NO. _____

In the Supreme Court of the United States

DEVONTE VEASLEY,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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

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APPENDIX

PARRISH KRUIDENIER, L.L.P.
Alexander Smith
Counsel of Record
2910 Grand Avenue
Des Moines, Iowa 50312
Telephone: (515) 284-5737
Facsimile: (515) 284-1704
Email: asmith@parrishlaw.com

COUNSEL FOR PETITIONER

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United States Court of Appeals
For the Eighth Circuit

No. 23-1114

United States of America

Plaintiff - Appellee

v.

Devonte Antonio Veasley

Defendant - Appellant

Appeal from United States District Court
for the Southern District of Iowa - Central

Submitted: November 2, 2023
Filed: April 17, 2024

Before GRUENDER, STRAS, and KOBES, Circuit Judges.

STRAS, Circuit Judge.

Devonte Veasley pleaded guilty to possessing a firearm—a federal offense for someone who is using or addicted to a controlled substance. *See* 18 U.S.C. § 922(g)(3). The question is whether criminalizing this conduct *always* violates the Second Amendment. The answer is no, so we reject Veasley's facial challenge to the statute.

I.

A drug deal went sideways when, rather than going through with it, Veasley pulled out a handgun and shot at his dealer. After the attack, the government charged him with possessing a firearm while "unlawful[ly] us[ing]" a "controlled substance." *Id.*

A month after he pleaded guilty, the Supreme Court decided *New York State Rifle & Pistol Ass'n v. Bruen*, which concluded that a New York law requiring "proper cause" to carry a firearm violated the Second Amendment. 597 U.S. 1, 12–13 (2022). It was inconsistent with "this Nation's historical tradition of firearm regulation." *Id.* at 17.

Inspired by *Bruen*, Veasley asks us to reach the same conclusion about 18 U.S.C. § 922(g)(3), the federal drug-user-in-possession statute. He believes the district court[1] should have allowed him to withdraw his plea or dismissed the indictment. The court did neither, however, leaving him with only one option: challenging the facial constitutionality of the statute. *See United States v. Nunez-Hernandez*, 43 F.4th 857, 860 (8th Cir. 2022) (clarifying that a guilty plea does not foreclose "arguments that a criminal statute underlying a conviction is facially unconstitutional"); *United States v. Seay*, 620 F.3d 919, 922 n.3 (8th Cir. 2010) (explaining why a guilty plea forecloses an as-applied constitutional challenge). His facial challenge is now before us.

II.

Section 922(g)(3) prohibits anyone "who is an unlawful user of or addicted to any controlled substance" from possessing a "firearm or ammunition." 18 U.S.C. § 922(g)(3). The penalties for a violation can be heavy, up to 15 years in prison.

[1]The Honorable Rebecca Goodgame Ebinger, United States District Judge for the Southern District of Iowa.

See id. § 924(a)(8). Even more for career offenders. *See id.* § 924(e). Whether this scheme is constitutional is a legal question subject to de novo review. *See Seay*, 620 F.3d at 923; *see also United States v. Sitladeen*, 64 F.4th 978, 983 (8th Cir. 2023) (reviewing the denial of a motion to dismiss an indictment de novo); *United States v. Seys*, 27 F.4th 606, 610 (8th Cir. 2022) (reviewing the denial of a motion to withdraw a guilty plea for an abuse of discretion).

This is not the first time we have examined § 922(g)(3)'s constitutionality. We have, for example, entertained a Fifth Amendment void-for-vagueness challenge. The statute survived because of a "judicially[ ]created temporal nexus between the gun possession and regular drug use," *United States v. Carnes*, 22 F.4th 743, 748 (8th Cir. 2022) (citation omitted), but we left the door open for as-applied challenges, *see, e.g.*, *United States v. Turner*, 842 F.3d 602, 604–05 (8th Cir. 2016).

Another set of challenges, like the one here, focuses on the Second Amendment. *See, e.g.*, *Seay*, 620 F.3d at 922. A two-part test, based on "text and historical understanding," governs them. *Bruen*, 597 U.S. at 26; *see District of Columbia v. Heller*, 554 U.S. 570, 576–78, 628–32 (2008). Step one provides the textual threshold: does a law prohibit "conduct" that "the Second Amendment's plain text covers"? *Bruen*, 597 U.S. at 17. Crossing that threshold leads to step two, "historical understanding": is "the regulation . . . consistent with this Nation's historical tradition of firearm regulation"? *Id.*; *see Sitladeen*, 64 F.4th at 985. If it is, then the statute "pass[es] constitutional muster." *Bruen*, 597 U.S. at 30.

Constitutional challenges like these come in two varieties. The first is as-applied, which requires courts to examine a statute based on a defendant's individual circumstances. *See United States v. Lehman*, 8 F.4th 754, 757 (8th Cir. 2021). If a frail and elderly grandmother uses marijuana for a chronic medical

condition a day before possessing a gun, for example, the constitutional analysis will consider only those circumstances, not what a different defendant might do.[2]

A facial challenge, the only type still available to Veasley, goes further. As the Supreme Court has explained, "[a] facial challenge is really just a claim that the law or policy at issue is unconstitutional in *all* its applications," regardless of the individual circumstances. *Bucklew v. Precythe*, 587 U.S. 119, 138 (2019) (emphasis added). The stakes are higher in a facial challenge, so the bar goes up as well: there must be, as Veasley acknowledges, "no set of circumstances . . . under which [§ 922(g)(3)] would be valid." *United States v. Salerno*, 481 U.S. 739, 745 (1987); *see Wash. State Grange v. Wash. State Republican Party*, 552 U.S. 442, 449 (2008) (noting that "a facial challenge must fail where the statute has a plainly legitimate sweep" (citation omitted)). If some applications are constitutional, then facially speaking, the statute is too. *See, e.g.*, *United States v. Stephens*, 594 F.3d 1033, 1038 (8th Cir. 2010) (holding that a defendant's "facial challenge . . . fails because . . . . [o]ne can imagine many defendants [to] whom" the statute could constitutionally apply); *Antonyuk v. Chiumento*, 89 F.4th 271, 314 (2d Cir. 2023) (rejecting a facial *Bruen* challenge to a licensing scheme requiring good moral character because "[t]here are applications of the character provision that would be constitutional").

