

No. _____

In the
Supreme Court of the United States

Joshua Waters,

Petitioner,

v.

United States of America,

Respondent.

On Petition for a Writ of Certiorari
to the United States Court of Appeals
for the Fifth Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

The question presented is whether, consistent with 28 U.S.C. § 1291 and *United States v. Jose*, 519 U.S. 54 (1996), a court of appeals may dismiss as unripe a direct appeal challenging a supervised-release condition in the final written judgment authorizing penile plethysmograph testing because the testing's administration depends on a later discretionary decision.

PARTIES TO THE PROCEEDING

Petitioner is Joshua Waters, who was the Defendant-Appellant in the court below. Respondent, the United States of America, was the Plaintiff-Appellee in the court below.

RELATED PROCEEDINGS

- *United States v. Waters*, No. 3:23-cr-00283-X, U.S. District Court for the Northern District of Texas. Judgment entered on July 10, 2025.
- *United States v. Waters*, No. 25-10818, U.S. Court of Appeals for the Fifth Circuit. Judgment entered on March 10, 2026.

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PETITION FOR A WRIT OF CERTIORARI

Joshua Waters seeks a writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit.

OPINIONS BELOW

The Fifth Circuit's unpublished opinion is available at *United States v. Waters*, No. 25-10818, 2026 WL 674246 (5th Cir. Mar. 10, 2026). It is reprinted in Appendix A to this Petition. The district court's judgment and sentence in *United States v. Waters*, No. 3:23-cr-00283-X (N.D. Tex. July 10, 2025), is reprinted in Appendix B.

JURISDICTION

The Fifth Circuit entered judgment on March 10, 2026. This Court has jurisdiction pursuant to 28 U.S.C. § 1254(1).

PROVISIONS INVOLVED

Article III, Section 2 of the United States Constitution (in pertinent part):

The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, . . . [and] to controversies to which the United States shall be a party....

U.S. Const. art. III, § 2, cl. 1.

Sections 3583(d) and (k) of Title 18 of the United States Code (in pertinent part):

(d)...The court may order, as a further condition of supervised release, to the extent that such condition—

(1) is reasonably related to the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(C), and (a)(2)(D);

(2) involves no greater deprivation of liberty than is reasonably necessary for the purposes set forth in section 3553(a)(2)(B), (a)(2)(C), and (a)(2)(D); and

(3) is consistent with any pertinent policy statements issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a);

any condition set forth as a discretionary condition of probation in section 3563(b) and any other condition it considers to be appropriate

(k)...[T]he authorized term of supervised release...for any offense under section...2252A...is any term of years not less than 5, or life.

18 U.S.C. § 3583(d), (k).

Section 3742(a)(1) of Title 18 of the United States Code:

A defendant may file a notice of appeal in the district court for review of an otherwise final sentence if the sentence--(1) was imposed in violation of law.

18 U.S.C. § 3742(a)(1).

Section 1291 of Title 28 of the United States Code (in pertinent part):

The courts of appeals (other than the United States Court of Appeals for the Federal Circuit) shall have jurisdiction of appeals from all final decisions of the district courts of the United States....

28 U.S.C. § 1291.

STATEMENT OF THE CASE

I. Facts and Proceedings in District Court

Petitioner Joshua Waters pleaded guilty to violating 18 U.S.C. § 2252A(a)(5)(b) with a plea agreement. ROA.60-63, 220-29. In his agreement, Waters waived his right to appeal. ROA.227.

In its Presentence Investigation Report (PSR), U.S. Probation reported that a term of supervised release was mandatory and recommended a sex offender treatment condition that allowed for the administration of a penile plethysmograph. ROA.258 (citing 18 U.S.C. § 3583(k)); ROA.261-62. Waters objected to that portion of the condition. ROA.281-82. Probation supported the PSR as written, noting that the testing’s actual administration was contingent on the treatment provider’s discretion. ROA.297. Probation also argued that permitting the use of the penile plethysmograph “may be reasonably necessary and appropriate to assess the true extent of the defendant’s deviant sexual arousal patterns” and to “establish and execute a tailored treatment plan.” ROA.297.

