

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :
 :
 :
 vs. : Docket No.: CR 13-244
 :
 WESLEY HAWKINS, : Washington, DC
 : 10:08 a.m., Thursday
 Defendant. : November 21, 2013
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REPORTER'S OFFICIAL TRANSCRIPT OF SENTENCING
BEFORE THE HONORABLE KETANJI B. JACKSON
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government: CASSIDY KESLER PINEGAR, ESQ.
U.S. Attorney's Office
555 4th Street, NW
Washington, DC 20530
(202) 252-7765

For the Defendant: JONATHAN JEFFRESS, ESQ.
Kaiser Dillon, PLLC
1099 14th Street, Suite 800 West
Washington, DC 20005
(202) 640-4430

Court Reporter: CHANTAL M. GENEUS, CRC, CRR, RPR
Certified Realtime Captioner
Certified Realtime Reporter
Registered Professional Reporter
Washington, D.C.

Also Present: Crystal Lustig, Probation
Earlene Grasty

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P R O C E E D I N G S

(Whereupon, at 10:08 a.m. the proceedings commenced and the following ensued:)

THE COURTROOM DEPUTY: Criminal Action 13-244, the United States of America versus Wesley Hawkins.

Cassidy Pinegar for the government.
Jonathan Jeffress for the defendant.

THE COURT: Good morning to everyone.
Good morning, Mr. Hawkins.

THE DEFENDANT: Good morning, Your Honor.

THE COURT: We are here for the sentencing of the defendant, Mr. Wesley Hawkins, who on September 5th pled guilty to one count of possession of child pornography in violation of 18 U.S.C. 2252(a)(5)(B).

I did not take your plea, Mr. Hawkins, as you know, but I am familiar with this matter because I've read and received all of the related materials, and that includes the letter from you and the other notices that defense counsel submitted to the Court over the last few days.

I want to acknowledge at the outset that I have received and reviewed the presentence report and

1 sentencing recommendation of the probation department.

2 I have also received and reviewed the
3 sentencing memoranda from the government and from the
4 defendant which address the presentence report, among
5 other things.

6 First, I'd like to get a clear sense of the
7 parties' views of the presentence report at the
8 outset. So I'm going to ask counsel, are there any
9 objections to the factual recitation in the
10 presentence report which includes a notation about the
11 defendant's view of the limited distribution conduct
12 in this case?

13 Miss Pinegar.

14 MS. PINEGAR: No, Your Honor. The
15 government does not have any objections to the
16 statement of facts.

17 THE COURT: Thank you.

18 Mr. Jeffress.

19 MR. JEFFRESS: No, Your Honor. And I think
20 the reference to distribution is probably best seen as
21 more about a Booker argument that, under these
22 circumstances, and -- you know, we have met with
23 respect to a lot of the guidelines in this case, but
24 specifically with that, it's just kind of -- I mean it
25 was strictly to a police officer at his behest, so I

1 just wanted to make that notation as different from
2 some other cases.

3 THE COURT: While you're standing at the
4 podium, let me ask you about the Guideline calculation
5 in the presentence report.

6 Do you have any objections to that?

7 MR. JEFFRESS: No. That's correct.

8 THE COURT: Okay. Miss Pinegar, do you have
9 objections?

10 MS. PINEGAR: No, Your Honor. No
11 objections.

12 THE COURT: Okay. Thank you.

13 It appears that the parties have no
14 objections.

15 Mr. Jeffress, that's all?

16 MR. JEFFRESS: Yes.

17 THE COURT: Thank you. You can be seated.

18 It appears that the parties have no
19 remaining objections to the Guideline calculation in
20 light of the facts of the case and that the final
21 report is complete without any information excluded.

22 Now, to you, Mr. Hawkins, this sentencing
23 hearing will essentially proceed in four steps, many
24 of which may seem a bit mechanical to you. But I want
25 you to keep in mind why we are here at this moment and

1 the gravity of the situation.

2 You have committed and pled guilty to
3 conduct that constitutes a federal crime. Today's
4 proceeding is a serious matter because it is
5 fundamentally about the consequences that you will
6 face as a result of your decision to engage in
7 criminal behavior.

8 The first step, which I've already begun to
9 engage in, is for me to determine whether you have
10 reviewed the presentence report, resolve any
11 outstanding objections to the report -- and I
12 understand there are none -- and then adopt or reject
13 the report as the Court's findings of fact in this
14 case.

15 The second step is to determine what
16 Sentencing Guidelines and sentencing range applies to
17 your case based upon your criminal history and
18 considering any mitigating and aggravating factors
19 under the Guidelines.

20 This, the Court has to do, notwithstanding
21 the fact that the parties in this matter have looked
22 at the Guideline range and find it to be appropriate.

23 The third step is to hear from the
24 government, from any victims, from your counsel, from
25 any witnesses that you might have, and from you if you

1 wish to be heard about the sentencing and the sentence
2 in this case.

3 And the last step requires the Court to
4 fashion a just and fair sentence in light of the
5 factors set forth in the statute at 18 U.S.C.
6 Section 3553(a).

7 As part of this last step, the Court will
8 actually impose the sentence along with other required
9 consequences of the offense, such as the term of
10 supervised release.

11 So moving back to the first step, which is
12 related to the presentence report, I understand from
13 the parties that there are no objections.

14 Mr. Jeffress, have you and your client read
15 and discussed the presentence report?

16 MR. JEFFRESS: Yes, Your Honor.

17 THE COURT: Mr. Hawkins, do you have any
18 objection to the final statements or determinations in
19 the presentence report?

20 THE DEFENDANT: No, Your Honor.

21 THE COURT: Have you had a chance to
22 thoroughly review the document with your counsel?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: And are you satisfied with your
25 counsel?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Okay. You may be seated.

3 Hearing no objection by either side, the
4 Court will accept the factual recitation in the
5 presentence report as undisputed, and the facts as
6 stated in the presentence report will be my findings
7 of fact at sentencing.

8 Now, moving to the determination of the
9 guidelines, the presentence report lays out the
10 probation office's calculation of the advisory
11 Guideline range that applies in this case.

12 My understanding is that the calculation was
13 done using the 2013 Guidelines Manual and is as
14 follows: The presentence investigation has found that
15 you, Mr. Hawkins, have no prior convictions, and that
16 puts you in Criminal History Category I.

17 The applicable guideline in this case is
18 2G2.2, which for this offense of conviction has a base
19 offense level of 18.

20 The presentence report includes increases
21 for five different specific offense characteristics
22 for a total offense level increase of 15 levels, which
23 brings the offense level to 33.

24 The government has also represented that
25 you, Mr. Hawkins, have demonstrated acceptance of

1 responsibility in a manner that entitles you to a
2 three-level reduction under 3E1.1. Therefore, prior
3 to the consideration of any departures or variances,
4 the total offense level under the guidelines is 30.

5 And I just want to be clear for the record,
6 are there any objections to either the criminal
7 history calculation or the Guideline offense level at
8 this time?

9 MS. PINEGAR: Not from the government.

10 MR. JEFFRESS: No, Your Honor. Thank you.

11 THE COURT: Thank you.

12 Now, at this point, I would ordinarily turn
13 to possible departures as the second stage of
14 determining the appropriate Guideline calculation, but
15 this is a case involving a sex offense related to
16 children and, thus, as a result of the PROTECT Act,
17 it's my understanding that no downward departures
18 within the guidelines framework are authorized in this
19 context.