These differences have practical consequences. An as-applied challenge would focus only on Veasley: is applying "the regulation" to *his* conduct "[in]consistent with this Nation's historical tradition of firearm regulation"? *Bruen*, 597 U.S. at 17. To counter a facial challenge, by contrast, all the government must

[2]It is true that we have held that there is no need for "felony-by-felony litigation regarding the constitutionality of" a statute prohibiting the possession of firearms by felons. *United States v. Jackson*, 69 F.4th 495, 502 (8th Cir. 2023). Key to that decision were the "assurances by the Supreme Court" that nothing in *Heller* or *Bruen* "cast doubt on longstanding prohibitions on the possession of firearms by felons." *Id.* at 501–02 (quoting *Heller*, 554 U.S. at 626). Here, by contrast, the Supreme Court has made no such "assurances" about "prohibitions" on drug users and addicts. *Id.*

do is identify constitutional applications—even if they are unrelated to Veasley's conduct—using the same text-and-historical-understanding framework. *See id.* at 33–34; *United States v. Raines*, 362 U.S. 17, 22 (1960) (cautioning courts not to "pronounc[e] an Act of Congress unconstitutional" when constitutional applications exist).

In effect, Veasley is speaking for a range of people. On its face, § 922(g)(3) applies to everyone from the frail and elderly grandmother to regular users of a drug like PCP, which can induce violence. *See United States v. Daniels*, 77 F.4th 337, 355 (5th Cir. 2023) (concluding that a marijuana user's § 922(g)(3) conviction was inconsistent with the history and tradition of firearms regulation); *see also* Mim J. Landry, *Understanding Drugs of Abuse: The Processes of Addiction, Treatment, and Recovery* 108 (1994) ("PCP toxicity may include combative hostility, paranoia, depersonalization, and violence . . . ."). In a prior case, we concluded that a facial challenge could not succeed. *See Seay*, 620 F.3d at 925. *Bruen* has supplemented the analysis, but it has not changed the answer. *See Jackson*, 69 F.4th at 501–06 (undertaking the historical analysis "endorsed by *Bruen*" rather than just relying on two post-*Heller* decisions, *United States v. Adams*, 914 F.3d 602, 607 (8th Cir. 2019) and *United States v. Joos*, 638 F.3d 581, 586 (8th Cir. 2011)); *cf. Sitladeen*, 64 F.4th at 985–87 (concluding that a pre-*Bruen* precedent only remained binding because it "did *exactly*" what "*Bruen* [now] tells us to" (emphasis added)).

III.

In this appeal, we assume that § 922(g)(3) "governs conduct that falls within the plain text of the Second Amendment." *Sitladeen*, 64 F.4th at 985; *see* U.S. Const. amend. II. That is, drug users "are part of 'the people' whom the Second Amendment protects," and "handguns are weapons 'in common use' today." *Bruen*, 597 U.S. at 31–32. So "we proceed to ask whether [§ 922(g)(3)] fits within America's historical tradition of firearm regulation." *Sitladeen*, 64 F.4th at 985.

A.

It makes sense to start with the closest "historical analogue," *Bruen*, 597 U.S. at 30, which is the regulation of intoxicating substances. Alcohol and drug abuse have been "general societal problem[s]," *id.* at 26, for thousands of years. *See* Hanan Hamdi et al., *Early Historical Report of Alcohol Hepatotoxicity in* Minooye Kherad*, a Pahlavi Manuscript in Ancient Persia, 6th Century CE*, 13 Caspian J. Internal Med. 431, 431 (2022) ("[S]everal kinds of alcoholic beverages have been . . . abused by humans for thousands of years . . . . [A]rchaeological and historical evidence revealed that the fermentation of grains into beer . . . dated back about 20,000 years as an ancient custom." (Internal citations omitted)). Colonial times were no exception. *See Bruen*, 597 U.S. at 26. Physician Benjamin Rush, a signer of the Declaration of Independence, recognized that alcohol can be so addictive that some drinkers "can afford scarcely any marks of remission either during the day or the night." Benjamin Rush, *An Inquiry into the Effects of Ardent Spirits upon the Human Body and Mind* 8 (8th ed., Boston, James Loring 1823); *see* Karl Mann et al., *One Hundred Years of Alcoholism: The Twentieth Century*, 35 Alcohol & Alcoholism 10, 10 (2000).

Other drugs were around then too. The use of opioids was common. First introduced in the 17th century, the "formulation known as 'laudanum' (i.e., tincture of opium) . . . incorporate[d] opium along with other ingredients, such as cinnamon, clover, and saffron, in Spanish wine." Enrique Raviña, *The Evolution of Drug Discovery: From Traditional Medicine to Modern Drugs* 11 (2011); *see* J. K. Crellin, *Domestic Medicine Chests: Microcosms of 18th and 19th Century Medical Practice*, 21 Pharmacy in Hist. 122, 126 (1979) (noting that 18th-century medicine chests contained opiates and laudanum). Cannabis was in use too. *See* Martin Booth, *Cannabis: A History* 70 (2003) (describing the widespread use of hemp and recognition of its psychoactive properties). And so were natural hallucinogens. *See generally* Martin Nesvig, *Forbidden Drugs of the Colonial Americas*, *in* The Oxford Handbook of Global Drug History 153–75 (Paul Gootenberg ed., 2022) (discussing the use of ayahuasca, peyote, and hallucinogenic mushrooms in colonial America).

