

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

United States of America,)	Criminal Action
)	No. 1:21-cr-00076-KBJ
Plaintiff,)	
)	<u>Plea and Sentencing</u>
vs.)	(via Zoom)
)	
Adam Chazin,)	Washington, D.C.
)	May 24, 2021
Defendant.)	Time: 10:00 a.m.

Transcript of Plea and Sentencing (via Zoom)
Held Before
The Honorable Ketanji Brown Jackson (via Zoom)
United States District Judge

A P P E A R A N C E S

For the Government:	Amy E. Larson
(via Zoom)	UNITED STATES ATTORNEY'S OFFICE
	FOR THE DISTRICT OF COLUMBIA
	555 Fourth Street, Northwest
	Washington, D.C. 20001
For the Defendant:	Danny C. Onorato
(via Zoom)	SCHERTLER ONORATO MEAD & SEARS, LLP
	555 13th Street, Northwest
	Suite 500 West
	Washington, D.C. 20004
Also Present (via Zoom):	
	Kelli Willett, Probation Officer

Stenographic Official Court Reporter:	
(via Zoom)	Nancy J. Meyer
	Registered Diplomate Reporter
	Certified Realtime Reporter
	333 Constitution Avenue, Northwest
	Washington, D.C. 20001
	202-354-3118

P R O C E E D I N G S

1
2 THE COURTROOM DEPUTY: We are on the record in
3 Criminal Record 21-76, United States of America v. Adam Chazin.

4 Present for the government are Amy Larson and Benjamin
5 Bleiberg. Present from the United States probation office is
6 Kelli Willett. Present for the defendant are Danny Onorato and
7 Pao Pinto. Also present is the defendant, Mr. Chazin.

8 THE COURT: Good morning to all of you.

9 This is a combined plea and sentencing. It's my
10 understanding that the purpose of Mr. Chazin's appearance in
11 court today is to enter a plea of guilty and to be sentenced.
12 Mr. Onorato, is that correct?

13 MR. ONORATO: It is, Your Honor.

14 THE COURT: All right. So let us start by having the
15 Court acknowledge that we are proceeding via videoconference
16 technology because the Court is only in Phase 2 of its plan for
17 reopening the courthouse in light of the COVID-19 pandemic.
18 Only very limited proceedings have been authorized for
19 in-person hearings at this point, and the Chief Judge has
20 issued a standing order that allows the Court to use
21 videoconference technology for proceedings such as pleas and
22 sentencings, with the consent of the defendant and when further
23 delay would cause serious harm to the interests of justice.

24 So let me start by confirming with Mr. Chazin, through
25 Mr. Onorato, that he consents to proceed by

1 video-teleconference technology.

2 MR. ONORATO: He does, Your Honor.

3 THE COURT: All right. This Court, therefore, finds
4 that it is in the interest of justice to proceed with today's
5 plea and sentencing hearing via remote technology. The Court
6 finds that any further delay would result in serious harm to
7 the interests of the defendant and the public.

8 Before we begin, let me also remind everyone that per
9 the Chief Judge's order, any recording or rebroadcasting of
10 today's proceeding is prohibited, and please mute your devices
11 when you're not speaking.

12 Mr. Chazin, I need to explain to you what is going to
13 happen. This hearing will proceed in two parts. First, the
14 Court will review with you the terms of your plea agreement to
15 make sure that you understand the rights that you're waiving,
16 and it will give you the opportunity to enter a plea of guilty,
17 if that's what you decide to do.

18 We will then proceed to the sentencing hearing, and the
19 Court will explain each step of that hearing at the beginning
20 of that process. All right?

21 Before we proceed any further, let me ask the courtroom
22 deputy to administer the oath.

23 THE COURTROOM DEPUTY: Mr. Chazin, will you please
24 raise your right hand.

25 (Oath administered.)

1 THE COURT: You may be on mute. Let's see. Can you
2 try again?

3 THE DEFENDANT: I do.

4 THE COURT: Okay. Terrific. Thank you. We can hear
5 you now.

6 THE COURTROOM DEPUTY: Thank you.

7 THE COURT: Mr. Chazin, you are now under oath. I
8 must ask you certain questions to ensure that you understand
9 your rights and to ensure that this plea is knowing and
10 voluntary. Do you understand that if you do not answer my
11 questions truthfully, you could be prosecuted for perjury or
12 for making a false statement and any false answers that you
13 give here could be used against you in that prosecution?

14 THE DEFENDANT: I do.

15 THE COURT: The purpose of this plea hearing this
16 morning is for you to make a decision whether you want to go to
17 trial on the government's charges against you or whether you
18 want to enter a plea of guilty. In order to make that very
19 important decision, it is crucial that you understand
20 everything that's going on here this morning and everything
21 that I'll be explaining to you. If you don't understand
22 something, you need to tell me, please, and I will try to
23 explain it in a different fashion, or I'll let you stop and
24 talk to your counsel.

25 I understand you are with counsel, at least certain

1 counsel now, and we can put you into breakout rooms if you need
2 to speak to Mr. Onorato. All right?

3 Okay. I'm now going to ask you a series of questions,
4 and you will need to answer them truthfully as you agreed to do
5 when you took the oath.

6 What is your full name?

7 THE DEFENDANT: Adam Michael Chazin.

8 THE COURT: And how old are you?

9 THE DEFENDANT: I'm 25.

10 THE COURT: Twenty-five?

11 THE DEFENDANT: Correct. Twenty-five.

12 THE COURT: How far did you go in school?

13 THE DEFENDANT: I have a --

14 THE COURT: We have some video/audio issues that is
15 causing you to sort of cut in and out a little bit when you
16 talk. So that sometimes happens with Zoom, I've noticed. Let
17 me see if -- I wonder what we can do. Maybe if you can try to
18 speak a little bit slower it will pick up, Mr. Chazin. Let's
19 try that; all right?

20 So I'm going to ask you again, how far did you go in
21 school?

22 THE DEFENDANT: I have a couple years of college.

23 THE COURT: And can you read and write?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: Where were you born?

1 THE DEFENDANT: Maryland.

2 THE COURT: Yeah, we have audio issues.

3 MR. ONORATO: Your Honor, what I might do -- I'm in
4 my office, and I might just have Mr. Chazin come into my office
5 and then just point the laptop at him so you can see him, but
6 we'll use my speaker together, if that's okay.

7 THE COURT: Yes, let's do that. Thank you.

8 MR. ONORATO: Yep.

9 (Recess taken.)

10 THE COURT: Let me go back to: Where were you born?

11 THE DEFENDANT: I was born in Rockville, Maryland.

12 THE COURT: In the last 48 hours, have you taken any
13 alcohol or drugs or any medicine that could affect your ability
14 to understand what you are doing by pleading guilty?

15 THE DEFENDANT: No, Your Honor.

16 THE COURT: Are you currently undergoing any
17 treatment for any kind of mental illness or emotional
18 disturbance or addiction to narcotic drugs of any kind?

19 THE DEFENDANT: No, Your Honor.

20 THE COURT: Are you completely satisfied with the
21 services of your lawyer in this case?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: And have you had enough time to talk with
24 your attorney and to discuss the charges and this plea offer
25 and whether or not you should accept it?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Have you received a copy of the criminal
3 information pending against you? Those are the written charges
4 that the government has brought against you in this case. Have
5 you seen that information?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: And have you read the charges and
8 discussed them fully with your counsel?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Let me ask counsel for both the
11 government and the defense if you have any question about this
12 defendant's competence to plead guilty at this time.

13 Mr. Onorato?

14 MR. ONORATO: No, Your Honor.

15 THE COURT: Ms. Larson?

16 MS. LARSON: No, Judge.

17 THE COURT: Okay. Based on the answers that have
18 been provided here, I find that the defendant is fully
19 competent and capable of entering an informed plea.

20 Now, I want to get this right. Is it Chazin or Chazin.

21 THE DEFENDANT: It's Chazin.

22 THE COURT: Chazin. Thank you.

23 Mr. Chazin, I need to explain to you certain rights that
24 you have with respect to this matter, and I need to find out
25 whether or not you understand those rights. Please listen

1 carefully to my questions and be sure to let me know if there
2 is something that you do not understand. And, again, if you
3 need to talk to your counsel, we can stop. All right?

4 Under the terms of your plea agreement, you will plead
5 guilty to an information that charges you with three counts,
6 one count -- the first count is of possession of child
7 pornography in violation of 18 U.S.C. § 2252 (a) (4) (B) and
8 (b) (2). The second count is possession of an unregistered
9 firearm in violation of 7 D.C. Code § 2502.01(a). And the
10 third count is attempted possession of a large capacity -- a
11 large capacity ammunition feeding device in violation of 22 --
12 22 D.C. Code § 1803 and 70 D.C. Code 2506.01(b).

13 Again, these charges have been brought against you by
14 information. Do you understand that you have the right to a
15 grand jury indictment? In other words, you've been charged
16 with a felony in the federal court, and the government
17 ordinarily would have to convince 12 grand jurors that there is
18 probable cause that this crime was committed and that you
19 committed it before the government could proceed with this
20 case. Do you understand that you have the right to a grand
21 jury indictment?

22 THE DEFENDANT: I understand, Your Honor.

23 THE COURT: And do you give up that right?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: I do have a waiver of indictment form

1 that you have signed and that your counsel has signed based on
2 the representation that you are waiving the right to
3 indictment. I will sign the document as well.

4 Mr. Chazin, before you plead guilty, you need to know
5 that you have the right to plead not guilty and to have a jury
6 trial in this case. That means that 12 citizens of the
7 District of Columbia would come into the courtroom and sit in
8 the jury box, review evidence, and determine your guilt or
9 innocence based upon that evidence. Do you understand that you
10 have the right to a jury trial?

11 THE DEFENDANT: I do, Your Honor.

12 THE COURT: If you had a trial, you would have a
13 right to be represented by your lawyer at that trial and at
14 every other stage of these criminal proceedings, and, if
15 necessary, you would have the right to have the Court appoint
16 counsel for you at no cost to you. Do you understand those
17 rights?

18 THE DEFENDANT: I understand, Your Honor.

19 THE COURT: If you had a trial, you would have a
20 right through your lawyer to confront and cross-examine any
21 witnesses against you. Do you understand that?

22 THE DEFENDANT: I understand, Your Honor.

23 THE COURT: If you had a trial, you would have a
24 right to present your own witnesses and the right to subpoena
25 them, to require them to testify in your defense. You would

1 also have the right to testify and to present evidence on your
2 own behalf if you wanted to. Do you understand that?

3 THE DEFENDANT: I understand, Your Honor.

4 THE COURT: Do you also understand that you would not
5 have to testify or present any evidence at trial if you did not
6 want to because the defense cannot be forced to present
7 evidence in a criminal case, and the fact that you chose not to
8 testify or present evidence could not be used against you? Do
9 you understand that?

10 THE DEFENDANT: I understand, Your Honor.

11 THE COURT: Do you also understand that unless and
12 until I accept your guilty plea, you are presumed by the law to
13 be innocent because it is the government's burden to prove your
14 guilt beyond a reasonable doubt? And until it does, you cannot
15 be convicted. Do you understand that?

16 THE DEFENDANT: I understand, Your Honor.

17 THE COURT: Do you understand if you plead guilty in
18 this case and if I accept your guilty plea, you will give up
19 all of the rights that I just explained to you, all the
20 trial-related rights, and there will be no trial?

21 THE DEFENDANT: I understand, Your Honor.

22 THE COURT: Do you understand if you went to trial
23 and you're convicted, you would have a right to appeal your
24 conviction to the Court of Appeals and the right to have a
25 lawyer help you prepare that appeal?

1 THE DEFENDANT: I understand, Your Honor.

2 THE COURT: Do you understand that by pleading guilty
3 you are generally giving up your right to appeal your
4 conviction of guilt in this case except for the right to appeal
5 on the basis of ineffective assistance of counsel?