20 Is that your understanding as well, counsel?

21 MR. JEFFRESS: Your Honor, we agree not to
22 move for departures. I know that much.

23 THE COURT: Okay. All right.

24 Miss Pinegar.

25 MS. PINEGAR: I believe that's correct, Your

1 Honor, but I have not reviewed that portion again this
2 morning to confirm that. But I believe that's
3 correct, and the parties have agreed that neither
4 party will seek a departure.

5 THE COURT: Thank you.

6 The reason why that was significant to the
7 Court is that the guidelines now recognize that age
8 and the age of the defendant may be relevant as a
9 departure consideration when it's present to an
10 unusual degree.

11 But this consideration has not been
12 specifically applied by the commission in the context
13 of sex offenses, nor has the commission determined
14 that the age of an offender wasn't taken into account
15 when the child pornography guideline was crafted.

16 So I just wanted to put on the record that
17 the Court is not considering age as a departure factor
18 at this time.

19 So the final Guidelines sentencing range,
20 the Court concludes that it is given an offense level
21 of 30 and a Criminal History Category of I, the range
22 is 97 to 121 months of imprisonment.

23 Under the Guidelines, Mr. Hawkins also faces
24 a supervised release range following imprisonment of
25 five years to life and a fine range of \$15,000 to

1 \$150,000.

2 I want to pause for a moment to discuss the
3 supervised release term. Because this is considered a
4 sex offense, the applicable supervised release term,
5 as I've said, is five years or sixty months to life.

6 I'm sure that your lawyer has explained this
7 to you, Mr. Hawkins, but I want you to understand that
8 supervised release is a period of time that is served
9 by defendants after a term of imprisonment in which
10 the defendant is under the direct supervision of the
11 probation office and the defendant is required to
12 follow a number of conditions primarily for
13 rehabilitative purposes.

14 In sex offense cases, Congress and the
15 commission require very long periods of supervised
16 release because they want to ensure that the defendant
17 gets treatment and that the public is protected. If
18 the conditions that the probation office -- that the
19 Court imposes and that are supervised by the probation
20 office are not followed, a defendant may be returned
21 to prison in the supervised release context.

22 Do you understand this, Mr. Hawkins?

23 THE DEFENDANT: Yes, Your Honor. I
24 apologize, Your Honor.

25 THE COURT: That's okay. Thank you. You

1 may be seated.

2 Moving to the next stage, before I discuss
3 the sentencing factors generally under 3553(a) and
4 those that will bear on the Court's final decision, I
5 would like to give the parties the opportunity to
6 address the Sentencing Guideline calculation or
7 anything else at this time.

8 So, Miss Pinegar, does the government wish
9 to speak about the application of the factors set
10 forth in 3553(a) at this moment?

11 MS. PINEGAR: Yes, Your Honor.

12 Thank you, Your Honor. I have submitted a
13 written memorandum in aid of sentencing and don't wish
14 to repeat all of the things I set forth there.

15 I think -- the government certainly has a
16 lot of disagreements with certain arguments put forth
17 by the defense. We disagree, for instance, with some
18 of the specific arguments about the Guideline
19 calculations in this case.

20 We believe that an enhancement for
21 distribution is an appropriate factor and that the
22 defendant -- the defendant's distribution here,
23 although post hoc, is categorized as just sending
24 something to an undercover detective. The defendant,
25 of course, didn't know that. At the time he believed

1 he was sending child pornography to an individual he
2 had met online.

3 We believe those enhancements are
4 appropriate. We believe that although there are
5 certainly criticisms of the nonproduction child
6 pornography guidelines that have been made by the
7 commission -- and the defense isn't disputing this --
8 that the Guidelines calculation should be calculated
9 under the guidelines as they currently exist.

10 And we do believe that it's relevant to
11 consider some of the criticisms that have been logged
12 at the guidelines.

13 For instance, one of the criticisms is that
14 the number -- the specific offense characteristic
15 enhancement based on the number of images doesn't
16 adequately distinguish between offenders.

17 The government recognizes that consideration
18 but doesn't believe that that means it's appropriate,
19 to just disregard the number of images; that the
20 number of images can be appropriate and indeed in this
21 case the defendant had amassed an extremely large
22 collection of child pornography.

23 I'm saying all this, sort of with a caveat,
24 because we believe that nevertheless despite some of
25 our very strong disagreements with their positions on

1 the guidelines and with enhancements that may apply or
2 ways that this offense can be characterized, including
3 the sadomasochistic images, just because they are more
4 prevalent in society doesn't mean that their
5 possession is not as harmful or heinous or shouldn't
6 be punished.

7 Nevertheless, in the very specific
8 circumstances of this case, the government is
9 recommending a below-Guideline sentence as a variance,
10 and we're doing that based on some very specific
11 characteristics, one of which is not just the
12 defendant's age but his experience and the discussion
13 of that as put forth in the expert report that was
14 submitted by the defense.

15 The government has read that and considered
16 it. And, again, we have some disagreements with it.
17 We don't believe that the risk assessment instrument
18 that was used was appropriate given the facts of this
19 case, things like that.

20 Nevertheless, we have tried to analyze this
21 particular defendant's conduct. We've attempted to
22 look at his case in light of all of the other cases
23 and that we could identify that we believe were
24 comparative in this jurisdiction.

25 And the government has also in this case

1 submitted -- I believe, it's just one -- victim impact
2 statement that has been submitted by a victim of one
3 of the images that the defendant possessed.

4 And the government believes that when the
5 Court considers all of those things and the very
6 unique circumstances of this case, notwithstanding all
7 of our disagreements with the defense, that we do
8 believe that a sentence of twenty-four months here is
9 appropriate and that that would take into account the
10 serious, very serious nature of the crime, the very
11 serious nature of the defendant's conduct, but also
12 take into account his personal characteristics and the
13 psychosexual evaluation that was done, some of the
14 things that he is struggling with, some of the context
15 and explanations for how this crime came about, but
16 also recognize that this was repeated conduct.

17 This was conduct over a long period of time,
18 and this is a serious conduct that is very harmful to
19 society. And so unless the Court wishes me to go into
20 some of those disagreements in more detail and our
21 positions on them, the government believes that under
22 the unique circumstances of this case, that we don't
23 need to go into them.

24 THE COURT: Let me just clarify a couple of
25 things.

1 MS. PINEGAR: Certainly. Sure.

2 THE COURT: One is your statement that the
3 defendant had amassed a large collection. And I
4 understand that under the guidelines the way the table
5 works, videos count as a certain number of pictures,
6 but in the presentence report factual recitation that
7 I've adopted, it appeared as though it was sixteen
8 pictures and seventeen videos.

9 Is that your understanding of the
10 collection?

11 MS. PINEGAR: That's correct, Your Honor.

12 But the way it works under the guidelines
13 and the enhancement for the number of images, it
14 enhances it for more than 600 images, which is
15 obviously more than 16 plus 17, and that's because
16 each video, the way the guidelines treats it, is the
17 equivalent of approximately 75 images.

18 THE COURT: Right.

19 MS. PINEGAR: And so 17 videos is a lot.
20 And some of these videos, including the ones that are
21 described in the statement of offense, are very
22 lengthy and include -- you know, you can have one
23 image, but if you have a video, you have numerous
24 images, numerous views, sometimes collages, sometimes
25 multiple victims; you see the act in progress.

