United States Court of Appeals for the Fifth Circuit

United States Court of Appeals
Fifth Circuit
FILED
August 5, 2026
Lyle W. Cayce
Clerk

No. 25-11283

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

RYAN SCOTT,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 5:24-CR-54-2

UNPUBLISHED ORDER

Before STEWART, RICHMAN, and HAYNES, *Circuit Judges*.

PER CURIAM:

IT IS ORDERED that Appellee's opposed motion to dismiss the appeal is GRANTED. Enforcing the appeal waiver would not result in a miscarriage of justice.

IT IS FURTHER ORDERED that Appellee's opposed motion to extend time to file their brief is DENIED as moot.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

UNITED STATES OF AMERICA, Government, VS. RYAN SCOTT, Defendant.	)))))))	CAUSE NO. 5:24-CR-054-H-02

SENTENCING HEARING
BEFORE THE HONORABLE JAMES WESLEY HENDRIX
UNITED STATES DISTRICT JUDGE

NOVEMBER 6, 2025
LUBBOCK, TEXAS

A P P E A R A N C E S

FOR THE GOVERNMENT:
UNITED STATES ATTORNEY'S OFFICE
1205 TEXAS AVENUE, SUITE 700
LUBBOCK, TEXAS 79401
BY: MATTHEW McLEOD

FOR THE DEFENDANT:
FEDERAL PUBLIC DEFENDER'S OFFICE
1205 TEXAS AVENUE, SUITE 506
LUBBOCK, TEXAS 79401
BY: KRISTEN AYERS

FEDERAL OFFICIAL COURT REPORTER: MECHELLE DANIEL, 1205 TEXAS AVENUE, LUBBOCK, TEXAS 79401, (806) 744-7667.

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY; TRANSCRIPT PRODUCED BY COMPUTER-AIDED TRANSCRIPTION.

MS. AYERS: That's correct, Your Honor.

THE COURT: There were multiple objections that I don't believe were adopted by the addendum regarding the content of the police report, the alleged speculation by a witness, and whether a victim solicited money to not speak to the police. Would you like to be heard further on those? My tentative plan is to make a finding that those aren't required to be resolved because they're not going to affect my sentence, but if you'd like to be heard further, I will hear from you.

MS. AYERS: No, Your Honor, I don't believe that we need to be heard further. They definitely do not impact the guideline range.

THE COURT: Mr. McLeod?

MR. McLEOD: The government agrees.

THE COURT: All right. They will not affect the sentence that I impose. I will not consider those pieces. So under Rule 32(i)(3)(B), I find it unnecessary to resolve those clarifying objections.

You also objected to the restitution amount. Would you like to be heard on that?

MS. AYERS: No, Your Honor. We'll rely on our briefing.

THE COURT: Okay. Mr. McLeod, would you like to be heard?

MR. McLEOD: Briefly, Your Honor.

The victim has no criminal convictions, or even arrests, related to drug offenses. Earlier in the course of this case, another counsel for one of the other defendants provided information that the victim was alleged to have been involved in illegal activity. The government, through its case agent and his connections to local law enforcement, researched whether or not this victim, her brother, or any of the potential witnesses for the government had any connection to drug offenses. That search turned up no results.

So there is no evidence other than screenshots of social media posts and photographs, these not having foundation or context, and they're, therefore, not sufficient to establish that the victim is a drug dealer, as the defendant alleges. The defendant can't be allowed to avoid his responsibility to make this victim whole simply by making unfounded allegations of criminal conduct.

THE COURT: Okay. Thank you, Mr. McLeod.

I'm going to overrule the objection. There's no evidence before the Court that the $4,000 that was stolen from under the victim's bed were illegal drug proceeds. The defendant has provided some briefing and screenshots indicating that the victim might have engaged in illegal activity, but more evidence is needed to connect the $4,000 at issue in this case to any illegal activity.

Additionally, I'll note that, just as a matter of

statutory interpretation, it's not clear that a defendant's otherwise mandatory restitution obligation under the MVRA depends on the way victims obtain the property stolen from them. See, for example, *United States vs. Taylor*. That is a Fourth Circuit case from 2023. It held that the MVRA requires a defendant to make restitution payments even when it's undisputed that the victim obtained stolen property or cash illegally. And, of course, the common-law rule appears to be that restitution is appropriate even for cash or personal property obtained through illicit conduct. That's also discussed in *Taylor* at pages 148 to 49. See also *Ojeikere*, 545 F.3d at 223, explaining that restitution may not be denied simply because the victim had greedy or dishonest motives.

So without a clear foundation, the Court will not invent an exception to the defendant's mandatory restitution obligation, especially in the absence of a sufficient evidentiary foundation.

I believe, Ms. Ayers, that that takes care of your objections and the Court's findings of them. Are there any that I have missed?

MS. AYERS: No, Your Honor.

THE COURT: Any objections from the United States?

MR. McLEOD: No, Your Honor.

THE COURT: Having resolved all objections, the Court adopts the PSR and the PSR addenda's factual findings and

imposition of supervised release, the length of the period that I have announced, and all of the conditions are related to the appropriate statutory considerations, and they impose no greater deprivation of liberty than reasonably necessary under the statute.

I'm going to waive a fine, sir.

But you must pay the mandatory special assessment to the United States of $100. That's due and payable immediately.

You are ordered to make restitution jointly and severally with co-defendants Jaydee Diaz in 5:24-CR-054-1, and Jamarquit Kelly in 5:24-CR-054-3, in the amount of $4,000. Restitution shall be paid to the District Clerk's Office here in Lubbock, Texas, to L.R. in Lubbock, Texas.

Ms. Ayers, do you believe that any additional explanation or findings are required to justify that amount? I know you object to my imposition of it, but do I need to explain anything further as far as the scope of the amount?

MS. AYERS: No, Your Honor.

THE COURT: Mr. McLeod?

MR. McLEOD: No, Your Honor.

THE COURT: Then the government does--then the United States does impose that $4,000. If, upon commencement the term of supervised release, any part of it remains unpaid, sir, you shall make payments on the unpaid balance beginning

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS LUBBOCK DIVISION

UNITED STATES OF AMERICA

v.

