
No. _____

In the

Supreme Court of the United States

ISAAC TEKOLA, Petitioner

v.

UNITED STATES OF AMERICA, Respondent

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

Appendices to Petition for a Writ of Certiorari

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cern no abuse of discretion in the court's decision not to include Williams's policy disagreement among those factors. See United States v. Cortez, 72 F.4th 1344, 1345–46 (8th Cir. 2023) (reviewing district court's decision to vary based on a policy disagreement with the Guidelines for abuse of discretion).

[5] Finally, Williams asserts in passing that the government's decision to allege actual methamphetamine in Count 1 of Superseding Indictment,⁴ when Count 1 of the original Indictment alleged a mixture, was “arbitrary and capricious.” But again, Williams does not dispute the laboratory testing that established the purity of the methamphetamine at issue, and he stipulated to it in the Plea Agreement. In any event, even if Williams had pleaded guilty to an offense involving a mixture containing methamphetamine, his base offense level under the Guidelines would still have been determined according to the purity of the drug. See United States v. Russell, 66 F.4th 720, 722 (8th Cir. 2023) (explaining that, “for sentencing purposes, the Guidelines consider whether th[e] substance was pure methamphetamine or not,” regardless of whether the offense of conviction specifically involved pure methamphetamine or a methamphetamine mixture).

III.

The judgment of the district court is affirmed.



4. The original Indictment charged Williams with two counts. Count 1 alleged he possessed with intent to distribute 500 grams or more of a mixture containing methamphetamine in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(A). In the Superseding Indictment, Count 1 was modified to allege possession with intent to distribute 50 grams or more of actual methamphetamine, also in violation of

UNITED STATES of America, Plaintiff - Appellee,

v.

Isaac TEKOLA, Defendant - Appellant.

No. 24-5467

United States Court of Appeals,
Ninth Circuit.

Argued and Submitted February
9, 2026 Pasadena, California

Filed March 9, 2026

Amended May 20, 2026

Background: Defendant pled guilty in the United States District Court for the Central District of California, Sherilyn Peace Garnett, J., to possession with intent to distribute fentanyl, cocaine, methamphetamine, and alprazolam, and he appealed.

Holdings: The Court of Appeals, Owens, Circuit Judge, held that it was not abuse of discretion for district court to determine that drug trafficking was primary use of defendant's apartment, such that two-level offense enhancement was warranted.

Affirmed.

Opinion, 169 F.4th 947, amended and superseded.

1. Criminal Law ⚖️1156.3

District court's application of the sentencing guidelines to the facts of a given

21 U.S.C. §§ 841(a)(1) and 841(b)(1)(A). Both counts carried the same statutory penalties. See 21 U.S.C. § 841(b)(1)(A)(viii) (10 years to life). Ultimately, pursuant to the Plea Agreement, Williams pleaded guilty to a lesser included offense of Count 1, which carried a lower statutory range. See 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(C) (no more than 20 years).

case should be reviewed for abuse of discretion.

2. Criminal Law ⇨1158.34

Sentencing court’s factual findings are reviewed for clear error.

3. Sentencing and Punishment ⇨651

Only sentencing guideline applications that are illogical, implausible, or without support in inferences that may be drawn from facts in the record are an abuse of discretion.

4. Criminal Law ⇨1156.3

Appellate court would review for abuse of discretion trial court’s application of sentencing guidelines provision, increasing defendant’s offense level by two if defendant maintained premises for the purpose of manufacturing or distributing controlled substance, to the facts of defendant’s case, wherein government pointed to a litany of drug transactions made at defendant’s apartment and search of his apartment turned up nearly \$13,000 in cash and various drug-dealing “tools of the trade,” such as pay-owe sheet, bags, vacuum sealer, and scales. U.S.S.G. § 2D1.1(b)(12).

5. Sentencing and Punishment ⇨686

It was not abuse of discretion for sentencing court to determine that drug trafficking was primary use of defendant’s apartment, even without explicitly comparing frequency of defendant’s “drug use” to his “residential use” of property, such that two-level enhancement was warranted for maintaining premises for purpose of manufacturing or distributing controlled substance; search of defendant’s apartment turned up nearly \$13,000 in cash and various drug-dealing “tools of the trade,” including pay-owe sheet, bags, vacuum sealer, scales, and large stash of drugs, defendant admitted that cash found in his apartment came from drug dealing,

that safe in his bedroom was primarily used to store his drugs and drug proceeds, and that he typically used his bedroom to break down and package the drugs he sold, and fact that additional trafficking took place elsewhere did not change fact that his apartment was equivalent of home office for illicit drug business he ran. U.S.S.G. § 2D1.1(b)(12).

6. Disorderly and Disruptive Conduct ⇨281

Statute providing that it is unlawful to knowingly open, lease, rent, use, or maintain any place, whether permanently or temporarily, for the purpose of manufacturing, distributing, or using any controlled substance is designed to punish those who use their property to run drug businesses, and thus, the more characteristics of a business that are present, the more likely it is that the property is being used for the purpose of prohibited drug activities. Comprehensive Drug Abuse Prevention and Control Act of 1970 § 416, 21 U.S.C.A. § 856(a)(1).

7. Disorderly and Disruptive Conduct ⇨281

Statute providing that it is unlawful to knowingly open, lease, rent, use, or maintain any place, whether permanently or temporarily, for the purpose of manufacturing, distributing, or using any controlled substance is intended to deter the manufacture and distribution of illegal drugs in homes where children are being raised. Comprehensive Drug Abuse Prevention and Control Act of 1970 § 416, 21 U.S.C.A. § 856(a)(1).

8. Sentencing and Punishment ⇨686

Sentencing guidelines provision increasing defendant’s offense level by two if he maintains premises for the purpose of manufacturing or distributing a controlled substance is intended to deter the manufacture and distribution of illegal drugs in

homes where children are being raised. U.S.S.G. § 2D1.1(b)(12).

9. Sentencing and Punishment ⚖️686

Mere “use” is not enough for purposes of sentencing guidelines provision increasing defendant’s offense level by two if he “maintains” premises for the purpose of manufacturing or distributing a controlled substance. U.S.S.G. § 2D1.1(b)(12).

10. Constitutional Law ⚖️1132(60)

Sentencing and Punishment ⚖️658

Because they merely guide the district courts’ discretion, the sentencing guidelines are not amenable to a vagueness challenge.

11. Sentencing and Punishment ⚖️686

Sentencing guidelines provision increasing defendant’s offense level by two if he maintains premises for the purpose of manufacturing or distributing a controlled substance applies when defendant regularly uses his home for substantial drug trafficking activity. U.S.S.G. § 2D1.1(b)(12).

Appeal from the United States District Court for the Central District of California, Sherilyn Peace Garnett, District Judge, Presiding, D.C. No. 2:22-cr-00608-SPG-1

Kellye Ng (argued) and Declan T. Conroy, Assistant United States Attorneys, Violent & Organized Crime and Transnational Organized Crime Sections; Christina T. Shay, Assistant United States Attorney, Chief, Criminal Division; Bilal A. Essayli, United States Attorney, Office of the United States Attorney, United States Department of Justice, Los Angeles, California; for Plaintiff-Appellee.

Sonam A. H. Henderson (argued), Deputy Federal Public Defender; Cuauhtémoc Ortega, Federal Public Defender, Office of

the Federal Public Defender, Los Angeles, California; for Defendant-Appellant.

Before: John B. Owens, Lawrence VanDyke, and Holly A. Thomas, Circuit Judges.

ORDER

The opinion filed on March 9, 2026, and reported at *United States v. Tekola*, 169 F.4th 947 (9th Cir. 2026), is hereby amended. The superseding amended opinion will be filed concurrently with this order.

The panel has voted to deny the petition for panel rehearing and the petition for rehearing en banc.

The full court has been advised of the suggestion for rehearing en banc, and no judge has requested a vote on whether to rehear the matter en banc. Fed. R. App. P. 40.

The petition for panel rehearing and rehearing en banc is DENIED.

No further petitions for panel rehearing or petitions for rehearing en banc will be entertained.

AMENDED OPINION

OWENS, Circuit Judge:

Isaac Tekola appeals from his 105-month sentence for possession with intent to distribute fentanyl, cocaine, methamphetamine, and Alprazolam. Specifically, he argues that the district court erred in imposing a sentencing enhancement for “maintain[ing] a premises for the purpose of manufacturing or distributing a controlled substance.” U.S.S.G. § 2D1.1(b)(12). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

I. BACKGROUND

A. Tekola’s Drug Dealing

On September 16, 2022, in Goleta, California, fentanyl killed yet another young

person. Federal agents tracked how the fentanyl reached this victim and determined that Tekola was the ultimate source. Through interviews and review of messages exchanged online, the agents also learned that Tekola had been selling drugs for years, frequently from his apartment.

A search warrant confirmed their suspicions. Inside Tekola's apartment, the agents found almost \$13,000 in cash, phones, a pay-owe sheet, baggies, a food saver vacuum sealer, and multiple scales with white residue. Also discovered in his bedroom: 458.1 grams of cocaine, 687 pills containing 72.8 grams of fentanyl, hundreds of counterfeit Adderall pills laced with methamphetamine, and other drugs. Tekola later admitted that the nearly \$13,000 in seized cash came from drug dealing, and that a safe in his bedroom closet was primarily used to store his drugs and drug proceeds. Tekola's phone also provided a mountain of drug dealing evidence and confirmed that his apartment was the hub of his trafficking operation. He sometimes concealed narcotics in a shoe outside his apartment's back door, and counseled one customer that "[t]he neighbors [sic] kids are outside so try and be sly lol."

B. Indictment, Guilty Plea, and Sentencing

A grand jury indicted Tekola for possession with intent to distribute fentanyl, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(B)(vi); cocaine, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(C); methamphetamine, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(C); and Alprazolam, in violation of 21

U.S.C. § 841(a)(1), (b)(2). Tekola, without a plea agreement, pled guilty to all charges.

At sentencing, the district court considered imposing a two-level enhancement under U.S.S.G. § 2D1.1(b)(12), which applies "[i]f the defendant maintained a premises for the purpose of manufacturing or distributing a controlled substance." Tekola contended that although he dealt drugs from his apartment, the primary purpose of the apartment was to serve as a residence. He argued that § 2D1.1(b)(12) was intended only for so-called stash houses, which his apartment was not.

After reviewing the hundreds of messages between Tekola and his extensive customer base, and the commentary supporting the Guideline, the district court concluded that "there is ample, substantial evidence in the record that for the period of time that is relevant to the offenses charged in this case and probably in excess of a year around that time period, Mr. Tekola maintained his residence as a place to sell drugs, a variety of drugs." As a result, the district court determined that § 2D1.1(b)(12) applied, and sentenced Tekola to an above-Guidelines sentence of 105 months, in part due to the dangers inherent in dealing fentanyl.

II. DISCUSSION

A. Standard of Review

[1–4] "[A] district court's application of the Sentencing Guidelines to the facts of a given case should be reviewed for abuse of discretion." *United States v. Gasca-Ruiz*, 852 F.3d 1167, 1170 (9th Cir. 2017) (en banc).¹ Factual findings are reviewed for

1. Tekola attempts to characterize his appeal as an objection to the district court's interpretation of § 2D1.1(b)(12), which would be reviewed de novo if preserved and for plain error if raised for the first time on appeal. See *United States v. Herrera*, 974 F.3d 1040, 1045 (9th Cir. 2020). But he does not dispute that

the district court accurately stated the legal standards laid out in § 2D1.1(b)(12) and the commentary. Rather, he objects to the district court's application of § 2D1.1(b)(12) to the facts of his case. See *Gasca-Ruiz*, 852 F.3d at 1170 (emphasizing the distinction between "identifying the correct legal standard on the

clear error. *See id.* And only Guideline applications that are “illogical, implausible, or without support in inferences that may be drawn from facts in the record” are an abuse of discretion. *Id.* at 1175 (quoting *United States v. Hinkson*, 585 F.3d 1247, 1251 (9th Cir. 2009) (en banc)).

B. The District Court Correctly Applied the § 2D1.1(b)(12) Enhancement

[5] Under U.S.S.G. § 2D1.1(b)(12), a defendant’s offense level is increased by two if he “maintained a premises for the purpose of manufacturing or distributing a controlled substance.” Commentary to the Guidelines instructs that the enhancement applies to a defendant “who knowingly maintains a premises . . . for the purpose of manufacturing or distributing a controlled substance, *including storage of a controlled substance for the purpose of distribution.*” U.S.S.G. § 2D1.1(b)(12) cmt. n.17 (emphasis added). “Manufacturing or distributing a controlled substance need not be the sole purpose for which the premises was maintained, but must be one of the defendant’s *primary or principal uses for the premises*, rather than one of the defendant’s incidental or collateral uses for the premises.” *Id.* (emphasis added).

Tekola challenges the district court’s finding that he maintained his apartment “for the purpose of manufacturing or distributing” drugs, suggesting that because the apartment was his primary residence, drug trafficking was not a “primary or principal” use of the apartment. We reject this argument, which runs counter to the purpose of § 2D1.1(b)(12), and hold that the district court acted squarely within its discretion in applying the enhancement.