6 THE DEFENDANT: I understand, Your Honor.

7 THE COURT: Do you also understand that by pleading
8 guilty, you are giving up your right to appeal the sentence you
9 receive except under the limited circumstances outlined in your
10 plea agreement? Your plea agreement expressly reserves for you
11 the right to appeal the sentence despite your guilty plea to
12 the extent that the Court sentences you above the statutory
13 maximum or guidelines range, or if you claim ineffective
14 assistance of counsel, but that's it. You would only have the
15 right to appeal the sentence in those two circumstances, and
16 you cannot raise other issues regarding the sentence because
17 you're agreeing not to do so in the plea agreement. Do you
18 understand this?

19 THE DEFENDANT: I understand, Your Honor.

20 THE COURT: Do you understand that by pleading guilty
21 you are giving up certain procedural challenges related to your
22 conviction? These are challenges that you might otherwise have
23 been able to make down the line in other subsequent
24 proceedings, if something happens to your conviction or your
25 guilty plea was withdrawn.

1 So, for example, in the plea agreement, you specifically
2 give up your ability to challenge venue, which is the place
3 that the government has chosen to bring these charges against
4 you, which is the District of Columbia. You give up your
5 ability to raise the defense of the statute of limitations if
6 your conviction were vacated and the government sought to
7 prosecute you again at a later date. You also give up the
8 protection against self-incrimination and any limitations on
9 the government's use of statements that you may have made
10 during plea negotiations.

11 I want you to understand that by pleading guilty to this
12 plea agreement, you are giving up your right to raise these
13 kinds of defenses and issues later on if something should
14 happen to your plea or conviction. Do you understand this?

15 THE DEFENDANT: I understand, Your Honor.

16 THE COURT: Ordinarily defendants who wish to
17 challenge their conviction and sentence can file an appeal.
18 They can make arguments about defects in the prosecution or
19 sentence until the case has reached the end of the appeals
20 process. A defendant's conviction and sentence is considered
21 final when it has been fully appealed.

22 There are also certain kinds of challenges that a
23 defendant can bring after his conviction or sentence have
24 become final. These are called collateral attacks on a final
25 conviction or sentence, and they include something called a

1 habeas petition. Under this plea agreement, you are waiving
2 your right to bring collateral attacks on your conviction and
3 sentence once they've become final. Do you understand that
4 you're giving up your right to file a habeas petition later on
5 or bring any other collateral attack against your conviction or
6 sentence except in certain circumstances listed in the
7 agreement?

8 In your agreement, you would have the right to bring a
9 petition or motion in three circumstances: if the motion is
10 based on newly discovered evidence, if you claim you received
11 ineffective assistance of counsel, or if there's a change in
12 the sentencing guidelines range that is made subsequently and
13 you bring a certain motion concerning that; but those are the
14 only circumstances in which you can file a petition or
15 collateral attack motion. Do you understand this?

16 THE DEFENDANT: I understand, Your Honor.

17 THE COURT: Do you also understand that by pleading
18 guilty to a felony offense, you may later be deprived of
19 valuable civil rights, such as the right to vote, the right to
20 hold public office, the right to serve on a jury, and the right
21 to possess any kind of firearm?

22 THE DEFENDANT: I understand, Your Honor.

23 THE COURT: Do you also understand that by pleading
24 guilty to a sex offense and to gun offenses, you might be
25 required by state and federal law to register in the

1 jurisdiction in which you reside or work even after you've
2 served your sentence for those offenses? Do you understand
3 that?

4 THE DEFENDANT: I understand, Your Honor.

5 THE COURT: All right. Having discussed these rights
6 with you, Mr. Chazin, do you still want to continue on the path
7 toward pleading guilty today, which would result in your giving
8 up the right to a trial and all of the rights that I explained
9 that you would have if your case went to trial?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: All right. We will proceed.

12 Let me turn to Ms. Larson to ask about -- I was going --
13 I'm going to ask you a specific question about plea
14 negotiations in a moment, but, first, can you please state and
15 describe the elements of the charges to which Mr. Chazin will
16 be pleading guilty?

17 MS. LARSON: Yes, Your Honor. Count 1 is the
18 possession of child pornography, which alleges that on
19 February 10th of 2020 this defendant possessed one or more
20 visual depictions -- that is, images and videos -- that depict
21 minors engage in sexually explicit conduct, that had been
22 transported or shipped using any means or instrumentalities of
23 interstate or foreign commerce. The government alleges that
24 that is by the internet and computer.

25 If the Court will give me one second, I will read the

1 elements of the weapons possession charge. Count 2, this is
2 the possession of an unregistered firearm which, again, on the
3 same date, February 10th of 2020 in the District of Columbia,
4 the defendant did possess a certain firearm. The government
5 has alleged in the statement of offense that it is an AR, I
6 believe, 556, without being a holder of a valid registration
7 certificate; meaning, that he did not lawfully register that
8 firearm in the District of Columbia.

9 Count 3, again, on the same date of February 10th, 2020,
10 in the District of Columbia, the defendant did attempt to
11 possess in this case a large capacity ammunition feeding
12 device. As we've alleged in our statement of offense, this
13 defendant was in possession of at least eight magazines, each
14 which possessed a requisite number of ammunition, as well as, I
15 believe, three magazines which were for a Glock pistol.

16 THE COURT: All right. Mr. Chazin, that was the
17 description of the charges. Do you understand the charges
18 against you in this case as the prosecutor just described them?

19 THE DEFENDANT: I understand, Your Honor.

20 THE COURT: Ms. Larson, let me just quickly touch on
21 this plea agreement. I'm trying to assess whether there have
22 been any prior offers that Mr. Chazin should have received and
23 reviewed. So does this particular plea agreement reflect the
24 only formal plea offer made to the defendant in this case?

25 MS. LARSON: Yes, Your Honor.

1 THE COURT: All right. Mr. Chazin, have you seen a
2 copy of the current plea agreement?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: And have you read it carefully and do you
5 understand it?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: And have you had enough time to talk with
8 your lawyer about it?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: As part of the plea agreement, your
11 lawyer and the government have given me another document called
12 the statement of offense, and it describes what the government
13 would be prepared to prove at trial about your criminal
14 conduct. Have you read this document and discussed it fully
15 with your lawyer?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: Does the statement of offense truly and
18 accurately describe what you did in this case?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Did you, in fact, possess images
21 depicting child pornography in your Dropbox account and iPhone,
22 and possess a firearm that was not registered in the District
23 of Columbia, as well as high capacity magazines?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: All right. Let me ask Mr. Onorato to

1 briefly summarize the terms of the plea agreement.

2 MR. ONORATO: Your Honor, the -- the plea agreement
3 is if Mr. Chazin pleads guilty to the one count of possession
4 and the two Superior Court misdemeanor charges, the government
5 will not try to prosecute him for additional charges related to
6 the offense at issue. In addition, the government has agreed
7 not to bring any charges against Mr. Chazin for when he was
8 stationed in the military in Texas, I think, where some of
9 these items may have been accessed from the Dropbox account.

10 Your Honor, the -- as the Court knows, the guidelines
11 have been calculated. Mr. Chazin will receive a 3-level
12 acceptance of responsibility reduction, but beyond that
13 Your Honor, there -- there are no other formal agreements with
14 the government.

15 THE COURT: All right. And the government covers all
16 of the waivers -- I'm sorry -- not the government. The plea
17 agreement covers all of the waivers that I've gone over
18 with respect to Mr. Chazin; correct?

19 MR. ONORATO: It does.

20 THE COURT: And you have discussed those with him as
21 well?

22 MR. ONORATO: Yes, Your Honor. And I think we've
23 also executed a waiver of trial by jury form, but I don't know
24 if the Court inquired about it. I know you did with respect to
25 the waiver of information, but we --

1 THE COURT: Yes, I have that as well. And I usually
2 address that at the end, but I just wanted to make sure that
3 everything that I went over with him, you have also discussed
4 with him and the context of the plea agreement.

5 MR. ONORATO: We have, Your Honor. Thank you.

6 THE COURT: Mr. Chazin, are you also aware of the
7 provision in the plea agreement -- well, first, what we
8 discussed, what I just discussed with Mr. Onorato, is that what
9 you are agreeing to?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: And are you also aware of the provision
12 concerning forfeiture, which I believe is Section 13 of the
13 agreement?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: And in that paragraph, you are agreeing
16 to forfeit various items: an Apple iPhone 8; a Samsung flip
17 phone; a Nokia cell phone; an Apple MacBook Air laptop; a
18 fifth-general iPad (Apple); an Apple iPhone SE; a Western
19 Digital 2,000-gigabyte external hard drive; a Ruger AR-556
20 firearm; 8 large capacity magazines; three Glock pistols; 111
21 rounds of 5.56-ball ammunition; and 51 rounds of 9mm
22 ammunition.

23 Are you aware that all of those items will be forfeited
24 to the government and not given to you?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: You appear to be frozen, Mr. Chazin.
2 Let's see.

3 MR. ONORATO: The screen froze.

4 THE COURT: Okay. I can hear him, but he's not
5 moving. Do you want to -- yeah. Let's see if we can reboot.

6 MR. ONORATO: I think the computer just locked after
7 being idle for a few minutes.

8 THE COURT: Got it.

9 All right. The Court accepts this plea agreement is of
10 the type that is authorized by Rule 11 of the Federal Rules of
11 Criminal Procedure in that it specifies that the government
12 will not bring other charges and that the government will
13 recommend a 2-level reduction for acceptance of responsibility
14 and a 1-level reduction for timeliness of your intention to
15 plead guilty.

16 Mr. Chazin, have you and your lawyer talked about the
17 sentencing and how the statutes and sentencing guidelines might
18 apply in your case?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Do you understand that if I accept your
21 guilty plea in this case, you could receive a maximum sentence
22 of 20 years of imprisonment on Count 1, 1 year of imprisonment
23 on Count 2, and 180 days of imprisonment on Count 3?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: This case involves more than a single

1 count. Are you aware that the sentence for each of the
2 three counts could be ordered to run consecutively?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Do you understand that following any term
5 of imprisonment that is imposed for this offense, you must be
6 subject to a period of supervised release by law?

7 THE DEFENDANT: Yes.

8 THE COURT: That means if you are sent to prison,
9 then upon your release, you would be under the supervision of
10 the probation office and expected to follow certain conditions
11 and rules with which you must comply. If you violate any of
12 those conditions, you could be sent back to prison for an
13 additional period of time. Do you understand the concept of
14 supervised release?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: He's frozen again.

17 MR. ONORATO: We're -- we're -- we've got technical
18 support here.

19 THE COURT: All right.

20 MR. ONORATO: All right.

21 THE COURT: By law, there are minimum and maximum
22 terms of supervised release. By statute, there -- the minimum
23 term is five years. The maximum term is life.

24 There are also fine provisions in the law. No mandatory
25 fine, but there are maximums: \$250,000 for Count 1; \$2500 for

1 Count 2; and \$1,000 for Count 3. Mr. Chazin, do you understand
2 you will have to pay a special assessment of \$100 for Count 1,
3 which is in a federal statute, a hundred dollars for each
4 federal count, to the Clerk of the U.S. District Court? Do you
5 understand that?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: There are also other special assessments
8 that are required by law and that I'm actually hoping to talk
9 to your counsel and the government about, but are you aware
10 that federal law at least prescribes for nonindigent defendants
11 who are convicted of an offense under Chapter 110 of Title 18,
12 which relates to sexual exploitation and abuse of children,
13 that the defendant pay an additional \$5,000 per count, again,
14 unless the person is found to be indigent at the time of
15 sentencing? Did you know that?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: There's also the possibility of an
18 assessment up to an additional \$17,000 under Title 18 § 2259(a)
19 for persons convicted of certain offenses. Are you aware of
20 that potential assessment as well?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: It also appears that a special assessment
23 might well be required for D.C. Code offenses under
24 4 D.C. Code 516(a), an offender to be required to pay between
25 50 and 250 dollars for serious traffic or misdemeanor offenses?

