

Case No. 24-5052

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff–Appellee,

v.

GARRIN MICHAEL THOMPSON,
Defendant–Appellant

On Appeal from the United States District Court
for the Eastern District of Oklahoma
The Honorable John F. Heil III
4:22-CR-00118-JFH

**OPENING BRIEF OF DEFENDANT-APPELLANT
GARRIN MICHAEL THOMPSON**

August 26, 2024

GREGORY M. ACTON
Acton Law Office, PC
6300 Riverside Plaza Ln. NW, Suite 100
Albuquerque, New Mexico 87120
(505) 338-0453

Oral Argument is Requested

TABLE OF CONTENTS

TABLE OF AUTHORITIES	iv
STATEMENT OF PRIOR OR RELATED APPEALS	1
JURISDICTION	1
STATEMENT OF THE ISSUES	2
I. Whether the evidence was sufficient to establish beyond a reasonable doubt that Mr. Thompson’s “efficient and compelling purpose,” or his “dominant” purpose for transporting A.T. in interstate commerce was to engage in unlawful sexual activity.....	2
II. Whether the evidence was sufficient to establish beyond a reasonable doubt that Mr. Thompson is a “non-Indian.”	2
Combined Statement of The Case and Facts	2
1. Count One	3
2. Count Two.....	4
3. Count Three	5
4. Sentencing.....	6
SUMMARY OF ARGUMENT.....	8
ARGUMENT.....	9
1. The standard of review.....	9
2. The evidence was insufficient to establish that Mr. Thompson’s	

efficient and compelling purpose for taking his daughter to her gymnastics competition in Texas was to engage in sexual activity with her9

3. The evidence was insufficient to establish beyond a reasonable doubt that Mr. Thompson is a “non-Indian.”12

CONCLUSION14

STATEMENT OF COUNSEL REGARDING ORAL ARGUMENT15

CERTIFICATE OF COMPLIANCE16

CERTIFICATE OF DIGITAL SUBMISSION AND PRIVACY REDACTIONS16

CERTIFICATE OF SERVICE17

Attachment

United States v. Thompson, Case No. 4:22-CR-00118-JFH
Judgment1

TABLE OF AUTHORITIES

Cases

<i>Singer v. United States</i> , 380 U.S. 24 (1965).....	2
<i>United States v. Cinfuentes-Lopez</i> , 40 F.4th 1215 (10th Cir. 2022)	6
<i>United States v. Lacy</i> , 904 F.3d 889 (10th Cir. 2018).....	10
<i>United States v. Meacham</i> , 115 F.3d 1488 (10th Cir. 1997)	10
<i>United States v. Prentiss</i> , 256 F.3d 971 (10th Cir. 2001)	9
<i>United States v. Simpkins</i> , 90 F.4th 1312 (10th Cir. 2024)	9, 11, 12

Statutes

18 U.S.C. § 1151.....	8
18 U.S.C. § 2422(b).....	7
18 U.S.C. § 3231.....	1
18 U.S.C. § 3742(a)	1
18 U.S.C.A. § 1152	8
18 U.S.C.A. § 2241(c).....	8
18 U.S.C.A. § 2423(a).....	3, 9, 10
28 U.S.C. § 1291.....	1

Rules & Sentencing Guidelines

Fed. R. App. P. 4(b)(1)(I)	1
Fed. R. Evid. 413	3
Fed. R. Evid. 414	4
U.S. SENT’G GUIDELINES MANUAL § 3D1.4 (U.S. SENT’G COMM’N 2023).....	6
U.S. SENT’G GUIDELINES MANUAL § 4B1.5(b)(1) (U.S. SENT’G COMM’N 2023).	6

STATEMENT OF PRIOR OR RELATED APPEALS

There are no prior or related appeals.

JURISDICTION

The United States District Court for the Eastern District of Oklahoma had jurisdiction over this matter pursuant to 18 U.S.C. § 3231. It entered judgment on April 25, 2024. *See* vol. I at 804 (Attachment 1).¹ On April 26, 2024, Mr. Thompson filed a timely notice of appeal under Fed. R. App. P. 4(b)(1)(I). *See id.* at 812. This Court's jurisdiction over this appeal is conferred by 28 U.S.C. § 1291 and 18 U.S.C. § 3742(a).

