

No. _____

In the Supreme Court of the United States

JOHNNIE A. CANNON,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

*On Petition For A Writ Of Certiorari
To The United States Supreme Court*

APPENDIX

PARRISH KRUIDENIER, L.L.P.

Jessica Donels

Counsel of Record

2910 Grand Avenue

Des Moines, Iowa 50312

Telephone: (515) 284-5737

Facsimile: (515) 284-1704

Email: jdonels@parrishlaw.com

APPENDIX – TABLE OF CONTENTS

1. United States v. Johnnie A. Cannon, N.D. Iowa No. 5:23-cr-4023; Trial Transcript Excerpts Volume 1..... App. 3

2. *United States v. Johnnie A. Cannon*, N.D. Iowa No. 5:23-cr-4023; Trial Transcript Excerpts Volume 2..... App. 8

3. *United States v. Johnnie A. Cannon*, N.D. Iowa No. 5:23-cr-4023; Trial Transcript Excerpts Volume 3..... App. 11

4. *United States v. Johnnie A. Cannon*, N.D. Iowa No. 5:23-cr-4023; Judgment entered July 11, 2024..... App. 14

5. *United States v. Johnnie A. Cannon*, N.D. Iowa No. 5:07-cr-4055; Revocation Judgment entered July 11, 2024 App. 22

6. *United States v. Johnnie A. Cannon*, Eighth Circuit Court of Appeals Nos. 24-2470 & 24-2471; Judgment entered December 2, 2025 App. 25

7. *United States v. Johnnie A. Cannon*, Eighth Circuit Court of Appeals Nos. 24-2470 & 24-2471; Petition for Further Rehearing Denied January 5, 2026 App. 36

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION

UNITED STATES OF AMERICA,

No. CR23-4023-LTS

Plaintiff,

Sioux City, Iowa

vs.

January 16, 2024

8:15 a.m.

JOHNNIE A. CANNON,

Volume 1 of 3

Defendant.

TRANSCRIPT OF TRIAL
BEFORE THE HONORABLE LEONARD T. STRAND,
CHIEF UNITED STATES DISTRICT JUDGE,
THE HONORABLE KELLY K.E. MAHONEY,
CHIEF UNITED STATES MAGISTRATE JUDGE, and a jury.

APPEARANCES:

For the Plaintiff: SHAWN S. WEHDE, ESQ.
Assistant United States Attorney
Ho-Chunk Centre - Suite 670
600 Fourth Street
Sioux City, IA 51101

For the Defendant: WILLIAM F. MCGINN, ESQ.
McGinn, Springer & Noethe
20 North 16th Street
Council Bluffs, IA 51501

Also present: John Howard

Reported by: Shelly Semmler, RDR, CRR
320 Sixth Street
Sioux City, IA 51101
(712) 233-3846

*Contact Shelly Semmler at 712-233-3846 or ssemmlerreporting@gmail.com
to purchase a complete copy of the transcript.*

1 both 5B and 6B it indicates no admit. Those are the full
2 versions of post-Miranda interviews. Does that mean the
3 government is not going to be submitting or offering 5B
4 or 6B?

5 MR. WEHDE: Yes, and that was reached after
6 consultation with counsel. He's now aware of what our
7 redacted version is and then what roughly was kept out,
8 some references to his prior probationary term and th --
9 you know, those matters. And it also cuts down the
10 length obviously. But based on -- I told him I'm not
11 seeking to admit them at all, and it's my understanding
12 the defense is not as well.

13 CHIEF JUDGE STRAND: Okay. Thank you. And
14 then I noted Exhibit 102, the prior felony conviction
15 judgment, the defense is maintaining its objection to
16 preserve it, the issue that was briefed and decided in
17 the motion in limine process.

18 And, Mr. McGinn, is it correct that the defense is
19 maintaining the same objections that were noted in the
20 resistance to the government's motion?

21 MR. MCGINN: That is correct, Your Honor.

22 CHIEF JUDGE STRAND: Okay. And I will note for
23 the record then I do consider the defense has reasserted
24 the objection to Exhibit 102, and it is overruled for the
25 reasons described in the order in limine.

1 because of going through that, and in that case there was
2 not a written instruction, but the Court gave a limiting
3 instruction that it read to the jury immediately after
4 the presentation of the 404(b) evidence in that case
5 which involved in that case more testimony about some
6 storage of dope and storage of guns. And then you
7 immediately referenced in that case your reference in the
8 instructions that you may tell people to disregard
9 certain things, evidence is not some things I told you to
10 disregard or limited by the way in which I tell you to
11 limit it. And then you read that instruction. And I
12 thought that worked well. And essentially you read
13 largely what is the model instruction to the jury at that
14 time.

15 At the time we were proposing instructions in this
16 case, I think we proposed it as a possible because it
17 hadn't been determined whether or not the 404(b)
18 instruction would be needed, whether the 404(b) evidence
19 of the prior conviction would be admitted. You've since
20 ruled there that it comes in.

21 My intent is to present that document as -- I
22 believe it's 102 as an exhibit. It's the certified copy
23 of the -- of his prior conviction. And I would do that
24 either at the end of evidence or just before Agent Gill
25 testifies at the end of the case and basically publish

*Contact Shelly Semmler at 712-233-3846 or ssemmlerreporting@gmail.com
to purchase a complete copy of the transcript.*

1 that to the jury at which time I think the instruction
2 could be read if the Court and counsel so desire.

