

PETITIONER'S APPENDIX

TABLE OF CONTENTS TO THE APPENDIX

Opinion of the United States Court of Appeals for the Second Circuit, <i>United States v. Modibo Williams</i> , No. 25-1326, Entered May 11, 2026.....	1a
Transcript of Oral Ruling Denying Motion to Dismiss the Indictment, <i>United States v. Modibo Williams</i> , No. 23 Cr. 529 (OEM), United States District Court for the Eastern District of New York, Dated May 8, 2024	4a
Judgment of the United States District Court for the Eastern District of New York, <i>United States v. Modibo Williams</i> , No. 23 Cr. 529 (OEM), Entered May 20, 2025.....	19a

25-1326
United States v. Williams

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

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT’S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION “SUMMARY ORDER”). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 11th day of May, two thousand twenty-six.

Present:

MICHAEL H. PARK,
MYRNA PÉREZ,
Circuit Judges,
PAUL A. ENGELMAYER,*
District Judge.

UNITED STATES OF AMERICA,

Appellee,

v.

25-1326

MODIBO WILLIAMS,

Defendant-Appellant.

FOR DEFENDANT-APPELLANT:

Edward S. Zas, Federal Defenders of New York, Inc., New York, NY.

FOR APPELLEE:

Susan Corkery and Amanda Shami, Assistant United States Attorneys, *for* Joseph Nocella, Jr., United States Attorney for the Eastern District of New York, Brooklyn, NY.

* Judge Paul A. Engelmayer, of the United States District Court for the Southern District of New York, sitting by designation.

001a

Appeal from a judgment of the United States District Court for the Eastern District of New York (Merchant, *J.*).

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the judgment of the district court is **AFFIRMED**.

Defendant-Appellant Modibo Williams appeals from the district court's judgment of conviction, following a guilty plea, on one count of unlawfully possessing a firearm as a convicted felon, in violation of 18 U.S.C. § 922(g)(1). On appeal, Williams argues that § 922(g)(1) is facially unconstitutional under the Second Amendment and is unconstitutional as applied to him because his prior felony convictions were for nonviolent drug offenses, possession of a firearm, and attempted forgery.

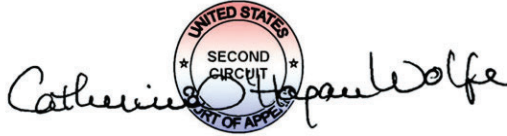
As Williams acknowledges, both his facial and as-applied challenges are foreclosed by our binding precedent in *Zherka v. Bondi*, 140 F.4th 68 (2d Cir. 2025), in which this Court held that § 922(g)(1) is constitutional both on its face and as applied to felons convicted of nonviolent crimes. Williams asserts that *Zherka* was wrongly decided but offers no other reason for us to revisit that decision. In any event, “[i]t is a longstanding rule that a panel of our Court is bound by the decisions of prior panels until such times as they are overruled either by an en banc panel of our Court or by the Supreme Court.” *United States v. Peguero*, 34 F.4th 143, 158 (2d Cir. 2022) (quotation marks omitted).

* * *

For the foregoing reasons, we **AFFIRM** the judgment of the district court.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk of Court

The image shows a handwritten signature in black ink that reads "Catherine O'Hagan Wolfe". The signature is written over a circular official seal. The seal has a red outer ring with the words "UNITED STATES" at the top and "COURT OF APPEALS" at the bottom. Inside the ring, the words "SECOND CIRCUIT" are written in the center. There are small stars on either side of the central text. The signature is written in a cursive style, with the first name "Catherine" and last name "Wolfe" being more legible than the middle name "O'Hagan".

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - - X

UNITED STATES OF AMERICA,	:	23-CR-529(OEM)
	:	
-against-	:	United States Courthouse
	:	Brooklyn, New York
	:	
MODIBO WILLIAMS,	:	
	:	May 8, 2024
Defendant.	:	11:00 a.m.

- - - - - X

TRANSCRIPT OF CRIMINAL CAUSE FOR STATUS CONFERENCE
BEFORE THE HONORABLE ORELIA E. MERCHANT
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

For the Government: BREON PEACE, ESQ.
United States Attorney
Eastern District of New York
271-A Cadman Plaza East
Brooklyn, New York 11201
BY: AMANDA SHAMI, ESQ.
Assistant United States Attorney

For the Defendant: FEDERAL DEFENDERS OF NEW YORK INC.
One Pierrepont Plaza, 16th Floor
Brooklyn, New York 11201
BY: BENJAMIN YASTER, ESQ.