RYAN SCOTT

§ **JUDGMENT IN A CRIMINAL CASE**
§
§
§ Case Number: **5:24-CR-00054-H-BV(2)**
§ USM Number: **52821-511**
§ **Kristen Ayers**
§ Defendant's Attorney

THE DEFENDANT:

☐	pleaded guilty to count(s)	
☒	pleaded guilty to count(s) before a U.S. Magistrate Judge, which was accepted by the court.	**2 of the indictment filed June 12, 2024.**
☐	pleaded nolo contendere to count(s) which was accepted by the court	
☐	was found guilty on count(s) after a plea of not guilty	

The defendant is adjudicated guilty of these offenses:

Title & Section / Nature of Offense	**Offense Ended**	**Count**
18 U.S.C. § 1201(a)(1) - KIDNAPPING	01/28/2024	2

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

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

☒ Remaining count(s) are dismissed on the motion of the United States

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

November 6, 2025
Date of Imposition of Judgment

Signature of Judge

James Wesley Hendrix
United States District Judge
Name and Title of Judge

November 6, 2025
Date

25-11283.219

DEFENDANT: RYAN SCOTT
CASE NUMBER: 5:24-CR-00054-H-BV(2)

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

252 months as to count 2. This sentence shall run concurrently with any sentence imposed in Case No. DC-2024-CR-0853, in the 140th Judicial District Court, Lubbock County, Texas.

☒ The court makes the following recommendations to the Bureau of Prisons: Incarceration at FCI El Reno, Oklahoma, or FCI Three Rivers, Texas, if medium security classification, or USP Florence, Colorado, if high security classification.

The Court recommends that, while incarcerated, the defendant receive appropriate substance-abuse and mental-health treatment, but the Court did not lengthen the defendant's prison term to promote rehabilitation. *See Tapia v. United States*, 564 U.S. 319 (2011).

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at ☐ a.m. ☐ p.m. on

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By
DEPUTY UNITED STATES MARSHAL

25-11283.220

DEFENDANT: RYAN SCOTT
CASE NUMBER: 5:24-CR-00054-H-BV(2)

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: **Three (3) years.**

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
   - ☐ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. (*check if applicable*)
4. ☒ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. ☒ You must cooperate in the collection of DNA as directed by the probation officer. (*check if applicable*)
6. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which you reside, work, are a student, or were convicted of a qualifying offense. (*check if applicable*)
7. ☐ You must participate in an approved program for domestic violence. (*check if applicable*)

You must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

DEFENDANT: RYAN SCOTT
CASE NUMBER: 5:24-CR-00054-H-BV(2)

STANDARD CONDITIONS OF SUPERVISION

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

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

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. I understand additional information regarding these conditions is available at www.txnp.uscourts.gov.

Defendant's Signature _____ Date _____

25-11283.222

DEFENDANT: RYAN SCOTT
CASE NUMBER: 5:24-CR-00054-H-BV(2)

SPECIAL CONDITIONS OF SUPERVISION

1. The defendant must not communicate, or otherwise interact, with any known member of the "4 Pockets Full" or "Super Sport Money" gang, without first obtaining the permission of the probation officer.

2. The defendant must not communicate, or otherwise interact, with L.R., either directly or through someone else, without first obtaining the permission of the probation officer.

3. The defendant must provide the probation officer with access to any requested financial information and authorize the release of any financial information, until restitution is paid in full. The probation office may share financial information with the U.S. Attorney's Office.

4. The defendant is ordered to make restitution, jointly and severally with codefendant(s) Jaydee Diaz (01) and Jamarquit Kelly, a/k/a "Baby K" (03) in the amount of $4,000.00. Restitution shall be paid to the U.S. District Clerk, 1205 Texas Avenue, Room 209, Lubbock, Texas 7940-4091 for disbursement to

   L.R.
   $4,000.00

   Restitution is due and payable immediately, but if, upon commencement of the term of supervised release, any part of the $4,000.00 restitution ordered by this judgment remains unpaid, the defendant shall make payments on such unpaid balance at the rate of at least $100.00 per month, the first such payment to be made no later than 60 days after the defendant's release from confinement and another payment to be made on the same of day of each month thereafter until the restitution is paid in full.

5. The defendant shall participate in outpatient mental health treatment services as directed by the probation officer until successfully discharged. These services may include medication prescribed by a licensed physician. The defendant shall contribute to the costs of services rendered (copayment) at a rate of at least $25.00 per month.

6. The defendant shall participate in an outpatient program approved by the probation officer for treatment of narcotic, drug, or alcohol dependency that will include testing for the detection of substance use, abstaining from the use of alcohol and all other intoxicants during and after completion of treatment, and contributing to the costs of services rendered (copayment) at the rate of at least $25.00 per month.

DEFENDANT: RYAN SCOTT
CASE NUMBER: 5:24-CR-00054-H-BV(2)

CRIMINAL MONETARY PENALTIES

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

	Assessment	Restitution	Fine	AVAA Assessment*	JVTA Assessment**
TOTALS	$100.00	$4,000.00	$.00	$.00	$.00

☐ The determination of restitution is deferred until An *Amended Judgment in a Criminal Case (AO245C)* will be entered after such determination.

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

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

Restitution of $4,000.00 to:

L.R.

☐ Restitution amount ordered pursuant to plea agreement $

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

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

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

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

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

DEFENDANT: RYAN SCOTT
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SCHEDULE OF PAYMENTS

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

A ☒ Lump sum payments of $ 4,100.00 due immediately, balance due

☐ not later than , or

☒ in accordance ☐ C, ☐ D, ☒ E, or ☒ F below; or

B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or

C ☐ Payment in equal _____ *(e.g., weekly, monthly, quarterly)* installments of $ _____ over a period of _____ *(e.g., months or years)*, to commence _____ *(e.g., 30 or 60 days)* after the date of this judgment; or

D ☐ Payment in equal 20 *(e.g., weekly, monthly, quarterly)* installments of $ _____ over a period of _____ *(e.g., months or years)*, to commence _____ *(e.g., 30 or 60 days)* after release from imprisonment to a term of supervision; or

E ☒ The defendant is ordered to make restitution, jointly and severally with codefendant(s) Jaydee Diaz (01) and Jamarquit Kelly, a/k/a "Baby K" (03). If, upon commencement of the term of supervised release, any part of the $4,000.00 restitution ordered by this judgment remains unpaid, the defendant shall make payments on such unpaid balance at the rate of at least $100.00 per month, the first such payment to be made no later than 60 days after the defendant's release from confinement and another payment to be made on the same of day of each month thereafter until the restitution is paid in full.