1 And there are two such misdemeanor offenses being charged here.

2 Let me ask Mr. Onorato, the special assessments aren't
3 really mentioned in the plea agreement, especially for the
4 D.C. offenses, although they're discussed in the presentence
5 report. So have you discussed these with your client? Have
6 you negotiated with the government concerning them? What am I
7 to make of the special assessment?

8 MR. ONORATO: Your Honor, we've not negotiated with
9 the government, but we are aware that there are special
10 assessments the Court, you know, will impose under both the
11 federal law and the D.C. law.

12 THE COURT: Okay. All right. Mr. Chazin, we've
13 talked about forfeiture. Do you understand you'll have to
14 forfeit -- do you also understand that as part of your
15 sentence, the Court can order you to pay restitution to any
16 victims of the offense?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: Do you understand that the Court has an
19 obligation to determine mandatory restitution and whether or
20 not it applies and, if so, what the amount is?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: Mr. Onorato, the plea agreement does not
23 discuss the particular amount of restitution, although the
24 government has now submitted several victim statements. Some
25 of those statements request particular amounts. Have you

1 discussed this? Have you come to some agreement in terms of
2 the restitution?

3 MR. ONORATO: There is no agreement with the
4 government, Your Honor. Mr. Chazin is aware that the
5 government is seeking restitution. He's also aware that the
6 Court has an obligation to impose a mandatory restitution
7 assessment of \$3,000 per victim.

8 THE COURT: Okay. All right. Mr. Chazin, do you
9 understand that under the plea agreement, in order to
10 facilitate the collection of any financial obligations or
11 restitution, you will authorize to the United States Attorney's
12 Office the ability to obtain a credit report, to evaluate your
13 ability to meet any financial obligations, and you have to
14 certify that you've made no transfer of assets nor will you
15 make any such transfer in the future until any financial
16 obligation under this agreement have been satisfied in full?
17 Do you understand that there are these requirements in the plea
18 agreement that facilitate your ability to pay?

19 THE DEFENDANT: I understand, Your Honor.

20 THE COURT: Are you also aware that, similarly, you
21 are agreeing to provide certain information to the government,
22 including a completed financial statement or disclosure form,
23 and that any willful falsehood in those statements could be the
24 basis for a separate prosecution? Do you understand that?

25 THE DEFENDANT: I understand, Your Honor.

1 THE COURT: In determining your sentence with respect
2 to the federal count, the Court is obligated to calculate and
3 consider the applicable sentencing range recommended in the
4 federal sentencing guidelines for your offense and for a person
5 with your criminal history. Imposing a sentence in accordance
6 with the *Guidelines Manual* is no longer mandatory on federal
7 courts, but the federal guidelines must be calculated and
8 considered in every federal criminal case.

9 When determining your sentence with respect to Counts 2
10 and 3, which are D.C. crimes, the *Voluntary Sentencing*
11 *Guidelines* of D.C. do not apply because both of those crimes
12 are misdemeanors. So, basically, we only have one sentencing
13 guideline calculation to do. Have you and your attorney talked
14 about the federal sentencing guidelines and how they might
15 apply in this case?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: All right. We have him coming back.

18 MR. ONORATO: I just switched, basically, with --

19 THE COURT: Yes. Mr. Chazin, the government and your
20 attorney have stated in the plea agreement what they estimate
21 your guideline range to be for Count 1 under the federal
22 sentencing guidelines. Have you discussed those estimations
23 with your attorney?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: And do you understand that the Court's

1 guidelines calculation may lead to a sentencing range that is
2 different from the estimates that have been made by the
3 government and your attorney?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Do you also understand that even after
6 the Court has calculated the guidelines and decided what the
7 advisory guideline range is, the Court will determine what the
8 sentence is going to be and it has the authority to impose a
9 sentence that is more severe or less severe than the sentence
10 imposed by the guidelines -- or recommended by the guidelines?
11 Do you understand that?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Do you understand that you cannot
14 withdraw your guilty plea after sentencing simply because you
15 don't like or disagree with the sentence that is ultimately
16 imposed in your case?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: All right. We're going to pause for a
19 second.

20 (Recess taken.)

21 THE COURT: Are we back?

22 MR. ONORATO: We're back.

23 THE COURT: Mr. Chazin, in determining the sentence
24 imposed, the Court has to consider factors that are in addition
25 to the guidelines. The Court is not only obligated to

1 calculate the guidelines, but Congress has also laid out in a
2 statute that is found at Title 18 of the United States
3 Code § 3553(a) that judges have to consider such matters as the
4 nature and circumstances of the offense, the history and
5 characteristics of the defendant, the need for the sentence
6 imposed to reflect the seriousness of the offense, to promote
7 respect for the law, to provide just punishment for the
8 offense, to afford deterrence, protecting the public,
9 et cetera, providing rehabilitation.

10 Do you understand that the Court can and must consider
11 all of the relevant factors when it selects a sentence?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: You understand that under some
14 circumstances, the government may have the right to appeal any
15 sentence that the Court imposes if the government does not like
16 that sentence?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: Do you understand that parole has been
19 abolished for federal charges so that if you are sentenced to
20 prison, then you would serve the sentence the Court imposes
21 with a possible reduction for good time, but you would not be
22 released early on parole as used to be the case? Do you
23 understand that?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: I'm going to repeat one question that is

1 very important. Do you understand that if this sentence ends
2 up being more severe than you expect, you will still be bound
3 by your guilty plea and will have no right to withdraw it?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: All right. Mr. Chazin, the last set of
6 questions that I have in the plea agreement phase of this
7 proceeding have to do with the voluntariness of this plea. Has
8 anyone forced, threatened, or coerced you in any way into
9 entering this plea of guilty?

10 THE DEFENDANT: No, Your Honor.

11 THE COURT: Has anyone, including your attorney, the
12 police, the prosecutor, or any other person you've come into
13 contact with since your arrest, promised or suggested to you
14 that merely because you are pleading guilty I will give you a
15 lighter sentence?

16 THE DEFENDANT: No, Your Honor.

17 THE COURT: Do you understand that the agreement
18 reached in this case resulted from negotiations between your
19 attorney and the government's attorney?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Has anyone made any promises to you in
22 connection with your guilty plea other than those contained in
23 the plea letter or stated in open court here?

24 THE DEFENDANT: No, Your Honor.

25 THE COURT: Other than what is stated in the plea

1 agreement letter, has anyone made any promises to you as to
2 what sentence the Court might impose if it accepts your guilty
3 plea?

4 THE DEFENDANT: No, Your Honor.

5 THE COURT: Are you entering this plea of guilty
6 voluntarily and of your own free will because you are guilty
7 and for no other reason?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Is there anything that you do not
10 understand about this proceeding or about your plea in this
11 case?

12 THE DEFENDANT: No, Your Honor.

13 THE COURT: Is there anything you want to ask me or
14 your lawyer before you enter your plea?

15 THE DEFENDANT: No, Your Honor.

16 THE COURT: Are you now ready to say whether you want
17 to plead guilty or go to trial on the charges in this case?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: What do you want to do, Mr. Chazin?

20 THE DEFENDANT: I would like to enter a plea of
21 guilty, Your Honor.

22 THE COURT: And you're pleading guilty because you
23 are guilty, sir?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: I am satisfied that this defendant is

1 fully capable and competent; that he is able to make a decision
2 today; that he is -- understands the nature of the charges and
3 the consequences of this plea; that the plea of guilty is
4 knowing and voluntary; that he's acting of his own free will in
5 pleading guilty; and that there is an adequate factual basis
6 for each of the essential elements of the offenses in support
7 of this plea.

8 Therefore, the guilty plea is entered, and the defendant
9 is now adjudged guilty of the charged offenses.

10 I have the waiver of trial by jury form which the
11 defendant, defense counsel, and Assistant United States
12 Attorney have signed. The Court will now sign it as well.

13 All right. Let me just double-check with Ms. Larson
14 that I don't need to make any findings concerning forfeiture
15 under these circumstances. I know the plea agreement covers
16 it, and I just didn't know whether there needed to be a consent
17 order with respect to forfeiture or some other kind of finding
18 made by the Court.

19 MS. LARSON: No, Judge, not at this time.

20 THE COURT: All right. So I have accepted the guilty
21 plea regarding one count of possession of child pornography in
22 violation of 18 U.S.C. § 2252(a)(4)(B) and (b)(2); one count of
23 possession of an unregistered firearm in violation of
24 7 D.C. Code § 2502.01(a); and one count of attempted possession
25 of a large capacity ammunition feeding device in violation of

1 22 D.C. Code § 1803 and 7 D.C. Code § 2506.01(b). Having done
2 so, the Court will now move on to sentencing.

3 I have received and reviewed various documents submitted
4 by counsel and the probation office in advance of the
5 sentencing portion of this hearing. I have the presentence
6 report and sentencing recommendation. I have the government's
7 sentencing memorandum and reply, including exhibits; the
8 defendant's sentencing memoranda, including exhibits; victim
9 impact statements submitted by the government; restitution
10 requests submitted by the government.

11 It appears that the parties have engaged in the process
12 of reviewing and revising the presentence report and that the
13 final report is complete.

14 Mr. Chazin, this sentencing portion will essentially
15 proceed in three steps. The first step is for the Court to
16 determine what sentencing guidelines and sentencing range
17 applies to your case, and I do this by looking at the
18 sentencing *Guidelines Manual*, determining what various
19 enhancements apply to your conduct under the manual; and
20 looking at your criminal history, deciding whether there are
21 any mitigating or aggravating factors that might warrant a
22 departure under the sentencing *Guidelines Manual*.

23 The next step is to hear from the government, from any
24 victims, from your counsel, and from you, if you wish to be
25 heard, about the sentence in this case.

1 And the last step requires the Court to fashion a
2 sentence. And I do this in light of the factors set forward in
3 the statute, 18 U.S.C. § 3553(a). As part of this last step,
4 the Court will actually impose the sentence, along with any
5 other required consequences for your federal offense.

6 I speak to defendants and explain what's going to happen
7 in these proceedings primarily because I realize that it's
8 sometimes hard for nonlawyers to follow all of the mechanical
9 procedures that we need to undertake in order to conduct a
10 sentencing.

11 But I think the most important thing for your purposes
12 is for you to keep in mind why we're here at this moment and
13 the gravity of the situation. You have committed and have pled
14 guilty to conduct that constitutes a federal crime and local
15 crime. Today's proceeding is a serious matter because it is
16 fundamentally about the consequences that you will need to face
17 as a result of your decision to engage in criminal behavior in
18 violation of the law.

19 All right. So beginning with the presentence report --
20 excuse me for a second. Let me grab my sentencing *Guidelines*
21 *Manual*. The final presentence report in this case was filed on
22 May 17th of 2021. The probation office's sentencing
23 recommendation was filed on that same day.

24 Let me start by asking the government if you have any
25 objections to any of the factual determinations that are set

1 forward in the presentence report?

2 MS. LARSON: No, Your Honor.

3 THE COURT: All right. Before I ask the same of the
4 defense, Mr. Chazin, are you fully satisfied with your attorney
5 in this case?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: And do you feel that you've had enough
8 time to talk with your counsel about the presentence report and
9 the papers filed by the government in connection with this
10 sentencing?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Mr. Onorato, have you and your client
13 read and discussed the presentence report?

14 MR. ONORATO: Yes, Your Honor.

15 THE COURT: Are there any disputed issues of fact in
16 that report?

17 MR. ONORATO: No, Your Honor.

18 THE COURT: All right. Hearing no objection, the
19 Court will accept the factual recitation in the presentence
20 report regarding the circumstances of the offense and this
21 defendant's history and characteristics, and, therefore, the
22 facts as stated in the presentence report will be the Court's
23 findings of fact for the purpose of this sentencing.

24 In addition to the facts, the presentence report lays
25 out the probation office's calculation of the advisory

1 guideline range that applies in this case with respect to
2 Count 1, which is the federal charge, as I mentioned earlier.
3 The presentence report also notes that the D.C. *Voluntary*
4 *Sentencing Guidelines* do not apply to Counts 2 and 3 because
5 those charges are misdemeanors.