¹ The record consists of the following volumes: Volume I, Pleadings; Volume II, Sealed Pleadings; Volume III, Sealed Trial Transcripts. The page references herein are to the PDF page numbers in the respective volumes.

STATEMENT OF THE ISSUES

- I. Whether the evidence was sufficient to establish beyond a reasonable doubt that Mr. Thompson’s “efficient and compelling purpose,” or his “dominant” purpose for transporting A.T. in interstate commerce was to engage in unlawful sexual activity.
- II. Whether the evidence was sufficient to establish beyond a reasonable doubt that Mr. Thompson is a “non-Indian.”

COMBINED STATEMENT OF THE CASE AND FACTS

Mr. Thompson was tried and convicted under the Fourth Superseding Indictment² which alleged three counts arising from three separate incidences of alleged sexual abuse.

² At the beginning of trial, Mr. Thompson moved for a bench trial. The district court denied the request. The undersigned does not find this to be a basis for appeal because, while a defendant has a constitutional right to trial by an impartial jury, he does not have a corresponding right to have a trial without a jury. *See Singer v. United States*, 380 U.S. 24, 36 (1965) (“In light of the Constitution's emphasis on jury trial, we find it difficult to understand how the petitioner can submit the bald proposition that to compel a defendant in a criminal case to undergo a jury trial against his will is contrary to his right to a fair trial or to due process. A defendant's only constitutional right concerning the method of trial is to an impartial trial by jury.”)

1. Count One

Count One alleged that Mr. Thompson had transported his minor daughter, A.T., from Oklahoma to Texas for the purpose of engaging in sexual activity with her, in violation of 18 U.S.C. § 2423(a). The evidence at trial established that A.T. had a gymnastics competition in Tyler, Texas in March 2022. (Vol. III at 33, 164.) A.T. would typically go to these competitions with both her mother and her father, Mr. Thompson, (*id.* at 36, 40), but on this occasion Mrs. Thompson had stayed home. Mrs. Thompson herself testified that in the time leading up to the competition she had become “sicker and sicker and sicker” with ulcerative colitis and that she had had Mr. Thompson repeatedly move up the previously scheduled colonoscopy until it ultimately conflicted with the scheduled gymnastics trip. (Vol. III at 233) Hence, on the occasion of this particular trip, Mrs. Thompson was the one who had arranged for her to stay home.

The evidence at trial established that Mr. Thompson had molested his minor children on prior occasions, and so the jury’s belief that Mr. Thompson’s had a propensity to do so is not the subject of this appeal. *See* Fed. R. Evid. 413

and Fed. R. Evid. 414 (permitting propensity evidence in cases of sexual assault and child molestation cases).

The jury instruction for Count One did not ask the jury to decide whether sexual activity was Mr. Thompson’s “dominate” purpose, or whether it was an “efficient and compelling purpose,” or whether it was only an “incidental” purpose; it asked only whether it was his “intent” to engage in sexual activity “at the time of the transportation.” (Vol. I at 286.)

Irrespective of Mr. Thompson’s abhorrent proclivities, the question is whether sufficient evidence was presented from which a reasonable jury could be convinced that Mr. Thompson’s “efficient and compelling purpose” in taking the trip with his daughter, at the time he crossed into the State of Texas, was to engage in sexual activity with her.

2. Count Two

Count Two alleged that Mr. Thompson, as a non-Indian and within Indian Country, had engaged in a sexual act with his daughter, S.T., an Indian child who had not reached the age of 12.

S.T., eighteen years old at the time of trial, testified that when she was about five or six, Mr. Thompson had, in so many words, performed cunnilingus on her. (*See* Vol. III at 81.) She testified that she was an enrolled member of the Creek (Muscogee) Nation tribe and that the incident took place in their home on West Fargo Lane in Broken Arrow, Oklahoma. (*Id.* at 78-80.) The district court determined as a matter of law that Broken Arrow is within Indian Country. (Vol. I at 145, 191, 209, 234, 289.) However, no competent evidence was presented that Mr. Thompson was a non-Indian, as necessary to establish federal jurisdiction.

