# APPENDIX

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# APPENDIX A

**OPINION OF THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT, FILED MAY 19, 2026**

# United States Court of Appeals for the Fifth Circuit

No. 25-50063
Summary Calendar

United States Court of Appeals
Fifth Circuit
FILED
May 19, 2026
Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

*Plaintiff—Appellee*,

*versus*

PATRICK DWAYNE ADAMS,

*Defendant—Appellant*.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 4:24-CR-88-3

Before STEWART, GRAVES, and OLDHAM, *Circuit Judges*.

PER CURIAM:*

Patrick Dwayne Adams pleaded guilty to aiding and abetting the possession of marijuana with intent to distribute. On appeal, he contends that there was an insufficient factual basis for the guilty plea and that the district court failed to properly ensure that he understood the nature of the charge.

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

We review for plain error. *See United States v. Vonn*, 535 U.S. 55, 59 (2002). In light of the entire record, Adams fails to show clear or obvious error. *See United States v. Trejo*, 610 F.3d 308, 313 (5th Cir. 2010) (factual basis); *United States v. Cuevas-Andrade*, 232 F.3d 440, 444 (5th Cir. 2000) (nature of the charges).

The judgment of the district court is AFFIRMED.

# APPENDIX B

## FACTUAL BASIS SIGNED BY PETITIONER ADAMS, HIS COUNSEL AND THE UNITED STATES ON JULY 15, 2024

**UNITED STATES DISTRICT COURT**
**WESTERN DISTRICT OF TEXAS**
**PECOS DIVISION**

**UNITED STATES OF AMERICA**

**Plaintiff,**

**v.**

**(3) PATRICK DWAYNE ADAMS,**

**Defendant.**

**Case No. 4:24-cr-00088**

**FACTUAL BASIS**

The United States was prepared to show the following facts through competent evidence beyond a reasonable doubt that the Defendant is guilty had this case gone to trial. The defendant and his/her attorney have signed this factual basis. By signing this factual basis, the Defendant admits and stipulates that the following facts are true and accurate and that they support his/her plea of guilt and that the Defendant admits guilt as to Count II, possession with intent to distribute marijuana, aiding and abetting.

On March 5th, 2024, at approximately 9:00am, a United States Border Patrol Agent (BPA) observed a white S&H horse trailer bearing Texas license plate number FMH-X43 in Presidio, Texas. The trailer was hitched to a white 2017 Chevrolet Silverado 2500, bearing temporary Texas license plate number 8B4242E. The horse trailer was registered to Jose ANCHONDO, a recently convicted human smuggler who operated in Presidio, Texas. Homeland

Security Investigations (HSI) Special Agent Raven Woody was notified by the BPA about the location of the trailer, and surveillance was initiated.

On March 8th, 2024, at approximately 12:00pm, a tracker warrant was signed by Federal Magistrate Judge David B. Fannin for the horse trailer. At approximately 11:00pm that night, the tracker was installed by HSI Special Agent Raven Woody and BPAs.

On March 9th, 2024, the horse trailer moved from its location in Presidio to a horse ranch between Presidio and Redford, TX. The Chevrolet Silverado was observed returning to Presidio without the trailer in tow, and it was parked by an unknown individual at its original location in Presidio. The Chevrolet Silverado was bearing new temporary Texas license plate number 80246A. Records checks of the temporary license plate number revealed it to be fictitious.

On March 19, 2024, the Chevrolet Silverado was observed heading back east towards the horse ranch. BPAs then observed an unknown male at the horse ranch attaching the Chevrolet Silverado to the horse trailer. From there, the Chevrolet Silverado and horse trailer were observed in Lajitas, Texas parked along Ranch Road 170. The Chevrolet Silverado and horse trailer were parked with a black Cadillac Escalade bearing temporary Texas license plate number A240723. Records checks of the temporary license plate number revealed it was also fictitious.

Both vehicles and the trailer stayed at this location for approximately 10 minutes before heading east towards Terlingua, TX, and then eventually north on Highway 118 towards Alpine, TX.

Within eyesight of the Highway 118 Border Patrol Checkpoint, both vehicles stopped near a subdivision on a dirt road. According to BPAs, they often observe vehicles attempt to use this road to circumvent the checkpoint. Both vehicles were stopped by BPAs and transported to the checkpoint for inspection

A Border Patrol K-9 conducted a free air sniff of the Cadillac Escalade and the Chevrolet Silverado towing the horse trailer. The K-9 alerted to both vehicles and the trailer. After inspecting the horse trailer, approximately 38 bundles were discovered in a concealed non-factory compartment. The bundles were field tested and weighed, resulting in a positive hit for approximately 419 kilograms of marijuana.

The Chevrolet Silverado towing the horse trailer with the marijuana was driven by Andrew LUONG. LUONG was interviewed by HSI Special Agents, and he requested to consult with an attorney before giving a statement.

The Cadillac Escalade was driven by Eric FRANKLIN, and the passenger was identified as Patrick ADAMS. FRANKLIN agreed to make a statement with HSI Special Agents without the presence of an attorney.

FRANKLIN stated he, LUONG and ADAMS traveled from Hobbs, New Mexico to Presidio, Texas in FRANKLIN's Escalade. FRANKLIN stated the purpose of their trip was to

dop off LUONG in Presidio, and then return to Hobbs. FRANKLIN stated he agreed to be paid approximately $350.00 in gas money for bringing LUONG to Presidio.

During a consensual examination of FRANKLIN's phone, agents observed a text conversation between FRANKLIN and another individual which occurred shortly before his trip to Presidio. During this conversation, it appeared FRANKLIN was bragging about making $3000.00 for only six (6) hours of work. After agents asked FRANKLIN to clarify these messages, he initially stated he was lying to the individual, but he later changed his story and stated LUONG was making $3000.00 for taking the Chevrolet Silverado truck and the horse trailer to a family member in Odessa, Texas. FRANKLIN also stated he was going to split the profits with LUONG.