Waters repeated his objection at sentencing. ROA.161. “[B]ecause the condition doesn’t require” a penile plethysmograph—it only “allows it”—the court overruled Waters’s objection. ROA.162. “[I]f it is ordered,” the court stated, “I need to decide if it is an Eighth Amendment violation” “at that point[.]” ROA.162.

The court sentenced Waters to 110 months of imprisonment and ten years of supervised release. Pet. App’x a004–a005. As a condition of supervised release, the district court ordered Waters to “participate in sex offender treatment services as directed by the probation officer until successfully discharged.” Pet. App’x a007. “These services may include psycho-physiological testing (i.e., clinical polygraph, plethysmograph, and the ABEL screen) to monitor the defendant’s compliance, treatment progress, and risk to the community.” Pet. App’x a007. Waters appealed. ROA.108.

II. Appellate Proceedings

Waters reiterated his challenge to the condition on appeal, arguing that the condition violated both his constitutional rights and the statutory requirements. Waters also preemptively argued why the appeal waiver did not bar consideration of his claim. Even so, Waters acknowledged that the Fifth Circuit the court of appeals would not adjudicate his challenge in any event because *United States v. Ellis*, 720 F.3d 220, 227 (5th Cir. 2013), held it was not ripe. The government did not seek dismissal based on the appeal waiver, but it moved for summary affirmance based on *Ellis*.

The Fifth Circuit summarily affirmed in an unpublished opinion. *United States v. Waters*, No. 25-10818, 2026 WL 674246 (5th Cir. Mar. 10, 2026) (reprinted at Pet. App'x a001–a002). The panel held that *Ellis* foreclosed Waters's challenge. 2026 WL 674246, at *1; Pet. App'x a002 (citing *Ellis*, 720 F.3d at 227). The panel made no mention of the appeal waiver. *Id.*; Pet. App'x a001–a002.

REASONS FOR GRANTING THIS PETITION

Waters's challenge would have been ripe in the First, Second, Third, Fourth, Ninth, Eleventh and D.C. Circuits. What is more, Waters can show a likelihood of success under the law of some these Circuits. But because he was convicted in the Fifth Circuit, Waters's appeal challenging the condition was summarily denied due to a lack of ripeness. This result both implicates a circuit split and cannot be reconciled with *United States v. Jose*, 519 U.S. 54 (1996).

I. Four circuits dismiss direct appeals from judgments authorizing penile plethysmograph testing as unripe, while others decide those challenges on the merits.

The circuits generally agree that conditions of supervised release are subject to immediate review on direct appeal. *See United States v. Sebastian*, 612 F.3d 47, 48–52 (1st Cir. 2010); *United States v. Villafane-Lozada*, 973 F.3d 147, 150–52 (2d Cir. 2020); *United States v. Loy*, 237 F.3d 251, 256 (3d Cir. 2001); *United States v. Ross*, 912 F.3d 740, 745–46 (4th Cir. 2019); *United States v. Paul*, 274 F.3d 155, 165 (5th Cir. 2001); *United States v. Blake*, 166 F.4th 611, 625 (6th Cir. 2026); *United States v. Rhodes*, 552 F.3d 624, 629 (7th Cir. 2009) (“We have entertained” “immediate[]appeal[s]” of “a condition of supervised release after sentencing” “on countless occasions.”); *United States v. Bender*, 566 F.3d 748, 750 (8th Cir. 2009); *United States v. Williams*, 356 F.3d 1045, 1051 (9th Cir. 2004) (cleaned up) (“a defendant may challenge the legality of a supervised release condition by direct appeal”); *United States v. Mike*, 632 F.3d 686, 692 (10th Cir. 2011) (internal quotations omitted) (“[S]upervised release terms are directly appealable, despite the fact that they are subject to later modification, because they are part of the sentencing court’s final orders.”); *United States v. Zinn*, 321 F.3d 1084, 1088–89 (11th Cir. 2003); *United States v. Love*, 593 F.3d 1, 11 (D.C. Cir. 2010).

