APPENDIX

APPENDIX

A-1

NOT FOR PUBLICATION

In the

United States Court of Appeals

For the Eleventh Circuit

No. 25-10314
Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ORLANDO CHAVEZ,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 1:24-cr-20035-RKA-1

Before ROSENBAUM, GRANT, and DUBINA, Circuit Judges.

PER CURIAM:

Appellant Orlando Chavez appeals his convictions for procuring citizenship or naturalization unlawfully, in violation of 18 U.S.C. §1425(a), and misuse of evidence of citizenship or naturalization, in violation of 18 U.S.C. § 1423. On appeal, Chavez argues that the district court erred by denying his motion for a judgment of acquittal because the government did not present sufficient evidence for any reasonable jury to find beyond a reasonable doubt that he knowingly failed to disclose he had abused his seven-year-old daughter, and that if a reasonable immigration official learned of the abuse, she would have denied his naturalization application or would have investigated and uncovered facts that would have led her to deny Chavez's application. Chavez further claims that because the government failed to present sufficient evidence to support his 18 U.S.C. § 1425(a) charge, it necessarily failed to prove beyond a reasonable doubt that he used an unlawfully obtained naturalization certificate to secure a passport. Having read the parties' briefs and reviewed the record, we affirm the district court's order denying Chavez's motion for judgment of acquittal and his convictions.

I.

We review *de novo* a challenge to the sufficiency of the evidence, and the district court's denial of a Rule 29 motion for a judgment of acquittal. *United States v. Beach*, 80 F.4th 1245, 1258 (11th Cir. 2023). When the defendant raises a claim challenging the sufficiency of the evidence on a ground not argued below, the new ground will be reviewed for plain error only. *United States v. Baston*, 818 F.3d 651, 664 (11th Cir. 2016). Under plain error review, the defendant has the burden of showing there is (1) error, (2) that is plain, and (3) that affects substantial rights. *United States v. Monroe*, 353 F.3d 1346, 1349 (11th Cir. 2003) (quotation marks omitted). If all three conditions are met, then we may exercise our discretion to notice a forfeited error, but only if "the error seriously affect[s] the fairness, integrity, or public reputation of judicial proceedings." *Id.* (quotation marks omitted, alteration in original). When "the explicit language of a statute or rule does not specifically resolve an issue, there can be no plain error where there is no precedent from the Supreme Court or this Court directly resolving it." *United States v. Chau*, 426 F.3d 1318, 1322 (11th Cir. 2005) (quotation marks omitted).

II.

The district court may enter a judgment of acquittal at the close of the government's evidence or at the close of all evidence, either upon the defendant's motion or *sua* sponte, if the evidence is insufficient to sustain a conviction. Fed. R. Crim. P. 29(a). We will uphold the district court's denial of a Rule 29 motion for a judgment of acquittal "if a reasonable trier of fact could conclude that the evidence establishe[d] the defendant's guilt beyond a reasonable doubt." *Beach*, 80 F.4th at 1255 (quotation marks omitted). "We will not overturn a jury's verdict if there is any reasonable construction of the evidence that would have allowed the jury to find the defendant guilty beyond a reasonable doubt." *Id.* (quotation marks and emphasis omitted). We must sustain a verdict where "there is a reasonable basis in the record for it." *United States v. Farley*, 607 F.3d 1294, 1333 (11th Cir. 2010) (quotation marks omitted).

When reviewing the denial of a motion for judgment of acquittal, we view all facts and inferences in the light most favorable to the government. *Beach*, 80 F.4th at 1255. The evidence need not exclude every reasonable hypothesis of innocence for a reasonable jury to find guilt beyond a reasonable doubt, and the jury is free to choose among alternative, reasonable interpretations of the evidence. *Id.* at 1255-56. The test for sufficiency of the evidence is the same regardless of whether the evidence is direct or circumstantial, with no distinction in the weight given to each. *United States v. Guevara*, 894 F.3d 1301, 1307 (11th Cir. 2018) (quotation marks omitted).

A person violates 18 U.S.C. § 1425(a) if he "knowingly procures or attempts to procure, contrary to law, the naturalization of any person, or documentary or other evidence of naturalization or of citizenship." 18 U.S.C. § 1425(a). Closely related to that statute is 18 U.S.C. § 1423, which states that a person violates this provision if they knowingly use "for any purpose any order, certificate, certificate of naturalization, certificate of citizenship, judgment, decree, or exemplification, unlawfully issued or made, or copies or duplicates thereof, showing any person to be naturalized or admitted to be a citizen." 18 U.S.C. § 1423.