When asked why LUONG requested that FRANKLIN give him a ride to Presidio, FRANKLIN stated he was the only person who LUONG knew that owned a vehicle. Additionally, FRANKLIN stated he does not frequently socialize with LUONG and he does not trust him. For this reason, FRANKLIN asked ADAMS to accompany him on the trip as a means of security FRANKLIN admitted he agreed to pay ADAMS $300.00 to accompany him.

ADAMS also agreed to make a statement with HSI Special Agents without the presence of an attorney. ADAMS claimed he had no knowledge as to why LUONG needed a ride to Presidio, and that he was asleep for the entire trip from Hobbs to Presidio. ADAMS also stated that he was asleep when LUONG was dropped off in Presidio. ADAMS claimed he awoke and

realized LUONG was gone, and he fell back asleep before awaking again and seeing LUONG driving the Chevrolet Silverado towing the horse trailer.

A search of Franklin's phone shows Facebook messenger messages between Andrew LUONG and FRANKLIN. In the messages you can see where they discuss meeting up to talk about a job that LUONG has for FRANKLIN. FRANKLIN also mentioned he was hired for a "job" with LUONG that would pay anywhere from $3000-7500, as well as gas and food expenses. FRANKLIN sent multiple text messages to LUONG about being paid an insufficient amount of money around the time of the drug smuggling attempt. FRANKLIN also indicated this would be the first of multiple trips to the Presidio AOR.

LUONG also has several phone calls to an individual named "Cochii" on whatsapp during the week of the drug smuggling attempt. Cochii has been identified by HSI as a drug smuggler in the Presidio, TX AOR.

A phone search revealed ADAMS was picked up in Hobbs, NM by FRANKLIN to accompany him on the trip ADAMS does have messages and calls on his device proving he was in communication with LUONG during the travel time from Hobbs to Presidio, which he indicated did not happen during his initial interview. ADAMS' cellphone revealed he and LUONG were in communication via messages and calls after LUONG had already been dropped off in Presidio. There were also messages between ADAMS and other individuals, indicative of ADAMS being a distributer of controlled substances.

Therefore, the defendant admits he knowingly and intentionally possessed controlled substance with the intent to distribute the controlled substances to another person. The Government and defense stipulate the total weigh of the marijuana to be 399 kilograms. Further,

the Government will move to dismiss Count I, Conspiracy to Possess with Intent to Distribute Marijuana at the time of sentencing.

JAIME ESPARZA
UNITED STATES ATTORNEY

DATE: July 15, 2024.

By: /s/ Scott V. Greenbaum
**Scott V. Greenbaum**
Assistant United States Attorney

I am counsel for Defendant, Patrick Dwayne Adams, in this case. I have fully explained to Defendant all of Defendant's rights with respect to the pending criminal charge. I have carefully reviewed this factual basis in its entirety with Defendant and provided Defendant with my best professional advice. In my opinion, Defendant's decision to admit to this factual basis is made freely, voluntarily, and with full knowledge of its obligations and consequences.

DATE: July 15, 2024.

Rusty Herman
Attorney for Defendant

I, Patrick Dwayne Adams, have carefully read and reviewed the entirety of this factual basis, or it has been read to me (and if necessary, translated for me) and reviewed with me by my attorney. After careful consideration and discussion with my attorney, and fully understanding my rights with respect to the pending criminal charge(s), I freely and voluntarily agree to the specific facts contain within this factual basis.

DATE: July 15, 2024.

Patrick Dwayne Adams
Defendant

# APPENDIX C

**MAGISTRATE JUDGE'S FINDINGS OF FACT AND RECOMMENDATION ON PETITIONER'S PLEA OF GUILTY DATED AUGUST 1, 2024**

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE WESTERN DISTRICT OF TEXAS**
**PECOS DIVISION**

| | | |
|---|---|---|
| **UNITED STATES OF AMERICA** | ) | |
| | ) | |
| **v.** | ) | **P-24-CR-88 (3)** |
| | ) | |
| **PATRICK DWAYNE ADAMS** | ) | |

**FINDINGS OF FACT AND RECOMMENDATION ON FELONY GUILTY PLEA BEFORE THE UNITED STATES MAGISTRATE JUDGE**

The District Court referred this matter to the magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) for administration of guilty plea and allocution under Rule 11 of the Federal Rules of Criminal Procedure.

On the 1st day of August, 2024, this cause came before the undersigned U.S. Magistrate Judge for Guilty Plea and Allocution of the Defendant **PATRICK DWAYNE ADAMS** on Count **TWO** of the **INDICTMENT** filed herein charging him with a violation of Title 21 U.S.C. §§ 841(a)(1) and (b)(1)(B) and Title 18 U.S.C. § 2. The Defendant signed a written consent to plead before the Magistrate Judge. The Court conducted the proceeding in the form and manner prescribed by FED. R. CRIM. P. 11, and finds:

a) That the Defendant, after consultation with counsel of record, has knowingly and voluntarily consented to the administration of the Guilty Plea and Allocution in this cause by a U.S. Magistrate Judge subject to final approval and imposition of sentence by the District Court.

b) That the Defendant pled guilty to **COUNT TWO** of the **INDICTMENT** without a written plea agreement. Any oral agreements were stated into the record by the parties. [1]

c) That the Defendant is fully competent and capable of entering an informed plea,[2] that the Defendant is aware of the nature of the charges and the consequences of the plea, and that the plea of guilty is a knowing and voluntary plea supported by an independent basis in fact containing each of the essential elements of the offense.

**IT IS THEREFORE**, the recommendation of the undersigned U.S. Magistrate Judge that the District Court accept the guilty plea of the Defendant, **PATRICK DWAYNE ADAMS**, and that **PATRICK DWAYNE ADAMS** be finally adjudged guilty of that offense.