3 THE COURT: Okay. And, Mr. McGinn, any
4 thoughts on a written versus oral Rule 404(b)
5 instruction?

6 MR. MCGINN: Probably a -- I think I would be
7 more comfortable with a written, Your Honor.

8 THE COURT: And I have done it both ways. I've
9 had times where the parties agreed that an oral
10 instruction is fine. I have also, I think, even
11 recently -- maybe it was in the Lander trial. I ended up
12 having it printed off, labeled it as -- I guess in this
13 case it would be instruction 17 but just given to the
14 jury separately just so they would have it with their
15 other materials. And I think I'll go with a written
16 instruction, and that way I can give it to the lawyers
17 ahead of time and make sure everyone's in agreement on
18 the contents.

19 I would still read it as soon as the Government
20 Exhibit 102 is presented to the jury. I would read it to
21 explain to the jury what the purpose and the limited use
22 of that information is. Then I would also have it
23 distributed to them so they could add it to the materials
24 that they take to the jury room.

25 Any objection to any of that, Mr. Wehde?

1 And you know what? The jury probably does too; okay?

2 THE COURT: All right. We're going to adjourn
3 for the night. We'll be back. I'll come in at 8:25
4 tomorrow. Have a good night.

5 (The foregoing trial was
6 adjourned at 5:03 p.m.)
7
8

9 CERTIFICATE

10 I certify that the foregoing is a correct
11 transcript from the record of proceedings in the
12 above-entitled matter.

13 S/Shelly Semmler 4-18-24
14 Shelly Semmler, RDR, CRR Date

15
16 INDEX

17 WITNESS:

PAGE:

18 JOHN HOWARD
19 DIRECT EXAMINATION 134
20 BY MR. WEHDE

21 EXHIBIT:

PAGE:

22 Exhibits at docket 80 7

23 *****
24
25

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION

UNITED STATES OF AMERICA,

No. CR23-4023-LTS

Plaintiff,

Sioux City, Iowa

vs.

January 17, 2024

8:26 a.m.

JOHNNIE A. CANNON,

Volume 2 of 3

Defendant.

_____ /

TRANSCRIPT OF TRIAL
BEFORE THE HONORABLE LEONARD T. STRAND,
CHIEF UNITED STATES DISTRICT JUDGE, and a jury.

APPEARANCES:

For the Plaintiff:

SHAWN S. WEHDE, ESQ.

Assistant United States Attorney

Ho-Chunk Centre - Suite 670

600 Fourth Street

Sioux City, IA 51101

For the Defendant:

WILLIAM F. MCGINN, ESQ.

McGinn, Springer & Noethe

20 North 16th Street

Council Bluffs, IA 51501

Also present:

John Howard

Reported by:

Shelly Semmler, RDR, CRR

320 Sixth Street

Sioux City, IA 51101

(712) 233-3846

*Contact Shelly Semmler at 712-233-3846 or ssemmlerreporting@gmail.com
to purchase a complete copy of the transcript.*

1 THE COURT: And that is an exhibit that's
2 received into evidence that the jury will have a chance
3 to look at when they deliberate; is that correct?

4 MR. WEHDE: That is correct.

5 THE COURT: Okay. I thought so. I wanted to
6 make sure.

7 MR. WEHDE: And then Exhibit 102 is being
8 introduced pursuant to previous record and is listed as
9 Exhibit 102, certified copy of judgment against Johnnie
10 Cannon, two counts, conspiracy to distribute and possess
11 with intent to distribute 5 grams or more of cocaine base
12 and possession with intent to distribute 5 grams or more
13 of cocaine base and the requisite court documentation of
14 that on the subsequent pages, total document being 6
15 pages. And that would also be submitted to the jury for
16 consideration.

17 THE COURT: All right. And as I discussed with
18 the attorneys during a prior break, I do have an
19 additional instruction to read. This is in regards to
20 Exhibit 102 which Mr. Wehde just displayed. I'll read it
21 at this point, and we'll have copies distributed so you
22 have it in writing as well before you deliberate in this
23 case.

24 The instruction reads, number 17, defendant's prior
25 similar acts. You have heard evidence that the defendant

1 (The foregoing trial was
2 adjourned at 2:17 p.m.)

3 CERTIFICATE

4 I certify that the foregoing is a correct
5 transcript from the record of proceedings in the
6 above-entitled matter.

7 S/Shelly Semmler 4-19-24
8 Shelly Semmler, RDR, CRR Date

INDEX

9 **WITNESS:** **PAGE:**

10	JOHN HOWARD	
	CONTINUED DIRECT EXAMINATION	236
11	BY MR. WEHDE	
	CROSS-EXAMINATION	244
12	BY MR. MCGINN	
	REDIRECT EXAMINATION	252
13	BY MR. WEHDE	
	RECROSS-EXAMINATION	258
14	BY MR. MCGINN	
	FURTHER REDIRECT EXAMINATION	259
15	BY MR. WEHDE	

16	MICHAEL SHAPLEY	
	DIRECT EXAMINATION	261
17	BY MR. WEHDE	
	CROSS-EXAMINATION	295
18	BY MR. MCGINN	
	REDIRECT EXAMINATION	297
19	BY MR. WEHDE	
	RECROSS-EXAMINATION	297
20	BY MR. MCGINN	

21	ROBERT JOHNSON	
	DIRECT EXAMINATION	298
22	BY MR. WEHDE	
	CROSS-EXAMINATION	312
23	BY MR. MCGINN	
	REDIRECT EXAMINATION	313
24	BY MR. WEHDE	
	RECROSS-EXAMINATION	315
25	BY MR. MCGINN	

*Contact Shelly Semmler at 712-233-3846 or ssemmlerreporting@gmail.com
to purchase a complete copy of the transcript.*

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION

UNITED STATES OF AMERICA,

No. CR23-4023-LTS

Plaintiff,

Sioux City, Iowa

vs.

