

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

United States of America,)	Criminal Action
)	No. 1:19-cr-00021-KBJ
Plaintiff,)	
)	
vs.)	<u>Sentencing</u>
)	
Jeremy Sears,)	Washington, D.C.
)	May 15, 2019
Defendant.)	Time: 2:30 p.m.

**Transcript of Sentencing
Held Before
The Honorable Ketanji Brown Jackson
United States District Judge**

A P P E A R A N C E S

For the Government: **Jodi S. Lazarus**
UNITED STATES ATTORNEY'S OFFICE
FOR THE DISTRICT OF COLUMBIA
555 Fourth Street, Northwest
Washington, D.C. 20001

For the Defendant: **Mark J. Carroll**
MARK JOHN CARROLL ESQ., P.C.
39641 Tern Road
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Also Present: Kelli Willett, Probation Officer

Stenographic Official Court Reporter:
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: Your Honor, this is Criminal
3 Case 19-021, United States of America v. Jeremy Sears.

4 We have Probation Officer Kelli Willett.

5 I'm going to ask counsel, please approach the podium,
6 state your appearance for the record.

7 MS. LAZARUS: Good afternoon, Your Honor. Jodi
8 Lazarus on behalf of the government.

9 MR. CARROLL: Good afternoon, Your Honor. Mark
10 Carroll on behalf of Mr. Sears.

11 And, Your Honor, Mr. Sears is here. His wife, Mindy, is
12 here. Please raise your hand. His mother, Lisa Sears, is
13 here; his stepfather, James Gubber; his sister, Nicole Sears;
14 and his aunt, Lori Sleeper.

15 THE COURT: All right. Welcome to all of you. Good
16 afternoon, Mr. Sears.

17 We are here for the sentencing of the defendant, Mr. --
18 let me get your full name. I have Mr. Sears in all of my --
19 Mr. Jeremy Sears, who has pled guilty to one count of
20 distribution of child pornography in violation of
21 18 U.S.C. 2252(a)(2).

22 The Court has received and reviewed the presentence
23 report and sentencing recommendation from the probation
24 department, and also various documents submitted by counsel in
25 advance of the hearing; sentencing memoranda from the

1 government, sentencing memoranda from the defendant, including
2 exhibits that consist -- consisted primarily of letters.

3 Let me ask you, Mr. Carroll, the probation office's
4 report mentions a psychosexual evaluation, which I have
5 obtained a copy of but not from you. So did you intend for me
6 to review that as well?

7 MR. CARROLL: Yes, Your Honor. It was done by
8 Dr. Weiner. It was done quite a while ago.

9 THE COURT: All right. I just didn't know if you
10 were going to be relying on that in any way. I have looked it
11 over, but you didn't file it. So I didn't know whether --

12 MR. CARROLL: I didn't file it because I thought the
13 Court automatically got it.

14 THE COURT: Oh, no. If it's done by defense counsel
15 in this way, I -- as opposed to the Court ordering --

16 MR. CARROLL: Okay. I apologize.

17 THE COURT: -- it doesn't come to me, but I have
18 received it and reviewed it.

19 MR. CARROLL: From when we've sent people to Butner
20 and everything, I've always put on there the judge's email
21 address so that the judge would get a copy.

22 THE COURT: Understood. All right. Good. I'm glad
23 we're all on the same page then.

24 It appears that the parties have engaged in the process
25 of reviewing and revising the presentence report and that the

1 final report is complete.

2 Mr. Sears, this sentencing hearing will essentially
3 proceed in four steps. The first step of today's hearing is
4 for the Court to determine whether you have reviewed the
5 presentence report and whether there are any outstanding
6 objections to that document, and, if so, I will resolve those
7 objections.

8 The second step is to determine which sentencing
9 guidelines and sentencing ranges apply to your case. The Court
10 does that based on an evaluation of the potentially applicable
11 guidelines and factors, looking at any criminal history and
12 considering any mitigating or aggravating factors that might
13 warrant a departure under the *Guidelines Manual*.

14 The third step is for the Court to hear from the
15 government, from any witnesses that the government might wish
16 to present, from your counsel, any witnesses that the defense
17 might wish to present, and from you, if you would like to be
18 heard about the sentence in this case.

19 And the last step requires the Court to fashion a just
20 and fair sentence in light of the factors that are set forward
21 in a statute, 18 U.S.C. 3553(a). As part of this last step,
22 the Court will actually impose the sentence, along with any
23 other required consequences of the offense.

24 Now, I often -- I guess maybe always -- speak directly
25 to the defendant because I think it's very important for you to

1 understand what's going on. And I realize that it's sometimes
2 hard for nonlawyers to follow some of the more mechanical
3 procedures that we're going to have to go through.

4 But as you listen, it is most important for you to keep
5 in mind why we are here at this moment and the gravity of this
6 situation. We are here because you have committed and pled
7 guilty to conduct that constitutes a federal crime. Today's
8 proceeding is a serious matter because it is fundamentally
9 about the consequences that you will need to face as a result
10 of your decision to engage in criminal behavior in violation of
11 federal law. All right?

12 So let's start with the first step, which is an
13 evaluation of the presentence report. The final presentence
14 report and sentencing recommendation were filed in this matter
15 on May 7th, 2019. Let me ask government counsel whether you
16 have any objection to any of the factual determinations as
17 opposed to the guideline range. Just the facts that are set
18 forward in the presentence report.