REPORTED BY:

Kristi Cruz, RMR, CRR, RPR
Official Court Reporter
kristi.edny@gmail.com

Proceedings recorded by computerized stenography. Transcript produced by
Computer-Aided Transcription.

* * * * *

1 (In open court.)

2 THE COURTROOM DEPUTY: This is a Criminal Cause
3 for Status Conference in the matter of *USA v. Williams*,
4 docket number 23-CR-529.

5 Counsel, please state your appearance for the
6 record, starting with the Government.

7 MS. SHAMI: Good morning, Your Honor.

8 Amanda Shami for the United States.

9 THE COURT: Good morning.

10 MR. YASTER: Good morning, Your Honor.

11 Federal Defenders by Benjamin Yaster on behalf of
12 Modibo Williams, who is seated to my right.

13 THE COURT: Good morning.

14 Good morning, Mr. Williams.

15 THE DEFENDANT: Good morning, ma'am.

16 THE COURT: So we're here today for a status
17 conference. I am prepared to give an oral ruling on
18 defendant's motion to dismiss his indictment, as well. I
19 think it's probably best that I begin with that. So I will
20 begin with my ruling, and then we can move to updates or
21 status updates from the parties as to discoveries, pleas,
22 and any other potential motions.

23 I just want to confirm before we begin, and please
24 remind me, counsel, victims have been notified of this
25 particular hearing and all appearances by the notification

1 system in your office or something else?

2 MS. SHAMI: Yes, Your Honor. The victims do
3 receive notification through the Victim Notification System.

4 THE COURT: Okay. Thank you.

5 Defendant Williams moves to dismiss his
6 indictment, which charges the defendant with being a felon
7 in possession of a firearm under 18 U.S.C. Section
8 922(g)(1), arguing that *New York State Rifle & Pistol*
9 *Association Inc. v. Bruen*, 597 U.S. 1, 2022, that under
10 *Bruen*, Section 922(g)(1) is facially unconstitutional and,
11 at a minimum, it is unconstitutional as applied to
12 Mr. Williams because his prior convictions are nonviolent
13 and firearm offenses.

14 Defendant asserts that Section 922(g)(1) is
15 facially unconstitutional because it lacks a distinct
16 similarity to any founding-era historical regulation of
17 firearms possession that violates the Second Amendment under
18 *Bruen*.

19 Defendant further argues that at a minimum,
20 Section 922(g) is unconstitutional as applied to him because
21 in 1791 there was no longstanding tradition of imposing
22 lifelong firearms bans on someone who was convicted of
23 unlawfully possessing narcotics or a firearm, and thus is
24 inconsistent with the Second Amendment.

25 The Government's position is that 922(g)(1) is

1 facially constitutional because it is supported by
2 well-established Second Circuit precedent that has directly
3 upheld the constitutionality of Section 922(g)(1), citing
4 *United States v. Bogle*, 717 F.3d 281 (per curium), Second
5 Circuit 2013, and *District of Columbia v. Heller*, 554 U.S.
6 570, 626-27, 2008. The Government further asserts that
7 *Bruen* has not abrogated or otherwise disturbed *Bogle*'s
8 precedential claims. And the Government also maintains the
9 position that 922(g)(1) is constitutional as applied to
10 defendant.

11 Ultimately, defendant argues that pre-*Bruen*
12 decisions such as *Heller* and *Bogle* are no longer good law.
13 Defendant asserts that *Bruen* requires this Court examine the
14 historical justification for Section 922(g)(1)
15 notwithstanding Supreme Court dicta and Second Circuit
16 caselaw regarding the presumptive validity of
17 felon-disarmament laws.

18 However, this Court finds that at this juncture,
19 like other District Courts have, that *Bogle* is still good
20 law and binding Circuit precedent and forecloses defendant's
21 arguments. See, for example, *United States v. Goldston*,
22 23-CR-362(AT), 2024 Westlaw 149603, at 4, SDNY January 12,
23 2024.