January 18, 2024

8:16 a.m.

JOHNNIE A. CANNON,

Volume 3 of 3

Defendant.

_____ /

TRANSCRIPT OF TRIAL
BEFORE THE HONORABLE LEONARD T. STRAND,
CHIEF UNITED STATES DISTRICT JUDGE, and a jury.

APPEARANCES:

For the Plaintiff:

SHAWN S. WEHDE, ESQ.
Assistant United States Attorney
Ho-Chunk Centre - Suite 670
600 Fourth Street
Sioux City, IA 51101

For the Defendant:

WILLIAM F. MCGINN, ESQ.
McGinn, Springer & Noethe
20 North 16th Street
Council Bluffs, IA 51501

Also present:

John Howard

Reported by:

Shelly Semmler, RDR, CRR
320 Sixth Street
Sioux City, IA 51101
(712) 233-3846

*Contact Shelly Semmler at 712-233-3846 or ssemmlerreporting@gmail.com
to purchase a complete copy of the transcript.*

1 actual pure weight of 209.9, obviously 100 percent pure
2 ice methamphetamine, clearly over 50 grams of
3 methamphetamine mix as well as methamphetamine pure
4 because it's the same amount and the same substance.

5 And in looking at the overall case, in looking at
6 all the charges, you're entitled to look at certain other
7 evidence that was presented at the close of yesterday
8 called similar bad acts. In this particular case,
9 Exhibit 102 was introduced to you. The defendant
10 previously convicted of conspiracy to distribute and
11 possess with intent to distribute 5 grams or more of
12 cocaine base and possession with intent to distribute 5
13 grams or more of cocaine base, April 10 of 2010.

14 That evidence is submitted to you along with the
15 limiting instruction that was read to you and then now
16 provided to you and that you may consider this evidence.
17 If you consider the document of his conviction record
18 sufficient to say that that evidence was proved that he
19 was involved in that particular offense, you may consider
20 it for the limited purpose of deciding whether defendant
21 had the state of mind or intent necessary to commit the
22 crime charged in the indictment, that being conspiracy
23 and distribution and aiding and abetting of distribution
24 of methamphetamine or had the motive and opportunity to
25 commit the acts described in the indictment, conspiracy

*Contact Shelly Semmler at 712-233-3846 or ssemmlerreporting@gmail.com
to purchase a complete copy of the transcript.*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

S/Shelly Semmler
Shelly Semmler, RDR, CRR

4-20-24
Date

Contact Shelly Semmler at 712-233-3846 or ssemmlerreporting@gmail.com to purchase a complete copy of the transcript.

UNITED STATES DISTRICT COURT

Northern District of Iowa

UNITED STATES OF AMERICA

v.

JOHNNIE A. CANNON

) JUDGMENT IN A CRIMINAL CASE

)

) Case Number: 0862 5:23CR04023-001

)

) USM Number: 25541-009

)

ORIGINAL JUDGMENT

AMENDED JUDGMENT

Date of Most Recent Judgment:

Jessica Donels

Defendant's Attorney

THE DEFENDANT:

pleaded guilty to count(s)

pleaded nolo contendere to count(s) which was accepted by the court.

was found guilty on count(s) 1, 2, 3, and 4 of the Indictment filed on April 12, 2023 after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Table with 4 columns: Title & Section, Nature of Offense, Offense Ended, Count. Contains two rows of offense details.

The defendant is sentenced as provided in pages 2 through 8 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

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

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

It is ordered that the defendant must notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Leonard T. Strand
United States District Court Judge
Name and Title of Judge

Signature of Judge
Date 7/10/24

July 9, 2024
Date of Imposition of Judgment

DEFENDANT: **JOHNNIE A. CANNON**
CASE NUMBER: **0862 5:23CR04023-001**

PROBATION

The defendant is hereby sentenced to probation for a term of:

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of: 262 months. This term of imprisonment consists of a 262-month term imposed on Count 1, a 262-month term imposed on Count 2, a 262-month term imposed on Count 3, and a 262-month term imposed on Count 4 of the Indictment, to be served concurrently. It is ordered that the term of imprisonment for the instant offense be served consecutively to the undischarged term of imprisonment imposed for the case set forth in paragraph 40 of the presentence report (United States District Court, Northern District of Iowa Case No. 0862 5:07CR04055-001), pursuant to USSG §5G1.3(d).

The court makes the following recommendations to the Federal Bureau of Prisons:
It is recommended that the defendant be designated to the Federal Medical Center (FMC) Rochester in Rochester, Minnesota, or the Federal Correctional Institution (FCI) Forrest City Low in Forrest City, Arkansas, commensurate with the defendant's security and custody and classification needs.
It is recommended that the defendant participate in the Bureau of Prisons' 500-Hour Comprehensive Residential Drug Abuse Treatment Program or an alternate substance abuse treatment program, mental health counseling, and the welding vocational training program.

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

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

- at _____ a.m. p.m. on _____.
- as notified by the United States Marshal.