Even so, “[t]he courts of appeal have issued inconsistent decisions on” “whether a defendant’s challenge to a condition of supervised release is ripe when raised on direct appeal of the original sentence, or only becomes ripe on appeal of a judgment revoking supervised release or as part of a modification proceeding.” U.S. Sent’g Comm’n, *Primer—Supervised Release* 26 (Aug. 2025), *available at*

https://www.ussc.gov/sites/default/files/pdf/training/primers/2025_Primer_Supervised_Release.pdf (last accessed June 4, 2026). As applied to conditions concerning the administration of a penile plethysmograph, the Fifth, Sixth, Seventh, and Tenth Circuits have all dismissed appeals challenging such conditions as unripe. *See United States v. Ellis*, 720 F.3d 220, 227 (5th Cir. 2013); *United States v. Lee*, 502 F.3d 447, 449–51 (6th Cir. 2007); *Rhodes*, 552 F.3d at 627–29; *United States v. Bennett*, 823 F.3d 1316, 1325–27 (10th Cir. 2016).

By contrast, Waters’s challenge would have been ripe in the First Circuit. *See United States v. Medina*, 779 F.3d 55, 65–67 (1st Cir. 2015).¹ The Second, Third, Fourth, Ninth, and D.C. Circuits have adjudicated similar challenges on the merits too. *See United States v. McLaurin*, 731 F.3d 258, 261–62 (2d Cir. 2013); *United States v. Cotto*, 782 F. App’x 174, 179 (3d Cir. 2019); *United States v. Porowicz*, No. 21-2153, 2022 WL 2447434, at *1–2 (3d Cir. July 6, 2022); *United States v. Dotson*, 324 F.3d 256, 260–61 (4th Cir. 2003); *United States v. Weber*, 451 F.3d 552, 566 (9th Cir. 2006); *United States v. Rock*, 863 F.3d 827, 833 (D.C. Cir. 2017).

In *United States v. Loy*, 237 F.3d 251, 253, 256–61 (3d Cir. 2001), the Third Circuit, in addressing a vagueness and overbreadth challenge to a pornography restriction, provided three reasons for why the challenge was ripe. First, the condition

¹ That said, the First Circuit has refused to address some challenges to conditions of supervised release on direct appeal due to a lack of ripeness. *See United States v. Hood*, 920 F.3d 87, 94 (1st Cir. 2019) (an “as-applied, Fifth Amendment-based challenge” is distinguishable from a “facial challenge” because it “necessarily depends on future factual contingencies” and “[f]or that reason, is not ripe for our review.”)

forced the defendant to either conform his conduct to the condition or risk reimprisonment, thus imposing a hardship. *Id.* at 257. Second, the issue was fit for judicial resolution because whether the condition provided sufficient notice was a purely legal question whose answer would not change regardless of later factual development. *Id.* at 258. Third, Congress intended that “direct appellate review be the preferred method of reviewing a district court’s sentence.” *Id.* (citing 18 U.S.C. § 3742).

All three reasons likewise support the ripeness of Waters’s claim. First, the condition forces Waters either to submit to a penile plethysmograph when ordered by his treatment provider or risk imprisonment if he declines to do so. Second, whether the record supports imposition of the treatment can be decided now. Lastly, denial of review may preclude *any* appellate review in the future. *See United States v. Caillier*, 80 F.4th 564, 567 (5th Cir. 2023) (“a district court does not have jurisdiction to modify conditions of supervised release on the grounds that those conditions were determined to be unlawful”); *United States v. Hinson*, 429 F.3d 114, 116 (5th Cir. 2005) (“Hinson may not, however, use an appeal of the revocation of her supervised release to attack her original sentence directly or collaterally in this proceeding”). *Accord United States v. Amin*, 85 F.4th 727, 736 (4th Cir. 2023) (internal quotations omitted) (“a defendant may not challenge the special conditions of his original term of supervised release during later revocation proceedings” “because the person on supervised release could have raised the facial challenge earlier” “on direct appeal from the original conviction and sentence.”).