Some context helps. Section 2D1.1(b)(12) was developed in response to the Fair

Sentencing Act, where Congress directed the Sentencing Commission to provide for an enhancement if “the defendant maintained an establishment for the manufacture or distribution of a controlled substance, as generally described in [21 U.S.C. § 856].” Pub. L. No. 111–220, § 6(2). The statute that Congress referenced makes it unlawful to “knowingly open, lease, rent, use, or maintain any place, whether permanently or temporarily, for the purpose of manufacturing, distributing, or using any controlled substance.” 21 U.S.C. § 856(a)(1); *see also United States v. Verners*, 53 F.3d 291, 296 (10th Cir. 1995) (discussing the text and purpose of § 856(a)(1)).

[6–8] As courts including this one have noted, § 856(a)(1) “was designed to punish those who use their property to run drug businesses—hence, the more characteristics of a business that are present, the more likely it is that the property is being used ‘for the purpose of’ those drug activities prohibited by § 856(a)(1).” *United States v. Shetler*, 665 F.3d 1150, 1162–63 (9th Cir. 2011) (quoting *Verners*, 53 F.3d at 296–97). The statute and the enhancement were “intended to deter the manufacture and distribution of illegal drugs” in homes “where children are being raised.” *United States v. Miller*, 698 F.3d 699, 707 (8th Cir. 2012).

Thus, courts have repeatedly upheld sentencing enhancements under § 2D1.1(b)(12) where defendants regularly used the premises both as a primary residence and for substantial drug trafficking activities. *See, e.g., id.* at 706–07 (applying § 2D1.1(b)(12) where a defendant participated in three controlled drug buys and accepted drug payments at the family home in which she resided with her hus-

one hand, and *applying* that standard to the facts of a given case on the other”). That

objection is properly reviewed for abuse of discretion.

band and raised eleven children); *United States v. Flores-Olague*, 717 F.3d 526, 533 (7th Cir. 2013) (applying § 2D1.1(b)(12) where a defendant sold and stored drugs at his home on a daily basis); *United States v. Johnson*, 737 F.3d 444, 448 (6th Cir. 2013) (applying § 2D1.1(b)(12) where a defendant “consistently used space in his home for storing large quantities of drugs”). And, for purposes of § 856(a)(1), we have previously upheld a determination that “one of the primary or principal uses” of a defendant’s property was drug manufacture or distribution where the defendant “regularly” manufactured methamphetamine in his garage and “often” hosted gatherings where that methamphetamine may have been consumed. *Shetler*, 665 F.3d at 1163-64.

In light of this guidance from the enhancement’s history and purpose, the commentary, and decisions from previous courts, the district court acted well within its discretion in applying the § 2D1.1(b)(12) enhancement. The government pointed to a litany of drug transactions made at Tekola’s apartment. A search of the apartment turned up nearly \$13,000 in cash; various drug-dealing “tools of the trade” including a pay-owe sheet, baggies, a vacuum sealer, and scales with white residue; and a large stash of various drugs in his bedroom. *Cf. United States v. Jones*, 778 F.3d 375, 385 (1st Cir. 2015) (considering “the quantity of drugs discovered and the presence of drug paraphernalia or tools of the drug-trafficking trade” in applying § 2D1.1(b)(12)); *Johnson*, 737 F.3d at 447-48 (“The more characteristics of a business that are present in the home—such as tools of the trade . . . the more likely it is that the property is being used for the purpose of [prohibited] drug activities.” (alteration and internal quotation marks omitted)). Tekola admitted that the cash found in his home came from drug dealing, that a safe in his bedroom “was primarily

used to store his drugs and drug proceeds,” and that he typically used his bedroom to break down and package the drugs he sold.

This case does not require us to consider what should happen if a dealer only occasionally stored or distributed drugs from his residence. Tekola’s apartment was the hub of his distribution network. It was where he stored his drugs and other tools of the drug-dealing trade, where he processed and recorded the drugs he sold, and a default location where trusted customers picked up drugs. Of course, Tekola also conducted drug deals elsewhere, but that additional trafficking does not change the fact that his apartment was the equivalent of a home office for the illicit drug business he ran. It was not an abuse of discretion for the district court to determine that drug trafficking was a “primary or principal use” of the residence, even without explicitly comparing the frequency of Tekola’s “drug use” to his “residential use” of the property. *See Flores-Olague*, 717 F.3d at 532; *Miller*, 698 F.3d at 706-07; *Johnson*, 737 F.3d at 448.

Tekola argues that our decision in *Shetler* forecloses applying § 2D1.1(b)(12) when drug trafficking is merely a “significant” purpose of a home. In his view, a district court must explicitly compare the defendant’s “residential use” against his “drug use” of the premises and find the “drug use” at least as important as the “residential use.” But *Shetler* does not bind our interpretation of § 2D1.1(b)(12). In *Shetler*, we determined that under § 856(a)(1), maintaining a home “for the purpose of manufacturing, distributing, or using any controlled substance” means “the manufacture (or distribution or use) of drugs must be at least one of the primary or principal uses to which the house is put.” 665 F.3d at 1162 (citation omitted). We reasoned that this formulation “ensures that the

statute does not extend beyond its intended coverage so as to encompass ‘incidental’ drug use, a slip-page that might occur were only ‘a *significant* purpose’ required.” *Id.* (citation omitted). Given the similarities between the statute and the enhancement, *Shetler*’s interpretation of § 856(a)(1) offers some guidance, but does not control our analysis of § 2D1.1(b)(12).

[9] The *Shetler* court’s concern that an overbroad interpretation of § 856(a)(1) might “extend beyond its intended coverage so as to encompass ‘incidental’ drug use” does not apply in the § 2D1.1(b)(12) context. Most obviously, § 856(a)(1) makes it illegal not only to “maintain” a premises for drug purposes, but to “knowingly open, lease, rent, *use*, or maintain” such a place. 21 U.S.C. § 856(a)(1) (emphasis added). And prohibited purposes under the statute are broader, including “manufacturing, distributing, *or using* any controlled substance.” *Id.* (emphasis added). By contrast, § 2D1.1(b)(12) is narrower, requiring a defendant to “maintain” a premises for the purpose of “manufacturing or distributing” a controlled substance. Mere “use” is not enough. *Shetler* was concerned with construing a criminal statute so expansively as to sweep in casual drug users who take a controlled substance anywhere, even once. 665 F.3d at 1162. That simply could not happen under § 2D1.1(b)(12).

[10] In addition, the *Shetler* court described its interpretation of § 856(a)(1) as a saving construction meant to “ensure[] that the statute is not unconstitutionally vague.” *Id.* But “[b]ecause they merely guide the district courts’ discretion, the [Sentencing] Guidelines are not amenable to a vagueness challenge.” *Beckles v. United States*, 580 U.S. 256, 265, 137 S.Ct. 886, 197 L.Ed.2d 145 (2017). The *Shetler* court’s concern with unconstitutional vagueness in 21 U.S.C. § 856(a)(1) also does not apply in the § 2D1.1(b)(12) context.

[11] We therefore follow our sister circuits in affirming the application of § 2D1.1(b)(12) where a defendant regularly uses his home for substantial drug trafficking activity. *See Johnson*, 737 F.3d at 448; *Miller*, 698 F.3d at 706-07; *Flores-Olague*, 717 F.3d at 533. Here, overwhelming evidence suggests that Tekola used his apartment as the central hub for his drug-trafficking business, and the district court acted well within its discretion in imposing the § 2D1.1(b)(12) enhancement.

AFFIRMED.



Jeffrey OLSON, Plaintiff - Appellee,

v.

**FCA US, LLC, a Delaware Corporation,
formerly known as Chrysler Group
LLC, Defendant - Appellant.**

No. 24-6527

United States Court of Appeals,
Ninth Circuit.

Argued and Submitted November
21, 2025 San Jose, California

Filed April 7, 2026

Amended May 21, 2026

Background: Consumer brought putative class action against automobile manufacturer, asserting claims under California consumer protection statutes and breach of warranty claims based on alleged headrest defect in leased vehicle. The United States District Court for the Eastern District of California, Daniel J. Calabretta, J., 2024 WL 4267885, denied manufacturer’s

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

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HONORABLE SHERILYN PEACE GARNETT, DISTRICT JUDGE PRESIDING

UNITED STATES OF AMERICA,)
)
Plaintiffs,)
)
)
vs.) No. CR 22-00608-SPG
)
)
ISAAC TEKOLA,)
)
Defendant.)
_____)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

SENTENCING HEARING [86]

LOS ANGELES, CALIFORNIA

WEDNESDAY, SEPTEMBER 4, 2024

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I N D E X

SENTENCING HEARING [86]:

PAGE
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1 LOS ANGELES, CALIFORNIA; WEDNESDAY, SEPTEMBER 4, 2024

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2 (COURT IN SESSION AT 9:34 A.M.)

3 THE COURTROOM DEPUTY: Calling CR 22-00608-SPG:
4 *United States of America v. Isaac Tekola.*

5 Counsel, please make your appearances,
6 beginning with the Government.

7 MS. NG: Good morning, Your Honor. Kellye Ng
8 and Declan Conroy on behalf of the United States. Also
9 with us at counsel table is DEA Special Agent
10 Michael Johnson.

11 THE COURT: Good morning.

12 MS. LaBARRE: Good morning, Your Honor. Lisa
13 LaBarre on behalf of Isaac Tekola, who is present in
14 court.

15 THE COURT: Good morning.

16 One moment...

17 And I see here that I received another letter.

18 MS. LaBARRE: Thank you, Your Honor.

19 Yes, from Abigail Tekola, his sister. I was
20 just provided this letter this morning.

21 THE COURT: Okay. One moment.

22 MS. LaBARRE: And the Government has had an
23 opportunity to review it.

24 THE COURT: All right. I've read the letter,
25 and thank you for all the letters that were submitted on

1 both sides.

2 So we are here for the sentencing of Isaac
3 Tekola. Just a bit of background: On March 2024,
4 Mr. Tekola pled guilty to Counts 1 through 4 of the
5 four-count indictment.

6 Count 1 charges possession with intent to
7 distribute Fentanyl, a violation of
8 Title 21 United States Code Section 841(a)(1),
9 (b)(1)(B)(vi).

10 Count 2 charges possession with the intent to
11 distribute cocaine, a violation of
12 Title 21 United States Code Section 841(a)(1),
13 (b)(1)(C).

14 Count 3 charges possession with the intent to
15 distribute methamphetamine, a violation of
16 Title 21 United States Code Section 841(a)(1) and
17 (b)(1)(C).

18 And finally, Count 4 charges possession with
19 the intent to distribute alprazolam, a violation of
20 -- Title 21 United States Code Section 841(a)(1) and
21 (b)(2).

22 The indictment does not charge distribution of
23 a controlled substance resulting in death.

24 In preparation for this sentencing hearing, I
25 have read and considered the following materials:

1 mind in terms of what to do, given that the charges were
2 not brought.

3 So let me start with a calculation of the
4 guidelines from the probation officer. And for those in
5 the audience, it's something that the Court has to do
6 because I have to take into account the advisory
7 guidelines and the range before sentencing. And then
8 we'll go from there. So I'm going to start with what
9 the probation officer has found, and then I will discuss
10 the various positions of the parties in terms of the
11 advisory guidelines calculation. And then I will allow
12 for argument and/or testimony or both on those things.

13 So starting with the probation's calculation --
14 probation officer's, the U.S.P.O. calculates the
15 applicable guideline factors under the November 1st,
16 2021 version of the guidelines because there's an ex
17 post facto issue in applying the 2023 guidelines.

18 Is there any objection to the 2021 being used?

19 MS. LaBARRE: No, Your Honor.

20 MS. NG: No, Your Honor.

21 THE COURT: All right. So the U.S.P.O.
22 considered the relevant conduct of Mr. Tekola under the
23 guidelines at Section 1(B)1.3(a) and the commentary at
24 Application Notes 2 and 3. This guideline and
25 commentary hold that Mr. Tekola -- Mr. Tekola was

1 accountable for his own behavior, as well as in the case
2 of a jointly undertaken criminal activity, all acts and
3 omissions of others that were, number one, within the
4 scope of the jointly undertaken criminal activity; and
5 number two, in furtherance of that criminal activity;
6 and finally, number three, reasonably foreseeable in
7 connection with that criminal activity.

8 The probation officer found that
9 Mr. Tekola's -- Mr. Tekola advertised and offered to
10 sell multiple controlled substances, including M3 pills,
11 Xanax, alprazolam, cocaine, Adderall and marijuana via
12 text messages and considered that conduct to be relevant
13 conduct because it was part of the same course of
14 conduct or common scheme and plan as the offenses of
15 conviction. And the offenses of conviction are of a
16 character for which Section 3D1.2(d) would require
17 grouping or multiple accounts.

18 So the probation officer grouped Counts 1
19 through 4 and determined the offense level based on the
20 quantity of the different substances involved in the
21 offenses. Based on a converted drug weight. The
22 resulting base offense level is 24, pursuant to
23 Section 2D1.1(c) (8) because the -- the offense -- the
24 offenses involved approximately 376.41 kilograms of
25 converted drug weight, which is between a hundred

1 kilograms but less than 400 kilograms.

2 In the revised probation PSR -- excuse me --
3 the probation officer applied a two-level increase
4 pursuant to Section 2D1.1(b) (7), which provides in part
5 if the defendant distributed a controlled substance
6 through mass marketing by means of an interactive
7 computer service, a two-level increase applies.
8 According to the probation officer, it applies here
9 because Mr. Tekola used Snapchat and Instagram to
10 advertise sales of controlled substances and attract new
11 buyers. That's relatively a quote from the probation
12 officer.