The defendant must surrender for service of sentence at the institution designated by the Federal Bureau of Prisons:

- before 2 p.m. on _____.
- as notified by the United States Marshal.
- as notified by the United States Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

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

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: **JOHNNIE A. CANNON**
CASE NUMBER: **0862 5:23CR04023-001**

SUPERVISED RELEASE

- Upon release from imprisonment, the defendant will be on supervised release for a term of: **10 years. This term of supervised release consists of a 10-year term imposed on Count 1, a 10-year term imposed on Count 2, a 10-year term imposed on Count 3, and a 10-year term imposed on Count 4 of the Indictment, to be served concurrently.**

MANDATORY CONDITIONS OF SUPERVISION

- 1) The defendant must not commit another federal, state, or local crime.
- 2) The defendant must not unlawfully possess a controlled substance.
- 3) The defendant must refrain from any unlawful use of a controlled substance.
The defendant 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 the defendant poses a low risk of future controlled substance abuse. *(Check, if applicable.)*
- 4) The defendant must cooperate in the collection of DNA as directed by the probation officer. *(Check, if applicable.)*
- 5) The defendant 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 the defendant resides, works, and/or is a student, and/or was convicted of a qualifying offense. *(Check, if applicable.)*
- 6) The defendant must participate in an approved program for domestic violence. *(Check, if applicable.)*

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

DEFENDANT: JOHNNIE A. CANNON
CASE NUMBER: 0862 5:23CR04023-001

STANDARD CONDITIONS OF SUPERVISION

As part of the defendant's supervision, the defendant must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for the defendant's 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 the defendant's conduct and condition.

- 1) The defendant must report to the probation office in the federal judicial district where the defendant is authorized to reside within 72 hours of the time the defendant was sentenced and/or released from imprisonment, unless the probation officer instructs the defendant to report to a different probation office or within a different time frame.
- 2) After initially reporting to the probation office, the defendant will receive instructions from the court or the probation officer about how and when the defendant must report to the probation officer, and the defendant must report to the probation officer as instructed. The defendant must also appear in court as required.
- 3) The defendant must not knowingly leave the federal judicial district where the defendant is authorized to reside without first getting permission from the court or the probation officer.
- 4) The defendant must answer truthfully the questions asked by the defendant's probation officer.
- 5) The defendant must live at a place approved by the probation officer. If the defendant plans to change where the defendant lives or anything about the defendant's living arrangements (such as the people the defendant lives with), the defendant 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, the defendant must notify the probation officer within 72 hours of becoming aware of a change or expected change.
- 6) The defendant must allow the probation officer to visit the defendant at any time at the defendant's home or elsewhere, and the defendant must permit the probation officer to take any items prohibited by the conditions of the defendant's supervision that he or she observes in plain view.
- 7) The defendant must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses the defendant from doing so. If the defendant does not have full-time employment, the defendant must try to find full-time employment, unless the probation officer excuses the defendant from doing so. If the defendant plans to change where the defendant works or anything about the defendant's work (such as the defendant's position or the defendant's job responsibilities), the defendant 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, the defendant must notify the probation officer within 72 hours of becoming aware of a change or expected change.
- 8) The defendant must not communicate or interact with someone the defendant knows is engaged in criminal activity. If the defendant knows someone has been convicted of a felony, the defendant must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
- 9) If the defendant is arrested or questioned by a law enforcement officer, the defendant must notify the probation officer within 72 hours.
- 10) The defendant 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) The defendant 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) As directed by the probation officer, the defendant must notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and must permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- 13) The defendant must follow the instructions of the probation officer related to the conditions of supervision.

DEFENDANT: **JOHNNIE A. CANNON**
CASE NUMBER: **0862 5:23CR04023-001**

SPECIAL CONDITIONS OF SUPERVISION

The defendant must comply with the following special conditions as ordered by the Court and implemented by the United States Probation Office:

1. The defendant must submit the defendant's 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. The defendant must warn any other occupants that the premises may be subject to searches pursuant to this condition. The United States Probation Office may conduct a search under this condition only when reasonable suspicion exists that the defendant has 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.
2. The defendant must participate in a mental health evaluation. The defendant must complete any recommended treatment program, and follow the rules and regulations of the treatment program. The defendant must take all medications prescribed to the defendant by a licensed medical provider.
3. The defendant must not be on the premises of any casino during any period of the defendant's supervision. The defendant must not participate in any form of gambling, including but not limited to, lotteries, pull-tab cards, card games, on-line gambling, horse and dog racing, and sports betting.
4. The defendant must participate in a gambling addiction evaluation. The defendant must complete any recommended treatment program, and follow the rules and regulations of the treatment program.
5. The defendant must participate in a substance abuse evaluation. The defendant must complete any recommended treatment program, which may include a cognitive behavioral group, and follow the rules and regulations of the treatment program. The defendant must participate in a program of testing for substance abuse. The defendant must not attempt to obstruct or tamper with the testing methods.
6. The defendant must not use or possess alcohol. The defendant is prohibited from entering any establishment that holds itself out to the public to be a bar or tavern without the prior permission of the United States Probation Office.
7. If not employed at a lawful type of employment as deemed appropriate by the United States Probation Office, the defendant must participate in employment workshops and report, as directed, to the United States Probation Office to provide verification of daily job search results or other employment related activities. In the event the defendant fails to secure employment, participate in the employment workshops, or provide verification of daily job search results, the defendant may be required to perform up to 20 hours of community service per week until employed.

Continued on the following page.

DEFENDANT: **JOHNNIE A. CANNON**
CASE NUMBER: **0862 5:23CR04023-001**

SPECIAL CONDITIONS OF SUPERVISION

These conditions have been read to me. I fully understand the conditions and have been provided a copy of them. Upon a finding of a violation of supervision, I understand the Court may: (1) revoke supervision; (2) extend the term of supervision; and/or (3) modify the condition of supervision.

