

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 23-4770**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

SHAWN THOMAS JOHNSON,

Defendant - Appellant.

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**No. 23-4772**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

SHAWN THOMAS JOHNSON,

Defendant - Appellant.

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**No. 24-6087**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

SHAWN THOMAS JOHNSON,

Defendant - Appellant.

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Appeals from the United States District Court for the Western District of North Carolina, at Asheville. Martin K. Reidinger, Chief District Judge. (1:22-cr-00016-MR-WCM-1; 1:23-cr-00037-MR-WCM-1)

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Submitted: October 22, 2025

Decided: November 14, 2025

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Before WILKINSON, HARRIS, and RICHARDSON, Circuit Judges.

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Dismissed in part, affirmed in part by unpublished per curiam opinion.

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**ON BRIEF:** Mark A. Jones, BELL, DAVIS & PITT, P.A., Winston-Salem, North Carolina, for Appellant. Anthony Joseph Enright, Assistant United States Attorney, Charlotte, North Carolina, Amy Elizabeth Ray, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Asheville, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

## PER CURIAM:

In these consolidated appeals, Shawn Thomas Johnson challenges his conviction and sentence for bank fraud, in violation of 18 U.S.C. § 1344 (Nos. 23-4770, 24-6087), and his conviction for possessing a firearm as a convicted felon, in violation of 18 U.S.C. § 922(g)(1) (No. 23-4772). Johnson pled guilty to the bank fraud offense pursuant to a written plea agreement, and he separately pled guilty to the § 922(g)(1) offense without a plea agreement. On appeal, Johnson argues that the district court erred during the Fed. R. Crim. P. 11 colloquy for his bank fraud offense by misadvising him of the possible penalties; that the forfeiture money judgment imposed for the bank fraud offense is unconstitutionally excessive and exceeds the district court's statutory authority; and that § 922(g)(1) is unconstitutional as applied to him.\* The Government has moved to sever Johnson's appeal of his § 922(g)(1) conviction from the other appeals and to dismiss the other appeals as barred by the appeal waiver in Johnson's plea agreement. We grant the Government's motion to dismiss in part and deny it in part, deny the Government's motion to sever, and affirm Johnson's convictions.

We first address Johnson's claim that the district court misstated the possible penalties for bank fraud during the Rule 11 colloquy. Because Johnson asserts that this alleged error undermined the validity of his guilty plea, his appeal waiver does not bar our

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\* Johnson has moved to file a pro se supplemental brief raising additional issues. Because Johnson is represented by counsel who has filed a merits brief, he is not entitled to file a pro se supplemental brief. *See United States v. Penniegraft*, 641 F.3d 566, 569 n.1 (4th Cir. 2011). Accordingly, we deny his motion.

review of this claim. *See United States v. Taylor-Sanders*, 88 F.4th 516, 522 (4th Cir. 2023) (“The existence of [an appeal] waiver does not bar our review of the validity of [a] guilty plea.” (citation modified)).

A guilty plea is valid if the defendant voluntarily, knowingly, and intelligently pled guilty “with sufficient awareness of the relevant circumstances and likely consequences.” *United States v. Fisher*, 711 F.3d 460, 464 (4th Cir. 2013) (citation modified). Because Johnson did not move to withdraw his plea or otherwise object during the plea colloquy, we review the validity of his guilty plea only for plain error. *United States v. King*, 91 F.4th 756, 760 (4th Cir. 2024). To prevail under this standard, Johnson “must demonstrate not only that the district court plainly erred, but also that this error affected his substantial rights.” *United States v. Sanya*, 774 F.3d 812, 816 (4th Cir. 2014).

As relevant here, prior to accepting a guilty plea, a district court must conduct a colloquy in which it informs the defendant of “any maximum possible penalty, including imprisonment, fine, and term of supervised release,” Fed. R. Crim. P. 11(b)(1)(H), and “any applicable forfeiture,” Fed. R. Crim. P. 11(b)(1)(J). Relying on *United States v. Bajakajian*, 524 U.S. 321, 328 (1998) (holding that “forfeitures—payments in kind—are . . . ‘fines’ if they constitute punishment for an offense” (citation modified)), Johnson argues that the district court erred by not advising him that he could face a forfeiture judgment in an amount exceeding the \$1,000,000 maximum fine specified in 18 U.S.C. § 1344. We are unpersuaded. In *Bajakajian*, the Supreme held that a forfeiture is “a ‘fine’ within the meaning of the [Eighth Amendment’s] Excessive Fines Clause,” not that a forfeiture is a fine within the meaning of a defendant’s statute of conviction. *Id.* at 334.

Indeed, the Supreme Court recognized that forfeiture is “an additional sanction” authorized under its own statutes. *Id.* at 328. We therefore conclude that the district court did not err, let alone plainly so, by advising Johnson that he was subject to a maximum fine of \$1,000,000 and could be required to forfeit property involved in the bank fraud offense.

