

**United States Court of Appeals
for the Second Circuit**

August Term, 2025

(Submitted: November 21, 2025

Decided: May 26, 2026)

Docket No. 24-1801-cr

UNITED STATES OF AMERICA,

Appellee,

v.

DARRIN SAMUELS,

Defendant-Appellant.

Before:

KEARSE, LOHIER, and MENASHI, *Circuit Judges.*

Appellant's counsel moves to be relieved pursuant to *Anders v. California*, 386 U.S. 738 (1967), and the Government moves to dismiss the appeal in part, or, in the alternative, for summary affirmance. In the *Anders* brief submitted in support of the motion to be relieved, Appellant's counsel maintains that there are no non-frivolous issues for appeal of Appellant's conviction. After independently reviewing the record, we have identified a potentially non-frivolous issue with respect to a special condition of supervised release.

Accordingly, we **DEFER** decision on the motions and order Appellant's counsel to either submit supplemental briefing on the motions or notify the Court that he will file a merits brief.

Judge Menashi dissents in a separate opinion.

Randall D. Unger, Esq., Kew Gardens, NY, *for Defendant-Appellant.*

Thomas John Wright (Olga I. Zverovich, *on the brief*),
Assistant United States Attorneys, *for* Jay Clayton,
United States Attorney for the Southern District of New
York, New York, NY, *for Appellee.*

PER CURIAM:

Randall D. Unger, counsel for Appellant Darrin Samuels, moves for permission to withdraw as counsel pursuant to *Anders v. California*, 386 U.S. 738 (1967). The Government moves to dismiss the appeal in part as barred by the appeal waiver contained in Samuels's plea agreement, or, in the alternative, for summary affirmance.

Before granting an *Anders* motion, we must be "satisfied that counsel has diligently searched the record for any arguably meritorious issue in support of his client's appeal, and that counsel's characterization of the appeal as frivolous is, in fact, legally correct." *United States v. Reyes-Arzate*, 91 F.4th 616, 621 (2d Cir. 2024) (internal quotation marks omitted). When counsel's *Anders* brief is

deficient, the deficiency is deemed “harmless when we can determine from the record that there are no non-frivolous issues to raise” or “can be cured if counsel represents that he has discussed with the defendant the potential benefits and risks of challenging” any non-frivolous issues, “and that the defendant has authorized counsel not to pursue an appeal with regard to those matters.”

United States v. Arguedas, 134 F.4th 54, 59–60 (2d Cir. 2025).

Based on our review of the record, we have identified a potentially non-frivolous issue with respect to one of the special conditions of supervised release imposed at Samuels’s sentencing by the United States District Court for the Southern District of New York. Special Condition 1 permits searches of, among other things, Samuels’s “computer, other electronic communication, data storage devices, [and] cloud storage or media” upon reasonable suspicion of a violation of a condition of supervision or other unlawful conduct. App’x at 183. On the law, our dissenting colleague thinks the issue is frivolous and that the condition is clearly legal. But the legality of this particular condition or analogous conditions is currently the subject of review by multiple panels of this Court. On the facts, our colleague says that the record shows that Samuels “used electronic devices to run his drug-trafficking operation.” Menashi, *J.*, Dissenting Op. at 2.

But on this record, as counsel should have known, we do not know if Samuels used a cellphone or other electronic devices to carry out the offense conduct.

This is why we require *Anders* briefs—to spot issues that may have merit even though they may ultimately not prevail. *See Anders*, 386 U.S. at 745. Because we cannot conclude that counsel’s cursory review of this issue in his *Anders* brief is harmless, we defer decision on the motions.

Within 30 days of entry of this order, counsel for Samuels must (1) submit supplemental briefing either demonstrating that there are no non-frivolous issues with respect to the District Court’s imposition of Special Condition 1 or that Samuels does not wish to pursue any such issues, or (2) notify the Court that counsel will file a merits brief. If Samuels does not wish to appeal any non-frivolous issues, counsel should indicate that he has discussed with Samuels the potential benefits and risks of pursuing the non-frivolous issues and that Samuels has authorized counsel not to pursue an appeal with regard to such matters. If counsel intends to file a merits brief, the brief should address Special Condition 1 and any other non-frivolous issues, and the matter will be referred to a new panel to be decided in the ordinary course.

For the foregoing reasons, it is hereby ORDERED that decision on the motions is DEFERRED.

MENASHI, *Circuit Judge*, dissenting:

The court declines to grant counsel's motion to be relieved—and instead orders more briefing—because it has “identified a potentially non-frivolous issue with respect to one of the special conditions of supervised release.” *Ante* at 3. Special Condition 1 is a familiar requirement that the defendant must submit to a search of his electronic devices when there is reasonable suspicion of unlawful conduct or of a violation of a condition of supervised release. *See App'x* at 6, *United States v. Samuels*, No. 24-1801 (2d Cir. Apr. 7, 2025), ECF No. 60.1 (minute entry of June 20, 2024).