Defendant

Date

United States Probation Officer/Designated Witness

Date

DEFENDANT: **JOHNNIE A. CANNON**
CASE NUMBER: **0862 5:23CR04023-001**

SCHEDULE OF PAYMENTS

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

- A \$ 400 due immediately;
- 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 _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

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

- Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- The defendant must pay the cost of prosecution.
- The defendant must pay the following court cost(s):
- The defendant must forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTA assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

v.

JOHNNIE A. CANNON

Case Number: 0862 5:07CR04055-001

USM Number: 25541-009

Jessica Donels

Defendant's Attorney

- Revocation of Probation
- Revocation of Supervised Release
- Modification of Supervision Conditions
- AMENDED REVOCATION JUDGMENT

Date of Most Recent Judgment:

THE DEFENDANT:

- admitted guilt to violation(s) 1, 2, 3 of the term of supervision.
- was found in violation of 4 after denial of guilt.

The defendant is adjudicated guilty of these violations:

<u>Violation Number</u>	<u>Nature of Violation</u>	<u>Violation Ended</u>
1	Use of a Controlled Substance	07/17/2017
2	Association with Person(s) Engaged in Criminal Activity	08/30/2019
3	Travel Without Permission	10/29/2022
4	New Law Violation	03/14/2023

The defendant is sentenced as provided in pages 2 through 3 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant was not found in violation of _____ and is discharged as to such violation(s).
- The Court did not make a finding regarding violation(s) _____

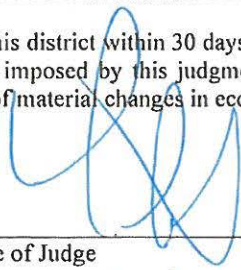
It is ordered that the defendant must notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant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

Leonard T. Strand
United States District Court Judge
Name and Title of Judge

Signature of Judge

July 9, 2024
Date of Imposition of Judgment

Date


7/10/24

DEFENDANT: **JOHNNIE A. CANNON**
CASE NUMBER: **0862 5:07CR04055-001**

PROBATION

The defendant's supervision is continued with the addition of special condition number(s):

IMPRISONMENT

No imprisonment is ordered as part of this modification.

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of: **37 months**. It is ordered that the term of imprisonment be served consecutively to the term of imprisonment imposed in United States District Court for the Northern District of Iowa, Case No. 0862 5:23CR04023-001.

The court makes the following recommendations to the Federal Bureau of Prisons:
It is recommended that the defendant be designated to the Federal Medical Center (FMC) Rochester in Rochester, Minnesota, or the Federal Correctional Institution (FCI) Forrest City Low in Forrest City, Arkansas, which is commensurate with the defendant's security and custody classification needs.
It is recommended that the defendant participate in the Bureau of Prisons' 500-Hour Comprehensive Residential Drug Abuse Treatment Program or an alternate substance abuse treatment program, mental health counseling, and the welding vocational training program.

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

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

at _____ a.m. p.m. on _____.

as notified by the United States Marshal.

The defendant must surrender for service of sentence at the institution designated by the Federal Bureau of Prisons:

before 2 p.m. on _____.

as notified by the United States Marshal.

as notified by the United States Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____ with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: **JOHNNIE A. CANNON**
CASE NUMBER: **0862 5:07CR04055-001**

SUPERVISED RELEASE

- Upon release from imprisonment, No Term of Supervised Release is reimposed.

United States Court of Appeals
For The Eighth Circuit
Thomas F. Eagleton U.S. Courthouse
111 South 10th Street, Room 24.329
St. Louis, Missouri 63102

Susan E. Bindler
Clerk of Court

VOICE (314) 244-2400
FAX (314) 244-2780
www.ca8.uscourts.gov

December 02, 2025

Jessica M. Donels
PARRISH & KRUIDENIER
2910 Grand Avenue
Des Moines, IA 50312

RE: 24-2470 United States v. Johnnie Cannon
24-2471 United States v. Johnnie Cannon

Dear Counsel:

The court has issued an opinion in these cases. Judgment has been entered in accordance with the opinion.

Please review [Federal Rules of Appellate Procedure](#) and the [Eighth Circuit Rules](#) on post-submission procedure to ensure that any contemplated filing is timely and in compliance with the rules. Note particularly that petitions for rehearing and petitions for rehearing en banc must be received in the clerk's office within 14 days of the date of the entry of judgment. Counsel-filed petitions must be filed electronically in CM/ECF. Paper copies are not required. Except as provided by Rule 25(a)(2)(iii) of the Federal Rules of Appellate Procedure, no grace period for mailing is allowed. Any petition for rehearing or petition for rehearing en banc which is not received within the 14 day period for filing permitted by FRAP 40 may be denied as untimely.

Susan E. Bindler
Clerk of Court

BNW

Enclosure(s)

cc: Johnnie A. Cannon
Clerk, U.S. District Court, Northern Iowa
Shawn Wehde

District Court/Agency Case Number(s): 5:07-cr-04055-LTS-1
5:23-cr-04023-LTS-1

United States Court of Appeals
For The Eighth Circuit
Thomas F. Eagleton U.S. Courthouse
111 South 10th Street, Room 24.329
St. Louis, Missouri 63102

Susan E. Bindler
Clerk of Court

VOICE (314) 244-2400
FAX (314) 244-2780
www.ca8.uscourts.gov

December 02, 2025

West Publishing
Opinions Clerk
610 Opperman Drive
Building D D4-40
Eagan, MN 55123-0000

RE: 24-2470 United States v. Johnnie Cannon
24-2471 United States v. Johnnie Cannon

Dear Sir or Madam:

An opinion was filed today in the above cases.