Turning to Johnson’s appeal waiver, we will uphold an appeal waiver if the record establishes (1) that the defendant knowingly and intelligently waived his right to appeal, and (2) that the issues raised on appeal fall within the waiver’s scope. *United States v. Boutcher*, 998 F.3d 603, 608 (4th Cir. 2021). “Whether a defendant knowingly and intelligently agreed to waive his right of appeal must be evaluated by reference to the totality of the circumstances.” *United States v. Manigan*, 592 F.3d 621, 627 (4th Cir. 2010) (citation modified). Generally, however, “if a district court questions a defendant regarding the waiver of appellate rights during the Rule 11 colloquy and the record indicates that the defendant understood the full significance of the waiver, the waiver is valid.” *United States v. Thornsberry*, 670 F.3d 532, 537 (4th Cir. 2012).

We have reviewed the record and conclude that Johnson’s appeal waiver is valid. Furthermore, Johnson’s challenge to the constitutionality of the forfeiture money judgment falls within the broad scope of the waiver, which bars him from appealing his conviction and sentence for bank fraud on any ground except for ineffective assistance of counsel or prosecutorial misconduct. *See Boutcher*, 998 F.3d at 605 n.3 (noting that “forfeiture in a criminal case constitute[s] part of the defendant’s sentence”). Accordingly, we will enforce the appeal waiver as to Johnson’s constitutional claim. *See id.* at 606-08 (concluding that defendant validly waived right to challenge forfeiture’s constitutionality on appeal).

In addition to his constitutional challenge to the forfeiture judgment, Johnson argues that the district court exceeded its statutory authority in entering a forfeiture money judgment of over \$1,000,000. One exception to the general enforceability of appeal waivers “permits us to review claims that the district court’s sentence . . . exceeded the court’s statutory authority.” *Taylor-Sanders*, 88 F.4th at 523. Johnson “attempts to frame” his challenge to the amount of the judgment “as falling under this exception,” but we conclude that it does not. *Id.* at 523-24. Johnson does not dispute that the district court had authority to enter the forfeiture judgment under 18 U.S.C. § 982(a)(2)(A), which governs forfeitures for violations of § 1344 and does not limit the amount of forfeiture a court may order. Instead—again relying on the Supreme Court’s decision in *Bajakajian*—Johnson argues that the district court could not impose a forfeiture judgment greater than the \$1,000,000 maximum fine set forth in § 1344. In other words, he contends “that the district court misinterpreted the definition of [‘fine’] in § [1344]” to exclude forfeiture and “by doing so erroneously increased the amount of [forfeiture] it ordered.” *Taylor-Sanders*, 88 F.4th at 524. Because Johnson’s appeal waiver bars this sort of claim of “legal error,” we will enforce the waiver as to his challenge to the amount of the forfeiture. *Id.*

Finally, our decision in *United States v. Hunt*, 123 F.4th 697 (4th Cir. 2024), *cert. denied*, 145 S. Ct. 2756 (2025), forecloses Johnson’s as-applied challenge to the constitutionality of his § 922(g)(1) conviction. *See id.* at 702 (concluding that recent Supreme Court decisions do not “abrogate[] this court’s precedent foreclosing as-applied challenges to [§] 922(g)(1)” (citation modified)). Accordingly, we grant the Government’s motion to dismiss in part as to Johnson’s challenges to his bank fraud sentence, deny the

motion in part, affirm Johnson's convictions, and deny as moot the Government's motion to sever. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

*DISMISSED IN PART,  
AFFIRMED IN PART*

FILED: November 14, 2025

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 23-4770 (L)  
(1:22-cr-00016-MR-WCM-1)

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UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

SHAWN THOMAS JOHNSON

Defendant - Appellant

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No. 23-4772  
(1:23-cr-00037-MR-WCM-1)

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UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

SHAWN THOMAS JOHNSON

Defendant - Appellant



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No. 24-6087  
(1:22-cr-00016-MR-WCM-1)

---

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

SHAWN THOMAS JOHNSON

Defendant - Appellant

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J U D G M E N T

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In accordance with the decision of this court, the judgments of the district court are affirmed in part. The appeals are dismissed in part.

This judgment shall take effect upon issuance of this court's mandate in accordance with [Fed. R. App. P. 41](#).

/s/ NWAMAKA ANOWI, CLERK

10a  
*Appendix B*

AO 245B (WDNC Rev. 01/2020) Judgment in a Criminal Case

**UNITED STATES DISTRICT COURT**  
Western District of North Carolina

**UNITED STATES OF AMERICA**

**V.**

**SHAWN THOMAS JOHNSON**

) **JUDGMENT IN A CRIMINAL CASE**  
) (For Offenses Committed On or After November 1, 1987)  
)  
)  
) Case Number: DNCW122CR000016-001;  
) DNCW123CR000037-001  
) USM Number: 24656-058  
)  
) J. Thomas Amburgey; Noell Tin  
) Defendant's Attorney

**THE DEFENDANT:**

- ☒ Pleaded guilty to count 1 as to case number 1:22-cr-16 and count 1 as to case number 1:23-cr-37.  
☐ Pleaded nolo contendere to count(s) which was accepted by the court.  
☐ Was found guilty on count(s) after a plea of not guilty.