19 MS. LAZARUS: No, Your Honor. And the one other
20 thing, as you were listing the items you received, I wanted to
21 make sure you received the victim impact statements that were
22 under seal with the Court. And I also provided counsel with a
23 copy of them.

24 THE COURT: You know, I have not seen them, but I
25 will go back before I impose sentence and pull them.

1 MS. LAZARUS: And I do have a copy, if Your Honor
2 wants me to pass them up.

3 THE COURT: That might be easier, yeah. Thank you.
4 Thank you very much.

5 MR. CARROLL: Your Honor, we don't have any factual
6 arguments with the presentence report.

7 THE COURT: With the presentence report. All right.

8 Let me ask you, Mr. Sears, just before we get going
9 here, are you fully satisfied with your attorney in this case?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: And do you feel that you've had enough
12 time to talk with him about the presentence report and the
13 papers filed by the government in connection with this
14 sentencing?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: All right. And I take it, Mr. Carroll,
17 that you and your client have read and discussed the
18 presentence report?

19 MR. CARROLL: Yeah. That's correct, Your Honor.

20 THE COURT: Okay. So having gone through those
21 predicates and hearing no objection, this Court will accept the
22 factual recitation in the presentence report regarding the
23 circumstances of the offense. And, therefore, the facts as
24 stated in the presentence report will be the Court's findings
25 of fact for the purpose of this sentencing.

1 The presentence report goes further. It lays out the
2 probation office's calculation of the advisory guideline range
3 that, according to the probation department, applies in this
4 case. This calculation was done using the 2018 *Guidelines*
5 *Manual* and is as follows: Beginning with the guideline offense
6 level, the applicable guideline in this case, according to the
7 presentence report, is 2G2.2, which under the circumstances
8 presented here has a base offense level of 22.

9 Now, according to the presentence report, five specific
10 characteristics apply. There are -- there's a 2-level increase
11 under 2G2.2(b)(2) because the material, quote, involved a
12 prepubescent minor or a minor that had not attained the age of
13 12 years. There's a 2-level increase under 2G2.2(b)(3)(F)
14 because the defendant knowingly engaged in distribution of
15 child pornography. There's a 2-level increase under
16 2G2.2(b)(6) because the offense involved use of a computer or
17 an interactive computer service for the possession,
18 transmission, receipt, or distribution of the material, or for
19 accessing with intent to view the material. There's a 5-level
20 increase under 2G2.2(b)(7)(D) because the offense involved more
21 than 600 images. And according to the probation office, there
22 should also be a 4-level increase under 2G2.2(b)(4)(A) because
23 the material portrays sadistic or masochistic conduct.

24 Now, based on what the parties submitted, I understand
25 that the government does not intend to pursue the

1 sadomasochistic enhancement. So let me double-check that is
2 correct. Ms. Lazarus?

3 MS. LAZARUS: That's correct, Your Honor. We did not
4 include that in our calculation, and we intend to abide by our
5 plea agreement and allocute without that specific offense
6 characteristic --

7 THE COURT: All right.

8 MS. LAZARUS: -- factored into the calculation.

9 THE COURT: All right. I will say for the record, it
10 is the government's burden to establish any offense
11 characteristic that it intends to have applied at sentencing.
12 And given the government's representation that it does not wish
13 to do so with respect to that characteristic, the Court will
14 not apply the 4-level increase for sadomasochism in this case.

15 So at this point, the calculation consists of the base
16 offense level of 22, plus 11 levels for the other enhancements,
17 which is a subtotal of 33.

18 The government has also represented, and the parties
19 agree, that Mr. Sears has demonstrated acceptance of
20 responsibility in a manner that entitles him to a 2-level
21 reduction under 3E1.1(a), and that Mr. Sears timely notified
22 the government of his intention to plead guilty in a manner
23 that entitles him to an additional 1-level reduction under
24 3E1.1(b).

25 Therefore, prior to the Court's consideration of any

1 departures or variances, and excluding the 4-level increase
2 that the probation office included in the PSR, Mr. Sears's
3 total offense level is 30.

4 Is there any objection to the -- to this calculation of
5 the offense level?

6 MS. LAZARUS: No, Your Honor, not from the
7 government.

8 MR. CARROLL: No, Your Honor.

9 THE COURT: All right. Turning to the applicable
10 criminal history category. The presentence investigation has
11 found Mr. Sears has no prior convictions, and that means that
12 he receives a criminal history subpoint total of zero. This
13 puts Mr. Sears in Criminal History Category I.

14 Are there any objections to this criminal history
15 calculation?

16 MS. LAZARUS: No, Your Honor.

17 MR. CARROLL: No, Your Honor.

18 THE COURT: All right. So given a criminal history
19 calculation of I and an adjusted offense level of 30 --

20 MR. CARROLL: Is it 31? 30?

21 THE COURT: -- the Court concludes that the
22 applicable sentencing range in this case under the guidelines
23 is 97 to 121 months of imprisonment.

24 Are there any objections to this starting point initial
25 guideline range calculation?

1 MS. LAZARUS: No, Your Honor.

2 MR. CARROLL: No, Your Honor.

3 THE COURT: All right. Now, having determined the
4 applicable guideline range, the next step is for the Court to
5 consider departures. The presentence report doesn't include
6 any departure grounds, and neither party has mentioned any
7 specifically. That is, no party's arguing here there are
8 grounds for imposing a sentence outside the guideline range
9 based on the policy statements in the *Guidelines Manual*. I do
10 recognize that the defense counsel has indicated -- or argued
11 that the Court should vary.