24 Therefore, defendant's motion to dismiss the
25 indictment is denied.

1 The Court finds that 922(g)(1) is facially
2 constitutional. The Second Amendment provides: "A well
3 regulated militia, being necessary to the security of a free
4 state, the right of the people to keep and bear arms shall
5 not be infringed." United States Constitution, Amendment
6 II.

7 Thus, the Second Amendment confers: "An
8 individual right to keep and bear arms." *Heller*, 554 U.S.
9 at 595. However, the Supreme Court has made abundantly
10 clear that right is "not unlimited." *Id*; see also *McDonald*
11 *v. City of Chicago*, 561 U.S. 742, 786 (2010) (plurality).
12 "The right to keep and bear arms is not a right to keep and
13 carry any weapon whatsoever in any manner whatsoever and for
14 whatever purpose" (internal quotations are omitted).

15 Section 922(g)(1) makes it unlawful for any person
16 convicted of a felony to possession a firearm or ammunition.

17 In *Bogle*, the Second Circuit "affirmed that
18 Section 922(g)(1) is a constitutional restriction on the
19 Second Amendment rights of convicted felons. See *Bogle*, 717
20 F.3d at 281-82. Specifically, the Court opined that *Heller*
21 and *McDonald* did "not cast doubt on such longstanding
22 regulatory measures as prohibitions on the possession of
23 firearms by felons." *Bogle* 717 F.3d at 281.

24 Here, while defendant argues that *Bruen* abrogates
25 both *Heller* and *Bogle*, the majority opinion in *Bruen* did not

1 directly address its impact on laws regulating the
2 possession of firearms by felons. *Bruen* indeed rejected the
3 means-end scrutiny framework that was previously utilized by
4 courts in adjudicating Second Amendment challenges; *Bruen*
5 597 U.S. at 1, 19, 20, and 21. *United States v. Chisholm*,
6 23-CR-200 (NSR), and that's 2024 Westlaw 196711, at 2,
7 Southern District of New York, January 18, 2024.

8 *Bruen* stresses that its holdings are consistent
9 with *Heller* and *McDonald* decisions and did not undermine
10 *Heller* or *McDonald* because neither decision "supported
11 applying means-end scrutiny in the Second Amendment
12 context." See *Bruen*, 597 U.S. at 10, 19, 24.

13 This court agrees with other District Courts in
14 this circuit that "The *Bruen* majority opinion makes
15 abundantly clear that *Heller* and *McDonald* stand as
16 controlling precedents." *United States v. King*, 634 F.Supp
17 3d, 76, 83, SDNY 2022; *United States v. Gonzalez*, 23-CR-18
18 (MKV), 2024 Westlaw 96517, at 4, SDNY January 9, 2024.

19 Furthermore, Justice Kavanaugh's concurring
20 opinion, joined by Chief Justice Roberts explicitly
21 confirmed that it remains the case, under *Bruen*, that
22 "properly interpreted, the Second Amendment allows a variety
23 of gun regulations," including the "longstanding
24 prohibitions on the possession of firearms by felons"
25 recognized in *Heller* and *McDonald*. See *Bruen* 597 U.S. at

1 80-81. (Kavanaugh concurring) (internal quotation marks
2 omitted) quoting *Heller*, 554 U.S. at 626, and citing
3 *McDonald*, 561 U.S. at 786, accord to *Gonzalez*, 2024 Westlaw
4 96517 at 4.

5 Justice Alito's concurrence in *Bruen*, too, opined
6 that the majority opinion did not "disturb anything that we
7 said in *Heller* or *McDonald* about restrictions that may be
8 imposed on the possession or carrying of guns." See *Bruen*
9 597 U.S. at 72, Alito concurring. *Gonzalez*, 2024 Westlaw
10 96517, at 4.

11 Therefore, this Court, along with a plethora of
12 district courts in this circuit that have faced this
13 question to date, does not conclude that *Bruen* fatally
14 abrogated *Bogle*. See *Gonzalez*, 2024 Westlaw 96517, at 5,
15 SDNY January 9, 2024, "The Court cannot say that 'the Second
16 Circuit or the Supreme Court is all but certain to overrule'
17 *Bogle* in light of *Bruen*."

18 See also *United States v. Chisholm*, 23-CR-200,
19 2024 Westlaw 196711, SDNY January 18, 2024.

20 *United States v. Mingués*, 23-CR-81, 2023 Westlaw
21 9604697, NDNY December 23, 2023.

