

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS Holding Session in Houston

ENTERED

March 29, 2021

Nathan Ochsner, Clerk

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

v.

VOLODYMYR NIKOLAIENKO

CASE NUMBER: 4:19CR00365-002

USM NUMBER: 88553-479

Edward A. Mallett; Gary Tabakman Defendant's Attorney

THE DEFENDANT:

- pleaded guilty to count(s) 1S, 10S and 13S on July 17, 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:

Table with 4 columns: Title & Section, Nature of Offense, Offense Ended, Count. Row 1: 18 U.S.C. §§ 371, 2320(a)(4), 2320(a)(2), 545 and 21 U.S.C. §§ 331(a), 333(a)(2), 331(i)(3), 333(b)(8); Conspiracy to traffic counterfeit drugs; traffic and attempt to traffic in counterfeit labels; mislead and introduce misbranded prescription drugs into interstate commerce; sell and dispense counterfeit drugs; smuggle and attempt to smuggle goods into the United States; and unlawfully import merchandise or facilitate the transportation, concealment or sale after importation; 09/04/2019; 1S

See Additional Counts of Conviction.

The defendant is sentenced as provided in pages 2 through 5 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) remaining 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.

March 25, 2021 Date of Imposition of Judgment

Signature of Judge (Handwritten signature of Lee H. Rosenthal)

LEE H. ROSENTHAL CHIEF UNITED STATES DISTRICT JUDGE Name and Title of Judge

March 29, 2021 Date

DEFENDANT: **VOLODYMYR NIKOLAIENKO**
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ADDITIONAL COUNTS OF CONVICTION

| <u>Title & Section</u> | <u>Nature of Offense</u> | <u>Offense Ended</u> | <u>Count</u> |
|---|---|-----------------------------|---------------------|
| 18 U.S.C. §§ 2320(a)(4), (b)(3) and 2 | Trafficking in counterfeit drugs, aiding and abetting | 01/31/2019 | 10S |
| 18 U.S.C. §§ 545 and 2 | Smuggling goods into the United States, aiding and abetting | 01/31/2019 | 13S |

DEFENDANT: VOLODYMYR NIKOLAIENKO
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IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of: 33 months.

This term consists of THIRTY-THREE (33) MONTHS as to each of Counts 1S, 10S and 13S, all counts to run concurrently, for a total of THIRTY-THREE (33) MONTHS.

- See Additional Imprisonment Terms.
- The court makes the following recommendations to the Bureau of Prisons:
- 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 _____ 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

DEFENDANT: **VOLODYMYR NIKOLAIENKO**
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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 Assessment¹</u> | <u>JVTA Assessment²</u> |
|---------------|-------------------|--------------------|-------------|------------------------------------|------------------------------------|
| TOTALS | \$300 | \$ | \$ | \$ | \$ |

A \$100 special assessment is ordered as to each of Counts 1S, 10S, and 13S, for a total of \$300.

- See Additional Terms for Criminal Monetary Penalties.
- 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 Loss³</u> | <u>Restitution Ordered</u> | <u>Priority or Percentage</u> |
|----------------------|-------------------------------|----------------------------|-------------------------------|
| | \$ | \$ | |

- See Additional Restitution Payees.

| | | |
|---------------|----|----|
| TOTALS | \$ | \$ |
|---------------|----|----|

- 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:
- Based on the Government's motion, the Court finds that reasonable efforts to collect the special assessment are not likely to be effective. Therefore, the assessment is hereby remitted.

¹ Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.
² Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.
³ 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.

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SCHEDULE OF PAYMENTS

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

- A Lump sum payment of \$_____ 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 _____ installments of \$_____ over a period of _____, to commence _____ after the date of this judgment; or
- D Payment in equal _____ installments of \$_____ over a period of _____, to commence _____ after release from imprisonment to a term of supervision; or
- E Payment during the term of supervised release will commence within _____ 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:

Payable to: Clerk, U.S. District Court, Attn: Finance, P.O. Box 61010, Houston, TX 77208
Any unpaid balance due in payments of the greater of \$25 per quarter or 50% of any wages earned while in prison in accordance with the Bureau of Prisons’ Inmate Financial Responsibility Program.

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

| <u>Defendant and Co-Defendant Names (including defendant number)</u> | <u>Total Amount</u> | <u>Joint and Several Amount</u> | <u>Corresponding Payee, if appropriate</u> |
|---|----------------------------|--|---|
|---|----------------------------|--|---|

- See Additional Defendants and Co-Defendants Held Joint and Several.
- 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) JVT A assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.