12 But with respect to departures, let me just ask whether
13 there are any departure grounds that either party wishes to
14 assert.

15 MS. LAZARUS: No, Your Honor.

16 MR. CARROLL: No, Your Honor.

17 THE COURT: All right. Now, section 3553, which is
18 the statute that I mentioned earlier, requires the Court to
19 consider a variety of factors, including the sentencing range
20 that the guidelines prescribe, which is what I have just
21 discussed. The Court also has to consider the applicable penal
22 statutes. So I will take a moment to describe the applicable
23 statutory and guideline penalties for this offense.

24 The charge of distribution of child pornography in
25 violation of 22 U.S.C. § 2252(a)(2) carries a statutory maximum

1 penalty of 20 years of imprisonment. It also carries a
2 statutory mandatory minimum sentence of 5 years of
3 imprisonment. And because this is a mandatory minimum, the
4 defendant is ineligible for probation under both the statutes
5 and the guidelines with respect to this offense.

6 If a term of imprisonment -- of imprisonment is imposed,
7 the statute provides that the defendant faces a supervised
8 release range following imprisonment of at least 5 years. And,
9 thus, under the guidelines, that range is also at least
10 5 years.

11 The statute of conviction sets a maximum fine of up to
12 \$250,000, while the guideline fine range is between 35,000 and
13 350,000 dollars. And defendants who are convicted of offenses
14 in the District of Columbia are obligated to pay a special
15 assessment, \$100 for every count that -- of which they have
16 been convicted. Also, for any nonindigent person convicted for
17 the instant offense, there is an additional \$5,000 assessment
18 under 18 U.S.C. 3014.

19 Let me ask government counsel whether it intends to
20 pursue or believes that that assessment is applicable in this
21 case.

22 MS. LAZARUS: I think the assessment would be
23 applicable, but based on the findings about the defendant's
24 inability to pay --

25 THE COURT: Then it doesn't apply.

1 MS. LAZARUS: Correct.

2 THE COURT: Okay. The statutory and guideline
3 restitution provisions also require defendants who are
4 convicted of this offense to pay restitution.

5 In this case, according to the PSR, Mr. Sears has
6 voluntarily negotiated restitution agreements with counsel for
7 three identified victims and has agreed to pay each of the
8 victims \$3,000 for a total of \$9,000.

9 Let me ask government counsel, do I need to sign
10 anything to this effect or just putting this in my judgment
11 order is sufficient?

12 MS. LAZARUS: We would ask that Your Honor just put
13 it in the judgment and commitment order, and I did verify with
14 the three victims' counsel that's what they also wanted. And I
15 also handed up to Madam Clerk the contact information for their
16 attorneys to send the checks once the court receives them.

17 THE COURT: All right. I have that information, and
18 I'll put it in the judgment and commitment order.

19 Let me ask counsel for both sides whether I have stated
20 accurately the statutory and guideline framework under which
21 we're operating.

22 MS. LAZARUS: Yes, Your Honor.

23 MR. CARROLL: Yes, you have, Your Honor.

24 THE COURT: All right. So we're now at the third
25 stage here. I'd like to give the parties the opportunity to

1 address the sentencing guideline calculation or the Court's
2 consideration of -- under 3553(a) or anything else that you
3 think bears on the appropriate sentence in this case.

4 Ms. Lazarus, does the government wish to speak about
5 these factors?

6 MS. LAZARUS: Yes, Your Honor.

7 THE COURT: You may approach.

8 MS. LAZARUS: Your Honor, I don't want to rehash
9 everything I put in our sentencing memorandum, but I think
10 there's a few key points here that are worth noting that are
11 specific to Mr. Sears.

12 Your Honor, obviously, has had a lot of experience with
13 this type of case and is very well aware of the harm that is
14 caused to victims. I think that often defendants in these
15 kinds of cases believe that this is a victimless crime in the
16 sense they are not touching any particular child and they are
17 not the ones abusing the child; rather, sending images or
18 videos that already exist on the internet.

19 But I think the victim impact statements I have handed
20 up to the Court from the three victims that were identified in
21 this case and chose to provide statements really represent the
22 type of harm that is caused by each of the defendants who
23 choose to distribute these videos and images. These young
24 children are victimized not only when they are abused and the
25 images are and videos are taken, but each time those images are

1 sent over the internet to more and more people. And many of
2 these victims touch on the fact that they will never know how
3 many people have seen their horrific abuse.

4 But aside from these general concerns that are present
5 in each of these cases that I did highlight in our sentencing
6 memorandum, I think there are a few specifics about this case
7 that are worth noting. As stated in the statement of offense
8 that the defendant agreed to and recounted in the presentence
9 report, the defendant claimed that he had touched his own
10 daughter. While the government has no evidence of that -- and
11 that was also provided to the presentence report writer --
12 whether or not he has actually abused a child, the fact that he
13 would to someone he believes has access to and is abusing a
14 child, provide that information as a way to validate himself in
15 the hopes of getting pictures or videos from what turned out to
16 be an undercover but that the defendant thought was a father
17 who had access to his own child to abuse is very alarming.

18 And what's also very alarming in this case is the fact
19 that the defendant did send images -- while not child
20 pornography images, he did send images of his own child, again,
21 in an attempt to validate himself, images of her in the privacy
22 of her own bedroom while she was changing. This is a
23 significant intrusion, obviously, into her privacy. And not
24 only that, but this is a child, a vulnerable person, who is
25 trusting their parent. That's the person you trust the most in

1 the world. And the defendant is violating that trust in order
2 to get child pornographic images and videos for himself.