22 *United States v. Delima*, 22-CR-111, 2023 Westlaw
23 6443925, District of Vermont, October 3, 2023.

24 *United States v. Warren*, 22-CR-231(DLI), 2023
25 Westlaw 5978029, at 6, EDNY September 14, 2023.

1 *United States v. Gaskin*, 22-CR-98(SRU), 2024
2 Westlaw 381009, at 4, District of Connecticut, February 1,
3 2024.

4 Thus, since the Second Circuit has yet to overturn
5 *Bogle* and "absent proof that *Bruen* sub silentio overruled
6 *Bogle*," this Court is bound by its holding. See *United*
7 *States v. D'Angelo*, 23-CR-327, 2023 Westlaw 9056404, at 4,
8 SDNY December 31, 2023. See also *United States v. Pickett*,
9 22-CR-486, 2024 Westlaw 779209, at 3, EDNY February 26,
10 2024, collecting cases.

11 Further, the Court finds that 922(g) as applied to
12 defendant Williams is Constitutional. "With specific regard
13 to Section 922(g)(1), there is no precedent requiring the
14 Court to "conduct an individualized inquiry by felony." See
15 *United States v. Mitchell*, 23-CR-198, 2023 Westlaw 8006344,
16 at 7, SDNY November 17, 2023. See also *Hampton*, 2023
17 Westlaw 3934546, at 10, 2023 U.S. LEXIS 100704, "Given
18 *Bruen's* recency, the case law has not yet developed the
19 parameters of an as-applied Second Amendment challenge."
20 Quoting *United States v. Rowson*, 652 F.Supp 3d 436, 455,
21 note 12, SDNY 2023. And *United States v. Mingues*,
22 23-CR-81(BKS), 2023 Westlaw 9604697, at 6, NDNY December 23,
23 2023.

24 The defense's use of *Range v. Attorney General*
25 *United States of America*, 69 F.4th 96, 106, Third Circuit

1 2023, a Third Circuit case decided *en banc* is not persuasive
2 nor binding to this Court.

3 In *Range*, the Court held that Section 922(g)(1)
4 was unconstitutional as applied to a defendant convicted of
5 making false statements to obtain food stamps. That
6 decision was "a narrow one" limited to the facts of that
7 case, noting that the ruling was "only as applied to him."
8 *Range*, 69 F.4th at 106.

9 For the purposes of his as-applied challenge,
10 Defendant Williams does not share any similarity to the
11 facts in *Range*, and thus is not in any way comparable to the
12 plaintiff in *Range*. See *United States v. Warren*, 22-CR-231
13 (DLI), 2023 Westlaw 5978029, at 6, EDNY September 14, 2023.

14 "Unlike the food stamp fraudster in *Range* who pled
15 guilty to an unusual state law misdemeanor, defendant's
16 prior misconduct here involves actual felonies." See
17 *Harrison*, 2023 Westlaw 4670957, at 8, distinguishing the
18 defendant in *Range* from a defendant with "an actual federal
19 felony," particularly a "federal drug conviction,"
20 ultimately denying defendant's motion to dismiss indictment
21 and finding Section 922(g)(1) constitutional as applied to
22 the defendant with prior "federal drug conviction." See
23 *Warren*, 2023 Westlaw 5978029, at 6.

24 Ultimately, "in finding Section 922(g)(1)
25 constitutional under Second Circuit precedent, this Court

1 joins the Courts in this circuit that have ended their
2 analysis of 922(g)(1)'s constitutionality based on *Bogle's*
3 binding effect, and it need not engage in *Bruen's* textual
4 and historical inquiries." See, for example, *United States*
5 *v. Warren*, 22-CR-231(DLI), 2023 Westlaw 5978029, at 6, EDNY
6 September 14, 2023, collecting cases.

7 For these reasons, defendant's motion to dismiss
8 his indictment is denied.

9 I will now move on to where we stand given where
10 we are in the next status conference, waiting for the
11 determination of this particular motion.

12 Aside from defendant's mention of the potential
13 motion to dismiss at that conference, the parties mentioned
14 completing Rule 16 discovery. So I'd like to hear from the
15 parties regarding any outstanding discovery at this point
16 and the status of any negotiations, if any.