Many of these drugs, and others like them, remain a problem today. When a "challenged regulation [like § 922(g)(3)] addresses a general societal problem that has persisted since the 18th century," like substance abuse, "the lack of a distinctly similar historical regulation addressing that problem is relevant evidence that the challenged regulation is inconsistent with the Second Amendment." *Bruen*, 597 U.S. at 26. "Likewise, if earlier generations addressed the societal problem, but did so through materially different means, that also could be evidence that a modern regulation is unconstitutional." *Id.* at 26–27. Our task is to figure out whether § 922(g)(3) looks like anything that "earlier generations" did to keep firearms out of the hands of drug and alcohol users. *Id.* at 26.

For drinkers, the focus was on the use of a firearm, not its possession. And the few restrictions that existed during colonial times were temporary and narrow in scope. One came from Virginia, which banned "shoot[ing] any gunns at drinkeing." Act XII of Mar. 10, 1655, *reprinted in 1 The Statutes at Large; Being a Collection of All the Laws of Virginia, from the First Session of the Legislature in the Year 1619*, at 401, 401–02 (William Waller Hening ed., New York, R. & W. & G. Bartow 1823). Another from New York, which prohibited firing guns for the three days bracketing New Years, December 31 to January 2, because of the "great Damages" done by those "intoxicated with Liquor." Act of Feb. 16, 1771, ch. 1501, *reprinted in* 5 *The Colonial Laws of New York from the Year 1664 to the Revolution* 244, 244–45 (Albany, James B. Lyon 1894). Disarmament, on the other hand, was not an option.[3] *See Daniels*, 77 F.4th at 345–46 (surveying Founding-era statutes and concluding they were "limited in scope and duration" when it came to guns and alcohol, different from the way § 922(g)(3) operates).

[3]It only became one toward the end of the 19th century. *See, e.g.*, Act of Apr. 3, § 3, 1883 Wis. Sess. Laws 290 (forbidding any person in a "state of intoxication" from going "armed with any pistol or revolver"); Act of Feb. 17, § 1, 1909 Idaho Sess. Laws 6 (prohibiting "hav[ing] or carry[ing]" any "deadly or dangerous weapon" when "intoxicated, or under the influence of intoxicating drinks").

There was even less regulation when it came to drugs. "[T]housands of . . . Americans at the time[] had become dependent on opium," Elizabeth Kelly Gray, *Habit Forming: Drug Addiction in America, 1776-1914*, at 20 (2023), and lawmakers were certainly aware of the problem. Senator John Randolph of Virginia was a user. *See id.* at 20–21. And so was Senator Robert Goodloe Harper's mother-in-law, who died of laudanum dependency. *See id.* at 21. Founding Father Rufus King, also a senator, wrote letters to his doctor lamenting his sister's opium dependency, including how it impaired her ability to care for her children. *Id.* Laudanum even held Thomas Jefferson in its grip for a while after he left the presidency. *See* John M. Holmes, *Thomas Jefferson Treats Himself: Herbs, Physicke, & Nutrition in Early America* 35–36 (1997). In a letter, Jefferson stated that "with care and laudanum I may consider myself in what is to be my habitual state." Letter from Thomas Jefferson to Robey Dunglison (Nov. 17, 1825), *in The Jefferson-Dunglison Letters* 41, 42 (John M. Dorsey ed., 1960).

Despite the widespread use of opium in particular, the government concedes that its "review of early colonial laws has not revealed any statutes that prohibited [firearm] possession" by drug users. In fact, the "general societal problem" of drug addiction did not receive congressional attention until 1909. *See* Smoking Opium Exclusion Act of 1909, Pub. L. No. 60-221, 35 Stat. 614; *see also* Harrison Narcotics Tax Act, Pub. L. No. 63-223, 38 Stat. 785 (1914). And drug use went unmentioned in the National Firearms Act, which Congress passed almost 25 years later. *See* Pub. L. No. 73-474, 48 Stat. 1236 (1934). Instead, it took until 1968, with the passage of § 922(g)(3), for Congress to keep guns away from drug users and addicts.

The lesson here is that disarmament is a modern solution to a centuries-old problem. The fact that "earlier generations addressed the societal problem . . . through materially different means . . . [is] evidence that" disarming *all* drug users, simply because of who they are, is inconsistent with the Second Amendment. *Bruen*, 597 U.S. at 26.

B.

The key word is *all*. As *Bruen* itself recognizes, "the Constitution can, *and must*, apply to circumstances beyond those the Founders specifically anticipated." *Id.* at 28 (emphasis added). Modern synthetic drugs present a "dramatic technological change[]." *Id.* at 27. James Madison never experimented with methamphetamine, Benjamin Franklin did not dabble in PCP, and Thomas Jefferson did not use fentanyl to take the edge off the day. Today's drugs are different than the opiates and cannabis of the past. They are, in a word, "unprecedented." *Id.*

When it comes to regulations "implicating unprecedented societal concerns," *Bruen* is clear that we cannot look at history through a pinhole. *Id.* Rather, we must take "a more nuanced approach," again "reasoning by analogy," to determine whether there is "a well-established and representative historical analogue" that could make § 922(g)(3) constitutional in some of its applications. *Id.* at 27–30; *see Raines*, 362 U.S. at 22. It turns out there is.