3 And so while the defendant does not have any criminal
4 history -- and I understand the defense's request for the
5 mandatory minimum in this case -- I think that those additional
6 factors, in addition to the obvious general harm that is caused
7 in all of these child pornography cases and the seriousness of
8 the defendant's conduct, help justify a sentence within the
9 guideline range rather than a mandatory minimum sentence as
10 advocated for by the defense.

11 The government has agreed to cap its allocution at the
12 bottom of that range, 97 months, and we do believe this is
13 appropriate when weighing all of these factors. This offense
14 took place over a relatively short period of time. The
15 government has, obviously, lots of videos and images as part of
16 this case, but several of them were large Dropbox links that
17 were sent to the undercover, in addition to the videos and
18 pictures that were sent.

19 And we are recognizing that the defendant does not have
20 any criminal history; that we have no evidence of him abusing a
21 child, and weighing those factors in his favor, but weighing
22 against him the harm he caused to these particular victims, the
23 harm that these cases cause generally to children, and the
24 specific additional things the defendant did here that I've
25 just highlighted, we believe a sentence of 97 months is

1 appropriate balancing all of these factors, both to
2 specifically deter the defendant, to generally deter other
3 similar individuals from committing these types of offenses,
4 and to appropriately punish the defendant for this offense.

5 I referenced in the memo this -- the psychosexual
6 evaluation that was performed. Frankly, I don't really think
7 that that should provide the Court with any comfort that the
8 defendant is unlikely to reoffend. Each of these findings was
9 couched in a lot of unknowns, and including the fact that he
10 was not even found to be a low risk, as many who are evaluated
11 are. And I don't think that anything in that report should
12 give the Court comfort that a sentence just at the mandatory
13 minimum will assure the safety of the community and really
14 giving the defendant time to undergo the serious treatment he
15 is going to need in order to not offend again.

16 Thank you.

17 THE COURT: Thank you.

18 Mr. Carroll.

19 MR. CARROLL: Yes, Your Honor.

20 Ahead of time, Your Honor, please don't think anything I
21 say I'm downplaying the seriousness of this -- of what happened
22 here with the -- with the three victims that are being
23 compensated and what he did with his daughter. But I would
24 point out for the Court that what he did with his daughter --
25 and she did not even know about it -- he took a picture of the

1 top of her buttocks, just showing the top of her buttocks while
2 in pants or underpants, and I don't believe that she's even
3 aware it ever happened.

4 In addition to that, the conversations that took place
5 on text messages and everything, men, especially immature men,
6 which I would have to say my client is in these respects,
7 exaggerate a lot. And detective -- I've been involved in
8 several cases now with Detective Palchak. He is a master at
9 getting people to exaggerate or to state or overstate what they
10 want to do. And young men, when they're being crude, try to
11 outcrude each other, and I think that's what's going on here.

12 The -- this was nine miserable days in Mr. Sears's life,
13 and it's not how the rest of his life is going to be. He's a
14 work-a-day guy. He's a blue-collar guy, climbs trees, cuts
15 limbs, provides wealth for his family. And this is really kind
16 of an aberration when you measure it against his own life.

17 He has no criminal record at all, Your Honor. He does
18 have a supportive family, and one of the -- the things that
19 every Court looks to is what support system is in place when
20 you leave prison. Well, as the Court can see, his family is
21 here. His family was here for -- for the plea, and they have
22 been in constant contact with him while he's been at D.C. jail.

23 While he's at D.C. jail, I had told him to do everything
24 he can to improve himself. He got on the GED wing. He
25 recently passed the -- the science and the social studies

1 section of the GED, and he has English and math left, and he
2 intends to complete that once he's in the GED. And he's -- has
3 already started those. So the work he's done in there should
4 move with him into the BOP.

5 Any time I've met with him from the start of this case,
6 he has never denied it, never downplayed it, and these -- he's
7 very embarrassed about the whole thing, Your Honor. He's got a
8 family that -- that is shocked by his behavior, but they still
9 support him. One of the reasons they still support him,
10 because other than this, he's always been a good husband, good
11 father, and a good son.

12 The -- but it's clear from reading Dr. Weiner's report
13 that he does need some counseling in this matter, without a
14 doubt. Everyone that would be doing this needs counseling. I
15 would ask of the Court when sending him into the BOP that the
16 Court recommend that he take part in the Residential Drug and
17 Alcohol Program. I would ask of the Court that he be afforded
18 mental health evaluations and treatment.

19 I would ask of the Court -- we would request of the
20 Court he be sent to the Federal Medical Center Devens. It used
21 to be a military base in Ayers, Mass. It's spelled A-y-e-r-s.
22 And that's an excellent facility, and it's within 45 minutes or
23 an hour of his house. And his family could visit him there,
24 and his children could visit him there.

25 And we have restitution in this case, Your Honor, and I

1 would ask of the Court if the Court could put a cap of \$20 a
2 month on his restitution. And the reason I'm asking for that
3 is if you don't program in -- within the BOP, you're not
4 getting any good time credit, and I have explained the good
5 time credit for him.

