APPENDIX

United States v. Jimenez-Marquez

United States Court of Appeals for the Tenth Circuit

April 3, 2026, Filed

No. 24-2145

Reporter
171 F.4th 1204 *; 2026 U.S. App. LEXIS 9730 **; 2026 LX 183861; 2026 WL 912365

UNITED STATES OF AMERICA, Plaintiff - Appellee, v. OCTAVIO **JIMENEZ-MARQUEZ**, a/k/a Octavio Jimenez, Defendant - Appellant.

Prior History: **[**1]** Appeal from the United States District Court for the District of New Mexico (D.C. No. 1:23-CR-00032-WJ-1).

United States v. Jimenez-Marquez, 2024 U.S. Dist. LEXIS 65012 (D.N.M., Apr. 8, 2024)

Counsel: Gregory M. Acton, Acton Law Office, PC, Albuquerque, New Mexico, for Defendant-Appellant.

Louis C. Mattei, Assistant United States Attorney (Ryan Ellison, United States Attorney, with him on the brief), Albuquerque, New Mexico, for Plaintiff-Appellee.

Judges: Before HARTZ, TYMKOVICH, and McHUGH, Circuit Judges.

Opinion by: HARTZ

Opinion

[*1206] **HARTZ**, Circuit Judge.

Defendant Octavio Jimenez-Marquez was convicted of several offenses in the United States District Court for the District of New Mexico. The only conviction at issue in this appeal is for violating *18 U.S.C. § 924(c)* by possessing firearms in furtherance of a drug-trafficking crime.[1] He makes two interrelated arguments: (1) that there was insufficient evidence to convict him, and (2) that the "in furtherance of" language in *§ 924(c)* was unconstitutionally **vague** as applied to him. We are not persuaded. Under

[1] Defendant was also convicted of possession with intent to distribute methamphetamine under *21 U.S.C. § 841(a)(1)* and *(b)(1)(A)*, being an alien in possession of a firearm under *18 U.S.C. § 922(g)(5)*, and escape under *18 U.S.C. § 751(a)*.

our caselaw there was more than enough evidence to find that Defendant possessed the firearms in furtherance of his underlying drug offense. And the challenged language in *§ 924(c)* is not unconstitutionally **vague**. Exercising jurisdiction ~~under *28 U.S.C. § 1291*~~, we affirm.

I. BACKGROUND

Defendant was arrested **[**2]** in February 2022 after Albuquerque Police Department officers observed him stepping out of the driver's seat of a truck that had been reported stolen. There were two other passengers in the truck at the time; one was detained but the other fled on foot. The officers searched the truck. Beneath the driver's seat they found an unopened vacuum-sealed bundle of methamphetamine weighing 445 grams, as well as an unloaded revolver, which turned out to have been stolen. In the passenger seat they found an assault rifle with ammunition loaded into an attached magazine, which Defendant later admitted he had moved from the back seat. And in the back-seat area they found a Ziploc bag containing 84 grams of methamphetamine.

At trial the government introduced expert testimony that Defendant's firearms functioned as designed, that the amount of methamphetamine he possessed was consistent with distribution and worth up to $10,800, and that drug traffickers often possess firearms for protection and deterrence. The government also introduced a series of text messages indicating that Defendant had been attempting to obtain firearms after having recently been the victim of a drug robbery.

II. DISCUSSION [**3]

As relevant here, a person violates *§ 924(c)(1)(A)* by "us[ing] or carr[ying] a firearm" "during and in relation to" a drug-trafficking crime or by "possessing a firearm" "in furtherance of" a drug-trafficking crime. Defendant contends that there was insufficient evidence to show possession *in furtherance of* because the evidence showed only possession *in relation to*. He also argues that the statute, and our caselaw interpreting it, do not adequately distinguish between *in furtherance of* and *in relation to*, thereby rendering the statute unconstitutionally **vague**. For ease of exposition, we first address the sufficiency issue and explain why there was more than enough evidence, under our caselaw, to convict Defendant. We then **[*1207]** turn to Defendant's vagueness challenge and reject it.

A. Sufficiency of the Evidence

When assessing a challenge to the sufficiency of the evidence, we "review the record de novo to determine whether, viewing the evidence in the light most favorable to the government, any rational trier of fact could have found the defendant guilty of the crime beyond a reasonable doubt." *United States v. Wood, 207 F.3d 1222, 1228 (10th Cir. 2000)*.