---

[1]There is an oral agreement that the Government will move to dismiss Count One at the time of sentencing.

[2]The Defendant was admonished as to punishment of 5 to 40 years imprisonment, a fine not to exceed $5,000,000.00, a minimum term of 4 years supervised release, and a mandatory special assessment of $100.00.

The United States District Clerk shall serve a copy of this Proposed Findings of Fact and Recommendation on all parties electronically. In the event that a party has not been served by the Clerk with this Report and Recommendation electronically, pursuant to the CM/ECF procedures of this District, the Clerk is ORDERED to mail such party a copy of this Report and Recommendation by certified mail, return receipt requested. Pursuant to 28 U.S.C. § 636(b)(1), any party who desires to object to this report must serve and file written objections within fourteen (14) days after being served with a copy unless the time period is modified by the District Court. A party filing objections must specifically identify those findings, conclusions or recommendation to which objections are being made; the District Court need not consider frivolous, conclusive or general objections. Such party shall file the objections with the Clerk of the Court and serve the objections on the Magistrate Judge and on all other parties. A party's failure to file such objections to the proposed findings, conclusions and recommendation contained in this report shall bar the party from a de novo determination by the District Court. Additionally, any failure to file written objections to the proposed findings, conclusions and recommendation contained in this report within fourteen (14) days after being served with a copy shall bar the aggrieved party from appealing the factual findings of the Magistrate Judge that are accepted or adopted by the District Court, except upon grounds of plain error or manifest injustice.

SIGNED this 1st day of August, 2024.

DAVID B. FANNIN
UNITED STATES MAGISTRATE JUDGE

# APPENDIX D

**ORDER ADOPTING MAGISTRATE JUDGE'S FINDINGS OF FACT AND RECOMMENDATION ON FELONY GUILTY PLEA REGARDING COUNT TWO OF THE INDICTMENT**

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
PECOS DIVISION

| | | |
|---|---|---|
| UNITED STATES OF AMERICA | § | |
| | § | |
| vs. | § | NO: PE:24-CR-00088(3)-DC |
| | § | |
| (3) PATRICK DWAYNE ADAMS | § | |

**ORDER ADOPTING MAGISTRATE JUDGE'S FINDINGS OF FACT AND RECOMMENDATION ON FELONY GUILTY PLEA REGARDING COUNT TWO OF THE INDICTMENT**

On this day, the Court considered the Findings of Fact and Recommendation of the United States Magistrate Judge regarding Defendant's plea of guilty to Count TWO of the INDICTMENT in the above-numbered cause. Having conducted a proceeding in the form and manner prescribed by Fed. R. Crim. P. 11, the Magistrate Judge recommends that the Court accept the guilty plea of the Defendant.

No objections have been filed to the Magistrate's Findings and Recommendation within the time period set by law, and neither party has requested a *de novo* review of the plea proceedings before the Magistrate. If a *de novo* review becomes necessary at any point during the pendency of the cause, the Court reserves the right to conduct it. Based on the current record before the Court, since it appears that the Findings and Recommendation are neither clearly erroneous nor contrary to law, the Court is of the opinion that said Findings and Recommendation should be adopted.

It is accordingly ORDERED that the Findings of Fact and Recommendation of the United States Magistrate Judge filed August 1, 2024, are hereby ADOPTED.

It is further ORDERED that the Defendant's guilty plea is accepted and approved by the Court.

It is finally ORDERED that the Court finds Defendant GUILTY on Count TWO of the INDICTMENT in the above-numbered cause and enters a JUDGMENT OF GUILTY against the Defendant as to Count TWO.

SIGNED this **16th day of August, 2024**.

DAVID COUNTS
UNITED STATES DISTRICT JUDGE

# APPENDIX E

**FINAL JUDGMENT OF THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS, PECOS DIVISION, ENTERED ON JANUARY 30, 2025**

# UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
PECOS DIVISION

UNITED STATES OF AMERICA

v.

Case Number: 4:24-CR-00088(3) DC
USM Number: 06055-511

**PATRICK DWAYNE ADAMS**
Alias(es):
**AKA** Patrick Adams.; **AKA** P Adams.; **AKA** Patrick Dewayne Adams.; **AKA** Patrick D Adams.;
Defendant.

## JUDGMENT IN A CRIMINAL CASE
**(For Offenses Committed On or After November 1, 1987)**

The defendant, Patrick Dwayne Adams, was represented by Walter E. Herman, III.

The defendant pled guilty to Count(s) 2, of the Indictment on August 1, 2024. Accordingly, the defendant is adjudged guilty of such Count(s), involving the following offense(s):

| Title & Section | Nature of Offense | Offense Ended | Count(s) |
|---|---|---|---|
| 21 U.S.C. §§ 841(a)(1) & (b)(1)(B) and 18 U.S.C. § 2 | Possession with Intent to Distribute Marijuana, Aiding and Abetting | March 19, 2024 | 2 |

As pronounced on January 24, 2025, the defendant is sentenced as provided in pages 2 through 6 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

On motion of the United States, the Court has dismissed all remaining counts with prejudice.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid. If ordered to pay restitution, the defendant shall notify the Court and United States Attorney of any material change in the defendant's economic circumstances.

Signed this 30th day of January, 2025.

David Counts
United States District Judge

DEFENDANT: PATRICK DWAYNE ADAMS
CASE NUMBER: 4:24-CR-00088(3) DC

## IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a term of **Seventy-One (71) months** with credit for time served while in custody for this federal offense pursuant to 18 U.S.C. § 3585(b).

The defendant shall remain in custody pending service of sentence.

## RETURN

I have executed this judgment as follows:

_____

_____

_____

_____

Defendant delivered on _____ to _____

at _____ with a certified copy of the Judgment.