1.

Our expanded search begins with the mentally ill. "Obviously, mental illness and drug use are not the same thing. But there is an intuitive similarity" because their behavioral effects overlap. *Daniels*, 77 F.4th at 349; *compare* Tatiana Ramey & Paul S. Regier, *Cognitive Impairment in Substance Use Disorders*, 24 CNS Spectrums 102, 103–05 (2019) (noting that the typical effects of substance abuse are "attentional bias [to] drug seeking," "impairment[] in inhibitory control," "[w]orking memory impairment[]," and "poor decision-making"), *with* Yafen Wang et al., *Cognitive Impairment in Psychiatric Diseases: Biomarkers of Diagnosis, Treatment, and Prevention*, 16 Frontiers Cellular Neuroscience, Nov. 2, 2022, at 2 (listing "notable deficits in the speed of processing, working memory, attention/vigilance, verbal learning, visual learning, reasoning and problem-solving, and social cognition" as manifestations of mental illness). The fact that the analogy works for some, and that the mentally ill sometimes lost their guns, means that § 922(g)(3)

cannot be facially unconstitutional. *See Salerno*, 481 U.S. at 745 (applying the no-set-of-circumstances test).

The legal view of mental illness in the 18th century was different than it is now. Many believed it to be a transitory condition, just like intoxication. As Blackstone put it, "lunatic[s] . . . *had* understanding, but . . . hath lost the use of . . . reason." 1 William Blackstone, Commentaries *294 (emphasis added). The common belief was that they had "lucid intervals" or periods during which they "enjoy[ed] [their] senses." *Id.* Under that view, they were never "looked upon as irrecoverable." Anthony Highmore, *A Treatise on the Law of Idiocy and Lunacy* 104 (London, R. Wilks 1807); *see also id.* at 105 (characterizing lunacy as "periods of imbecility"); 1 Blackstone, Commentaries *294 (explaining that "the law always imagines . . . [their] accidental misfortunes may be removed").

The law described intoxication in the same rudimentary way, with almost identical terminology. Consider Thomas Cooley, who described drunkenness as a form of "temporary insanity." Thomas M. Cooley, *A Treatise on the Constitutional Limitations Which Rest upon the Legislative Power of the States of the American Union* 599 n.2 (2d Ed., Boston, Little, Brown, & Co. 1874). Or Benjamin Rush, who viewed it as a "temporary fit of madness." Rush, *supra*, at 6. The same went for drug addiction, even though the scientific understanding of it was still evolving at the time. *See* Gray, *supra*, at 20 (describing a patient who suffered "[i]nsanity from the use of [o]pium" and ended up institutionalized).

The similarities did not stop there. Just like the intoxicated kept their civil liberties, including the right to possess firearms, the mentally ill frequently did too. Those who posed no danger stayed at home with their families, and their civil liberties remained intact. *See* Gerald N. Grob, *Mad Among Us* 7 (1994) ("Before the American Revolution . . . . [t]he care of the insane remained a family responsibility."); *id.* (explaining that "so long as [family] members could provide the basic necessities of life for afflicted relatives, no other arrangements were required").

Life was different, however, for those who were both mentally ill and dangerous. *See* Albert Deutsch, *Public Provision for the Mentally Ill in Colonial America*, 10 Soc. Serv. Rev. 606, 606 (1936). They "were confined in barred cells in the basement," and "particularly violent individuals" were "restrained . . . using a 'strait-waistcoat' or 'mad shirt,' or heavy arm and leg chains." Lynn Gamwell & Nancy Tomes, *Madness in America* 20 (1995). It should come as no surprise that confinement did not include access to guns. *See* Francis C. Gray, *Prison Discipline in America* 16 (Boston, Charles C. Little & James Brown, 1847) (noting that, in early American jails, "the custom of *garnish* was established and unquestioned; that is, the custom of stripping every new comer of his outer clothing, to be sold for liquor"); Letter from Jonathan Gillet to Family (Dec. 1776), *in Imprisoned in America: Prison Communications: 1776 to Attica*, 3, 3–4 (Cynthia Owen Philip ed., 1973) (providing the account of a Connecticut soldier "made prisoner" who wrote that "they first disarmed me then plundred me of all I had").

Justices of the peace and other officials had a lot of discretion when deciding whether to confine the mentally ill. An early Massachusetts statute empowered "selectmen" to "take care of the" mentally ill to prevent them from "damnify[ing] others." Act of May 3, 1676, *reprinted in* 5 *Records of the Governor & Company of the Massachusetts Bay in New England* 80–81 (Nathaniel V. Shurtleff ed., Boston, William White, 1853). A 1788 New York statute authorized justices of the peace, many of whom had no formal legal training, to "lock[] up" and "chain[]" the "furiously mad" in a "secure place." Act of Feb. 9, 1778 N. Y. Sess. Laws 645; *see* Chester H. Smith, *The Justice of the Peace System in the United States*, 15 Calif. L. Rev. 118, 127 (1927) (noting that "justices of the peace are laymen, that they are not required to be otherwise, and that they are very seldom 'learned in the law'"). And a Connecticut law allowed them to order the confinement of "persons under distraction and unfit to go at large, whose friends do not take care for their safe confinement." Edward Warren Capen, *The Historical Development of the Poor Law of Connecticut* 62–63 (1905).