In *Maslenjak v. United States*, 582 U.S. 335, 137 S. Ct. 1918 (2017), the Supreme Court held that a person violates § 1425(a) if they knowingly make a material, false statement to obtain naturalization. 582 U.S at 341-43, 137 S. Ct. at 1924-25. The Supreme Court further held that the government must show that a false statement to immigration officials was material, in that it altered the naturalization process in a way that influenced an award of citizenship, based on how a reasonable government official would have properly applied naturalization law had they known the real facts. *Id.* at 346-48, 137 S. Ct. at 1927-28.

The Supreme Court set forth two ways for the government to demonstrate a false statement was material under § 1425(a): (1) the applicant may have misrepresented facts that are themselves disqualifying from citizenship; and (2) under the "investigation-based theory," a false statement can be found material if the true facts would have led immigration officials to the discovery of other facts that would have been legal grounds for the application's denial. *Id.* at 348-349, 137 S. Ct. at 1928-29. Under the investigation-based theory, the government bears the burden of showing that the misrepresented fact was sufficiently relevant to a naturalization criterion that it would have prompted a reasonable official to undertake further investigation when seeking evidence concerning citizenship qualifications; and, if that is met, that the investigation would have predictably disclosed some legal disqualification. *Id.* at 349-50, 137 S. Ct. at 1929-30. Even if the government meets this burden, the defendant retains a complete defense to § 1425(a) by showing qualification for citizenship. *Id.* at 351, 137 S. Ct. at 1930.

To be naturalized, applicants are statutorily required to be a person of "good moral character." 8 U.S.C. § 1427(a). There are numerous grounds under which a person can be found to not be a person of good moral character. *See* 8 U.S.C. § 1101(f). This provision includes, in part, anyone who at any time has been convicted of an aggravated felony (as defined in subsection (a)(43)). *Id.* at § 1101(f)(8). The term "aggravated felony" in § 1101(f)(8) includes the murder, rape, or sexual abuse of a minor. *Id.* § 1101(a)(43)(A). However, the fact that a person does not fall within any of the express categories in § 1101(f) does not preclude a finding that for other reasons the person is not of good moral character. *Id.* § 1101(f). We have previously stated that sections 1101(f)(3) and (8) "illustrate what types of unlawful behavior may bar an applicant from establishing good moral character" and labeled the "catch-all" provision of section 1101(f) as "expansive." *See United States v. Jean-Baptiste*, 395 F.3d 1190, 1193-94 (11th Cir. 2005) (affirming that a naturalized citizen who committed a drug offense prior to his naturalization oath but was not indicted, arrested, or convicted until after his naturalization failed to demonstrate good moral character and was subject to denaturalization).

III.

The record demonstrates that the district court did not commit plain error in denying Chavez's motion.[1] Based on the evidence, a jury could conclude beyond a reasonable doubt that

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[1] We review for plain error because Chavez argues for the first time on appeal that his child abuse conviction does not rise to the level of an aggravated felony and that he had not been convicted at the time he filed his application for naturalization. At trial, Chavez argued that he pled guilty to the child abuse charge to be released from jail, not because he was guilty of the offense.

Chavez committed a crime during his statutory good moral character period by inserting his penis into his daughter's vagina in 2014, for which he had not been arrested in 2017, when he applied for naturalization and failed to disclose this information. The evidence showed that he also failed to disclose sexually abusing his daughter on his naturalization application. The immigration officer testified that had Chavez disclosed this conduct, she would have investigated further and ultimately denied his application. Because the jury had sufficient evidence to find that Chavez procured his U.S. citizenship by making false statements and that Chavez used his naturalization certificate to procure his U.S. passport, the jury also had sufficient evidence to convict Chavez of misusing evidence of naturalization.

Accordingly, based on the aforementioned reasons, we affirm the district court's order denying Chavez's motion for judgment of acquittal and affirm Chavez's convictions.

AFFIRMED.

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

For rules and forms visit
www.ca11.uscourts.gov

December 19, 2025

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 25-10314-GG
Case Style: USA v. Orlando Chavez
District Court Docket No: 1:24-cr-20035-RKA-1

Opinion Issued
Enclosed is a copy of the Court's decision issued today in this case. Judgment has been entered today pursuant to FRAP 36. The Court's mandate will issue at a later date pursuant to FRAP 41(b).

