

Appx A

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

February 24, 2026

Lyle W. Cayce  
Clerk

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No. 24-40692

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UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

CARLOS CARDENAS-RAMIREZ,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 7:20-CR-886-2

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Before ELROD, *Chief Judge*, and RICHMAN and WILLETT, *Circuit Judges*.

PER CURIAM:\*

Carlos Cardenas-Ramirez was convicted of conspiracy to possess with intent to distribute five kilograms or more of cocaine but acquitted of possession with intent to distribute. He appeals the sufficiency of the evidence for his conviction and the district court's use of acquitted conduct at sentencing. We affirm.

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

## I

The Drug Enforcement Administration (DEA) conducted a long-term investigation of a drug trafficking and distribution cell led by Cesar Herrera. DEA agents surveilled Herrera as he drove to the parking lot of a Dollar General and exchanged items between his car and a white Nissan Sentra driven by Carlos Cardenas-Ramirez. Agents followed Cardenas-Ramirez as he drove to the parking lot of a second Dollar General where he swapped cars with another driver. Agents then followed the Sentra to a residence where they found two speaker boxes filled with cocaine.

Cardenas-Ramirez was arrested three years later. He was charged with (1) conspiracy to possess with intent to distribute five kilograms or more of cocaine in violation of 21 U.S.C. §§ 846, 841(a)(1), and 841(b)(1)(A) and (2) possession with intent to distribute five kilograms or more of cocaine in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(A) and 18 U.S.C. § 2. Cardenas-Ramirez was tried before a jury.

At trial, the evidence showed the following: DEA agents observed an exchange of items between the car driven by Herrera and a white Nissan Sentra driven by Cardenas-Ramirez in the parking lot of a Dollar General. Herrera was parked, and the Sentra pulled up next to him. Herrera and Cardenas-Ramirez exited their vehicles. Herrera opened the back door on the driver's side of his car and the back door on the passenger side of the Sentra. While Herrera did so, Cardenas-Ramirez walked around the car toward the rear. Herrera twice reached into the back seat of his car, bent over to grab an item, and placed it into the back seat of the Sentra. While transferring the items, Herrera "[b]ent over as if to pick up something that had a . . . good amount of weight to it."

After the transfer, DEA agents followed Cardenas-Ramirez while he drove to the parking lot of a second Dollar General about two and a half miles

away. Cardenas-Ramirez stayed parked for a few minutes, then got out of the car, opened the back door on the driver's side, reached in, and "looked like he was messing with something." He closed the door on that side, went to the passenger rear door, "reached in, bent over, and looked like he adjusted something in the back door of that side." Cardenas-Ramirez then entered the Dollar General.

Once Cardenas-Ramirez returned to his car, someone drove an SUV into the parking lot and switched vehicles with him. Cardenas-Ramirez left in the SUV, and the driver of the SUV left in the Sentra. The Sentra was driven to a home and backed into the garage. After the Sentra left the home, agents obtained consent to search the residence. A K-9 unit performed a free-air sniff of the garage and alerted to two speaker boxes in the middle of the garage.

The speaker boxes were sealed, and agents could not see inside. The agents took the boxes to the DEA office, opened them, and found fourteen bundles of a substance later identified as cocaine by a DEA chemist. The cocaine had a net weight of 14.07 kilograms. Its value was estimated at over \$300,000. Agents noted the cocaine added about 15-20 pounds to the weight of the speaker boxes, which are normally empty inside.

Meanwhile, officers were instructed to find probable cause to perform traffic stops on both the Sentra and the SUV. When he was stopped in the SUV, Cardenas-Ramirez provided the constable with a fake Mexican driver's license showing the name "Sergio Anaya." When the Sentra was stopped, the driver's phone was seized. An encrypted messaging app on the phone showed messages sent to a phone number matching the one attributed to Cardenas-Ramirez on the traffic citation he received when he was stopped.

After Cardenas-Ramirez was arrested, he consented to a search of his phone and apartment. No drugs, ledgers, or large amounts of cash were

found in his apartment. Cardenas-Ramirez spoke to DEA agents and was recorded. His interrogation was played for the jury. Cardenas-Ramirez largely corroborated what the investigators observed. He added that a female had asked him to pick up speakers, and that he was supposed to take the car to have it washed. Cardenas-Ramirez told the agents that “those speakers were too heavy,” “[s]o [he] didn’t want to move anything” and refused to drive the car further, which is why the car swap took place—he “didn’t even want to move . . . that [car].”

At the conclusion of the evidence, Cardenas-Ramirez moved for a judgment of acquittal. The district court denied his motion. Cardenas-Ramirez was acquitted on the possession count but convicted on the conspiracy count. He was sentenced to the mandatory minimum of ten years. He timely appealed, challenging the sufficiency of the evidence to support his conspiracy conviction and the district court’s use of the acquitted conduct underlying the possession charge at sentencing.

## II

We first address Cardenas-Ramirez’s challenge to the sufficiency of the evidence. “When a criminal appellant has previously moved for a judgment of acquittal, we review challenges to the sufficiency of the evidence *de novo*.”<sup>1</sup> In so doing:

[W]e determine whether, viewing the evidence and the inferences that may be drawn from it in the light most favorable to the verdict, a rational jury could have found the essential elements of the offenses beyond a reasonable doubt. We recognize that the jury was free to choose among all reasonable constructions of the evidence, and we accept all credibility

<sup>1</sup> *United States v. Gonzalez*, 907 F.3d 869, 873 (5th Cir. 2018) (citing *United States v. Hale*, 685 F.3d 522, 543 (5th Cir. 2012)).

choices that tend to support the jury's verdict. We view the evidence, both direct and circumstantial, as well as all reasonable inferences from that evidence, in the light most favorable to the verdict. Moreover, we determine only whether the jury made a rational decision, not whether its verdict was correct on the issue of guilt or innocence. Further, the evidence need not exclude every reasonable hypothesis of innocence.<sup>2</sup>

“Because this review is ‘highly deferential to the jury’s verdict,’ we ‘will reverse only if no rational jury could have found [the] defendant[] guilty beyond a reasonable doubt.’”<sup>3</sup>

### A

Cardenas-Ramirez argues the district court erred in denying his motion for acquittal because the evidence adduced at trial was insufficient to prove conspiracy to possess with intent to distribute. To prove that offense, the government must show “(1) the existence of an agreement between two or more persons to violate narcotics laws, (2) knowledge of the conspiracy and intent to join it, and (3) voluntary participation in the conspiracy.”<sup>4</sup> Cardenas-Ramirez argues the evidence was insufficient as to each element.

We first consider whether the evidence was sufficient to show an agreement. “The ‘agreement to engage in the conspiracy alleged’ need not have been express; ‘[a] tacit, mutual agreement with common purpose, design, and understanding will suffice.’ . . . Moreover, ‘[c]oncert of action

<sup>2</sup> *United States v. Garcia*, 86 F.3d 394, 398 (5th Cir. 1996) (quoting *United States v. Dean*, 59 F.3d 1479, 1484 (5th Cir. 1995)).

<sup>3</sup> *United States v. Bourrage*, 138 F.4th 327, 348 (5th Cir. 2025) (quoting *United States v. Mesquias*, 29 F.4th 276, 279 (5th Cir. 2022)).

