he owned the firearm that K.M. had discharged. After passing K.M. to a paramedic, Coward rushed back to the vehicle. He first scooped up his gun, which had fallen out of the passenger side of the car. He then punched out the front passenger car window to conceal that a bullet had punctured it. While Huver waited in the gas station with her son, Coward peeled out of the parking lot in her car. Huver later told police that Coward left because "he was a felon and knew he would get in trouble because of the firearms." PSR, R. 123, Pg. ID 496.

Coward hid at a friend's house. He was arrested later that evening driving away from the house in his friend's car. During the arrest, cops found glass from the Yukon's shattered window on his right pantleg. They also found 2.5 grams of methamphetamine in plain view in the car. A search of Coward's two companions yielded still more illegal substances.

But Coward wasn't done. While waiting in the county jail, he made a set of recorded phone calls to his girlfriend Gina Schieberl and his friend Joseph Kelley. During those calls, all three repeatedly used the word "phone"—as Kelley later told police—as a codeword for firearms. On the first call, Kelley offered to "put away" anything Coward needed. *Id.* at 492. Coward directed Kelley and Schieberl to search "one of those rain troughs" near a specific fence to find his "phone." *Id.* Schieberl, sounding confused, reminded Coward that she already "got [his] actual phone." *Id.* Coward replied that this was his "other phone." *Id.* He stressed that she needed to collect it "right now, like right now, right now." *Id.* Later that day, Coward called Kelley back to ask for a status update. Kelley reported that he was "at the spot" searching "along the fence." *Id.* Coward asked if he located "two phones or one," and Kelley responded that he "found two phones." *Id.* Coward

then stated that he needed to "get rid of everything." *Id.* Kelley replied, "[Y]ou know I got you no matter what." *Id.*

Kelley meant it. Following Coward's directions, Kelley discovered Coward's .45-caliber handgun and Huver's purple-and-silver firearm. He kept Huver's gun with him. But he dismantled Coward's, hiding the barrel and spent shell casings in a friend's basement. He then sold the rest to a drug dealer in exchange for methamphetamine. At the same time, Kelley worked to dispose of the white Yukon. After hiding the car for a few days, he spray-painted it black, then directed two friends to burn the vehicle in the woods.

A week after K.M.'s death, police arrested Kelley on an outstanding warrant. At the station, Kelley explained Coward's plot to conceal evidence, ranging from the codewords used on the recorded phone calls to the hiding spot for Coward's gun to the location of the burned Yukon. Investigators recovered the vehicle and the barrel of Coward's firearm, though the rest of the gun remains missing.

In December, a grand jury indicted Coward and Huver for illegally possessing firearms while convicted felons. 18 U.S.C § 922(g)(1); *see also id.* § 924(a)(8). Coward and Schieberl were also charged with conspiring to tamper with evidence and tampering with evidence. 18 U.S.C. § 1512(k), (c)(1). Kelley separately pled guilty to possessing a firearm while a convicted felon and was sentenced to 42 months in prison.

In response, Coward moved to dismiss the felon-in-possession charge as "unconstitutional on its face and as applied to [him]." Br. in Supp. of Mot. to Dismiss, R. 76, Pg. ID 168. The district court rejected both challenges. Coward then pled guilty to the felon-in-possession charge, and the government dismissed the evidence-tampering counts. In his plea, Coward explicitly reserved his right to appeal the district court's denial of his motion to dismiss.

At sentencing, the district court enhanced Coward's sentence by two levels for organizing or leading a conspiracy to obstruct justice. U.S.S.G. § 3B1.1. Based on this enhancement, the court calculated a recommended sentence of 135 to 168 months in prison. Varying downward, it sentenced Coward to 120 months in prison to be served consecutively to any sentence imposed in his ongoing state proceedings. Coward timely appealed.

II. ANALYSIS

A. Felon-in-Possession Ban

Coward challenges 18 U.S.C. § 922(g)(1) as inconsistent with the Second Amendment both facially and as applied to him. We review the district court's determination that § 922(g)(1) was constitutional de novo. *United States v. Loney*, 331 F.3d 516, 524 (6th Cir. 2003). Coward's challenges both fail.