1 When I say "a large collection," that's
2 accounting for these large number of videos. It is --
3 you know -- and it takes into account, I guess the
4 Guidelines view that a video is in some regards worse
5 or more harmful to society or more harmful to the
6 victim than just an image, although both certainly are
7 bad.

8 THE COURT: And let me ask you another
9 question about the statement that you made.

10 MS. PINEGAR: Certainly.

11 THE COURT: At the end you mentioned that
12 this was a long period of time, and I just wanted to
13 clarify your understanding of when the conduct began
14 and when it ceased.

15 MS. PINEGAR: Certainly, Your Honor.

16 It was at least a six-month period, is my
17 understanding, which is just to say, certainly this
18 can go on for much longer and there are certainly
19 defendants in this courthouse who have been engaged in
20 this conduct much longer. But I guess my point is
21 that it was repeated conduct over several months that
22 began in December.

23 There were additional instances that had
24 been flagged by internet service providers in January.
25 There was contact with the detective in February.

1 There was, again, later contact in March. And there
2 was still the evidence that was occurring in June.

3 So I guess my point was that it was repeated
4 and continuous over at least that six-month period.
5 And that might not seem too long, but I guess the
6 point was it wasn't just something that he just
7 happened upon just before this happened. It had been
8 going on for a period of months.

9 THE COURT: I understand. Thank you,
10 Miss Pinegar.

11 MS. PINEGAR: Thank you, Your Honor.

12 THE COURT: Mr. Jeffress, would you like to
13 speak on the defendant's behalf.

14 MR. JEFFRESS: Yes, Your Honor.

15 Your Honor, this is an extremely difficult
16 case in some sense. I want to emphasize I think at
17 the outset how unusual this case is for federal court
18 in terms of Mr. Hawkins' youth, inexperience.

19 There are other factors that make it unusual
20 as well, the relatively low level and sort of episodic
21 involvement in this, which I think it actually
22 compares -- Your Honor asked the government about
23 that, but I think it actually compares very favorably
24 to other cases in this district even where the
25 defendants have gotten probation.

1 But just overall, Mr. Hawkins -- you know,
2 I've done a number of these cases in the last nine
3 years, and I've seen my colleagues do many more of
4 these cases, and just in terms of the number and the
5 strength of the mitigating factors in this case, I
6 don't think I've ever seen a more compelling case for
7 a sentence that does not involve prison.

8 I think one thing that really speaks to how
9 unusual this case is, is that even the government --
10 you know -- for something we thank them for, did not
11 ask for Mr. Hawkins' pretrial detention. They thought
12 he was safe in the community under appropriate
13 supervision for all this pretrial time, and their
14 faith in him has been rewarded and the Court's faith
15 in him has been rewarded by the fact that he's been
16 100 percent compliant with all the terms and
17 conditions of the most restrictive form of release,
18 which is the High Intensity Supervision Program.

19 But more than just the government's decision
20 to leave him in the community is the substantially --
21 that they moved substantially away from the guidelines
22 in terms of the recommendation here to this Court
23 going forward.

24 You know, I disagree with their
25 recommendation strongly, obviously, but I think that

1 is about as low a recommendation as you're ever going
2 to see or as I've ever seen from the government in a
3 child pornography case, and I think that speaks
4 volumes, that they are asking for something so low.

5 I've seen one request that low involving
6 cooperation, but never in a guidelines case have I
7 seen the government come in at such a low level, and I
8 think that speaks a lot. And I think that's as low as
9 they are going to get.

10 And I think what's given in part is what
11 Miss Pinegar said, which is that Mr. Hawkins is the
12 youngest defendant I've ever had in federal court. We
13 don't get people of his tender age here.

14 I don't know why that is. In drug cases I
15 think they don't bring them over here. In these type
16 of cases, I don't know if there is at some level an
17 idea that some of these cases are thrown back. I
18 don't know what goes on.

19 You know, obviously, that train has left the
20 station at this point, but I think there were very
21 compelling arguments that this would be one of those
22 cases. It hasn't been. So, I think we are left with
23 what we're left with.

24 But I think -- like I was saying, this case
25 really stands out even when it's compared to the other

1 probationary sentences in this court on the child porn
2 cases such as Moreira, M-O-R-E-I-R-A; Malakoff,
3 M-A-L-A-K-O-F-F.

4 THE COURT: These are in your sentencing
5 memorandum?

6 MR. JEFFRESS: Yes, Your Honor.

7 The Jason Wright case, probation. And then
8 also cases from other circuits that have involved
9 probation, the Polito case, P-O-L-I-T-O, where a
10 probationary sentence was upheld in this circuit.

11 This case compares favorably in terms of the
12 strength of mitigating evidence, even compared to
13 those probation cases.

14 So I've really never seen something as
15 compelling as this. And I think with all respect to
16 the government, a sentence of prison in this
17 particular case with this particular defendant would
18 be very destructive and just would not serve anyone's
19 interest. It would really be a lose-lose.

20 I think one of the most poignant things
21 about this case is that Mr. Hawkins graduated from
22 Booker T. Washington Charter School with awards,
23 certificates, great awards from his teachers, his
24 counselors; I mean just all around doing what you're
25 supposed to be doing and got a scholarship, \$4,000 in

1 scholarship money, and was accepted to attend Shaw
2 University in North Carolina. And because of this
3 case that's not going to happen now.

4 Now, I know -- oh, and I've been remiss not
5 introducing all the family members.

6 Could you stand up, Miss Grasty? That's
7 Mr. Hawkins' mother. Then we have his aunt, his
8 uncle, and a cousin; so a lot of people here in
9 support of Mr. Hawkins. And I know his mother wants
10 to address the Court before sentencing.

11 So what can we do? College is obviously
12 something for this family, for this particular
13 defendant, that is a dream, you know, and I think it's
14 a dream that if you asked anybody in this courtroom, I
15 know Miss Pinegar would think so, that's a dream that
16 we would all hope he realizes.

17 And so what we do here today, though, may be
18 a make-or-break in terms of that dream, to be honest,
19 Your Honor. And I'm going to get into some of the
20 collateral consequences and what I've seen in these
21 cases later.

22 I do think that what we want to do is put
23 him on a path towards that college education. And I
24 think given everything else he's going to have to deal
25 with, the only way to do that is to fashion a sentence

1 here that keeps him in the community although still
2 punishes him for what he did.

3 So going back to, I think, the number of
4 mitigating factors here, we've got, first, is
5 Mr. Hawkins' youth and also vulnerability. And I, you
6 know, submitted that notice yesterday. I really
7 should have addressed that more, the second issue. I
8 should have addressed that more in my sentencing
9 memorandum, but I think Your Honor understands what
10 our arguments are on that.

11 So, you know, I also want to address his low
12 level of culpability. And I think Your Honor just got
13 at it with two very pointed questions to the
14 government about how this case compares to other cases
15 in terms of the volume of the collection and also the
16 frequency and the length of time.

17 Third would be the reasons for his
18 involvement in this offense activity, which I think is
19 what Dr. Giunta's report gets to, which are really
20 different in a particular way from what we generally
21 see in these cases. It's not just the reasons we see
22 in the typical cases. It's far more complex and I
23 think sympathetic and mitigating in terms of the
24 sentence, what his reasons were for doing this.

25 And then finally, I want to talk about the

1 consequences of this conviction.