Counsel who represented the appellant was Jessica M. Donels of Des Moines, IA.

Counsel who represented the appellee was Shawn Wehde, AUSA, of Sioux City, IA.

The judge who heard the cases in the district court was Honorable Leonard T. Strand.

If you have any questions concerning this case, please call this office.

Susan E. Bindler
Clerk of Court

BNW

Enclosure(s)

cc: Lois Law
MO Lawyers Weekly

District Court/Agency Case Number(s): 5:07-cr-04055-LTS-1
5:23-cr-04023-LTS-1

United States Court of Appeals
For the Eighth Circuit

No. 24-2470/24-2471

United States of America

Plaintiff - Appellee

v.

Johnnie A. Cannon

Defendant - Appellant

Appeal from United States District Court
for the Northern District of Iowa

Submitted: April 14, 2025

Filed: December 2, 2025

Before LOKEN, GRUENDER, and GRASZ, Circuit Judges.

GRASZ, Circuit Judge.

A jury found Johnnie A. Cannon guilty of one count of conspiracy to distribute methamphetamine and three counts of distribution and aiding and abetting the distribution of methamphetamine. After the jury returned its verdict, the district

court¹ revoked Cannon's supervised release from a prior conviction. Cannon now appeals his convictions and the revocation of his supervised release. We affirm the district court.

I. Background

In early 2023, law enforcement began working with MS, a confidential informant. MS identified AP — who lived in the Sioux City, Iowa, area — as one of his methamphetamine suppliers. MS told law enforcement AP obtained some of her methamphetamine supply from a man known as “Arkansas,” who law enforcement believed to be Cannon. Investigators used MS to conduct three controlled buys of methamphetamine from AP. At trial, AP testified she purchased all the methamphetamine sold during the controlled buys from Cannon.

While MS was inside AP's residence during the first controlled buy, law enforcement observed a tan Ford Crown Victoria (the Ford) driven by a black male arrive outside. Although the Ford was not registered in Cannon's name, law enforcement believed he regularly used the vehicle. While the Ford was outside AP's residence, officers observed AP go outside and meet with the driver of the Ford on the porch. MS then left AP's residence and provided law enforcement with a quarter pound of methamphetamine he purchased from AP.

During the second controlled buy, law enforcement observed Cannon arrive at AP's residence in a small white SUV. Cannon picked up AP's roommate and then left. Shortly thereafter, Cannon returned and the roommate exited the vehicle and went back and forth between the white SUV and AP's residence. Surveillance photos show the white SUV outside AP's residence during these interactions. Once Cannon returned, law enforcement sent MS inside AP's residence to conduct the

¹The Honorable Leonard T. Strand, United States District Judge for the Northern District of Iowa.

controlled buy. MS returned to law enforcement with approximately a half pound of methamphetamine he bought from AP.

Before the third and final controlled buy, law enforcement observed Cannon arrive at AP's residence driving the Ford. After he parked, AP exited her apartment, got into the passenger seat of the Ford, and they drove around the parking lot. AP then got out of the Ford with a small black bag and returned to her residence. Surveillance photos show these interactions. MS then conducted the controlled buy and gave law enforcement a small black bag containing approximately a half pound of methamphetamine.

After AP exited the Ford, Cannon began to drive away. Cannon did not get far before law enforcement pulled him over. During the traffic stop, officers seized \$3,250 in cash, \$3,000 of which was determined to be serialized money from the third controlled buy. Cannon was then taken into custody, given *Miranda* warnings, and interviewed by officers. *See Miranda v. United States*, 385 U.S. 436 (1966). During the interview, Cannon admitted to having multiple methamphetamine sources, both in and out of the state, purchasing and distributing multiple quantities of methamphetamine, and dealing with AP for approximately a year. Additionally, Cannon specifically admitted to distributing methamphetamine to AP on March 14.

A grand jury indicted Cannon on one count of conspiring to distribute methamphetamine in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A), 846, and 851, and three counts of distributing and aiding and abetting the distribution of methamphetamine in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A), (b)(1)(B), 851; 18 U.S.C. § 2. During jury selection, Cannon's trial counsel made a *Batson* challenge alleging there were no black people on the prospective jury panel. *See Batson v. Kentucky*, 476 U.S. 79 (1986). The magistrate judge,² while presiding over jury selection with the parties' consent, determined a *Batson* challenge was not

²The Honorable Kelly K.E. Mahoney, Chief United States Magistrate Judge for the Northern District of Iowa.

proper because no jurors had yet been struck. Even so, the magistrate judge offered to question the prospective jurors on the topic of race and allowed Cannon's trial counsel to do the same.

At the close of evidence, Cannon moved for judgment of acquittal pursuant to Federal Rule of Criminal Procedure 29(a). The district court denied the motion. The case was submitted to the jury, which found Cannon guilty on all counts. Cannon timely renewed his motion for judgment of acquittal and alternatively moved for a new trial and arrest of judgment pursuant to Federal Rules of Criminal Procedure 29, 33, and 34, respectively. The district court denied the motion on all grounds and sentenced Cannon to 262 months of imprisonment for his new convictions. The district court also revoked Cannon's supervised release and sentenced him to an additional 37 months of imprisonment for violating the terms of his supervised release.