The defendant here, Darrin Samuels, operated a narcotics-trafficking organization. He was charged with (1) conspiracy to distribute and to possess with intent to distribute a controlled substance, including cocaine base, in violation of 21 U.S.C. § 841(a)(1), § 841(b)(1), and § 846, (2) using and carrying firearms during and in relation to a drug-trafficking crime in violation of 18 U.S.C. § 924(c), and (3) causing death through the use of a firearm in violation of 18 U.S.C. § 924(j). He pleaded guilty to a lesser-included drug-conspiracy offense, and the government dismissed the firearms charges. The district court imposed the stipulated sentence of 240 months of imprisonment to be followed by three years of supervised release. The district court reasonably included Special Condition 1 as a condition of supervised release.

Samuels's counsel is correct that “it would be futile to raise a challenge to this condition.” Appellant's Br. at 19, *United States v. Samuels*, No. 24-1801 (2d Cir. Jan. 15, 2025), ECF No. 53.1. “[B]oth electronic and non-electronic search conditions are often crucial for ensuring the effectiveness of supervision.” *United States v. Robinson*, 134 F.4th 104, 112 n.4 (2d Cir. 2025). And “we have never held that an

electronic search term would only be appropriate” when the “convictions involved sex offenses or the use of electronics.” *Id.* at 112. To the contrary, we have explained that a search condition does “not need to have a direct relationship to [the defendant’s] offense.” *United States v. Lawrence*, 139 F.4th 115, 125 (2d Cir. 2025). We have held that the “need” for an electronic search condition was “self-evident,” for example, when the record showed a defendant’s “extensive history of recidivism and his dishonesty with law enforcement officers.” *Robinson*, 134 F.4th at 111.

The “district court may impose a condition unrelated to ‘the nature and circumstances of the offense’ if (1) it is ‘reasonably related’ to ‘the history and characteristics of the defendant’ or ‘the need to afford adequate deterrence,’ ‘protect the public from further crimes,’ and ‘provide the defendant with correctional treatment’; and (2) the condition ‘involves no greater deprivation of liberty than is reasonably necessary.’” *Lawrence*, 139 F.4th at 125 (alterations omitted) (quoting U.S.S.G. § 5D1.3(b)). In light of “this flexibility,” we have rejected a defendant’s challenge to an electronic search condition that “allows for searches of his computer, even though he used only a cellphone to sell drugs.” *Id.* at 124-25.

In this case, the record showed that Samuels used electronic devices to run his drug-trafficking operation. *See United States v. Jimenez*, No. 26-1661, 2026 WL 1338242, at *5 (2d Cir. Feb. 25, 2026) (“[W]here electronic devices were instrumentalized in the commission of the instant offense conduct and surrounding circumstances, we have regularly held that an electronic search condition is permissible.”). The government proffered—and Samuels admitted—that he coordinated drug transactions “on multiple occasions in telephone conversations.” Anders App’x at 48-49, *United States v. Samuels*, No. 24-1801 (2d Cir. Jan. 15, 2025), ECF No. 50.1. The

trial record established that his co-conspirators used electronic devices that were recovered pursuant to a warrant. *See App'x, supra*, at 87. During a suppression hearing, his counsel acknowledged that Samuels's girlfriend gave the police his cellphone, which "was an android phone, LG phone." *Id.* at 157. In fact, his counsel said that the girlfriend gave the police "[m]ore than one phone," and "they all belong to my client." *Id.* at 158.

As Samuels's counsel explains in support of his motion to be relieved, Samuels "admitted that he had engaged in drug trafficking for a number of years, beginning when he was approximately 16 years of age, and that he communicated telephonically with others to carry out those activities. Those activities certainly established that the search condition was reasonably related to 'the nature and circumstances of the offense and the history and characteristics of the defendant.'" Appellant's Br., *supra*, at 19-20 (quoting 18 U.S.C. § 3553(a)). As a result, "it cannot be concluded that Judge Kaplan abused his discretion in imposing a search condition during the appellant's term of supervised release." *Id.* at 19.

He is right. Our court will "uphold the condition imposed 'if the district court's reasoning is self-evident in the record,'" as it is here. *United States v. Lewis*, 125 F.4th 69, 75 (2d Cir. 2025) (quoting *United States v. Betts*, 886 F.3d 198, 202 (2d Cir. 2018)). There is accordingly no need for supplemental briefing. Ordering such briefing adds another "burdensome ritual" to the burgeoning body of needless formalities we require to impose commonplace conditions of supervised release. *United States v. Maiorana*, 153 F.4th 306, 328 (2d Cir. 2025) (Menashi, J., dissenting). I would instead grant the motion of counsel to be relieved and grant the motion of the government for summary affirmance. I dissent from the decision of the court not to do so.