13 The probation officer also applied a two-level
14 increase pursuant to Section 2D1.1(b) (12) finding that
15 Mr. Tekola maintained a premise for the purpose of
16 manufacturing or distributing a controlled substance.

17 As far as the safety valve reduction was
18 concerned, the probation officer did not apply a
19 two-level decrease pursuant to Section 2D1.1(b) (18) for
20 a safety valve reduction. And that is important because
21 that's what would have gotten Mr. Tekola underneath the
22 mandatory five-year minimum that applies to certain of
23 the offenses.

24 Although the probation officer originally
25 determined four out of the five criteria had been met,

1 she noted that the Government had not indicated whether
2 Mr. Tekola had met the fifth criteria i.e. proffering
3 truthfully. And the Government has, in fact, filed in
4 its papers an argument that he did not proffer
5 truthfully.

6 As to pattern of criminal conduct engaged in as
7 a criminal livelihood, the probation officer declined to
8 apply a two-level increase pursuant to
9 Section 2D1.1(b)(16)(E), application Note 20(C) thereto,
10 and Section 4(b) -- as in boy -- 1.3, Application
11 Notes 1 and 2. Although the probation officer
12 considered the evidence submitted by the Government, she
13 determined that available information did not
14 demonstrate by a preponderance of the evidence that the
15 adjustment should be applied.

16 As to role in the offense, the probation
17 officer applied a two-level increase pursuant to
18 Section 3B1.1(c). And that was based on Mr. Tekola
19 being an organizer, leader, manager, or supervisor of
20 one or more other participants.

21 Finally -- excuse me -- the probation officer
22 applied a three-level reduction for acceptance of
23 responsibility. That was based on Mr. Tekola having
24 pled to the offense. And the Government has moved --
25 correct? -- for the third point?

1 MS. NG: Yes, Your Honor.

2 THE COURT: As to zero-point offender
3 reduction, the probation officer did not apply the
4 reduction for zero-point offender under Section 4C1.1
5 because Mr. Tekola did not meet all the criteria --
6 excuse me -- and because that was -- and because he
7 received an aggravating role adjustment under 3B1.1 and
8 is, therefore, ineligible for the two-level reduction.

9 As such, the probation officer -- excuse me --
10 determined Mr. Tekola's offense level as 27. His
11 criminal history category is 1 based on zero criminal
12 history points. There is a statutory mandatory minimum
13 of five years and six months that applies; however, the
14 guideline range is 70 to 87 months.

15 The fine the probation officer found that was
16 applicable was 25,000 to 7,250,000, supervised release
17 four years to life for Count 1;

18 Three years to life for Counts 2 and 3;

19 And one to three years for Count 4;

20 Based on all of that, the probation officer
21 recommended a sentence of imprisonment of 70 months.

22 Turning to the Government's sentencing
23 guidelines calculations. The Government concurs with
24 the revised PSR calculation of Mr. Tekola's base offense
25 level of 24. The U.S.P.O.'s application of the

1 two-level enhancement for distributing controlled
2 substances through mass marketing by means of an
3 interactive computer service and also agrees with the
4 U.S.P.O.'s application of the two-level enhancement for
5 maintaining a drug premise.

6 The Government, however, objects with the
7 probation officer's decision not to apply the two-level
8 increase for the pattern of criminal conduct engaged in
9 as a criminal livelihood enhancement pursuant to
10 Section 2D- -- as in David -- 1.1(b) -- as in boy --
11 16(E)- -- as in elephant -- pointing to the evidence in
12 the record. Although the Government states in its
13 sentencing position that it objects to the probation
14 officer not applying a two-level zero-point offender
15 deduction and not applying a two-level increase for
16 Mr Tekola's role in the offense, the revised PSR and
17 first addendum apply those two-level increases for role
18 in the offense and does not apply the zero-point
19 deduction. As such, the Government's objection to the
20 revised PSR on those grounds, the Court's going to
21 overrule as moot.

22 The Government argues based on the
23 enhancements, including the plus two criminal livelihood
24 enhancement, that Mr. Tekola's total offense level is
25 29, not 27 as found by the probation officer, and that a

1 three-level upward variance is warranted due to the
2 extent of Mr. Tekola's drug trafficking activities,
3 history, and characteristics, and the fact that
4 Mr. Tekola marketed other substances to include -- as
5 another substance -- excuse me -- the fentanyl that was
6 charged in this case.

7 The Government thus recommends a sentence of
8 imprisonment of 121 months on Counts 1 through 3;

9 60 months on Count 4 to run concurrently;

10 A \$400 special assessment.

11 In addition, although this is not a mandatory
12 restitution case under Title 18, United States Code,
13 Section 3663(a), the Government asked the Court to
14 impose restitution in the amount of \$26,693.91 to the
15 estate of Anthony Muñoz.

16 Turning to Mr. Tekola's sentencing guidelines
17 calculations: Mr. Tekola does not object to the
18 probations officer's calculation of his base offense
19 level as being 24, does not object to the probation or
20 the revised PSR applying a two-level enhancement for
21 distributing controlled substances through mass
22 marketing by means of an interactive computer service,
23 but does object to the Government arguing for that
24 enhancement. The Court will, therefore, construe the
25 argument as also being an objection to the revised PSR

1 and the first addendum.

2 Mr. Tekola also objects to the Government's
3 arguments for the two-level increase for the pattern of
4 criminal conduct engaged in as a criminal livelihood
5 enhancement pursuant to Section 2D1.1(b) -- as in boy --
6 16(E) stating that the record does not support the
7 enhancement and objects to the failure to apply the
8 safety valve reduction and the Government's request for
9 a four-level upward variance.

10 Mr. Tekola asked for a time-served sentence of
11 approximately three months in custody representing the
12 three months he has already served in State custody. If
13 I were using the probation's total offense level of 27,
14 for example, based on that request, Mr. Tekola would
15 effectively be asking for a minimum of a 19 to 20-level
16 downward variance, which, under the facts and
17 circumstances of this case, is arguably unrealistic.

18 Based on what I've said so far, the guideline
19 factors that are in dispute are the following:

20 The two-level increase for mass marketing
21 enhancement;

22 The two-level increase for maintaining a drug
23 premise's enhancement;

24 The two-level increase for the role in the
25 offense;

1 The two-level increase for criminal livelihood;
2 and the two-level decrease for safety valve.

3 I'll say this: Of those that are in dispute,
4 the mass marketing is the one I am wavering on. I do
5 believe -- and I'll give you tentatives -- maintaining a
6 drug premise enhancement is likely there.

7 Role in the offense, the record seems to
8 support that enhancement.

9 Criminal livelihood, the record seems to
10 support that enhancement.

11 And given the role in the offense, safety valve
12 would not be eligible, which is critical for Mr. Tekola
13 because that means that the mandatory minimum stays in
14 place.

15 Government, do you wish to be heard on the
16 disputed enhancements, or present anything in favor of
17 them?

18 MS. NG: Your Honor, would the Court prefer to
19 hear testimony now that might go to some of the -- some
20 of the disputed?

21 THE COURT: Now would be the time. What I'm
22 going to do, just so you know, is I have to make -- I
23 have to rule on the objections to the advisory
24 guidelines. And then if both parties want to make
25 further arguments, in terms of the appropriate sentence

1 based on what I have ruled, then both parties can do
2 that. And I'll hear from the family.

3 MS. LaBARRE: And I want to formally object to
4 this additional testimony.

5 THE COURT: On what basis?

6 MS. LaBARRE: It's simply unnecessary, given
7 that Mr. Tekola has already pled guilty to the
8 possession with intent to distribute fentanyl,
9 methamphetamine, cocaine, and Xanax. He is not
10 disputing that.

11 THE COURT: He is disputing all of the specific
12 offense characteristics, though.

13 MS. LaBARRE: Correct, Your Honor.

14 THE COURT: The Court has to rule on it.

15 MS. LaBARRE: Correct, Your Honor, but I
16 don't -- I find it hard to believe that George Silva
17 would understand about engaged in a lively enhance- --
18 livelihood enhancement, maintaining a premises
19 enhancement, a mass marketing. I don't think
20 George Silva can speak to Mr. Tekola's text messages in
21 general outside of his text messages directly to
22 George Silva.

23 THE COURT: The Government has proffered two
24 individuals. I just asked if the Government had
25 anything further. So I've told both parties what is in

1 dispute. If both parties would like to offer any
2 additional arguments with respect to the Court's
3 calculation of the guidelines, now would be the time.

4 MS. LaBARRE: I would like to make argument as
5 to the enhancements, Your Honor.

6 THE COURT: Oh, okay.

7 But before you do, is the Government providing
8 any testimony with respect to the enhancements?

9 MR. CONROY: Yes, Your Honor.

10 And to be clear, the Government is offering
11 Mr. Silva's testimony both for some of these
12 enhancements, but also, again, as Ms. Ng pointed out
13 before, two of the relevant conduct points regarding the
14 actions of the defendant, including the death of
15 Mr. Muñoz in this case. And just to address some of the
16 Court's prior questions on that front, again, the
17 Government's charging decisions in this case are
18 discretionary. And in its discretion, Government
19 decided not to charge defendant in this case with the
20 death resulting charge. Consistent with that charging
21 decision, we have decided to not seek an offense level
22 of 38 in this case. So obviously, the offense level of
23 38 is the mandatory minimum of 20 years is -- is not for
24 the Court because the Government in its discretion chose
25 not to pursue those things.

1 However, those discretionary decisions do not
2 prevent the Government from offering up defendant's very
3 relevant conduct in distributing drugs that resulted in
4 a death as relevant conduct, again, outside of the
5 confines of this offense level of 38 and a mandatory
6 minimum of 20 years.

7 THE COURT: Would you agree that the
8 discretionary decisions, though, make it clear that
9 restitution is not mandatory and also, puts the
10 Government and the Court -- well, quite frankly,
11 everyone in a strange position because the discretionary
12 decision not to charge the death of A.M. means there's
13 no victim.

14 MS. NG: Your Honor, the Government agrees that
15 restitution is not mandatory and certainly this is a --
16 a more unconventional posture than it would have been
17 had we chose to charge the death, but the Government
18 maintains that there are -- there is a victim in this
19 case and that the relevant conduct encompasses that
20 victim and certainly believes that the testimony of
21 Mr. Silva is relevant, both to show the full scope of
22 defendant's relevant conduct, as well as for some of
23 these enhancements.

24 THE COURT: In support of sentencing, the
25 Government submitted a sentencing position with

1 approximately, as described by the Government, 700 pages
2 of discovery for the Court to review, which consisted of
3 a lot text messages, an agent's declaration -- I forgot
4 what you called -- is it DEA-6s --

5 MR. CONROY: Yes.

6 THE COURT: -- describing the text messages.
7 So the Court had a lot to digest in terms of trying to
8 figure out what specific offenses apply in this case.
9 And based on the record, I gave my tentative. So where
10 I am unclear -- and I'm not sure I tend to agree with
11 the Defense in terms of Mr. Silva's testimony -- is on
12 the mass marketing enhancement because, specifically,
13 the probation officer found in the revised PSR that that
14 enhancement applied based on what she described as
15 Mr. Tekola offering for sale on Snapchat and other
16 similar social media software, drugs for sale. But when
17 I looked -- I probably missed something -- but when I
18 looked at the 700-plus pages of discovery provided to
19 the Court, what I saw in a DEA-6 was that what
20 Mr. Tekola said is he used those platforms to purchase
21 drugs.

22 And what the probation officer said is that she
23 gave certain examples of text messages where Mr. Tekola
24 said that he had, quote, "blow for sale," text messaging
25 slightly different from Snapchat and platforms where

1 more than one person can see versus a situation where
2 Mr. Tekola's texting to one person. So my question is,
3 does the Government have evidence that it can point the
4 Court to, to demonstrate that there was mass marketing
5 in this case?

6 MR. CONROY: One moment, Your Honor.
7 Your Honor, the Government does not -- unaware of any of
8 these kind of affirmative marketing through Snapchat. I
9 do believe there are -- there are text messages -- group
10 text messages where defendant was advertising his -- his
11 ability to provide drugs. However, the Government's
12 aware that, you know, the kind of weight of authority on
13 this might be against the application of the enhancement
14 and is not going to press the issue in this case.

15 THE COURT: Okay. Based on that, I will make
16 findings because I tend to agree the Government would be
17 pressing the issue. I don't think the weight of
18 authority supports whether the Government and, quite
19 frankly, the probation officer is pushing.

20 We're left with maintaining a drug premises
21 enhancement, which based on the extensive record
22 provided by Government, I think, is applicable.

23 Role in the offense, same conclusion. I think
24 it's applicable given the number of individuals that the
25 text messages reference, as well as some of the

1 statements made by Mr. Tekola in terms of soliciting
2 various individuals to serve, in effect, as couriers for
3 him and teaching other individuals how to go about
4 distributing drugs.

5 With respect to criminal livelihood, if the
6 Defense wants to offer something on this, I didn't see
7 in both the revised PSR or any of Government's
8 submissions or Mr. Tekola's submissions for that regard,
9 that there was, in the relevant time period, any other
10 means of employment. So I do believe that criminal
11 livelihood likely applies, as well. And given the
12 findings, tentative though they may be regarding role in
13 the offense, that would also knock out zero-point
14 offender, which Mr. Tekola has not argued for, and would
15 also knock out safety valve.