_____
United States Marshal

DEFENDANT: PATRICK DWAYNE ADAMS
CASE NUMBER: 4:24-CR-00088(3) DC

## SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of **Five (5) years**.

While on supervised release, the defendant shall comply with the mandatory, standard and if applicable, the special conditions that have been adopted by this Court and shall comply with the following additional conditions:

The defendant shall participate in a substance abuse treatment program and follow the rules and regulations of that program. The program may include testing and examination during and after program completion to determine if the defendant has reverted to the use of drugs. The probation officer shall supervise the participation in the program (provider, location, modality, duration, intensity, etc.). During treatment, the defendant shall abstain from the use of alcohol and any and all intoxicants. The defendant shall pay the costs of such treatment if financially able.

The defendant shall submit his or her person, property, house, residence, vehicle, papers, computers (as defined in 18 U.S.C. § 1030(e)(1)), other electronic communications or data storage devices or media, or office, to a search conducted by a United States probation officer. Failure to submit to a search may be grounds for revocation of release. The defendant shall warn any other occupants that the premises may be subject to searches pursuant to this condition. The probation officer may conduct a search under this condition only when reasonable suspicion exists that the defendant has violated a condition of supervision and that the areas to be searched contain evidence of this violation. Any search shall be conducted at a reasonable time and in a reasonable manner.

DEFENDANT: PATRICK DWAYNE ADAMS
CASE NUMBER: 4:24-CR-00088(3) DC

# CONDITIONS OF SUPERVISED RELEASE

**(As Amended November 28, 2016)**

It is ORDERED that the Conditions of Probation and Supervised Release applicable to each defendant committed to probation or supervised release in any division of the Western District of Texas, are adopted as follows:

Mandatory Conditions:

[1] The defendant shall not commit another federal, state, or local crime during the term of supervision.

[2] The defendant shall not unlawfully possess a controlled substance.

[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 on probation or supervised release and at least two periodic drug tests thereafter (as determined by the court), but the condition stated in this paragraph may be ameliorated or suspended by the court if the defendant's presentence report or other reliable sentencing information indicates low risk of future substance abuse by the defendant.

[4] The defendant shall cooperate in the collection of DNA as instructed by the probation officer, if the collection of such a sample is authorized pursuant to section 3 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. § 14135a).

[5] If applicable, the defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et. seq.) as instructed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which the defendant resides, works, is a student, or was convicted of a qualifying offense.

[6] If convicted of a domestic violence crime as defined in 18 U.S.C. § 3561(b), the defendant shall participate in an approved program for domestic violence.

[7] If the judgment imposes a fine or restitution, it is a condition of supervision that the defendant pay in accordance with the Schedule of Payments sheet of the judgment.

[8] The defendant shall pay the assessment imposed in accordance with 18 U.S.C. § 3013.

[9] The defendant shall notify the court of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution, fines or special assessments.

Standard Conditions:

[1] The defendant shall report to the probation office in the federal judicial district where he or she is authorized to reside within 72 hours of release from imprisonment, unless the probation officer instructs the defendant to report to a different probation office or within a different time frame.

[2] After initially reporting to the probation office, the defendant will receive instructions from the court or the probation officer about how and when to report to the probation officer, and the defendant shall report to the probation officer as instructed.

[3] The defendant shall not knowingly leave the federal judicial district where he or she is authorized to reside without first getting permission from the court or the probation officer.

[4] The defendant shall answer truthfully the questions asked by the probation officer.

DEFENDANT: PATRICK DWAYNE ADAMS
CASE NUMBER: 4:24-CR-00088(3) DC

[5] The defendant shall live at a place approved by the probation officer. If the defendant plans to change where he or she lives or anything about his or her living arrangements (such as the people the defendant lives with), the defendant shall notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, the defendant shall notify the probation officer within 72 hours of becoming aware of a change or expected change

[6] The defendant shall allow the probation officer to visit the defendant at any time at his or her home or elsewhere, and the defendant shall permit the probation officer to take any items prohibited by the conditions of the defendant's supervision that are observed in plain view.

[7] The defendant shall work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses the defendant from doing so. If the defendant does not have full-time employment, he or she shall try to find full-time employment, unless the probation officer excuses the defendant from doing so. If the defendant plans to change where the defendant works or anything about his or her work (such as the position or job responsibilities), the defendant shall notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, the defendant shall notify the probation officer within 72 hours of becoming aware of a change or expected change.

[8] The defendant shall not communicate or interact with someone the defendant knows is engaged in criminal activity. If the defendant knows someone has been convicted of a felony, the defendant shall not knowingly communicate or interact with that person without first getting the permission of the probation officer.

[9] If the defendant is arrested or questioned by a law enforcement officer, the defendant shall notify the probation officer within 72 hours.

[10] The defendant shall not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified, for the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).

[11] The defendant shall not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.

[12] If the probation officer determines that the defendant poses a risk to another person (including an organization), the probation officer may require the defendant to notify the person about the risk and the defendant shall comply with that instruction. The probation officer may contact the person and confirm that the defendant has notified the person about the risk.

[13] The defendant shall follow the instructions of the probation officer related to the conditions of supervision.

[14] If the judgment imposes other criminal monetary penalties, it is a condition of supervision that the defendant pay such penalties in accordance with the Schedule of Payments sheet of the judgment.

[15] If the judgment imposes a fine, special assessment, restitution, or other criminal monetary penalties, it is a condition of supervision that the defendant shall provide the probation officer access to any requested financial information.

[16] If the judgment imposes a fine, special assessment, restitution, or other criminal monetary penalties, it is a condition of supervision that the defendant shall not incur any new credit charges or open additional lines of credit without the approval of the probation officer, unless the defendant is in compliance with the payment schedule.