**ACCORDINGLY**, the court has adjudicated that the defendant is guilty of the following offense(s):

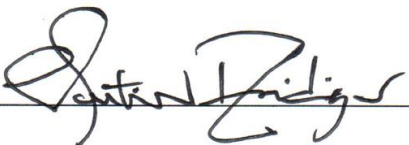
Title and Section	Nature of Offense	Date Offense Concluded	Counts
18 U.S.C. § 1344	Bank Fraud	11/2019	1
18 U.S.C. § 922(g)(1), 18 U.S.C. § 924(a)(2)	Felon in Possession of a Firearm and Ammunition	11/3/2021	1

The Defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984, United States v. Booker, 125 S.Ct. 738 (2005), and 18 U.S.C. § 3553(a).

- ☐ 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 shall 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 monetary penalties, the defendant shall notify the court and United States attorney of any material change in the defendant's economic circumstances.

Date of Imposition of Sentence: 12/14/2023



Martin Reidinger  
Chief United States District Judge



Date: December 19, 2023

Defendant: Shawn Thomas Johnson  
Case Number: DNCW122CR000016-001; DNCW123CR000037-001

Judgment- Page 2 of 7

### IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of **NINETY-TWO (92) MONTHS on Count 1 (Docket No. 1:22CR00016-001) and NINETY-TWO (92) MONTHS on Count 1 (Docket No. 1:23CR00037-001), to be served concurrently for a total term of NINETY-TWO (92) MONTHS. The term of imprisonment imposed by this judgment shall be consecutive to any undischarged term of imprisonment imposed by any state or federal court, whether previously or hereafter imposed.**

- The Court makes the following recommendations to the Bureau of Prisons:
1. Participation in any available educational and vocational opportunities.
  2. Participation in the Federal Inmate Financial Responsibility Program.
  3. Participation in any available mental health treatment programs.
  4. Participation in any available substance abuse treatment program and, if eligible, receive benefits of 18:3621(e)(2).

- The Defendant is remanded to the custody of the United States Marshal.

- ☐ The Defendant shall surrender to the United States Marshal for this District:

- ☐ As notified by the United States Marshal.  
☐ At \_ on \_.

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

- ☐ As notified by the United States Marshal.  
☐ Before 2 p.m. on \_.  
☐ As notified by the Probation 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 Marshal

Defendant: Shawn Thomas Johnson  
Case Number: DNCW122CR000016-001; DNCW123CR000037-001

Judgment- Page 3 of 7

## SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of **THREE (3) YEARS on Count 1 (Docket No. 1:22CR00016-001) and THREE (3) YEARS on Count 1 (Docket No. 1:23CR00037-001), all such terms to run concurrently.**

☐ The condition for mandatory drug testing is suspended based on the court's determination that the defendant poses a low risk of future substance abuse.

## CONDITIONS OF SUPERVISION

The defendant shall comply with the mandatory conditions that have been adopted by this court.

1. The defendant shall not commit another federal, state, or local crime.
2. The defendant shall not unlawfully possess a controlled substance.
3. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall 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 (unless omitted by the Court).
4. The defendant shall cooperate in the collection of DNA as directed by the probation officer (unless omitted by the Court).

The defendant shall comply with the discretionary conditions that have been adopted by this court and any additional conditions ordered.