17 I'll start with the Government.

18 MS. SHAMI: Yes, Your Honor.

19 The Government has turned over all material in its
20 possession. Of course, the Government's investigation is
21 always ongoing, but currently the Government has nothing in
22 its possession that it has not already turned over to the
23 defendant under Rule 16 or its obligations under *Brady* and
24 *Giglio*.

25 I understand from speaking to defense counsel that

1 if there were a plea in this case, it would not be pursuant
2 to the plea agreement that's already been extended and
3 already expired, and we have discussed what is the
4 Government's view of the proposed penalty in this matter.

5 And I'll defer to defense counsel to indicate to
6 the Court the defendant's view on his next steps here.

7 THE COURT: Counsel?

8 MR. YASTER: Thank you, Your Honor.

9 Now that the Court's decided the motion, I believe
10 that the appropriate next step would be to schedule a change
11 of plea hearing. Our anticipation is that Mr. Williams will
12 plead guilty to the indictment. The Government, on the same
13 day that it filed its response, gave us an updated version
14 of its view of the advisory guidelines range that
15 Mr. Williams faces. I would like an opportunity to speak
16 with Government counsel in a little bit more detail about
17 that, about their opinion about the advisory guidelines
18 range, but I don't think that's going to interfere with
19 Mr. Williams' plan and course to plead guilty to the
20 indictment.

21 Before we all came out today, we discussed a
22 potential next date at which we could return for
23 Mr. Williams to change his plea. I think we had proposed a
24 date in July, but we leave it to the Court to tell us when
25 we return.

1 THE COURT: Okay. Let me just be clear. I
2 understand you're needing time to discuss and determine
3 whether or not you're going to actually want a date for a
4 change of plea; is that correct?

5 MR. YASTER: Your Honor, I think the Court can set
6 a date for a change of plea.

7 THE COURT: Okay. Do you have a sense of timing
8 of that? If July is -- what I could do to get you a faster
9 date, perhaps, is maybe ask that you schedule that with the
10 Magistrate Judge. I can refer that matter to a Magistrate
11 Judge.

12 MR. YASTER: Your Honor, we can wait until July.
13 Frankly, we leave it to the Court. If you want us to appear
14 in front of the Magistrate Judge, we're happy to do that,
15 otherwise we can come back in July.

16 THE COURT: Okay. I think for scheduling, I just
17 believe I have a trial that's set. It may be better, from a
18 scheduling perspective committing to a date, to have you get
19 a date with the Magistrate Judge or appear before a
20 Magistrate to do a change of plea. So let's do that. And
21 the expectation would be that you would do that by July?

22 MR. YASTER: Yes. I apologize, I just don't know
23 who the assigned Magistrate is in this case. But after
24 court today, Government counsel and I can reach out to
25 chambers and go about scheduling.

1 THE COURT: I believe it's Judge Kuo.

2 MS. SHAMI: Yes, Your Honor, it's Judge Kuo.

3 MR. YASTER: We'll reach out to Judge Kuo. I
4 think all we need is an order on the docket referring it.

5 THE COURT: So I will refer the change of plea
6 hearing to the magistrate assigned, and that is Magistrate
7 Judge Peggy Kuo. If you can reach out to Judge Kuo's
8 chambers for a date for that hearing.

9 Is there anything else that I need to take up at
10 this conference at this time?

11 MS. SHAMI: Even though we had not yet reached out
12 to Magistrate Judge Kuo for a hearing to change plea, I do
13 think that it probably is appropriate to still have an order
14 of excludable delay in the event that the defendant does
15 decide that he would rather move on to trial.

16 So I would just ask that the Court issue an order
17 of excludable delay for 45 days.

18 MR. YASTER: Your Honor, it may be appropriate to
19 set the control date to the mid July date when the trial's
20 concluded.

21 THE COURT: I was going to suggest the same thing.
22 Maybe if we set a control date of the status conference
23 that's set that for July 16th, at 11 a.m., with the
24 understanding that to the extent that you're planning on
25 scheduling a change of plea hearing, that you do so by that

1 date with the Magistrate Judge.

2 And there's no objection to the excludable delay
3 application?

4 MR. YASTER: No, Your Honor. I think the time
5 should be excluded so that we can change our plea.

6 THE COURT: Okay. I concur that the interest of
7 justice served by excluding time through July 16, 2024
8 outweighs the interest of the parties and the public at a
9 more expedited schedule at this point for those reasons
10 stated, and I order that time excluded.