[17] If the defendant is excluded, deported, or removed upon release on probation or supervised release, the term of supervision shall be a non-reporting term of probation or supervised release. The defendant shall not illegally re-enter the United States. If the defendant is released from confinement or not deported, or lawfully re-enters the United States during the term of probation or supervised release, the defendant shall immediately report in person to the nearest U.S. Probation Office.

DEFENDANT: PATRICK DWAYNE ADAMS
CASE NUMBER: 4:24-CR-00088(3) DC

# CRIMINAL MONETARY PENALTIES/SCHEDULE

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth. Unless the Court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. Criminal Monetary Penalties, except those payments made through Federal Bureau of Prisons' Inmate Financial Responsibility Program shall be paid through the Clerk, United States District Court, 410 S. Cedar Street, Pecos, TX 79772 or online by Debit (credit cards not accepted) or ACH payment (direct from Checking or Savings Account) through pay.gov (link accessible on the landing page of the U.S. District Court's Website). **Your mail-in or online payment must include your case number in the exact format of DTXW424CR000088-003 to ensure proper application to your criminal monetary penalty.**

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

| | Assessment | Restitution | Fine | AVAA Assessment* | JVTA Assessment** |
|---|---|---|---|---|---|
| TOTAL: | $100.00 | $0.00 | $0.00 | $0.00 | $0.00 |

## Special Assessment

It is ordered that the defendant shall pay to the United States a special assessment of **$100.00.**

## Fine

The fine is waived because of the defendant's inability to pay.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column above. However, pursuant to 18 U.S.C. § 3664(i), all non-federal victims must be paid before the United States is paid.

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. §3614.

The defendant shall pay interest on any fine or restitution of more than $2,500.00, unless the fine or restitution is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. §3612(f). All payment options may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. §3612(g).

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

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.
** Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.
*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

# APPENDIX F

## EXCERPTS FROM PETITIONER'S REARRAIGNMENT BEFORE THE MAGISTRATE JUDGE ON AUGUST 1, 2024

**IN THE UNITED STATES DISTRICT COURT**
**FOR THE WESTERN DISTRICT OF TEXAS**
**PECOS DIVISION**

| | |
|---|---|
| UNITED STATES OF AMERICA, | PE:24-CR-00088(3)-DC |
| Plaintiff, | |
| v. | PECOS, TEXAS |
| PATRICK DWAYNE ADAMS, | |
| Defendant. | AUGUST 1, 2024 |

**********
TRANSCRIPT OF REARRAIGNMENT AND PLEA HEARING
BEFORE THE HONORABLE DAVID B. FANNIN
**********

APPEARANCES:

FOR THE PLAINTIFF: KEVIN CAYTON
UNITED STATES ATTORNEY'S OFFICE
2500 NORTH HIGHWAY 118, SUITE A200
ALPINE, TEXAS 79830

FOR THE DEFENDANT: WALTER E. HERMAN, III
LAW OFFICE OF W.E. (RUSTY) HERMAN
PO BOX 252
ALPINE, TEXAS 79831

TRANSCRIBER: ARLINDA RODRIGUEZ, CSR
501 WEST 5TH STREET, SUITE 4152
AUSTIN, TEXAS 78701
(512) 391-8791

Proceedings recorded by electronic sound recording, transcript produced by computer.

influence of any type of drug, medication, or alcoholic beverage?

THE DEFENDANT: No, sir.

THE COURT: And, Mr. Adams, have you discussed with your attorney the specific charge that you're pleading guilty to today?

THE DEFENDANT: Yes, sir.

THE COURT: Okay. You're about to plead guilty to Count Two of a two-count indictment. Count Two charges that on or about March 19, 2024, in the Western District of Texas, that you and two other individuals, aiding and abetting one another, did unlawfully, knowingly, and intentionally possess with intent to distribute a controlled substance, that controlled substance being 100 -- more than 100 kilograms of a mixture our substance containing marijuana, marijuana being a Schedule I controlled substance.

Do you understand this charge against you, sir?

THE DEFENDANT: Yes, sir.

THE COURT: The range of punishment for this offense is a minimum of five years imprisonment to a maximum of 40 years imprisonment, a fine not to exceed -- not to exceed $5 million, a term of supervised release of at least four years, and a $100 mandatory special assessment.

Do you understand this range of punishment?

THE DEFENDANT: Yes, sir.

THE COURT: And, Mr. Herman, are you confident that Mr. Adams understands the nature of the charge he's pleading guilty to today?

MR. HERMAN: Yes, sir.

THE COURT: And do you agree with my summary of the penalty range that applies to this case?

MR. HERMAN: I do.

THE COURT: And, Mr. Cayton, does the government agree?

MR. CAYTON: Yes, Your Honor.

THE COURT: And, Mr. Adams, as a -- as I've indicated to you, you are facing a term of supervised release, and supervised release is a term of supervision that you are required to serve after completing your term of imprisonment. And the term of supervised release in your case will be at least four years.

Do you understand?

THE DEFENDANT: Yes, sir.

THE COURT: Now, during the time that you are on -- during your term of supervised release, you will be required to comply with a set of conditions that will be explained to you by a probation officer at your sentencing.

the government has against you, you would have the right to testify or to remain silent at your trial, and no guilt could be inferred if you chose not to testify.

You would also have the right to call witnesses who are favorable to your defense and to present evidence that is favorable to your defense, and to compel the attendance of witnesses to your trial by means of subpoenas.

Do you understand these rights?

THE DEFENDANT: Yes, sir.

THE COURT: Now, by pleading guilty you will give up your right to a trial and those other rights that I've just mentioned, and there will be no further trial.

The district judge, after accepting your plea of guilty, will then sentence you on the basis of your guilty plea, after considering the presentence investigation report that will be filed in your case.

Do you understand?

THE DEFENDANT: Yes, sir.

THE COURT: Mr. Adams, is it your intention to give up your right to a trial, and do you wish to enter a plea of guilty today?