6 But within the BOP, if you're working and if your family
7 doesn't have the money to be giving him money for his
8 commissary account, they'll take away half of what you earn.
9 And you need that much just for toiletries and everything,
10 Your Honor. So I would -- if the Court could put a cap of 20 a
11 month for the time he's incarcerated, we would greatly
12 appreciate that. And then the Court could adjust when he comes
13 out, whatever they -- probation thinks is appropriate, based on
14 what his income is and his expenses are. The --

15 THE COURT: Can I just -- let me just interrupt.
16 Because in my judgments, ordinarily restitution is due and
17 payable immediately, along with the special assessment. If the
18 person doesn't have it, what I'm trying to figure out is
19 whether it's collected during their time of incarceration or
20 just during --

21 MR. CARROLL: No, it is. It is collected.

22 THE COURT: -- supervised release.

23 MR. CARROLL: That hundred dollar assessment, and if
24 other restitution is ordered, it is taken out of their --
25 whatever they earn in prison during the -- during their time of

1 incarceration, and then it gets readjusted when they leave --
2 leave prison.

3 THE COURT: All right.

4 MR. CARROLL: And I ask you set a cap.

5 And, Your Honor, when I look at the other cases that
6 have come before this courthouse in relation to the sentencings
7 with the guidelines, I think what I asked for, the 64 months of
8 mandatory minimum, would be appropriate and would be enough
9 time in this case, considering what he has done and what he has
10 done in comparison to others, Your Honor.

11 THE COURT: But many of the cases that you submitted
12 as a part of your brief weren't distribution of child
13 pornography cases. They were travel cases.

14 MR. CARROLL: I was trying to draw a comparison
15 between those type of cases, the travel cases and the
16 possession cases, in relation to what the guidelines called for
17 and what those defendants actually ended up getting. And
18 that -- that's why I drew that comparison.

19 THE COURT: All right.

20 MR. CARROLL: But I would ask of the Court to
21 sentence him to 60 months.

22 Thank you, Your Honor.

23 THE COURT: Thank you.

24 Mr. Sears, would you like to say anything that you would
25 want for the Court to consider prior to imposing sentence?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Come forward right here.

3 THE DEFENDANT: I'd like to say that I'm truly sorry
4 for what I have done. I take full ownership of what I have
5 done. I'm truly sorry for the victims, what they have to go
6 through and suffer every day.

7 I am a good, loving husband, good father. I'd like a
8 second chance at life, united back with my family. I'm just
9 trying to better myself, and during this time, I'm reflecting
10 on myself as who I am as a person and closer to God.

11 That is it, Your Honor.

12 THE COURT: All right. Thank you.

13 All right. Let me take ten minutes to review the
14 government's statements and finalize my sentencing ruling.

15 (Recess taken.)

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

23 These purposes include the need for the sentence imposed
24 to reflect the seriousness of the offense, to promote respect
25 for the law, and to provide just punishment for the offense.

1 The sentence should also deter criminal conduct, protect
2 the public of future crimes by the defendant, and promote
3 rehabilitation. In addition to the guidelines and the policy
4 statements, this Court must consider the nature and
5 circumstances of the offense, the history and characteristics
6 of the defendant, the types of sentences available, the need to
7 avoid unwarranted sentencing disparities among defendants with
8 similar records who have been found guilty of similar conduct,
9 and the need to provide restitution to any victims of the
10 offense.

11 This Court has considered all of these statutory factors
12 when deciding what the appropriate sentence is in this case,
13 and in accordance with my ordinary practice, I won't list each
14 one of my considerations with respect to each factor orally
15 here today.

16 But I do think it's important for me to say something
17 for the record and for you, Mr. Sears, about certain aspects of
18 my decision, including the nature of the offense, your history
19 and characteristics as an offender, and the need to avoid
20 unwarranted sentencing disparities.

21 With respect to the nature of the offense, as government
22 counsel suggested, it is very important for you to understand
23 that distribution of child pornography is an extremely serious
24 federal crime. It is sometimes difficult for people to
25 recognize that. People often mistakenly believe the

1 distribution of child pornography, looking at inappropriate
2 pictures, and that a person who commits this kind of crime,
3 really isn't doing anything wrong.

4 What I want you to understand and, ultimately, to
5 appreciate is that the possession and distribution of child
6 pornography is much more than just viewing and circulating
7 something inappropriate or taboo. This crime involves people
8 taking pictures and videos of real children while those
9 children are being sexually abused and then not only putting
10 those pictures on the internet for other people to see but
11 actively trading in them.

12 In your heart of hearts, you have to know that,
13 Mr. Sears. Your own collection apparently included hundreds of
14 images and videos of children in sexually compromised
15 positions, and I can tell you that the children in those
16 pictures were not knowing and willing participants in the
17 degrading conduct that was being depicted. They were being
18 forced to commit unspeakable acts of sexual violence for the
19 pleasure of the person who was filming them, and the
20 gratification of, frankly, sick people everywhere; people who
21 apparently have very little empathy for what that kind of thing
22 must do to the children who are being abused in that way.

23 When I tried to figure out what I'm going to do in cases
24 like this one -- and I've had a few of these cases -- I assess
25 the extent to which the defendant really understands the damage

1 that is being done to young children in the photos that he or
2 she was so eagerly collecting and trading. I have to say, I
3 appreciated your letter. You were very earnest. But I didn't
4 really get the sense from your letter that you fully understood
5 the truly vile nature of this crime.