F ☒ Special instructions regarding the payment of criminal monetary penalties:
It is ordered that the Defendant shall pay to the United States a special assessment of $100.00 for Count 2, which shall be due immediately. Said special assessment shall be paid to the Clerk, U.S. District Court.

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

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

☒ Joint and Several
See above for Defendant and Co-Defendant Names and Case Numbers *(including defendant number)*, Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

☐ The defendant shall pay the cost of prosecution.
☐ The defendant shall pay the following court cost(s):
☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

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.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

ment or corrections officer of a State, any political subdivision, or any department, agency, or instrumentality thereof, if a statute of such State requires that, upon the conviction of a defendant in a court of the State or any political subdivision thereof for an offense punishable in such court by death or imprisonment in excess of one year, or a judicial determination of the validity of such conviction on collateral review, the court cause a certified record of the conviction or determination to be made to the repository in such form and containing such information as the Attorney General of the United States shall by regulation prescribe; and

(3) shall be prima facie evidence in any court of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, any political subdivision, or any department, agency, or instrumentality thereof, that the convictions occurred and whether they have been judicially determined to be invalid on collateral review.

(d) The Attorney General of the United States shall give reasonable public notice, and afford to interested parties opportunity for hearing, prior to prescribing regulations under this section.

(Added Pub. L. 91–452, title X, §1001(a), Oct. 15, 1970, 84 Stat. 951, §3578; renumbered §3662, Pub. L. 98–473, title II, §212(a)(1), Oct. 12, 1984, 98 Stat. 1987.)

§ 3663. Order of restitution

(a)(1)(A) The court, when sentencing a defendant convicted of an offense under this title, section 401, 408(a), 409, 416, 420, or 422(a) of the Controlled Substances Act (21 U.S.C. 841, 848(a), 849, 856, 861, 863) (but in no case shall a participant in an offense under such sections be considered a victim of such offense under this section), or section 5124, 46312, 46502, or 46504 of title 49, other than an offense described in section 3663A(c), may order, in addition to or, in the case of a misdemeanor, in lieu of any other penalty authorized by law, that the defendant make restitution to any victim of such offense, or if the victim is deceased, to the victim's estate. The court may also order, if agreed to by the parties in a plea agreement, restitution to persons other than the victim of the offense.

(B)(i) The court, in determining whether to order restitution under this section, shall consider—

(I) the amount of the loss sustained by each victim as a result of the offense; and

(II) the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate.

(ii) To the extent that the court determines that the complication and prolongation of the sentencing process resulting from the fashioning of an order of restitution under this section outweighs the need to provide restitution to any victims, the court may decline to make such an order.

(2) For the purposes of this section, the term ''victim'' means a person directly and proximately harmed as a result of the commission of an offense for which restitution may be ordered including, in the case of an offense that involves as an element a scheme, conspiracy, or pattern of criminal activity, any person directly harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern. In the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, may assume the victim's rights under this section, but in no event shall the defendant be named as such representative or guardian.

(3) The court may also order restitution in any criminal case to the extent agreed to by the parties in a plea agreement.

(b) The order may require that such defendant—

(1) in the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense—

(A) return the property to the owner of the property or someone designated by the owner; or

(B) if return of the property under subparagraph (A) is impossible, impractical, or inadequate, pay an amount equal to the greater of—

(i) the value of the property on the date of the damage, loss, or destruction, or

(ii) the value of the property on the date of sentencing,

less the value (as of the date the property is returned) of any part of the property that is returned;

(2) in the case of an offense resulting in bodily injury to a victim including an offense under chapter 109A or chapter 110—

(A) pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;

(B) pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and

(C) reimburse the victim for income lost by such victim as a result of such offense;

(3) in the case of an offense resulting in bodily injury also results in the death of a victim, pay an amount equal to the cost of necessary funeral and related services;

(4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense;

(5) in any case, if the victim (or if the victim is deceased, the victim's estate) consents, make restitution in services in lieu of money, or make restitution to a person or organization designated by the victim or the estate; and

(6) in the case of an offense under sections 1028(a)(7) or 1028A(a) of this title, pay an

amount equal to the value of the time reasonably spent by the victim in an attempt to remediate the intended or actual harm incurred by the victim from the offense.

(c)(1) Notwithstanding any other provision of law (but subject to the provisions of subsections (a)(1)(B)(i)(II) and (ii),[1] when sentencing a defendant convicted of an offense described in section 401, 408(a), 409, 416, 420, or 422(a) of the Controlled Substances Act (21 U.S.C. 841, 848(a), 849, 856, 861, 863), in which there is no identifiable victim, the court may order that the defendant make restitution in accordance with this subsection.

(2)(A) An order of restitution under this subsection shall be based on the amount of public harm caused by the offense, as determined by the court in accordance with guidelines promulgated by the United States Sentencing Commission.

(B) In no case shall the amount of restitution ordered under this subsection exceed the amount of the fine which may be ordered for the offense charged in the case.

(3) Restitution under this subsection shall be distributed as follows:

(A) 65 percent of the total amount of restitution shall be paid to the State entity designated to administer crime victim assistance in the State in which the crime occurred.

(B) 35 percent of the total amount of restitution shall be paid to the State entity designated to receive Federal substance abuse block grant funds.

(4) The court shall not make an award under this subsection if it appears likely that such award would interfere with a forfeiture under chapter 46 or chapter 96 of this title or under the Controlled Substances Act (21 U.S.C. 801 et seq.).

(5) Notwithstanding section 3612(c) or any other provision of law, a penalty assessment under section 3013 or a fine under subchapter C of chapter 227 shall take precedence over an order of restitution under this subsection.

(6) Requests for community restitution under this subsection may be considered in all plea agreements negotiated by the United States.

(7)(A) The United States Sentencing Commission shall promulgate guidelines to assist courts in determining the amount of restitution that may be ordered under this subsection.

(B) No restitution shall be ordered under this subsection until such time as the Sentencing Commission promulgates guidelines pursuant to this paragraph.

(d) An order of restitution made pursuant to this section shall be issued and enforced in accordance with section 3664.