6 The federal guideline calculation for Count 1 was done
7 using the 2018 *Guidelines Manual*, and it is as follows:
8 Beginning with the guideline offense level, the applicable
9 guideline in this case based on the charged federal offense is
10 2G2.2(a) (1), which has a base level of -- base offense level of
11 18 under the circumstances presented here.

12 According to the presentence report, four specific
13 offense characteristics apply: a 2-level increase under
14 2G2.2(b) (2) because the material involved a prepubescent minor
15 under the age of 12 years; a 4-level increase under 2G2.2(b) (4)
16 because the offense involved material portraying sadistic or
17 masochistic conduct and the sexual abuse/exploitation of an
18 infant or toddler; a 2-level increase under 2G2.2(b) (6) because
19 the offense involved the use of a computer or an interactive
20 computer service for the possession, transmission, receipt, or
21 distribution of the material, or for accessing with intent to
22 view the material; and a 5-level increase under section
23 2G2.2(b) (7) (D) because the offense involved over 600 images of
24 child pornography.

25 The government has also represented that Mr. Chazin has

1 demonstrated acceptance of responsibility in a manner that
2 entitles him to a 2-level reduction under 3E1.1(a) and that he
3 timely notified the government of his intention to plead guilty
4 in manner that entitles him to an additional 1-level reduction
5 under 3E1.1(b).

6 Now, when we get to the discussions of variances, the
7 Court will discuss its standard policy disagreements with
8 certain of these guideline enhancement provisions, but prior to
9 the consideration of any departures or variances, the Court
10 finds that Mr. Chazin's total offense level is 28.

11 Let me ask at this point if there are any objections to
12 that calculation of the offense level.

13 MR. ONORATO: No, Your Honor.

14 MS. LARSON: Not from -- no, Your Honor.

15 THE COURT: Okay. Turning to the applicable criminal
16 history category, the presentence investigation has found that
17 Mr. Chazin has no prior convictions that receive criminal
18 history points in the *Guidelines Manual* and that he has,
19 therefore, 0 criminal history points. That puts Mr. Chazin in
20 Criminal History Category I. Are there any objections to this
21 criminal history calculation?

22 Mr. Onorato?

23 MR. ONORATO: No, Your Honor.

24 THE COURT: Ms. Larson?

25 MS. LARSON: No, Judge.

1 THE COURT: So given a criminal history category of I
2 and an adjusted offense level of 28, the applicable sentencing
3 range in this case under the guidelines is 78 to 97 months of
4 imprisonment for Count 1. Are there any objections to the
5 guideline range calculation?

6 Mr. Onorato?

7 MR. ONORATO: No, Your Honor.

8 THE COURT: Ms. Larson?

9 MS. LARSON: No, Judge.

10 THE COURT: Okay. Having determined the applicable
11 guideline range, the next step is for the Court to consider
12 departures. The presentence report does not include any
13 departure grounds. Neither party appears to have mentioned
14 any, perhaps because of the plea agreement, but the parties
15 have made arguments that the Court should vary from the
16 guideline range, and I'll discuss those later. But at this
17 point, as I calculate the applicable guideline range, is there
18 any bases for a departure as distinguished -- as distinguished
19 from a variance that the parties would like to assert?

20 Mr. Onorato?

21 MR. ONORATO: No, Your Honor.

22 THE COURT: Ms. Larson?

23 MS. LARSON: No, Judge.

24 THE COURT: Okay. So at this point in my
25 sentencings, I typically discuss the range of imprisonment

1 under the statutes and guidelines that are applicable to the
2 offenses at issue. This is because section 3553 requires the
3 Court to consider a variety of factors, and those factors
4 include the applicable penal statutes.

5 So let me take a moment to describe the applicable
6 statutory and guideline penalties for this offense; the federal
7 offense, and the misdemeanor offenses. As I advised Mr. Chazin
8 earlier, the charge of distribution of child pornography in
9 violation of 18 U.S.C. § 2252(a)(4)(B) and (b)(2) is a federal
10 offense that carries a statutory maximum penalty of 20 years of
11 imprisonment. Because of the charges in this case, as stated
12 in the information, there is no mandatory minimum. Probation
13 is permitted under the applicable statistics, but because
14 Mr. Chazin's guideline range falls within Zone D of the
15 sentencing table, a sentence of probation would constitute a
16 variance from the guidelines.

17 The charge of possession of an unregistered firearm in
18 violation of 7 U.S.C. [sic] § 25- -- 2502.01(a) carries a
19 statutory maximum penalty of one year of imprisonment.
20 Probation is permitted under the applicable statutory
21 provisions. And the charge of attempted possession of a
22 large capacity ammunition feeding device in violation of
23 22 D.C. Code § 1803 and 7 D.C. Code § 2506.01(b) carries a
24 statutory maximum penalty of 180 days of imprisonment. As with
25 the other local offense, probation is permitted under the

1 applicable statutory provisions.

2 If a term of imprisonment is imposed, the statutes
3 provide that Mr. Chazin faces a supervised release range
4 following imprisonment of at least 5 years, and under the
5 guideline range -- under the guidelines, that range is also at
6 least 5 years; and it's 5 years to life.

7 For Counts 2 and 3, the D.C. Code offenses, there are no
8 statutory provisions regarding the imposition of supervised
9 release for those misdemeanor offenses.

10 With respect to Count 1, the statute of conviction sets
11 the maximum fine of up to \$250,000, while the guideline fine
12 range is between 25,000 and 250,000 dollars. The defendant is
13 obligated to pay a \$100 special assessment. The defendant must
14 pay an additional \$5,000 special assessment unless this Court
15 finds that he's indigent; and the Court may order a further
16 assessment of up to \$17,000.

17 For Count 2, the maximum fine is \$2500, and the
18 defendant is obligated to pay a special assessment of between
19 50 and 250 dollars.

20 For Count 3, the maximum fine is a thousand dollars, and
21 the defendant is obligated to pay an additional special
22 assessment of between 50 and 250 dollars.

23 And the statutory and guideline restitution provisions
24 in the federal statutes are applicable to Count 1 for
25 possession of child pornography, and they also require

1 defendants to pay restitution for this federal offense. The
2 government has submitted restitution requests on behalf of
3 three identified victims. Maureen seeks restitution in the
4 amount of \$10,000; Pia seeks restitution in the amount of
5 \$5,000; and Lily seeks restitution in the amount of \$10,000.

6 Have the parties -- we already talked about this --
7 agreed on a restitution amount? Although, Mr. Onorato, you
8 mentioned -- is it \$3,000? That is -- is that the statutory
9 minimum restitution amount?

10 MR. ONORATO: It is, Your Honor.

11 THE COURT: All right. And that's what the
12 government is requesting in this case, Ms. Larson?

13 MS. LARSON: Yes, Judge, 3,000 per victim. So that
14 would be a total amount of \$9,000 restitution.

15 THE COURT: Okay. All right. So have I stated
16 accurately the statutory and guideline framework under which we
17 are operating?

18 Ms. Larson?

19 MS. LARSON: Yes, Judge.

20 MR. ONORATO: Your Honor, you have with one
21 exception. When you provided the charge, you called it a
22 distribution and then you correctly stated that there was not a
23 mandatory minimum. So I wanted to correct the record. I know
24 what the Court meant, but it's a possession charge.

25 THE COURT: I -- sorry.

1 MR. ONORATO: No, no. It's okay.

2 THE COURT: I apologize. Yes. The charge of
3 possession of child pornography.

4 MR. ONORATO: Yes.

5 THE COURT: Thank you.

6 Okay. Before I -- I'm just trying to think. I'm
7 thinking about the findings that I need to make with respect to
8 the financial obligation. So the special assessment provision
9 under federal law beyond the hundred dollars, the \$5,000
10 provision, requires me to make a finding about indigency
11 status.

12 So maybe let me ask Ms. Willett whether the probation
13 office had a view of that in terms of the Court's obligation to
14 require an assessment in that amount.

15 THE PROBATION OFFICER: Yes, Your Honor. We did not
16 recommend an assessment for the \$5,000 in this case based upon
17 our determination of -- of Mr. Chazin's financial ability to
18 pay. He will have the restitution obligation, as well as
19 special assessments imposed as a result of this conviction, and
20 he faces potential incarceration and loss of income.

21 THE COURT: Okay. So the -- and so I assume that
22 carries to 17- -- the potential 17,000 as well?

23 THE PROBATION OFFICER: Yes, Your Honor.

24 THE COURT: And did probation have a recommendation
25 on the D.C. Code assessment of between 50 and 250 dollars?

1 THE PROBATION OFFICER: Yes, Your Honor. We
2 recommended that the Court impose a \$100 special assessment on
3 Count 2 and a \$50 special assessment on Count 3 for the
4 D.C. Code offenses.

5 THE COURT: Okay. Let me ask counsel for either side
6 whether they have any objection to or discussion of the
7 probation office's recommendations in this regard?

8 MR. ONORATO: Not on behalf of Mr. Chazin,
9 Your Honor.

10 MS. LARSON: The government concurs with probation's
11 recommendation, Your Honor.

12 THE COURT: Okay. That's helpful. Thank you.

13 So we've reached the point now in which the parties will
14 have the opportunity to address the sentencing guideline
15 calculation, the Court's considerations under 3553(a), or
16 anything else that they would like the Court to take into
17 account for the purpose of its sentencing.

18 Let me start with Ms. Larson and ask whether the
19 government wishes to speak about the application of the factors
20 at this time?

21 MS. LARSON: Yes, Judge. Briefly.

22 The government is asking, as this Court's aware, for a
23 guideline sentence of between 78 and 97 months, in addition to
24 the \$9,000 restitution that we have previously spoke about. We
25 are asking for a term of supervised release. In this case

1 we're asking for 120 months, understanding that the minimum is
2 60 months. But for the reasons that we address, a longer
3 period of supervised release is appropriate here.

4 These cases, as this Court is aware, are quite
5 challenging, particularly when the Court is faced with an
6 offender like Mr. Chazin that is younger in age. The Court's
7 aware that in the vast majority of child pornography offenses,
8 offenders come before this Court with no criminal history, no
9 histories of arrest, et cetera.

10 The government took some time to explain at least part
11 of why that is not uncommon in these cases. And, again, it's
12 because children do not disclose sexual abuse; these are crimes
13 that are committed in secret, they are crimes that are easily
14 committed because of the universal presence of the internet, as
15 well as the ever-expanding prevalence of handheld mobile
16 computing devices.

17 They're very difficult to detect. And as we see in this
18 case, the defendant was, in fact, engaging in criminal behavior
19 going back, as last as far as we can prove, until December of
20 2016, and he was not caught until Dropbox alerted the National
21 Center for Missing and Exploited Children to the fact there was
22 this type of conduct and content and material in his Dropbox
23 account.

24 THE COURT: And I'm sorry, Ms. Larson. When you say
25 "going back" as far as 2016, is that the government's exhibit?

1 Is that what you're showing me with this list? Can you just
2 explain a little bit about that?

3 MS. LARSON: Absolutely, Judge.

4 So what this exhibit is -- the government's sentencing
5 memo, Exhibit 1, this is what we call an upload log. It was
6 produced to us pursuant to a search warrant for the defendant's
7 Dropbox account, and what this shows is the exact time and date
8 where content was added to this defendant's account.

9 So what we see here is the relevant time frame starts in
10 December 28th of 2016. And as was briefly alluded to during
11 the plea colloquy, what we know about this time period, by all
12 accounts, is that the defendant was stationed in Fort Hood,
13 Texas, at this time. So we see a tremendous amount of content
14 hitting this Dropbox account and being organized into a folder
15 that's labeled "1 young." That's on the far right hand of the
16 chart that the government has provided to the Court. And then
17 the series of letters and numbers that end in mp4, that is --
18 each one of these represents a different image and/or video
19 that has all been organized into this young folder. What we
20 see as we move through this multipage exhibit is that content
21 was added to this Dropbox account both on December 28th of
22 2016, as well as December 29th of 2016. A tremendous amount of
23 content.