6 I don't know whether you saw the victim impact
7 statements. The government handed them up to me, and I read
8 them at the break. And they comport with my understanding of
9 how many victims feel in the context of these crimes. I've
10 actually had child pornography victims talk about what this
11 offense does to them for the rest of their lives. Their
12 stories are harrowing. Some of the children who you saw in
13 those pictures will never have normal adult relationships.

14 Some of them will turn to drugs and prostitution and
15 other dangerous conduct to try to deal with the emotional pain
16 that results from the torture that they have experienced. And
17 even those who manage to lead a somewhat normal adult life say
18 that they live in constant fear of being recognized. Some of
19 these victims are unable to go out of their homes for the rest
20 of their lives because once those pictures are on the internet,
21 they are there forever. And the people in them can't do
22 anything without worrying that every person they have met has
23 seen them in their most vulnerable state, at the most horrible
24 time in their lives. Those sentiments are reflected in the
25 victim impact statements that were submitted in this very case.

1 Now, while we're discussing the nature of your offense,
2 I want to point out something that I found particularly
3 disturbing about your case. And I had come to that conclusion
4 even before the government raised it here today. It is the
5 fact that you were, apparently, willing to distribute pictures
6 of your own daughter as an enticement to others who were
7 willing to trade pictures with you. The statement of offense
8 says that you've admitted to this.

9 Now, granted, these pictures were not actually
10 pornographic, but apparently in the conversations that you had
11 with the undercover officer, you promised to send pornographic
12 pictures of your daughter; thereby suggesting, in addition to
13 being a collector, you were bragging about also being a
14 producer of child pornography, a guy with access to your own
15 young daughter who you could photograph and that you were,
16 apparently, willing to do so to offer new content to the
17 marketplace for the sexual gratification of others.

18 This sort of thing is astonishing and, in fact, unusual
19 with respect to child pornography offenders, distribution
20 offenders. It convinces this Court that the facts and
21 circumstances fully justify a substantial period of
22 incarceration in this case. I do want to be clear, as the
23 government was, the record is not sufficient to support any
24 inference that you've actually abused a child, despite your
25 bragging about your experience. I take Mr. Carroll's point

1 that sometimes in the context of these kinds of exchanges,
2 young men say things that they don't really mean in crude
3 discussions with others. The government hasn't even attempted
4 to try or hasn't opted to charge you for any sort of attempted
5 production of child pornography concerning your daughter or any
6 other child.

7 But that doesn't mean that what you did in this case was
8 not serious. And here's why. The bottom line, the market for
9 producing pictures of children being molested and raped is
10 driven by those who want to see those pictures. If the lookers
11 weren't there, if the interest wasn't there, then there would
12 be fewer child victims, which is why I believe Congress was
13 motivated to make distribution of child pornography a federal
14 offense and to require judges to impose a statutory mandatory
15 minimum penalty when the offense is charged.

16 Now, as you know, the sentencing guidelines in this
17 case, and many of these kinds of cases, impose a much greater
18 term of imprisonment than the 60-month term that is the
19 statutory minimum penalty. In his sentencing memoranda, your
20 counsel suggested that I discount the guideline assessment
21 substantially in this case because the child pornography
22 guideline is not the product of the commission's empirical
23 assessments and it includes and emphasizes certain factors that
24 have been widely criticized even by the Sentencing Commission
25 itself.

1 Your counsel argues that the seriousness of the offense
2 is greatly overstated by the guidelines as a result of the near
3 automatic application of many of the enhancements that are
4 present in this case. His sentencing memoranda goes on to
5 observe that many of the specific offense characteristics in
6 the child pornography guideline are rarely case-specific or
7 unique; and, thus, the corresponding enhancements are applied
8 in almost every single case, and that is entirely true.

9 As a result, this Court has long considered it
10 appropriate to make some adjustments to the guideline
11 calculation as it relates to child pornography crimes. I have
12 stated in similar cases -- and I will say here again -- that
13 the guideline factors are in many ways outdated. And, in
14 general, they no longer adequately distinguish between more
15 serious and less serious child pornography distribution
16 offenses.

17 For example, the guidelines include a 2-level increase
18 for the use of a computer, and they also provide for a
19 substantial enhancement, 5 levels, for the number of images
20 that are stored in a computer's hard drive. That is 5 levels
21 if there's over 600 images. Now, whatever the state of the law
22 and technology when the guidelines were first adopted, neither
23 the use of the computer or the number of images are really
24 aggravating factors today.

25 The computer is at work with respect to nearly all

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

6 The Court has taken this into account in its
7 considerations regarding the sentence to impose in this and
8 similar cases. And like many other federal judges who have
9 analyzed these issues, I have decided to apply a general policy
10 disagreement with the 2-level guideline enhancement for the use
11 of a computer under 2G2.2(b)(6) and also the 5-level guideline
12 enhancement for the number of images under 2G2.2(b)(7)(D).

13 What I'm going to do in the context of this case, which
14 is consistent with what I've done in other similar cases, is
15 exclude the 2 points for use of the computer entirely, and I am
16 going to impose only a 2-level increase under 2G2.2(b)(7)(D) to
17 account for the size of your collection rather than the 5-level
18 increase that is prescribed in the guidelines. I am varying
19 the guidelines to this extent. That's a total of 5 levels off,
20 which, as a practical matter, means that as I think about the
21 appropriate sentence to -- to impose in this case, I consider
22 you to be an offense level of 25, rather than 30. And a
23 level of 25 at Criminal History Category I carries a guideline
24 range of 57 to 71 months.