2 The youth, I think -- you know, we've talked
3 about it at length in my memo, but like I said, I've
4 never seen a defendant this young in one of these
5 cases -- in any -- in this court, in anybody that I
6 know about, not just my cases.

7 And what we submitted -- you know, the
8 Supreme Court cases we've cited and the other cases,
9 is that youth makes them less deserving of punishment,
10 and I think that's well established in the Supreme
11 Court now and the whole series of cases involving
12 other issues, but the youth, how important it's been
13 in terms of viewing it as a mitigating factor.

14 And I think that's even more true in this
15 area, you know, sex, where -- you start off, people
16 are very confused at this point in their life about
17 these issues. Now, obviously, something went very
18 much wrong, for the wrong, and I'm not at all
19 diminishing the seriousness of what happened. But you
20 start off with people -- a lot of people have problems
21 with these issues at this age. I think in this
22 particular area, youth is all the more important. And
23 this also goes into, I think, what Dr. Giunta just
24 said about what he was doing when he did that, which
25 I'll address in a second.

1 But the other thing, what youth is, we have
2 to think how this will affect the rest of his life.
3 There's a lot longer to live and there's a lot more
4 damage that can be done by this conviction.

5 And I just think that with all the other
6 consequences that I'll talk about, this is -- the way
7 we can get him back on track for the rest of that life
8 to make sure it's a life well lived and he can make
9 amends for this mistake is by not incarcerating him at
10 a federal prison.

11 This case is a huge setback, but I think
12 Mr. Hawkins has a ton of promise. I think in my
13 experience with him, everything I've read about him,
14 you know, this letter from his pastor that just came
15 in this morning -- and I apologize for getting it to
16 Your Honor so late, but, you know, it finishes -- I
17 think this is -- it's said much better than anything I
18 could say. "Your Honor, my deepest prayer is that
19 this one incident, as serious as I know it is, it does
20 not derail a promising life. I personally believe he
21 has already been shocked and scared into a law-abiding
22 life by this experience and this process that is
23 before your bench today. I pray that every bit of
24 mercy available to the Court should be applied to this
25 young man. If there is a person who belongs in

1 college, it's Wesley Hawkins. He will be able to do
2 so much for his family with an education."

3 That's pretty much it in a nutshell
4 regarding Mr. Hawkins' future, I think. And
5 Mr. Hawkins' letter, he wrote -- you know, to the
6 Court, he wrote, "I hope that I can make up my
7 mistakes and that this will not end my life before it
8 starts." And I think that's the challenge he
9 recognizes, that that's what's going on here and that
10 that's a possibility here.

11 And I think that's the challenge of this
12 case and this sentencing, to help ensure that it
13 doesn't end Mr. Hawkins' life before it starts.

14 On the involvement, Your Honor, Your Honor's
15 already got at it with the questions, but comparing
16 even the defendants in the probations cases, his
17 collection was smaller, his involvement in this was
18 more episodic, and then another factor that I probably
19 should talk about more is just how completely
20 unsophisticated this was.

21 We're talking about using YouTube, Google,
22 and a SkyDrive, which is a program that was installed
23 on his computer, not something he went out and got.

24 This is the most basic form of these cases,
25 other than somebody who has a magazine or something in

1 print form, which we never see. This is the most
2 unsophisticated thing I've ever seen.

3 His e-mail that was identified with the
4 photos when they were uploaded was his name, Wesley
5 Hawkins. So it obviously wasn't very hard for the
6 government to figure out who this was.

7 And we know exactly how often he did it
8 because he was using these basic sources now, Google,
9 everything else, which in this development that I
10 think is very interesting now reports -- knows when
11 it's happening and reports it -- so we know every time
12 he did it. And it was very episodic. It was several
13 times. The government, in their complaint and in the
14 case, they know every time he engaged in this
15 behavior.

16 And it's really not -- compared to the
17 probation cases, Malakoff -- well, Malakoff, we didn't
18 know. But with the other guys who have received
19 probation in this courthouse, Jason Wright, Moreira,
20 those guys had very large collections.

21 I went back and looked at their sentencing
22 memos, and they had very large collections. These
23 were older people in their thirties and forties.
24 They've been doing it for a long time, and then also
25 their images were far more disturbing than I think in

1 this case, which is -- really what we see here is
2 people that are not much younger -- again, I'm in no
3 way minimizing this -- but not much younger than
4 Mr. Hawkins himself, which, again, feeds back into
5 Dr. Giunta's report. That really concerns me. And
6 moving on to that, that really concerns why he did it.

7 If you looked at Dr. Giunta's report, which
8 I think -- you know, I know a lot of times the
9 government's sceptical of reports that we submit, but
10 this really gets it, I think, which is that
11 Mr. Hawkins, for all his intelligence and maturity in
12 some sense, also has some maturity issues.

13 And, you know, his mother called him an old
14 soul in the probation report, and I think that's right
15 in my dealings with him. He's very calm and very --
16 just in some sense he does seem like an old soul but
17 in other senses he has some development issues,
18 clearly. And I think there may be some ADHD issues
19 which somebody noted.

20 But, in any event, what we see here that I
21 think Dr. Giunta is right about, is why this happened,
22 which it was not about a forty-year-old man who is
23 sexually exploiting these images. It's not only about
24 that. It's also about trying to emotionally identify
25 with what's going on here.

1 As I said, people are very confused about
2 sex at this age. I think this is a way of trying to
3 understand things. In this case, it's really most
4 like Judge Huvelle's case, Malakoff, and that's
5 because of the one-off reason, I think, for what is
6 going on here.

7 Malakoff's case, it was a major factor that
8 Mr. Malakoff was 47 at the time of the offense
9 conduct, but he had been subject to a stranger rape
10 when he was nine years old. And, you know, he had
11 spent his -- there was tons of evidence, you know,
12 from the doctors he'd seen over the intervening thirty
13 years that he had been just mentally grappling with
14 this, with this rape, and trying to process it, and
15 that the images that he looked at were a very
16 misguided attempt to deal with what had happened to
17 him.

18 In this case this was a very misguided
19 attempt to try to understand what was happening to
20 him, very misguided. But I do think that that is a
21 better explanation, and I think -- it's accurate, but
22 I think it reflects more favorably on this case than
23 in other cases.

24 I've saved the collateral consequences for
25 last, but it is probably the more significant

1 consideration in terms of how this case will affect
2 the rest of Mr. Hawkins' young life. No matter what
3 the Court does here today, there is going to be
4 enormous consequences that he will never outlive.

5 I -- this whole area in my view -- it's not
6 for today -- but needs to be revamped. You can't put
7 people back in society but prevent them from being
8 able to live. But the way the law is right now, that
9 is what we do.

10 We put them back there, and they can't make
11 a life. They can't -- they are rejected by every kind
12 of employer to -- a felony conviction is bad enough,
13 but a felony conviction for this makes people pry.

14 The articles of the attack show that they
15 can't live anywhere. This is not -- despite what this
16 Court does with supervised release, municipalities,
17 States that have their own laws about sex offenders --
18 and there's no question he's going to be a sex
19 offender for fifteen years.

20 Probably the saddest one I'm dealing with
21 right now is a defendant who did a year and a day, got
22 out, he was a nurse. He was in the Army, studying to
23 be a practical nurse, and he was about to take his
24 test for that. Now he is back out; he can't get a job
25 at Avis as a counter guy. He can't get a job at

1 Walmart. He can't do anything. All the years of
2 studying to be in the Army and working to be a nurse,
3 all the things he could have done for people are lost.
4 So it's not just him that loses; it's everybody. And
5 that's going to happen no matter what today,
6 unfortunately.