THE DEFENDANT: Yes, sir.

THE COURT: Mr. Cayton, will you please read Count Two from the indictment in Mr. Adams' case, and

I'll take his plea.

MR. CAYTON: Yes, Your Honor. That on or about March 19th, 2024, in the Western District of Texas, Defendant Patrick Dwayne Adams, and two other defendants, aiding and abetting one another and others, did unlawfully, knowingly, and intentionally possess with intent to distribute a controlled substance, to wit: more than 100 kilograms of a mixture our substance containing a detectable amount of marijuana, a Schedule I controlled substance, in violation of Title 21, United States Code, Sections 846, 841(a)(1) and (b)(1)(B) and Title 18, USC, Section 2.

THE COURT: And, Mr. Adams, do you understand the -- the charge contained in Count Two of your indictment as read by the U.S. Attorney?

THE DEFENDANT: Yes, sir.

THE COURT: And to count -- to the charge contained in Count Two of your indictment, sir, how do you plead: guilty or not guilty?

THE DEFENDANT: Guilty.

THE COURT: And I would note for the record that 846 is the conspiracy charge, and so does the government move to strike the "in the violation of Section 846"?

MR. CAYTON: So moved, Your Honor. I apologize

# APPENDIX G

## EXCERPTS FROM PETITIONER'S FIRST SENTENCING HEARING BEFORE THE DISTRICT JUDGE ON NOVEMBER 21, 2024

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF TEXAS

PECOS DIVISION

| | |
|---|---|
| UNITED STATES OF AMERICA | * CRIMINAL ACTION NO. |
| | * PE:24-CR-88 |
| VS. | * |
| | * |
| PATRICK DWAYNE ADAMS | * November 21, 2024 |

BEFORE THE HONORABLE DAVID COUNTS
HEARING

APPEARANCES:

| | |
|---|---|
| For the Government: | Kevin Cayton, Esq.<br>Assistant U.S. Attorney<br>2500 N. Hwy. 118, Ste A200<br>Alpine, Texas 79830 |
| For the Defendant: | Walter Herman III, Esq.,<br>P.O. Box 252<br>Alpine, Texas 79831 |
| Court Reporter: | Tamara D. Ross<br>200 E Wall<br>Midland, Texas 79701 |

Proceedings recorded by mechanical stenography, transcript produced by computer-aided transcription.

part in it. He never touched any of the vehicles or touched the marijuana. He was just there to basically -- to help his friend, who he'd known for many, many years since childhood and had convinced him to go along with him. They were just taking a trip to the border, supposedly. And Mr. Adams got into that. Had nothing to do with it. Had no ability to control what was going on. And he had just moved back -- he hadn't even moved to Hobbs, New Mexico. He's living in Lubbock. He's got a relationship there with a child and a stepchild. And he had gone back to Hobbs, New Mexico simply to pick up an old car to take it back to Lubbock, where he was living. And his friend got ahold of him and drug him into this deal.

We ask the Court to consider what the Government stated in their 3553 motion: That somewhere in the range of 60, 70 months is probably appropriate. It's more than the other guy got who was the leader of the band, but it also takes into affect (sic) his criminal history.

THE COURT: Mr. Adams, what would you like to say?

THE DEFENDANT: I told my lawyer I just want to probate (sic) my plan and go to trial.

THE COURT: Oh, good. Okay. Good. We

need a trial in December. Excellent. Is that what you want to do?

THE DEFENDANT: Yes.

THE COURT: So here's what I'll do: I'll reset the case. Mr. Herman, file a motion to withdraw the guilty plea, setting out the Carr factors. The Court will decide if you're allowed to withdraw your plea. The Court's accepted your plea, so you don't have the right to withdraw it without the Court's granting it. Okay? And I'll take a look at it. All right? So we'll reset you. I'm not going to set a date right now, but -- well, tell you what. Let's reset it for trial. We'll do that in December. Got to have a Christmas trial. That would be great. Haven't had one in the few years. That would be good.

So then Mr. Herman, I'd like your motion to withdraw the plea filed -- this is Thursday -- by next Wednesday, which would be the day before Thanksgiving. Just by close of business that day, which is the twenty, what? Seventh?

DEPUTY CLERK: 27th.

THE COURT: 27th. And then the Government can respond by Monday -- by close of business on Monday. Is that December, Yvette?

DEPUTY CLERK: December 2nd.

# APPENDIX H

## EXCERPTS FROM PETITIONER'S SECOND SENTENCING HEARING BEFORE THE DISTRICT JUDGE ON DECEMBER 19, 2024

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF TEXAS

PECOS DIVISION

| | |
|---|---|
| UNITED STATES OF AMERICA | * CRIMINAL ACTION NO.<br>* PE:24-CR-88 |
| VS. | * |
| PATRICK DWAYNE ADAMS | * December 19, 2024 |

BEFORE THE HONORABLE DAVID COUNTS
HEARING

APPEARANCES:

| | |
|---|---|
| For the Government: | Kevin Cayton, Esq.<br>Assistant U.S. Attorney<br>2500 N. Hwy. 118, Ste A200<br>Alpine, Texas 79830 |
| For the Defendant: | Walter Herman III, Esq.,<br>P.O. Box 252<br>Alpine, Texas 79831 |
| Court Reporter: | Tamara D. Ross<br>200 E Wall<br>Midland, Texas 79701 |

Proceedings recorded by mechanical stenography, transcript produced by computer-aided transcription.

PROCEEDINGS

THE COURT: The Court calls -- recalls United States V Patrick Dwayne Adams, for Pecos 24-CR-88. Going to recall it from last month. We continued this hearing. For the Government?

MR. CAYTON: Kevin Cayton on behalf of the United States.

MR. HERMAN: Walter Herman on behalf of Mr. Adams.

THE COURT: And you're Patrick Dwayne Adams?

THE DEFENDANT: Yes, sir.