25 So those are my remarks with respect to the seriousness

1 of the offense.

2 The next factor that I want to address is your history
3 and characteristics. The probation office has found that you
4 have no prior criminal history, which is a mitigating factor,
5 but it is actually not unusual for cases of this type. What is
6 somewhat unusual, Mr. Sears, is the extent of the support that
7 you appear to have based on the letters that have been provided
8 to this Court and the family members who have come here today.
9 I have reviewed and considered all of the letters. The Court
10 always appreciates getting letters from a defendant's friends
11 and family because people who know a defendant can attest to
12 his true character.

13 Mr. Carroll says this was a relatively short period of
14 your life. I do believe that we are all more than the worst
15 thing that we've ever done. The letters have told me a lot
16 about who you are as a person; that you are a hard worker, that
17 you're devoted to your family. And I have no reason to doubt
18 those representations. Let me also say that you should be very
19 proud of having developed such a following and also very sad
20 about what your criminal conduct must be doing to the people
21 who know you and trust you and care about you.

22 They, obviously, did not know about the deviant behavior
23 that caused you to amass a trove of sickening pictures of child
24 abuse, and I hope that you will be honest with them about your
25 challenges moving forward, because in addition to needing

1 treatment, you're also going to need their help, not only
2 during your period of incarceration, but also afterwards when
3 you return to the community.

4 There are going to be a lot of restrictions that the law
5 requires because you are a convicted sex offender, and you're
6 going to need the support of these people in order to get
7 through this next stage of your life and beyond. The Court has
8 taken into account what appears to be a substantial network of
9 support as it has considered the appropriate penalty in this
10 case.

11 I've also reviewed the psychosexual evaluation. I
12 agree, largely, with the government that it's very hard to know
13 whether and to what extent the evaluation truly captures the
14 risks. Such evaluations are done to give the Court, this Court
15 and others, an idea of whether or not we're talking about
16 someone who needs to be incapacitated out of a concern that
17 there might be a serious risk of child sexual abuse.

18 I was pleased to see that that sort of thing was not
19 apparent in this evaluation. I was even more pleased to see
20 that you've accepted responsibility, that you believe that your
21 conduct may be attributable to an addiction, not unlike the
22 serious substance abuse problems that are reflected not only in
23 the psychosexual evaluation but also in the PSR.

24 The evaluator stated plainly that your offense behavior
25 is evidence of a man who has lived in a chaotic substance

1 abusively and emotionally unstable life. So I hope, that among
2 others, as you get treatment and accept treatment and think
3 about how you're going to move forward, you will try to deal
4 with some of the underlying causes of the problem that brings
5 you to this point.

6 I'll also say that in reviewing your history, you don't
7 have any abuse or neglect in your own background. You appear
8 to have had a relatively normal childhood, although you were
9 not a good student; and the Court does note that the primary
10 difficulty you seem to have had, in addition to attention
11 deficit disorder and anxiety and depression, was the regular
12 use and abuse of drugs.

13 The third and final consideration that I will discuss is
14 the need to avoid unwarranted sentencing disparities. This
15 factor is often very important in my consideration of how to
16 sentence a defendant. I've done my research. I've looked into
17 relevant statistics regarding how other defendants who have
18 been convicted of distribution of child pornography have been
19 sentenced.

20 According to the Sentencing Commission, which often
21 provides historical perspective between the year 2012 and 2016,
22 there were no cases in the District of Columbia that involve
23 the exact same guideline calculation, the same base offense
24 level, the same specific case characteristics, et cetera.
25 Furthermore, the national statistics for similarly situated

1 defendants are all over the map. The commission reports that
2 the average sentence imposed in any given year appears to
3 depend on whether a judge sentences within the sentencing range
4 or varies and whether any variance is government-sponsored.

5 As pertinent in this case, the commission has looked at
6 the data and has clarified that the average sentence nationally
7 for similarly situated defendants was 81 months of imprisonment
8 in 2016. That average included sentences that ranged from
9 60 months to 120 -- to 120 months.

10 Most importantly, I have reviewed my own cases, and I
11 found two that I believe to be comparable to this one. In one
12 case the defendant was convicted of possession of child
13 pornography, sentenced under the same guidelines; the same
14 specific offense characteristics applied. With respect to the
15 other, the defendant was convicted of distribution of child
16 pornography with respect to facts that are strikingly similar
17 to the ones at issue here today.

18 These are the cases of *United States v. Stewart* and
19 *United States v. Hess*. In the possession case, *Stewart*, which
20 had no mandatory minimum, this Court weighed all of the
21 relevant factors, including a guideline range that had been
22 adjusted downward, with respect to the use of the computer and
23 the number of images, and determined that a 57-month sentence
24 was sufficient but not greater than necessary to promote the
25 purposes of punishment.

1 In the *Hess* case, which is similar to what you have pled
2 guilty to, Mr. Sears, in terms of the facts, the Court found
3 that the mandatory minimum of 60 months, which is within the
4 adjusted range of 57 to 71 months, was sufficient. This review
5 of the statistics and my own prior cases suggests that, as
6 defense counsel argues, a sentence of 60 months would be
7 appropriate.

8 But the Court has focused, like a laser, on one
9 particular factor that the government highlighted and that I
10 mentioned earlier. And I just can't get beyond. It is the
11 particularly disturbing aspect of the instant crime that I
12 believe makes this case different from any other that I've
13 sentenced thus far. This child pornography distribution
14 offense is more egregious than most, at least the most that I
15 have sentenced because it involved distribution of pictures of
16 your own child.