7 And I hope some day Congress, society
8 revisits what we're doing, but I just think we don't
9 want to set him back any more than what's already
10 going to be through a sentence of imprisonment.

11 Your Honor, I know Mr. Hawkins also wants to
12 address the Court, and his mother --

13 THE COURT: Yes. Why don't we have his
14 mother approach and then Mr. Hawkins.

15 MS. GRASTY: Hi, Your Honor.

16 THE COURT: Good morning.

17 MS. GRASTY: My name is Earlene Grasty.
18 It's E-A-R-L-E-N-E G-R-A-S-T-Y.

19 Your Honor, what I want to say is, I know
20 what my son did was truly wrong, but I don't want that
21 to be the cause of my son not continue his dream and
22 his goals. My son is a very intelligent, bright,
23 loving young man. And I know he regret what he did,
24 and which he had to do over, he wouldn't do it.

25 I just want the best for my son, like any

1 other parent do. I know you hear that a lot about
2 what he did was wrong, and I'm the type of parent to
3 say when my son is wrong. I don't stand by him when
4 he's wrong. When he's wrong, he's wrong.

5 I just want the best for him, and I want him
6 to be able to go to college, continue his dreams and
7 let his light shine and, you know, do what the Lord
8 has for his journey. That's all I want to say, Your
9 Honor. Thank you.

10 THE COURT: Thank you, Ms. Grasty.

11 Mr. Hawkins.

12 THE DEFENDANT: Hello, Your Honor.

13 THE COURT: Hello.

14 THE DEFENDANT: First off, I would like to
15 apologize to my family and to the Court and to anyone
16 I have hurt with my actions. I have to say, I didn't
17 know what I was doing. I'm not here to say I don't
18 deserve punishment; we all deserve punishment. I just
19 hope that we can make amends with what time I have
20 left. And I will swear to you I will never do this
21 again. Thank you.

22 THE COURT: Thank you, Mr. Hawkins.

23 Mr. Jeffress, do you have anything else? If
24 Ms. Pinegar wants to say anything, she can. But do
25 you have anything else?

1 MR. JEFFRESS: -- no.

2 THE COURT: No?

3 Thank you, Mr. Hawkins.

4 Miss Pinegar, do you have anything else?

5 MS. PINEGAR: I don't have anything else.

6 THE COURT: Okay.

7 Well, I think that Mr. Jeffress said it best
8 when he said that this is a difficult case in many
9 ways.

10 The Court has a lot of considerations that
11 it has to take into account. At this stage, after
12 calculating the guidelines and hearing the statements
13 that have been made, I must now consider the relevant
14 factors that Congress has set out at 3553(a) in order
15 to ensure that I impose a sentence that is sufficient
16 but not greater than necessary to comply with the
17 purposes of sentencing.

18 These purposes include the need for the
19 sentence imposed to reflect the seriousness of the
20 offense, to promote respect for the law, and to
21 provide just punishment for the offense.

22 The sentence should also deter criminal
23 conduct, protect the public from future crimes of a
24 defendant, and promote rehabilitation.

25 In addition to the guidelines and the policy

1 statements, I must also consider the nature and
2 circumstances of the offense, the history and
3 characteristics of the defendant, the purposes of
4 sentencing, the types of sentences available, the need
5 to avoid unwarranted sentencing disparities among
6 defendants with similar records who have been found
7 guilty of similar conduct, and the need to provide
8 restitution to any victims of the offense.

9 I have heard the statements here this
10 morning. I have read the sentencing memoranda. I've
11 considered all of these factors when deciding what the
12 sufficient but not greater than necessary sentence is
13 in this case.

14 I won't detail orally all of my
15 considerations with respect to each one of the
16 statutory factors, but I do have quite a bit to say
17 for the record and for you, Mr. Hawkins, about my
18 considerations in regard to the nature and
19 circumstances of the offense, your characteristics as
20 an offender, the purposes of punishment, and
21 unwarranted sentencing disparities.

22 I want you to hear what I am saying about
23 these factors, Mr. Hawkins, so that you can be clear
24 about what has affected my sentencing decision in this
25 case.

1 In regard to the nature of the offense, let
2 me start out by helping you to understand that
3 possession and distribution of child pornography is an
4 extraordinarily serious crime. It involves people who
5 are out there somewhere taking pictures and videos of
6 children while those children are being sexually
7 abused and then putting those pictures on the internet
8 for other people to see.

9 Make no mistake, Mr. Hawkins, the children
10 you saw in those pictures were not willing
11 participants in the conduct that you witnessed. They
12 were being forced to commit unspeakable acts of sexual
13 violence for the pleasure of the person who was
14 filming and for the gratification of sick people
15 everywhere, people who apparently have no shred of
16 empathy for what this must be doing to the children
17 who are being abused in this way.

18 I have heard victims of child pornography
19 offenses talk about what the offenses do to them for
20 the rest of their lives. And in this very case, the
21 government has submitted a victim impact letter.

22 Some of the children you saw in those
23 pictures will never have an normal adult relationship.
24 Some of them will turn to drugs and prostitution and
25 other vices to try to deal emotionally with the pain

1 that results from the torture that they have
2 experienced.

3 And even those who manage to lead a somewhat
4 normal adult life say they live in constant fear of
5 being recognized. Some people are unable even to
6 leave their houses because once those pictures are on
7 the internet, they are there forever and the victims
8 can't do anything without worrying that every person
9 that they meet has seen them in their most vulnerable
10 state at the most horrible time in their lives.

11 Now, I'm aware that you, Mr. Hawkins, did
12 not produce any pictures, and I've taken that into
13 account. Lawyers, Judges, and others who deal with
14 this crime often distinguish between those who have
15 taken the pictures and those who merely look at them.

16 And there is a distinction, but in my view,
17 that distinction may not be as great as many people
18 make it out to be, and here's why, because the market
19 for producing pictures of children being molested and
20 raped is driven by those who want to see those
21 pictures.

22 If the lookers weren't there, then there
23 would be fewer child victims, which is why I believe
24 that Congress was motivated to make mere possession of
25 child pornography a federal offense in addition to the

1 crimes of selling and distributing the photos and, of
2 course, making them in the first place.

3 There are other things about the lookers;
4 that is, those who merely possess child pornography,
5 that make some child pornography offenses especially
6 serious.

7 A report that the sentencing commission
8 issued last year and that your counsel noted in his
9 memoranda found that many of the people who search
10 for, possess, and distribute child pornography become
11 serious collectors who sometimes have thousands of
12 images that they catalogue and classify and cherish.
13 Serious collectors sometimes also form communities,
14 gathering online and in chat rooms to trade images and
15 to encourage new submissions.

16 And some child pornography offenders even
17 escalate to molesting children or to using photos to
18 lure children into inappropriate sexual situations.

19 I do note with some relief that it does not
20 appear that any of these hallmarks of particularly
21 egregious behavior regarding child pornography applied
22 to you, Mr. Hawkins.

23 Although the guidelines charge you with
24 having more than 600 images, the Court notes that your
25 collection at the time that you were caught was not

1 actually as large as that seems because it consisted
2 of sixteen digital images and seventeen digital movie
3 files.

