

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

UNITED STATES OF AMERICA

v.

Case Number: 2:17-cr-78-FtM-38CM

DWAYNE HARRIS

USM Number: 57983-018

**Lee Hollander, AFD
Suite C-101
2681 Airport Rd S
Naples, FL 34112**

AMENDED JUDGMENT IN A CRIMINAL CASE¹

The defendant pleaded guilty to Counts Three, Nine, Thirteen, and Seventeen of the Indictment. The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
18 U.S.C. § 1344 and §2	Bank Fraud	December 23, 2014	Three
18 U.S.C. § 1343 and §2	Wire Fraud	February 16, 2015	Nine
18 U.S.C. § 287 and §2	False Claims Against the Government	January 26, 2015	Thirteen
18 U.S.C. § 1028A	Aggravated Identity Theft	January 26, 2015	Seventeen

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, as modified by United States v. Booker, 543 US 220 (2005).

Counts One, Two, Four through Eight, Ten through Twelve, Fourteen through Sixteen, and Eighteen and Nineteen 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 shall notify the court and United States attorney of any material change in the defendant's economic circumstances.

Date of Imposition of Judgment:

August 14, 2018


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Date of Amended Judgment: August 28, 2018

¹ This judgment is amended only to include the addresses for the victims to which restitution was ordered.

Dwayne Harris
2:17-cr-78-FtM-38CM

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of **51 months, consisting of 27 months on counts 3, 9, and 13 to run concurrent with each other, and 24 months on count 17 to run consecutive to counts 3, 9 and 13.** This term of imprisonment imposed will run consecutive to the term of imprisonment imposed in 2:12-cr-140-FtM-29DNF.

The Court makes the following recommendations as to incarceration:

Incarceration in a facility close to home (Fort Myers, Florida)

The defendant has absconded from federal supervision and/or custody. Upon his return to custody, he shall be turned over to the U.S. Marshal for transport to the Federal Bureau of Prisons for designation to an appropriate facility.

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 U.S. Marshal

Dwayne Harris
2:17-cr-78-FtM-38CM

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of **5 years in count 3, 3 years for counts 9 and 13, and 1 year on count 17, all counts to run concurrent.**

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.
4. You must cooperate in the collection of DNA as directed by the probation officer.

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

The defendant shall also comply with the additional conditions on the attached page.

Dwayne Harris
2:17-cr-78-FtM-38CM

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. After initially reporting to the probation office, the defendant will receive instructions from the court or the probation officer about how and when the defendant must report to the probation officer, and the defendant must report to the probation officer as instructed.
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: _____

Dwayne Harris
2:17-cr-78-FtM-38CM

ADDITIONAL CONDITIONS OF SUPERVISED RELEASE

1. The defendant shall be prohibited from incurring new credit charges, opening additional lines of credit, or making an obligation for any major purchases without approval of the Probation Officer.
2. The defendant shall provide the probation officer access to any requested financial information.
3. The defendant shall submit to a search of his person, residence, place of business, any storage units under the defendant's control, computer, or vehicle, conducted by the United States Probation Officer at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. The defendant shall inform any other residents that the premises may be subject to a search pursuant to this condition.
4. The defendant shall cooperate in the collection of DNA, as directed by the Probation Officer.
5. The mandatory drug testing requirements of the Violent Crime Control Act are waived.

Dwayne Harris
2:17-cr-78-FtM-38CM

CRIMINAL MONETARY PENALTIES

The defendant must pay the following total criminal monetary penalties under the schedule of payments set forth in the Schedule of Payments.

	<u>Assessment</u>	<u>JVTA Assessment</u> ²	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$400.00	\$0.00	\$0	\$46,863.90

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 in full prior to the United States receiving payment. **The Court waives the interest on restitution.**

The Court reserves on the issue of restitution as it related to any individual victims. A restitution hearing has been scheduled for November 5, 2018 at 9:00 AM.

<u>Name of Payee</u>	<u>Total Loss</u> ^{**}	<u>Restitution Ordered</u>
Internal Revenue Service-RACS Attn: Mail Stop 6261, Restitution 333 W. Pershing Avenue Kansas City, MO 64108	\$22,346.00	\$22,346.00
PNC Bank Attn: Lori Hammers 101 S 5 th Street, 6 th Floor Mail Code: K1-K201-06-1 Louisville, KY 40202	\$11,106.11	\$11,106.11
SunTrust Banks, Inc. Restitution Coordinator/VA-RVW 3434 1001 Semmes Avenue Richmond, VA 23224	\$8,091.9	\$8,091.90
Iberia Bank Ron Schoch, VP Iberiabank Security 2150 Goodlette Road North Naples, FL 34102	\$2,319.89	\$2,319.89
<u>Total</u>	<u>\$43,863.90</u>	

SCHEDULE OF PAYMENTS

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

Special Assessment in the amount of **\$400.00** is due in full and immediately.

² 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.

Dwayne Harris
2:17-cr-78-FtM-38CM

While in the custody of the Bureau of Prisons, you shall either (1) pay at least \$25 quarterly if working non-Unicor or (2) pay at least 50 percent of your monthly earnings if working in a Unicor position. Upon release from custody, you are ordered to begin making payments of 10% of monthly income and this payment schedule shall continue until such time as the Court is notified by the defendant, the victim or the government that there has been a material change in your ability to pay.

The defendant is hereby ordered to begin payment immediately and continue to make payments to the best of his ability until this obligation is satisfied. While in custody, you are directed to participate in the Bureau of Prisons Financial Responsibility Program, if eligible, and upon release from custody, the defendant shall adhere to a payment schedule comprised of the balance of the unpaid restitution, as determined by the Probation Office.

Unless the court has expressly ordered otherwise in the special instructions above, if this judgment imposes a period of imprisonment, payment of criminal monetary penalties shall be due during the period of 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, unless otherwise directed by the court, the probation officer, or the United States attorney.

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

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

FORFEITURE

Defendant shall forfeit to the United States those assets previously identified in the Order of Forfeiture (Doc. #67), that are subject to forfeiture, including but not limited to, monies in the amount of \$11,367.88.

*Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18, United States Code, for offenses committed on or after September 13, 1994 but before April 23, 1996.