(Added Pub. L. 97–291, § 5(a), Oct. 12, 1982, 96 Stat. 1253, § 3579; renumbered § 3663 and amended Pub. L. 98–473, title II, § 212(a)(1), (3), Oct. 12, 1984, 98 Stat. 1987, 2010; Pub. L. 98–596, § 9, Oct. 30, 1984, 98 Stat. 3138; Pub. L. 99–646, §§ 8(b), 20(a), 77(a), 78(a), 79(a), Nov. 10, 1986, 100 Stat. 3593, 3596, 3618, 3619; Pub. L. 100–182, § 13, Dec. 7, 1987, 101 Stat. 1268; Pub. L. 100–185, § 12, Dec. 11, 1987, 101 Stat. 1285; Pub. L. 100–690, title VII, § 7042, Nov. 18, 1988, 102 Stat. 4399; Pub. L. 101–647, title XXV, § 2509, title XXXV, § 3595, Nov. 29, 1990, 104 Stat. 4863, 4931; Pub. L. 103–272, § 5(e)(12), July 5, 1994, 108 Stat. 1374; Pub. L. 103–322, title IV, §§ 40504, 40505, Sept. 13, 1994, 108 Stat. 1947; Pub. L. 104–132, title II, § 205(a), Apr. 24, 1996, 110 Stat. 1229; Pub. L. 104–294, title VI, §§ 601(r)(1), (2), 605(*l*), Oct. 11, 1996, 110 Stat. 3502, 3510; Pub. L. 106–310, div. B, title XXXVI, § 3613(c), Oct. 17, 2000, 114 Stat. 1230; Pub. L. 109–59, title VII, § 7128(b), Aug. 10, 2005, 119 Stat. 1910; Pub. L. 110–326, title II, § 202, Sept. 26, 2008, 122 Stat. 3561.)

[1] So in original. Probably should be ''(ii)),''.

Editorial Notes

REFERENCES IN TEXT

The Controlled Substances Act, referred to in subsec. (c)(4), is title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, which is classified principally to subchapter I (§ 801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

AMENDMENTS

2008—Subsec. (b)(6). Pub. L. 110–326 added par. (6).

2005—Subsec. (a)(1)(A). Pub. L. 109–59 inserted ''5124,'' before ''46312,''.

2000—Subsec. (c)(2)(B). Pub. L. 106–310 inserted ''which may be'' after ''fine''.

1996—Subsec. (a)(1). Pub. L. 104–132, § 205(a)(1)(A)–(E), substituted ''(a)(1)(A) The court'' for ''(a)(1) The court'', inserted '', section 401, 408(a), 409, 416, 420, or 422(a) of the Controlled Substances Act (21 U.S.C. 841, 848(a), 849, 856, 861, 863) (but in no case shall a participant in an offense under such sections be considered a victim of such offense under this section),'' before ''or section 46312,'', ''other than an offense described in section 3663A(c),'' after ''title 49'', and '', or if the victim is deceased, to the victim's estate'' before period at end, and added subpar. (B).

Subsec. (a)(1)(A). Pub. L. 104–294, § 601(r)(1), inserted at end ''The court may also order, if agreed to by the parties in a plea agreement, restitution to persons other than the victim of the offense.''

Subsec. (a)(2). Pub. L. 104–132, § 205(a)(1)(F), as amended by Pub. L. 104–294, § 605(*l*), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''For the purposes of restitution, a victim of an offense that involves as an element a scheme, a conspiracy, or a pattern of criminal activity means any person directly harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern.''

Subsec. (c). Pub. L. 104–132, § 205(a)(2), (3), added subsec. (c) and struck out former subsec. (c) which read as follows: ''If the court decides to order restitution under this section, the court shall, if the victim is deceased, order that the restitution be made to the victim's estate.''

Subsec. (c)(4). Pub. L. 104–294, § 601(r)(2), inserted ''or chapter 96'' after ''under chapter 46''.

Subsec. (d). Pub. L. 104–132, § 205(a)(2), (3), added subsec. (d) and struck out former subsec. (d) which read as follows: ''To the extent that the court determines that the complication and prolongation of the sentencing process resulting from the fashioning of an order of restitution under this section outweighs the need to provide restitution to any victims, the court may decline to make such an order.''

Subsecs. (e) to (i). Pub. L. 104–132, § 205(a)(2), struck out subsecs. (e) to (i), relating to provisions for restitution to persons who had compensated victims for their loss as well as offsets for restitution received by victims against amounts later recovered as compensatory damages, court orders that defendant make restitution in specified time period or in specified installments, payment of restitution as condition of probation or of supervised release, enforcement of restitution orders by

United States or by victim, and supervision, termination, or restoration of eligibility for Federal benefits of persons delinquent in making restitution, respectively.

1994—Subsec. (a)(1). Pub. L. 103–272 substituted ''section 46312, 46502, or 46504 of title 49'' for ''under subsection (h), (i), (j), or (n) of section 902 of the Federal Aviation Act of 1958 (49 U.S.C. 1472)''.

Subsec. (b)(2). Pub. L. 103–322, § 40504(1), in introductory provisions, inserted ''including an offense under chapter 109A or chapter 110'' after ''victim''.

Subsec. (b)(3) to (5). Pub. L. 103–322, § 40504(2)–(4), struck out ''and'' at end of par. (3), added par. (4), and redesignated former par. (4) as (5).

Subsec. (i). Pub. L. 103–322, § 40505, added subsec. (i).

1990—Subsec. (a). Pub. L. 101–647, § 2509, designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (f)(4). Pub. L. 101–647, § 3595, substituted ''604(a)(18)'' for ''604(a)(17)''.

1988—Subsec. (h). Pub. L. 100–690 amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: ''An order of restitution may be enforced by the United States in the manner provided in sections 3812 and 3813 or in the same manner as a judgment in a civil action, and by the victim named in the order to receive the restitution in the same manner as a judgment in a civil action.''

1987—Subsec. (f)(4). Pub. L. 100–185 inserted ''or the person designated under section 604(a)(17) of title 28'' after ''Attorney General''.

Subsec. (g). Pub. L. 100–182 substituted ''revoke probation or a term of supervised release,'' for ''revoke probation,'' in two places and inserted ''probation or'' after ''modify the term or conditions of'' in two places.

1986—Subsec. (a). Pub. L. 99–646, § 20(a), which directed that subsec. (a)(1) be amended by inserting '', in the case of a misdemeanor,'' after ''in addition to or'', was executed to subsec. (a) to reflect the probable intent of Congress and the prior amendment to subsec. (a) by Pub. L. 99–646, § 8(b), below.