3. Count Three

Count Three alleged that Mr. Thompson had attempted to persuade or entice his minor brother-in-law to allow him to perform oral sex on him by showing him pornography, masturbating in front of him, showing him a sex toy, and by explicit invitation. The jury heard the testimony of the young man and convicted Mr. Thompson on count three. (*See* Vol. III 97–103.)

4. Sentencing

A presentence report was prepared in which the Guidelines sentencing range was found to be ten years to life for count one, thirty years to life for count two, and ten years to life for count three. (Vol. II at 318.)

Mr. Thompson objected to the presentence report based upon his continued insistence of innocence, upon his position that denying him an adjustment for acceptance of responsibility was an unconstitutional punishment for exercising his right to trial, and upon his assertion that the relevant conduct contained in the presentence report should be subjected to a higher standard of proof (given the consequences) and disputing the facts contained in the report as inconsistent with facts presented at trial. (*See* Vol. II at 301–03.) He also objected to the application of Guideline section 3D1.4 (multiple count adjustment) and 4B1.5(b)(1) (pattern of activity adjustment) on the grounds that applying both guidelines together results in unconstitutional double-counting. (*Id.* at 303.) Mr. Thompson expressly acknowledged that this Court has already rejected this argument in *United States v. Cinfuentes-Lopez*, 40 F.4th 1215 (10th Cir. 2022) (*See* Vol. II at 303.) The undersigned finds the reasoning in *Cinfuentes-*

Lopez to be sound and can devise no good faith argument why it should be overruled.

Mr. Thompson also moved for a downward variance from the Guidelines range to a sentence of thirty years. (Vol. I at 768–786.)

Mr. Thompson appeals only his convictions on counts one and two. Should this Court reverse Mr. Thompson’s convictions of counts one and two, his sentencing range for count three will be based upon an offense level of thirty-seven (i.e., the adjusted offense level for count three (vol. II at 314-15) plus the five level enhancement for a pattern of activity under § 4B1.5(b)(1) (*see id.* at 315.) Thus, with a criminal history category of I (*see id.* at 316), his Guidelines sentencing range will be 210 to 262 months (with a ten year statutory minimum sentence pursuant to 18 U.S.C. § 2422(b)). The maximum sentence will remain life imprisonment, the sentence the district court actually imposed for count three. (*See* JUDGMENT, Attachment 1, Vol. at 804.)

The district court held a sentencing hearing and overruled Mr. Thompson’s objections and denied his motion for a downward variance. (*See* Vol. I at 803.) The court imposed sentences of life imprisonment for each of the three counts of conviction, to run concurrently. (*See* JUDGMENT, Attachment 1,

Vol. at 805.) Judgment was entered on April 25, 2024 (*id.*), and a Notice of Appeal was timely filed on April 26, 2024. (*See* Vol. I at 812.)

SUMMARY OF ARGUMENT

Insufficient evidence was presented from which a reasonable jury could conclude, beyond a reasonable doubt, that Mr. Thompson's efficient and compelling purpose in taking his daughter to a gymnastics competition in Texas was to engage in sexual activity with her. Hence, the sexual conduct was neither his dominant nor efficient or compelling purpose for taking the trip with her, but rather it was an incidental purpose, at most, if not an after-thought. Accordingly, there was insufficient evidence to support Mr. Thompson's conviction on count one, Transportation with Intent to Engage in Criminal Sexual Activity in contravention of 18 U.S.C. § 2423(a),

With respect to count two, Aggravated Sexual Abuse in Indian County contrary to 18 U.S.C. §§ 1151, 1152, and 2241(c), insufficient evidence was presented at trial from which a reasonable jury could conclude beyond a reasonable doubt that Mr. Thompson was a non-Indian. This was an essential element to establish federal jurisdiction under 18 U.S.C. § 1152.