4 Now, I do note and I understood
5 Miss Pinegar's argument about the fact that videos are
6 in many ways more egregious than individual stills,
7 and the Guidelines do take that into account.
8 Nevertheless, the Court does see a difference between
9 600 images and the collection of images in video files
10 that you had.

11 In addition, it appears that your amassing
12 of child pornography started less than a year ago and
13 ended with your arrest this summer. So you were only
14 involved in this for a few months, unlike many other
15 defendants who continue in this manner for years or
16 more.

17 In addition, other than your engagement with
18 the undercover officer, there isn't an indication that
19 you were in any online communities to advance your
20 collecting behavior.

21 The record does demonstrate, however, that
22 you knew the difference between regular pornography
23 and child pornography, that you were actively
24 searching for videos featuring child sex acts, and
25 that you pursued these materials using available

1 technology and had the wherewithal to find what you
2 were looking for.

3 To assess the gravity of the child
4 pornography offense that you have committed, your
5 counsel has suggested that I discount substantially
6 the guideline assessment which is, as the government
7 recognizes, based on factors that have been widely
8 criticized.

9 I am willing to do that to some extent
10 because I do think that the guideline factors are in
11 many ways outdated and no longer adequately
12 distinguish more serious child pornography offenders
13 from the less serious child pornography offenders.
14 For example, the Guidelines focus primarily on the
15 number of images and the use of a computer, which are
16 hardly aggravating factors today.

17 And in your case in particular, I don't feel
18 that it is appropriate, necessarily, to increase the
19 penalty on the basis of your use of a computer or the
20 number of images or prepubescent victims as the
21 Guidelines require because these circumstances exist
22 in many cases, if not most, and don't signal an
23 especially heinous or egregious child pornography
24 offense.

25 I also don't know, as your counsel has

1 pointed out, whether distribution is really
2 appropriate as an aggravator in this case because I do
3 recognize, as the government said, that you didn't
4 know to whom you were distributing, but there's only
5 on record that one instance of distribution.

6 The long and short of it is that the first
7 factor, the nature of the offense, I believe that you
8 have committed an extremely serious crime. I also
9 believe that the current Guideline offense level
10 overstates the seriousness of your conduct and
11 prescribes an offense level that is out of proportion
12 to the actual offense that you committed.

13 Moving on to the next factor, your history
14 and characteristics as an offender. As defense
15 counsel noted, there are many mitigating factors that
16 relate to your particular characteristics. One is
17 your age. You were only eighteen when you committed
18 this offense. Most child pornography offenders are
19 middle-age adults who are deviants drawn to pictures
20 of vulnerable children and these disgusting images of
21 child sex abuse.

22 This case is different because the children
23 in the photos and videos you collected were not much
24 younger than you. This seems to be a situation in
25 which you were fascinated by sexual images involving

1 what were essentially your peers, which I believe both
2 counsel have recognized makes this a different
3 circumstance than the ordinary child pornography case.

4 I will say that I've done my research in
5 this regard, and that in response to Mr. Jeffress'
6 representation about the unusual nature of this case,
7 there have been 64 cases in the last five years
8 nationwide in which defendants under 21 have been
9 prosecuted for child pornography. And that is within
10 the last five years. So it is not unheard of, but it
11 is certainly unusual.

12 You are also a first-time offender, which is
13 an important consideration. You have no known
14 criminal history and, as the psychological report
15 concluded, there's no reason to believe that you are a
16 pedophile or that you pose any risk to children, nor
17 is there any indication of dangerousness in your
18 background.

19 Instead, you have been heralded in the past
20 as a model student and youth leader who has graduated
21 from high school, who had been accepted to college,
22 and who was on your way to becoming a productive
23 member of society.

24 It is tragic that you permitted your
25 curiosity to jeopardize all of that. The Court is

1 taking into account that your youth and inexperience
2 may have clouded your judgment regarding this
3 behavior.

4 I also believe in your written expression of
5 remorse and your statement today. And I note that
6 there is a risk that you could be vulnerable if you
7 are required to serve a long period of time in prison
8 because of your youth, inexperience, and general
9 nature. All of these reasons are good reasons to vary
10 downward from the Guideline range in this case.

11 The next factor that I wanted to address is
12 the purposes of punishment. As I've mentioned, there
13 are many purposes that are listed in the statute, the
14 first of which is that a sentence should reflect the
15 seriousness of the offense, promote respect for the
16 law, and provide just punishment.

17 I will not say more than I've already said
18 about how serious this offense is. I think you
19 understand, but what I want you to understand is that
20 the sentence I impose here today must reflect that
21 seriousness. It also has to promote respect for the
22 law and provide just punishment given the
23 circumstances.

24 This doesn't necessarily mean that harshness
25 is required, only justice. And a fair and just

1 sanction is one that balances both the seriousness of
2 the offense and, in this case, the mitigating
3 circumstances of the offender.

4 Another purpose of sentencing is to deter
5 future crimes of the defendant and others.

6 Defense counsel has argued in the sentencing
7 memorandum that there's no empirical connection
8 between long prison sentences and recidivism. This
9 may be so, and the Court does not believe that you,
10 Mr. Hawkins, are destined to repeat this crime unless
11 you spend time in jail.

12 I will say, however, that regardless of
13 whether a particular offender is a low recidivism
14 risk, the punishment also serves as a general
15 deterrent, a warning to others who might be
16 considering the behavior at issue that it is not okay
17 to break the law in this manner and that there will be
18 consequences if one decides to possess or to peddle in
19 child pornography.

20 This Court believes that despite your low
21 risk, there is still a deterrent factor that is
22 present and that must be considered when fashioning
23 the sentence in this case.

24 The other purposes of sentencing including
25 protecting the public from future crimes and providing

1 the defendant with educational and vocational training
2 and rehabilitation, are not major factors in this
3 case.

4 No one argues, Mr. Hawkins, that you pose a
5 threat to anyone, so it's not necessary to
6 incapacitate you in order to protect the public.

7 It also appears that you are educated, that
8 you've done well in education in the past, and that
9 with exception -- with the exception of some limited
10 mental health treatment, your rehabilitative needs
11 appear to be minimal.

12 The final factor that I wanted to mention
13 under 3553(a) is the need to avoid unwarranted
14 sentencing disparities.

15 It is significant, as defense counsel
16 pointed out, that the government has requested a
17 substantial downward variance in this case. That
18 doesn't happen often. I have also reviewed statistics
19 relating to the sentencing of child pornography
20 defendants both nationwide and in this district, and a
21 sentence that is substantially below the Guideline
22 minimum appears to be the norm when it concerns child
23 pornography possession defendants, especially
24 defendants who, like Mr. Hawkins, are under twenty-one
25 years of age.

1 The Court is satisfied that a significant
2 downward variance from the Guideline range would not
3 create unwarranted disparity in the sentencing of
4 defendants who commit child pornography offenses.

5 I'll note, however, that in regard to the
6 particular cases that Mr. Jeffress has cited both in
7 his memorandum and here today, many, if not all, of
8 the probationary sentences that were mentioned were
9 issued by the same Judge in this district, whose views
10 about child pornography may differ from my own.

11 So, as you can tell from my discussion of
12 some of the relevant statutory factors, there are a
13 lot of considerations to be taken into account, and in
14 this case, the Court concludes that the factors cut
15 both ways.

16 On the one hand, Mr. Hawkins, you have
17 committed a very serious and, in many ways, heinous
18 crime, one that capitalizes on the victimization of
19 the most vulnerable members of our society.