24 Then the content is added to again after a gap in time
25 on March 17th of 2017. And the last time that content was

1 added to this particular account that the government's aware
2 of, was June 21st of 2017. And that last video is -- goes into
3 the "V1" folder, and it's "petof. voyer octubre (26).mp4." So
4 that's a video that was added in June of 2017. All of this was
5 going on, again, in the absence of law enforcement detection.

6 It wasn't until March of 2019 that this account was,
7 again, accessed. Dropbox reported the access of this account
8 that contains the child pornography to law enforcement. That's
9 what launched our investigation.

10 And as this Court is aware, we obtained a search warrant
11 for the Dropbox account. We were able to determine that in
12 this young folder, that's where the majority of the child
13 pornography is. What I'd like to point out in terms of our --
14 our sentencing recommendation here is, again, we realize that
15 this is a challenging case because of the defendant's young
16 age. However, that cuts both ways here. Is this something
17 where we just caught this offender early, or is this something
18 where this truly is a one-time incident that would never be
19 repeated again?

20 The problem with his young age is, even with the
21 psychosexual evaluation, he's at a higher rate to reoffend and
22 he has a longer period in which to commit offenses because if
23 an incarcerated sentence is imposed, he will still be much
24 younger than the average offender when he's released, which is
25 part -- which is, honestly, our basis for the 120 months'

1 supervised release that we are asking for.

2 The defense here is asking this Court to impose a
3 sentence of probation, which, as the Court is aware from the
4 probation recommendation, is not recommended. In fact,
5 probation is asking for a downward variance, but they are still
6 asking for a 28-month sentence.

7 The guidelines calculation is a great starting point of
8 78 to 97 months, but then the Court is required to look at the
9 factors, as you stated, under 3553(a). The sentencing memo and
10 the recommendation asked for by the defense ignores the 3553(a)
11 factors. The memo largely glosses over the serious nature of
12 the offenses here. As the government went on in our sentencing
13 memo, these crimes are extremely serious.

14 This Court is aware that these images and videos depict
15 the graphic sexual assault of very innocent and vulnerable
16 children. In this case, we have images depicting both
17 sadomasochistic conduct, as well as the sexual abuse and rape
18 of children as young as toddlers. I'm a little confused by the
19 defense memo and the recitation in the PSR because the
20 defendant's version of events here seem to be completely
21 created out of whole cloth fabricated and really doesn't match
22 with any of the evidence that the government has ascertained as
23 part of our investigation.

24 It's just not consistent with the records that we've
25 provided to the Court and what we're seeing on the digital

1 devices; that this is someone who is downloading copious
2 amounts of legal adult pornography and somehow, oops, one image
3 of a child or a minor got in there. As we've talked about,
4 this specific folder in this Dropbox account labeled "young,"
5 it's not children of questionable age. The vast majority of
6 content in that folder is prepubescent children and children as
7 young as toddlers.

8 And as we know, when we went and looked at his digital
9 devices that were recovered during the search warrant, there
10 are thumbnail images which show that that's what he's viewing.
11 He's viewing images of prepubescent children being sexually
12 assaulted. So it's just not consistent with what we see here
13 that he somehow accidentally clicked on a link and was not
14 aware of what was in there.

15 Beyond that, Judge, a sentence of probation here does
16 not have a deterrent effect. It certainly does not send a
17 message to others who would engage in this type of conduct. It
18 certainly does not deter this defendant because, quite frankly,
19 it is a slap on the wrist. It is something that is -- he is
20 able to continue on day-to-day life. It does not promote
21 respect for the law, and it simply is not sufficient to protect
22 the public.

23 With respect to the forensic evaluation here, again,
24 Judge, what we have is an evaluation that one was hired and
25 paid for by the defense. It is largely based on this

1 defendant's self-report. As I've just indicated, the reality
2 is that that self-report just does not square with the evidence
3 in this case.

4 We do know that there was internet search history. It
5 only goes back to about six months prior to the execution of
6 the search warrant. It does not cover the time period when we
7 know that the content was being added to this Dropbox account.
8 So we have no way to verify or disprove this current allegation
9 that he clicked on a link. It certainly does not cover the
10 time period when we know that he accessed that Dropbox account,
11 which was the report to the National Center for Missing and
12 Exploited Children and then, correspondingly, also reported to
13 law enforcement.

14 Again, we would also point out the fact that some of the
15 cases that the defense is citing, in addition to making an
16 argument for why probation is -- is appropriate and noting
17 disparities, a lot of those cases are over a decade old. Some
18 of them are referring to state cases. And, again, the
19 applicable guidelines range would not -- would not be
20 appropriate in the state cases because they are not guided by
21 the sentencing guidelines that this Court is, as well as the
22 3553(a) factors.

23 For all those reasons, Judge, we are asking for a
24 guideline sentence. Because of this offender's young age, we
25 are asking for an extended period of supervised release in

1 addition to the mandatory \$9,000 in restitution.

2 THE COURT: Can I ask you one more question. The
3 organized into a folder bit that's a part of the exhibit, is it
4 the government's position that that folder was organized by the
5 user of the Dropbox -- Dropbox account? It didn't come already
6 preorganized?

7 MS. LARSON: That is -- that is our position. That's
8 consistent with our evidence that inside that Dropbox account
9 there were different folders: "young," "babes," "vids,"
10 "videos," as well as one that said mine. And so these were all
11 organized, and our understanding, it is by the user.

12 THE COURT: Thank you.

13 All right. Mr. Onorato.

14 MR. ONORATO: Thank you, Your Honor. Good morning.
15 May it please the Court.

16 Your Honor, I've listened to the government's
17 allocution, and what -- what I see from Exhibit 1 is that on
18 four dates, Mr. Chazin downloaded images into his Dropbox
19 account. And I say that if you look at December 28 of 2016,
20 that's more than four and a half years ago. December 29th of
21 2016; March 17th of 2017; and June 21st of 2017. So we're
22 talking almost five years ago that Mr. Chazin clicked on links
23 and downloaded those images onto his Dropbox account. And the
24 government is asking the Court to speculate that he organized
25 all of that information.

1 What I can tell the Court is that Mr. Chazin will tell
2 you himself is that he did collect pornography. He did
3 download images, and he got a mixed bag. And some of these
4 images were child pornography, but what the government isn't
5 telling you on those four dates, there are merely, you know,
6 48 files; 35 of which are whole and then 13 that are partial.
7 And so the last criminal act of him downloading any type of
8 pornography was almost four years ago from today's date.
9 That's from -- from uploading it into that Dropbox account.

10 It doesn't mean that it wasn't accessed, and I'll
11 discuss that. But it certainly isn't the typical case that
12 this Court sees with someone involved in child pornography.

13 Moreover, Judge, at that time period, Mr. Chazin would
14 have been 19 years old. He's now older, but it was -- it was a
15 long time ago.

16 And so when you look at the evidence, that Dropbox
17 account was last accessed on July 15th of 2019. And so
18 six months later, the government executes a search warrant.
19 And that's in February of 2020. And what is telling, and what
20 the government downplays, is that you have a window and they
21 have a window into what's into this young man's mind in that
22 period of time. And if he were the pedophile, if he was the
23 purveyor of this information, he would be downloading this
24 stuff. He doesn't know law enforcement is looking.

25 And so the best evidence is the fact that between

1 July when it was last accessed and February, there's not a
2 single search for child pornography. There's not a single
3 search for an illegal website. The only content that's there
4 is adult-content pornography available on a commercial
5 mainstream platform called Pornhub. In other words, he's not
6 searching for child pornographic material; and, frankly, the
7 government's cookie-cutter approach must be rejected
8 universally by this Court.

9 Your Honor, if you look -- and the Court has had
10 experience in these types of cases. It doesn't seem to ring
11 true that the -- the position that the government's advocating
12 for would -- would be connected to Mr. Chazin. I mean, you
13 would have more recent evidence of downloads of child
14 pornographic images.

15 And, Your Honor, when you ask about aggravating factors
16 or you consider aggravating factors in these type of cases,
17 we've all seen them. There are people who are trading images
18 with law enforcement. There are people who are distributing
19 images. There are people who are looking to have sexual
20 relations by meeting an undercover officer. None of that is
21 present here.

22 What we have before us is a young man who made poor
23 decisions. He understands that when he got child pornography
24 in that inbox, he deleted some of it, but he kept it. And he
25 was wrong for keeping it, and there was knowing possession, but

1 when you look at the record post-2017, there's just no evidence
2 before the Court to show that he's interested in child
3 pornography.

4 And Ms. Larson ignores the fact that Dr. Snably is an
5 expert in this area. And, you know, frankly, Judge, when you
6 look at the evidence that Dr. Snably cites in her report, you
7 see there are more than 60,000 images in his possession, and
8 yet only 7 or so images contain child pornography. And that's,
9 again, in that six-month period. This shows a young man who
10 made a bad judgment, who exercised bad judgment, but certainly
11 isn't someone the Court needs to incarcerate the way the
12 government describes.

13 And what's interesting, Judge, is that we have one
14 prosecutor in this district; right? So -- in Pennsylvania or
15 in Massachusetts or in Delaware, you have multiple prosecutors
16 who are making a decision. And when you're talking about 35 to
17 48 images, that's relatively mundane when you consider these
18 cases. He didn't have a choice where the case was brought, but
19 Ms. Larson did. And there are plenty of instances where
20 prosecutors in federal court rejects those. Courts look at
21 conduct like this and much worse and give probationary
22 sentences.

23 In fact, I know this Court has seen cases where
24 individuals have distributed and received images similar to
25 what's going on here and given a three-month sentence. And so,

1 Your Honor, I think when the Court considers Mr. Chazin, the
2 fact that he did not download these images for at least
3 four years, and what he's going to tell the Court about his
4 rationale for being involved in this, I think it's compelling.

5 And, Judge, more importantly, you've got a young man --
6 Ms. Larson talks about, you know, sending a message. He's a
7 registered sex offender. He lost his fiancée. He's had his
8 life destroyed. This is not a walk in the park for Mr. -- he's
9 lived with this case for the last 18 months, not knowing if
10 he's -- when he's going to go to prison or what is going to
11 happen to him. This is not a pleasant experience.

12 And for the government to suggest that, again, Judge, we
13 need to take a cookie-cutter approach and do what the
14 guidelines -- and not consider any of the individual factors, I
15 think is outrageous and over the top.

16 I think when the Court balances the factors that are
17 properly before it, given his military service, his lack of
18 criminal history, the lack of any searches for this type of
19 material, all show the Court he's someone who's worthy of a
20 second chance.

21 And, Your Honor, based on those factors, I respectfully
22 request that the Court give a variance to a probationary
23 sentence, which is, frankly, in line to the numerous cases that
24 we've cited. Mr. Chazin is someone who, I think, the Court can
25 put trust in and not have to worry about him committing any

1 other kind of offense in the future.

2 Thank you.

3 THE COURT: Thank you, Mr. Onorato.

4 Mr. Chazin, do you have something that you would like to
5 say to the Court? If so, now would be the time.

6 THE DEFENDANT: Yes, Your Honor, I do.

7 THE COURT: Let me ask you to speak up, if you would,
8 so we can make sure we can hear you.

9 THE DEFENDANT: Yes, Your Honor. Good morning,
10 Your Honor.

11 I would like to apologize to the Court, to my family,
12 and, most importantly, to the victims for my actions. I
13 understand that my actions were wrong, and I'm very sorry. I
14 made serious and bad choices by accepting pornography from
15 people I met online and did not know. I was not looking for
16 child pornography, and I have never intentionally sought out
17 child pornography.

18 Because of that, most of the files I received in those
19 chat rooms were adult images, were adult pornography. I would
20 download the files and save them to my Dropbox and then look at
21 some of the images I had received. On a few occasions I would
22 come across images of minors when doing the download files.
23 Sometimes I would delete those images both that had minors and
24 adults. And other times I would simply leave the files in the
25 folder without deleting, against my better judgment. Even

1 though I had no interest in the children, I did not delete
2 them.