ARGUMENT

1. **The standard of review:**

Both appellate issues presented below argue insufficiency of the evidence to support the convictions. In reviewing a sufficiency argument, this Court “looks at the evidence in the light most favorable to the government and asks whether ‘*any* rational trier of fact could have found that essential element beyond a reasonable doubt.’” *United States v. Simpkins*, 90 F.4th 1312, 1318 (10th Cir. 2024) (emphasis in original) (quoting *United States v. Prentiss*, 256 F.3d 971, 980 (10th Cir. 2001)).

Mr. Thompson preserved both sufficiency issues by making a Rule 29 motion for judgment of acquittal at the close of the government’s evidence based upon “the sufficiency of the evidence.” (*See* Vol. III at 378.)

2. **The evidence was insufficient to establish that Mr. Thompson’s efficient and compelling purpose for taking his daughter to her gymnastics competition in Texas was to engage in sexual activity with her.**

While “‘illicit sexual activity need not be the only purpose for interstate travel’ under § 2423, . . . it must be ‘one of the defendant’s “efficient and

compelling purposes.” *United States v. Lacy*, 904 F.3d 889, 901 (10th Cir. 2018) (quoting *United States v. Meacham*, 115 F.3d 1488, 1495 (10th Cir. 1997)). Put another way, the question is “whether the illicit sexual activity was a dominant purpose for *transporting the minor* in interstate travel.” *See id.* (emphasis in original) (“[W]e believe it would be more accurate—and entirely consistent with our reasoning in *Meacham* and other precedents—to phrase the issue instead” in these terms.)

“Section 2423(a) is concerned not with why a defendant travels, but rather with the question why he transports a minor.” *Id.*; *cf. United States v. Meachum*, 115 F.3d 1488, 1496 (10th 1997) (affirming conviction for commercial trucker who primarily drove his truck for business, where jury could find that one of his dominant purposes for bringing a minor with him on a freight-hauling trip was to sexually molest her.) Thus, had Mr. Thompson had legitimate business in Texas of his own, but brought along his daughter in order to engage in unlawful sexual conduct, the legitimate business purpose would not control. His purpose in bringing his daughter would control.

Here, however, Mr. Thompson’s purpose in bringing his daughter along was indisputably to take her to a pre-scheduled gymnastics competition. He

would have had *no* reason to go without her. That his wife was not present was a circumstance that was not orchestrated by him, but rather occasioned by her insistence in moving up a colonoscopy as soon as possible. (*See* Vol. III at 233) Accordingly, even had Mr. Thompson anticipated that he would attempt illicit conduct on the trip (which is only speculated), the trip would have taken place, regardless. Thus, under no reasonable interpretation of the applicable standard was sexual conduct “one of the efficient and compelling purposes in the mind of” Mr. Thompson for taking his daughter to the gymnastics competition. To hold otherwise would be to hold that *any* intent³ to engage in illicit sexual conduct on interstate travel violates the statute, thus making the standard no standard at all.

Accordingly, because the evidence did not demonstrate that Mr. Thompson’s “dominant” or his “efficient and compelling purpose” for taking

³ It should be noted here that the jury instruction only required the jury to find whether Mr. Thompson had “intent,” i.e., *any* intent, “that A.T. would engage in unlawful sexual activity.” (*See* Vol. I at 286.) Mr. Thompson did not object to the jury instruction. (*See* Vol. III at 389.) Even so, “a challenge to the sufficiency of the evidence is a separate claim of error that “does not rest on how the jury was instructed.” *United States v. Simpkins*, 90 F.4th 1312, 1315 (10th Cir. 2024). If anything, the fact that the jury was given no standard regarding the trip’s purpose makes it more likely that the government failed to meet the applicable standard.

his daughter to the Texas gymnastics competition was to engage in unlawful sex, his conviction for count one must be reversed.