20 I have to be mindful of the victims of child
21 pornography as I assess the nature and characteristics
22 of this offense, and I cannot even express adequately
23 how horrifying it is for me to know that somewhere out
24 there there are children who are being trapped and
25 molested and raped for the viewing pleasure of people

1 like yourself.

2 Also weighing in favor of a substantial
3 penalty is the need for general deterrence, which, as
4 I said, means not necessarily deterring you as an
5 individual, but deterring others who might otherwise
6 see your case and believe that child pornography
7 possession offenses are no big deal.

8 On the other hand, you, yourself, are not
9 much older than the children in the photos, in the
10 videos you possessed, as I mentioned. You were
11 viewing sex acts between children who were not much
12 younger than you, and it is clear from the record that
13 your interest was, in part, motivated by your lack of
14 maturity and was of limited duration.

15 I do not believe that you are similar in
16 intent or as culpable as some of the depraved older
17 adults who commit this crime and who engage in the
18 kind of behaviors that I talked about. And I do find,
19 as I said, that a substantial variance downward from
20 97 months, which is the Guideline minimum, is
21 warranted. So the question, then, becomes how much of
22 a downward variance?

23 The government urges the Court to impose a
24 sentence of twenty-four months of imprisonment, but I
25 am not persuaded that two years in prison is necessary

1 to achieve the purposes of sentencing in this case.

2 That term of imprisonment would reflect the
3 seriousness of the crime, but specific deterrence,
4 incapacitation, and rehabilitation of this particular
5 defendant are not issues, and a twenty-four month
6 sentence does not adequately account for the
7 extraordinary mitigating circumstances of Mr. Hawkins'
8 age, family circumstances, and future potential.

9 Defense counsel has requested that this
10 Court impose a sentence of one day of imprisonment
11 followed by home detention, but the Court has
12 difficulty seeing how that term is sufficient to
13 recognize the seriousness of the offense and to
14 promote respect for the federal law criminalizing
15 possession of child pornography.

16 While it is true that you had not yet
17 amassed a large collection, and there is no evidence
18 that you engaged with anyone other than the undercover
19 officer, you did search for and knowingly received a
20 number of horrible videos. You knew what you were
21 doing, and you knew what you were doing was wrong.

22 This is a truly difficult situation. I
23 appreciate that your family is in the audience. I
24 feel so sorry for them and for you and for the anguish
25 that this has caused all of you.

1 I also feel terrible about the collateral
2 consequences of this conviction. Mr. Jeffress
3 mentioned that sex offenders are truly shunned in our
4 society, but I have no control over those collateral
5 consequences.

6 Whatever I do, that is going to happen, and
7 I here have to fashion a just sentence based on what
8 you've done and what the law requires.

9 My analysis of the 3553(a) factors leads me
10 to the conclusion that a lengthy term of imprisonment
11 is not warranted but some prison is appropriate here.

12 The just sentence is one that allows you,
13 Mr. Hawkins, to spend enough time in prison to
14 understand and appreciate the consequences of your
15 actions in getting involved in possessing and viewing
16 child pornography and to develop an aversion for
17 committing any crime of any sort but not so long that
18 you will be subjected to harm in prison or introduced
19 to incorrigible influences such that you are lost to
20 society forever.

21 You had and still have so much promise, and
22 the sentence the Court imposes has to reflect not only
23 your bad conduct but also the hope that you will find
24 a way to contribute meaningfully to a better tomorrow
25 for yourself, for your family, and for our community.

1 As I said, I have done my homework. I have
2 looked at the sentences that have been imposed, the
3 average sentences for defendants who are under
4 twenty-one, the average sentences for defendants both
5 nationally and in the district who have an offense
6 level that is the same as yours in this case. I have
7 cut the data in many ways and considered all of the
8 factors, as I said.

9 It is my conclusion that three months of
10 imprisonment followed by three months of home
11 confinement with special limited conditions, including
12 that you be allowed to participate in sex offender
13 treatment and mental health treatment, strikes the
14 appropriate balance and is sufficient but not greater
15 than necessary to achieve the purposes of sentencing
16 in this case.

17 Therefore, based on my consideration of
18 these and other factors, as I stated, I will now
19 formally state the sentence to be imposed.

20 It is the judgment of the Court that you,
21 Wesley Hawkins, are hereby committed to the custody of
22 the Bureau of Prisons for a term of three months on
23 Count 1.

24 You are further sentenced to serve
25 seventy-three months of supervised release, the first

1 three months of which will consist of a period of home
2 confinement, and to pay a \$100 special assessment.

3 The Court finds that you do not have the
4 ability to pay a fine and therefore waives imposition
5 of a fine in this case. The special assessment is
6 immediately payable to the Clerk of the Court for the
7 U.S. District Court of the District of Columbia.

8 Within thirty days of any change of address,
9 you shall notify the Clerk of the Court of the change
10 until such time as the financial obligation is paid in
11 full.

12 Within seventy-two hours of release from
13 custody, you shall report in person to the probation
14 office in the district to which you are released.
15 While on supervision, you shall not possess a firearm
16 or other dangerous weapon; you shall not use or
17 possess an illegal controlled substance, and you shall
18 not commit another federal, State, or local crime.

19 You shall also abide by the general
20 conditions of supervision adopted by the U.S.
21 Probation Office, as well as the following special
22 conditions.

23 You will be restricted to your residence at
24 all times for a period of three months, the first
25 three months of the supervised release term, except

1 for medical necessities, mental health treatment, sex
2 offender treatment, and court appearances, or other
3 activities that are specifically approved by the
4 Court.

5 You shall comply with the sex offender
6 registration requirements for convicted sex offenders
7 in any State or jurisdiction where you reside, are
8 employed, carry on a vocation, or are a student. You
9 shall have no direct or unsupervised conduct --
10 contact with minors under the age of eighteen without
11 written approval of the United States Probation
12 Office.

13 You shall not be employed in any capacity or
14 participate in any volunteer activity which may cause
15 you to come in direct or unsupervised contact with
16 children except under circumstances approved in
17 advance by the United States Probation Office.

18 Pursuant to the Adam Walsh Child Protection
19 and Safety Act of 2006, you shall submit to a search
20 of your person, property, house, residence, vehicle,
21 papers, computer, other electronic communication, or
22 data storage devices or media and effects at any time
23 with or without a warrant by any law enforcement or
24 probation officer with reasonable suspicion concerning
25 unlawful conduct or a violation of a condition of

1 supervision.

2 You shall participate in a program of sex
3 offender assessment and treatment as directed by the
4 United States Probation Office. At the direction of
5 the United States Probation Office, you shall pay for
6 all or a portion of any treatment program.

7 You shall waive your right to
8 confidentiality and treatment and sign any necessary
9 releases for any records imposed as a consequence of
10 this judgment to allow the United States Probation
11 Office to review the course of treatment and progress
12 with the treatment providers.

13 You shall submit to polygraph testing as
14 directed by the United States Probation Office. At
15 the direction of the United States Probation Office,
16 you shall pay for all or a portion of the polygraph
17 testing if it is ordered.

18 Pursuant to Rule 32.2(a) of the Federal
19 Rules of Criminal Procedure, you, Wesley Hawkins, are
20 ordered to forfeit the following, a Toshiba laptop,
21 Serial Number SNA8A119833A, with hard drive
22 SN70QIF1YNS, and a cellular telephone, iPhone, IMEI
23 Number 990002833685140.

