

No. 21-3207

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**IN THE UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT**

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**UNITED STATES OF AMERICA,**  
*Appellee*

vs.

**JAMES READ,**  
*Appellant*

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**On Appeal from the United States District Court  
For the Western District of Arkansas**

**Honorable P.K. Holmes, III  
United States District Judge**

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**APPELLANT'S ADDENDUM**

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**BRUCE D. EDDY  
FEDERAL PUBLIC DEFENDER  
WESTERN DISTRICT OF ARKANSAS**

**By:** James B. Pierce  
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IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
HARRISON DIVISION

UNITED STATES OF AMERICA

PLAINTIFF

v.

Case No. 3:21-cr-30001-001

JAMES READ

DEFENDANT

**MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Pursuant to the provisions of 28 U.S.C. § 636(b)(1) and (3), Local Rule 72.1 ¶ XII, and General Order No. 40, this matter was referred to the undersigned for the purposes of conducting a plea hearing pursuant to Rule 11 of the Federal Rules of Criminal Procedure. Such a hearing was conducted on March 17, 2021, and, pursuant to a written Plea Agreement, the Defendant agreed to waive indictment by a grand jury and consent to the filing of an Information charging the Defendant with False Statement, in violation of Title 18 United States Code, Section 1001(a)(3), Money Laundering, in violation of Title 18 United States Code, Section 1957, and Wire Fraud, in violation of Title 18 United States Code, Section 1343.

The Plea Agreement states, inter alia, that the Defendant agrees to forfeit certain assets to the Government and consents to entry of an order of forfeiture for such assets. Further, the Defendant agrees to pay full restitution to all victims of the offenses to which Defendant is pleading guilty, and for all losses caused by Defendant's criminal conduct, even if such losses resulted from crimes not charged in the Information or admitted by Defendant.

After conducting the hearing in the form and manner prescribed by Rule 11, the undersigned finds:

1. The Defendant, after consultation with his counsel, has knowingly and voluntarily consented, both in writing and on the record, to the entry of his guilty plea before the undersigned, with the plea being subject to final approval by U. S. District Judge P. K. Holmes, III.

2. The Defendant and the Government have entered into a written Plea Agreement which has been disclosed in open court pursuant to Rule 11(c)(2), and the undersigned has directed that the Plea Agreement be filed.

3. The Defendant is fully competent and capable of entering an informed plea; he is aware of the nature of the charges, the applicable maximum penalties, and the consequences of the guilty plea; he is fully satisfied with his counsel and has had sufficient time to consult with him; and the plea of guilty is a knowing and voluntary plea supported by an independent basis in fact containing each of the essential elements of the offense.

4. The Defendant understands his constitutional and statutory rights and wishes to waive these rights.

5. The parties were informed, both in writing and on the record at the hearing, of their right to file written objections within fourteen (14) days after receipt of this Report and Recommendation. To expedite acceptance of the guilty plea, the parties waived, both on the record and in writing, their right to file objections.

Based on the foregoing, the undersigned recommends that the Defendant's guilty plea be accepted and that the written Plea Agreement be tentatively approved, subject to final approval at sentencing.

DATED: March 17, 2021.

/s/ Mark E. Ford

HON. MARK E. FORD  
UNITED STATES MAGISTRATE JUDGE

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
HARRISON DIVISION

UNITED STATES OF AMERICA

PLAINTIFF

v.

CASE NO. 3:21-CR-30001-001

JAMES READ

DEFENDANT

**ORDER**

The Court ADOPTS the report and recommendation (Doc. 10) entered in this case and accepts Defendant's plea of guilty to Counts 1, 2, and 3 of the information. The Defendant is hereby adjudged GUILTY of the offenses.

IT IS SO ORDERED this 26th day of August, 2021.

*P. K. Holmes, III*

P.K. HOLMES, III  
U.S. DISTRICT JUDGE

UNITED STATES DISTRICT COURT

Western District of Arkansas

UNITED STATES OF AMERICA

v.

JAMES READ

JUDGMENT IN A CRIMINAL CASE

Case Number: 3:21CR30001-001

USM Number: 35117-509

James B. Pierce

Defendant's Attorney

THE DEFENDANT:

- pleaded guilty to count(s) One (1) through Three (3) of the Information on March 17, 2021.
- 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:

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. § 1001(a)(3)	False Statement	06/20/2020	1
18 U.S.C. § 1957	Money Laundering	07/01/2020	2
18 U.S.C. § 1343	Wire Fraud	03/28/2020	3

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.

September 20, 2021  
Date of Imposition of Judgment

/s/ P.K. Holmes, III  
Signature of Judge

Honorable P.K. Holmes, III, United States District Judge  
Name and Title of Judge

September 21, 2021  
Date

DEFENDANT: JAMES READ  
CASE NUMBER: 3:21CR30001-001

**IMPRISONMENT**

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of: **sixty-three (63) months on each count, to run concurrently with each other.**

The court makes the following recommendations to the Bureau of Prisons:  
That the defendant be housed at FPC Yankton, South Dakota, or MCFP Springfield, Missouri.