11 I note that there was a modification of conditions
12 of confinement -- or of release with regard to permitting
13 Mr. Williams' attendance at stationary employment since we
14 last conferenced. Were there any updates in that regard?

15 MR. YASTER: There are, Your Honor.

16 Mr. Williams is scheduled this coming Monday to
17 begin a three-week job training course with the Fortune
18 Society. Our hope is that at the end of that job training
19 course, which will conclude on June 3rd, that Mr. Williams
20 will be in a position to either have a job offer in hand for
21 a stationary employer or to at least have leads for
22 stationary employment.

23 My recollection about where we are in terms of the
24 conditions of Mr. Williams' release are that before he could
25 begin stationary employment, we have to return to court or

1 at least file a written application requesting that the
2 terms of his release permit him to begin that employment.
3 When we're in a position with a stationary employment offer,
4 or at least what looks to be an offer, we will return to
5 court, and hopefully I will have the consent or at least not
6 the objection of Pretrial Services and the Government. But
7 if I don't, we'll take it up then.

8 THE COURT: Okay. And as you're aware, too, the
9 Magistrate Judge is always available to hear a change if you
10 feel that you have something that needs to be immediately
11 moved on.

12 MR. YASTER: Thank you, Your Honor.

13 THE COURT: Is there anything else that I need to
14 address at this time?

15 MS. SHAMI: Nothing from the Government, Your Honor.

16 MR. YASTER: Nothing further from Mr. Williams.
17 Thank you.

18 THE COURT: With that, we are adjourned. Thank you.
19 (Matter adjourned.)

20 * * *

21 CERTIFICATE OF REPORTER

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

24 /s/ Kristi Cruz

25

Kristi Cruz RMR, CRR, RPR
Official Court Reporter

UNITED STATES DISTRICT COURT

Eastern District of New York

UNITED STATES OF AMERICA

v.

Modibo Williams

JUDGMENT IN A CRIMINAL CASE

Case Number: 1:23-cr-00529-OEM

USM Number: 72461-053

Benjamin Z. Yaster

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) One (Felon in Possession of a Firearm)

☐ 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:

<u>Title & Section</u> ?	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. § 922(g)(1)	Felon in Possession of a Firearm	9/21/2023	One

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.

5/20/2025

Date of Imposition of Judgment

/s/Orelia E. Merchant

Signature of Judge

Orelia E. Merchant, United States District Judge

Name and Title of Judge

5/20/2025

Date

DEFENDANT: Modibo Williams
CASE NUMBER: 1:23-cr-00529-OEM

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of:
38 months of imprisonment with the Bureau of Prisons to credit 40 days already served for this conduct in state custody, for a total remaining 36 months and 20 days of custody.

☒ The court makes the following recommendations to the Bureau of Prisons:
The court recommends to the Bureau of Prisons that defendant be designated to a facility near New York City.

☐ 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 7/21/2025.

☐ 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: Modibo Williams
CASE NUMBER: 1:23-cr-00529-OEM

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of:

Two (2) years of supervised release.

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 the location where 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 other conditions on the attached page.

021a

DEFENDANT: Modibo Williams
CASE NUMBER: 1:23-cr-00529-OEM

STANDARD CONDITIONS OF SUPERVISION

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

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

U.S. Probation Office Use Only

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

Defendant's Signature _____

Date _____

DEFENDANT: Modibo Williams
CASE NUMBER: 1:23-cr-00529-OEM

SPECIAL CONDITIONS OF SUPERVISION

1. The Defendant shall participate in an anger management program, as approved by the U.S. Probation Office. The defendant shall contribute to the cost of services rendered, via co-payment or full payment, in an amount to be determined by the U.S. Probation Office, based upon the defendant's ability to pay and/or the availability of third-party payment.
2. The Defendant shall comply to imposed search condition. The Defendant shall submit his person, property, house, residence, vehicle, papers, 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 shall warn any other occupants that the premises may be subject to searches pursuant to this condition. An officer may conduct a search pursuant to this condition only when reasonable suspicion exists that the Defendant has violated a condition of his supervision and that the areas to be searched contained evidence of this violation. Any search must be conducted at a reasonable time and in a reasonable manner.
3. The Defendant shall not have contact with the victims in this case. This means that he shall not attempt to meet in person, communicate by letter, telephone, or through a third party, without the knowledge and permission of the U.S. Probation Officer.