Petitions for Rehearing
The time for filing a petition for panel rehearing or rehearing en banc is governed by 11th Cir. R. 40-2. Please see FRAP 40 and the accompanying circuit rules for information concerning petitions for rehearing.

Costs
No costs are taxed.

Attorney's Fees
The time to file and required documentation for an application for attorney's fees and any objection to the application are governed by 11th Cir. R. 39-2 and 39-3.

Appointed Counsel
Counsel appointed under the Criminal Justice Act (CJA) must submit a voucher claiming compensation via the eVoucher system no later than 45 days after issuance of the mandate or the filing of a petition for writ of certiorari. Please contact the CJA Team at (404) 335-6167 or cja_evoucher@ca11.uscourts.gov for questions regarding CJA vouchers or the eVoucher system.

Clerk's Office Phone Numbers

General Information:	404-335-6100	Attorney Admissions:	404-335-6122
Case Administration:	404-335-6135	Capital Cases:	404-335-6200
CM/ECF Help Desk:	404-335-6125	Cases Set for Oral Argument:	404-335-6141

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UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

For rules and forms visit
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March 03, 2026

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 25-10314-GG
Case Style: USA v. Orlando Chavez
District Court Docket No: 1:24-cr-20035-RKA-1

The enclosed order has been entered on petition(s) for rehearing.

See Rule 41, Federal Rules of Appellate Procedure, and Eleventh Circuit Rule 41-1 for information regarding issuance and stay of mandate.

Clerk's Office Phone Numbers

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CM/ECF Help Desk:	404-335-6125	Cases Set for Oral Argument:	404-335-6141

REHG-1 Ltr Order Petition Rehearing

In the

United States Court of Appeals

For the Eleventh Circuit

No. 25-10314

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ORLANDO CHAVEZ,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 1:24-cr-20035-RKA-1

ON PETITION FOR REHEARING AND PETITION FOR REHEARING EN BANC

Before ROSENBAUM, GRANT, and DUBINA, Circuit Judges.

PER CURIAM:

The Petition for Rehearing En Banc is DENIED, no judge in regular active service on the Court having requested that the Court be polled on rehearing en banc. FRAP 40. The Petition for Panel Rehearing also is DENIED. FRAP 40.

A-3

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

UNITED STATES OF AMERICA § **JUDGMENT IN A CRIMINAL CASE**

v.

ORLANDO CHAVEZ

Case Number: **1:24-CR-20035-RKA(1)**
USM Number: **13576-511**

Counsel for Defendant: **Alexandra Ann Hoffman and Christian Scott Dunham**
Counsel for United States: **Melissa Shaw and Yisel Valdes**

THE DEFENDANT:

☐	pleaded guilty to count(s)	
☐	pleaded guilty to count(s) before a U.S. Magistrate Judge, which was accepted by the court.	
☐	pleaded nolo contendere to count(s) which was accepted by the court	
☒	was found guilty on count(s) after a plea of not guilty	**One and Two of the Indictment.**

The defendant is adjudicated guilty of these offenses:

Title & Section / Nature of Offense	**Offense Ended**	**Count**
18 U.S.C. § 1425(a) - Procuring Citizenship Or Naturalization Unlawfully	05/19/2018	1
18 U.S.C. § 1423 - Misuse Of Evidence Of Citizenship Or Naturalization	05/19/2018	2

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

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

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

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

January 24, 2025
Date of Imposition of Judgment

Signature of Judge

ROY K. ALTMAN
UNITED STATES DISTRICT JUDGE
Name and Title of Judge

January 24, 2025
Date

DEFENDANT: ORLANDO CHAVEZ
CASE NUMBER: 1:24-CR-20035-RKA(1)

IMPRISONMENT

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

18 months as to each of Counts One and Two, to be served concurrently.

☒ The court makes the following recommendations to the Bureau of Prisons:
To be designated to a facility in or as close to South Florida as possible.

☐ The defendant is remanded to the custody of the United States Marshal.
☒ The defendant shall surrender to the United States Marshal for this district:

☒ at ☐ a.m. ☐ p.m. on

☐ as notified by the United States Marshal.

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

☐ before 12 p.m. on
☐ as notified by the United States Marshal.
☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on ______________________ to

at ______________________, with a certified copy of this judgment.