5. The defendant shall report to the probation office in the federal judicial district where he/she is authorized to reside within 72 hours of release from imprisonment, unless the probation officer instructs the defendant to report to a different probation office or within a different time frame.
6. The defendant shall report to the probation officer in a manner and frequency as directed by the Court or probation officer.
7. The defendant shall not leave the federal judicial district where he/she is authorized to reside without first getting permission from the Court or probation officer.
8. The defendant shall answer truthfully the questions asked by the probation officer. However, defendant may refuse to answer a question if the truthful answer would tend to incriminate him/her of a crime. Refusal to answer a question on that ground will not be considered a violation of supervised release.
9. The defendant shall live at a place approved by the probation officer. The probation officer shall be notified in advance of any change in living arrangements (such as location and the people with whom the defendant lives). If advance notification is not possible due to unanticipated circumstances, the defendant shall notify the probation officer within 72 hours of becoming aware of a change or expected change.
10. The defendant shall allow the probation officer to visit him/her at any time at his/her home or any other reasonable location as determined by the probation office, and shall permit the probation officer to take any items prohibited by the conditions of his/her supervision that the probation officer observes.
11. The defendant shall work full time (at least 30 hours per week) at lawful employment, actively seek such gainful employment or be enrolled in a full time educational or vocational program unless excused by the probation officer. The defendant shall notify the probation officer within 72 hours of any change regarding employment or education.
12. The defendant shall not communicate or interact with any persons he/she knows is engaged in criminal activity, and shall not communicate or interact with any person he/she knows to be convicted of a felony unless granted permission to do so by the probation officer.
13. The defendant shall notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer.
14. The defendant shall 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).
15. The defendant shall not act or make any agreement with a law enforcement agency to act as a confidential informant without first getting the permission of the Court.
16. The defendant shall refrain from excessive use of alcohol and shall not unlawfully purchase, possess, use, distribute or administer any narcotic or controlled substance or any psychoactive substances (including, but not limited to, synthetic marijuana, bath salts) that impair a person's physical or mental functioning, whether or not intended for human consumption, or any paraphernalia related to such substances, except as duly prescribed by a licensed medical practitioner.
17. The defendant shall participate in a program of testing for substance abuse. The defendant shall refrain from obstructing or attempting to obstruct or tamper, in any fashion, with the efficiency and accuracy of the testing. The defendant shall participate in a substance abuse treatment program and follow the rules and regulations of that program. The probation officer will supervise the defendant's participation in the program (including, but not limited to, provider, location, modality, duration, intensity) (unless omitted by the Court).
18. The defendant shall not go to, or remain at any place where he/she knows controlled substances are illegally sold, used, distributed, or administered without first obtaining the permission of the probation officer.
19. The defendant shall submit to a search if the Probation Officer has a reasonable suspicion that the defendant has committed a crime or a violation of a condition of supervised release. Such a search may be conducted by a U.S. Probation Officer, and such other law enforcement personnel as the probation officer may deem advisable, without a warrant or the consent of the defendant. Such search may be of any place where evidence of the above may reasonably be expected to be found, including defendant's person, property, house, residence, vehicle, communications or data storage devices or media or office.
20. The defendant shall pay any financial obligation imposed by this judgment remaining unpaid as of the commencement of the sentence of probation or the term of supervised release in accordance with the schedule of payments of this judgment. The defendant shall notify the court of any changes in economic circumstances that might affect the ability to pay this financial obligation.
21. The defendant shall support all dependents including any dependent child, or any person the defendant has been court ordered to support.
22. The defendant shall participate in transitional support services (including cognitive behavioral treatment programs) and follow the rules and regulations of such program. The probation officer will supervise the defendant's participation in the program (including, but not limited to, provider, location, modality, duration, intensity). Such programs may include group sessions led by a counselor or participation in a program administered by the probation officer.
23. The defendant shall follow the instructions of the probation officer related to the conditions of supervision.

Defendant: Shawn Thomas Johnson

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Case Number: DNCW122CR000016-001; DNCW123CR000037-001

## ADDITIONAL CONDITIONS:

24. The defendant shall participate in a mental health evaluation and treatment program and follow the rules and regulations of that program. The probation officer, in consultation with the treatment provider, will supervise the defendant's participation in the program (including, but not limited to, provider, location, modality, duration, and intensity). The defendant shall take all mental health medications as prescribed by a licensed health care practitioner.
25. The defendant shall provide access to any financial information as requested by the probation officer and shall authorize the release of any such financial information. The probation officer may share financial information with the United States Attorney's Office.
26. The defendant shall not seek any extension of credit, including but not limited to a credit card account, a bank loan, or a personal loan, unless authorized to do so in advance by the probation officer.
27. The defendant shall neither buy nor sell any real estate, either directly or indirectly, without the prior approval of the probation officer.

Defendant: Shawn Thomas Johnson  
Case Number: DNCW122CR000016-001; DNCW123CR000037-001

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### CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the Schedule of Payments.

ASSESSMENT	RESTITUTION	FINE
\$100.00 as to 1:22-cr-16	\$0.00	\$0.00
\$100.00 as to 1:23-cr-37		

☐ The determination of restitution is deferred until. Upon such a determination an *Amended Judgment in a Criminal Case (AO 245C)* will be entered. Failing such a determination by, restitution amount becomes \$0.00 without further Order of the Court.

### INTEREST

The defendant shall pay interest on any fine or restitution of more than \$2,500.00, unless the fine or restitution is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the Schedule of Payments may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

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

☒ The interest requirement is waived.

☐ The interest requirement is modified as follows:

### COURT APPOINTED COUNSEL FEES

☐ The defendant shall pay court appointed counsel fees.

Defendant: Shawn Thomas Johnson  
Case Number: DNCW122CR000016-001; DNCW123CR000037-001

Judgment- Page 6 of 7

### SCHEDULE OF PAYMENTS

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

- A ☐ Lump sum payment of \$0.00 due immediately, balance due  
☐ Not later than \_\_\_\_\_  
☐ In accordance ☐ (C), ☐ (D) below; or
- B ☒ Payment to begin immediately through the Financial Responsibility Program (may be combined with ☒ (D) below); or
- C ☐ Payment in equal monthly installments of \$50.00 to commence 60 days after the date of this judgment; or
- D ☒ In the event the entire amount of criminal monetary penalties imposed is not paid prior to the commencement of supervision through the Financial Responsibility Program, payments shall be made in equal monthly installments of \$100.00 to commence 60 days after release from imprisonment to a term of supervision. The U.S. Probation Officer shall pursue collection of the amount due, and may request to modify a payment schedule if appropriate 18 U.S.C. § 3572.