THE COURT: All right. Mr. Herman, you continue to believe your client to be competent?

MR. HERMAN: Yes, I do.

THE COURT: Which I believe he is as well. All right. Let's go back to where we ended up last month. And I told you -- and thanks to Miss Ross, I have a copy of the transcript of that hearing if I need to refer to it. But I told everyone I made rulings on the objections. There were objections from the Defense as to the Career Offender enhancement and the conviction that Defense believes is too old. I overruled those. The Government objected. I overruled their objection. They made a motion for downward

departure, I think, I guess is still pending. I may have ruled on it, but we'll just say it's still pending. You can re-urge it.

MR. CAYTON: I don't know if it was specifically a downward departure, or a 3553 motion.

THE COURT: Okay. Varies down. Okay. So that's where we were. So then I gave you all time, and you did -- thank you -- to make a motion to withdraw Mr. Adams' guilty pleas. Mr. Adams -- once we got all that done, I asked Mr. Adams if he had anything to say, and he said I told my lawyer I want to withdraw my plea. So that set us back on that course, which is perfectly fine. I'm glad you said something, Mr. Adams. And so we've got all that accomplished.

The Court has entered an order. I don't have a copy of it in front of me. I can pull it up if we need it. But I entered an order denying the motion to withdraw for the fact that it does not -- in this Court's opinion, does not meet the Carr factors that would be required for the Court to consider withdrawal or to allow withdraw. I did consider it.

Let's go back to where we were, or where we currently stand then, is that the Court has reviewed the Presentence Investigation Report prepared by U.S. Probation Officer Mason Bejarano. I find the report to

be accurate. I adopt it and the application of the United States sentencing guidelines contained in the report. So where we are is that Mr. Adams' calculated guidelines are at total offense level 31. Criminal history category 6. The guideline range for custody is 188 to 235 months. Four to five years supervised release. You're ineligible for probation. $30,000 to $5 million fine that's available. A $100 mandatory special assessment pursuant to the Victims of Crime Act.

The Government's -- I think the Government's motion was that the Court reduce his offense level basically to a 19, and criminal history category 5, which would put him at 57 to 71 months. Mr. Cayton, does that sound right? Those are my notes.

MR. CAYTON: Your Honor, I don't have the motion in front of me. Mr. Greenbaum filed it. Mr. Herman is telling me that that is correct, based upon Mr. Greenbaum's motion.

THE COURT: Well, he and I got that somewhere. Oh, here it is.

MR. CAYTON: I accept the Court's --

THE COURT: That's right. And I think I told you, Mr. Herman, at the time -- I don't know if I thought it, or if I -- maybe I just thought it and

drug-related. And he's gotten over that, I hope.

THE COURT: Well, but this is a drug case. I mean --

MR. HERMAN: Yes.

THE COURT: -- I don't think he's gotten over it. Maybe he's gotten over a personal addiction or something, but --

MR. HERMAN: Yes, he has.

THE COURT: Is that what you mean? Okay.

MR. HERMAN: And the fact that he was just a minor player in this one.

THE COURT: A minor player, but a Career Offender. I mean --

MR. HERMAN: I know.

THE COURT: Mr. Adams, that's the tough part, is that it's what you bring with you. And the sentencing guidelines -- God bless them. I didn't come up with them. I never dreamt of anything like this. They came up with them in 1984. They continue to adjust them. They continue to make them more lenient, I think. And I think that's just an honest reading of them. And certainly an honest reading of this most recent committee's work. But you're still a Career Offender under those, if I have read it right.

Now, the Appellate Court may say no, you

read it wrong, Judge, and send it back. But I find -- it appears to me you're a Career Offender. And that's all on the record, and we've gone through all that. So that's kind of where we stand. You might be the most lenient -- or the least culpable of the three of you in this case, but you're also the Career Offender. I mean, the other two were sentenced appropriately under the guidelines. And so that's where your guidelines stand right now. So that's kind of where we find ourselves. What would you like to say, Mr. Adams?

THE DEFENDANT: Your Honor, just being honest, I was just riding with a friend. I didn't know nothing about this.

THE COURT: Well, you entered a guilty plea, stating that you did something about it. You didn't say I was just riding with a friend. Right?

THE DEFENDANT: When I entered that guilty plea, I was told something different. They told me they were going to give me 36 to 47 months. This is what they told me.

THE COURT: Okay. But you were also told that nobody could tell you exactly what your guidelines were going to be. Right? That's on the record, and -- do you recall that?

THE DEFENDANT: No.

# APPENDIX I

## EXCERPTS FROM PETITIONER'S THIRD SENTENCING HEARING BEFORE THE DISTRICT JUDGE ON JANUARY 24, 2025

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF TEXAS

PECOS DIVISION

| | |
|---|---|
| UNITED STATES OF AMERICA | * CRIMINAL ACTION NO. |
| | * PE:24-CR-88 |
| VS. | * |
| | * |
| PATRICK DWAYNE ADAMS | * January 24, 2025 |

BEFORE THE HONORABLE DAVID COUNTS
SENTENCING

APPEARANCES:

| | |
|---|---|
| For the Government: | Scott Greenbaum and Kevin Cayton, Esq., Assistant U.S. Attorneys<br>2500 N. Hwy. 118, Ste A200<br>Alpine, Texas 79830 |
| For the Defendant: | Walter Herman III, Esq.,<br>P.O. Box 252<br>Alpine, Texas 79831 |
| Court Reporter: | Tamara D. Ross<br>200 E Wall<br>Midland, Texas 79701 |

Proceedings recorded by mechanical stenography, transcript produced by computer-aided transcription.