3. The evidence was insufficient to establish beyond a reasonable doubt that Mr. Thompson is a “non-Indian.”

The jury was properly instructed on Count Two that it must find, as the fourth element of the crime, that Mr. Thompson “was a non-Indian.” (*See* Vol. 1 at 287.) This Court has set forth the means by which the Government may prove that a defendant is a non-Indian: “[T]he government can prove that a person is not an Indian by showing that he fails either [of the] prongs” necessary to show that an individual *is* an Indian. *United States v. Simpkins*, 90 F.4th 1312, 1318 (10th Cir. 2024) Those two prongs under § 1152 are that the defendant has “some Indian blood” and is “recognized as an Indian by a tribe or by the federal government.” *Id.*

Here, the government did not even attempt to provide any genetic evidence that Mr. Thompson lacked *any* Indian blood, nor did it attempt to show by competent evidence that he had not been recognized by either a tribe or by the federal government as Indian. Instead, it relied only on the simple,

unsupported statements of two witnesses, Mr. Thompsons' daughter, S.S., and his wife, Holly Thompson.

In response to the question, "Is your father an Indian?," S.S. replied, "No." (Vol. III at 77.) In response to the question, "Is he an Indian," Ms. Thompson responded "No." In response to the follow-up question, "Is he a member of any federally recognized tribe?" she responded "No." (*Id.* at 302.) No evidence was presented that either of these witnesses had taken a particular interest in researching Mr. Thompson's genealogy (questions of hearsay aside), or that they had access to government or tribal records and had searched without success for any recognition of Mr. Thompson as an Indian. Hence, the conclusory statements of these two witnesses, albeit family members, was insufficient as a basis from which a reasonable jury could be convinced beyond a reasonable doubt that Mr. Thompson was not an Indian. It was insufficient to show that he did not have *any* Indian blood. Alternatively, it was insufficient to show that Mr. Thompson was unrecognized by a tribe or by the federal government as an Indian.

Accordingly, the evidence was insufficient to support Mr. Thompsons' conviction on count two, and the conviction must be reversed.

CONCLUSION

For the foregoing reasons, the evidence was insufficient for a reasonable jury to find beyond a reasonable doubt that Mr. Thompson’s “dominate” or “efficient and compelling purpose” in taking his daughter to a gymnastics competition in Texas was to engage in unlawful sexual activity with her.

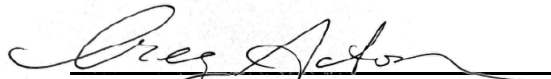
Likewise, the evidence was insufficient for a reasonable jury to find beyond a reasonable doubt that Mr. Thompson is a “non-Indian.”

Accordingly, Mr. Thompson’s convictions on counts one and two must be reversed, and this matter must be remanded for re-sentencing on count three.

STATEMENT OF COUNSEL REGARDING ORAL ARGUMENT

Mr. Thompson respectfully requests oral argument because an oral discussion of the evidence will assist the panel in this appeal.

Respectfully submitted,

A handwritten signature in cursive script, reading "Greg Acton", written over a horizontal line.

Gregory M. Acton

Acton Law Office, PC

6300 Riverside Plaza Ln. NW, Suite 100

Albuquerque, New Mexico 87120

(505) 338-0453

Email: gregoryacton@gmail.com

CERTIFICATE OF COMPLIANCE

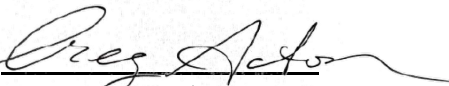
Section 1. Word Count

As required by Fed. R. App. P. 32(a)(7)(B), I certify that this brief is proportionally spaced and contains 2,619 words.

Complete one of the following:

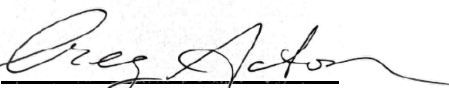
- I relied on my word processor to obtain the count, and it is WordPerfect 2020 version 20.0.0.200.
- I counted five characters per word, counting all characters including citations and numerals.

I certify that the information on this form is true and correct to the best of my knowledge and belief formed after reasonable inquiry.