<sup>4</sup> *Id.* at 347 (quoting *United States v. McClaren*, 13 F.4th 386, 406 (5th Cir. 2021)).

can indicate agreement and voluntary participation’ in the conspiracy.”<sup>5</sup> Here, Cardenas-Ramirez pulled up next to Herrera’s vehicle and waited as Herrera transferred items into his vehicle, and Cardenas-Ramirez exchanged encrypted messages with the driver of the SUV with whom he swapped vehicles. This is concert of action sufficient to show an agreement.<sup>6</sup>

We next turn to whether the evidence was sufficient to show Cardenas-Ramirez had knowledge of the conspiracy and intended to join it. “A jury may ordinarily infer a defendant’s knowledge of the presence of drugs from his control over the vehicle in which they are found.”<sup>7</sup> However, citing *United States v. Gonzalez-Lira*,<sup>8</sup> Cardenas-Ramirez argues that because “the drugs in the case at hand were hidden in sealed, non-transparent speaker boxes, this Court requires additional circumstantial evidence to establish the defendant’s knowing and voluntary involvement in the conspiracy.” Indeed, “[i]f the contraband is hidden, . . . we require additional circumstantial evidence that is suspicious in nature or demonstrates guilty knowledge.”<sup>9</sup> Though this rule typically applies when drugs are stored in hidden compartments,<sup>10</sup> we have applied it in circumstances in which contraband

<sup>5</sup> *Id.* at 348 (alterations in original) (first quoting *United States v. Daniels*, 723 F.3d 562, 575 (5th Cir. 2013); and then quoting *United States v. Lopez*, 979 F.2d 1024, 1029 (5th Cir. 1992)).

<sup>6</sup> *Cf. United States v. Thomas*, 690 F.3d 358, 367 (5th Cir. 2012) (finding evidence sufficient to show conspiracy in part because defendant parked next to a vehicle and waited for drugs to be placed in it); *United States v. Segura*, 122 F. App’x 768, 775-76 (5th Cir. 2005) (unpublished) (finding evidence sufficient to show conspiracy in part because of communications between defendants coordinating the drug transfer).

<sup>7</sup> *United States v. Villarreal*, 324 F.3d 319, 324 (5th Cir. 2003).

<sup>8</sup> 936 F.2d 184, 192 (5th Cir. 1991).

<sup>9</sup> *Villarreal*, 324 F.3d at 324.

<sup>10</sup> *See id.* (“In this case, the marihuana was not ‘hidden’ in the usual sense of being secreted in a hidden compartment.”).

was less concealed, namely when “some of the tape-wrapped bundles of [drugs] were lying on the rear floorboards” of the vehicle.<sup>11</sup> We assume without deciding that the requirement of additional circumstantial evidence applies here.

Cardenas-Ramirez argues that “no evidence exists that [he] seemed nervous, or that he gave inconsistent statements or lied to the police, or that he gave implausible statements to the police.” This argument is belied by the record. When Cardenas-Ramirez was stopped after the car swap, he provided law enforcement with a fake ID. The jury could have reasonably inferred consciousness of guilt from this dishonest interaction with law enforcement.<sup>12</sup>

Additionally, the evidence showed that Cardenas-Ramirez transported cocaine with a value of more than \$300,000. We have previously held that transporting drugs with a value of “more than \$300,000” is “circumstantial evidence which may be probative of knowledge,” because the “jury could reasonably have inferred that [the defendant] would not have been entrusted with that extremely valuable cargo if he was not part of the trafficking scheme.”<sup>13</sup> Further, although the speaker boxes were opaque, Cardenas-Ramirez admitted that he suspected they contained contraband based on their weight.

<sup>11</sup> *Id.*

<sup>12</sup> *Cf. United States v. Aguilar-Alvarez*, 212 F. App’x 340, 342 (5th Cir. 2007) (unpublished) (“A defendant’s decision to lie to law enforcement officers can constitute sufficient circumstantial evidence to support an inference of guilty knowledge.” (citing *United States v. Jones*, 185 F.3d 459, 465 (5th Cir. 1999))).

<sup>13</sup> *Villareal*, 324 F.3d at 324; *see also United States v. Vazquez*, 370 F. App’x 459, 466 (unpublished) (holding that the jury could infer guilty knowledge based on the quantity of marijuana, valued between \$15,000 and \$39,000, which was “unlikely to have been entrusted to an unsuspecting driver”).

Finally, we consider whether the evidence was sufficient to show Cardenas-Ramirez voluntarily participated in the conspiracy. Cardenas-Ramirez argues that “[h]is overt actions are . . . not sufficient to prove participation in a conspiracy” because he “called the person he was communicating with to tell him that he was not moving from [the second Dollar General] because he did not want any problems.” Cardenas-Ramirez’s argument relies on the jury accepting the narrative he advanced in his interrogation. However, the jury was free to disbelieve his statements.<sup>14</sup> Additionally, Cardenas-Ramirez’s “participation in the car swap,” instead of underscoring his innocence, “supports the jury’s finding of guilt” because this “is a common drug trafficking method used to minimize the risk of detection and to shield the main location where the drugs are kept.”<sup>15</sup>

## B

Cardenas-Ramirez next argues the district court erred in denying his motion for acquittal because the evidence adduced at trial was insufficient to prove he knew or reasonably should have known that the scope of the conspiracy involved at least five kilograms of cocaine.

If an indictment alleges involvement in a conspiracy to distribute an amount of a controlled substance that triggers

<sup>14</sup> See *United States v. Gaspar-Felipe*, 4 F.4th 330, 341-42 (5th Cir. 2021) (“On sufficiency of the evidence review, however, ‘[w]e do not make credibility determinations.’ Those are ‘the sole province of the jury.’ . . . The jury was free to credit [the defendant] or the witnesses against him; it chose the latter.” (first alteration in original) (citation omitted) (first quoting *United States v. Garza*, 42 F.3d 251, 253 (5th Cir. 1994); and then quoting *United States v. Parker*, 505 F.3d 323, 331 (5th Cir. 2007))).

<sup>15</sup> *United States v. Garcia*, 86 F.3d 394, 399 (5th Cir. 1996); cf. *United States v. Duran*, 528 F. App’x 215, 220 (3d Cir. 2013) (unpublished) (“Furthermore, the fact that, while conducting the physical transfers, [the conspirators] did not merely transfer the cocaine . . . but rather swapped cars, ‘reflects a level of mutual trust consistent with [a] conspiracy.’” (quoting *United States v. Iglesias*, 535 F.3d 150, 156 (3d Cir. 2008))).

enhanced penalties under §§ 841(b)(1)(A) or (B), then *Apprendi v. New Jersey*<sup>16</sup> requires the Government to prove beyond a reasonable doubt the quantity of the alleged drug as a fourth element of the offense.<sup>17</sup>

However, “the requisite fourth ‘element’ . . . is not a formal element of the conspiracy offense,” so failure to prove the quantity alleged “does not invalidate defendants’ conspiracy convictions; rather, it only affects the sentence.”<sup>18</sup>

The evidence demonstrated that Cardenas-Ramirez was at the rear of his car at the first Dollar General while Herrera was at the back door transferring the speaker boxes between the cars while “[b]en[ding] over as if to pick up something that had a . . . good amount of weight to it.” Agents testified that the narcotics added 15-20 pounds to the weight of the speaker boxes. At the second Dollar General, Cardenas-Ramirez manipulated the speaker boxes himself. He described them in his interrogation as “heavy” and admitted he suspected they contained contraband because of their weight. The jury saw photos of the speaker boxes. From this evidence, the jury could have rationally inferred that Cardenas-Ramirez knew or should have known that the speaker boxes contained at least five kilograms, or slightly over eleven pounds, of cocaine.<sup>19</sup>

<sup>16</sup> 530 U.S. 466 (2000).