24 The probation office shall release the
25 presentence report to all the appropriate agencies in

1 order to execute the sentence of this Court.
2 Treatment agencies shall return the presentence report
3 to the probation office upon the defendant's
4 completion or termination from treatment.

5 Finally, you have the right to appeal the
6 sentence imposed by this Court if the period of
7 imprisonment is longer than the statutory maximum,
8 which it is not, or the sentence departs upward from
9 the Guideline range, which it does not.

10 I'm required to notify you of the right of
11 appeal nevertheless, and if you choose to appeal, you
12 must file any appeal within fourteen days after the
13 Court enters judgment.

14 If you are unable to afford the cost of an
15 appeal, you must request permission from the Court to
16 file an appeal without cost to you.

17 Now, counsel, I don't know whether this
18 prison term is long enough to trigger BOP's placement
19 analysis, but it may be.

20 Do you know whether such a term would
21 involve placement?

22 MR. JEFFRESS: Your Honor, I assume we are
23 going to do voluntary surrender?

24 THE COURT: We are.

25 MR. JEFFRESS: I think he will be placed in

1 BOP.

2 THE COURT: Then would you like me to make
3 any recommendation?

4 MR. JEFFRESS: Can I approach with the
5 government?

6 THE COURT: Yes.

7 (Counsel approached the bench and the
8 following ensued:)

9 MR. JEFFRESS: Your Honor, I have serious
10 concerns about this defendant in the Bureau of
11 Prisons. He's not eligible for -- as I understand the
12 BOP regulations, he's not eligible for a camp. So
13 we're talking about something above minimum security.

14 I don't know what can be done. Maybe
15 there's nothing that can be done, but I think what I'd
16 like to do is -- the reason why I'm doing it at the
17 bench, I don't want to horrify the family any more,
18 but I -- given his appearance, his emotional state,
19 everything, I just -- you know, I guess what I'd like
20 to do is go back and look and see if there's a way to
21 recommend to BOP something that can assure his safety.

22 THE COURT: Miss Pinegar, are you aware of
23 anything that we can recommend?

24 MS. PINEGAR: I'm not. I have very recently
25 in another case in another matter spoken with the

1 placement people at BOP, and I'm certainly willing to
2 reach back out to them and see if they are or have a
3 copy of the regulations.

4 My understanding is that there are a number
5 of factors that they evaluate. I read the things that
6 Mr. Jeffress submitted, and it's not totally clear to
7 me whether just the offense alone assures that. It
8 seems that it is -- Mr. Jeffress is not disputing
9 that. I'm just saying that I'm happy to call and try
10 to find out the answers.

11 Right now, I don't know. I haven't
12 personally inquired of them. I know that when I spoke
13 with BOP about another sex offense inmate who had
14 raised some concerns, that was a different issue, you
15 know, that I spoke with them and went through some
16 factors they were not -- the question we were
17 addressing was not specifically this, whether he was
18 going to go to the camp or not. I'm certainly happy
19 to follow up, Your Honor. I'm happy to --

20 MR. JEFFRESS: There's places that they
21 send, you know, like police officers who have been
22 convicted of crimes, things like that, which is
23 enhanced, you know, emphasis on safety. Here, the
24 main concern is, I think, sexual.

25 I guess what we would like to do is go look

1 at -- you know, talk to BOP and see what they think
2 the best recommendations are for us to give you and
3 then put that in the judgment.

4 THE COURT: I'm happy to do that. I think
5 the judgment -- usually I issue it in a couple of
6 days, so if you could do this quickly, and I will make
7 whatever recommendation you think is appropriate.

8 MR. JEFFRESS: Sure. Okay.

9 MS. PINEGAR: I'm happy to call BOP.

10 THE COURT: Okay.

11 (Counsel returned to the trial tables and
12 the proceedings resumed in open court.)

13 THE COURT: Mr. Hawkins, I will allow you to
14 stay out of jail pending surrender. You have been on
15 high intensity supervision, and you will continue
16 until it is time for you to report to jail.

17 Mr. Jeffress, did you have something that
18 you wanted to --

19 MR. JEFFRESS: Yes. Your Honor, I think in
20 terms of the supervised release conditions, the only
21 one -- the language in this one, the contact
22 restriction states -- and think it was as the Court
23 read, and I've seen this in other cases, not my own,
24 but it says, "You shall have no direct and/or
25 unsupervised contact with minors." Why doesn't this

1 just say you shall have no unsupervised contact? I
2 don't really understand, "You shall have no direct or
3 unsupervised." So even if he's -- he can't have
4 direct, that's supervised? I'm not sure what --

5 THE COURT: This is a standard condition
6 that is ordinarily put in. I think that it is
7 attempting to address a situation in which there is a
8 lack of supervision, but I don't -- I don't have a
9 problem with removing "direct and/or" so that it reads
10 "You shall have no unsupervised conduct."

11 Is that the point that you're trying to
12 make?

13 MR. JEFFRESS: Yes. We have permission.

14 THE COURT: Let me see.

15 MS. PINEGAR: The government has no
16 objection.

17 THE COURT: Okay.

18 MR. JEFFRESS: Thank you, Your Honor.

19 THE COURT: So we will strike that.

20 I was talking about the voluntary surrender.

21 Mr. Hawkins, I do want to caution you about
22 your conduct while you are on release. I know that
23 you have already been following the rules.

24 You are required to appear for surrender as
25 directed by the probation department. The Court does

1 not control when that happens, as directed by
2 probation and the Bureau of Prisons.

3 Failure to appear as required is a separate
4 criminal offense for which you could be sentenced to
5 imprisonment. If you fail to appear, you will be
6 subject to a fine or imprisonment as additional terms
7 of imprisonment that will be consecutive to the
8 sentence you receive.

9 Also, all the conditions on which you were
10 released up to now apply, and the penalties for
11 violating those conditions can be severe. If you
12 violate any of the conditions of your release, you
13 will be subject to revocation of the release and a
14 separate prosecution for contempt of Court.

15 In addition, if you are convicted of another
16 offense committed while you are released pending
17 surrender, then in addition to the sentence imposed
18 for that offense, you shall be sentenced as well for
19 having violated the conditions.

20 And any term of imprisonment for an offense
21 committed on release would be consecutive to a
22 sentence for the violation of the condition.

23 Do you understand?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: Okay. Counsel, is there

1 anything else that we need to address today?

2 MS. PINEGAR: No, Your Honor. Thank you.

3 THE COURT: Mr. Jeffress?

4 MR. JEFFRESS: Thank you.

5 THE COURT: Thank you.

6 Good luck, Mr. Hawkins. I'm sorry about the
7 circumstances, and I hope that you will be able to put
8 this behind you after the punishment imposed.

9 (Whereupon, at 11:19 a.m. the proceedings
10 concluded.)

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CERTIFICATE

I, Chantal, M. Geneus, a Court Reporter in and for the District of Columbia, before whom the foregoing hearing was taken, do hereby certify that the proceedings were taken by me by machine shorthand at the time and place mentioned in the caption hereof and thereafter reduced to typewriting under my supervision; that said hearing is a true record of the proceedings; that I am neither counsel for, related to, or employed by any of the parties to the action in which this proceedings is taken; and, further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

/s/ Chantal M. Geneus
Chantal M. Geneus, CRC, CRR, RPR