These colonies and states were not the only ones to do it. It was so common that one manual describing the duties of justices of the peace said that "[a]ny person may justify confining and beating his friend being mad . . . as is proper in such circumstances." James Parker, *Conductor Generalis: Or, the Office, Duty and Authority of Justices of the Peace* 291 (New York, John Patterson 1788); *see* Daniel Davis, *A Practical Treatise upon the Authority and Duty of Justices of the Peace in Criminal Prosecutions* 41 (Boston, Hilliard, Gray, Little, & Wilkins 1828) ("In order to prevent the commission of a crime, any person may lawfully lay hold of a lunatic who is about to commit any mischief . . . ."). In England too, they could "apprehend[]" and "lock[] up" people "disordered in [their] senses" or dangerous "[l]unatic[s]." Henry Care, *English Liberties, or the Free-born Subject's Inheritance* 329 (6th ed. Providence, John Carter 1774).

Initially, the colonies had no place for them. Sometimes, the solution was jail. *See* Deutsch, *supra*, at 608 (explaining that "[i]ncarceration in jail was the common solution"). Other times, building a one-person asylum. In Pennsylvania, for example, the son of a poor man was "bereft of his naturall Senses and [was] turned quyt madd," so a judge ordered "three or four p'sons bee hired to build a [l]ittle [b]lock[-]house at [A]mesland for to put in the . . . madman." *The Record of the Court at Upland in Pennsylvania, 1676 to 1681, and a Military Journal Kept by Major E. Denny, 1781 to 1795*, 102 (Edward Armstrong ed., Philadelphia, J.B. Lippincott & Co. 1860). In Massachusetts, a court placed a woman in a "a litle house 7 foote long & 5 foote wide," which her brother built with funds provided by the town's residents. *Records of the Town of Braintree, 1640 to 1793*, at 26 (Samuel A. Bates ed., Randolph, Daniel H. Buxford 1886).

Mental hospitals later became the norm. In mid-1700s Pennsylvania, people grew tired of having those "disorder'd in their [s]enses . . . wander[ing] about, to the [t]error of their [n]eighbours." Benjamin Franklin, *Some Account of the Pennsylvania Hospital* 3 (I. Bernard Cohen ed., Johns Hopkins Press 1954). Their solution was the creation of the Pennsylvania Hospital, which "confined . . . [p]ersons distemper'd in [m]ind" or "deprived of their rational [f]aculties." *Id.* at 3–

4. Less than two decades later, Virginians established the Eastern State Hospital to house those "deprived of their [s]enses" who "terrif[ied] the [r]est of their [f]ellow [c]reatures" and could not "help themselves." Francis Fauquier, Lieutenant Governor, Va., *The Speech of the Honble Francis Fauquier, Esq; His Majesty's Lieutenant Governour, and Commander in Chief of the Colony and Dominion of Virginia to the General Assembly* 4 (Nov. 6, 1766) (Williamsburg, Purdie and Dixon 1766); *see generally* Norman Dain, *Disordered Minds: The First Century of Eastern State Hospital in Williamsburg, Va., 1766-1866* (1st ed. 1971).

The number of mental hospitals steadily grew from there. "The[y] were not medical facilities designed for treatment; rather, they were intended to separate those suffering from mental illness from the rest of society." Wilbur R. Miller, *The Social History of Crime and Punishment in America: An Encyclopedia* 1080 (2012). Their purpose was "to preserve the peace of the community" from those who posed a danger to others. Alan Dershowitz, *The Origins of Preventive Confinement in Anglo-American Law Part II: The American Experience*, 43 U. Cin. L. Rev. 781, 787–88 (1974); *see United States v. Jackson*, 85 F.4th 468, 476 (8th Cir. 2023) (Stras, J., dissenting from denial of reh'g en banc) (discussing dangerousness). Society's answer to mental illness, in other words, was to lock up anyone who was "dangerous or disturbing to others." Dershowitz, *supra*, at 788.

Confinement led to the loss of liberties. "[T]hose afflicted with mental disease were generally treated as if they had been thereby stripped of all human attributes, together with their rights and privileges as human beings." Deutsch, *supra*, at 607–08. Thomas Cooley put it more bluntly with his observation that "the idiot" and "the lunatic" were "almost universally excluded" from civil liberties "on obvious grounds." Cooley, *supra*, at 29; *see Bruen*, 597 U.S. at 35–36 (explaining how post-ratification history can shed light on the Second Amendment's meaning). Gun rights were no exception.

By the late 1800s, state legislatures allowed the prosecution of people who gave guns to the mentally ill. An 1881 Florida law, for example, made it illegal "to

sell, hire, barter, lend or give to any person or persons of unsound mind any dangerous weapon, other than an ordinary pocket-knife." Act of Feb. 4, § 1, 1881 Fla. Laws 87. And in Kansas, it was unlawful to sell "any pistol, revolver or toy pistol . . . or other dangerous weapons to . . . any person of notoriously unsound mind." Act of Mar. 5, § 1, 1883 Kan. Sess. Laws 159. Along with the even longer tradition of confinement, these laws suggest that society made it a priority to keep guns out of the hands of anyone who was mentally ill and dangerous. *See Heller*, 554 U.S. at 626–27 (reaffirming that "nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by . . . the mentally ill"); *McDonald v. City of Chicago*, 561 U.S. 742, 786 (2010) ("repeat[ing] th[at] assurance").

The "burden" imposed by § 922(g)(3) is "comparable," if less heavy-handed, than Founding-era laws governing the mentally ill. *Bruen*, 597 U.S. at 29. It goes without saying that confinement with straitjackets and chains carries with it a greater loss of liberty than a temporary loss of gun rights. And the mentally ill had less of a chance to regain their rights than drug users and addicts do today. *See* 1 Blackstone, Commentaries *294 (explaining that the law "always imagines . . . [their] accidental misfortunes may be removed"). Stopping the use of drugs, after all, restores gun rights under § 922(g)(3). *See Carnes*, 22 F.4th at 748.