Pub. L. 99–646, § 8(b), struck out par. (1) designation, and struck out par. (2) which read as follows: ''If the court does not order restitution, or orders only partial restitution, under this section, the court shall state on the record the reasons therefor.''

Subsec. (a)(1). Pub. L. 99–646, § 79(a), substituted ''such offense'' for ''the offense''.

Subsec. (d). Pub. L. 99–646, § 77(a), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''The court shall impose an order of restitution to the extent that such order is as fair as possible to the victim and the imposition of such order will not unduly complicate or prolong the sentencing process.''

Subsec. (h). Pub. L. 99–646, § 78(a), substituted ''in the manner provided for the collection of fines and penalties by section 3565 or by a victim'' for ''or a victim''.

1984—Pub. L. 98–473, § 212(a)(1), renumbered section 3579 of this title as this section.

Subsec. (c). Pub. L. 98–596, § 9(1), substituted ''court'' for ''Court'' after ''If the''.

Subsec. (f)(4). Pub. L. 98–596, § 9(2), added par. (4).

Subsec. (g). Pub. L. 98–473, § 212(a)(3)(A), amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: ''If such defendant is placed on probation or paroled under this title, any restitution ordered under this section shall be a condition of such probation or parole. The court may revoke probation and the Parole Commission may revoke parole if the defendant fails to comply with such order. In determining whether to revoke probation or parole, the court or Parole Commission shall consider the defendant's employment status, earning ability, financial resources, the willfulness of the defendant's failure to pay, and any other special circumstances that may have a bearing on the defendant's ability to pay.''

Subsec. (h). Pub. L. 98–473, § 212(a)(3)(B), amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: ''An order of restitution may be enforced by the United States in the manner provided for the collection of fines and penalties by section 3565 or by a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.''

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–132 to be effective, to extent constitutionally permissible, for sentencing proceedings in cases in which defendant is convicted on or after Apr. 24, 1996, see section 211 of Pub. L. 104–132, set out as a note under section 2248 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–182 applicable with respect to offenses committed after Dec. 7, 1987, see section 26 of Pub. L. 100–182, set out as a note under section 3006A of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 8(b) of Pub. L. 99–646 effective Nov. 1, 1987, see section 8(c) of Pub. L. 99–646, set out as a note under section 3553 of this title.

Amendment by section 20(a) of Pub. L. 99–646 effective Nov. 1, 1987, see section 20(c) of Pub. L. 99–646, set out as a note under section 3556 of this title.

Pub. L. 99–646, § 77(b), Nov. 10, 1986, 100 Stat. 3618, provided that: ''The amendment made by this section [amending this section] shall take effect on the 30th day after the date of the enactment of this Act [Nov. 10, 1986].''

Pub. L. 99–646, § 78(b), Nov. 10, 1986, 100 Stat. 3618, provided that: ''The amendment made by this section [amending this section] shall take effect on the 30th day after the date of the enactment of this Act [Nov. 10, 1986].''

Pub. L. 99–646, § 79(b), Nov. 10, 1986, 100 Stat. 3619, provided that: ''The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [Nov. 10, 1986].''

EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by Pub. L. 98–596 applicable to offenses committed after Dec. 31, 1984, see section 10 of Pub. L. 98–596.

Amendment by section 212(a)(3) of Pub. L. 98–473 effective Nov. 1, 1987, and applicable only to offenses committed after the taking effect of such amendment, see section 235(a)(1) of Pub. L. 98–473, set out as an Effective Date note under section 3551 of this title.

EFFECTIVE DATE

Section effective with respect to offenses occurring after Jan. 1, 1983, see section 9(b)(2) of Pub. L. 97–291, set out as a note under section 1512 of this title.

PROFIT BY A CRIMINAL FROM SALE OF HIS STORY

Pub. L. 97–291, § 7, Oct. 12, 1982, 96 Stat. 1257, required the Attorney General to report, by Oct. 12, 1982, to Congress regarding any laws that are necessary to ensure that no Federal felon derives any profit from the sale of the recollections, thoughts, and feelings of such felon with regards to the offense committed by the felon until any victim of the offense receives restitution.

§ 3663A. Mandatory restitution to victims of certain crimes

(a)(1) Notwithstanding any other provision of law, when sentencing a defendant convicted of an offense described in subsection (c), the court shall order, in addition to, or in the case of a misdemeanor, in addition to or in lieu of, any other penalty authorized by law, that the defendant make restitution to the victim of the offense or, if the victim is deceased, to the victim's estate.

(2) For the purposes of this section, the term ''victim'' means a person directly and proximately harmed as a result of the commission of an offense for which restitution may be ordered including, in the case of an offense that involves as an element a scheme, conspiracy, or pattern of criminal activity, any person directly harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern. In the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, may assume the victim's rights under this section, but in no event shall the defendant be named as such representative or guardian.

(3) The court shall also order, if agreed to by the parties in a plea agreement, restitution to persons other than the victim of the offense.

(4) CLARIFICATION.—In ordering restitution under this section, a court shall order the defendant to make restitution to a person who has assumed the victim's rights under paragraph (2) to reimburse that person's necessary and reasonable—

(A) lost income, child care, transportation, and other expenses incurred during and directly related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense;

(B) lost income, transportation, and other expenses incurred that are directly related to transporting the victim for necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment; and

(C) lost income, transportation, and other expenses incurred that are directly related to transporting the victim to receive necessary physical and occupational therapy and rehabilitation.

(b) The order of restitution shall require that such defendant—

(1) in the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense—

(A) return the property to the owner of the property or someone designated by the owner; or

(B) if return of the property under subparagraph (A) is impossible, impracticable, or inadequate, pay an amount equal to—

(i) the greater of—

(I) the value of the property on the date of the damage, loss, or destruction; or

(II) the value of the property on the date of sentencing, less

(ii) the value (as of the date the property is returned) of any part of the property that is returned;

(2) in the case of an offense resulting in bodily injury to a victim—

(A) pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;

(B) pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and

(C) reimburse the victim for income lost by such victim as a result of such offense;

(3) in the case of an offense resulting in bodily injury that results in the death of the victim, pay an amount equal to the cost of necessary funeral and related services; and

(4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses incurred during participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense.