Facial Challenge. We have already rejected a facial challenge like the one Coward raises here. In *United States v. Williams*, we concluded that "our nation's history and tradition demonstrate that Congress may disarm individuals they believe are dangerous." 113 F.4th 637, 657 (6th Cir. 2024). Since "most applications" of § 922(g)(1) disarm dangerous individuals, the provision is "not susceptible to a facial challenge." *Id.*

As-Applied Challenge. To bring a successful as-applied challenge, a defendant must show that he is not one of the dangerous individuals that Congress may permissibly disarm. *Id.* at 657–58. When considering whether a defendant is "dangerous," courts look to the defendant's "entire criminal record—not just the predicate offense for purposes of § 922(g)(1)." *Id.*; *see also id.* at 659–60. This holistic review extends to any "specific characteristics" or other "judicially noticeable information," like offense conduct detailed in a presentence investigation report or statements at sentencing. *Id.* at 657, 660; *see also United States v. Fordham*, No. 24-1491, 2025

WL 318229, at *5 (6th Cir. Jan. 28, 2025). It takes only one "dangerous" offense to determine that an individual may be permissibly disarmed. *Williams*, 113 F.4th at 662. And some offenses are so obviously dangerous that committing one is all but "totally dispositive." *Id.* at 658. As we have generalized, defendants are dangerous if they have committed either (1) "a crime against the body of another human being," like murder, rape, assault, and robbery, or (2) "a crime that inherently poses a significant threat of danger," like drug trafficking and burglary. *Id.* at 663 (cleaned up).

Coward has committed several of these presumptively "dangerous" offenses. Start with his conviction for armed carjacking. In 2002, two months after being released from prison, Coward carried out one in a long string of armed carjackings completed by a gang of thieves. Coward approached two men in a parked car, brandished a .45-caliber Ruger handgun, and demanded that they exit the vehicle and leave the keys. The men complied, and Coward stole their car. He later admitted that he would have inflicted death or serious bodily harm on the two men if they hadn't given him their car. He was sentenced to 125 months' imprisonment for carjacking and brandishing a firearm during a crime of violence. This conviction alone is more than enough to determine that Coward is dangerous.

But Coward's crimes don't stop there. Coward has tallied up several convictions for offenses that fall into *Williams*'s second category of conduct that "inherently poses a significant threat of danger" to others. *Id.* at 663. From 1998 to 1999 alone, he was convicted of carrying a concealed weapon, possessing and distributing drugs, and breaking and entering—three dangerous felonies in rapid succession. After completing sentences for armed carjacking and drug possession, he was sent back to jail for leading police officers on a high-speed chase. Coward endangered his passenger, law enforcement, and other motorists when he blew through a red light,

crashed in the woods, and fled the scene on foot. *See United States v. Martin*, 378 F.3d 578, 582 (6th Cir. 2004). Coward's repeated criminal behavior is more than sufficient to conclude his conduct "inherently pose[d] a significant threat of danger" to others. *Williams*, 113 F.4th at 663.

These offenses confirm that Coward is—and has long been—dangerous. He may therefore be disarmed consistent with the Second Amendment.

B. Leadership Enhancement

Coward also objects to the district court's application of the two-level "leadership enhancement" in U.S.S.G § 3B1.1(c). The government bears the burden of proving that the enhancement applies by a preponderance of the evidence. *United States v. Minter*, 80 F.4th 753, 758 (6th Cir. 2023), *cert. denied*, 144 S. Ct. 1078 (2024) (mem.). We review the district court's factual findings about Coward's activities for clear error and its legal conclusion that an enhancement applies de novo. *United States v. Hills*, 27 F.4th 1155, 1193 (6th Cir. 2022). Since the leadership enhancement poses a fact-bound question, our review is deferential. *United States v. Washington*, 715 F.3d 975, 983 (6th Cir. 2013) (citing *Buford v. United States*, 532 U.S. 59, 66 (2001)).

The sentencing guidelines recommend a two-level enhancement when a "defendant was an organizer, leader, manager, or supervisor" in criminal activity involving more than one but fewer than five other participants. U.S.S.G. § 3B1.1(c). The defendant need only "manage, supervise, lead, or organize at least one participant in a criminal enterprise" to warrant the enhancement. *United States v. Gort-Didonato*, 109 F.3d 318, 322 (6th Cir. 1997). To determine whether a defendant's conduct demonstrates the requisite degree of leadership, we weigh the defendant's decision-making authority, the nature of his participation, his control over others, his role in recruitment and planning, the scope of his illegal activity, and his share of the profits. *Washington*,

715 F.3d at 983 (citing U.S.S.G. § 3B1.1 cmt. 4); *United States v. Tanner*, 837 F.3d 596, 603 (6th Cir. 2016) (same); *see also* U.S.S.G. § 3B1.1(c) cmt. background (noting that § 3B1.1(c) is "inclusive[]"). These factors are not exhaustive, not mandatory, and not binding.