The justification, which is to "keep guns out of the hands of presumptively risky people," is also comparable. *United States v. Yancey*, 621 F.3d 681, 683 (7th Cir. 2010) (per curiam). It is reflected in colonial-era laws, whether it be disarming loyalists, *see Jackson*, 85 F.4th at 471–72 (Stras, J., dissenting from denial of reh'g en banc), or making sure the mentally ill could not harm themselves or others. At least as applied to drug users and addicts who pose a danger to others, § 922(g)(3) is just another example of this "longstanding" tradition. *Heller*, 554 U.S. at 626–27 n.26.

In Veasley's view, the analogy is flawed because confining someone has always required a judicial finding. And so does disarming the mentally ill today,

which requires an "adjudicat[ion] as a mental defective" or "commit[ment] to a mental institution." 18 U.S.C. § 922(g)(4). Drug users and addicts, by contrast, receive no warning that they are ineligible to possess a firearm. *See* 18 U.S.C. § 922(g)(3).

We reject Veasley's argument for two reasons. The first is the historical record, which shows that there was limited process accompanying the confinement of the mentally ill, particularly given the broad discretion afforded to justices of the peace. *See Bruen*, 597 U.S. at 27 (requiring a *historical*, not a *current*, analogue). Second, there is a finding required under § 922(g)(3), it just comes later. Getting a conviction requires proof beyond a reasonable doubt of "regular drug use," *Carnes*, 22 F.4th at 748, and possession of a firearm, not to mention close timing between the two. *See United States v. Mack*, 343 F.3d 929, 933 (8th Cir. 2003) (explaining that the government must "demonstrate that [the defendant] was a 'user of any controlled substance' during the period of time he possessed the firearms" (quoting 18 U.S.C. § 922(g)(3))). The procedure may not be identical, but it does not have to be. *See Bruen*, 597 U.S. at 30 (noting that a modern-day regulation need not be a "dead ringer for [a] historical precursor[]").

2.

Another "historical analogue" makes it even clearer that Veasley's facial challenge cannot succeed. *Id*. This one focuses on conduct, not status. As the above discussion makes clear, possession of a firearm under § 922(g)(3) must accompany other conduct: drug use. In this way, it resembles the Founding-era criminal prohibition on taking up arms to terrify the people. *See* George Webb, *The Office of Authority of the Justice of the Peace* 92–93 (Williamsburg, William Parks 1736) (discussing Virginia law); *see also* Act For the Punishing of Criminal Offenders, Ch. 11, 96 (1692), *reprinted in The Charters and General Laws of the Colony and Province of Massachusetts Bay* 237, 240 (Boston, T.B. Wait & Co. 1814); Statute of Northampton, 2 Edw. 3, c.3 (1328).

The offense, called Terror of the People, has a lengthy historical pedigree. *See Jackson*, 85 F.4th at 474 (Stras, J., dissenting from denial of reh'g en banc). Although it started as a common-law offense, England formalized it in the 1328 Statute of Northampton. *See Bruen*, 597 U.S. at 40–45 (discussing it). In its earliest form, it prohibited going "armed to terrify the King's subjects." *Id.* at 43–44. At first, arms did not include *firearms*, which did not reach Europe until the mid-1500s. *See id.* at 41 (collecting sources).

As firearms became more common, however, so did the idea of criminalizing their misuse. *See id.* at 46 (discussing early Massachusetts and New Hampshire laws). Under one Massachusetts law, for example, justices of the peace could "arrest[] all . . . disturbers, or breakers of the peace . . . armed offensively" and "commit [them] to prison." Act of Jan. 29, 1795, § 2, *reprinted in* 2 *The Laws of the Commonwealth of Massachusetts, from November 28, 1780 to February 28, 1807*, at 652–53 (Boston, J.T. Buckingham 1807). Likewise, in Kentucky, "[r]iding or going armed with dangerous or unusual weapons, [wa]s a crime against the public peace, by terrifying the people of the land, which [wa]s punishable by forfeiture of the arms, and fine and imprisonment." Charles Humphreys, *A Compendium of the Common Law in Force in Kentucky, to Which Is Prefixed a Brief Summary of the Laws of the United States* 482 (Lexington, William Gibbs Hunt 1822).

But the offense was not about mere possession, or even openly carrying a firearm. *See Bruen*, 597 U.S. at 45. It required more, the "offensive[]" *use* of a firearm in a way that terrorized others. Webb, *supra*, at 92; *see Bruen*, 597 U.S. at 45 (explaining that the offense required public carry accompanied by "such Circumstances as are apt to terrify the People" (quoting 1 Pleas of the Crown 136)); *id.* at 50 (noting that early American laws "prohibit[ed] bearing arms in a way that spreads 'fear' or 'terror' among the people"). One example was Robert Huntly's decision to ride while armed in the North Carolina countryside with a stated intent to kill James Ratcliff, with whom he had been feuding at the time. *See State v. Huntly*, 25 N.C. (3 Ired.) 418, 421 (1843). In that case as well as others, terrorizing behavior had to accompany the possession. *See id*; *see also O'Neill v. State*, 16 Ala.

65, 67 (1849) (reasoning that "no quarrelsome words merely" would constitute an affray but that "if persons arm themselves with deadly or unusual weapons for the purpose of an affray, and in such manner as to strike terror to the people, they may be guilty of this offense" (citation omitted)); *cf. Simpson v. State*, 13 Tenn. (5 Yer.) 356, 360 (1833) (noting that the mere carrying of arms was not alone "a necessarily consequent operation as terror to the people").