Special instructions regarding the payment of criminal monetary penalties:

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court costs:
- ☒ The defendant shall forfeit the defendant's interest in the following property to the United States as set forth in the Court's Orders **Doc. 57 filed on 4/27/2023 & Doc. 69 filed on 9/7/2023 in Docket No. 1:22CR00016-001**

Unless the court has expressly ordered otherwise in the special instructions above, if this judgment imposes a period of imprisonment payment of criminal monetary penalties shall be due during the period of imprisonment. **All criminal monetary penalty payments are to be made to the United States District Court Clerk, 401 West Trade Street, Room 1301, Charlotte, NC 28202,** except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program. All criminal monetary penalty payments are to be made as directed by the court.

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

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.

Defendant: Shawn Thomas Johnson  
Case Number: DNCW122CR000016-001; DNCW123CR000037-001

Judgment- Page 7 of 7

## STATEMENT OF ACKNOWLEDGMENT

I understand that my term of supervision is for a period of \_\_\_\_\_ months, commencing on \_\_\_\_\_.

Upon a finding of a violation of probation or supervised release, I understand that the court may (1) revoke supervision, (2) extend the term of supervision, and/or (3) modify the conditions of supervision.

I understand that revocation of probation and supervised release is mandatory for possession of a controlled substance, possession of a firearm and/or refusal to comply with drug testing.

These conditions have been read to me. I fully understand the conditions and have been provided a copy of them.

(Signed) \_\_\_\_\_ Date: \_\_\_\_\_  
Defendant

(Signed) \_\_\_\_\_ Date: \_\_\_\_\_  
U.S. Probation Office/Designated Witness

☐ The Court gives notice that this case may involve other defendants who may be held jointly and severally liable for payment of all or part of the restitution ordered herein and may order such payment in the future.



17a  
*Appendix C*

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION

UNITED STATES OF AMERICA

v.

SHAWN THOMAS JOHNSON

DOCKET NO. *1:23CR37*

**FACTUAL BASIS**

NOW COMES the United States of America, by and through Dena J. King, United States Attorney for the Western District of North Carolina, and hereby files this Factual Basis in support of the defendant's guilty plea filed in this matter.

This Factual Basis is filed pursuant to Local Criminal Rule 11.2 and does not attempt to set forth all of the facts known to the United States at this time. By their signatures below, the parties expressly agree that there is a factual basis for the guilty plea(s) that the defendant will tender, and that the facts set forth in this Factual Basis are sufficient to establish all of the elements of the crime(s). The parties agree not to object to or otherwise contradict the facts set forth in this Factual Basis.

Upon acceptance of the plea, the United States will submit to the Probation Office a "Statement of Relevant Conduct" pursuant to Local Criminal Rule 32.4. The defendant may submit (but is not required to submit) a response to the Government's "Statement of Relevant Conduct" within seven days of its submission. The parties understand and agree that this Factual Basis does not necessarily represent all conduct relevant to sentencing. The parties agree that they have the right to object to facts set forth in the presentence report that are not contained in this Factual Basis. Either party may present to the Court additional relevant facts that do not contradict facts set forth in this Factual Basis.

1. The defendant, Shawn Thomas JOHNSON, knowing that he had previously been convicted of a crime punishable by a term exceeding one year of imprisonment, knowingly possessed, in and affecting interstate commerce, a firearm on or about November 3, 2021, in the District of Utah.

2. In November 2021, JOHNSON traveled from the Western District of North Carolina to Utah to visit and stay with a friend who used to work for JOHNSON.

3. On or about November 3, 2021, JOHNSON and his friend visited the Park City Gun Club, located in the District of Utah, to go shooting. The friend brought his own pistol, but JOHNSON rented a Glock 17 pistol from the gun club to shoot. They rented a firing lane, and each shot several boxes of ammunition purchased from the club's store. JOHNSON used his TD Bank business debit card in the name of "Asheville Vacation Rental Pros LLC" and spent \$229.08 to rent the firearm and shooting lane and to purchase ammunition to shoot.

4. JOHNSON completed and signed a document entitled, "Acceptance of Risk & Liability Agreement," as required by the Park City Gun Club. JOHNSON signed and initialed the form but used the name "Thomas Johnson" rather than his true name (but did provide his true date of birth and email address). The first paragraph of the waiver form required JOHNSON to certify that he was not prohibited by federal or state law from possessing a firearm, which JOHNSON falsely certified with his initials and signature.

5. The pistol that JOHNSON possessed and fired was not manufactured in the State of Utah, and therefore had traveled in interstate or foreign commerce prior to JOHNSON's possession of it.

6. JOHNSON was a convicted felon at the time of his possession of the firearm. On or about October 20, 2010, in the United States District Court for the Western District of North Carolina, Judge Martin K. Reidinger sentenced JOHNSON to two concurrent four-month terms of imprisonment for manufacturing and uttering counterfeit United States currency, to be followed by two concurrent two-year terms of supervised release. *See* 1:10CR06, Doc. #48. Those crimes, as JOHNSON well knew at the time he possessed the firearm, were punishable by terms of imprisonment exceeding one year. JOHNSON therefore was prohibited from possessing a firearm when he rented, possessed, and shot the firearm at Park City Gun Club on or about November 3, 2021.