The district court correctly concluded that Coward was a leader in the conspiracy because he organized, supervised, and planned the evidence tampering. At the outset, Coward recruited both Kelley and Schieberl. Coward used his jail calls to elicit their verbal commitment to conceal evidence implicating him in a crime. After they agreed to help, he provided instructions to put the plan in motion and monitored their progress with a follow-up call. On these calls, he communicated key details that only he knew (e.g., search the "rain troughs"), controlled the timing of the operation (e.g., act "right now, like right now"), and enforced the use of codewords (e.g., find the "other phone"). PSR, R. 123, Pg. ID 492. He then received reassurance that his accomplices "got [him] no matter what" and would accomplish the overarching goal of "get[ting] rid of everything." *Id.* And, once all was said and done, he stood to benefit most from the plan's successful execution. In short, Coward is a textbook "leader" of a conspiracy.

Coward raises multiple objections to the enhancement. But none is persuasive.

First, Coward makes much of the fact that Kelley "offered" to participate. Appellant Br. at 10. But the relevant fact is that Coward reached out to and then directed his accomplices, not that their participation was voluntary. It would make little sense to consider a defendant a "leader" when he forced an unwilling subordinate to engage in criminal conduct but not when he actively directed an enthusiastic partner. On this reasoning, we have upheld leadership enhancements applied to defendants who "offered" like-minded accomplices "the option" to participate in criminal activity, *see United States v. Bandy*, 239 F.3d 802, 806–07 (6th Cir. 2001), entered consensual contractual relationships with their co-conspirators, *see United States v. Kraig*, 99 F.3d

1361, 1370 (6th Cir. 1996), or voluntarily joined an existing conspiracy, *see Washington*, 715 F.3d at 983–84. At the end of the day, the fact that his accomplices were willing participants does not change that Coward was the organizer or leader of this conspiracy.

Second, Coward argues that Kelley made independent decisions when disposing of the evidence. But this doesn't change that Coward recruited his accomplices to help him "get rid of everything," directed them to "do that right now, like right now, right now," and supervised their retrieval to confirm they had collected both firearms. PSR, R. 123, Pg. ID 492. Coward's orders may have required Kelley to fill in the particulars—but what matters is that Coward gave the directive.

Nor does it matter that Kelley may have exercised so much decisional authority that he was also a leader of the evidence-tampering conspiracy. As we have noted, "more than one person can be an organizer or leader" at the same time. *Washington*, 715 F.3d at 984. So, for instance, the fact that Kelley recruited friends to burn the Yukon without Coward's explicit direction might subject Kelley to the enhancement in his own right. But Kelley's supervision of others does not make Coward any less of a leader of both Kelley and Schieberl.

Third, Coward claims that he did not receive a larger share of the conspiracy's profits than Kelley. That's because Coward views its only "fruits" as the drugs that Kelley received in exchange for selling components of Coward's gun. But intangible benefits may still be "fruits" of a criminal enterprise. Coward believed that the destruction of evidence could save him from decades in prison. This personal benefit from the evidence tampering far eclipses the value of the drugs that Kelley received for selling the gun parts.

Fourth, Coward argues that "provid[ing] crucial information to his accomplice was [not] enough to show a leadership role." Appellant Br. at 18. That's incorrect from premise to

conclusion. For starters, Coward did not merely provide information—he recruited, directed, and supervised Kelley and Schieberl. And even if he hadn't given a single order, Coward's sole control over critical information provides powerful evidence that he planned and organized the conspiracy.

In *Kraig*, for instance, we affirmed the application of this enhancement based solely on testimony that the defendant "provided information" to co-conspirators, meaning "it was to [him] that these persons turned for information." 99 F.3d at 1370. The information asymmetry between the defendant and his partners suggests that he played an organizational role in the conspiracy. *Id.*; *see also United States v. Dupree*, 323 F.3d 480, 494 (6th Cir. 2003) ("The key is that [the defendant] supplied . . . insider information . . . ; in this sense, he supervised [his co-conspirators]."); *United States v. Taniguchi*, 49 F. App'x 506, 519 (6th Cir. 2002). As in *Kraig*, this conspiracy could not have occurred without Coward directing his accomplices to the vehicle and providing detailed instructions to find the guns. This control over essential information shows that Coward was calling the shots.