II. Discussion

Cannon appealed both his convictions and the revocation of his supervised release. However, he focuses solely on his convictions, arguing: (1) his Sixth Amendment right to a jury drawn from a fair cross-section of the community was violated; (2) the admission of his prior conviction was improper under Rule 404(b); (3) there was insufficient evidence for a jury to convict him of any of the four counts; and (4) his trial counsel was ineffective. We address each argument in turn.

A. Sixth Amendment Right to a Representative Jury

Cannon, who is black, argues his Sixth Amendment right to a jury drawn from a fair cross-section of the community was violated because there were no black people on the panel of prospective jurors. We review such challenges *de novo*. *United States v. Reed*, 972 F.3d 946, 953 (8th Cir. 2020).

To establish that his right to a jury drawn from a fair cross-section of the community was violated, Cannon must show: (1) the allegedly excluded group “is a ‘distinctive group’ in the community”; (2) the representation of this group in venires is not fair and reasonable as related to the number of such persons in the community; and (3) the underrepresentation is caused by “systematic exclusion of the group in the jury-selection process.” *Duren v. Missouri*, 439 U.S. 357, 364 (1979). But as Cannon concedes, this right “does not guarantee a defendant a proportionate number of his racial group on the jury panel or the jury which tries him; it merely prohibits deliberate exclusion of an identifiable racial group from the jury selection process.” *United States v. Burrage*, 75 F.4th 953, 957 (8th Cir. 2023) (quoting *United States v. Jefferson*, 725 F.3d 829, 835 (8th Cir. 2013)). As follows, “it is the number of [black people] in the jury pool, not the number who showed up for jury selection in a particular case, that is relevant to assessing the merits of [Cannon]’s fair cross-section challenge.” *Id.*

Cannon did not challenge the district court’s jury selection plan at or before trial and provides no evidence or substantial argument that the district court’s jury selection plan systematically excludes black people.³ The only “evidence” Cannon has presented are conclusory statements relating to the racial composition of the

³Citing cases from the Iowa Supreme Court, Cannon appears to challenge the practice of selecting potential jurors from voter registration and driver’s license lists. Since at least 2017, the United States District Court for the Northern District of Iowa has selected its potential jurors from voter registration, motor vehicle operator, and non-driver identification card holder lists. *Jury Selection Plan*, United States District Court for the Northern District of Iowa 2-3 (Jan. 26, 2017), www.iand.uscourts.gov/sites/iand/files/Jury%20Selection%20Plan.pdf. We have consistently upheld the constitutionality of these and similar methods. *United States v. Einfeldt*, 138 F.3d 373, 379 (8th Cir. 1998) (upholding jury selection plan drawing potential jurors from voter registration lists in the Northern District of Iowa); *United States v. Erickson*, 999 F.3d 622, 628–29 (8th Cir. 2021) (collecting cases stating voter registration lists survive constitutional scrutiny unless there is a separate showing of systematic exclusion of the distinct group); *Reed*, 972 F.3d at 953–54 (upholding a jury selection plan drawing potential jurors from voter rolls, driver’s license lists, and state identification card lists).

potential jurors in his particular case. As we have held, absent evidence of a defect in the manner in which jurors are selected, a cross-sectional challenge cannot be sustained. *See Jefferson*, 725 F.3d at 835. Accordingly, Cannon’s fair cross-section challenge was properly denied.

B. Admission of Prior Drug Conviction

We next turn to Cannon’s argument that the district court erred by admitting evidence of his prior felony convictions and photographs of him with uncharged firearms. *See Fed. R. Evid. 404(b)*. We review a trial court’s admission of evidence under Federal Rule of Evidence 404(b) for abuse of discretion. *United States v. Drew*, 9 F.4th 718, 722 (8th Cir. 2021).

Although Rule 404(b) prohibits the use of prior bad acts as propensity evidence, prior bad acts may be used to prove “motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident.” Fed. R. Evid. 404(b)(1), (2).

To be admissible, Rule 404(b) evidence “must (1) be relevant to a material issue raised at trial, (2) be similar in kind and close in time to the crime charged, (3) be supported by sufficient evidence . . . that the defendant committed the other act, and (4) not have a prejudicial value that substantially outweighs its probative value.”

United States v. Johnson, 439 F.3d 947, 952 (8th Cir. 2006) (quoting *United States v. Kern*, 12 F.3d 122, 124–25 (8th Cir. 1993)). We have long held Rule 404(b) “is a rule of inclusion, such that evidence offered for permissible purposes is presumed admissible absent a contrary determination.” *See, e.g., Johnson*, 439 F.3d at 952.

Relying almost exclusively on precedent from our sister circuits, Cannon urges us to change our interpretation of Rule 404(b). He argues our characterization of Rule 404(b) as a rule of inclusion “undermines” the purpose of the rule. Whatever the merit, we need not address Cannon’s argument because we are bound by our

established precedent. *See Drew*, 9 F.4th at 724 (citing *Mader v. United States*, 654 F.3d 794, 800 (8th Cir. 2011)).

In his reply, Cannon relies on *United States v. Cotton*, where we explained Rule 404(b) “requires more” than a “[m]ere recitation of the Rule without an accompanying case-specific analysis.” 823 F.3d 430, 435 (8th Cir. 2016). Cannon argues the government and district court did just that. Not so. The district court engaged in a well-reasoned analysis of the utility of Cannon’s prior conviction to prove knowledge and intent to conspire to distribute methamphetamine. *See United States v. Grady*, 639 F.3d 489, 494 (8th Cir. 2011) (holding a prior conviction to distribute drugs as relevant under Rule 404(b) to show knowledge and intent to commit conspiracy to distribute drugs). Seeing no error in the district court’s analysis, we affirm.