What is more, Waters could prevail on the merits. The Ninth Circuit, for instance, has rejected that penile plethysmograph conditions are per se unlawful. *Weber*, 451 F.3d at 566. But it has imposed rigorous factual prerequisites before a district court can lawfully impose such a condition. *See id.* at 566–68. And it has reversed the condition on direct appeal. *See United States v. Cope*, 527 F.3d 944, 954 (9th Cir. 2008) (“the government correctly concedes that we must remand this case back to the district court because it did not articulate, on the record, the necessary *Weber* findings with regard to the condition requiring Cope to submit to plethysmograph testing”); *United States v. Roybal*, 737 F.3d 621, 622, 624–25 (9th Cir. 2013).

The Second Circuit has staked out a position even more favorable to Waters on the merits. *McLaurin*, 731 F.3d at 261–62 (citing *Weber*, 451 F.3d at 571 (Noonan, J., concurring)) (“we agree with Judge Noonan of the Ninth Circuit that, even when dealing with convicted felons, ‘[t]here is a line at which the government must stop. Penile plethysmography testing crosses it.”); *Weber*, 451 F.3d at 570 (Noonan, J., concurring) (“Judge Berzon’s excellent opinion is deserving of support. I would, however, go beyond it to hold the Orwellian procedure at issue to be always a violation of the personal dignity of which prisoners are not deprived.”).² And the D.C. Circuit has cited the Second Circuit’s position with approval. *See Rock*, 863 F.3d at 833 (citing

² That said, the Second Circuit has declined to hear some challenges to conditions of supervised release on ripeness grounds. *See United States v. Balon*, 384 F.3d 38, 43, 46–47 (2d Cir. 2004) (challenge to real-time remote monitoring of defendant’s computer not ripe because of the technological advances that could occur while defendant served custodial sentence and defendant’s ability to seek modification based on those advances).

McLaurin, 731 F.3d at 260) (internal quotations omitted) (vacating a “penile plethysmograph testing condition on the grounds that the procedure implicates significant liberty interests and would require, at a minimum, a more substantial justification than other typical conditions of supervised release.”).³

II. *United States v. Jose* makes clear that finality—not ripeness—governs appeals from final judgments. The decision below squarely contradicts that rule.

In any event, *United States v. Jose*, 519 U.S. 54 (1996), settles the ripeness issue in Waters’s favor. In *Jose*, the IRS filed an action to enforce a subpoena issued by its Civil Examinations Division against a recalcitrant trustee. *Id.* at 54–55. The district court ordered the trustee to comply with the subpoena, but also ordered the IRS to “to give respondent five days’ notice prior to any circulation or transfer of the summoned documents to any division of the IRS other than the Examination Division.” *Id.* at 55. The IRS appealed the 5-day restriction to the Ninth Circuit. *Id.* “The Ninth Circuit correctly recognized that it had jurisdiction ‘pursuant to 28 U.S.C. § 1291,’ which authorizes appeals from ‘final decisions’” but “dismissed the appeal ‘as not ripe.’” *Id.* (quoting *United States v. Jose*, 71 F.3d 1484, 1485 (9th Cir. 1995)). “The record does not indicate that the Examination Division has...trigger[ed] the five-day notice requirement,” the Ninth Circuit reasoned. *Id.* (quoting *Jose*, 71 F.3d at 1485). “Thus, any detrimental impact...is, at this time, purely speculative,” and the “appeal is not ripe for review.” *Id.* (quoting *Jose*, 71 F.3d at 1485).