Fifth, Coward relies on our unpublished opinion in *Hopson* to argue that "merely playing an essential role in the offense" is not enough to warrant the leadership enhancement. Appellant Br. at 18 (cleaned up); *United States v. Hopson*, 134 F. App'x 781 (6th Cir. 2004). But he misconstrues our decision. There, we made the uncontroversial statement that merely providing assistance—e.g., supplying a getaway van, renting a storage space for loot, or selling contraband—is not sufficient to demonstrate leadership. *See id.* at 796 n.9; *United States v. Vandeberg*, 201 F.3d 805, 808, 811 (6th Cir. 2000). But we specifically distinguished cases when a defendant recruited participants, proposed a plan, and monitored completion. *See Hopson*, 134 F. App'x at 796 n.10 (citing *Bandy*, 239 F.3d at 806–07). As should be clear by now, Coward falls into this second category: He recruited two accomplices, provided information and a plan, encouraged

them to complete it, and supervised their progress. Unlike in *Hopson* and *Vandeberg*, Coward's "essential role" was the one that mattered—leading the criminal activity.

In sum, the district court found facts sufficient to conclude that Coward recruited two accomplices, gave them directions to engage in criminal activity, orchestrated the timing of the operation, monitored its progress, and benefitted disproportionately from the activity. This conduct more than justifies the application of the enhancement in U.S.S.G. § 3B1.1(c).

III. CONCLUSION

Avis Coward's felon-in-possession conviction is consistent with the Second Amendment, and his sentence properly accounts for his role in organizing evidence tampering. We thus affirm Coward's conviction and sentence.

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

No. 24-1885

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

AVIS DAMONE COWARD,

Defendant - Appellant.

FILED
Sep 22, 2025
KELLY L. STEPHENS, Clerk

Before: THAPAR, READLER, and HERMANDORFER, Circuit Judges.

JUDGMENT

On Appeal from the United States District Court
for the Western District of Michigan at Grand Rapids.

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

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

ENTERED BY ORDER OF THE COURT

Kelly L. Stephens, Clerk

Petitioner's Appendix B

United States of America
v.
Avis Coward

Judgment of the United States District Court of Appeals for the Western District of Michigan

(unpublished)

Docket Number 1:23-CR-150

Filed October 3, 2023

UNITED STATES DISTRICT COURT

Western District of Michigan

UNITED STATES OF AMERICA

-vs-

AVIS DAMONE COWARD

JUDGMENT IN A CRIMINAL CASE

Case Number: 1:23-CR-150

USM Number: 11362-040

Heath M. Lynch
Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to Count 1 of the Indictment.

☐ pleaded nolo contendere to Count(s) _____ , which was accepted by the court.

☐ was found guilty on Count(s) _____ after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Offense Ended	Count
18 U.S.C. § 922(g)(1), 921(a), and 924(a)(8) Felon in Possession of Firearms	October 31, 2023	1

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

☒ Counts 3 and 4 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 the United States attorney of material changes in economic circumstances.

Date of Imposition of Sentence: October 2, 2024

Dated: October 3, 2024

/s/ Robert J. Jonker
ROBERT J. JONKER
UNITED STATES DISTRICT JUDGE

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of **120 months, consecutive to any sentencing imposed in state case no. 23-000350-FH**.

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

That the defendant receive a substance abuse evaluation and given the opportunity to participate in substance abuse programming.

That the defendant receive a mental health evaluation and given the opportunity to participate in mental health programs as needed.

That the defendant receive educational and vocational programming, with emphasis on obtaining and maintaining employment skills, and obtaining his/her GED.

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

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

- ☐ at _____ on _____
- ☐ as notified by the United States Marshal.

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

- ☐ before 2:00 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

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of **3 years**.

MANDATORY CONDITIONS

1. You must not commit another federal, state, or local crime.

2. You must not unlawfully possess a controlled substance.

3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

   ☐ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*

4. ☒ You must cooperate in the collection of DNA as directed by the probation officer.