<sup>17</sup> *United States v. Daniels*, 723 F.3d 562, 570 (5th Cir. 2013).

<sup>18</sup> *Id.* at 573-74.

<sup>19</sup> *Cf. United States v. Gonzalez*, 907 F.3d 869, 875 (5th Cir. 2018) (holding that the jury could have determined the defendant should have reasonably foreseen involvement in a conspiracy involving five or more kilograms of cocaine in part because “the hidden compartment . . . used to transport the cocaine was designed to carry much more than five kilograms”).

Cardenas-Ramirez argues that “[e]vidence that the speaker boxes were heavy or appeared to be heavy is speculative, unreliable, and lacked sufficient indicia of reliability to support the jury’s verdict.” However, “this court does not reweigh the jury’s measurement of the evidence, and instead ‘view[s] the evidence in the light most favorable to the verdict, drawing all reasonable inferences to support the verdict.’”<sup>20</sup> We find that when viewed in the light most favorable to the verdict, the evidence is sufficient for a rational jury to conclude beyond a reasonable doubt that Cardenas-Ramirez knew or reasonably should have known the scope of the conspiracy involved five kilograms or more of cocaine.

### III

Finally, Cardenas-Ramirez argues “[a]t sentencing, the district court violated Cardenas’[s] Due Process rights . . . when it considered count two’s acquitted conduct.” We acknowledge that several Supreme Court Justices have expressed concerns about the use of acquitted conduct in sentencing.<sup>21</sup> However, we remain bound by precedent, namely *United States v. Watts*,<sup>22</sup> which dictates that “a sentencing court may consider conduct of which a

<sup>20</sup> *Id.* at 876 (alteration in original) (quoting *United States v. Delgado*, 256 F.3d 264, 274 (5th Cir. 2001)).

<sup>21</sup> See, e.g., *McClinton v. United States*, 143 S. Ct. 2400, 2401 (SOTOMAYOR, J., respecting the denial of certiorari) (“[T]he use of acquitted conduct to increase a defendant’s Sentencing Guidelines range and sentence raises important questions that go to the fairness and perceived fairness of the criminal justice system.” (footnote omitted)); *id.* at 2403 (KAVANAUGH, J., respecting the denial of certiorari) (“The use of acquitted conduct to alter a defendant’s Sentencing Guidelines range raises important questions.”).

<sup>22</sup> 519 U.S. 148 (1997).

defendant has been acquitted.”<sup>23</sup> As recently as 2021, we have reaffirmed that *Watts* forecloses challenges like Cardenas-Ramirez’s.<sup>24</sup>

At oral argument, counsel for Cardenas-Ramirez for the first time raised a recent amendment to the Sentencing Guidelines, U.S.S.G. § 1B1.3(c), which states, “[r]elevant conduct [for calculating a Guidelines range] does not include conduct for which the defendant was criminally charged and acquitted in federal court, unless such conduct also establishes, in whole or in part, the instant offense of conviction.”<sup>25</sup> The amendment went into effect in November 2024,<sup>26</sup> after Cardenas-Ramirez was sentenced. It would accordingly need to apply retroactively in order to have effect here. We note that several of our sister circuits have considered this issue and concluded that § 1B1.3(c) does not apply retroactively.<sup>27</sup> We decline to decide the issue today because “we do not consider an issue first raised at oral argument on appeal.”<sup>28</sup> We note, however, that the conduct

<sup>23</sup> *Id.* at 154.

<sup>24</sup> *United States v. Gaspar-Felipe*, 4 F.4th 330, 343 n.11 (5th Cir. 2021).

<sup>25</sup> U.S.S.G. § 1B1.3(c).

<sup>26</sup> See *United States v. Simpson*, 138 F.4th 438, 455 (6th Cir. 2025).

<sup>27</sup> *United States v. Henderson*, 136 F.4th 527, 535 n.2 (4th Cir. 2025) (“After [the defendant’s] sentencing, the Guidelines were amended to exclude acquitted conduct from the definition of relevant conduct. That amendment is not retroactive.” (citation omitted)); accord *United States v. Coleman*, 138 F.4th 489, 512 (7th Cir. 2025) (“The [§ 1B1.3(c)] Guideline revision, however, does not have retroactive effect. The Guidelines allow for retroactive application only for amendments specifically listed in U.S.S.G. § 1B1.10(d). The amendment at issue here is not listed in subsection (d) and thus does not have retroactive effect.”); *Simpson*, 138 F.4th at 455 (“Section 1B1.3(c), however, went into effect in November 2024, well after [the defendant] was sentenced. And none of its provisions were made retroactive.” (citation omitted)).

<sup>28</sup> *Arsement v. Spinnaker Expl. Co., LLC*, 400 F.3d 238, 247 (5th Cir. 2005).

for which Cardenas-Ramirez was charged in count two established, at least in part, conspiracy to possess with intent to distribute cocaine.

\* \* \*

For the foregoing reasons, we AFFIRM Cardenas-Ramirez's conviction and sentence.

**United States v. Cardenas-Ramirez**

United States Court of Appeals for the Fifth Circuit

March 24, 2026, Filed

No. 24-40692

**Reporter**

170 F.4th 936 \*; 2026 U.S. App. LEXIS 9053 \*\*; 2026 LX 180263; 2026 WL 860104

UNITED STATES OF AMERICA, Plaintiff—  
Appellee, versus CARLOS CARDENAS-  
RAMIREZ, Defendant—Appellant.

**[\*937]** ON PETITION FOR REHEARING EN  
BANC

JENNIFER WALKER ELROD, *Chief Judge*:

**Prior History:** **[\*\*1]** Appeal from the United States District Court for the Southern District of Texas. USDC No. 7:20-CR-886-2.

[United States v. Cardenas-Ramirez, 2026 U.S. App. LEXIS 5496, 2026 WL 509046 \(Feb. 24, 2026\)](#)

**Core Terms**

en banc, sentence, acquit, petition for rehearing, guideline, constitutional issue, instant offense, reconsider, overlap

**Counsel:** For United States of America, Plaintiff - Appellee: Catherine Pick, Assistant U.S. Attorney, Carmen Castillo Mitchell, Assistant U.S. Attorney, U.S. Attorney's Office Southern District of Texas, Houston, TX.

For Carlos Cardenas-Ramirez, Defendant - Appellant: Victoria Guerra, Attorney, Law Office of Victoria Guerra, McAllen, TX.

**Judges:** Before ELROD, Chief Judge, and RICHMAN and WILLETT, Circuit Judges.

**Opinion by:** JENNIFER WALKER ELROD

**Opinion**

Treating the petition for rehearing *en banc* as a petition for panel rehearing (5TH CIR. R. 40 I.O.P.), the petition for panel rehearing is DENIED. Because no member of the panel or judge in regular active service requested that the court be polled on rehearing *en banc* (FED. R. APP. P. 40 and 5TH CIR. R. 40), the petition for rehearing *en banc* is DENIED.

Like many judges, we are deeply troubled by the use of acquitted conduct in sentencing. *See McClinton v. United States*, 143 S. Ct. 2400, 2401, 216 L. Ed. 2d 1258 (2023) (Sotomayor, J., respecting the denial of certiorari) (gathering cases). Acquitted-conduct sentencing raises serious constitutional issues and fundamental questions of fairness. *See id. at 2401* (discussing the tension between this **[\*\*2]** practice and the role of the jury); *id. at 2402-03* (describing the legitimacy and public-perception concerns created by this practice); *Jones v. United States*, 574 U.S. 948, 948, 135 S. Ct. 8, 190 L. Ed. 2d 279 (2014) (Scalia, J., dissenting from denial of certiorari) (noting that this practice raises **[\*938]** both [Fifth](#) and [Sixth Amendment](#) questions).