DEFENDANT: Modibo Williams
CASE NUMBER: 1:23-cr-00529-OEM

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
TOTALS	\$ 100.00	\$	\$	\$	\$

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case (AO 245C)* 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, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss***</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
----------------------	----------------------	----------------------------	-------------------------------

TOTALS	\$	0.00	\$	0.00
--------	----	------	----	------

☐ Restitution amount ordered pursuant to plea agreement \$ _____

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

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

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

DEFENDANT: Modibo Williams
CASE NUMBER: 1:23-cr-00529-OEM

SCHEDULE OF PAYMENTS

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

- A ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than _____, or
☐ in accordance with ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (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:
Payment shall be made payable to the Clerk of the Court.

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

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

☐ Joint and Several

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

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☒ The defendant shall forfeit the defendant's interest in the following property to the United States:
Pursuant to the Court's forfeiture judgment (appended).

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) JVT A assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
-----X

UNITED STATES OF AMERICA,

FINAL ORDER OF FORFEITURE

- against -

23-CR-529 (OEM)

MODIBO WILLIAMS,

Defendant.

-----X

WHEREAS, on or about June 17, 2024, Modibo Williams (the “defendant”), entered a plea of guilty to the Sole Count of the above-captioned Indictment, charging a violation of 18 U.S.C. § 922(g)(1);

WHEREAS, on September 13, 2024, this Court entered a Preliminary Order of Forfeiture (“Preliminary Order”) pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure, finding that all right, title and interest in the following assets, all recovered by law enforcement on or about September 21, 2023 (the “Seized Firearm and Ammunition”):

- (i) one 9mm Luger semiautomatic pistol bearing serial number 345043;
and
- (ii) twenty 9mm Luger caliber bullets,

are forfeitable to the United States, pursuant to 18 U.S.C. § 924(d)(1) and 28 U.S.C. § 2461(c), as any firearm or ammunition involved in or used in the defendant’s knowing violation of 18 U.S.C. § 922(g)(1), and/or substitute assets, pursuant to 21 U.S.C. § 853(p), (ECF No. 35);

WHEREAS, legal notice of the forfeiture was published in this district on the official government website, www.forfeiture.gov, for thirty (30) consecutive days beginning September 25, 2024, through and including October 24, 2024 (ECF No. 38); and

WHEREAS, on or about October 21, 2024, the government served via certified mail return receipt, notice to all those persons known to the government, who might have an interest in the Seized Firearm and Ammunition (ECF No. 41);

WHEREAS, no third party has filed with the Court any petition or claim in connection with the Seized Firearm and Ammunition and the time to do so under 21 U.S.C. § 853(n)(2) has expired.

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that pursuant to 18 U.S.C. § 924(d)(1), 21 U.S.C. § 853(p) and 28 U.S.C. § 2461(c), and the Preliminary Order, all right, title, and interest in the Seized Firearm and Ammunition are hereby condemned, forfeited, and vested in the United States of America.

IT IS FURTHER ORDERED that the Bureau of Alcohol, Tobacco, Firearms and Explosives, or its duly authorized agents and/or contractors be, and hereby are, directed to dispose of the Seized Firearm and Ammunition in accordance with all applicable laws and regulations.

IT IS FURTHER ORDERED that the United States District Court for the Eastern District of New York shall retain jurisdiction over this case for the purposes of enforcing the Preliminary Order and this Final Order of Forfeiture and any supplemental orders of forfeiture as may be necessary.

IT IS FURTHER ORDERED that the Clerk of Court shall enter final judgment of forfeiture to the United States in accordance with the terms of this Final Order of Forfeiture and the Preliminary Order, and the Final Order of Forfeiture shall be made part of the defendant's sentence and included in the judgment of conviction.

IT IS FURTHER ORDERED that the Clerk of Court shall send by inter-office mail three (3) certified copies of this executed Final Order of Forfeiture to the United States Attorney's Office, Eastern District of New York, Attn: Beth Glorioso, FSA Supervisory Paralegal, 610 Federal Plaza, Central Islip, New York 11722.

Dated: Brooklyn, New York
December 18, 2024

SO ORDERED:

/s/Orelia E. Merchant

HONORABLE ORELIA E. MERCHANT
UNITED STATES DISTRICT JUDGE
EASTERN DISTRICT OF NEW YORK