16 So with all of that in mind, would either party
17 wish to be heard as to the Court's calculation of the
18 guidelines?

19 MS. LaBARRE: Your Honor, to be clear, do I
20 understand that the Court will not be applying the mass
21 marketing enhancement?

22 THE COURT: Doesn't look like it.

23 MS. LaBARRE: Understood, Your Honor.

24 I do have argument as to the remaining
25 enhancements.

1 THE COURT: Okay.

2 MS. LaBARRE: Thank you, Your Honor.

3 First, I'd like to address the maintaining a
4 premises enhancement, Section 2D- -- as in dog --
5 1.1(b)12 requires that the drug distribution be one of
6 the primary or principle uses for the premises, rather
7 than an incidental or collateral use. The premises here
8 was clearly Mr. Tekola's house. This is where he lived.
9 He didn't -- it wasn't a stash house. This is where he
10 ate, slept. This is -- this was where he lived. He
11 didn't have another place to go. It was -- drug
12 distribution was not the primary use of that residence.
13 It was simply his residence.

14 So therefore, we ask that the Court not apply
15 this enhancement.

16 THE COURT: Is there any evidence of other
17 employment during the time period that is charged in the
18 indictment?

19 MS. LaBARRE: May I have a moment, Your Honor?

20 Mr. Tekola did do DoorDashing during that time
21 period.

22 THE COURT: How much did he make?

23 MS. LaBARRE: May I have a moment?

24 THE COURT: Yes.

25 And while you're there, how often did he

1 DoorDash?

2 MS. LaBARRE: For approximately a month. And
3 he made around \$500. May I have a moment, Your Honor?

4 Sorry, Your Honor. That is all the information
5 that we have.

6 THE COURT: Okay. And what month would -- did
7 he DoorDash where he made \$500? And how much was his
8 rent per month? And who paid his rent per month?

9 MS. LaBARRE: We don't have exact records. It
10 was sometime in 2022 he was working for DoorDash. His
11 rent was a thousand dollars a month, initially paid for
12 by his father. But in -- I believe, in 2022, it was
13 paid for Mr. Tekola.

14 THE COURT: Approximately when did his father
15 stop paying rent in 2022?

16 MS. LaBARRE: Mr. Tekola is -- Dr. Tekola,
17 actually, is here. May I discuss with him?

18 THE COURT: Well, Mr. Tekola's also here.

19 MS. LaBARRE: Perhaps in 2020 or 2021 is when
20 Dr. Tekola, his father, stopped paying rent for the
21 Santa Barbara apartment.

22 THE COURT: Okay. And did you want to speak
23 with Dr. Tekola?

24 MS. LaBARRE: Yes, please. Thank you.

25 I confirm that's about correct.

1 THE COURT: Okay.

2 MS. LaBARRE: And these dates are approximate.

3 THE COURT: Okay. Anything else?

4 MS. LaBARRE: No, Your Honor.

5 And turning to the aggravating role
6 enhancement -- unless, Your Honor has additional
7 questions regarding primary use?

8 THE COURT: No.

9 MS. LaBARRE: It's not sufficient to just have
10 an important role in the offense. There needs to be a
11 showing that Mr. Tekola had control over others. And
12 the Ninth Circuit makes it clear in *Harris* that I cited
13 that facilitation -- facilitation isn't enough either.
14 The Government's text -- cited text involving
15 Mr. Tekola. And I believe this person named
16 Jordan Kalai indicates that he may be trying to
17 facilitate Mr. Kalai's entry into the drug business,
18 providing advice. And that's what these cases such as
19 *Harris* speak to, facilitation, where people are
20 providing advice, "Hey, you know, this is what you need
21 to do to get involved in this." That is not the same as
22 control. *Harris* states -- a direct quote is
23 "Facilitation isn't leadership."

24 Silva and others had their own businesses
25 dealing drugs, independent of Mr. Tekola. As Mr. Silva

1 pled to before this Court, he sold the drugs himself,
2 not Mr. Tekola. He sold the drugs to Charles Goodie,
3 who later gave it to Anthony Muñoz. So he had his own
4 business going on. Mr. Tekola did not direct Mr. Silva
5 to sell to Charles Goodie. There was a text message in
6 the Government's sentencing position at page 7, "Tony's
7 meeting me at 3." This is -- this is from George Silva.

8 So clearly, George Silva had his own business
9 going on. Mr. Tekola did not have control over -- over
10 George Silva. So that's -- that's our argument against
11 the aggravating role enhancement.

12 The related enhancement as far -- far as
13 engaged in a livelihood, this cannot be applied unless
14 the role enhancement -- aggravating role enhancement is
15 also applied. The cited support is a flippant text
16 message that Mr. Tekola made to a friend named Daniela
17 that I cited in my response that I don't want to -- "I
18 try not to be cocky, but I make around 10k a month."
19 People brag online. People inflate their self worth,
20 their net worth, what they do for a living on Instagram,
21 Snapchat. I don't think that's a secret, and he was
22 basically just -- this is just puffery. He did not live
23 the lifestyle of someone making that sort of income.
24 His rent was a thousand dollars a month. He was sharing
25 his house with a roommate.

1 THE COURT: How much did the roommate pay?

2 MS. LaBARRE: May I -- may I inquire,
3 Your Honor?

4 So it's my understanding that the roommate --
5 actually, his parents -- Nicholas Cross is the roommate.
6 His parents rented the place for Mr. Cross, and
7 Mr. Cross let Mr. Tekola live there. So it wasn't
8 Mr. Tekola's -- the -- the apartment was not even in
9 Mr. Tekola's name. No evidence of, you know, fancy
10 cars, other fancy property, boats, as you would expect
11 with someone making that kind of income.

12 And he didn't have the quantity of drugs to
13 support that either. He was charged with only a
14 five-year quantity related to the fentanyl. The
15 cocaine, which the Government makes a big deal out of,
16 isn't -- that amount doesn't even carry a mandatory
17 minimum. You expect, you know, someone -- a kingpin, a
18 leader -- to have large quantities, level 38 quantities
19 of drugs, ten-year quantities of drugs, which Mr. Tekola
20 did not have.

21 So for all those reasons, we -- we object to
22 the application of both the aggravating role enhancement
23 and the engaged in the livelihood enhancement. If the
24 aggravating role -- leadership role enhancement does not
25 apply, then it is our position that Mr. -- Mr. Tekola is

1 safety valve eligible. The safety valve proffer that
2 he -- that the Government disputes, Mr. Tekola's very
3 honest. And I know, Your Honor, has read it. He admits
4 to some pretty embarrassing things in there. He admits
5 to selling drugs. He admits to receiving drugs. He
6 admits to acts that he's not proud of.

7 There's a -- it was not recorded, the safety
8 valve proffer, and I feel like there's a little bit of
9 nitpicking here as far as what, you know he said, he
10 said. So we would maintain that Mr. Tekola is safety
11 valve eligible and also eligible for the zero-point
12 offender reduction.

13 THE COURT: Okay. Thank you.

14 Government?

15 MS. NG: Yes, Your Honor. With respect to the
16 aggravating role enhancement, defendant, Isaac Tekola,
17 was all about the money. And he had six different
18 people helping him get that money. Starting with
19 Jordan Kalai, homie, in his phone. He was a drug mule
20 for defendant. Defendant paid him to transport cocaine
21 from Sacramento to Santa Barbara. He said he was going
22 to be out of cocaine in a few days so that's why he
23 needed Jordan to help him pick up cocaine for him before
24 he ran out. He even offered Jordan the opportunity to
25 be a courier for him every three months.

1 And as Defense counsel noted that, oh, he was
2 facilitating Jordan's budding career as a drug dealer,
3 he was teaching him how to be a drug dealer and he
4 offered to -- to provide -- he supplied him with the
5 drugs. He asked him How would selling that half go, how
6 much -- he told him how much he charges and profits for
7 selling different quantities, he offered to supply him a
8 half for \$600. And when Jordan said he could move a
9 good amount of product that night, defendant suggested
10 that he sell his product for \$42 a gram to tax people
11 who are buying in such small quantities.

12 He also told him supply is low-key not a
13 problem, meaning that he could give him as much cocaine
14 as he wanted. So that's undercutting defense counsel's
15 arguments that what he had in his home were
16 insignificant quantities of cocaine.

17 And about three weeks later, so that was on
18 August 31st, 2022, that's two weeks before Anthony Muñoz
19 died. Jordan Kalai, homie, reaches out to defendant.
20 And he tells him -- he gives him his progress saying,
21 "Hey, I made \$300 profit."

22 In response to that, defendant said, "That's
23 what I fucking like to hear, man."

24 Why would he care about another drug dealer
25 making profits? It's because he was supplying him, and

1 he was teaching him how to be a drug dealer. He was
2 leading and organizing and exercising a supervisory role
3 over him. And he counseled that person how to get
4 regulars by preying upon people in the service industry,
5 like bartenders, who need that money to keep working.

6 And George Silva...

7 Counsel says that he didn't direct him to sell
8 drugs to Anthony Muñoz, but he actually paid him to be a
9 drug courier for him. And he paid him to go to L.A. at
10 least twice for him to go pick up drugs, and he paid him
11 with drugs. He entrusted Silva to receive drugs in the
12 mail on his behalf when he was out of the country. And
13 he even tried to convince Silva to sell cocaine for him.
14 He was talking about how his cocaine was so good, it was
15 like the quantity of pre-pandemic cocaine and that if
16 Silva sold cocaine for him, he could double his money.
17 That was at Exhibit 533 to 34.

18 And with respect to Marco Iknadiossian,
19 defendant entrusted his old roommate to help give drugs
20 to people on his behalf. Examples of that are Exhibit
21 26 when Tekola was out of town and someone was trying to
22 pick up, he said, "Marco might be around. I'll hit him
23 up and check. He's doing all my stuff for me until I
24 get back."

25 Another person, Tekola was negotiating the

1 price for a ball of cocaine for \$260. Tekola said, "I
2 won't be back in SB until tonight. I can ask Marco if
3 he can get it to you earlier." That's at Exhibit 27 at
4 pages 5 through 8.

5 There are additional examples of this for
6 Marco. But for the sake of time, I'll move forward to
7 Simon. That's another person. Tekola put a buyer in
8 touch with Simon, and defendant said Simon has the
9 same --

10 (Court reporter clarification.)

11 MS. NG: Tekola had put a buyer in touch with
12 Simon, and defendant said that Simon had the same drugs
13 as him because he's the one who supplied Simon. Then
14 the following day, Tekola followed up with that buyer
15 and said, "I sent" -- he just wanted to make sure that
16 Simon took care of him because he sent him two people
17 that night, "And I just want to make sure he's on it.
18 LOL," indicating that he was exercising some type of
19 control over Simon.

20 And with respect to Nicholas Cross, his old
21 roommate, defendant left drugs with him to give to
22 buyers. And then he paid Nicholas with drugs.

23 And there's another person named Tariq,
24 T-A-R-I-Q. Tariq also helped drive marijuana from
25 Sacramento to defendant in Santa Barbara. And that was

1 at Exhibit 23 at one. So for all those reasons, the
2 two-level increase for defendant's leadership and
3 organizer role should apply.

4 Moving on to criminal livelihood. And, again,
5 yes, he -- he told Daniela he was making \$10,000 a
6 month. And he was also saying that he didn't -- he
7 didn't want to sell small quantities of drugs to her
8 because he was annoyed the fact that she kept picking up
9 small quantities from him so frequently. And he said,
10 "I'm just trying to do you a favor because I know you
11 need them," but it doesn't -- he didn't really care
12 about making 40 or 50 extra dollars from a sale.

13 In another conversation with Alor, spelled
14 A-L-O-R, someone who was close friends with him
15 defendant told her how he talked to his dad about --
16 about his dad asking him about work, and he admitted to
17 lying to his father about selling marijuana. And Alor,
18 who was close and had known about his drug dealing,
19 said, "I'm sure he knows that you're not just selling
20 weed at this point. It's been your whole life now."

21 Defendant said his father didn't know how much
22 money he had and that he just pretended to be broke.
23 And again, defendant has not had consistent employment
24 throughout his life. We just know from the PSR that he
25 had been working -- the most consistent thing he had was

1 a one-month job as a valet for a company when he was
2 about 17 or 18 years old.

3 And with respect to defense counsel's points
4 about he didn't have any fancy cars, it was our
5 understanding that he had both a BMW and a Prius. And
6 the new fact that he made \$500 for one month off of
7 DoorDash and that Dr. Tekola stopped paying for his rent
8 in 2020 or 2021 supports the enhancement that he was
9 engage in the drug dealing to maintain his criminal
10 livelihood.

11 And, Your Honor, I don't know if the Court is
12 inclined to change its tentative on maintaining a drug
13 premises, but I'm also happy to additional -- argue
14 additional points.