To sustain Defendant's conviction under *§ 924(c)*, "we must decide whether there was sufficient evidence (1) that [he] **[**4]** possessed the firearm and (2) that this possession was in furtherance of the drug trafficking crime." *United States v. Poe, 556 F.3d 1113, 1127 (10th Cir. 2009)*. Because Defendant does not challenge the possession element, we consider only whether there was sufficient evidence that his possession was in furtherance of the drug-trafficking crime.

This court has held that the term *in furtherance of* in *§ 924(c)(1)(A)* means "for the purpose of assisting in, promoting, accomplishing, advancing, or achieving the goal or objective of the underlying offense." *United States v. Basham, 268 F.3d 1199, 1208 (10th Cir. 2001)*. And we have recognized several nonexclusive factors that "may help in determining whether possession of a firearm furthers, advances, or helps forward a drug trafficking offense." *Id. at 1206* (internal quotation mark omitted). We have expressed these *Basham* factors as follows:

> (1) the type of criminal activity that is being conducted; (2) accessibility of the firearm; (3) the type of firearm; (4) whether the firearm is stolen; (5) the status of the possession (legitimate or illegal); (6) whether the firearm is loaded; (7) the time and circumstances under which the firearm is found, and (8) proximity to drugs or drug profits.

United States v. Russian, 848 F.3d 1239, 1250 (10th Cir. 2017) (internal quotation marks omitted); *see* *United States v. King, 632 F.3d 646, 655 (10th Cir. 2011)* (these factors can help us identify the "requisite nexus **[**5]** between the firearm and the drug-trafficking offense").

For example, in *United States v. Lowe, 117 F.4th 1253, 1271 (10th Cir. 2024)*, the defendant possessed a gun in furtherance of drug distribution when the gun was kept in the same suitcase compartment as the drugs and the evidence "permit[ted] a jury to find that [the defendant] intended to have the firearm available to protect his drug operation." In *King, 632 F.3d at 656*, the defendant possessed a firearm in furtherance of a drug offense when he kept a loaded rifle in the trunk of the vehicle, right next to drugs, and a law-enforcement officer testified that drug traffickers ordinarily keep firearms in such locations for the purposes of protection and intimidation. And in *United States v. Rockey, 449 F.3d 1099, 1103 (10th Cir. 2006)*, the defendant possessed a firearm in furtherance of a drug offense when he kept the firearm (which he could not lawfully possess) in the same bag in which he stored the materials he used to manufacture methamphetamine. At the same time, we have constrained the notion of furtherance. *See United States v. Iiland, 254 F.3d 1264, 1274 (10th Cir. 2001)* (reversing conviction when there was "no evidence that the gun and drugs were ever kept in the same place or that [the defendant] ever kept the gun accessible when conducting drug transactions"); *Rockey, 449 F.3d at 1103 (10th Cir. 2006)* (recognizing that possession would not be in furtherance **[**6]** when, for example, a drug dealer keeps "unloaded antiques mounted on the wall" or keeps a hunting pistol that is "otherwise locked **[*1208]** and inaccessible" (internal quotation marks omitted)).

Here, the *Basham* factors cut against Defendant. There was some evidence suggesting that he had been in the middle of a drug deal when the police arrived—there was a small portion of methamphetamine in a separate Ziploc bag, and a passenger in the truck fled the scene. Firearms were also easily accessible to Defendant from the driver's seat. Defendant points out that the revolver was unloaded and there was no bullet in the rifle chamber (although there was ammunition in the attached magazine), but the government's expert explained at trial that a firearm need not be loaded to be useful for protection or intimidation. And the rifle and the revolver each had unique features that could have helped Defendant protect himself. Also, Defendant had sent text messages indicating that he was seeking to get a gun because someone had recently stolen drugs and a gun from him. The evidence here is similar to, if not stronger than, the evidence in other cases where we have held that the in-furtherance-of element was satisfied. **[**7]** *See, e.g., United States v. Garza, 566 F.3d 1194, 1197-98 (10th. Cir. 2009)* (firearm was in same bedroom as marijuana being held for sale and defendant had recently been shot during a drug robbery); *King, 632 F.3d at 656* (rifle located in trunk of vehicle, right next to drugs, and officer testified that such firearms in that location are ordinarily kept by drug traffickers for protection or intimidation).