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 the location where 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)*

7. ☐ 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)*

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.

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.

U.S. Probation Office Use Only

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

Defendant's Signature _____ Date _____

SPECIAL CONDITIONS OF SUPERVISION

1. You must participate in a program of testing and treatment for substance abuse, as directed by the probation officer, and follow the rules and regulations of that program until such time as you are released from the program by the probation officer, and must pay at least a portion of the cost according to your ability, as determined by the probation officer.
2. You must participate in a program of mental health treatment, as directed by the probation officer, and follow the rules and regulations of that program, until such time as you are released from the program by the probation officer and must pay at least a portion of the cost according to your ability, as determined by the probation officer.
3. You must not use or possess any controlled substances without a valid prescription. If you have a valid prescription, you must follow the instructions on the prescription. You must not possess, use, or sell marijuana or any marijuana derivative (including any product containing cannabidiol (CBD) or THC) in any form (including edibles) or for any purpose (including medical purposes). You are also prohibited from entering any marijuana dispensary or grow facility.
4. 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. Failure to submit to a search may be grounds for revocation of release. 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. Any search must be conducted at a reasonable time and in a reasonable manner.

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the Schedule of Payments on the following pages.

Assessment	Fine	Restitution	AVAA Assessment*	JVTA Assessment**
$100.00	**$1,000.00**	**-0-**	**-0-**	**-0-**

☐ The determination of restitution is deferred until _____. An Amended Judgment in a Criminal Case (AO 245C) will be entered after such a determination.

☒ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

Name of Payee	Total Loss***	Restitution Ordered	Priority or Percentage
	$	$	
TOTALS	$ 0.00	$ 0.00	

☐ Restitution amount ordered pursuant to plea agreement.

☐ The defendant must pay interest on restitution and a fine of more than $2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☒ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

- ☒ the interest requirement is waived for the fine.
- ☐ the interest requirement is waived for the restitution.
- ☐ the interest requirement for the fine is modified as follows: _____
- ☐ the interest requirement for the 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.

SCHEDULE OF PAYMENTS

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

A ☒ Lump sum payment of **$100.00** due immediately, balance due
☐ not later than _____, or
☒ in accordance with ☐ C, ☐ D, ☐ E, or ☒ F below; or

B ☐ Payment to begin immediately (may be combined with C, D, or F below); or

C ☐ Payment in equal _____ installments of $_____ over a period of _____, to commence _____ after the date of this judgment; or

D ☐ Payment in equal _____ installments of $_____ over a period of _____, to commence _____ after release from imprisonment to a term of supervision; or

E ☐ Payment during the term of supervised release will commence within _____ 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:
The restitution and/or fine is to be paid in minimum quarterly installments of $25.00 based on IFRP participation, or minimum monthly installments of $20.00 based on UNICOR earnings, during the period of incarceration, to commence 60 days after the date of this judgment. Any balance due upon commencement of supervision shall be paid, during the term of supervision, in minimum monthly installments of **$50.00** to commence 60 days after release from imprisonment. The defendant shall apply all monies received from income tax refunds, lottery winnings, judgments, and/or any other anticipated or unexpected financial gains to any outstanding court-ordered financial obligations.

Unless the court has expressly ordered otherwise in the special instructions above, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the Clerk of the Court, 399 Federal Building, 110 Michigan N.W., Grand Rapids, MI 49503, unless otherwise directed by the court, the probation officer, or the United States Attorney.

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

☐ Joint and Several

Case Number Defendant and Co-Defendant Names *(including defendant number)*	Total Amount	Joint and Several Amount	Corresponding Payee, if appropriate

☐ The defendant shall pay the cost of prosecution.

☐ The defendant shall pay the following court cost(s):

☒ The defendant shall forfeit the defendant's interest in the following property to the United States:

.45 caliber Springfield Armory barrel, 9-millimeter Smith & Wesson semiautomatic pistol (sn: RHD6199), and associated ammunition.

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.

Petitioner's Appendix C

Text of

USSG § 3B1.1(c)

PART B — ROLE IN THE OFFENSE

Introductory Commentary

This part provides adjustments to the offense level based upon the role the defendant played in committing the offense. The determination of a defendant's role in the offense is to be made on the basis of all conduct within the scope of §1B1.3 (Relevant Conduct), *i.e.*, all conduct included under §1B1.3(a)(1)–(4), and not solely on the basis of elements and acts cited in the count of conviction.