15 THE COURT: I believe my tentative was to
16 grant.

17 MS. NG: Your Honor, then -- Your Honor --

18 THE COURT: Unless I misspoke.

19 MS. NG: Oh, Your Honor, I'll move on from the
20 maintaining of the drug premises.

21 And, Your Honor, with respect to safety valve,
22 is the Court inclined to maintain its tentative?

23 THE COURT: Yes.

24 MS. NG: Your Honor, then we have nothing
25 further.

1 THE COURT: Okay.

2 MS. LaBARRE: May I provide a response to the
3 aggravating role.

4 THE COURT: Briefly.

5 MS. LaBARRE: Yes, I will be brief, Your Honor.
6 I just want to point the Court two -- two cases that I
7 cite in my response, the first is *Avila* 95.F.3d, 887
8 (9th Cir. 1996) where the defendant was the sole
9 negotiator of price and quantity of drugs obtained in
10 mailed drugs met with undercover operatives. And it
11 even had lookouts -- maintained organized lookouts. And
12 yet, the Ninth Circuit held that he should not be -- she
13 should not receive an aggravating role enhancement.

14 The Government examples regarding cited
15 *George Clay* in the drug business. I think that shows
16 that it's facilitation, which *Harris* directly speaks to.
17 And facilitation isn't leadership. And I'll leave with
18 that quote from the Ninth Circuit. The case is 999 F.3d
19 1233.

20 THE COURT: Okay.

21 Anything further?

22 MS. LaBARRE: No, Your Honor.

23 THE COURT: Okay. So based on the arguments
24 here today and based on the record, which is extensive
25 in this case, to include text messaging, DEA-6s, as well

1 as proffer statements from Mr. Tekola himself and
2 Mr. Silva, as well as others, I do find -- as well as
3 the party's submissions and the probation officer's
4 revised PSR, I find the following by a preponderance of
5 the evidence:

6 As to the disputed factors for the level --
7 two-level increase for mass marketing that was applied
8 by the probation officer, the Government has effectively
9 conceded that that is not an appropriate enhancement at
10 this point. And I didn't see any evidence in the record
11 of mass marketing with respect to Snapchat or any other
12 social media. My understanding from the evidence in the
13 record was that it was the means by which Mr. Tekola
14 through his proffer statements with the DEA, that's how
15 he received drugs, not how he advertised. So based on
16 that, I am not applying the mass marketing enhancement.

17 In terms of other enhancements starting with
18 the two-level increase for maintaining a premise for
19 purposes of manufacturing and distributing controlled
20 substances, I find by a preponderance of the evidence
21 that the two-level increase pursuant Section 2D1.1(b) --
22 as in boy -- (12) for maintaining a premise for the
23 purpose of manufacturing or distributing a controlled
24 substance applies.

25 Application Note 17 to subsection (b) (12)

1 applies to a defendant who knowingly maintains a
2 premise, whether it be a building, a room, an enclosure,
3 for the purpose of manufacturing or distributing a
4 controlled substance. Among the factors that the Court
5 has to consider in determining whether Mr. Tekola
6 maintained the premises are whether he rented the
7 premises and extent to which he controlled access to or
8 activities at the premises. The premises here would be
9 his place of residence.

10 Manufacturing or distributing a controlled
11 substance may not be the sole purpose for which the
12 premises was maintained, but must be one of the
13 defendant's primary or principal uses for the premises,
14 instead of one of the defendant's incidental or
15 collateral uses for the premises according to the
16 guidelines.

17 In making the determination, the Court
18 considers how frequently the premises was used by the
19 defendant for manufacturing or distributing a controlled
20 substance and how frequently the premises was used for
21 lawful purposes. In this case, the only lawful purpose
22 that I have heard is that he lived there at these
23 premises. But there is ample, substantial evidence in
24 the record that for the period of time that is relevant
25 to the offenses charged in this case and probably in

1 excess of a year around that time period, Mr. Tekola
2 maintained his residence as a place to sell drugs, a
3 variety of drugs. Some of which were found at the time
4 that agents executed a search warrant on his premises.
5 And certainly, from Mr. Tekola's own admissions, in
6 terms of the extent of his drug trafficking activity, as
7 well as statements by Mr. Silva in terms of how long he
8 was obtaining drugs -- approximately four years from
9 Mr. Tekola -- as well as the statements today that
10 Mr. Tekola had no real other source of employment, but
11 for a DoorDash job for a month, where he received \$500
12 and pointing in particular the text message where
13 Mr. Tekola stated that he was receiving \$10,000 a month
14 for drug activities, which defense argues is bluster.
15 But certainly, approximately \$13,000 was found in his
16 possession, a variety of drugs were found in his
17 possession, he was obtaining a variety of drug to
18 maintain his ability to sell a variety of drugs to a
19 variety of individuals over an extensive period of time.
20 I do find that the two-level increase for maintaining a
21 premise is applicable in this case.

22 Turning to the next enhancement, which is the
23 two-level role in the offense: This enhancement is
24 particularly important because if it applies, it means
25 that Mr. Tekola is not eligible for safety valve. And

1 notwithstanding the arguments of the Defense, I do find
2 by a preponderance of the evidence and based on legal
3 authority that a two-level increase pursuant to
4 Section 3(b) -- as in boy -- 1.1(C) does apply in this
5 case based on Mr. Tekola being a manager or supervisor
6 of one or more other participants. I find based on the
7 testimony and other evidence -- well, I should say the
8 admissions of Mr. Tekola, as well as the other evidence
9 provided by the Government to include numerous text
10 messages, as well as statements from Mr. Silva -- and
11 may I point out none of which has been disputed by the
12 Defense -- that Mr. Tekola's sold controlled substance
13 to various individuals, including Mr. Silva; that
14 Mr. Tekola offered individuals money and/or drugs to
15 pick up and drop off drugs on his behalf. Those
16 individuals include Jordan Kalai, homie; Silva; Simon;
17 Marco Iknadiossian; and Nick Cross, as well as Tariq.

18 Based on the evidence that was submitted to the
19 Court by the Government, as well as the Government's
20 arguments here today, in text messages between Tekola
21 and Kalai, Tekola advised Kalai how to make money via
22 drug dealing and pay the money to mule drugs for him
23 between Sacramento and Santa Barbara. Mr. Tekola also
24 instructed Mr. Silva to pick up drugs from him on
25 several occasions, including at least one from Santa

1 Barbara to Los Angeles. Mr. Tekola referred to I know
2 In- -- sorry -- Iknadiossian in several messages
3 directing others to give, quote, "Marco the drugs" or to
4 pick up the drugs from," quote, "Marco," in text
5 messages.

6 Mr. Tekola referenced Simon as someone who had
7 picked up money on his behalf before. And based on
8 Mr. Tekola's conduct, it appears that he exercised a
9 managerial or supervisory role over these individuals.
10 And again, that is based on the ample evidence in the
11 record.

12 So the two-level increase for role in the
13 offense will be applied. I do find it's applicable by a
14 preponderance of the evidence, if not clear and
15 convincing evidence.

16 The two-level increase for pattern of criminal
17 conduct engaged in as a criminal livelihood, also, I do
18 find by a preponderance of the evidence that this
19 applies pursuant to Section 2D1.1(b)16(E), as well as
20 Section 4B1.3, Application Notes 1 and 2 for criminal
21 livelihood.

22 Section 2D1.1(b)16(E) provides that if the
23 defendant receives an adjustment under Section 3B1.1 for
24 aggravating role and the defendant committed the offense
25 as part of a pattern of criminal conduct engaged in as a

1 livelihood, a two-level increase is applicable.
2 Application Note 20(c) indicates that pattern of
3 criminal conduct in -- engaged in as a livelihood have
4 the same meaning as given in Section 4B -- as in boy --
5 1.3.

6 Pursuant to Section 4B1.3, Application Note 1,
7 "Pattern of criminal conduct" means planned criminal
8 acts occurring over a substantial period of time. Such
9 acts may involve a single course of conduct or imminent
10 offense."

11 Pursuant to Section 4B1.3, Application Note 2,
12 'Engaged in as a livelihood' means that (A) the
13 defendant derived income from the pattern of criminal
14 conduct that in a 12-month period exceeded 2,000 times
15 the then existing hourly minimum wage under federal law;
16 and (B) the totality of the circumstances shows that
17 such criminal conduct was the defendant's primary
18 occupation in that 12-month period. And the defendant
19 engaged in criminal conduct rather than regular
20 legitimate employment or that defendant's legitimate
21 employment was merely a front for his criminal conduct.

22 Here, as was stated today, Mr. Tekola worked
23 for DoorDash for one-month and earned \$500. The
24 remainder of that time, according to Mr. Tekola and his
25 text messaging, he described that he made, during the

1 relevant time period, approximately 10,000 a month from
2 drug sales.

3 That amount is substantially above the minimum
4 wage requirement. And a text messages also evidence
5 that Mr. Tekola operated a significant drug dealing
6 operation over a substantial period of time. And that
7 is based on his own admissions, as well as individuals
8 who purchased drugs from him over a significant period
9 of time.

10 No evidence has been introduced regarding any
11 alternative employment during that period of time or the
12 amount of money, if any, Mr. Tekola was receiving from
13 legitimate sources other than what was identified in the
14 PSR, which was, I believe, him acting as a valet and, of
15 course, the DoorDash that was revealed today.

16 Mr. Tekola also had approximately 13,000 in
17 cash at his residence at the time of his arrest and a
18 substantial amount and variety of illegally controlled
19 substances at his residence. For all these reasons, as
20 well as the reasons for maintaining a drug premises
21 enhancement, I find the two-level increase for criminal
22 livelihood enhancement applies.

23 So as to the safety valve reduction, given my
24 previous findings, I find that the two-level safety
25 valve reduction pursuant to Section 2D1.1(b) -- as in

1 boy -- 18 does not apply. The criteria set forth at
2 Section 3553(f)(1) through (5) include that Mr. Tekola
3 did not receive an enhancement for an organizer, leader,
4 manager, or supervisor of others and was not engaged in
5 a continuing criminal enterprise. But because the
6 Court, based on the evidence in the record, which is
7 substantial, has found that that enhancement does apply,
8 then the safety valve does not apply.

9 Alternatively, I credit the Government's
10 assessment of Mr. Tekola's proffer. Given the examples
11 of him not being completely forthright while
12 proffering -- and I do not credit Mr. Tekola's arguments
13 that these examples were merely due to memory loss as
14 argued by the Defense in its papers submitted to the
15 Court. Although not specifically challenged by
16 Mr. Tekola with respect to the PSR, I also find that the
17 zero-point offender does not apply because Mr. Tekola
18 received an adjustment for aggravating role.

19 As such, Mr. Tekola's calculation by the Court
20 are as follows: Total offense level is 24, plus two for
21 maintaining a drug premise, plus two for criminal
22 livelihood, plus two for aggravating role.

23 Zero reduction for safety valve. Zero
24 reduction for zero-point offender, minus three for
25 acceptance of responsibility.

1 So the total offense level is 27.

2 Criminal history category is 1. Statutory
3 mandatory minimum is five years, six months. The
4 advisory guideline range would be, based on that, 70 to
5 87 months. That is just advisory. The fine applicable
6 would be 25,000 to 7,250,000. Supervised release, four
7 years to life for Count 1;

8 Three years to life for Counts 2 and 3;

9 One to three years for Count 4; and

10 Restitution is not mandatory.

11 Special assessment 400.

12 As to sentencing, I will hear from the family
13 members, briefly, notwithstanding the charges in this
14 case.

15 MS. NG: Thank you, Your Honor. At this time,
16 we ask the mother of Anthony Muñoz to address the Court.

17 MS. TORRES: Your Honor, I come before you to
18 express the deep heartache I feel due to the tragic and
19 unavoidable loss of Tony. A loss that has been
20 irrevocably changed the core of my being. I will always
21 remember the morning of September 16th, 2022. At
22 6:29 a.m., I received the call that no mother should
23 ever have to receive. My son was gone. I wake up
24 everyday feeling like it was just yesterday. No words
25 could express the emotions that come -- came over me at

1 him. And he's teaching them how to sell drugs, as well,
2 so that he -- he can also earn profits by supplying them
3 and that further fuels the fentanyl crisis. So for all
4 of -- fentanyl and other drugs, as well, other
5 addictions in the community. So for all of those
6 reasons, the Government is respectfully recommending a
7 high-end sentence of 121-months imprisonment.

8 THE COURT: All right. Thank you.

9 MS. NG: Thank you, Your Honor.

10 THE COURT: Defense?

11 MS. LaBARRE: Thank you, Your Honor.

12 Your Honor, Mr. Tekola stands before this Court
13 as a first offender with not a single prior arrest, who
14 has demonstrated exemplary rehabilitation. He simply
15 isn't the monster that the Government is trying to
16 portray -- portray him as. A monster deserving of a
17 high-end sentence for factors that are already covered
18 by the multiple enhancements in this matter.

19 Aggravating role, which the -- the Court has found.

20 On top of that they want a three-level upward
21 variance. That is simply -- those -- those sort of
22 upward variances are reserved for the worst of the worst
23 offenders, people who have extensive criminal histories,
24 which Mr. Tekola has -- has -- does not have.

25 Mr. Tekola is -- hates the person that he was

1 three years ago, two years ago. He has completely
2 removed himself from that lifestyle, from the -- his
3 former associates. At the time of the offense, he was
4 drug addicted himself, something that really hasn't been
5 touched upon today. He was an addict himself. He was
6 estranged from his family. He was likely in a period of
7 depression. He had not resolved -- dealt with the
8 issues relating to his mother dying at age 7 in front of
9 him. He had not received therapy or treatment and was
10 basically try to numb his brain with massive amounts of
11 Xanax.