Defendant's argument that the evidence was insufficient is an unusual one. He does not contend that the evidence fails to establish the elements we have set forth. Rather, the essence of the argument is that our interpretation of *§ 924(c)* renders the statute unconstitutionally **vague**. We therefore turn now to his vagueness argument. Once we reject it, we can rest on our above discussion as showing that the evidence against Defendant was sufficient to convict him.

B. Vagueness Challenge

To follow Defendant's vagueness argument, some statutory history is in order. Before being amended in 1998, *§ 924(c)* did not address mere possession of a firearm. It prohibited only *using* or *carrying* a firearm, and that use or carriage had to be *during and in relation to* a drug-trafficking offense. The statute read as follows:

> Whoever, *during and in relation to* any crime of violence or drug trafficking **[**8]** crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which he may be prosecuted in a court of the United States, *uses or carries a firearm*, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for five years . . . .

18 U.S.C. § 924(c)(1) (1984) (emphasis added). (For simplicity, our discussion will ignore the statutory references to crimes of violence.) But prosecutors pushed the boundaries of the term *uses*, and courts accommodated their broad view—at least until the Supreme Court addressed the issue in *Bailey v. United States, 516 U.S. 137, 116 S. Ct. 501, 133 L. Ed. 2d 472 (1995)*. *Bailey* rejected a reading of the term "use" that was too expansive. *See id. at 144* (stating that the lower court's standard "provide[d] almost no limitation on the kind of possession that would be criminalized; in practice, nearly every possession of a firearm by a person engaged in drug trafficking would satisfy the standard"). The Court stated that "[h]ad Congress intended possession alone **[*1209]** to trigger liability under *§ 924(c)(1)*, it easily could have so provided." *Id. at 143* (noting that Congress had frequently used the term *possess* in gun-crime **[**9]** statutes). The Court held that to convict a defendant under *§ 924(c)* for using a firearm during and in relation to a drug-trafficking crime, the government had to show "an *active employment* of the firearm by the defendant, a use that makes the firearm an operative factor in relation to the predicate offense." *Id. at 143*. It therefore reversed the convictions of the two petitioners before it. One had been found with "cocaine in the driver's compartment of his car" and a "firearm inside a bag in the locked car trunk"; the Court said that "[t]here was no evidence that [the petitioner] actively employed the firearm in any way." *Id. at 151*. In the other case, "the unloaded, holstered firearm . . . was found locked in a footlocker in a bedroom closet"; "[n]o evidence showed that [the petitioner] had actively employed the firearm." *Id.*

Three years later, *Bailey* was superseded by statute. Congress expanded *§ 924(c)* to proscribe not just using and carrying a firearm but also *possessing* a firearm. It did not, however, simply insert "possesses" into the language "uses or carries,"—that is, it did not change "uses or carries a firearm" to "uses, carries, or possesses a firearm." Rather, the statutory amendment treated possession somewhat **[**10]** differently from using or carrying. Possession of a firearm needed to be "in furtherance of [the drugtrafficking] crime." The amended statute read as follows:

> Except to the extent that a greater minimum sentence is otherwise provided by this subsection or by any other provision of law, any *person who, during and in relation to* any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States, *uses or carries a firearm*, or *who, in furtherance of any such crime, possesses a firearm*, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime—

18 U.S.C. § 924(c)(1)(A) (emphasis added). Thus, it would not be enough to possess a firearm "during and in relation to" a drug-trafficking crime; the possession needed to be "in furtherance of" that crime. *Iiland, 254 F.3d at 1271* (noting that the infurtherance- of standard was intended to be "*a slightly higher standard*" than "during and in relation to") (internal quotation marks omitted). In other words, possession of a firearm violates the **[**11]** statute if (1) the possession involves using or carrying a firearm and the use or carriage is during and in relation to a drug-trafficking crime, or (2) the possession is in furtherance of such a crime.

We can now turn to Defendant's argument that *§ 924(c)* is unconstitutionally **vague** as applied to him.[2] We review de novo a challenge for unconstitutional **[*1210]** vagueness. *See* *United States v. Platte, 401 F.3d 1176, 1189 (10th Cir. 2005)*. "As generally stated, the void-for-vagueness doctrine requires that a penal statute define the criminal offense with sufficient definiteness that ordinary people can understand what conduct is prohibited and in a manner that does not encourage arbitrary and discriminatory enforcement." *Id.* (internal quotation marks omitted).