³ As in the First Circuit, challenges to the implementation of a testing condition, in contrast to the validity of the condition on its face, may not be ripe for review in the Eleventh Circuit. *Zinn*, 321 F.3d at 1089, 1091–92.

The Court made short shrift of the Ninth Circuit’s “cryptic declaration that the conditional enforcement order was not ripe for appeal.” *Id.* at 57. “IRS summons enforcement orders *are* subject to appellate review,” and “[w]e think it clear...that the District Court’s final order is indeed final.” *Id.* at 56–57 (quoting *Church of Scientology of Cal. v. United States*, 506 U.S. 9, 15 (1992)) (emphasis in original). “Finality, not ripeness, is the doctrine governing appeals from district court to court of appeals.” *Id.* at 57. “[T]he IRS is not obligated, first, to defy the District Court’s order,” or “to provide notice of its intention to transfer documents internally,” “to gain access to appeal from the District Court’s final decision[.]” *Id.* The Court accordingly reversed the Ninth Circuit’s ripeness holding. *Id.*

The parallels between the 5-day condition in *Jose* and the condition allowing for penile plethysmograph here are striking. In *Jose*, the district court ordered the IRS to notify the taxpayer in the event it decided to share documents with other divisions of the IRS. Here, the district court ordered Waters to submit to a penile plethysmograph in the event his sex offender treatment provider wanted to utilize it. In *Jose*, the Ninth Circuit concluded the IRS’s appeal was “speculative” and unripe because it was contingent on a future decision triggering the condition. Here, the Fifth Circuit decided that Waters’s challenge was unripe because the testing’s utilization was contingent on a future decision. *See Ellis*, 720 F.3d at 227. But like the IRS in *Jose*, Waters should “not obligated” “to defy” any order to submit to penile plethysmograph testing “to gain access to appeal” from that court’s final decision allowing

for the testing’s administration. “Finality, not ripeness, is the doctrine governing appeals from district court to court of appeals.” *Jose*, 519 U.S. at 57. Waters appealed a final judgment, and he is entitled to a ruling on the merits of his claim.⁴

CONCLUSION

Petitioner Joshua Waters respectfully submits that this Court should grant *certiorari*, declare the issue ripe, and remand for the Fifth Circuit to proceed to the merits.

Respectfully submitted this 8th day of June, 2026.

JASON D. HAWKINS
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Northern District of Texas

/s/ Maria Gabriela Vega

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⁴ *Ellis*, citing the Seventh Circuit’s opinion in *Rhodes*, also pointed to 18 U.S.C. § 3583(e) to bolster its ripeness holding. *Ellis*, 720 F.3d at 227 (citing *Rhodes*, 552 F.3d at 628–29). But “the possibility of future modification has no bearing on whether the district court abused its discretion today.” *United States v. Duke*, 788 F.3d 392, 401 (5th Cir. 2015) (citing *United States v. Ramos*, 763 F.3d 45, 61 (1st Cir. 2014)). More to the point, Waters cannot achieve the relief he seeks here through a § 3583(e) proceeding. See *Caillier*, 80 F.4th at 567 (district court has no jurisdiction to modify a condition of supervised release due to the condition’s illegality on a § 3583(e) motion); *Hinson*, 429 F.3d at 116 (barring collateral attack to the underlying sentence in a revocation proceeding).

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

March 10, 2026

Lyle W. Cayce
Clerk

No. 25-10818
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JOSHUA WATERS,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:23-CR-283-1

Before ELROD, *Chief Judge*, and STEWART and HIGGINSON, *Circuit Judges*.

PER CURIAM:*

Joshua Waters appeals following his conviction for possession of prepubescent child pornography in violation of 18 U.S.C. § 2252A(a)(5)(B). He contends that the district court abused its discretion in overruling his objection to the condition of supervised release requiring him to participate in sex offender treatment that may include plethysmograph testing. The

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

No. 25-10818

Government has filed an unopposed motion for summary affirmance, stating that the issue is foreclosed, and the appellant agrees that the argument is foreclosed but presses the issue for further review.