12 This isn't the cold-hearted person that the
13 Government makes him out to be. He is a very sensitive
14 individual who recognizes the harm that he had upon his
15 community and has taken significant steps towards
16 disavowing that former lifestyle and rehabilitating. He
17 has completely turned his life around on pretrial
18 release. He's been on retrial release for about two
19 months -- I mean, two years. I apologize. And he has
20 not had a single violation, not one positive drug test,
21 not one whereabouts failure, not a single violation.

22 In fact, this court has gradually relaxed the
23 conditions of his release. He was on home detention
24 when he was first put on bond. And he now has a ankle
25 monitor.

1 He has reconnected with his family. His family
2 on this side of the court -- his family and his friends
3 are here. They don't -- didn't know the man that the
4 Government describes because that man -- man in 2022
5 isolated himself from his family. He removed himself
6 from his family. He thought he didn't need his family,
7 that he could exist in his own world without his family.
8 And he's come to realize that that's simply not true.
9 His father, Dr. Abraham Tekola, is here, his two sisters
10 and many, many friends, family members, extended family
11 members, cousins. They have flown from Sacramento from
12 as far as a way from Ohio because they know who
13 Mr. Tekola is now.

14 He is a completely reformed individual. His --
15 he finished community college. He was -- basically
16 failed out of Santa Barbara Community College, he got
17 F's. Now he is an A plus student. He finished. He got
18 his associates degree in Sacramento. He is a full-time
19 student in Cal State Sacramento. He received an A plus
20 in one of his classes, the highest grade in his class.
21 And I think, tellingly, he told his professors about --
22 he is not trying to hide his prior lifestyle. He told
23 his professors, "Yes, I am on felony supervision for --
24 I'm on supervision for a felony offense, felony drug
25 trafficking." They know about his case. And yet, they

1 wrote glowing letters about them, offering to mentor
2 him. Remarking at his progress, how thoughtful, how
3 informed he is, how he has been mentoring others.
4 Professor Irwin, a rhetoric professor at Cal State
5 Sacramento, describes him as thoughtful, engaged, and
6 reformed.

7 These are the people who know him, him and his
8 family. These are the people who know him after 2022.
9 After the very dark -- the darkest period of his life.
10 He has been taken Narcotics Anonymous classes to address
11 drug addiction. He hasn't had a single positive test in
12 the last two years while on supervised release --
13 pretrial release. He has been attending therapy. I
14 attached as one of my exhibits a letter from his
15 therapist that he is going to -- he is in active therapy
16 to address his depression, to deal with his mother's
17 passing and his addictive tendencies.

18 And yes, he recognizes the harm that he's had
19 to this community. He is trying to give back to his
20 community that -- very few defendants -- I've been a
21 public defender for many years. Very few defendants do
22 this, that he has -- without an order from pretrial or
23 this Court, he has been volunteering in food banks, in
24 soup kitchens to help Sacramento's unhoused community.
25 He is trying to give back to the community, what he has

1 taken from the community, he's trying to give back.

2 He's trying to make amends.

3 Mr. -- Mr. Tekola was an addict feeding his own
4 addiction through the sales. And his three months of
5 imprisonment has been an incredible wake-up call. He's
6 read the Government's position. He is ashamed of who
7 that person -- he was that person. He's ashamed of
8 having been that person, and he's worked extremely hard
9 to rehabilitate and to reform and to make sure he never
10 ever engages in the criminal behavior for which he is
11 charged here. And his family is in very, very strong
12 support of him. And for all those reasons, we're asking
13 for a leniency and a below guideline sentence.

14 THE COURT: You are aware I can't go below the
15 guidelines or go below mandatory minimum at this point?

16 MS. LaBARRE: I am aware, Your Honor, but
17 certainly, I -- below what the Government is asking,
18 which I think is just extreme and not appropriate, given
19 that -- given Mr. Tekola's extensive record of
20 rehabilitation and giving back to the community.

21 THE COURT: Your arguments go mostly to all the
22 reasons why Mr. Tekola should get leniency. Can you
23 speak to the 3553(a) factors where the Court has to also
24 consider the seriousness of the offense just punishment,
25 deterrence, and disparity in sentencing, given that this

1 Court -- and I'm sure, you, as counsel are aware, the
2 Central District of California has many cases involving
3 fentanyl and some of which have resulted in death. And
4 this Court, as well as many other courts in the Central
5 District of California, have had to sentence individuals
6 who have distributed or possessed fentanyl. And there
7 is, just in this Court, a number of cases involving more
8 serious sentences than what you are requesting on behalf
9 of Mr. Tekola. So can you speak to that?

10 MS. LaBARRE: Yes, Your Honor. Well, first, as
11 has been discussed at the sentencing hearing, Mr. Tekola
12 was not charged with resulting in death -- distribution
13 of fentanyl resulting death. That is not the guideline
14 section that the probation office supplied. It's not
15 the guideline section that the Government is asking for
16 here. And the nature and circumstances of the offense
17 are appropriately addressed by the guidelines. He has a
18 facing -- for someone who has never faced a day in
19 prison prior to his arrest in this case --

20 THE COURT: He was lucky; right?

21 MS. LaBARRE: He was fortunate.

22 THE COURT: If we -- very fortunate because if
23 the Court is looking at all of the evidence in the
24 record, clearly this has been going on for years. He
25 just was never caught.

1 MS. LaBARRE: And he has -- he recognizes the
2 person that he was previously in 2022, 2021, 2020. And
3 he disavows that person.

4 THE COURT: He can disavow, but there are
5 consequences.

6 MS. LaBARRE: There are consequences,
7 Your Honor. But I would argue that they're
8 appropriately addressed by the guidelines in this
9 matter. I know that -- Your Honor has found that a
10 five-year mandatory minimum applies, we would ask for
11 the five-year mandatory minimum.

12 THE COURT: But the guidelines say 70 to 87.

13 MS. LaBARRE: I recognize that, Your Honor.
14 But Mr. Tekola has undergone extraordinary
15 rehabilitation, and I don't say that lightly. I know
16 I've appeared before Your Honor in other cases, and I've
17 appeared -- and I've been a public defender. And I
18 often say rehabilitation in many -- in many of my cases.
19 I -- it's rare that you have the case where someone has
20 their professors -- multiple professors speaking
21 glowingly about their student, recognizing that he is --
22 has a felony conviction, recognizing that he was dealing
23 drugs, but still -- still glowing about the
24 rehabilitation and how they've reformed and how they're
25 a thoughtful, engaged student and how that they're a

1 leader for other students. Very few -- very few times
2 have I had a client act -- engaging in community service
3 on their own volition without an order from the Court.
4 He -- I didn't even suggest it to him. He, on his own,
5 sought out a food kitchen -- a soup kitchen, a food bank
6 and has been preparing meals for Sacramento's unhoused
7 community. These are extraordinary steps.

8 This is -- goes beyond average rehabilitation.
9 And he has -- he is going to therapy as I've mentioned.
10 And he hasn't had a single positive test. I think part
11 of the root causes of what he was doing -- and it's said
12 in the probation officer's report -- the probation
13 officer's report that part of the offenses related to
14 his drug addiction. He was heavily addicted to drugs at
15 the time. And to remedy and to make sure that he never
16 engages in criminal behavior as, what he has pled guilty
17 to, ever again, he's gone to Narcotic Anonymous classes.
18 He's going to therapy to address the criminal behavior,
19 what led him here before you, Your Honor. This is
20 extraordinary rehabilitation, which is why --
21 maintaining your objections for the record, but we would
22 ask for a 60-month sentence.

23 THE COURT: Let me ask you this: Are you going
24 to ask for a surrender date?

25 MS. LaBARRE: Yes, Your Honor.

1 THE COURT: What would that date be?

2 MS. LaBARRE: We would ask for a surrender date
3 so he can arrange things with -- unfortunately, with his
4 school, with Cal State Sacramento. One of his
5 professors reached out to me. And I -- I told her that
6 it's -- sentencing is up in the air. I can't guarantee.
7 The judge issues the sentence here, and I can't tell
8 this professor what sentence he is going receive. So he
9 is going to have to notify his professors and make his
10 arrangements to drop out of school or put it on pause.

11 THE COURT: What date?

12 MS. LaBARRE: One moment, Your Honor.
13 30 days, Your Honor.

14 THE COURT: Is Government going to object or
15 no?

16 MR. CONROY: No, Your Honor.

17 But can Government respond to some of the
18 points just raised now by Defense?

19 THE COURT: One moment.

20 Okay. Anything further?

21 MS. LaBARRE: No, Your Honor.

22 THE COURT: Okay. We've been on the record for
23 quite some time. So we're going to take a break. Five
24 minutes.

25 (Brief recess.)

1 Your Honor noted, to avoid disparity with other fentanyl
2 cases.

3 Government would submit that the -- the range
4 that the guidelines produce in this case of 70 to
5 87 months is simply below what's appropriate in any case
6 where we have someone possessing 600 fentanyl pills that
7 are willingly being sold to members of the community,
8 much less, again, where there is evidence of defendant
9 falsely assuring the community that these pills are
10 safe, that defendant was selling these pills for
11 multiple years, that these pills, in fact, led to a
12 death.

13 Thank you.

14 MS. LaBARRE: May I just very briefly respond?

15 THE COURT: Yes.

16 MS. LaBARRE: Your Honor, I just don't want to
17 lose sight of the fact here that Mr. Tekola is only
18 charged with a five-year mandatory minimum, not a
19 ten-year mandatory minimum, but a five-year. And the
20 probation office has considered all of this information
21 and is not asking for either high end or an upward
22 variance. I ask the Court to consider both those
23 factors.

24 THE COURT: Okay.

25 Thank you for your arguments.

1 Mr. Tekola, I've reviewed the many letters
2 submitted on your behalf and the efforts that you've
3 made to rehabilitate yourself. I've taken that into
4 consideration. You do have the right to give a
5 statement, if you wish. You don't have to. It's
6 entirely up to you if you want to speak to me about your
7 sentence or anything else before you are sentenced.

8 Do you wish to make a statement?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: All right.

11 THE DEFENDANT: I'm sorry if it is kind of all
12 over the place, but I'm a little all over the place
13 right now.

14 First thing I want to do is apologize for my
15 behavior, which led me to be in front of you today. And
16 my community, I want apologize to my community. Like my
17 lawyer said, I'm not proud of that person, I'm really
18 not. I've done everything I can to just be better. And
19 I just want to be better. And I'd like to apologize to
20 everybody who has supported me, my family, my friends.
21 Like, I shouldn't be putting you guys in this position
22 either. It 's not fair to you, and it's very selfish
23 behavior. And I'm very ashamed of it.

24 I'm just really trying, you know, to be better.
25 This -- no matter what happens today, this situation has

1 changed me forever. And I'm -- I'm just never -- I
2 could never go back to the person I used to be. I just
3 see everything clearly now. I mean, not being on Xanax
4 and everything. It's just -- it's -- I just know what I
5 have to do, and the person I have to be. And, you know,
6 I've never really tried to succeed, but, like, this
7 situation has just opened my eyes. I see lawyers,
8 judges, my friends, everybody's successful careers. I
9 want to do the same thing. I want to give back to the
10 community. I don't want to hurt the community. I --
11 I'm just -- I'm sorry. I just don't -- I want to --
12 and no matter what happens, I will make sure that this
13 doesn't -- this will not, like, define my life. I -- I
14 will be better. I have no other choice. And, yeah, I'm
15 just going to be better.

16 THE COURT: All right. Thank you, Mr. Tekola.

17 Any reason why the Court should not go forward
18 with sentencing at this time, Government?

19 MS. NG: No, Your Honor.

20 THE COURT: Defense?

21 MS. LaBARRE: No, Your Honor.

22 THE COURT: Okay.

23 First of all, let me just say this: Thank you
24 for all the people who are here on behalf of Anthony
25 Muñoz and on behalf of Mr. Tekola.

1 We've been talking for probably two hours now.
2 And a lot of it has do with the law that applies, as
3 well as the guidelines that we've been talking about.
4 None of which probably makes any sense to any of you.
5 But there are certain things that this Court has do in
6 order to sentence any individual because, especially in
7 a case like this, where someone's liberty is being taken
8 away, the Court has to make sure that it abides by the
9 law and does what is required under both statute, the
10 guidelines, case law. So that's what most of this has
11 been about. The rest of it has been, obviously, hearing
12 from the family of Anthony Muñoz. There was concern by
13 the Court in terms of the charges in this case given
14 that his death was not charged. But I have considered
15 the statements of the family members, both here today,
16 as well as in writing. I saw the pictures. I saw the
17 certificate. I understood his background and who he was
18 as a person.

19 On the other side, I have read all of the
20 letters from the loved ones and friends and professors
21 of Mr. Tekola, every word. And I understand who he is
22 as a person, what he has been through, what he has done,
23 and the things that he has done to turn those around.
24 As a judge, I make no value judgment on anyone, but
25 there are always consequences for crimes. Some

1 experienced immediately, some experience later, and some
2 people just get away with it. And as a judge, I can't
3 just consider the request of the family members, in
4 terms of what they think is just, or the request of the
5 Defense and his family and what you think is just. I
6 have to apply the law.

7 And what the law requires me to do under
8 Title 18 United States Code Section 3553(a) is consider
9 all of these things, to include the nature and
10 circumstances of the offense, the history and
11 characteristics of Mr. Tekola, and the need for the
12 sentence to reflect the seriousness of the offense, to
13 promote the respect for the law, and provide just
14 punishment, as long -- as well as to afford adequate
15 deterrence for criminal conduct, protect the public from
16 future crimes, and the need to avoid unwarranted
17 sentencing disparities, meaning that I have to consider
18 every other individual who has been charged with the
19 same type of crime and has the same type of criminal
20 history and what they have received as a sentence.