(c)(1) This section shall apply in all sentencing proceedings for convictions of, or plea agreements relating to charges for, any offense—

(A) that is—

(i) a crime of violence, as defined in section 16;

(ii) an offense against property under this title, or under section 416(a) of the Controlled Substances Act (21 U.S.C. 856(a)), including any offense committed by fraud or deceit;

(iii) an offense described in section 3 of the Rodchenkov Anti-Doping Act of 2019;

(iv) an offense described in section 1365 (relating to tampering with consumer products); or

(v) an offense under section 670 (relating to theft of medical products); and

(B) in which an identifiable victim or victims has suffered a physical injury or pecuniary loss.

(2) In the case of a plea agreement that does not result in a conviction for an offense described in paragraph (1), this section shall apply only if the plea specifically states that an offense listed under such paragraph gave rise to the plea agreement.

(3) This section shall not apply in the case of an offense described in paragraph (1)(A)(ii) or (iii) if the court finds, from facts on the record, that—

(A) the number of identifiable victims is so large as to make restitution impracticable; or

(B) determining complex issues of fact related to the cause or amount of the victim's losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim is outweighed by the burden on the sentencing process.

(d) An order of restitution under this section shall be issued and enforced in accordance with section 3664.

(Added Pub. L. 104–132, title II, § 204(a), Apr. 24, 1996, 110 Stat. 1227; amended Pub. L. 106–310, div. B, title XXXVI, § 3613(d), Oct. 17, 2000, 114 Stat. 1230; Pub. L. 112–186, § 6, Oct. 5, 2012, 126 Stat. 1430; Pub. L. 116–206, § 5, Dec. 4, 2020, 134 Stat. 1000; Pub. L. 118–77, § 2, July 30, 2024, 138 Stat. 1510.)

Editorial Notes

REFERENCES IN TEXT

Section 3 of the Rodchenkov Anti-Doping Act of 2019, referred to in subsec. (c)(1)(A)(iii), is classified to section 2402 of Title 21, Food and Drugs.

AMENDMENTS

2024—Subsec. (a)(4). Pub. L. 118–77 added par. (4).

2020—Subsec. (c)(1)(A)(iii) to (v). Pub. L. 116–206, § 5(1), added cl. (iii) and redesignated former cls. (iii) and (iv) as (iv) and (v), respectively.

Subsec. (c)(3). Pub. L. 116–206, § 5(2), inserted ''or (iii)'' after ''paragraph (1)(A)(ii)'' in introductory provisions.

2012—Subsec. (c)(1)(A)(iv). Pub. L. 112–186 added cl. (iv).

2000—Subsec. (c)(1)(A)(ii). Pub. L. 106–310 inserted ''or under section 416(a) of the Controlled Substances Act (21 U.S.C. 856(a)),'' after ''under this title,''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section to be effective, to extent constitutionally permissible, for sentencing proceedings in cases in which defendant is convicted on or after Apr. 24, 1996, see section 211 of Pub. L. 104–132, set out as an Effective Date of 1996 Amendment note under section 2248 of this title.

§ 3664. Procedure for issuance and enforcement of order of restitution

(a) For orders of restitution under this title, the court shall order the probation officer to obtain and include in its presentence report, or in a separate report, as the court may direct, information sufficient for the court to exercise its discretion in fashioning a restitution order. The report shall include, to the extent practicable, a complete accounting of the losses to each victim, any restitution owed pursuant to a plea agreement, and information relating to the economic circumstances of each defendant. If the number or identity of victims cannot be reasonably ascertained, or other circumstances exist that make this requirement clearly impracticable, the probation officer shall so inform the court.

(b) The court shall disclose to both the defendant and the attorney for the Government all portions of the presentence or other report pertaining to the matters described in subsection (a) of this section.

(c) The provisions of this chapter, chapter 227, and Rule 32(c) of the Federal Rules of Criminal Procedure shall be the only rules applicable to proceedings under this section.

(d)(1) Upon the request of the probation officer, but not later than 60 days prior to the date initially set for sentencing, the attorney for the Government, after consulting, to the extent practicable, with all identified victims, shall promptly provide the probation officer with a listing of the amounts subject to restitution.

(2) The probation officer shall, prior to submitting the presentence report under subsection (a), to the extent practicable—

(A) provide notice to all identified victims of—

(i) the offense or offenses of which the defendant was convicted;

(ii) the amounts subject to restitution submitted to the probation officer;

(iii) the opportunity of the victim to submit information to the probation officer concerning the amount of the victim's losses;

(iv) the scheduled date, time, and place of the sentencing hearing;

(v) the availability of a lien in favor of the victim pursuant to subsection (m)(1)(B); and

(vi) the opportunity of the victim to file with the probation officer a separate affidavit relating to the amount of the victim's losses subject to restitution; and

(B) provide the victim with an affidavit form to submit pursuant to subparagraph (A)(vi).

(3) Each defendant shall prepare and file with the probation officer an affidavit fully describing the financial resources of the defendant, including a complete listing of all assets owned or controlled by the defendant as of the date on which the defendant was arrested, the financial needs and earning ability of the defendant and the defendant's dependents, and such other information that the court requires relating to such other factors as the court deems appropriate.

(4) After reviewing the report of the probation officer, the court may require additional documentation or hear testimony. The privacy of any records filed, or testimony heard, pursuant to this section shall be maintained to the greatest extent possible, and such records may be filed or testimony heard in camera.

(5) If the victim's losses are not ascertainable by the date that is 10 days prior to sentencing, the attorney for the Government or the probation officer shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

(6) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate judge or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.

(e) Any dispute as to the proper amount or type of restitution shall be resolved by the court by the preponderance of the evidence. The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense shall be on the attorney for the Government. The burden of demonstrating the financial resources of the defendant and the financial needs of the defendant's dependents, shall be on the defendant. The burden of demonstrating such other matters as the court deems appropriate shall be upon the party designated by the court as justice requires.

(f)(1)(A) In each order of restitution, the court shall order restitution to each victim in the full amount of each victim's losses as determined by the court and without consideration of the economic circumstances of the defendant.

minister, or otherwise dispose of controlled substances.''

Subsec. (b)(3)(B). Pub. L. 103–200, § 6(2)(A), inserted '', listed chemicals,'' after ''unfinished drugs''.

Subsec. (b)(3)(C). Pub. L. 103–200, § 6(2)(B), inserted ''or listed chemical'' after ''controlled substance'' and ''or chemical'' after ''such substance''.