DENA J. KING  
UNITED STATES ATTORNEY

For

  
DON GAST  
ASSISTANT UNITED STATES ATTORNEY

Defendant's Counsel's Signature and Acknowledgment

I have read this Factual Basis and the Bill of Information in this case, and have discussed them with the defendant. Based on those discussions, I am satisfied that the defendant understands the Factual Basis and the Bill of Information. I hereby certify that the defendant does not dispute this Factual Basis.

  
THOMAS AMBURGEY, Attorney for Defendant

DATED: 5/8/23

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION

FILED  
FEB - 4 2010  
U.S. DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA )

v. )

1) SHAWN THOMAS JOHNSON )  
2) KEVIN THOMAS WILLS )  
\_\_\_\_\_ )

DOCKET NO: 1:10 CR 6

**BILL OF INDICTMENT**

Violations:

18 U.S.C. § 471  
18 U.S.C. § 472  
18 U.S.C. § 2  
21 U.S.C. § 841(a)(1)

THE GRAND JURY CHARGES:

COUNT ONE

In and around June and July 2009, in Buncombe County, within the Western District of North Carolina,

1) SHAWN THOMAS JOHNSON  
2) KEVIN THOMAS WILLS

with the intent to defraud did falsely make, forge, counterfeit and alter obligations and securities of the United States, that is, Federal Reserve Notes in the denominations of twenty, fifty, and one hundred dollars, and did aid and abet each other.

All in violation of Title 18, United States Code, Sections 471 and 2.

COUNT TWO

In and around June and July 2009, in Buncombe County, within the Western District of North Carolina, and elsewhere,

1) SHAWN THOMAS JOHNSON  
2) KEVIN THOMAS WILLS

with the intent to defraud, did pass, utter, publish and sell falsely made, forged, and counterfeited

obligations of the United States, that is, Federal Reserve Notes in the denomination of one hundred dollars, and did aid and abet each other.

All in violation of Title 18, United States Code, Sections 472 and 2.

COUNT THREE

On or about July 16, 2009, in Buncombe County, within the Western District of North Carolina,

1) KEVIN THOMAS WILLS

did knowingly and intentionally possess with intent to distribute cocaine, a schedule II controlled substance.

1. Said possession involved 100 grams or more of a mixture or substance containing a detectable amount of cocaine.

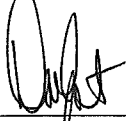
In violation of Title 21, United States Code, Section 841(a)(1).

A TRUE BILL:



GRAND JURY FOREMAN

EDWARD R. RYAN  
UNITED STATES ATTORNEY



For JILL WESTMORELAND ROSE  
ASSISTANT UNITED STATES ATTORNEY

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*Appendix E*

AO 245C (WDNC Rev. 2/11) Judgment in a Criminal Case  
sheet 1

**United States District Court  
For The Western District of North Carolina**

UNITED STATES OF AMERICA

V.

Shawn Thomas Johnson  
(Name of Defendant)

**AMENDED JUDGMENT IN A CRIMINAL CASE**  
(For Offenses Committed On or After November 1, 1987)

Case Number: DNCW 110CR000006-001  
USM Number: 24656-058

**Date of Original Judgment:** 10/18/2010

Peter Crane Anderson

**(Or Date of Last Amended Judgment)**

Defendant's Attorney

**Reason for Amendment:**

☐ Correction of Sentence on Remand (18 U.S.C. § 3742(f)(1) and (2))

☐ Modification of Supervision Conditions (18 U.S.C. §§ 3563(c) or 3583(e))

☐ Reduction of Sentence for Changed Circumstances (Fed. R. Crim. P. 35(b))

☐ Modification of Imposed Term of Imprisonment for Extraordinary and Compelling Reasons (18 U.S.C. § 3582(c)(1))

☐ Correction of Sentence by Sentencing Court (Fed. R. Crim. P. 35(a))

☐ Modification of Imposed Term of Imprisonment for Retroactive Amendment(s) to the Sentencing Guidelines (18 U.S.C. § 3582(c)(2))

☐ Correction of Sentence for Clerical Mistake (Fed. R. Crim. P. 36)

☐ Direct Motion to District Court Pursuant

☐ 28 U.S.C. § 2255    Or    ☐ 18 U.S.C. § 3559(c)(7)

☒ Modification of Restitution Order 18 U.S.C. § 3664

**ACCORDINGLY**, the court has adjudicated that the defendant is guilty of the following offense(s):

**THE DEFENDANT:**

- ☒ pleaded guilty to count(s) 1 & 2.  
☐ Pleaded nolo contendere to count(s) which was accepted by the court.  
☐ Was found guilty on count(s) after a plea of not guilty.

<u>Title and Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Counts</u>
18 U.S.C. §§ 471 and 2	Manufacture Counterfeit U.S. Currency, Aid and Abet	07/31/2009	1
18 U.S.C. §§ 472 and 2	Utter Counterfeit U.S. Currency, Aid and Abet	07/31/2009	2

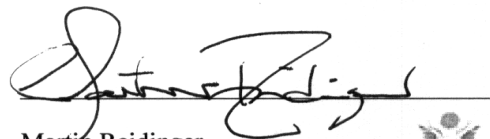
The Defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984 reference to Booker, and 128 U.S.C. 3553(a).