21 And sentencing is one of the least favorite
22 things I enjoy doing, especially when it involves taking
23 away someone's liberty. Because no matter what sentence
24 I impose, it's not going to bring back Anthony Muñoz.
25 It's not going to appease anyone in this courtroom,

1 quite frankly. And it just -- it's required, but again,
2 I do so based on the law and what I have to take into
3 account.

4 So with that in mind, having considered the
5 sentencing factors enumerated in Title 18 United States
6 Code Section 3553(a), including the advisory
7 guideline range of 70 to 87 months, based up the offense
8 level of 27, and a criminal history category of 1, the
9 Court imposes the following sentence:

10 It is ordered that the Mr. Tekola shall pay to
11 the United States a special assessment of \$400, which is
12 due immediately. Any unpaid balance shall be due during
13 the period of imprisonment at the rate of not less than
14 \$25 per quarter and pursuant to the Bureau of Prisons
15 inmate financial responsibility program.

16 Pursuant to guideline Section 5E1.2(a), all
17 fines are waived as the Court finds that Mr. Tekola has
18 established that he is unable to pay and is not likely
19 to become able to pay any fine.

20 Pursuant to the Sentencing Reform Act of 1984,
21 it is the judgment of the Court that Mr. Isaac Tekola is
22 hereby committed on Counts 1, 2, 3, and 4 of the
23 indictment to the custody of the Bureau of Prisons for a
24 term of 108 months. This term consists of 108 months on
25 each of Counts 1, 2, and 3 of the indictment and

1 60 months on Count 4 of the indictment to be served
2 concurrently.

3 The Court recommends that the Bureau of Prisons
4 conduct a mental health evaluation of Mr. Tekola and
5 provide all necessary treatment. The Court recommends
6 that Mr. Tekola be considered for participation in the
7 Bureau of Prisons Residential Drug Abuse Program, RDAP.
8 The Court is required to provide the justification for
9 the sentence, and so here is why I sentenced as I did:

10 Mr. Tekola pled guilty to four counts of
11 possession with intent to distribute controlled
12 substances. Specifically, Mr. Tekola possessed M30
13 pills that contained fentanyl, cocaine, methamphetamine,
14 Xanax, and cannabis flower. The text messages recovered
15 from Mr. Tekola's iPhone statement and statements from
16 Mr. Silva and others regarding the length of time these
17 individuals had been buying drugs from Mr. Tekola -- for
18 example, four years for Mr. Silva -- indicated that
19 Mr. Tekola's offenses were part of a pattern of criminal
20 behavior that took place over an extended period of
21 time, that his criminal conduct involved numerous sales
22 of illegal controlled substance to numerous individuals,
23 all of which this Court found as relevant conduct.

24 It also involved Mr. Tekola soliciting other
25 individuals to serve as drug mules and drug

1 distributors. Mr. Tekola advertised the sale of his
2 controlled substances through text messaging, but the
3 Court did not apply the mass advertisement enhancement.
4 Mr. Tekola, importantly, showed no signs of conforming
5 his conduct to the law before he was caught.

6 As a side note, the investigation surrounding
7 the instant offense was initiated after Mr. Anthony
8 Muñoz had a fentanyl overdose. And to the credit of law
9 enforcement, it was a very fast investigation. Such
10 that law enforcement under -- or determined Mr. Tekola's
11 involvement within a day of Mr. Muñoz's death. Based on
12 the evidence in the record, the victim, Mr. Anthony
13 Muñoz's, death may have resulted from drugs Mr. Tekola
14 sold to another distributor, Mr. Goodie, who supplied
15 the drugs -- strike that -- Mr. Silva to Mr. Goodie, who
16 supplied the drugs to Mr. Anthony Muñoz, but the
17 Government did not charge that particular offense. If
18 Mr. Tekola had been held accountable for that victim's
19 death, under the guidelines, the level would have been
20 significantly higher, starting at 38.

21 I also considered the respect for the law.
22 Mr. Tekola had no prior criminal convictions or law
23 enforcement contacts aside from a state charge, which is
24 related to the instant offense. However, based on
25 Mr. Tekola's text messaging and other evidence in the

1 record, it was clear that he had gotten away with the
2 illegal drug sales for quite some time. The Court's
3 calculation of the advisory guidelines range already
4 takes into account the nature and extent of Mr. Tekola's
5 criminal conduct. As to Mr. Tekola's history and
6 characteristics, I did review very closely the revised
7 PSR, which I did note describes his upbringing, the loss
8 of his mother at a very young age, and other history and
9 characteristics of Mr. Tekola. It also describes his
10 history of drug use, which the Court has taken into
11 account in determining the sentence and supervised
12 release conditions. The Court has also considered the
13 kinds of sentencing -- sentences available. Because
14 Mr. Tekola does not qualify for the safety valve
15 provisions of the guidelines, he is subject to a
16 five-year mandatory minimum sentence and a four-year
17 mandatory minimum period of supervised release.

18 Finally, I considered the need to avoid
19 sentencing disparities among similarly situated
20 individuals. And a sentence of 108 months is sufficient
21 but not greater than necessary to comply with the
22 purposes set forth in Title 18 United States Code
23 Section 3553(a)(2). It reflects a two-level increase
24 variance from the advisory guidelines and a high-end
25 sentence. And that is based primarily on the nature of

1 the drug, fentanyl; it's dangerous consequences; and
2 Mr. Tekola's knowledge of those dangerous consequences,
3 yet reckless disregard for the danger and continuation
4 of criminal activity in the form of selling drugs to
5 other individuals to include fentanyl-laced pills.

6 The 600 and approximately 80 pills, Government
7 Counsel argued that's 680 possible deaths, but I take
8 into account that Mr. Anthony Muñoz only took half a
9 pill, and it resulted in his tragic end. The mandatory
10 minimum four-year term of supervised -- supervision has
11 also been applied to allow for Mr. Tekola to be
12 monitored in the community upon release from prison.
13 The period of supervision will help protect the
14 community from future crimes by providing Mr. Tekola
15 needed drug treatment and closely monitor his
16 associations with potential criminal influences. A
17 mental health evaluation by the Bureau of Prisons is
18 recommended to address any potential mental health
19 issues that Mr. Tekola may be feeling from the instant
20 case, as well as his reported depression.

21 I find pursuant to Title 18 United States Code
22 Section 3583(d) the conditions of supervised release are
23 reasonably related to the nature and circumstance of the
24 offense and the history and characteristics of
25 Mr. Tekola. I note that neither party has objected to

1 any condition, and I adopt and impose the general and
2 special conditions recommended by the United States
3 Probation Office, as well as the reasons for those
4 conditions set forth in the revised disclosed letter.

5 Does either party want me to read the special
6 and general conditions of supervised release?

7 MS. LaBARRE: No, Your Honor.

8 MS. NG: No, Your Honor.

9 THE COURT: All right. They are as set forth
10 in the disclosed letter, again, which, I adopt in their
11 entirety, as well as the reasons for those conditions.

12 Again, I make no value judgment on Mr. Tekola.
13 What the last few months have known is that there was
14 tremendous potential. Certainly, being a 4.0 student,
15 Mr. Tekola demonstrates that you can turn things around
16 and that you are able to lead a successful life. It is
17 my hope after your sentence and you are released and
18 with the help of the RDAP program, which I have
19 recommended, that you will continue on the right path.
20 One of the last letters I read before the letter I read
21 this morning was one from Zachary Burns. And he talked
22 about an individual by the name of Ted, who had been
23 sentenced to custody. And yet, Ted came out. And
24 notwithstanding the time in custody, he was able to lead
25 a law-abiding life and that was due to his resolve.

1 And according to Mr. Burns, he believes, you,
2 Mr. Tekola, have the same strength and resolve. And
3 certainly, you have a tremendous amount of potential.
4 It is my hope, notwithstanding the length of the
5 sentence, that you will be able come out and turn or
6 continue on the path that you have chosen for the last
7 few months. And that with the love and support of your
8 family that you will be able stay on the right path.

9 It is my hope for the family of Anthony Muñoz
10 that you will find the comfort. Certainly, he was
11 loved, and he loved you. And certainly, I'm hoping that
12 the memories of him will live on and that his daughters
13 will know the kind of person that he was and the
14 foundation that you've created with the golfing
15 tournaments will not be in vein. And I hope that
16 everyone walks away from this experience,
17 notwithstanding today, being hopefully better for it.
18 So I leave you with that.

19 There are some final advisements I must give
20 you, Mr. Tekola. They are as follows:

21 Given that you did not plead pursuant to a plea
22 agreement, you do have the right to appeal your
23 conviction if you believe that your guilty plea was
24 somehow unlawful or involuntary or if there was some
25 other fundamental of defect in the proceedings that was

1 not waived by your guilty plea. You also have the right
2 to appeal your sentence under some circumstances
3 particularly if you think your sentence is contrary to
4 law. If you retain your right to appeal, with few
5 exceptions, a notice of appeal must be filed within 14
6 days of judgement being entered.

7 Do you understand that?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: If you're unable to afford a
10 transcript through the record in this case, one will be
11 provided at Government's expense. If you are unable to
12 pay the cost of an appeal or a filing fee, you may be --
13 may apply for leave to appeal in forma pauperis. If you
14 do not have counsel to act your behalf and if you
15 requested it, the clerk of the court will prepare and
16 file a notice of appeal on your behalf. You must make
17 the request within 14 days. The notice of appeal must
18 designate the judgment or order appeal from and the fact
19 you are appealing to the Court of Appeals. It should
20 designate the portion of the proceedings not already on
21 file that you deem necessary for the reporter to
22 include.

23 Mr. Tekola, you've asked for a surrender date
24 of 30 days. That would be, roughly, October 4th.

25 Any objection from the Government?

1 MS. NG: No, Your Honor.

2 THE COURT: It is further ordered that
3 Mr. Tekola surrender himself to the institution
4 designated by the Bureau of Prisons at or before 12:00
5 noon on October 4th and at a time to be determined by
6 the Court -- well, 12:00 noon, October 4th, 2024.

7 In the absence of such designation, Mr. Tekola
8 shall report on or before the same date and time to the
9 United States Marshall located at the First Street U.S.
10 Courthouse, 350 West First Street, Suite 3001. In other
11 words, this courthouse on the third floor, Los Angeles
12 California 90012.

13 All of the conditions of release remain in
14 effect. Failure to report for service is in itself a
15 criminal offense. Bond will be exonerated at the time
16 that you are surrendering.

17 And is there a recommendation of a designation
18 of Southern California or northern?

19 MS. LaBARRE: Yes, Your Honor. I would ask for
20 a recommendation -- a judicial recommendation for
21 Mr. Tekola to be housed in the Sacramento area, where
22 his family is located.

23 THE COURT: I will make that recommendation.

24 A statement of reasons shall be included in the
25 commitment order and judgment and shall be provided to

1 the probation office, the United States Sentencing
2 Commission, and the Bureau of Prisons. A complete copy
3 of the presentence report and any additions,
4 corrections, or changes shall be provided to the Bureau
5 of Prisons and the United States Sentencing Commission.
6 Any other copies of the report and related materials
7 shall remain confidential. If an appeal is taken,
8 counsel on appeals shall have access to the report.

9 I should also add, in terms of justification,
10 that I did consider rehabilitation, which went -- is one
11 of the reasons I went slightly under what the Government
12 is requesting. Again, bail is exonerated on remand --
13 strike that -- or at the time of surrender.

14 Is there anything further?

15 MS. LaBARRE: But, Your Honor, I would request
16 a three-month credit for Mr. Tekola for his time in
17 state custody in this matter. He was arrested
18 September 16th, 2022, in connection with this matter by
19 state authorities and was transferred to federal custody
20 on -- and bailed out on December 13th, 2022. So I would
21 ask for three months of credit that would he not
22 otherwise receive.

23 THE COURT: Government?

24 MS. NG: No objection, Your Honor.

25 THE COURT: All right. I'll make that

1 recommendation to the Bureau of Prisons who will
2 calculate the credits.

3 MS. LaBARRE: Would it be possible to reduce
4 the 108-month sentence by three months because I don't
5 believe the Bureau of Prisons will take into account
6 credit that was served in state custody?

7 THE COURT: 105 months.

8 MS. LaBARRE: Thank you, Your Honor.

9 THE COURT: No objection from the Government?
10 Anything further?

11 MS. NG: Your Honor, just to confirm if the
12 Court is not issuing an order on restitution?

13 THE COURT: Confirmed, given the Government's
14 lack of illegal authority for that basis.

15 MS. NG: Understood, Your Honor.

16 Then nothing further from the Government.
17 Thank you.

18 THE COURT: All right. I'm going to ask the
19 Government to take back its record after this.

20 MS. NG: Yes, Your Honor.

21 THE COURT: Anything further?

22 MS. LaBARRE: No, Your Honor. Thank you.

23 THE COURT: All right. Thank you all for being
24 here.

25 (Whereupon, proceeding adjourned.)

**United States District Court
Central District of California**

UNITED STATES OF AMERICA vs.