However, this case does not warrant rehearing. As the panel opinion notes, Supreme Court precedent squarely binds us. [United States v. Cardenas-Ramirez](#), No. 24-40692, 2026 U.S. App. LEXIS 5496, 2026 WL 509046 at \*5 (5th Cir. Feb. 24,

[2026](#)) ("However, we remain bound by precedent, namely *United States v. Watts*, which dictates that 'a sentencing court may consider conduct of which a defendant has been acquitted.'" (footnote omitted) (quoting *United States v. Watts*, [519 U.S. 148, 154, 117 S. Ct. 633, 136 L. Ed. 2d 554 \(1997\)](#)). As an "inferior court," we cannot provide the kind of relief that Cardenas-Ramirez seeks, even if we were to rehear the case *en banc*.

Moreover, the facts of this case do not lend themselves to reconsideration of this issue. The jury acquitted Cardenas-Ramirez of possession while convicting him of conspiracy based on the same events. [2026 U.S. App. LEXIS 5496, \[WL\] at \\*2](#). The overlapping nature of the charges complicates the inquiry. The United States Sentencing Commission recognized this challenge in 2024 when it amended Section 1B1.3(c) of the Sentencing Guidelines to prohibit considering acquitted conduct as relevant conduct in most instances, but not if "such conduct also establishes, in whole or in part, the instant **[\*\*3]** offense of conviction." U.S. Sent'g Guidelines Manual § 1B1.3(c) (U.S. Sent'g Comm'n 2024); *see also id.* at § 1B1.3 cmt. n.10 (noting that when "certain conduct underlies both an acquitted charge and the instant offense of conviction[,] . . . the court is in the best position to determine whether such overlapping conduct establishes, in whole or in part, the instant offense of conviction").

One day, the proper court may reconsider acquitted-conduct sentencing and the issues it raises in the right case. *See McClinton*, [143 S. Ct. at 2403](#) (Alito, J., concurring in denial of certiorari) (noting that "the constitutional issue . . . remain[s]" even after any amendments to the Sentencing Guidelines). This is not that day, not that court, and not that case.

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
McALLEN DIVISION

Appx. C

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|--------------------------|---|-----------------|
| UNITED STATES OF AMERICA | ) |                 |
|                          | ) |                 |
| VS.                      | ) | CRIMINAL NUMBER |
|                          | ) |                 |
| PEDRO ALVAREZ, JR and    | ) | M-20-886-S2     |
| CARLOS CARDENAS-RAMIREZ  | ) |                 |
| also known as Sergio     | ) |                 |
| Anaya-Molina             | ) |                 |

COURT'S INSTRUCTIONS TO THE JURY

MEMBERS OF THE JURY:

You have now heard all of the evidence in the case as well as the final arguments of the lawyers for the parties.

It becomes my duty, therefore, to instruct you on the rules of law that you must follow and apply in arriving at your decision in the case.

In any jury trial there are, in effect, two judges. I am one of the judges; the other is the jury. It is my duty to preside over the trial and to determine what evidence is relevant under the law for your consideration. It is also my duty at the end of the trial to instruct you on the law applicable to the case.

You, as jurors, are the judges of the facts. But in determining what actually happened in this case - that is, in reaching your decision as to the facts - it is your sworn duty to follow the law I am now in the process of defining for you. Unless otherwise stated, you should consider each instruction to apply separately and individually as to each Defendant.

And you must follow all of my instructions as a whole. You have no right to disregard or give special attention to any one instruction, or to question the wisdom or correctness of any rule I may state to you. That is, you must not substitute or follow your own notion or opinion as to what the law is or ought to be. It is your duty to apply the law as I give it to you, regardless of the consequences.

By the same token, it is also your duty to base your verdict solely upon the evidence in the case, without prejudice or sympathy. That was the promise you made and the oath you took before being accepted as jurors in this case, and we have the right to expect nothing less, and certainly you can expect nothing less from yourselves.

The indictment or formal charge against a defendant is not evidence of guilt. Indeed, the defendant is presumed by the law to be innocent. The defendant begins with a clean slate. The law does not require a defendant to prove his innocence or produce any evidence at all and no inference whatever may be drawn from the election of a defendant not to testify.

The government has the burden of proving the defendant guilty beyond a reasonable doubt, and if it fails to do so, you must acquit the defendant. While the government's burden of proof is a strict or heavy burden, it is not necessary that the defendant's guilt be proved beyond all possible doubt. It is only required that the government's proof exclude any "reasonable doubt" concerning the defendant's guilt.

A "reasonable doubt" is a doubt based upon reason and common sense after careful and impartial consideration of all the evidence in the case. Proof beyond a reasonable doubt, therefore, is proof of such a convincing character that you would be willing to rely and act upon it without hesitation in making the most important decisions of your own affairs.

If you are convinced that the accused has been proved guilty beyond a reasonable doubt, say so by voting guilty. If you are not convinced, say so by voting not guilty.

If you took notes, your notes should be used only as a memory aid. You should not give your notes precedence over your independent recollection of the evidence. If you did not take notes, you should rely upon your own independent recollection of the proceedings and you should not be unduly influenced by the notes of other jurors.

As I told you earlier, it is your duty to determine the facts. To do so, you must consider only the evidence presented during the trial. Evidence is the sworn testimony of the witnesses, including stipulations, and the exhibits. The questions, statements, objections, and arguments made by the lawyers are not evidence.

The function of the lawyers is to point out those things that are most significant or most helpful to their side of the case, and in so doing to call your attention to certain facts or inferences that might otherwise escape your notice. In the final analysis, however, it is your own recollection and interpretation

of the evidence that controls in the case. What the lawyers say is not binding upon you.

During the trial I sustained objections to certain questions and exhibits. You must disregard those questions and exhibits entirely. Do not speculate as to what the witness would have said if permitted to answer the question or as to the contents of an exhibit.

Also, do not assume from anything I may have done or said during the trial that I have any opinion concerning any of the issues in this case. Except for the instructions to you on the law, you should disregard anything I may have said during the trial in arriving at your own verdict.

So, while you should consider only the evidence in the case, you are permitted to draw such reasonable inferences from the evidence as you feel is justified in the light of common experience. In other words, you may make deductions and reach conclusions which reason and common sense lead you to draw from the facts which have been established by the evidence in the case.

You may also consider either direct or circumstantial evidence. "Direct evidence" is the testimony of one who asserts actual knowledge of a fact, such as an eye witness. "Circumstantial evidence" is proof of a chain of facts and circumstances indicating either that the defendant is guilty or not guilty. The law makes no distinction between the weight to be given to either direct or circumstantial evidence. It requires only that you weigh all of the evidence and be convinced of the Defendant's guilt beyond a reasonable doubt before he can be convicted.

Now, I have said that you must consider all of the evidence. This does not mean, however, that you must accept all of the evidence as true or accurate.