1990—Subsec. (b)(3)(B). Pub. L. 101–647 substituted ''paragraph (4)'' for ''paragraph (5)''.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

''United States magistrate judge'' and ''magistrate judge'' substituted for ''United States magistrate'' and ''magistrate'', respectively, wherever appearing in subsec. (d) pursuant to section 321 of Pub. L. 101–650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–200 effective on date that is 120 days after Dec. 17, 1993, see section 11 of Pub. L. 103–200, set out as a note under section 802 of this title.

§ 881. Forfeitures

(a) Subject property

The following shall be subject to forfeiture to the United States and no property right shall exist in them:

(1) All controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this subchapter.

(2) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance or listed chemical in violation of this subchapter.

(3) All property which is used, or intended for use, as a container for property described in paragraph (1), (2), or (9).

(4) All conveyances, including aircraft, vehicles, or vessels, which are used, or are intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1), (2), or (9).

(5) All books, records, and research, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this subchapter.

(6) All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance or listed chemical in violation of this subchapter, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this subchapter.

(7) All real property, including any right, title, and interest (including any leasehold interest) in the whole of any lot or tract of land and any appurtenances or improvements, which is used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, a violation of this subchapter punishable by more than one year's imprisonment.

(8) All controlled substances which have been possessed in violation of this subchapter.

(9) All listed chemicals, all drug manufacturing equipment, all tableting machines, all encapsulating machines, and all gelatin capsules, which have been imported, exported, manufactured, possessed, distributed, dispensed, acquired, or intended to be distributed, dispensed, acquired, imported, or exported, in violation of this subchapter or subchapter II.

(10) Any drug paraphernalia (as defined in section 863 of this title).

(11) Any firearm (as defined in section 921 of title 18) used or intended to be used to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1) or (2) and any proceeds traceable to such property.

(b) Seizure procedures

Any property subject to forfeiture to the United States under this section may be seized by the Attorney General in the manner set forth in section 981(b) of title 18.

(c) Custody of Attorney General

Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Attorney General, subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under any of the provisions of this subchapter, the Attorney General may—

(1) place the property under seal;

(2) remove the property to a place designated by him; or

(3) require that the General Services Administration take custody of the property and remove it, if practicable, to an appropriate location for disposition in accordance with law.

(d) Other laws and proceedings applicable

The provisions of law relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws; the disposition of such property or the proceeds from the sale thereof; the remission or mitigation of such forfeitures; and the compromise of claims shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under any of the provisions of this subchapter, insofar as applicable and not inconsistent with the provisions hereof; except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this subchapter by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General, except to the extent that such duties arise from seizures and forfeitures effected by any customs officer.

(e) Disposition of forfeited property

(1) Whenever property is civilly or criminally forfeited under this subchapter the Attorney General may—

(A) retain the property for official use or, in the manner provided with respect to transfers under section 1616a of title 19, transfer the property to any Federal agency or to any

State or local law enforcement agency which participated directly in the seizure or forfeiture of the property;

(B) except as provided in paragraph (4), sell, by public sale or any other commercially feasible means, any forfeited property which is not required to be destroyed by law and which is not harmful to the public;

(C) require that the General Services Administration take custody of the property and dispose of it in accordance with law;

(D) forward it to the Bureau of Narcotics and Dangerous Drugs for disposition (including delivery for medical or scientific use to any Federal or State agency under regulations of the Attorney General); or

(E) transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer—

(i) has been agreed to by the Secretary of State;

(ii) is authorized in an international agreement between the United States and the foreign country; and

(iii) is made to a country which, if applicable, has been certified under section 2291j(b) of title 22.

(2)(A) The proceeds from any sale under subparagraph (B) of paragraph (1) and any moneys forfeited under this subchapter shall be used to pay—

(i) all property expenses of the proceedings for forfeiture and sale including expenses of seizure, maintenance of custody, advertising, and court costs; and

(ii) awards of up to $100,000 to any individual who provides original information which leads to the arrest and conviction of a person who kills or kidnaps a Federal drug law enforcement agent.

Any award paid for information concerning the killing or kidnapping of a Federal drug law enforcement agent, as provided in clause (ii), shall be paid at the discretion of the Attorney General.

(B) The Attorney General shall forward to the Treasurer of the United States for deposit in accordance with section 524(c) of title 28, any amounts of such moneys and proceeds remaining after payment of the expenses provided in subparagraph (A), except that, with respect to forfeitures conducted by the Postal Service, the Postal Service shall deposit in the Postal Service Fund, under section 2003(b)(7) of title 39, such moneys and proceeds.

(3) The Attorney General shall assure that any property transferred to a State or local law enforcement agency under paragraph (1)(A)—

(A) has a value that bears a reasonable relationship to the degree of direct participation of the State or local agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based; and

(B) will serve to encourage further cooperation between the recipient State or local agency and Federal law enforcement agencies.

(4)(A) With respect to real property described in subparagraph (B), if the chief executive officer of the State involved submits to the Attorney General a request for purposes of such subparagraph, the authority established in such subparagraph is in lieu of the authority established in paragraph (1)(B).

(B) In the case of property described in paragraph (1)(B) that is civilly or criminally forfeited under this subchapter, if the property is real property that is appropriate for use as a public area reserved for recreational or historic purposes or for the preservation of natural conditions, the Attorney General, upon the request of the chief executive officer of the State in which the property is located, may transfer title to the property to the State, either without charge or for a nominal charge, through a legal instrument providing that—

(i) such use will be the principal use of the property; and

(ii) title to the property reverts to the United States in the event that the property is used otherwise.

(f) Forfeiture and destruction of schedule I and II substances

(1) All controlled substances in schedule I or II that are possessed, transferred, sold, or offered for sale in violation of the provisions of this subchapter; all dangerous, toxic, or hazardous raw materials or products subject to forfeiture under subsection (a)(2) of this section; and any equipment or container subject to forfeiture under subsection (a)(2) or (3) which cannot be separated safely from such raw materials or products shall be deemed contraband and seized and summarily forfeited to the United States. Similarly, all substances in schedule I or II, which are seized or come into the possession of the United States, the owners of which are unknown, shall be deemed contraband and summarily forfeited to the United States.

(2) The Attorney General may direct the destruction of all controlled substances in schedule I or II seized for violation of this subchapter; all dangerous, toxic, or hazardous raw materials or products subject to forfeiture under subsection (a)(2) of this section; and any equipment or container subject to forfeiture under subsection (a)(2) or (3) which cannot be separated safely from such raw materials or products under such circumstances as the Attorney General may deem necessary.