THE COURT: He received acceptance of responsibility, minus three levels, which -- I question now that he's lied to the Court, frankly, and misrepresented what you told him. And so my thought would be that a more appropriate guideline range for him would be something below the Armed Career Criminal guidelines, but above what the Government now requests because of the -- What I have concerns with is the acceptance of responsibility. He's done nothing to show me acceptance of responsibility. In fact, he even told me I was just riding -- I just caught a ride with a friend. That's all I did.

MR. GREENBAUM: Judge, I wanted to also put some testimony in regards to that as well, Your Honor, in regards to that narrative to dispute that claim that he was just riding with a friend. So I had the Case Agent here, along with two other agents as well.

THE COURT: So Mr. Herman, does your client still dispute that he's guilty of this crime?

(Pause in the proceedings.)

MR. HERMAN: No, Judge. He doesn't dispute that he was in the vehicle.

THE COURT: Okay. Well, he's in the vehicle, but that's -- again, he told me I just caught

a ride with a friend. Next thing I know -- the reason it got to me is because he entered a guilty plea. Right? I mean --

MR. HERMAN: Yeah.

THE COURT: -- catching a ride with a friend, your presence alone isn't enough to make you guilty.

MR. HERMAN: I believe from the beginning, he knew what was going on.

THE COURT: All right. Mr. Greenbaum, go ahead. And I'll allow you to briefly call --

MR. GREENBAUM: Yes, Your Honor. I have three agents. I'll try to make them brief on all three, Your Honor.

THE COURT: Okay.

MR. GREENBAUM: At this time, Your Honor, the Government would like to call Agent Raven Woody to the stand.

THE COURT: Agent Woody, come on up. Thank you. We're going to use this as your stand today -- the witness stand. Raise your right hand.

RAVEN WOODY,

having been first duly sworn,

was examined and testified as follows:

THE WITNESS: I do.

would you like to say?

THE DEFENDANT: I just want -- I don't have nothing to say, Your Honor. I apologize if you feel like I was lying to you, but I do accept my wrong. You know what I'm saying? I was in the car with my friends, and we did ride out there, and I'm in some trouble.

THE COURT: You're still minimizing, aren't you? I mean, you just can't help it. It's not within your being, your fiber, to say I did this, I was involved in it, I helped plan it, or I got involved later if they planned it. You can't go into any of that. You've got to say, look. I did -- I did catch a ride with them, and I was there with them.

THE DEFENDANT: They planned this. I just -- I got in the car with them. And before I knew it, I was in this trouble. That's what -- I'm being honest.

THE COURT: Sounds like one of my kids when they were little.

THE DEFENDANT: I'm being honest with you.

THE COURT: How old are you, man?

THE DEFENDANT: I'm 46.

THE COURT: Wouldn't know it to listen to

you.

THE DEFENDANT: I'm being honest.

THE COURT: No.

THE DEFENDANT: Before I knew it, I was in this trouble.

THE COURT: That's what I try to tell my wife sometimes, but -- I don't know. That doesn't fly with her either. All right. I'm done listening to you, unless you've got more you want to talk about. Anything you want to talk about? You just tell me.

THE DEFENDANT: No, sir. I just want to apologize to you. That's all I'm doing. I'm apologizing.

THE COURT: Let me give you a little advice: Next time you're in front of a Judge -- and from your history, you will be. I mean, that -- no doubt in my mind. You will be. I hate it for you, but don't lie to me. Okay? Don't lie to that Judge. Don't lie to your lawyer. I don't think it's good to lie to anybody, but you really shouldn't.

THE DEFENDANT: That's why I say I apologize to you.

THE COURT: You said you apologize if I feel like you lied to me.

THE DEFENDANT: I apologize.

# EXHIBIT J

# INDICTMENT

FILED
4/11/2024

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
By: CO
Deputy

**UNITED STATES DISTRICT COURT**
**WESTERN DISTRICT OF TEXAS**
**PECOS DIVISION**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v**

**(1) ANDREW JAMES LUONG,**
**(2) ERIC TYRONE FRANKLIN, &**
**(3) PATRICK DWAYNE ADAMS,**

**Defendants.**

**Case No: 4:24-CR-00088**

**INDICTMENT**

**COUNT 1: 21 U.S.C. § 846, 841(a)(1) & (b)(1)(B), Conspiracy to Possess with Intent to Distribute Marijuana**

**COUNT 2: 21 U.S.C. § 841(a)(1) & (b)(1)(B) & 18 U.S.C. § 2, Possession with Intent to Distribute Marijuana, Aiding and Abetting**

**THE GRAND JURY CHARGES:**

**COUNT ONE**

That on or about March 19, 2024, in the Western District of Texas, Defendants,

**(1) ANDREW JAMES LUONG,**
**(2) ERIC TYRONE FRANKLIN,**
**and**
**(3) PATRICK DWAYNE ADAMS,**

did knowingly and intentionally conspire and agree with other persons known and unknown to the Grand Jurors, to possess with intent to distribute a controlled substance, to wit: more than 100 kilograms of a mixture or substance containing a detectable amount of marijuana, a Schedule I controlled substance, in violation of Title 21, United States Code, Sections 846, 841(a)(1) and (b)(1)(B).

**COUNT TWO**

That on or about March 19, 2024, in the Western District of Texas, Defendants,

**(1) ANDREW JAMES LUONG,**
**(2) ERIC TYRONE FRANKLIN,**
**and**
**(3) PATRICK DWAYNE ADAMS,**

aiding and abetting one another and others, did unlawfully, knowingly, and intentionally possess with intent to distribute a controlled substance, to wit: more than 100 kilograms of a mixture or substance containing a detectable amount of marijuana, a Schedule I controlled substance, in violation of Title 21, United States Code, Sections 846, 841(a)(1) and (b)(1)(B) & Title 18 U.S.C. Section 2.

A TRUE BILL

[redacted]

FOREPERSON OF THE GRAND JURY

**JAIME ESPARZA**
**UNITED STATES ATTORNEY**

BY: _____
Assistant United States Attorney