When an offense is committed by more than one participant, §3B1.1 or §3B1.2 (or neither) may apply. Section 3B1.3 may apply to offenses committed by any number of participants.

Historical Note	Effective November 1, 1987. Amended effective November 1, 1990 (amendment 345); November 1, 1992 (amendment 456); November 1, 2023 (amendment 824).

§3B1.1. Aggravating Role

Based on the defendant's role in the offense, increase the offense level as follows:

(a) If the defendant was an organizer or leader of a criminal activity that involved five or more participants or was otherwise extensive, increase by **4** levels.

(b) If the defendant was a manager or supervisor (but not an organizer or leader) and the criminal activity involved five or more participants or was otherwise extensive, increase by **3** levels.

(c) If the defendant was an organizer, leader, manager, or supervisor in any criminal activity other than described in subsection (a) or (b), increase by **2** levels.

Commentary

Application Notes:

1. **Definition of "Participant".**—A "***participant***" is a person who is criminally responsible for the commission of the offense, but need not have been convicted. A person who is not criminally responsible for the commission of the offense (*e.g.*, an undercover law enforcement officer) is not a participant.

2. **Organizer, Leader, Manager, or Supervisor of One or More Participants.**—To qualify for an adjustment under this section, the defendant must have been the organizer, leader, manager, or supervisor of one or more other participants.

3. **"Otherwise Extensive".**—In assessing whether an organization is "otherwise extensive," all persons involved during the course of the entire offense are to be considered. Thus, a fraud that

involved only three participants but used the unknowing services of many outsiders could be considered extensive.

4. **Factors to Consider.**—In distinguishing a leadership and organizational role from one of mere management or supervision, titles such as "kingpin" or "boss" are not controlling. Factors the court should consider include the exercise of decision-making authority, the nature of participation in the commission of the offense, the recruitment of accomplices, the claimed right to a larger share of the fruits of the crime, the degree of participation in planning or organizing the offense, the nature and scope of the illegal activity, and the degree of control and authority exercised over others. There can, of course, be more than one person who qualifies as a leader or organizer of a criminal association or conspiracy. This adjustment does not apply to a defendant who merely suggests committing the offense.

Background: This section provides a range of adjustments to increase the offense level based upon the size of a criminal organization (*i.e.*, the number of participants in the offense) and the degree to which the defendant was responsible for committing the offense. This adjustment is included primarily because of concerns about relative responsibility. However, it is also likely that persons who exercise a supervisory or managerial role in the commission of an offense tend to profit more from it and present a greater danger to the public and/or are more likely to recidivate. The Commission's intent is that this adjustment should increase with both the size of the organization and the degree of the defendant's responsibility.

In relatively small criminal enterprises that are not otherwise to be considered as extensive in scope or in planning or preparation, the distinction between organization and leadership, and that of management or supervision, is of less significance than in larger enterprises that tend to have clearly delineated divisions of responsibility. This is reflected in the inclusiveness of §3B1.1(c).

Historical Note	Effective November 1, 1987. Amended effective November 1, 1991 (amendment 414); November 1, 1993 (amendment 500); November 1, 2024 (amendment 831); November 1, 2025 (amendment 836).

§3B1.2. Mitigating Role

Based on the defendant's role in the offense, decrease the offense level as follows:

(a) If the defendant was a minimal participant in any criminal activity, decrease by **4** levels.

(b) If the defendant was a minor participant in any criminal activity, decrease by **2** levels.

In cases falling between (a) and (b), decrease by **3** levels.

Commentary

Application Notes:

1. **Definition.**—For purposes of this guideline, "***participant***" has the meaning given that term in Application Note 1 of §3B1.1 (Aggravating Role).

Petitioner's Appendix D

Text of

18 U.S.C. §922(g)

(g) It shall be unlawful for any person-

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

(2) who is a fugitive from justice;

(3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(4) who has been adjudicated as a mental defective or who has been committed to a mental institution;

(5) who, being an alien-

(A) is illegally or unlawfully in the United States; or

(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));

(6) who has been discharged from the Armed Forces under dishonorable conditions;

(7) who, having been a citizen of the United States, has renounced his citizenship;

(8) who is subject to a court order that-

(A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

(9) who has been convicted in any court of a misdemeanor crime of domestic violence,