You are the sole judges of the credibility or "believability" of each witness and the weight to be given the witness's testimony. An important part of your job will be making judgments about the testimony of the witnesses who testified in this case. You should decide whether you believe all or any part of what each person had to say, and how important that testimony was. In making that decision, I suggest that you ask yourself a few questions: Did the person impress you as honest? Did the witness have any particular reason not to tell

the truth? Did the witness have a personal interest in the outcome of the case? Did the witness have any relationship with either the government or the defense? Did the witness seem to have a good memory? Did the witness clearly see or hear the things about which he or she testified? Did the witness have the opportunity and ability to understand the questions clearly and answer them directly? Did the witness's testimony differ from the testimony of other witnesses? These are a few of the considerations that will help you determine the accuracy of what each witness said.

Your job is to think about the testimony of each witness you have heard and decide how much you believe of what each witness had to say. In making up your mind and reaching a verdict, do not make any decisions simply because there were more witnesses on one side than on the other. Do not reach a conclusion on a particular point just because there were more witnesses testifying for one side on that point.

In determining whether any statement, claimed to have been made by the defendant outside of court and after an alleged crime has been committed, was knowingly and voluntarily made, you should consider the evidence concerning such a statement with

caution and great care. You should give such weight to the statement as you feel it deserves under all the circumstances.

You may consider in that regard such factors as the age, sex, training, education, occupation, and physical and mental condition of the defendant, his treatment while under interrogation, and all the other circumstances in evidence surrounding the making of the statement.

A witness may be discredited or "impeached" by contradictory evidence, by a showing that he testified falsely concerning a material matter, or by evidence that at some other time the witness has said or done something, or has failed to say or do something, which is inconsistent with the witness' present testimony.

If you believe that any witness has been so impeached, then it is your exclusive province to give the testimony of that witness such credibility or weight, if any, as you may think it deserves.

You have been told that a witness was arrested on a criminal trespass charge. The arrest is a factor you may consider in deciding whether to believe that witness, but it does not

necessarily destroy the witness's credibility. It has been brought to your attention only because you may wish to consider it when you decide whether you believe the witness's testimony. It is not evidence of anything else.

The rules of evidence provide that if scientific, technical, or other specialized knowledge might assist the jury in understanding the evidence or in determining a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify and state the witness' opinion concerning such matters.

You should consider each expert opinion received in evidence in this case and give it such weight as you may think it deserves. If you should decide that the opinion of an expert witness is not based upon sufficient education and experience, or if you should conclude that the reasons given in support of the opinion are not sound, or that the opinion is outweighed by other evidence, then you may disregard the opinion entirely.

In any criminal case the Government must prove not only the essential elements of the offense charged, as hereafter defined, but must also prove, of course, the identity of the defendant as the perpetrator of the alleged offense.

In evaluating the identification testimony of a witness, you should consider all of the factors already mentioned concerning your assessment of the credibility of any witness in general, and should also consider, in particular, whether the witness had an adequate opportunity to observe the person in question at the time or times about which the witness testified. You may consider, in that regard, such matters as the length of time the witness had to observe the person in question, the prevailing conditions at that time in terms of visibility or distance and the like, and whether the witness had known or observed the person at earlier times.

You may also consider the circumstances surrounding the identification itself, including, for example, the manner in which the Defendant was presented to the witness for identification, and the length of time that elapsed between the incident in question and the next opportunity the witness had to observe the Defendant.

If, after examining all of the evidence in the case, you have a reasonable doubt as to the identity of the defendant as the perpetrator of the offense charged, you must find the Defendant not guilty.

Among the exhibits admitted during the trial were recordings that contained conversations in the Spanish language. You were also provided English transcripts of those conversations. The transcripts were provided to you by the government so that you can consider the content of the conversations on the recordings. Whether a transcript is an accurate translation, in whole or in part, is for you to decide. Your consideration of the transcripts should be based on the evidence introduced in the trial.

Count Two

In this case, Defendant Pedro Alvarez, Jr. and Defendant Carlos Cardenas-Ramirez are each charged in Count Two of the indictment with knowingly and intentionally possessing with intent to distribute a controlled substance, that is, cocaine. Count Two alleges:

On or about April 23, 2019, in the Southern District of Texas, and within the jurisdiction of the Court, defendants Pedro Alvarez, Jr. and Carlos Cardenas-Ramirez did knowingly and intentionally possess with intent to distribute a controlled substance. The controlled substance involved was 5 kilograms or more, that is, approximately 14.07 kilograms of a mixture or substance containing a detectable amount of cocaine, a Schedule II controlled substance, in violation of

Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(A) and Title 18 United States Code, Section 2.

Title 21, United States Code, Section 841(a)(1), makes it a crime for anyone knowingly or intentionally to possess a controlled substance with intent to distribute it.

Cocaine is a controlled substance within the meaning of the law.

For you to find the defendant guilty of Count Two you must be convinced that the Government has proved each of the following beyond a reasonable doubt:

- First:* That the defendant knowingly possessed a controlled substance;
- Second:* That the substance was in fact cocaine;
- Third:* That the defendant possessed the controlled substance with the intent to distribute it; and
- Fourth:* That the quantity of the controlled substance was 14.07 kilograms or more of cocaine.

To "possess with intent to distribute" simply means to possess with intent to deliver or transfer possession of a

controlled substance to another person, with or without any financial interest in the transaction.

The law recognizes two kinds of possession: actual possession and constructive possession. A person who knowingly has direct physical control over a thing, at a given time, is then in actual possession of it.

A person who, although not in actual possession, knowingly has both the power and the intention, at a given time, to exercise dominion or control over a thing, either directly or through another person or persons, is then in constructive possession of it.

The law recognizes also that possession may be sole or joint. If one person alone has actual or constructive possession of a thing, possession is sole. If two or more persons share actual or constructive possession of a thing, possession is joint.

You may find that the element of possession, as that term is used in these instructions, is present if you find beyond reasonable doubt that the defendant had actual or constructive possession, either alone or jointly with others.

With regards to Count Two, the Government also charges that the defendant committed the alleged violations under Title 18, United States Code, Section 2.

Under Title 18, United States Code, Section 2, the guilt of an accused in a criminal case may be established without proof that he personally did every act constituting the offense alleged. The law recognizes that, ordinarily, anything a person can do for himself may also be accomplished by him through direction of another person as his agent, or by acting in concert with, or under the direction of, another person or persons in a joint effort or enterprise.

Title 18, United States Code, Section 2, provides:

"Whoever commits an offense against the United States, or aids, abets, counsels, commands, induces, or procures its commission, is punishable as a principal."

"Whoever willfully causes an act to be done, which if directly performed by him or another would be an offense against the United States, is punishable as a principal."

So, if the acts or conduct of an agent, employee or other associate of the defendant are willfully directed or authorized by him, or if the defendant aids and abets another person by willfully joining together with such person in the commission of a crime, then the law holds the defendant responsible for the acts and conduct of such other persons just as though he had committed the acts or engaged in such conduct himself.

Notice, however, that before any defendant may be held criminally responsible for the acts of others, it is necessary that the accused willfully associate himself in some way with the criminal venture, and willfully participate in it as he would in something he wishes to bring about; that is to say, that he willfully seek by some act or omission of his to make the criminal venture succeed.

Of course, mere presence at the scene of a crime and knowledge that a crime is being committed are not sufficient to establish that a defendant either directed or aided and abetted the crime unless you find beyond a reasonable doubt that the Defendant was a participant and not merely a knowing spectator.

In other words, you may not find the defendant guilty under Title 18, United States Code, Section 2, unless you find beyond a

reasonable doubt that every element of the offense as defined in these instructions was committed by some person or persons, and that the defendant willfully participated in its commission.