3 THE COURT: Mr. Chazin, I'm having a hard time
4 hearing you. So if you can make sure to speak up a little bit
5 louder. Okay?

6 THE DEFENDANT: Yes, Your Honor.

7 Sometimes I would delete the images, both those that had
8 minors and adults, and other times I would simply leave the
9 files in the folder without deleting them. Even though I had
10 no interest in images of children, I did not delete some of
11 them, even though I knew at the time some of the images in the
12 photos were wrong.

13 The images that were found in my account and devices
14 were images I did not delete, but I should have. But that is
15 why we are here. That is why there are so few images of
16 children on my devices. I accessed the Dropbox folders over a
17 few times over a period of years. I can assure you that I did
18 not access those folders in order to view the child
19 pornography. I have never been interested in child
20 pornography, which is reflected in my engine search history.

21 I also understand and accept I'm responsible for
22 possessing those images, even though I did not deliberately
23 seek them out. I knew they were contained in some of the file
24 downloads, and it is my responsibility to merely delete them or
25 bring them to -- to the police, and I didn't. As a result, I

1 have changed my life for the worse for forever.

2 I have read the letters that have been submitted by the
3 victims of these crimes and their families, and I am deeply
4 saddened that I got involved in this horrific crime. I
5 understand how their lives have been changed forever and -- by
6 what happened to them and what they continue to experience in
7 everyday life. They have done nothing wrong and don't deserve
8 what has happened to them. And it makes me sad that they have
9 to continue on with this lifestyle and that I have contributed
10 to their pain and suffering; not only the victims, but to the
11 victims' family and friends and other loved ones.

12 I know you have read what my lawyer has sent you about
13 me, including the doctor's report and character letters. I
14 have served in the Army and tried to be a good son, brother,
15 friend, and citizen. I have been trying my best to prove that
16 I am a hard-working, responsible person. Since I moved back to
17 Washington, D.C., from South Carolina, I found a full-time job,
18 and I will continue to prove that I am a law-abiding citizen
19 and I am responsible.

20 The case will deeply affect me for the rest of my life.
21 I know that I will have to register as a sex offender and
22 things will be difficult for me. But I realize that I am the
23 only one responsible for my actions. I am responsible for who
24 I am, for where I stand today, and I will not run from the
25 challenges that lie ahead of him.

1 I am hopeful for the opportunity for a second chance.
2 I'm asking you to consider all of the evidence in the case and
3 allow me to prove myself to you. Again, I am sorry to my
4 friends, my family, the victims, and the victims' families.

5 Thank you.

6 THE COURT: Thank you, Mr. Chazin.

7 We're going to take a break.

8 Let me just ask Mr. Onorato one thing that I neglected
9 to ask while you were giving your presentation. I know that
10 you have many of the documents related to the defendant's case
11 under seal. Mr. Chazin mentioned, for example, the family
12 letters. It's not ordinarily my practice to do so. So I just
13 wanted to get a sense of your thoughts on this. I know that
14 we -- we seal sex offender reports, but things like the
15 letters, the character letters, we -- we redact certain
16 information, but they're not filed under seal as a typical
17 matter.

18 MR. ONORATO: So, Your Honor, I believe I did file
19 those redacted --

20 THE COURT: Okay.

21 MR. ONORATO: -- on the open record at the same time
22 I filed the motion for the Court. And I just removed, kind of,
23 sensitive information about Mr. Chazin's brother, you know,
24 medical material, and the doctor's report. But I do think a --
25 a copy has been filed on -- on the public docket that I think

1 meets with what the Court suggests.

2 THE COURT: All right. Well, I'll go back and take a
3 look at that in connection with deciding your sealing motion,
4 but I just want to make that clear in terms of what my standard
5 practice is.

6 MR. ONORATO: I understand that. And I may have done
7 it a little bit in -- in anticipation, but I made some judgment
8 calls in terms of what we thought would be appropriate to
9 redact. And so the Court should have two copies, one
10 unredacted and one redacted, on the public document.

11 THE COURT: All right. I'll take a look at that.

12 Let's break until 11:45, and then I will come back and
13 pronounce sentence.

14 MR. ONORATO: Thank you.

15 THE COURT: All right. Thank you.

16 (Recess taken.)

17 THE COURT: We've returned. Do we have everyone in?

18 MR. ONORATO: Yes, Your Honor.

19 THE COURT: The Court has calculated the sentencing
20 guidelines and heard the statements made by counsel and by the
21 defendant, and it must now consider the relevant factors laid
22 out by Congress in 18 U.S.C. § 3553(a) in order to ensure that
23 it imposes a sentence that is sufficient but not greater than
24 necessary to comply with the purposes of sentencing.

25 These purposes include the need for the sentence imposed

1 to reflect the seriousness of the offense, to promote respect
2 for the law, and provide just punishment for the offense. The
3 sentence should also deter criminal conduct, protect the public
4 from future crimes by a defendant, and promote rehabilitation.

5 In addition to the guidelines and policy statements,
6 this Court must consider the nature and circumstances of the
7 offense, the history and characteristics of the defendant, the
8 types of services available, the need to avoid unwarranted
9 sentencing disparities among defendants with similar records
10 who have been found guilty of similar conduct, and the need to
11 provide restitution to any victims of an offense.

12 This Court has considered all of these factors when
13 deciding what the appropriate sentence is in this case, and in
14 accordance with my ordinary practice, I won't detail my
15 considerations with respect to each factor orally here today,
16 but I do think it is important for me to say something for the
17 record and for you, Mr. Chazin, about the nature and
18 circumstances of your offense, your history and
19 characteristics, and the need to avoid unwarranted sentencing
20 disparities.

21 With respect to the nature of the offense, it is very
22 important that you understand that possession of child
23 pornography is an extremely serious federal crime. In the
24 sentencing memoranda that your counsel submitted on your
25 behalf, your counsel represents that you understand the

1 seriousness of the offenses that you committed and that you are
2 embarrassed, ashamed, and remorseful. And the letters that I
3 received from your friends and family similarly suggest that
4 you recognize the mistake that you made, that you truly regret
5 your actions and that you fully understand the consequences. I
6 don't have any letter from you that says anything of the sort,
7 but you did say here today that you understand the impact of
8 your determinations and your conduct.

9 But I have to tell you, Mr. Chazin, that one of the
10 things that I try to do as the judge in a case such as this one
11 is really get a sense of whether a defendant actually
12 understands how terrible this crime is and why it is so
13 heinous. This is crucial, in my view, that a child pornography
14 defendant recognizes and appreciates the essence of the crime
15 at issue; in part, because it's so easy to think that this is
16 just a simple thing, that this is just a little thing, that,
17 you know, some -- someone who isn't actually engaged in the
18 process of making these kinds of photos isn't at fault.

19 And so what I feel the need to do in cases of this
20 nature is to make clear that possession of child pornography is
21 much more than just viewing something inappropriate or
22 disgusting or taboo, and that's whether a particular defendant
23 derives any pleasure from the photos or not. That was a theme
24 that sort of went through your counsel's memo; that, you know,
25 you didn't really take any pleasure in this. Regardless, it's

1 still a serious crime. So let me be as clear as possible about
2 this.

3 This crime involves people taking pictures and videos of
4 real children while those children are being sexually abused
5 and putting those pictures on the internet for other people to
6 see. And from the statement of offense, it appears that you
7 possessed dozens of images and videos of children in sexually
8 compromised positions. Some of them -- the pictures that you
9 had -- included images of children engaged in sadomasochistic
10 acts. And let me just say, that it is not especially
11 mitigating that these pictures may have been uploaded
12 four years ago. I understand; your counsel says this is not
13 something that was of recent vintage. Okay.

14 But there are still pictures of children being sexually
15 abused on your computer for all that period of time, and you
16 suggested that you deleted some, but it's clear that you did
17 not delete all. And so what I want you to understand is the
18 damage that is being done to the young children in the photos
19 and the videos you possessed because knowledge of that is going
20 to be crucial for your rehabilitation.

21 On the one hand, your sentencing memoranda suggests that
22 you understand, as I've said, the seriousness of the danger and
23 the abuse. On the other, the memoranda says that, really, you
24 know, the deletion or closure of these files was -- should be
25 enough for the Court to glean that you were not really all that

1 involved. The forensic psychological evaluation that you
2 submitted says that you told the examiner that you now
3 understand why your actions demonstrated poor judgment, and the
4 examiner included that you seem relatively satisfied with
5 yourself and saw little need for significant changes in your
6 behavior.

7 Well, again, we're talking about conduct that goes well
8 beyond poor judgment. And the government is not charging you
9 with possession merely to go up the chain and find the person
10 making such materials, which is what at one point you appeared
11 to suggest. Real children are being terrorized to create child
12 pornography. They are not knowing and willing participants in
13 the degrading conduct. They were being forced to commit
14 unspeakable acts of sexual violence for the pleasure of the
15 person who was filming and for the gratification of sick people
16 everywhere, people who apparently have no shred of empathy for
17 what this kind of conduct does to the children who are being
18 abused in this way.

19 And let me just say that the impact of this crime is not
20 speculative. Again, it's sort of like we have photos floating
21 out there and they're not necessarily connected to the people
22 who are in them, such that one can imagine a whole community of
23 people who are viewing these pictures without really thinking
24 about the impact on the children who are in them.

25 But in this case, there were victim impact statements.

1 You said that you've read them, and I appreciate that. I've
2 read them, and I've read other similar statements from victims
3 of this crime in other cases. And all of them, in my view, are
4 harrowing. You can imagine, Mr. Chazin, what it must be like
5 for someone to be the victim of sex abuse as a child and, if
6 that's not bad enough, to know that that abuse was actually
7 videotaped and put up on the internet for everyone to see
8 forever.

9 In the statements submitted here, one victim states that
10 she can never feel safe -- never feel safe -- so long as her
11 images are out there; that she constantly wonders if the people
12 she knows and the strangers she encounters in her everyday life
13 have seen the images of her on the internet.

14 Another victim expresses a similar sentiment,
15 emphasizing that she does not trust anyone around her or
16 herself, and she feels that she must always stay vigilant in
17 case someone recognizes her from the images circulating online.

18 In this case there was also a quite striking letter from
19 the mother of a child pornography victim who explains how her
20 child's life has been changed forever. Her daughter has
21 suffered crippling insecurity, is afraid of the internet. She
22 also speaks directly to defendants of child pornography crimes
23 when she remarks, quote, I want to keep my child in a bubble
24 and to ensure that she's safe from people like you.

25 Unfortunately, her abuse is on the internet. How can I

1 reassure her that those images and videos are no longer being
2 circulated online, end quote. She also wishes that defendants
3 in these cases, quote, understand the damage that you've done
4 to my daughter. I want you to understand the tremendous cost
5 she bears and I bear for the damage you've done by invading my
6 daughter's privacy and circulating her images, end quote.

7 And I do appreciate, as Mr. Onorato points out, that you
8 were not active in the circulation, and we'll talk about that
9 in terms of what that means for the ultimate sentence. But the
10 victims have made crystal clear that the conduct of merely
11 possessing child pornography is a significant harm in and of
12 itself, even if the defendant had no role in producing or
13 circulating the content that he possessed.

14 To put an even finer point on it, Congress understood
15 that the mere possession of these kinds of images is a serious
16 problem because the market for producing pictures of children
17 being molested and raped is driven by those who want to see
18 those pictures. If the lookers weren't there, Mr. Chazin, if
19 the interest wasn't there, then there would be fewer child
20 victims, which is why I believe Congress made child pornography
21 possession, mere possession of child pornography, a federal
22 offense.

23 So the question for the Court becomes how to assess the
24 seriousness of your child pornography offense for the purpose
25 of the sentence to be imposed as section 3553(a) requires.