Summary affirmance is appropriate if “the position of one of the parties is clearly right as a matter of law so that there can be no substantial question as to the outcome of the case.” *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969). The parties are correct that *United States v. Ellis*, 720 F.3d 220, 227 (5th Cir. 2013), forecloses Waters’s challenge to the condition of his supervised release.

Accordingly, the Government’s motion for summary affirmance is GRANTED, the Government’s alternative motion for an extension of time to file a brief is DENIED, and the judgment of the district court is AFFIRMED.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

UNITED STATES OF AMERICA

v.

JOSHUA WATERS§ **JUDGMENT IN A CRIMINAL CASE**

§

§

§ Case Number: **3:23-CR-00283-X(1)**§ USM Number: **73016-510**§ **Noor Musa Wadi**

§ Defendant's Attorney

THE DEFENDANT:

☐	pleaded guilty to count(s)	
☒	pleaded guilty to count(s) before a U.S. Magistrate Judge, which was accepted by the court.	Count One of the Indictment, filed on July 5, 2023.
☐	pleaded nolo contendere to count(s) which was accepted by the court	
☐	was found guilty on count(s) after a plea of not guilty	

The defendant is adjudicated guilty of these offenses:

Title & Section / Nature of Offense

18 U.S.C. § 2252A(a)(5)(B) Possession of Prepubescent Child Pornography

Offense Ended

08/06/2021

Count

1

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. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

July 9, 2025

Date of Imposition of Judgment


Signature of Judge

BRANTLEY STARR
UNITED STATES DISTRICT JUDGE

Name and Title of Judge

Date

7/10/2025

Pet. App'x a003

25-10818.109

DEFENDANT: JOSHUA WATERS
CASE NUMBER: 3:23-CR-00283-X(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:

One Hundred (120) months as to count 1.

- ☒ The court makes the following recommendations to the Bureau of Prisons:
That the defendant be designated to FCI – Seagoville, Englewood or Peterburg in that order; if those facilities are not available that the defendant be designated to a facility with SOMP closest to Dallas/Fort Worth.
- ☒ The defendant is remanded to the custody of the United States Marshal.
- ☐ The defendant shall surrender to the United States Marshal for this district:
- ☐ at ☐ a.m. ☐ p.m. on
- ☐ as notified by the United States Marshal.
- ☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
- ☐ before 2 p.m. on
- ☐ as notified by the United States Marshal.
- ☐ as notified by the Probation or Pretrial Services Office.

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

Pet. App'x a004

25-10818.110

DEFENDANT: JOSHUA WATERS
CASE NUMBER: 3:23-CR-00283-X(1)

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of : **Ten (10) years**

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
☐ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. ☒ You must make restitution in accordance with 18 U.S.C. §§ 2248, 2259, 2264, 2327, 3663, 3663A, and 3664. *(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.

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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.txnp.uscourts.gov.

Defendant's Signature _____

Date _____

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SPECIAL CONDITIONS OF SUPERVISION

Pursuant to 18 U.S.C. § 2259(b)(2), the defendant is ordered to pay restitution in the amount of \$5,000, payable to the U.S. District Clerk, 1100 Commerce Street, Room 1452, Dallas, Texas 75242. Restitution shall be payable immediately and any unpaid balance shall be payable during incarceration. Restitution shall be disbursed to:

"April"
Restore the Child, in trust for April
\$5,000

If upon commencement of the term of supervised release any part of the restitution remains unpaid, the defendant shall make payments on such unpaid balance in monthly installments of not less than 10 percent of the defendant's gross monthly income, or at a rate of not less than \$50 per month, whichever is greater. Payment shall begin no later than 60 days after the defendant's release from confinement and shall continue each month thereafter until the balance is paid in full. In addition, at least 50 percent of the receipts received from gifts, tax returns, inheritances, bonuses, lawsuit awards, and any other receipt of money shall be paid toward the unpaid balance within 15 days of receipt. This payment plan shall not affect the ability of the United States to immediately collect payment in full through garnishment, the Treasury Offset Program, the Inmate Financial Responsibility Program, the Federal Debt Collection Procedures Act of 1990 or any other means available under federal or state law. Furthermore, it is ordered that interest on the unpaid balance is waived pursuant to 18 U.S.C. § 3612(f)(3).