Docket No. CR 22-00608-SPG-1Defendant ISAAC TEKOLASocial Security No. 0 1 1 7akas: Tekola, Isaac Abraham, Tekol, Isaac Abraham

(Last 4 digits)

JUDGMENT AND PROBATION/COMMITMENT ORDER

In the presence of the attorney for the government, the defendant appeared in person on this date.

MONTH	DAY	YEAR
9	4	2024

COUNSELLisa Shinar LaBarre

(Name of Counsel)

PLEA**GUILTY**, and the court being satisfied that there is a factual basis for the plea.**NOLO
CONTENDERE****NOT
GUILTY****FINDING**There being a finding/verdict of **GUILTY**, defendant has been convicted as charged of the offense(s) of:

COUNT 1: Possession with Intent to Distribute Controlled Substances 21 U.S.C. § 841(a)(1) 21 U.S.C. § 841 (b)((1)(B)(vi);

COUNT 2: Possession with Intent to Distribute Controlled Substances 21 U.S.C. § 841(a)(1), 21 U.S.C. § 841 (b)(1)(C)

COUNT 3: Possession with Intent to Distribute Controlled Substances 21 U.S.C. § 841(a)(1), 21 U.S.C. § 841 (b)(1)(C)

COUNT 4: Possession with Intent to Distribute Controlled Substances 21 U.S.C. § 841(a)(1), 21 U.S.C. § 841 (b)(2)

**JUDGMENT
AND PROB/
COMM
ORDER**

The Court asked whether there was any reason why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the Court, the Court adjudged the defendant guilty as charged and convicted and ordered that: Pursuant to the Sentencing Reform Act of 1984, it is the judgment of the Court that the defendant is hereby committed to the custody of the Bureau of Prisons to be imprisoned for a term of: **105 MONTHS**.

It is ordered that the defendant shall pay to the United States a special assessment of \$400, which is due immediately. Any unpaid balance shall be due during the period of imprisonment, at the rate of not less than \$25 per quarter, and pursuant to the Bureau of Prisons' Inmate Financial Responsibility Program.

Pursuant to Guideline § 5E1.2(a), all fines are waived as the Court finds that the defendant has established that he is unable to pay and is not likely to become able to pay any fine.

Pursuant to the Sentencing Reform Act of 1984, it is the judgment of the Court that the defendant, Isaac Tekola, is hereby committed on Counts 1, 2, 3 and 4 of the Indictment to the custody of the Bureau of Prisons for a term of 105 months. This term consists of 105 months on each of Counts 1, 2, and 3 of the Indictment and 60 months on Count 4 of the Indictment, to be served concurrently.

The Court recommends that the Bureau of Prisons conduct a mental health evaluation of the defendant and provide all necessary treatment.

The Court recommends that the defendant be considered for participation in the Bureau of Prison's Residential Drug Abuse Program (RDAP).

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of four years. This term consists of four years on Count 1 and three years on each of Counts 2, 3 and 4 of the Indictment, all such terms to run concurrently under the following terms and conditions:

1. The defendant shall comply with the rules and regulations of the United States Probation & Pretrial Services Office and Second Amended General Order 20-04.
2. During the period of community supervision, the defendant shall pay the special assessment in accordance with this judgment's orders pertaining to such payment.
3. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from custody and at least two periodic drug tests thereafter, not to exceed eight tests per month, as directed by the Probation Officer.
4. The defendant shall participate in an outpatient substance abuse treatment and counseling program that includes urinalysis, breath or sweat patch testing, as directed by the Probation Officer. The defendant shall abstain from using alcohol and illicit drugs, and from abusing prescription medications during the period of supervision.
5. As directed by the Probation Officer, the defendant shall pay all or part of the costs of the Court-ordered treatment to the aftercare contractors during the period of community supervision. The defendant shall provide payment and proof of payment as directed by the Probation Officer. If the defendant has no ability to pay, no payment shall be required.
6. The defendant shall participate in mental health treatment, which may include evaluation and counseling, until discharged from the program by the treatment provider, with the approval of the Probation Officer.
7. The defendant shall not obtain or possess any driver's license, Social Security number, birth certificate, passport or any other form of identification in any name, other than the defendant's true legal name, nor shall the defendant use, any name other than the defendant's true legal name without the prior written approval of the Probation Officer.
8. The defendant shall submit the defendant's person, property, house, residence, vehicle, papers, computers, cell phones, other electronic communications or data storage devices or media, email accounts, social media accounts, cloud storage accounts, or other areas under the defendant's control, to a search conducted by a United States Probation Officer or law enforcement officer. Failure to submit to a search may be grounds for revocation. The defendant shall warn any other occupants that the premises may be subject to searches pursuant to this condition. Any search pursuant to this condition will be conducted at a reasonable time and in a reasonable manner upon reasonable suspicion that the defendant has violated a condition of his supervision and that the areas to be searched contain evidence of this violation.
9. When not employed or excused by the Probation Officer for schooling, training, or other acceptable reasons, the defendant shall perform 20 hours of community service per week as directed by the Probation & Pretrial Services Office.
10. The defendant shall cooperate in the collection of a DNA sample from the defendant.

USA vs. ISAAC TEKOLA

Docket No.: CR 22-00608-SPG-1

The Court authorizes the Probation & Pretrial Services Office to disclose the Presentence Report to the substance abuse treatment provider to facilitate the defendant's treatment for narcotic addiction or drug dependency. Further redisclosure of the Presentence Report by the treatment provider is prohibited without the consent of the sentencing judge.

The Court authorizes the Probation Officer to disclose the Presentence Report, and any previous mental health evaluations or reports, to the treatment provider. The treatment provider may provide information (excluding the Presentence report), to State or local social service agencies (such as the State of California, Department of Social Service), for the purpose of the client's rehabilitation.

It is further ordered that the defendant surrender himself to the institution designated by the Bureau of Prisons at or before 12 noon, on October 4, 2024. In the absence of such designation, the defendant shall report on or before the same date and time, to the United States Marshal located at the First Street U.S. Courthouse 350 W. First Street, Suite 3001, Los Angeles, CA 90012.

Defendant informed of his right to appeal.

The Court recommends to the Bureau of Prisons that defendant be placed at a facility located in Sacramento, California

Bond is exonerated upon surrender.

USA vs. ISAAC TEKOLA

Docket No.: CR 22-00608-SPG-1

In addition to the special conditions of supervision imposed above, it is hereby ordered that the Standard Conditions of Probation and Supervised Release within this judgment be imposed. The Court may change the conditions of supervision, reduce or extend the period of supervision, and at any time during the supervision period or within the maximum period permitted by law, may issue a warrant and revoke supervision for a violation occurring during the supervision period.

September 5, 2024

Date

U. S. District Judge

It is ordered that the Clerk deliver a copy of this Judgment and Probation/Commitment Order to the U.S. Marshal or other qualified officer.

Clerk, U.S. District Court

September 5, 2024

Filed Date

By

*patricia Gomez*Deputy Clerk

The defendant must comply with the standard conditions that have been adopted by this court (set forth below).

STANDARD CONDITIONS OF PROBATION AND SUPERVISED RELEASE

While the defendant is on probation or supervised release pursuant to this judgment:

1. The defendant must not commit another federal, state, or local crime;
2. The defendant must report to the probation office in the federal judicial district of residence within 72 hours of imposition of a sentence of probation or release from imprisonment, unless otherwise directed by the probation officer;
3. The defendant must report to the probation office as instructed by the court or probation officer;
4. The defendant must not knowingly leave the judicial district without first receiving the permission of the court or probation officer;
5. The defendant must answer truthfully the inquiries of the probation officer, unless legitimately asserting his or her Fifth Amendment right against self-incrimination as to new criminal conduct;
6. The defendant must reside at a location approved by the probation officer and must notify the probation officer at least 10 days before any anticipated change or within 72 hours of an unanticipated change in residence or persons living in defendant's residence;
7. The defendant must permit the probation officer to contact him or her at any time at home or elsewhere and must permit confiscation of any contraband prohibited by law or the terms of supervision and observed in plain view by the probation officer;
8. The defendant must work at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons and must notify the probation officer at least ten days before any change in employment or within 72 hours of an unanticipated change;
9. The defendant must not knowingly associate with any persons engaged in criminal activity and must not knowingly associate with any person convicted of a felony unless granted permission to do so by the probation officer. This condition will not apply to intimate family members, unless the court has completed an individualized review and has determined that the restriction is necessary for protection of the community or rehabilitation;
10. The defendant must refrain from excessive use of alcohol and must not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
11. The defendant must notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer;
12. For felony cases, the defendant must not possess a firearm, ammunition, destructive device, or any other dangerous weapon;
13. The defendant must not act or enter into any agreement with a law enforcement agency to act as an informant or source without the permission of the court;
14. The defendant must follow the instructions of the probation officer to implement the orders of the court, afford adequate deterrence from criminal conduct, protect the public from further crimes of the defendant; and provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.

USA vs. ISAAC TEKOLA

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☐ The defendant must also comply with the following special conditions (set forth below).

STATUTORY PROVISIONS PERTAINING TO PAYMENT AND COLLECTION OF FINANCIAL SANCTIONS

The defendant must pay interest on a fine or restitution of more than \$2,500, unless the court waives interest or unless the fine or restitution is paid in full before the fifteenth (15th) day after the date of the judgment under 18 U.S.C. § 3612(f)(1). Payments may be subject to penalties for default and delinquency under 18 U.S.C. § 3612(g). Interest and penalties pertaining to restitution, however, are not applicable for offenses completed before April 24, 1996. Assessments, restitution, fines, penalties, and costs must be paid by certified check or money order made payable to "Clerk, U.S. District Court." Each certified check or money order must include the case name and number. Payments must be delivered to:

United States District Court, Central District of California
Attn: Fiscal Department
255 East Temple Street, Room 1178
Los Angeles, CA 90012

or such other address as the Court may in future direct.

If all or any portion of a fine or restitution ordered remains unpaid after the termination of supervision, the defendant must pay the balance as directed by the United States Attorney's Office. 18 U.S.C. § 3613.

The defendant must notify the United States Attorney within thirty (30) days of any change in the defendant's mailing address or residence address until all fines, restitution, costs, and special assessments are paid in full. 18 U.S.C. § 3612(b)(1)(F).

The defendant must notify the Court (through the Probation Office) and the United States Attorney of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay a fine or restitution, as required by 18 U.S.C. § 3664(k). The Court may also accept such notification from the government or the victim, and may, on its own motion or that of a party or the victim, adjust the manner of payment of a fine or restitution under 18 U.S.C. § 3664(k). See also 18 U.S.C. § 3572(d)(3) and for probation 18 U.S.C. § 3563(a)(7).

Payments will be applied in the following order:

1. Special assessments under 18 U.S.C. § 3013;
2. Restitution, in this sequence (under 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid):
 - Non-federal victims (individual and corporate),
 - Providers of compensation to non-federal victims,
 - The United States as victim;
3. Fine;
4. Community restitution, under 18 U.S.C. § 3663(c); and
5. Other penalties and costs.

CONDITIONS OF PROBATION AND SUPERVISED RELEASE PERTAINING TO FINANCIAL SANCTIONS

As directed by the Probation Officer, the defendant must provide to the Probation Officer: (1) a signed release authorizing credit report inquiries; (2) federal and state income tax returns or a signed release authorizing their disclosure and (3) an accurate financial statement, with supporting documentation as to all assets, income and expenses of the defendant. In addition, the defendant must not apply for any loan or open any line of credit without prior approval of the Probation Officer.

When supervision begins, and at any time thereafter upon request of the Probation Officer, the defendant must produce to the Probation and Pretrial Services Office records of all bank or investments accounts to which the defendant has access, including any business or trust accounts. Thereafter, for the term of supervision, the defendant must notify and receive approval of the Probation Office in advance of opening a new account or modifying or closing an existing one, including adding or deleting signatories; changing the account number or name, address, or other identifying information affiliated with the account; or any other modification. If the Probation Office approves the new account, modification or closing, the defendant must give the Probation Officer all related account records within 10 days of opening, modifying or closing the account. The defendant must not direct or ask anyone else to open or maintain any account on the defendant's behalf.

The defendant must not transfer, sell, give away, or otherwise convey any asset with a fair market value in excess of \$500 without approval of the Probation Officer until all financial obligations imposed by the Court have been satisfied in full.

These conditions are in addition to any other conditions imposed by this judgment.

USA vs. ISAAC TEKOLA

Docket No.: CR 22-00608-SPG-1

RETURN

I have executed the within Judgment and Commitment as follows:

Defendant delivered on _____ to _____
Defendant noted on appeal on _____
Defendant released on _____
Mandate issued on _____
Defendant's appeal determined on _____
Defendant delivered on _____ to _____
at _____
the institution designated by the Bureau of Prisons, with a certified copy of the within Judgment and Commitment.

United States Marshal

Date By _____
Deputy Marshal

CERTIFICATE

I hereby attest and certify this date that the foregoing document is a full, true and correct copy of the original on file in my office, and in my legal custody.

Clerk, U.S. District Court

Filed Date By _____
Deputy Clerk

FOR U.S. PROBATION OFFICE USE ONLY

Upon a finding of violation of probation or supervised release, I understand that the court may (1) revoke supervision, (2) extend the term of supervision, and/or (3) modify the conditions of supervision.

These conditions have been read to me. I fully understand the conditions and have been provided a copy of them.

(Signed) _____
Defendant Date _____

U. S. Probation Officer/Designated Witness Date _____