By: 
Gregory M. Acton

CERTIFICATE OF DIGITAL SUBMISSION AND PRIVACY REDACTIONS

I hereby certify that a copy of the foregoing OPENING BRIEF OF APPELLANT–DEFENDANT GARRIN MICHAEL THOMPSON, as submitted in Digital Form via the Court’s ECF system, is an exact copy of the written document filed with the Clerk and has been scanned for viruses with Bitdefender Internet Security, version 27.0.40.174, virus definition file dated August 26, 2024, and, according to the program, is free of viruses. In addition, I certify all required privacy redactions have been made.

By: 
Gregory M. Acton

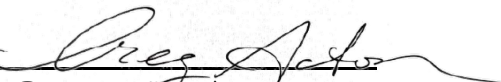
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing OPENING BRIEF OF APPELLANT-DEFENDANT GARRIN MICHAEL THOMPSON was furnished through (ECF) electronic service to the following on this 26th day of August 2023.

Eliot Paul Anderson
Office of United States Attorney
Eastern District of Oklahoma
110 West 7th Street, Suite 300
Tulsa, OK 74119

and by regular mail to:

Garrin Michael Thompson
Reg. No. 96334-509
FCI Pekin
Federal Correctional Institution
P.O. Box 5000
Pekin, IL 61555

By: 
Gregory M. Acton

DEFENDANT: Garrin Michael Thompson
CASE NUMBER: 4:22CR00118-1

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of: Life as to each of Counts One through Three. Said counts shall run concurrently, each with the other.

- The Court makes the following recommendations to the Bureau of Prisons:
The Court recommends the Bureau of Prisons evaluate and determine whether the defendant is a suitable candidate for the most comprehensive mental health treatment program available to you during your term of incarceration, and for placement at the Tucson, Arizona, facility.
- 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

AO 245B (Rev. 10/17) Judgment in a Criminal Case
Sheet 3 — Supervised Release

DEFENDANT: Garrin Michael Thompson
CASE NUMBER: 4:22CR00118-1

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of: Life as to each of Counts One through Three. Said terms shall run concurrently, each with the other.

MANDATORY CONDITIONS

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

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

DEFENDANT: Garrin Michael Thompson
CASE NUMBER: 4:22CR00118-1

STANDARD CONDITIONS OF SUPERVISION

As part of your supervision, 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 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 to 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 the 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 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.
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 in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person, such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may, after obtaining Court approval, notify the person about the risk or 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.