- ☐ 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 shall 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 monetary penalties, the defendant shall notify the court and United States attorney of any material change in the defendant's economic circumstances.

Date of Imposition of Sentence: 9/23/2010

Signed: February 14, 2011

  
Martin Reidinger  
United States District Judge



Defendant: Shawn Thomas Johnson  
Case Number: DNCW 110CR000006-001

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### IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of four (4) months on each of counts One (1) and Two (2), to be served concurrently.

X The Court makes the following recommendations to the Bureau of Prisons:

- Participate in any education and vocational opportunities.
- Participate in the Federal Inmate Financial Responsibility Program while incarcerated.
- Court recommends defendant be placed as close to Asheville, NC as possible.

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

X The Defendant shall surrender to the United States Marshal for this District:

X as notified by the United States Marshal.

   At    a.m. / p.m. on   .

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

   As notified by the United States Marshal.

   Before 2 p.m. on   .

   As notified by the Probation 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 Marshal

Defendant: Shawn Thomas Johnson  
Case Number: DNCW110CR000006-001

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### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of two (2) years. The term consists of two (2) years on each of Counts One (1) and Two (2), all such terms to run concurrently.

The condition for mandatory drug testing is suspended based on the court's determination that the defendant poses a low risk of future substance abuse.

### STANDARD CONDITIONS OF SUPERVISION

The defendant shall comply with the standard conditions that have been adopted by this court and any additional conditions ordered.

1. The defendant shall not commit another federal, state, or local crime.
2. The defendant shall refrain from possessing a firearm, destructive device, or other dangerous weapon.
3. The defendant shall pay any financial obligation imposed by this judgment remaining unpaid as of the commencement of the sentence of probation or the term of supervised release on a schedule to be established by the Court.
4. The defendant shall provide access to any personal or business financial information as requested by the probation officer.
5. The defendant shall not acquire any new lines of credit unless authorized to do so in advance by the probation officer.
6. The defendant shall not leave the Western District of North Carolina without the permission of the Court or probation officer.
7. The defendant shall report in person to the probation officer as directed by the Court or probation officer and shall submit a truthful and complete written report within the first five days of each month.
8. A defendant on supervised release shall report in person to the probation officer in the district to which he or she is released within 72 hours of release from custody of the Bureau of Prisons.
9. The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
10. The defendant shall support his or her dependents and meet other family responsibilities.
11. The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other activities authorized by the probation officer.
12. The defendant shall notify the probation officer within 72 hours of any change in residence or employment.
13. The defendant shall refrain from excessive use of alcohol and shall not unlawfully purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as duly prescribed by a licensed physician.
14. The defendant shall participate in a program of testing and treatment or both for substance abuse if directed to do so by the probation officer, until such time as the defendant is released from the program by the probation officer; provided, however, that defendant shall submit to a drug test within 15 days of release on probation or supervised release and at least two periodic drug tests thereafter for use of any controlled substance, subject to the provisions of 18:3563(a)(5) or 18:3583(d), respectively.
15. The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
16. The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
17. The defendant shall submit his person, residence, office, vehicle and/or any computer system including computer data storage media, or any electronic device capable of storing, retrieving, and/or accessing data to which they have access or control, to a search, from time to time, conducted by any U.S. Probation Officer and such other law enforcement personnel as the probation officer may deem advisable, without a warrant. The defendant shall warn other residents or occupants that such premises or vehicle may be subject to searches pursuant to this condition.
18. The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed by the probation officer.
19. The defendant shall notify the probation officer within 72 hours of defendant's being arrested or questioned by a law enforcement officer.
20. The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the Court.
21. As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
22. If the instant offense was committed on or after 4/24/96, the defendant shall notify the probation officer of any material changes in defendant's economic circumstances which may affect the defendant's ability to pay any monetary penalty.
23. If home confinement (home detention, home incarceration or curfew) is included you may be required to pay all or part of the cost of the electronic monitoring or other location verification system program based upon your ability to pay as determined by the probation officer.
24. The defendant shall cooperate in the collection of DNA as directed by the probation officer.
25. The defendant shall participate in transitional support services under the guidance and supervision of the U.S. Probation Officer. The defendant shall remain in the services until satisfactorily discharged by the service provider and/or with the approval of the U.S. Probation Officer.