Count One

In Count One of the indictment, Defendant Pedro Alvarez, Jr. and Defendant Carlos Cardenas-Ramirez are each charged with knowingly and intentionally conspiring with at least one other person to knowingly and intentionally possess with intent to distribute a controlled substance, that is cocaine. Count One alleges:

On or about April 23, 2019, in the Southern District of Texas and within the jurisdiction of the Court, defendants Pedro Alvarez, Jr. and Carlos Cardenas-Ramirez did knowingly and intentionally conspire and agree together and with other person or persons known and unknown to the Grand Jurors, to knowingly and intentionally possess with intent to distribute a controlled substance. The controlled substance involved was 5 kilograms or more of a mixture or substance containing a detectable amount of cocaine, a Schedule II controlled substance, in violation of Title 21, United States Code, Section 846 and Section 841(a)(1), and 841(b)(1)(A).

Title 21, United States Code, Section 846, makes it a crime for anyone to conspire with someone else to commit a violation of certain controlled substances laws of the United States. In Count One, each defendant is charged with conspiring to violate Title 21, United States Code, Section 841(a)(1), which makes it a crime to possess with intent to distribute a controlled substance. The elements which would have to be found beyond a reasonable doubt to find a violation of Title 21, United States Code, Section 841(a)(1), were stated in the instructions with regards to Count Two.

For you to find the defendant guilty of the conspiracy charged in Count One, you must be convinced that the Government has proved each of the following beyond a reasonable doubt:

*First:* That two or more persons, directly or indirectly, reached an agreement to knowingly and intentionally possess with the intent to distribute a controlled substance, and that controlled substance was cocaine.

*Second:* That the defendant knew of the unlawful purpose of the agreement;

*Third:* That the defendant joined in the agreement willfully, that is, with the intent to further its unlawful purpose;

*Fourth:* That the overall scope of the conspiracy involved 5 kilograms or more of cocaine; and,

*Fifth:* That the defendant knew or reasonably should have known that the scope of the conspiracy involved at least 5 kilograms of cocaine.

A "conspiracy" is an agreement between two or more persons to join together to accomplish some unlawful purpose. It is a kind of "partnership in crime" in which each member becomes the agent of every other member.

One may become a member of a conspiracy without knowing all the details of the unlawful scheme or the identities of all the other alleged conspirators. If a defendant understands the unlawful nature of a plan or scheme and knowingly and intentionally joins in that plan or scheme on one occasion, that is sufficient to convict him for conspiracy even though the defendant had not participated before and even though the defendant played only a minor part.

The Government need not prove that the alleged conspirators entered into any formal agreement, nor that they directly stated between themselves all the details of the scheme. Similarly, the Government need not prove that all of the details of the scheme alleged in the indictment were actually agreed upon or carried out. Nor must it prove that all of the persons alleged to have been members of the conspiracy were such, or that the alleged conspirators actually succeeded in accomplishing their unlawful objectives.

Mere presence at the scene of an event, even with knowledge that a crime is being committed, or the mere fact that certain persons may have associated with each other and may have assembled together and discussed common aims and interests, does not necessarily establish proof of the existence of a conspiracy. Also, a person who has no knowledge of a conspiracy, but who happens to act in a way which advances some purpose of a conspiracy, does not thereby become a conspirator.

You will note that the indictment charges that the offense was committed "on or about" a certain date. The proof need not establish with certainty the exact date of the alleged offense. It is sufficient if the evidence in the case establishes beyond a

reasonable doubt that the offense was committed on a date reasonably near the date alleged.

The word "knowingly," as that term has been used from time to time in these instructions, means that the act was done voluntarily and intentionally and not because of mistake or accident.

The word "willfully," as that term has been used from time to time in these instructions, means that the act was committed voluntarily and purposely, with the specific intent to do something the law forbids; that is to say, with bad purpose either to disobey or disregard the law.

The offenses charged in this case requires proof of specific intent before the defendant can be convicted. Specific intent, as the term implies, means more than the general intent to commit the act. To establish specific intent the Government must prove that the defendant knowingly did an act which the law forbids, purposely intending to violate the law. Such intent may be determined from all the facts and circumstances surrounding the case.

I caution you, members of the jury, that you are here to determine whether the accused is guilty or not guilty from the evidence in this case. The defendant is not on trial for any act or conduct or offense not alleged in the indictment. Neither are you called upon to return a verdict as to whether any other person or persons not on trial as a defendant in this case is guilty or not guilty.

A separate crime is charged against one or more of the defendants in each count of the indictment. Each count, and the evidence pertaining to it, should be considered separately. The case of each defendant should be considered separately and individually. The fact that you may find one or more of the accused guilty or not guilty of any of the crimes charged should not control your verdict as to any other crime or any other defendant. You must give separate consideration to the evidence as to each defendant.

Also, the punishment provided by law for the offenses charged in the indictment is a matter exclusively within the province of the court or judge, and should never be considered by the jury in any way in arriving at an impartial verdict as to whether the Defendant is guilty or not guilty.

Any verdict must represent the considered judgment of each juror. In order to return a verdict, it is necessary that each juror agree thereto. In other words, your verdict must be unanimous.

It is your duty as jurors to consult with one another and to deliberate in an effort to reach agreement if you can do so without violence to individual judgment. Each of you must decide the case for yourself, but only after an impartial consideration of the evidence in the case with your fellow jurors. In the course of your deliberations, do not hesitate to re-examine your own views and change your opinion if convinced it is erroneous. But do not surrender your honest conviction as to the weight or effect of the evidence solely because of the opinion of your fellow jurors, or for the mere purpose of returning a verdict.

Remember at all times, you are not partisans. You are judges - judges of the facts. Your sole interest is to seek the truth from the evidence in the case.

Upon retiring to the jury room, you should first select one of your number to act as your foreperson who will preside over your deliberations and will be your spokesperson here in court. A form of verdict has been prepared for your convenience.

You will take the verdict form to the jury room and when you have reached unanimous agreement as to your verdict, you will have your foreperson fill it in, date and sign it, and then return to the courtroom.

If, during your deliberations, you should desire to communicate with the Court, please reduce your message or question to writing signed by the foreperson, and pass the note to the marshal, who will bring it to the Court's attention. I will then respond as promptly as possible, either in writing or by having you returned to the courtroom so that I can address you orally. I caution you, however, with regard to any message or question you might send, that you should never state or specify your numerical division at the time.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
McALLEN DIVISION

VERDICT

UNITED STATES OF AMERICA           §  
vs                                           § CRIMINAL NO. 7:20CR00886-S2-02  
CARLOS CARDENAS RAMIREZ  
A/K/A SERGIO ANAYA MOLINA       §

WE, THE JURY, FIND: CARLOS CARDENAS RAMIREZ, ALSO KNOWN AS  
SERGIO ANAYA MOLINA, the Defendant,

Guilty, as to Count 1  
[Insert "GUILTY" or "NOT GUILTY"]

Not Guilty, as to Count 2  
[Insert "GUILTY" or "NOT GUILTY"]

as charged in the Second Superseding Indictment

\_\_\_\_\_  
FOREPERSON'S SIGNATURE

\_\_\_\_\_  
Date

5/31/2024

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
Holding Session in McAllen

**ENTERED**

October 29, 2024

Nathan Ochsner, Clerk

UNITED STATES OF AMERICA

**JUDGMENT IN A CRIMINAL CASE**

v.