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[2] Defendant also brought a facial vagueness challenge but correctly conceded at oral argument that his facial challenge was inappropriate. Outside the *First Amendment* context, a vagueness challenge generally "cannot be aimed at the statute on its face but must be limited to the application of the statute to the particular conduct charged." *United States v. Morales-Lopez, 92 F.4th 936, 941 (10th Cir. 2024)* (internal quotation marks omitted). And "for over a century federal courts have adjudicated challenges to the constitutionality of penal statutes by relying on the general rule that a defendant to whose conduct a statute clearly applies may not pose a facial challenge to the statute." *Id.* Thus, we will consider only Defendant's asapplied challenge.

Defendant argues that *§ 924(c)* is **vague** because it is "impossible to know when one's conduct is safely within the 'in relation to' standard and not violating the slightly higher 'in furtherance of' standard." Aplt. Br. at 9. He contends that the statutory amendment, its legislative history, and caselaw put him "on notice that possession of firearms to ensure the success of his drug trafficking activities and to protect his drugs and cash constituted possession 'in relation to' his drug trafficking crime. Congress **[**12]** carefully amended *§ 924(c)* to make such *'possession' 'in relation to'* a drug-trafficking crime as *not* violating the Act, as not a separate crime . . . ." Aplt. Br. at 22-23. He concludes: "Because of this unconstitutional vagueness, Courts are simply conflating the standards. That is what happened to Mr. Jimenez in his case." Aplt. Br. at 23.

This argument is hard to parse. One would think that all you need to know to determine whether your possession of a firearm violates the "in furtherance of" language is what *in furtherance of* means. But Defendant appears to be saying that you also need to know the meaning of *in relation to*. Why you need to know that meaning is a puzzle to us. The only way we see that it could make a difference would be if somehow you could not be guilty under the in-furtherance-of clause if your possession was *in relation to* a drug-trafficking crime. But nothing in the language of the statute, or the statutory history, creates this safe harbor for possession that is *in relation to*. You are guilty of the offense if you possess a firearm in furtherance of a drug-trafficking crime, regardless of whether the possession is also in relation to the crime. Indeed, if you possess **[**13]** a firearm in furtherance of the crime, you *always* possess it in relation to the crime. The language "in furtherance of" was meant to be stricter than "in relation to." *See Iiland, 254 F.3d at 1271*. In other words, the occasions when possession is in furtherance of the crime are a subset of the occasions in which possession is in relation to the crime. If a defendant is charged only with possession, all we need to care about is whether the possession was "in furtherance of." Hence, the only vagueness issue would concern the meaning of *in furtherance of*. And we have already discussed the considerations that go into determining whether a possession fits that requirement. Because Defendant makes no argument that those considerations create a vagueness problem, we reject Defendant's due-process claim.

III. CONCLUSION

We **AFFIRM** Defendant's conviction under *§ 924(c)*. There was sufficient evidence to convict, and the statute was not **vague** as applied to him.

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FILED
United States Court of Appeals
Tenth Circuit

April 3, 2026

Christopher M. Wolpert
Clerk of Court

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

OCTAVIO JIMENEZ-MARQUEZ,

Defendant - Appellant.

No. 24-2145
(D.C. No. 1:23-CR-00032-WJ-1)
(D. N.M.)

JUDGMENT

Before **HARTZ**, **TYMKOVICH**, and **McHUGH**, Circuit Judges.

This case originated in the District of New Mexico and was argued by counsel.

The judgment of that court is affirmed.

If defendant, Octavio Jimenez-Marquez, was released pending appeal, the court orders that, within 30 days of this court's mandate being filed in District Court, the defendant shall surrender to the United States Marshal for the District of New Mexico. The District Court may, however, in its discretion, permit the defendant to surrender directly to a designated Bureau of Prisons institution for service of sentence.

Entered for the Court

Per Curiam

UNITED STATES DISTRICT COURT
District of New Mexico

UNITED STATES OF AMERICA
V.
OCTAVIO JIMENEZ-MARQUEZ

Judgment in a Criminal Case

Case Number: **1:23CR00032-001WJ**
USM Number: **87722-509**
Defendant's Attorney: **Gregory M. Acton**

THE DEFENDANT:

☐ pleaded guilty to count(s) .
☐ pleaded nolo contendere to count(s) which was accepted by the court.
☒ was found guilty on count(s) **S1-S4 of Indictment** after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title and Section	***Nature of Offense***	***Offense Ended***	***Count***
21 U.S.C. Sec. 841(b)(1)(A)	Possession with Intent to Distribute 50 Grams and More of Methamphetamine	02/22/2022	S1