### ADDITIONAL CONDITIONS:

26. Throughout the period of supervision the probation officer shall monitor the defendant's economic circumstances and shall report to the court with recommendations as warranted, any material changes that affect the defendant's ability to pay any court ordered penalties.
27. The defendant shall be placed on home detention with location monitoring technology for a period of the first six (6) months of supervised release. During this time, the defendant is restricted to his place of residence at all times except for employment, education, religious services, medical, substance abuse and or mental health treatment, attorney visits, court appearances, court-ordered obligations, or other activities pre-approved by the probation officer.
28. The defendant shall maintain a telephone at his place of residence without any "call forwarding," "Caller ID services," "call waiting," dial-up computer modems, 1-800 long distance call block, fax machine, voice over internet protocol (VOIP), burglar alarm or three-way calling service.
29. The defendant shall pay the cost of the location monitoring portion of this sentence not to exceed the daily contractual rate. Payment for the location monitoring shall be made in accordance with the probation officer's direction. Changes to the established rate can be made by the probation officer subject to supervisory approval.

Defendant: Shawn Thomas Johnson  
Case Number: DNCW110CR000006-001

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**CRIMINAL MONETARY PENALTIES**

The defendant shall pay the following total criminal monetary penalties in accordance with the Schedule of Payments.

ASSESSMENT	FINE	RESTITUTION
\$200.00	\$0.00	\$100.00

**FINE**

The defendant shall pay interest on any fine or restitution of more than \$2,500.00, unless the fine or restitution is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the Schedule of Payments may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

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

X The interest requirement is waived.

     The interest requirement is modified as follows:

**COURT APPOINTED COUNSEL FEES**

     The defendant shall pay court appointed counsel fees.

     The defendant shall pay \$\_\_\_\_\_ Towards court appointed fees.



Defendant: Shawn Thomas Johnson  
Case Number: DNCW110CR000006-001

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Judgment-Page 4a of 5**RESTITUTION PAYEES**

The defendant shall make restitution to the following payees in the amounts listed below:

<u>NAME OF PAYEE</u>	<u>AMOUNT OF RESTITUTION ORDERED</u>
Citi Bank 2198 Chestnut Street San Francisco, CA 94123	\$100.00

X Joint and Several

X Defendant and Co-Defendant Names and Case Numbers (*including defendant number*) if appropriate:

Shawn Thomas Johnson, 1:10cr06-01

Kevin Thomas Wills, 1:10cr06-02

X Court gives notice that this case may involve other defendants who may be held jointly and severally liable for payment of all or part of the restitution ordered here in and may order such payment in the future.

X The victims' recovery is limited to the amount of their loss and the defendant's liability for restitution ceases if and when the victim(s) receive full restitution.

X Any payment not in full shall be divided proportionately among victims.

Defendant: Shawn Thomas Johnson  
Case Number: DNCW110CR000006-001

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### SCHEDULE OF PAYMENTS

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

- A ☐ Lump sum payment of \$ \_\_\_\_\_ Due immediately, balance due
- ☐ Not later than \_\_\_\_\_, or  
☐ In accordance ☐ (C), ☐ (D) below; or
- B ☒ Payment to begin immediately (may be combined with ☐ (C), ☒ (D) below); or
- C ☐ Payment in equal \_\_\_\_\_ (E.g. weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ To commence \_\_\_\_\_ (E.g. 30 or 60 days) after the date of this judgment; or
- D ☒ Payment in equal Monthly (E.g. weekly, monthly, quarterly) installments of \$ 50.00 To commence 60 (E.g. 30 or 60 days) after release from imprisonment to a term of supervision. In the event the entire amount of criminal monetary penalties imposed is not paid prior to the commencement of supervision, the U.S. Probation Officer shall pursue collection of the amount due, and may request the court to establish or modify a payment schedule if appropriate 18 U.S.C. § 3572.

Special instructions regarding the payment of criminal monetary penalties:

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court costs:
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Unless the court has expressly ordered otherwise in the special instructions above, if this judgment imposes a period of imprisonment payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalty payments are to be made to the United States District Court Clerk, 309 U.S. Courthouse, 100 Otis Street, Asheville, NC, 28801, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program. All criminal monetary penalty payments are to be made as directed by the court.

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

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

**THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION**

**CRIMINAL CASE NO. 1:10cr6-1**

**UNITED STATES OF AMERICA,**

**vs.**

**SHAWN THOMAS JOHNSON.**  
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**ORDER**

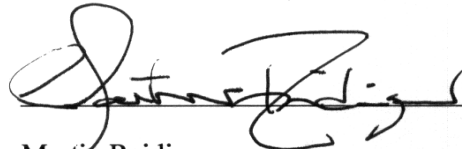
**THIS MATTER** is before the Court upon the Defendant's *pro se* motion to terminate his term of supervised release. [Doc. 60]. Both counsel for the Government and the Defendant's supervising probation officer have advised the Court's chambers that they do not oppose the Defendant's Motion.

Upon review of the Defendant's motion, and in light of the lack of opposition by the Government and the Defendant's supervising probation officer, the Court is satisfied that the early termination of the Defendant's supervised release is warranted by the Defendant's conduct and is in the interest of justice. See 18 U.S.C. § 3583(e)(1).

Accordingly, **IT IS, THEREFORE, ORDERED** that the Defendant's Motion [Doc. 60] is **GRANTED**, and the Defendant's term of supervised release is hereby terminated.

**IT IS SO ORDERED.**

Signed: June 11, 2012

  
Martin Reidinger  
United States District Judge