1 Your counsel, just like many others in this area, has suggested
2 that I discount substantially the guideline assessment because
3 the child pornography guideline itself is not the product of
4 the Sentencing Commission's empirical assessment. The
5 guidelines include and emphasize certain factors that have been
6 widely criticized, even by the Sentencing Commission itself,
7 and the Court does generally agree with that kind of
8 commentary. I've long considered it appropriate to make some
9 adjustments to the guideline calculation as it relates to child
10 pornography crimes. And, again, not because the crime isn't
11 serious, but because of the way in which the guidelines account
12 for it.

13 I've stated in other similar cases -- and I'll say here
14 again -- that the guideline factors are in many ways outdated.
15 And at least some of these no longer adequately distinguish
16 between more serious and less serious child pornography
17 offenses. So, for example, the guidelines include a 2-level
18 increase for use of the computer, and they also provide for a
19 substantial enhancement for the number of images stored on a
20 computer's hard drive. Whatever the state of law and
21 technology at the time the guidelines were first adopted,
22 neither the use of the computer nor the number of images are
23 especially aggravating factors today. So the Court has taken
24 this into account.

25 The fact that a computer is at work with respect to

1 nearly all child pornography offenses and it's so easy to
2 receive, possess, and distribute child pornography
3 electronically, that the numbers of images and the use of
4 electronic medium no longer signal an especially heinous or
5 egregious offense.

6 I will apply my general policy disagreement with the
7 2-level guideline enhancement for use of a computer and the
8 5-level enhancement for the number of images. I'm going to
9 exclude the 2 points as a variance for the computer use and
10 impose only a 2-level increase to account for the size of your
11 collection. And, again, I'm varying from the guidelines range,
12 and so that's -- I'm going to consider you to have
13 approximately 5 levels off as a result.

14 Now, let me just speak to the presentence report
15 suggestion that I should go even further and also exclude the
16 2 points for materials involving a prepubescent minor and the
17 4 points for materials portraying sadistic or masochistic
18 conduct.

19 The probation office explains that 95 percent of child
20 pornography cases involve an enhancement for a prepubescent
21 minor, nearly 75 percent involving an increase for -- of the
22 kind of depiction that is enhanced under the guidelines. I
23 wonder whether or not that's, in part, because of prosecutorial
24 charging determination. But, in any event, I view those
25 enhancements as actually different in -- in kind than the two

1 that I automatically otherwise discount.

2 Unlike the enhancements for use of a computer and number
3 of images, in my view, those two, the age and sadomasochism,
4 relate to the nature of the images that a defendant possesses,
5 which is, in fact, quite relevant to culpability. So those
6 enhancements, I think, still distinguish between more and less
7 culpable behavior; and, therefore, I am going to continue to
8 take those into account in sentencings of this nature. I'm
9 still going to apply those increases.

10 So as a practical matter, given the reductions that I
11 made for the other policy disagreements, I consider you to be
12 at an offense level of 23 rather than a 28. And at that
13 Criminal History Category I, that offense level carries a range
14 of 46 to 57 months.

15 Now, turning to your history and characteristics as an
16 offender. The probation office has found that you have no
17 prior criminal history, which, as the government says, is not
18 unusual for cases of this type. I do appreciate that you
19 served in the military. I think that is important. And that
20 you also, as you've said, have the ability to contribute
21 meaningfully to society, in part, because of your relatively
22 young age. I've taken that into account. The government says
23 it cuts both ways, and I agree with them on that point as well.

24 It is significant that the expert who conducted the
25 psychosexual evaluation determined your behavior does not

1 appear to be motivated by a sexual attraction to prepubescent
2 children and that you appear to be no more than average risk
3 for committing future sexual offenses. The Court notes that --
4 that it has to discount somewhat the reliability of these
5 conclusions because they're based largely on your self-reported
6 representations to an examiner that you have hired for this
7 report. But I have taken them into account, and I have
8 considered them in thinking about what the appropriate sentence
9 is in this case.

10 I've also reviewed and considered the letters that have
11 been submitted on your behalf. You have a lot of support,
12 Mr. Chazin, and I always appreciate getting letters from a
13 defendant's friends and family because people who know a
14 defendant can attest to his true character. These letters
15 describe you as caring and hard-working, smart, dependable. I
16 have no reason to doubt those representations, and you should
17 be quite proud of having developed such a following among
18 people who view you in that fashion.

19 You should also be quite sad to know how your criminal
20 conduct may have impacted the people who know you and trust you
21 and care about you, and I hope that you will be honest with
22 these people moving forward. Because in addition to needing
23 treatment, you're going to need their help, not only during
24 your period of incarceration but afterwards when you return to
25 the community. There will be lots of restrictions that the law

1 requires because you're a convicted sex offender, and you're
2 going to need their support to get through the next phase of
3 your life and beyond.

4 The third and final consideration that I will discuss is
5 the need to avoid unwarranted sentencing disparities. And this
6 is a factor that your counsel focused on in his brief, and it's
7 one that is often very important in my consideration of how to
8 sentence a defendant. I've considered the cases that your
9 attorney cited in his memoranda, and I'm aware that similarly
10 situated defendants sometimes receive sentences well below the
11 sentencing guidelines range with respect to this particular
12 crime, both in this district and nationwide.

13 I'm also aware that every case presents its own unique
14 circumstances to a certain extent, and the practices of other
15 judges with respect to sentencing and -- and sentencing child
16 pornography offenders in particular, those are not binding on
17 me. Also, given the extraordinary variation in sentencing
18 practices with respect to these kinds of crimes, I find it is
19 especially important to look at my own prior cases when
20 analyzing potential sentencing disparities.

21 Your lawyer's sentencing memoranda notes the case of
22 Wesley Hawkins who also pled guilty to one count of child --
23 possession of child pornography. He had the same criminal
24 history category, and he had a higher guideline range than you
25 do. In Mr. Hawkins's case, I ultimately sentenced Mr. Hawkins

1 to 3 months of imprisonment and 73 months of supervised
2 release. But I will say that I remember Mr. Hawkins's case
3 well, even though it was many years ago now, and it involved
4 several extremely mitigating circumstances that are not present
5 with respect to you, Mr. Chazin.

6 I had another child pornography possession case that
7 your counsel did not focus on in his memo. I sentenced
8 Mr. Stewart after I sentenced Mr. Hawkins. That case can be
9 found at 16-cr-67. And it also seems relevant because, again,
10 it's related to possession of child pornography as opposed to
11 distribution. Mr. Stewart pled guilty to one count of
12 possession of child pornography, just as you had. He had the
13 same absence of criminal history. He had a higher guideline
14 range than you do, and there were facts in the record that
15 indicated that his possession conduct was actually more serious
16 than yours.

17 He engaged with an uncover officer. He distributed some
18 images, even though he was only charged with possession. He
19 sought out pornographic materials involving young children. In
20 that case, under those circumstances, I sentenced Mr. Stewart
21 to 57 months of imprisonment and 120 months of supervised
22 release.

23 All things considered then, the need to avoid
24 unwarranted sentencing disparities supports the imposition of a
25 sentence in this case that is greater than the sentence that

1 the Court imposed in Mr. Hawkins's case but lower than the
2 sentence that this Court imposed in Mr. Stewart's case.

3 Another relevant data point is how this possession
4 offense relates to cases involving the possession and
5 distribution of child pornography. Congress has deemed
6 distribution to be a more serious offense. And, accordingly,
7 it has required judges to impose statutory minimum penalties of
8 5 years or 60 months of imprisonment when distribution is
9 charged.

10 This means that unlike the government's argument, I
11 cannot see imposing more than a person who would have
12 distributed child pornography to you as a mere possessor, but I
13 often sentence defendants charged with distribution to the
14 mandatory minimum of 60 months even when their guideline range
15 is higher. As I mentioned earlier, taking account of my policy
16 disagreement, I consider you to have a guideline range of 46 to
17 57 months, which means there's a 14-month difference between
18 the low end of that range, the 46 months, and the 60-month
19 mandatory minimum for distribution. I do think that mere
20 possession offenses, which is what we have in this case, are
21 substantially less serious than distribution offenses from the
22 standpoint of the harm. And I think that the probation office
23 in this case has made a similar assessment.

24 I've considered everything, including the nature and
25 circumstances of the offense, your history and characteristics,

1 and the need to avoid unwarranted sentencing disparities. And
2 all things considered, I concur with the probation office's
3 assessment that a penalty of 28 months of imprisonment on
4 Count 1, 6 months of imprisonment on Count 2, and 3 months of
5 imprisonment on Count 3, with all three terms to run
6 concurrently, is sufficient but not greater than necessary to
7 reflect the seriousness of the instant offense, promote
8 deterrence, protect the public from future crimes that may be
9 committed by you, and, given the similar cases that I've had,
10 avoid unwarranted disparities among defendants with similar
11 histories who have been convicted of similar crimes.

12 Consistent with the probation office's recommendation, I
13 will impose that term of imprisonment, and consistent with what
14 I have done in the past with respect to Mr. Stewart, I will
15 impose a period of 73 months -- excuse me -- with respect to
16 Mr. Hawkins, I will impose a period of 73 months of supervised
17 release on Count 1. And I'm doing that to permit you to
18 rehabilitate yourself and integrate yourself fully back into
19 society.

20 Therefore, based on my consideration of all of the
21 3553(a) factors, I will now state the sentence to be imposed.

22 It is the judgment of the Court, that you, Adam Chazin,
23 are hereby committed to the custody of the Bureau of Prisons
24 for concurrent terms of 28 months on Count 1, 6 months on
25 Count 2, and 3 months on Count 3.

1 You are further sentenced to serve a term of 73 months
2 of supervised release on Count 1 and to pay a \$100 special
3 assessment on Count 1, a \$100 special assessment on Count 2,
4 and a \$50 special assessment on Count 3. The Court finds that
5 you do not have the ability to pay a fine and, therefore,
6 waives imposition of a fine in this case. The Court also finds
7 that you do not have the ability to pay the \$5,000 special
8 assessment pursuant to the Justice for Victims of Trafficking
9 Act of 2015 and, therefore, waives the imposition of that
10 assessment.

11 Turning to restitution, the statutory provision
12 governing mandatory restitution in child pornography cases such
13 as this one requires the Court to order restitution in an
14 amount that reflects the defendant's role in the causal process
15 that underlies the victim's losses, but which is no less than
16 \$3,000. This Court has reviewed the restitution request that
17 the government has submitted in this case on behalf of the
18 three identified victims. And although the Court does not
19 doubt the victims have suffered losses as detailed in those
20 requests, the Court finds that the government's submissions do
21 not establish that Mr. Chazin's specific instances of
22 possession proximately caused the losses in a manner that gives
23 rise to a need to impose more than the minimum amount.

24 Accordingly, the Court will award restitution of \$3,000
25 per victim. And, therefore, Mr. Chazin is further sentenced to

1 pay restitution in the total amount of \$9,000. Special
2 assessment and restitution as to Count 1 are immediately
3 payable to the Clerk of the Court for the U.S. District Court
4 for the District of Columbia. Within 30 days of any change of
5 address, you shall notify the Clerk of the Court of that change
6 until such time as the financial obligation is paid in full.
7 The Court waives any interest or penalties that may accrue on
8 unpaid balances.

9 Restitution payments shall be made to the Clerk of the
10 Court for the U.S. District Court for the District of Columbia
11 for disbursement to the victims as follows: to Maureen in the
12 amount of \$3,000, to Pia in the amount of \$3,000, and to Lily
13 in the amount of \$3,000.

14 The special assessments as to Counts 2 and 3 are
15 immediately payable to the Budget and Finance Office of the
16 District of Columbia Superior Court for deposit into the Crime
17 Victims Compensation Fund. Within 30 days of any change of
18 address, you shall notify the Budget and Finance Office of the
19 change until such time as that financial obligation is paid in
20 full. The Court waives any interest or penalties that may
21 accrue on unpaid balances.