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 Court has considered the United States Sentencing Guidelines and, in arriving at the sentence for this Defendant, has taken account of the Guidelines and their sentencing goals. Specifically, the Court has considered the sentencing range determined by application of the Guidelines and believes that the sentence imposed fully reflects both the Guidelines and each of the factors embodied in 18 U.S.C. § 3553(a). The Court also believes the sentence is reasonable, provides just punishment for the offense and satisfies the need to impose a sentence that is sufficient, but not greater than necessary to satisfy the statutory goals of sentencing..

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

8/29/2024
Date of Imposition of Judgment

/s/ William P. Johnson
Signature of Judge

Honorable William P. Johnson
Chief United States District Judge
Name and Title of Judge

9/27/2024
Date

DEFENDANT: **OCTAVIO JIMENEZ-MARQUEZ**
CASE NUMBER: **1:23CR00032-001WJ**

ADDITIONAL COUNTS OF CONVICTION

Title and Section	***Nature of Offense***	***Offense Ended***	***Count***
18 U.S.C. Sec. 922(g)(5) and 924	Alien in Possession of a Firearm	02/22/2022	S2
18 U.S.C. Sec. 924(c)(1)(A)(i)	Possessing a Firearm in Furtherance of a Drug Trafficking Crime	02/22/2022	S3
18 U.S.C. Sec. 751(a)	Escape	12/06/2022	S4

DEFENDANT: **OCTAVIO JIMENEZ-MARQUEZ**
CASE NUMBER: **1:23CR00032-001WJ**

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of: **248 months**.

The Court recommends that Immigration and Customs Enforcement begin removal proceedings during service of sentence.

A term of 188 months is imposed as to Count S1; 120 months is imposed as to Count S2; 60 months is imposed as to Count S4; said terms shall run concurrently. A term of 60 months is imposed as to Count S3; said term shall run consecutively to the other Counts for a total term of 248 months.

☒ The court makes the following recommendations to the Bureau of Prisons:

The Court recommends the defendant participate in the Bureau of Prisons 500 hour drug and alcohol treatment program.

☒ 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 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

DEFENDANT: **OCTAVIO JIMENEZ-MARQUEZ**
CASE NUMBER: **1:23CR00032-001WJ**

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of: **5 years** .
A term of 5 years is imposed as to each of Counts S1 and S3. A term of 3 years is imposed as to each of Counts S2 and S4; said terms shall run concurrently for a total of 5 years.

If the defendant is deported, said term of supervised release shall be unsupervised. If the defendant is not deported, said term of supervised release shall be supervised.

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, local, or tribal 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.

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, after obtaining Court approval, require you to notify that 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.

DEFENDANT: **OCTAVIO JIMENEZ-MARQUEZ**
CASE NUMBER: **1:23CR00032-001WJ**

SPECIAL CONDITIONS OF SUPERVISION

You must comply with all Immigration and Customs Enforcement laws.

If deported, you must not reenter the United States without legal authorization.

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: **OCTAVIO JIMENEZ-MARQUEZ**
CASE NUMBER: **1:23CR00032-001WJ**

CRIMINAL MONETARY PENALTIES

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

☐ The Court hereby remits the defendant's Special Penalty Assessment; the fee is waived and no payment is required.

	Assessment	Restitution	Fine	AVAA Assessment*	JVTA Assessment**
Totals:	**$400**	**$0.00**	**$0.00**	**$ 0.00**	**$0.00**

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

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

SCHEDULE OF PAYMENTS

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

A ☒ In full immediately; or

B ☐ $ due immediately, balance due (see special instructions regarding payment of criminal monetary penalties).

Special instructions regarding the payment of criminal monetary penalties: Criminal monetary penalties are to be made payable by cashier's check, bank or postal money order to the U.S. District Court Clerk, 333 Lomas Blvd. NW, Albuquerque, New Mexico 87102 unless otherwise noted by the court. Payments must include defendant's name, current address, case number and type of payment.

Based on the defendant's lack of financial resources, the Court will not impose a fine. In lieu of all or a portion of the fine, the Court considered alternative sanctions, such as community service, placement at a residential reentry center, and location monitoring, and concludes the total combined sanction without a fine or alternative is sufficiently punitive.

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 court.

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

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

* 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.