UNITED STATES MARSHAL

By
DEPUTY UNITED STATES MARSHAL

DEFENDANT: ORLANDO CHAVEZ
CASE NUMBER: 1:24-CR-20035-RKA(1)

:SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: **three (3) years as to Counts One and Two, to be served concurrently.**

MANDATORY CONDITIONS

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

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

DEFENDANT: ORLANDO CHAVEZ
CASE NUMBER: 1:24-CR-20035-RKA(1)

STANDARD CONDITIONS OF SUPERVISION

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

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

U.S. Probation Office Use Only

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

Defendant's Signature ______________________________ Date ________________

DEFENDANT: ORLANDO CHAVEZ
CASE NUMBER: 1:24-CR-20035-RKA(1)

SPECIAL CONDITIONS OF SUPERVISION

Cooperating with Immigration during Removal Proceedings: The defendant shall cooperate in any removal proceedings initiated or pending by the U.S. Immigration and Customs Enforcement consistent with the Immigration and Nationality Act. If removed, the defendant shall not reenter the United States without the prior written permission of the Undersecretary for Border and Transportation Security. The term of supervised release shall be non-reporting while the defendant is residing outside the United States. If the defendant reenters the United States within the term of probation, the defendant is to report to the nearest U.S. Probation Office within 72 hours of the defendant's arrival.

Permissible Search: The defendant shall submit to a search of his/her person or property conducted in a reasonable manner and at a reasonable time by the U.S. Probation Officer.

Unpaid Restitution, Fines, or Special Assessments: If the defendant has any unpaid amount of restitution, fines, or special assessments, the defendant shall notify the probation officer of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay.

Revocation of Citizenship Unlawfully Procured: Pursuant to 18 U.S.C. § 1451(e), the defendant’s citizenship is hereby revoked, the final order admitting the defendant to citizenship is voided, and the Defendant’s certificate of naturalization is cancelled.

DEFENDANT: ORLANDO CHAVEZ
CASE NUMBER: 1:24-CR-20035-RKA(1)

CRIMINAL MONETARY PENALTIES

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

	Assessment	Restitution	Fine	AVAA Assessment*	JVTA Assessment**
TOTALS	$200.00	$.00	$.00		

☐ The determination of restitution is deferred until An *Amended Judgment in a Criminal Case (AO245C)* will be entered after such determination.

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

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

☐ Restitution amount ordered pursuant to plea agreement $

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

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

☐ the interest requirement is waived for the ☐ fine ☐ restitution

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

Restitution with Imprisonment - It is further ordered that the defendant shall pay restitution in the amount of **$.00**. During the period of incarceration, payment shall be made as follows: (1) if the defendant earns wages in a Federal Prison Industries (UNICOR) job, then the defendant must pay 50% of wages earned toward the financial obligations imposed by this Judgment in a Criminal Case; (2) if the defendant does not work in a UNICOR job, then the defendant must pay a minimum of $25.00 per quarter toward the financial obligations imposed in this order. Upon release of incarceration, the defendant shall pay restitution at the rate of 10% of monthly gross earnings, until such time as the court may alter that payment schedule in the interests of justice. The U.S. Bureau of Prisons, U.S. Probation Office and U.S. Attorney's Office shall monitor the payment of restitution and report to the court any material change in the defendant's ability to pay. These payments do not preclude the government from using other assets or income of the defendant to satisfy the restitution obligations.

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, 18 U.S.C. §2259.
** Justice for Victims of Trafficking Act of 2015, 18 U.S.C. §3014.
*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: ORLANDO CHAVEZ
CASE NUMBER: 1:24-CR-20035-RKA(1)

SCHEDULE OF PAYMENTS

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

A ☒ Lump sum payment of $200.00 due immediately.

It is ordered that the Defendant shall pay to the United States a special assessment of $200.00 for Counts 1 and 2 , which shall be due immediately. Said special assessment shall be paid to the Clerk, U.S. District Court. Payment is to be addressed to:

U.S. CLERK'S OFFICE
ATTN: FINANCIAL SECTION
400 NORTH MIAMI AVENUE, ROOM 8N09
MIAMI, FLORIDA 33128-7716

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

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

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

☐ The defendant shall forfeit the defendant's interest in the following property to the United States:
FORFEITURE of the defendant's right, title and interest in certain property is hereby ordered consistent with the plea agreement. The United States shall submit a proposed Order of Forfeiture within three days of this proceeding.

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.