22 Within 72 hours from release -- of release from custody,
23 you shall report in person to the probation office in the
24 district to which you are released. While on supervision, you
25 shall submit to the collection of DNA; you shall not possess a

1 firearm or other dangerous weapon; you shall not possess an
2 illegal controlled substance; and you shall not commit another
3 federal, state, or local crime.

4 You should also abide by the general conditions of
5 supervision adopted by the U.S. Probation Office, as well as
6 the following special conditions, which I will state and then
7 describe the reasons for as the D.C. Circuit requires.

8 Sex offender registration. You shall comply with the
9 sex offender registration requirements for convicted sex
10 offenders in any state or jurisdiction to where you reside, are
11 employed, carry on a vocation, or are a student. Imposing sex
12 offender registration as a condition of supervised release is
13 the least restrictive means necessary of protecting the public
14 from future sex crimes.

15 Sex offense assessment. You must participate in a sex
16 offense-specific assessment. This condition is imposed because
17 it is the least restrictive means of providing you with
18 treatment to rehabilitate yourself so you can move forward from
19 the underlying offense and will also deter future conduct
20 involving sex offenses. You must pay a percentage of the cost
21 of the assessment as determined by the probation office.

22 Sex offender treatment. You must participate in a sex
23 offense-specific treatment program and follow the rules and
24 regulations of that program. The probation officer will
25 supervise your participation in the program. You must pay a

1 percentage of the cost of the program as determined by the
2 probation office. As with the sex offense assessment
3 condition, this condition is imposed because it is the least
4 restrictive means of providing you with treatment to
5 rehabilitate yourself so you can move forward from the
6 underlying offense and will also deter future conduct involving
7 sex offenses.

8 Contact restrictions. You must not have direct contact
9 with any child you know or reasonably should know to be under
10 the age of 18, with the exception of your own children, without
11 the permission of the probation office. If you have any direct
12 contact with a child you know or reasonably should know to be
13 under the age of 18 without the permission of the probation
14 office, you must report this contact to the probation officer
15 within 24 hours. Direct contact includes written
16 communication, in-person communication, or physical contact.
17 Direct contact does not include incidental contact during
18 ordinary daily activities in public places. This is the least
19 restrictive means necessary of protecting the public from
20 future sex crimes against minors and deterring future offenses
21 and encouraging registration.

22 Computer monitoring. You must allow the probation
23 officer to install computer monitoring software on any
24 computer, as defined by 18 U.S.C. § 1030(e)(1), that you use.
25 Given your offense of conviction involved the use of a computer

1 and the internet, this condition is the least restrictive means
2 of protecting the public from future offenses, deterring you
3 from committing any future offenses, and aiding in treating
4 your correctional needs.

5 Computer search. You must submit your computers as
6 defined in 18 U.S.C. § 1030(e)(1) or other electronic
7 communication or data storage devices or media to a search.
8 You must warn any other people who use these computers or
9 devices capable of accessing the internet that the devices may
10 be subject to searches pursuant to this condition. The
11 probation officer may conduct a search pursuant to this
12 condition only when reasonable suspicion exists that there is a
13 violation of a condition of supervision and that the computer
14 or device contains evidence of this violation. Any search will
15 be conducted as -- at a reasonable time and in a reasonable
16 manner.

17 The Court finds that this condition is reasonably
18 related to the nature and circumstances of your offense, the
19 need to deter criminal conduct, protection of the public, and
20 treatment of your correctional needs because the nature of your
21 offense indicates some degree of risk of recidivism and because
22 any repeated criminal conduct of this nature could well be
23 carried out on your computer.

24 Financial information disclosure. You must provide to
25 the probation officer access to any requested financial

1 information and authorize the release of any financial
2 information until the financial obligations are paid in full.
3 The probation officer may share financial information with the
4 United States Attorney's Office. This condition is the least
5 restrictive means of ensuring that restitution is provided to
6 the victims of the offense for which you have been convicted.
7 You must not incur new credit charges or open additional lines
8 of credit without the approval of the probation office until
9 the financial obligations are paid in full.

10 As with the financial information disclosure condition,
11 this condition is the least restrictive means of ensuring that
12 restitution is provided to the victims of the offense for which
13 you've been convicted.

14 Restitution obligation. The defendant shall pay the
15 balance of the -- of any restitution owed as previously
16 indicated at a rate of no less than \$50 each month and shall
17 provide verification of the same to the probation office. Like
18 the other two financial conditions, this obligation is the
19 least restrictive means possible of ensuring that restitution
20 is provided to the victims of the offense for which you've been
21 convicted.

22 The probation office shall release the presentence
23 investigation report to all appropriate agencies in order to
24 execute the sentence of the Court. Treatment agencies shall
25 return the presentence report to the probation office upon the

1 defendant's completion or termination from treatment.

2 Pursuant to your plea agreement and Rule 32.2(a) of the
3 Federal Rules of Criminal Procedure, you, Mr. Chazin, are
4 ordered to forfeit the items that are listed in your plea
5 agreement.

6 Mr. Chazin, you also have a right to appeal the sentence
7 imposed by this Court under the limited circumstances laid out
8 in your plea agreement. If you choose to appeal, you must file
9 an appeal within 14 days after the Court enters judgment. If
10 you are unable to afford the cost of an appeal, you may request
11 permission from the Court to file an appeal without cost to
12 you.

13 Let me ask counsel if there are any objections to the
14 sentence imposed that are not already noted on the record.

15 Mr. Onorato?

16 MR. ONORATO: No, Your Honor. I -- I would ask if
17 the Court would be willing to consider suspending the
18 restitution payments until Mr. Chazin is released from prison.

19 THE COURT: Let me ask probation and the government
20 to weigh in on that. Ordinarily what happens, I think, is the
21 defendants start paying restitution from prison through their
22 prison accounts. And I'm not sure why, Mr. Onorato, you think
23 that would not be an appropriate requirement here.

24 MR. ONORATO: So, generally speaking, his parents
25 will give him money to put on telephone or commissary, and he

1 won't be paying the restitution, they'd be paying the
2 restitution when, you know, they take the money from his
3 account. That's -- that's typically what I find happens in
4 these instances.

5 THE COURT: Ms. Larson, does the government have any
6 view of this?

7 MS. LARSON: No, Judge. Our understanding is similar
8 to the Court's; that the restitution obligation begins during
9 sentencing and it can be obtained through whatever type of
10 accounts they have while they're incarcerated. I -- I don't
11 see a difference here, but I've not had that specific request
12 from defense counsel before.

13 THE COURT: Ms. Willett, have you heard of this
14 before?

15 THE PROBATION OFFICER: I have seen it happen before,
16 Your Honor. It's been a while. And the prison does take a
17 percentage of whatever is on the prison books to go towards any
18 court-order obligations, whether it be restitution or costs
19 for -- et cetera.

20 I would ask one thing only; that the Court consider
21 waiving the interest that would accrue on any restitution
22 payments while he is in custody.

23 THE COURT: Yes, I will waive the interest.

24 But, Mr. Onorato, I'm not going to require that
25 restitution be suspended until he is released. I think we're

1 just going to go with what we ordinarily do, which is allow
2 restitution to begin immediately, but there will be no interest
3 or costs accrued.

4 Is there any other objection to the sentence that are
5 not already -- that is not already noted on the record?

6 MR. ONORATO: No, Your Honor.

7 MS. LARSON: Not from the government, Judge.

8 THE COURT: All right. So that concludes the Court's
9 judgment.

10 We now have to consider how to have Mr. Chazin surrender
11 for execution of sentence. Part of the reason why we decided
12 to proceed as a joint plea and sentencing was because of the
13 requirement that defendants who are found guilty or plead
14 guilty to this particular offense are not to be released, that
15 they are to be immediately detained.

16 So what I would like to do, just given the
17 circumstances, the video, and, you know, us not being in court,
18 is to allow for self-surrender at the first, you know, possible
19 juncture, which I think is tomorrow. So let me ask whether the
20 probation office objects to self-surrender under these
21 circumstances. And let me have the government and -- and
22 defense counsel weigh in.

23 THE PROBATION OFFICER: No, Your Honor, we don't
24 object to self-surrender under those circumstances.

25 THE COURT: Ms. Larson?

1 MS. LARSON: No, Judge. And if there's a -- I don't
2 remember in this particular case if Mr. Chazin has been booked
3 through the marshals. So if there's a booking order that's
4 necessary, I will certainly work with probation and defense
5 counsel to get that. I know he's been processed by law
6 enforcement, and I believe he should have been processed by the
7 marshals.

8 Because the way the case came in, he was actually
9 arrested that day on the weapons charges and then we did
10 everything else later. So if there's anything missing, I will
11 get it to the Court; but I do think he's probably been
12 processed because he was actually arrested on the day of the
13 search warrant.

14 THE COURT: Yes, I think -- Ms. Franklin, who is my
15 ordinary courtroom deputy, is on vacation. Ms. Harris is
16 standing in, but I think Ms. Franklin had already, sort of,
17 arranged to have him surrender tomorrow.

18 Mr. Onorato, is that your understanding of where we are?

19 MR. ONORATO: Yes, Your Honor.

20 THE COURT: Okay. So I will allow you, Mr. Chazin,
21 to self-surrender. You've been on supervision. You will
22 continue with all of the conditions that have previously been
23 imposed until it's time for you to report to jail, which will
24 be no later than noon tomorrow, Tuesday, May 25th. You will
25 report to the D.C. DOC Central Detention Facility located at

1 1901 D Street, Southeast. I will post a self-surrender order
2 to ECF this afternoon. Your lawyers will then need to make
3 sure that you have a paper copy of that order. When you report
4 to jail, be sure to bring a copy of the self-surrender order,
5 your photo ID, and any necessary medications. Do not bring any
6 personal property. And report to the rear control tower and
7 inform DOC staff you are there to self-surrender.

8 Let me caution you about your conduct while you are out
9 prior to this self-surrender process. You are required to
10 continue to follow the conditions of release as they've been
11 applied to your case and as the pretrial service office has
12 directed and will continue to direct. If you violate any of
13 the conditions, an arrest warrant may issue and you may be
14 detained for failing to comply with the conditions of release
15 prior to your voluntary surrender. Even more important, the
16 penalties for failure to actually surrender for service of a
17 serious -- of a sentence are serious. Such a violation is a
18 separate offense for which you could be sentenced to a fine or
19 imprisonment for up to ten years or both.

20 Am I clear about that?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: All right. Let me ask Mr. Onorato if you
23 have any recommendations about an incarceration facility.

24 MR. ONORATO: We do, Your Honor. We would
25 respectfully request that the Court place FCI Petersburg.

1 THE COURT: All right. I will put in the judgment
2 FCI Petersburg.

3 Let me just also say that in the little period of the
4 break, we looked at the sealing scenario. And I think we do
5 still, Mr. Onorato, have your -- the letters completely sealed.
6 So we may need to -- we'll probably put up an order that
7 directs you with respect to making more limited redactions
8 concerning those attachments to your sentencing memoranda.

9 MR. ONORATO: Very well. I'll double-check, and I'll
10 work with your chambers and Ms. Franklin and Your Honor's law
11 clerk.

12 THE COURT: All right. Is there anything else that
13 we need to address today?

14 MR. ONORATO: No, Your Honor.

15 MS. LARSON: Not from the government, Judge.

16 THE COURT: All right. This concludes the Court's
17 sentencing.

18 Mr. Chazin, good luck.

19 (The proceedings concluded at 12:31 p.m.)
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CERTIFICATE OF OFFICIAL COURT REPORTER

I, Nancy J. Meyer, Registered Diplomate Reporter,
Certified Realtime Reporter, do hereby certify that the above
and foregoing constitutes a true and accurate transcript of my
stenograph notes and is a full, true, and complete transcript
of the proceedings to the best of my ability.

Dated this 22nd day of March, 2022.

/s/ Nancy J. Meyer
Nancy J. Meyer
Official Court Reporter
Registered Diplomate Reporter
Certified Realtime Reporter
333 Constitution Avenue Northwest
Washington, D.C. 20001