**CARLOS CARDENAS-RAMIREZ**

**CASE NUMBER: 7:20CR00886-S1-002**

**A/K/A Sergio Anaya Molina**

**USM NUMBER: 64039-208**

Arturo Reymundo Cantu

Defendant's Attorney

**THE DEFENDANT:**

- ☐ pleaded guilty to count(s) \_\_\_\_\_
- ☐ pleaded nolo contendere to count(s) \_\_\_\_\_  
which was accepted by the court.
- ☒ was found guilty on count(s) 1 of a two-count Superseding Indictment.  
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

| <u>Title &amp; Section</u>                     | <u>Nature of Offense</u>                                                                                                                                                                | <u>Offense Ended</u> | <u>Count</u> |
|------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|--------------|
| 21 U.S.C. § 846, 841(a)(1)<br>and 841(b)(1)(A) | Conspiracy to possess, with intent to distribute 5 kilograms or more,<br>that is, approximately 14.07 kilograms of a mixture or substance<br>containing a detectable amount of cocaine. | 04/25/2019           | 1s           |

- ☐ See Additional Counts of Conviction.

The defendant is sentenced as provided in pages 2 through 6 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) 1, 2, 2s 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.

October 23, 2024

Date of Imposition of Judgment

Randy Crane

Signature of Judge

**RANDY CRANE**

**CHIEF UNITED STATES DISTRICT JUDGE**

Name and Title of Judge

October 29, 2024

Date

DEFENDANT: CARLOS CARDENAS-RAMIREZ  
CASE NUMBER: 7:20CR00886-S1-002

## IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of: 120 months.

- ☐ See Additional Imprisonment Terms.
- ☐ The court makes the following recommendations to the Bureau of Prisons:
- ☒ 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: **CARLOS CARDENAS-RAMIREZ**  
CASE NUMBER: **7:20CR00886-S1-002**

## SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of: 5 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. §§ 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.

## STANDARD CONDITIONS OF SUPERVISION

- ☒ See Special 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.
14. If restitution is ordered, the defendant must make restitution as ordered by the Judge and in accordance with the applicable provisions of 18 U.S.C. §§ 2248, 2259, 2264, 2327, 3663A and/or 3664. The defendant must also pay the assessment imposed in accordance with 18 U.S.C. § 3013.
15. The defendant must notify the U.S. Probation Office of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution, fines, or special assessments.

DEFENDANT: CARLOS CARDENAS-RAMIREZ  
CASE NUMBER: 7:20CR00886-S1-002

## SPECIAL CONDITIONS OF SUPERVISION

### Immigration-Related Requirements

You must immediately report, continue to report or surrender to U.S. Immigration and Customs Enforcement and follow all their instructions and reporting requirements until any deportation proceedings are completed. If you are ordered deported from the United States, you must remain outside the United States unless legally authorized to reenter. If you reenter the United States, you must report to the nearest probation office within 72 hours after you return.

DEFENDANT: CARLOS CARDENAS-RAMIREZ  
 CASE NUMBER: 7:20CR00886-S1-002

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<sup>1</sup></u> | <u>JVTA Assessment<sup>2</sup></u> |
|--------|-------------------|--------------------|-------------|------------------------------------|------------------------------------|
| TOTALS | \$100.00          | \$                 | \$          | \$                                 | \$                                 |

- ☐ See Additional Terms for Criminal Monetary Penalties.
- ☐ 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<sup>3</sup></u> | <u>Restitution Ordered</u> | <u>Priority or Percentage</u> |
|-------------------------------------------------------------|-------------------------------|----------------------------|-------------------------------|
|                                                             | \$                            | \$                         |                               |
| <input type="checkbox"/> See Additional Restitution Payees. |                               |                            |                               |
| TOTALS                                                      | \$                            | \$                         |                               |

- ☐ 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:
- ☐ Based on the Government's motion, the Court finds that reasonable efforts to collect the special assessment are not likely to be effective. Therefore, the assessment is hereby remitted.

<sup>1</sup> Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.

<sup>2</sup> Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

<sup>3</sup> 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: **CARLOS CARDENAS-RAMIREZ**  
 CASE NUMBER: **7:20CR00886-S1-002**

## 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 \_\_\_\_\_ installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_, to commence \_\_\_\_\_ after the date of this judgment; or
- D ☐ Payment in equal \_\_\_\_\_ installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_, to commence \_\_\_\_\_ after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within \_\_\_\_\_ 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:  
 Payable to: Clerk, U.S. District Court  
 Attn: Finance  
 P.O. Box 5059  
 McAllen, TX 78502

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

| <b>Defendant and Co-Defendant Names<br/>(including defendant number)</b> | <b><u>Total Amount</u></b> | <b><u>Joint and Several<br/>Amount</u></b> | <b><u>Corresponding Payee,<br/>if appropriate</u></b> |
|--------------------------------------------------------------------------|----------------------------|--------------------------------------------|-------------------------------------------------------|
|--------------------------------------------------------------------------|----------------------------|--------------------------------------------|-------------------------------------------------------|

- ☐ See Additional Defendants and Co-Defendants Held Joint and Several.
- ☐ 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:

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.

**USCS Const. Amend. 5, Part 1 of 18**

Current through the ratification of the 27th Amendment on May 7, 1992.

**United States Code Service > Amendments > Amendment 5 Criminal actions—Provisions concerning—  
Due process of law and just compensation clauses.**

**Amendment 5 Criminal actions—Provisions concerning—Due process of law and just  
compensation clauses.**

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

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**USCS Const. Amend. 6, Part 1 of 30**

Current through the ratification of the 27th Amendment on May 7, 1992.

**United States Code Service > Amendments > Amendment 6 Rights of the accused.**

**Amendment 6 Rights of the accused.**

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In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

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## 21 USCS § 841, Part 1 of 10

Current through Public Law 119-98, approved June 10, 2026.

United States Code Service > TITLE 21. FOOD AND DRUGS (§§ 1 — 2404) > CHAPTER 13. DRUG ABUSE PREVENTION AND CONTROL (§§ 801 — 971) > CONTROL AND ENFORCEMENT (§§ 801 — 904) > OFFENSES AND PENALTIES (§§ 841 — 865)

### § 841. Prohibited acts A

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**(a) Unlawful acts.** Except as authorized by this title, it shall be unlawful for any person knowingly or intentionally—

- (1)** to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance; or
- (2)** to create, distribute, or dispense, or possess with intent to distribute or dispense, a counterfeit substance.

**(b) Penalties.** Except as otherwise provided in section 409, 418, 419, or 420 [[21 USCS § 849](#), [859](#), [860](#), or [861](#)], any person who violates subsection (a) of this section shall be sentenced as follows:

**(1)**

**(A)** In the case of a violation of subsection (a) of this section involving—

- (i)** 1 kilogram or more of a mixture or substance containing a detectable amount of heroin;
- (ii)** 5 kilograms or more of a mixture or substance containing a detectable amount of—
  - (I)** coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
  - (II)** cocaine, its salts, optical and geometric isomers, and salts of isomers;
  - (III)** ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
  - (IV)** any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subclauses (I) through (III);
- (iii)** 280 grams or more of a mixture or substance described in clause (ii) which contains cocaine base;
- (iv)** 100 grams or more of phencyclidine (PCP) or 1 kilogram or more of a mixture or substance containing a detectable amount of phencyclidine (PCP);
- (v)** 10 grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);
- (vi)** 400 grams or more of a mixture or substance containing a detectable amount of N-phenyl-N- [1-(2-phenylethyl)-4-piperidiny] propanamide or 100 grams or more of a

mixture or substance containing a detectable amount of any analogue of N-phenyl-N-[1-(2-phenylethyl)-4-piperidiny] propanamide or a fentanyl-related substance;