Just like its historical counterparts, § 922(g)(3) does not criminalize mere possession. It requires another act, the taking of drugs, which itself can cause terrifying and dangerous behavior. *See* Landry, *supra*, at 108. The decision to engage in illegal and dangerous conduct, in other words, is what leads to a temporary deprivation, which ends once the illegal behavior does. In that way, § 922(g)(3) imposes a "comparable burden" on the right to bear arms. *Bruen*, 597 U.S. at 29.

At least for *some* drug users, the justification is also "comparable." *Id.* Controlled substances can induce terrifying conduct, made all the more so by the possession of a firearm. All it takes is a few minutes flipping through the pages of the Federal Reporter to locate some examples. *See, e.g.*, *United States v. Ferguson*, 889 F.3d 314, 315 (7th Cir. 2018) ("[H]igh and drunk" 17-year old shot his carjacking victim "several times" while "[t]he victim's niece and the niece's 4-year-old daughter witnessed."); *Hadley v. Gutierrez*, 526 F.3d 1324, 1327 (11th Cir. 2008) ("[W]hile high on cocaine, Hadley entered a Publix supermarket yelling, 'Help me, help me, Jehovah God please help me!' and [officers], upon arriving at the store, found Hadley running around and knocking items off of the shelves."); *United States v. Simmons*, 260 F.3d 937, 938 (8th Cir. 2001) ("While high on painkillers," the defendant conspired to commit a heist that included "shoot[ing] any police officers who responded to the scene.").

To be sure, not every drug user or addict will terrify others, even with a firearm. Consider the 80-year-old grandmother who uses marijuana for a chronic medical condition and keeps a pistol tucked away for her own safety. It is exceedingly unlikely she will pose a danger or induce terror in others. But those are

details relevant to an as-applied challenge, not a facial one. For our purposes, all we need to know is that at least some drug users and addicts fall within a class of people who historically have had limits placed on their right to bear arms.

* * *

Consistent with *Seay*, "we reject [Veasley's] facial challenge to § 922(g)[(3)]." 620 F.3d at 925. But we add to its analysis by doing the historical work and "analogical reasoning" that *Bruen* requires. 597 U.S. at 29–30; *cf. Jackson*, 69 F.4th at 501–06 (doing the same when analyzing the constitutionality of § 922(g)(1), the felon-in-possession statute). What it tells us is that, for some drug users, § 922(g)(3) is "analogous enough to pass constitutional muster." *Bruen*, 597 U.S. at 30. Whether it is for others is a question for another day.

IV.

We accordingly affirm the judgment of the district court.

GRUENDER, Circuit Judge, concurring in the judgment.

I concur in the judgment. I write separately because I believe the court's inquiry into historical analogues is unnecessary in light of our prior caselaw. In *United States v. Seay*, 620 F.3d 919 (8th Cir. 2010), we were confronted, as here, with a Second Amendment facial challenge to 18 U.S.C. § 922(g)(3). We rejected the defendant's facial challenge after concluding that "§ 922(g)(3) is the type of longstanding prohibition on the possession of firearms that *Heller* declared presumptively lawful." *Id.* at 925 (internal quotation marks omitted); *see District of Columbia v. Heller*, 554 U.S. 570, 627 & n.26 (2008). Because *Seay* predates *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1 (2022), the court asserts we must "add to [*Seay*'s] analysis by doing the historical work and 'analogical reasoning' that *Bruen* requires." *Ante* at 18. In my view, however, we are bound by *Seay*, and no further inquiry is necessary.

In *Heller*, 554 U.S. at 627 & n.26, the Supreme Court identified a non-exhaustive list of "presumptively lawful regulatory measures." Nothing in *Bruen* disturbed or cast doubt on the constitutionality of those regulatory measures deemed by *Heller* to be "presumptively lawful." *See, e.g.*, *Bruen*, 597 U.S at 10 (stating that the Court's holding was "consistent with *Heller*"); *id.* at 24 (stating that the Court was "reiterat[ing] . . . the standard for applying the Second Amendment"); *id.* at 26 (stating that the Court was "apply[ing]" the test "set forth in *Heller*"); *id.* at 27 (stating that the Court was "[f]ollowing the course chartered by *Heller*").

We have already categorized § 922(g)(3) as a presumptively lawful regulatory measure consistent with *Heller*. *See Seay*, 620 F.3d at 925. Because *Bruen* did not disturb *Seay*, we remain bound by *Seay*. *See United States v. Sitladeen*, 64 F.4th 978, 983-87 (8th Cir. 2023) (holding, in the context of § 922(g)(5)(A), that we were bound by a pre-*Bruen* case); *United States v. Jackson*, 69 F.4th 495, 506 (8th Cir. 2023) (Smith, C.J., concurring) (stating, in a post-*Bruen* challenge to § 922(g)(1), that "*Heller* remains the relevant precedent we are bound to apply"); *Vincent v. Garland*, 80 F.4th 1197 (10th Cir. 2023) (rejecting a defendant's challenge to § 922(g)(1) as foreclosed by the court's pre-*Bruen* precedent); *United States v. Dubois*, 94 F.4th 1284, 1291-93 (11th Cir. 2024) (rejecting a defendant's challenge to § 922(g)(1) in light of the court's prior caselaw). Having determined that *Seay* controls this case, I also would avoid the court's *dicta* regarding potential as-applied challenges. *See Jackson*, 69 F.4th at 502 (concluding "that there is no need for felony-by-felony litigation regarding the constitutionality of § 922(g)(1)").