(g) Plants

(1) All species of plants from which controlled substances in schedules I and II may be derived which have been planted or cultivated in violation of this subchapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the United States.

(2) The failure, upon demand by the Attorney General or his duly authorized agent, of the person in occupancy or in control of land or premises upon which such species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, shall constitute authority for the seizure and forfeiture.

(3) The Attorney General, or his duly authorized agent, shall have authority to enter upon

any lands, or into any dwelling pursuant to a search warrant, to cut, harvest, carry off, or destroy such plants.

(h) Vesting of title in United States

All right, title, and interest in property described in subsection (a) shall vest in the United States upon commission of the act giving rise to forfeiture under this section.

(i) Stay of civil forfeiture proceedings

The provisions of section 981(g) of title 18 regarding the stay of a civil forfeiture proceeding shall apply to forfeitures under this section.

(j) Venue

In addition to the venue provided for in section 1395 of title 28 or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought.

(*l*)[1] Agreement between Attorney General and Postal Service for performance of functions

The functions of the Attorney General under this section shall be carried out by the Postal Service pursuant to such agreement as may be entered into between the Attorney General and the Postal Service.

(Pub. L. 91–513, title II, §511, Oct. 27, 1970, 84 Stat. 1276; Pub. L. 95–633, title III, §301(a), Nov. 10, 1978, 92 Stat. 3777; Pub. L. 96–132, §14, Nov. 30, 1979, 93 Stat. 1048; Pub. L. 98–473, title II, §§306, 309, 518, Oct. 12, 1984, 98 Stat. 2050, 2051, 2075; Pub. L. 99–570, title I, §§1006(c), 1865, 1992, Oct. 27, 1986, 100 Stat. 3207–7, 3207–54, 3207–59; Pub. L. 99–646, §74, Nov. 10, 1986, 100 Stat. 3618; Pub. L. 100–690, title V, §5105, title VI, §§6059, 6074, 6075, 6077(a), (b), 6253, Nov. 18, 1988, 102 Stat. 4301, 4319, 4323–4325, 4363; Pub. L. 101–189, div. A, title XII, §1215(a), Nov. 29, 1989, 103 Stat. 1569; Pub. L. 101–647, title XX, §§2003, 2004, 2007, 2008, Nov. 29, 1990, 104 Stat. 4855, 4856; Pub. L. 102–239, §2, Dec. 17, 1991, 105 Stat. 1912; Pub. L. 103–447, title I, §102(d), Nov. 2, 1994, 108 Stat. 4693; Pub. L. 104–237, title II, §201(b), Oct. 3, 1996, 110 Stat. 3101; Pub. L. 106–185, §§2(c)(2), 5(b), 8(b), Apr. 25, 2000, 114 Stat. 210, 214, 216; Pub. L. 107–273, div. B, title IV, §4002(e)(3), Nov. 2, 2002, 116 Stat. 1810.)

Editorial Notes

REFERENCES IN TEXT

Subchapter II, referred to in subsec. (a)(9), was in the original ''title III'', meaning title III of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1285. Part A of title III comprises subchapter II of this chapter. For classification of Part B, consisting of sections 1101 to 1105 of title III, see Tables.

Schedules I and II, referred to in subsecs. (f) and (g), are set out in section 812(c) of this title.

AMENDMENTS

2002—Subsec. (a)(10). Pub. L. 107–273 substituted ''section 863 of this title'' for ''section 1822 of the Mail Order Drug Paraphernalia Control Act''.

2000—Subsec. (a)(4). Pub. L. 106–185, §2(c)(2), struck out before period at end '', except that—

''(A) no conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of this section unless it shall appear that the owner or other person in charge of such conveyance was a consenting party or privy to a violation of this subchapter or subchapter II of this chapter;

''(B) no conveyance shall be forfeited under the provisions of this section by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or of any State; and

''(C) no conveyance shall be forfeited under this paragraph to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge, consent, or willful blindness of the owner''.

Subsec. (a)(6). Pub. L. 106–185, §2(c)(2), struck out before period at end '', except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner''.

Subsec. (a)(7). Pub. L. 106–185, §2(c)(2), struck out before period at end '', except that no property shall be forfeited under this paragraph, to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner''.

Subsec. (b). Pub. L. 106–185, §5(b), inserted heading and amended text of subsec. (b) generally. Prior to amendment, subsec. (b) authorized the Attorney General to seize property under this subchapter upon process issued pursuant to the Supplemental Rules for Certain Admirality and Maritime claims and to seize it without process in certain described circumstances.

Subsec. (i). Pub. L. 106–185, §8(b), inserted heading and amended text of subsec. (i) generally. Prior to amendment, text read as follows: ''The filing of an indictment or information alleging a violation of this subchapter or subchapter II of this chapter, or a violation of State or local law that could have been charged under this subchapter or subchapter II of this chapter, which is also related to a civil forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the civil forfeiture proceeding.''

1996—Subsec. (a)(2), (6). Pub. L. 104–237, §201(b)(1), inserted ''or listed chemical'' after ''controlled substance''.

Subsec. (a)(9). Pub. L. 104–237, §201(b)(2), substituted ''possessed, distributed, dispensed, acquired, or intended to be distributed, dispensed, acquired,'' for ''possessed, distributed, or intended to be distributed,'' and struck out ''a felony provision of'' after ''in violation of''.

1994—Subsec. (e)(1)(E)(iii). Pub. L. 103–447 substituted ''section 2291j(b) of title 22'' for ''section 2291(h) of title 22''.

1991—Subsec. (e)(1)(B). Pub. L. 102–239, §2(1), substituted ''except as provided in paragraph (4), sell'' for ''sell''.

Subsec. (e)(4). Pub. L. 102–239, §2(2), added par. (4).

1990—Subsec. (a)(10). Pub. L. 101–647, §2007, added par. (10).

Subsec. (a)(11). Pub. L. 101–647, §2008, added par. (11).

Subsec. (e)(1)(B). Pub. L. 101–647, §2003, inserted '', by public sale or any other commercially feasible means,'' after ''sell''.

Subsec. (f). Pub. L. 101–647, §2004, inserted ''; all dangerous, toxic, or hazardous raw materials or products subject to forfeiture under subsection (a)(2) of this sec-

[1] So in original. No subsec. (k) has been enacted.