The defendant shall participate in sex offender treatment services as directed by the probation officer until successfully discharged. These services may include psycho-physiological testing (i.e., clinical polygraph, plethysmograph, and the ABEL screen) to monitor the defendant's compliance, treatment progress, and risk to the community. The defendant shall contribute to the costs of services rendered (copayment) at a rate of at least \$25 per month.

The defendant shall not possess, have access to, or utilize a computer or Internet connection device, including, but not limited to Xbox, PlayStation, Nintendo, gaming consoles that have internet access, or similar device, without permission of the probation officer. This condition requires preapproval for categories of computer or Internet access or use; it does not require separate pre-use approval every time the defendant accesses or uses a computer or the Internet.

The defendant shall participate and comply with the requirements of the Computer and Internet Monitoring Program, contributing to the cost of the monitoring in an amount not to exceed \$40 per month. The defendant shall consent to the probation officer's conducting ongoing monitoring of his computer/computers. The monitoring may include the installation of hardware and/or software systems that allow evaluation of computer use. The defendant shall not remove, tamper with, reverse engineer, or circumvent the software in any way. The defendant shall only use authorized computer systems that are compatible with the software and/or hardware used by the Computer and Internet Monitoring Program. The defendant shall permit the probation officer to conduct a preliminary computer search prior to the installation of software. At the discretion of the probation officer, the monitoring software may be disabled or removed at any time during the term of supervision.

The defendant shall submit to periodic, unannounced examinations of his computer/computers, storage media, and/or other electronic or Internet-capable devices, performed by the probation officer at reasonable times and in a reasonable manner based on reasonable suspicion of contraband evidence of a violation of supervision. This

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may include the retrieval and copying of any prohibited data and/or the removal of such system for the purpose of conducting a more thorough inspection. The defendant shall provide written authorization for release of information from the defendant's Internet service provider.

The defendant shall pay any remaining balance of restitution in the amount of \$5,000, as set out in this Judgment.

The defendant shall participate in outpatient mental health treatment services as directed by the probation officer until successfully discharged. These services may include medications prescribed by a licensed physician. You shall contribute to the costs of services rendered (copayment) at a rate of at least \$20 per month.

The defendant shall participate in an outpatient program approved by the probation officer for treatment of narcotic, drug, or alcohol dependency that will include testing for the detection of substance use, abstaining from the use of alcohol and all other intoxicants during and after completion of treatment, and contributing to the costs of services rendered (copayment) at the rate of at least \$20 per month.

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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	\$100.00	\$5,000.00	\$0.00	\$0.00	

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

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: |

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

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

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

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SCHEDULE OF PAYMENTS

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

- A ☒ Lump sum payments of \$100.00 due immediately, balance due
☐ not later than _____, or
☒ in accordance ☐ C, ☐ D, ☒ E, or ☒ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal 20 (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☒ Restitution payments shall begin during the term of supervised release and will commence within 60 (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:
It is ordered that the Defendant shall pay to the United States a special assessment of \$100.00 for Count 1, which shall be due immediately. Said special assessment shall be paid to the Clerk, U.S. District Court.

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 pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☒ The defendant shall forfeit the defendant's interest in the following property to the United States:
a Samsung Cellphone (IMEI 356420110914199) and an HP Elite Desk Desktop Computer 1 of 4 Hard Drive(s) San Disk SSD - 1TB (Serial No. 21090T800032).

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.

Pet. App'x a010

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