AO 245B (Rev. 09/19) Judgment in a Criminal Case
v1 Sheet 1

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA
v.
DEVONTE ANTONIO VEASLEY

JUDGMENT IN A CRIMINAL CASE

Case Number: 4:20-CR-00209-001

USM Number: 79421-509

Alexander Smith
Defendant's Attorney

THE DEFENDANT:

☑ pleaded guilty to count(s) One of the Indictment filed on November 18, 2020.

☐ 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. §§ 922(g)(3), 924(a)(2)	Prohibited Person in Possession of a Firearm	01/24/2020	One

☐ See additional count(s) on page 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)

☐ Count(s) ☐ is ☐ 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.

January 12, 2023
Date of Imposition of Judgment

Signature of Judge

Rebecca Goodgame Ebinger, U.S. District Judge
Name of Judge Title of Judge

January 12, 2023
Date

DEFENDANT: DEVONTE ANTONIO VEASLEY
CASE NUMBER: 4:20-CR-00209-001

IMPRISONMENT

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

108 months as to Count One of the Indictment filed on November 18, 2020.

☑ The court makes the following recommendations to the Bureau of Prisons:

The defendant be placed at FCI El Reno or FCI Butner, and be afforded the opportunity to participate in vocational training in welding and coursework for a commercial driver's license. The Court also recommends the defendant be given the opportunity to participate in the 500-hour residential drug abuse treatment program and any other substance abuse treatment as well as be evaluated for his mental health needs, consistent with the sealed records filed separately.

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

☐ The defendant is remanded to the custody of the United States Marshal for surrender to the ICE detainer.

☐ 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 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 _____

a _____ , with a certified copy of this judgment.

_____
UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: DEVONTE ANTONIO VEASLEY
CASE NUMBER: 4:20-CR-00209-001

SUPERVISED RELEASE

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

Three years as to Count One of the Indictment filed on November 18, 2020.

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 other conditions on the attached page.

DEFENDANT: DEVONTE ANTONIO VEASLEY
CASE NUMBER: 4:20-CR-00209-001

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. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature _____ Date _____

SPECIAL CONDITIONS OF SUPERVISION

You must participate in a program of testing and/or treatment for substance abuse, as directed by the Probation Officer, until such time as the defendant is released from the program by the Probation Office. At the direction of the probation office, you must receive a substance abuse evaluation and participate in inpatient and/or outpatient treatment, as recommended. Participation may also include compliance with a medication regimen. You will contribute to the costs of services rendered (co-payment) based on ability to pay or availability of third-party payment. You must not use alcohol and/or other intoxicants during the course of supervision.

You must submit to a mental health evaluation. If treatment is recommended, you must participate in an approved treatment program and abide by all supplemental conditions of treatment. Participation may include inpatient/outpatient treatment and/or compliance with a medication regimen. You will contribute to the costs of services rendered (co-payment) based on ability to pay or availability of third-party payment.

You must participate in an approved treatment program for anger control. Participation may include inpatient/outpatient treatment. You will contribute to the costs of services rendered (co-payment) based on ability to pay or availability of third-party payment.

You will submit to a search of your person, property, residence, adjacent structures, office, vehicle, papers, computers (as defined in 18 U.S.C. § 1030(e)(1)), and other electronic communications or data storage devices or media, conducted by a U.S. Probation Officer. Failure to submit to a search may be grounds for revocation. You must warn any other residents or occupants that the premises and/or vehicle may be subject to searches pursuant to this condition. An officer may conduct a search pursuant to this condition only when reasonable suspicion exists that you have violated a condition of your release and/or that the area(s) or item(s) to be searched contain evidence of this violation or contain contraband. Any search must be conducted at a reasonable time and in a reasonable manner. This condition may be invoked with or without the assistance of law enforcement, including the U.S. Marshals Service.

You must participate in a cognitive behavioral treatment program, which may include journaling and other curriculum requirements, as directed by the U.S. Probation Officer.

DEFENDANT: DEVONTE ANTONIO VEASLEY
CASE NUMBER: 4:20-CR-00209-001

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

☐ Pursuant to 18 U.S.C. § 3573, upon the motion of the government, the Court hereby remits the defendant's Special Penalty Assessment; the fee is waived and no payment is required.

	Assessment	Restitution	Fine	AVAA Assessment*	JVTA Assessment**
TOTALS	**$** 100.00	$0.00	**$** 0.00	**$** 0.00	**$** 0.00

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.

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

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

Name of Payee	Total Loss***	Restitution Ordered	Priority or Percentage
TOTALS	$0.00	$0.00	

☐ Restitution amount ordered pursuant to plea agreement $ _____

☐ The defendant must pay interest on restitution and a fine of more than $2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

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

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

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

*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.

AO 245B (Rev. 09/19) Judgment in a Criminal Case
v1 Sheet 6 — Schedule of Payments

DEFENDANT: DEVONTE ANTONIO VEASLEY
CASE NUMBER: 4:20-CR-00209-001

SCHEDULE OF PAYMENTS

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

A ☑ Lump sum payment of $ 100.00 due immediately, balance due

☐ not later than _____ , or
☑ in accordance ☐ 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 60 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:

All criminal monetary payments are to be made to:
Clerk's Office, United States District Court, P.O. Box 9344, Des Moines, IA 50306-9344.
While on supervised release, you shall cooperate with the United States Probation Office in developing a monthly payment plan, which shall be subject to the approval of the Court, consistent with a schedule of allowable expenses provided by the United States Probation Office.

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

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

☐ Joint and Several

Case Number Defendant and Co-Defendant Names *(including defendant number)*	Total Amount	Joint and Several Amount	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.