C. Sufficiency of the Evidence

Next, we address Cannon’s argument that his convictions were not supported by sufficient evidence. We review a challenge to the sufficiency of the evidence “de novo, ‘construing the evidence in the light most favorable to the verdict.’” *United States v. Jackson*, 142 F.4th 1095, 1101 (8th Cir. 2025) (quoting *United States v. Jirak*, 728 F.3d 806, 811 (8th Cir. 2013)). “This is a ‘strict’ standard,” so “[w]e do not lightly overturn a jury’s verdict.” *Id.* (quoting *United States v. Edelmann*, 458 F.3d 791, 811 (8th Cir. 2006)). “‘We cannot pass upon the credibility of witnesses or the weight to be given their testimony,’ and ‘will only reverse a district court’s denial of a defendant’s motion for acquittal if there is no interpretation of the evidence that would allow a reasonable jury to find the defendant guilty beyond a reasonable doubt.’” *Id.* (cleaned up) (quoting *United States v. Nelson*, 51 F.4th 813, 817 (8th Cir. 2022)).

Much of Cannon’s argument attacks the credibility and consistency of the government’s witnesses, arguing the witnesses are not credible because they cooperated with the government for the possibility of reduced sentences. Cannon is

correct this “is relevant in assessing the witness[es’] credibility.” *Nelson*, 51 F.4th at 818 (quoting *United States v. Espino*, 317 F.3d 788, 794 (8th Cir. 2003)). But assessing witness credibility “is uniquely within the province of the trier of fact,” not the appellate court. *Id.* at 817 (quoting *United States v. Hassan*, 844 F.3d 723, 726 (8th Cir. 2016)). Accordingly, we will not second guess the jury’s credibility determinations.

Cannon also argues there was insufficient evidence to support his convictions because the government did not present physical evidence of the distribution and conspiracy. Rather, Cannon claims the evidence shows he was, at most, in physical proximity to methamphetamine, and physical proximity alone is insufficient to prove he knowingly distributed and conspired to distribute methamphetamine. *See generally United States v. Scofield*, 433 F.3d 580, 585–87 (8th Cir. 2006). We disagree. Cannon is correct law enforcement did not take photos or videos during the first controlled buy and did not present any DNA or fingerprint evidence. But “[e]vidence of a conspiracy will often be circumstantial due to a conspiracy’s necessary aspect of secrecy.” *United States v. Wiley*, 122 F.4th 725, 729 (8th Cir. 2024) (quoting *United States v. Castro-Gaxiola*, 479 F.3d 579, 581 (8th Cir. 2007)). So, evidence consisting “primarily of testimony from other members of the conspiracy may suffice to establish [Cannon’s] guilt.” *United States v. Milk*, 66 F.4th 1121, 1135 (8th Cir. 2023) (quoting *United States v. Conway*, 754 F.3d 580, 587 (8th Cir. 2014)).

Here, Cannon’s co-conspirators testified at length about his involvement in the conspiracy. AP testified she obtained all the methamphetamine she sold to MS during the controlled buys from Cannon. Three witnesses and co-conspirators identified Cannon as a methamphetamine source. What’s more, Cannon admitted to officers following his arrest that he had been dealing with AP for approximately a year and sold AP methamphetamine before the third controlled buy. Officers testified they observed Cannon outside AP’s residence during each controlled buy and took photos depicting Cannon outside AP’s residence during the second and third controlled buys.

Accepting the jury's credibility determinations and viewing the evidence in the light most favorable to the verdict, there is sufficient evidence to find Cannon guilty beyond a reasonable doubt of conspiracy to distribute methamphetamine and distribution and aiding and abetting the distribution of methamphetamine.⁴

D. Ineffective Assistance of Counsel

Finally, Cannon claims he received ineffective assistance of counsel because his trial counsel did not move to suppress some of Cannon's verbal admissions and failed to strike two jurors who were related by marriage. As Cannon concedes, ineffective assistance of counsel claims are generally raised by motion under 28 U.S.C. § 2255 rather than on direct appeal. *See United States v. Frommelt*, 971 F.3d 823, 830 (8th Cir. 2020). Indeed, we will only review ineffective assistance of counsel claims on direct appeal "where the record has been fully developed" in the district court, "where not to act would amount to a plain miscarriage of justice, or where counsel's error is readily apparent." *United States v. Watkins*, 127 F.4th 1142, 1145 (8th Cir. 2025) (quoting *United States v. Ramirez-Hernandez*, 449 F.3d 824, 827 (8th Cir. 2006)). None of these circumstances are applicable here, so we decline to review the merits of Cannon's ineffective assistance of counsel claim.

III. Conclusion

For the foregoing reasons, we affirm.

⁴To the extent Cannon appeals the district court's denial of his motion for a new trial, we find the district court did not abuse its discretion. *See United States v. Dowty*, 964 F.3d 703, 708 (8th Cir. 2020) (standard of review) ("New trial motions 'based on the weight of the evidence are generally disfavored.'") (quoting *United States v. Camacho*, 555 F.3d 695, 705 (8th Cir. 2009)).

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

No: 24-2470

United States of America

Appellee

v.

Johnnie A. Cannon

Appellant

No: 24-2471

United States of America

Appellee

v.

Johnnie A. Cannon

Appellant

Appeal from U.S. District Court for the Northern District of Iowa - Western
(5:07-cr-04055-LTS-1)
(5:23-cr-04023-LTS-1)

ORDER

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

January 05, 2026

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

/s/ Susan E. Bindler