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 November 4, 2021 .

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

DEFENDANT: JAMES READ  
CASE NUMBER: 3:21CR30001-001

### SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of: **three (3) years on each count, to run concurrently with each 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: JAMES READ  
CASE NUMBER: 3:21CR30001-001

### 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](http://www.uscourts.gov).

Defendant's Signature \_\_\_\_\_

Date \_\_\_\_\_

DEFENDANT: JAMES READ  
CASE NUMBER: 3:21CR30001-001

### **SPECIAL CONDITIONS OF SUPERVISION**

1. The defendant shall submit his person, residence, place of business or employment, vehicle, papers, computer, other electronic communication or data storage devices or media, and effects to a search conducted by the U.S. Probation Office based upon reasonable suspicion of criminal activity or violation of any condition of supervised release.
2. The defendant shall submit to inpatient or outpatient mental health testing, evaluation, counseling, and/or treatment, as deemed necessary and as directed by the U.S. Probation Office.
3. Until the financial penalties are paid in full, the defendant shall not incur any new debt nor establish any bank or credit accounts unless receiving prior approval from the U.S. Probation Office, and he shall make any information concerning his financial status available to the probation officer upon request.

DEFENDANT: JAMES READ  
CASE NUMBER: 3:21CR30001-001

**CRIMINAL MONETARY PENALTIES**

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

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
<b>TOTALS</b>	\$ 300.00	\$ 277,827.00	\$ -0-	\$ -0-	\$ -0-

- 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.

<u>Name of Payee</u>	<u>Total Loss***</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
SBA/DFC			
Attn: Paul Keenan			
721 19 <sup>th</sup> Street, 3 <sup>rd</sup> Floor, Room 301			
Denver, CO 80202			
<a href="mailto:PPP.ACH.Inquiries@sba.gov">PPP.ACH.Inquiries@sba.gov</a>			
Reference SBA loan 4261617802	\$20,520	\$20,520	
Reference SBA loan 4255677802	\$20,102	\$20,102	
Reference SBA loan 1490737901	\$20,500	\$20,500	
Reference SBA loan 5391427905	\$20,102	\$20,102	
Reference SBA loan 3439828000	\$55,770	\$55,770	
Reference SBA loan 6601398005	\$20,520	\$20,520	
Reference SBA loan 5051208103	\$20,833	\$20,833	
Reference SBA loan 3226438204	\$20,354	\$20,354	
Reference SBA loan 5595148205	\$20,832	\$20,832	
Reference SBA loan 6680658509	\$8,957	\$8,957	
SBA, Office of Disaster Assistance			
Reference Application No. 3304340893	\$10,000	\$10,000	
Processing and Disbursement Center			
14925 Kingsport Road			
Fort Worth, TX 76155			
<a href="mailto:EIDL.ACH.Inquiries@sba.gov">EIDL.ACH.Inquiries@sba.gov</a>			
PUA			
Office of Unemployment Insurance Asst.			
Re: Read, James 0977	\$14,996	\$14,996	
Re: Payne, Crystal 0680	\$7,777	\$7,777	
Re: Payne, Wanda 4182	\$16,564	\$16,564	
P.O. Box 94094			
Baton Rouge, LA 70804-9094			
<b>TOTALS</b>	\$ <u>277,827</u>	\$ <u>277,827</u>	

- 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  fine  restitution.
  - the interest requirement for  fine  restitution is modified as follows:

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

DEFENDANT: JAMES READ  
 CASE NUMBER: 3:21CR30001-001

**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 \$ 278,127 due immediately.
  - 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 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:

A lump sum payment of \$278,127 is due immediately. If the defendant is unable to pay the full amount immediately, any unpaid financial penalty will become a special condition of supervised release and may be paid in monthly installments of \$200 or 15% of the defendant’s net monthly household income, whichever is greater, with the entire balance to be paid in full one month prior to the end of the period of supervision.

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 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

Case Number Defendant and Co-Defendant Names (including defendant number)	Total Amount	Joint and Several Amount	Corresponding Payee, if appropriate
Crystal Payne, Docket No.: 3:21CR30002-001	\$277,827	\$59,130	\$41,353, SBA \$10,000, EIDL \$7,777, PUA

- 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.

**CERTIFICATE OF SERVICE/COMPLIANCE**

I hereby certify that a true and correct electronic version of the foregoing Appellant's Addendum was submitted for filing using the CM/ECF system pursuant to amended Local Rule 28A on this 13th day of December, 2021. A true and correct copy will be attached to the Brief mailed or otherwise duly forwarded to the Appellant, James Read, and to:

Hunter Bridges  
Assistant United States Attorney  
U.S. Attorney's Office  
414 Parker Avenue  
Fort Smith, AR 72901

upon receipt of notice that the electronic versions of the brief and addendum have been accepted for filing. This addendum has been scanned for viruses and is virus-free.

/s/ C. Aaron Holt  
C. Aaron Holt  
Research & Writing Specialist