**(vii)** 1000 kilograms or more of a mixture or substance containing a detectable amount of marihuana, or 1,000 or more marihuana plants regardless of weight; or

**(viii)** 50 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers;

such person shall be sentenced to a term of imprisonment which may not be less than 10 years or more than life and if death or serious bodily injury results from the use of such substance shall be not less than 20 years or more than life, a fine not to exceed the greater of that authorized in accordance with the provisions of title 18, United States Code, or \$10,000,000 if the defendant is an individual or \$50,000,000 if the defendant is other than an individual, or both. If any person commits such a violation after a prior conviction for a serious drug felony or serious violent felony has become final, such person shall be sentenced to a term of imprisonment of not less than 15 years and not more than life imprisonment and if death or serious bodily injury results from the use of such substance shall be sentenced to life imprisonment, a fine not to exceed the greater of twice that authorized in accordance with the provisions of title 18, United States Code, or \$20,000,000 if the defendant is an individual or \$75,000,000 if the defendant is other than an individual, or both. If any person commits a violation of this subparagraph or of section 409, 418, 419, or 420 [[21 USCS § 849](#), [859](#), [860](#), or [861](#)] after 2 or more prior convictions for a serious drug felony or serious violent felony have become final, such person shall be sentenced to a term of imprisonment of not less than 25 years and fined in accordance with the preceding sentence. Notwithstanding section 3583 of title 18, any sentence under this subparagraph shall, in the absence of such a prior conviction, impose a term of supervised release of at least 5 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a term of supervised release of at least 10 years in addition to such term of imprisonment. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this subparagraph. No person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein.

**(B)** In the case of a violation of subsection (a) of this section involving—

**(i)** 100 grams or more of a mixture or substance containing a detectable amount of heroin;

**(ii)** 500 grams or more of a mixture or substance containing a detectable amount of—

**(I)** coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

**(II)** cocaine, its salts, optical and geometric isomers, and salts of isomers;

**(III)** ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

**(IV)** any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subclauses (I) through (III);

**21 USCS § 846, Part 1 of 5**

Current through Public Law 119-98, approved June 10, 2026.

**United States Code Service > TITLE 21. FOOD AND DRUGS (§§ 1 — 2404) > CHAPTER 13. DRUG ABUSE PREVENTION AND CONTROL (§§ 801 — 971) > CONTROL AND ENFORCEMENT (§§ 801 — 904) > OFFENSES AND PENALTIES (§§ 841 — 865)**

**§ 846. Attempt and conspiracy**

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Any person who attempts or conspires to commit any offense defined in this title shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

**History**

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**HISTORY:**

Oct. 27, 1970, [P. L. 91-513](#), Title II, Part D, § 406, [84 Stat. 1265](#); Nov. 18, 1988, P. L. 100-690, Title VI, Subtitle N, § 6470(a), 102 Stat. 4377.

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Current through Public Law 119-98, approved June 10, 2026.

United States Code Service > TITLE 18. CRIMES AND CRIMINAL PROCEDURE (§§ 1 — 6005) > 18 USCS appendix > SENTENCING GUIDELINES FOR THE UNITED STATES COURTS > CHAPTER ONE. Authority and General Application Principles > Part B. General Application Principles

## Notice

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 This section has more than one version with varying effective dates.

### **§ 1B1.3. Relevant Conduct (Factors that Determine the Guideline Range) [Caution: See prospective amendment note below.]**

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**(a)** *Chapters Two (Offense Conduct) and Three (Adjustments)*. Unless otherwise specified, (i) the base offense level where the guideline specifies more than one base offense level, (ii) specific offense characteristics and (iii) cross references in Chapter Two, and (iv) adjustments in Chapter Three, shall be determined on the basis of the following:

**(1)**

**(A)** all acts and omissions committed, aided, abetted, counseled, commanded, induced, procured, or willfully caused by the defendant; and

**(B)** in the case of a jointly undertaken criminal activity (a criminal plan, scheme, endeavor, or enterprise undertaken by the defendant in concert with others, whether or not charged as a conspiracy), all acts and omissions of others that were—

**(i)** within the scope of the jointly undertaken criminal activity,

**(ii)** in furtherance of that criminal activity, and

**(iii)** reasonably foreseeable in connection with that criminal activity;

that occurred during the commission of the offense of conviction, in preparation for that offense, or in the course of attempting to avoid detection or responsibility for that offense;

**(2)** solely with respect to offenses of a character for which § 3D1.2(d) would require grouping of multiple counts, all acts and omissions described in subdivisions (1)(A) and (1)(B) above that were part of the same course of conduct or common scheme or plan as the offense of conviction;

**(3)** all harm that resulted from the acts and omissions specified in subsections (a)(1) and (a)(2) above, and all harm that was the object of such acts and omissions; and

**(4)** any other information specified in the applicable guideline.

**(b) Chapters Four (Criminal History and Criminal Livelihood) and Five (Determining the Sentencing Range and Options Under the Guidelines).** Factors in Chapters Four and Five that establish the guideline range shall be determined on the basis of the conduct and information specified in the respective guidelines.

**(c) Acquitted Conduct.** Relevant conduct does not include conduct for which the defendant was criminally charged and acquitted in federal court, unless such conduct also establishes, in whole or in part, the instant offense of conviction.

#### Commentary

#### *Application Notes:*

**1. Sentencing Accountability and Criminal Liability.** The principles and limits of sentencing accountability under this guideline are not always the same as the principles and limits of criminal liability. Under subsections (a)(1) and (a)(2), the focus is on the specific acts and omissions for which the defendant is to be held accountable in determining the applicable guideline range, rather than on whether the defendant is criminally liable for an offense as a principal, accomplice, or conspirator.

**2. Accountability Under More Than One Provision.** In certain cases, a defendant may be accountable for particular conduct under more than one subsection of this guideline. If a defendant's accountability for particular conduct is established under one provision of this guideline, it is not necessary to review alternative provisions under which such accountability might be established.

**3. Jointly Undertaken Criminal Activity (Subsection (a)(1)(B)).**

**(A) In General.** A “jointly undertaken criminal activity” is a criminal plan, scheme, endeavor, or enterprise undertaken by the defendant in concert with others, whether or not charged as a conspiracy.

In the case of a jointly undertaken criminal activity, subsection (a)(1)(B) provides that a defendant is accountable for the conduct (acts and omissions) of others that was:

- (i)** within the scope of the jointly undertaken criminal activity;
- (ii)** in furtherance of that criminal activity; and
- (iii)** reasonably foreseeable in connection with that criminal activity.

The conduct of others that meets all three criteria set forth in subdivisions (i) through (iii) (*i.e.*, “within the scope,” “in furtherance,” and “reasonably foreseeable”) is relevant conduct under this provision. However, when the conduct of others does not meet any one of the criteria set forth in subdivisions (i) through (iii), the conduct is not relevant conduct under this provision.

**(B) Scope.** Because a count may be worded broadly and include the conduct of many participants over a period of time, the scope of the “jointly undertaken criminal activity” is not necessarily the same as the scope of the entire conspiracy, and hence relevant conduct is not necessarily the same for every participant. In order to determine the defendant's accountability for the conduct of others under subsection (a)(1)(B), the court must first determine the scope of the criminal activity the particular defendant agreed to jointly undertake (*i.e.*, the scope of the specific conduct and objectives embraced by the defendant's agreement). In doing so, the court