AO 245B (Rev. 10/17) Judgment in a Criminal Case
Sheet 3B — Supervised Release

DEFENDANT: Garrin Michael Thompson
CASE NUMBER: 4:22CR00118-1

SPECIAL CONDITIONS OF SUPERVISION

1. The defendant shall abide by the “Special Sex Offender Conditions” previously adopted by the Court, as follows:
 1. The defendant shall register pursuant to the provisions of the Sex Offender Registration Notification Act (SORNA) (Public Law 109-248) and any applicable state registration law.
 2. The defendant shall participate in and successfully complete sex offender treatment, to include a risk assessment and physiological testing, at a program or by a therapist and on a schedule approved by the probation officer. The defendant shall abide by the rules, requirements, conditions, policies and procedures of the program to include specific directions to undergo periodic polygraph examinations or other types of testing as a means to ensure that the defendant is in compliance with the requirements of his/her supervision or treatment program. The defendant shall waive any right of confidentiality in any treatment or assessment records to allow the probation officer to review the course of treatment and progress with the treatment provider. The defendant may be required to contribute to the cost of services rendered (co-payment) in an amount to be determined by the probation office, based on the defendant’s ability to pay.
 3. Except for immediate family members,¹ the defendant shall have no contact with persons under the age of 18 unless approved by the probation officer. The defendant will immediately report any unauthorized contact with persons under the age of 18 to the probation officer. The defendant will not enter or loiter within 100 feet of schools, parks, playgrounds, arcades, or other places frequented by persons under the age of 18.
 4. The defendant shall not possess or view photographs, images, books, magazines, writings, drawings, videos, or video games depicting or describing sexually explicit conduct or child pornography, as defined in 18 U.S.C. § 2256(2) or § 2256(8), or patronize places where such materials or images are available.
 5. The defendant shall submit his person, property, residence, office, vehicle, papers, computers (as defined in 18 U.S.C. § 1030(e)(1)), electronic communication devices, data storage devices, or media, to a search, conducted by the probation officer at a reasonable time and in a reasonable manner, based on a reasonable suspicion of contraband or evidence of a violation of a condition of release (except as set forth in the Computer and Internet Restriction Condition (Paragraph 7(b)), if imposed). Failure to submit to a search may be grounds for revocation. The defendant shall warn any other occupants that the premises may be subject to searches pursuant to this condition.
 7. The defendant shall abide by the following computer restrictions and monitoring conditions:
 - a. The defendant shall disclose all electronic communications devices, data storage devices, e-mail accounts, internet connections and internet connection devices, including screen names, user identifications, and passwords, to the probation officer; and shall immediately advise the probation officer of any changes in his/her email accounts, connections, devices, or passwords.
 - b. The defendant shall allow the probation officer to install computer monitoring software on any computer, as defined by 18 U.S.C. § 1030(e)(1), that the defendant owns, utilizes or has the ability to access. The cost of remote monitoring software shall be paid by the defendant. To ensure compliance with the computer monitoring condition, the defendant shall allow the probation officer to conduct periodic, unannounced searches of any computer subject to computer monitoring. These searches shall be conducted for the purposes of determining whether the computer contains any prohibited data prior to installation of the monitoring software; to determine whether the monitoring software is functioning effectively after its installation; and to determine whether there have been attempts to circumvent the monitoring software after its installation. Additionally, the defendant shall warn other people who use these computers that the computers may be subject to searches pursuant to this condition.
 - c. The defendant shall not access any on-line service using an alias, or access any on-line service using the internet account, name, or designation of another person or entity; and shall report immediately to the probation officer access to any internet site containing prohibited material.
 - d. The defendant is prohibited from using any form of encryption, cryptography, stenography, compression, password protected files or other methods that limit access to, or change the appearance of, data and/or images.

¹ “Immediate family member” is defined as siblings, children, grandchildren, persons to whom the offender stands in *loco parentis*, and persons living in the offender’s household and related by blood or marriage.

AO 245B (Rev. 10/17) Judgment in a Criminal Case
Sheet 3B — Supervised Release

DEFENDANT: Garrin Michael Thompson
CASE NUMBER: 4:22CR00118-1

SPECIAL CONDITIONS OF SUPERVISION

- At the discretion of the probation office, the defendant is prohibited from attempting or having any contact whatsoever with A.T., S.T., C.S., and A.J., directly or indirectly, in person, through others, or by telephone, mail, electronic means, or any other manner, at any time or place unless specifically authorized by the Court and the probation office. The defendant shall remain 100 yards away from them, their place of residence, and their place of employment or school at all times.

U.S. Probation Officer Use Only

A U.S Probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this Judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature _____

Date _____

DEFENDANT: Garrin Michael Thompson
CASE NUMBER: 4:22CR00118-1

SCHEDULE OF PAYMENTS

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

- A Lump sum payment of \$ 300 due immediately, balance due
 not later than _____, or
 in accordance with C, D, E, or F below; or
- B Payment to begin immediately (may be combined with C, D, or F below); or
- C Payment in equal _____ (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 _____ (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 Payment during the term of supervised release will commence within _____ (e.g., 30 or 90 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F Special instructions regarding the payment of criminal monetary penalties:
Any monetary payment is due in full immediately, but payable on a schedule to be determined pursuant to the policy provision of the Federal Bureau of Prisons' Inmate Financial Responsibility Program if the defendant voluntarily participates in this program. If a monetary balance remains, payment is to commence no later than 60 days following release from imprisonment to a term of supervised release in equal monthly payments of \$50 or 10% of net income (take home pay), whichever is greater, over the duration of the term of supervised release and thereafter as prescribed by law for as long as some debt remains. Notwithstanding establishment of a payment schedule, nothing shall prohibit the United States from executing or levying upon property of the defendant discovered before or after the date of this Judgment.

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
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:
Electronics and electronic accessories are forfeited as directed in the Preliminary Order of Forfeiture, Dkt. # 99.

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) JVTAs assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.