17 Now, I want to be clear. The four pictures of your
18 daughter were not pornographic. I've said that over and over
19 again. But you apparently took those pictures,
20 surreptitiously, which is a significant violation of privacy,
21 and you sent them to someone who you knew had expressed a
22 sexual interest in children, promising that one or more nude
23 pictures would follow.

24 Those actions and representations are beyond mere crude
25 talk, Mr. Carroll. And from the conceded facts, there appeared

1 to be no thought given whatsoever to what trafficking in your
2 own daughter's photos meant, what having her images out there
3 in the seedy pedophilic underworld would do to her. That one
4 act of distribution was so reckless and so potentially harmful
5 that this Court is convinced that the mandatory minimum
6 sentence of 60 months is not sufficient.

7 To promote the purposes of punishment in this case, to
8 reflect the seriousness of the instant offense, to promote
9 deterrence, protect the public from future crimes that may be
10 committed by you, and avoid disparities that are unwarranted
11 among defendants convicted of similar crimes, the Court
12 believes that a sentence of 71 months of imprisonment, the top
13 of the adjusted range, is sufficient to satisfy the purposes of
14 punishment and is not greater than necessary to achieve that
15 aim.

16 A period of 120 months of supervised release will also
17 be imposed in order to permit you to rehabilitate yourself
18 fully and to integrate yourself back into society. Therefore,
19 based on this Court's consideration of all of the 3553(a)
20 factors, I will now state the sentence to be imposed.

21 Mr. Sears, please stand.

22 It is the judgment of the Court that you, Jeremy Sears,
23 are hereby committed to the custody of the Bureau of Prisons
24 for a term of 71 months on Count 1, with credit for time
25 already served since your detention on the charges in this

1 case.

2 You are further sentenced to serve a term of 120 months
3 of supervised release on Count 1 and to pay a \$100 special
4 assessment. You shall also pay restitution in the amount of
5 \$9,000. The Court finds that you do not have the ability to
6 pay a fine and, therefore, waives imposition of a fine in this
7 case.

8 The special assessment and restitution are immediately
9 payable to the Clerk of the Court for the U.S. District Court
10 for the District of Columbia. Within 30 days of any change of
11 address, you shall notify the Clerk of the Court of the change
12 until such time as the financial obligation is paid in full.
13 The Court waives any interest or penalties that may accrue on
14 unpaid balances.

15 Restitution payments shall be made to the Clerk of the
16 Court for the U.S. District Court of the District of Columbia
17 for disbursements to the victims as follows: \$3,000 paid to
18 the -- the victim Pia, Deborah A. Bianco ITF Pia, 14535
19 Bellevue-Redmond Road, Suite 201 Bellevue, Washington, 98007;
20 \$3,000 to the victim Violet, Carol L. Hepburn IT F Violet,
21 200 First Avenue West, Suite 550, Seattle, Washington 98119;
22 and \$3,000 to the victim Jenny at the Marsh Law Firm PLLC,
23 Attention: Jenny, P.O. Box 4668, No. 65135, New York, New York
24 10163-4668.

25 The Court will recommend to the Bureau of Prisons that

1 you be housed at Federal Medical Center Devens and that you be
2 placed in a 500-hour drug abuse prevention program during the
3 term of your imprisonment. The Court will also recommend to
4 BOP that you be considered eligible for education, vocational
5 programs, including a program that results in you getting your
6 GED while incarcerated.

7 Within 72 hours of release from custody, you shall
8 report in person to the probation office in the district to
9 which you are released. While on supervision, you shall submit
10 to the collection of DNA. You should not possess a firearm or
11 other dangerous weapon; you shall not use or possess an illegal
12 controlled substance; and you shall not commit another federal,
13 state, or local crime.

14 You shall abide by the general conditions of supervision
15 adopted by the U.S. Probation Office, as well as the following
16 special conditions, which I will state and then describe the
17 reasons for as the D.C. Circuit requires.

18 Substance abuse treatment. You shall participate in and
19 successfully complete a residential and/or outpatient substance
20 abuse treatment program which may include drug testing and
21 detoxification service as approved and directed by the
22 probation office. Given your history of drug use, imposing
23 substance abuse treatment as a condition of supervised release
24 is the least restrictive means of furthering your
25 rehabilitation so that you can move beyond drug addiction.

1 Substance abuse testing. You shall submit to substance
2 abuse testing as approved and directed by the probation office.
3 Again, given your history of drug use, this condition is the
4 least restrictive means necessary of ensuring that you remain
5 drug free in the name of rehabilitation.

6 Mental health treatment. You shall participate in a
7 mental health treatment program which may include outpatient
8 counseling or residential placement as approved and directed by
9 the probation office. Given the connection between your mental
10 health issues and the crimes for which you have been convicted,
11 this condition is the least restrictive means possible of
12 protecting the public from future offenses, deterring you from
13 committing any future offenses, and ensuring that you remain in
14 good mental health in the name of rehabilitation.

15 Educational and vocational training. You shall
16 participate in an educational and vocational skills training
17 program as approved and directed by the probation office.
18 Imposing this condition is the least restrictive means of
19 advancing your rehabilitation and preventing future drug crimes
20 by laying a foundation for a career that does not involve
21 substance abuse or child pornography.

22 You shall pay the balance of any restitution owed at a
23 rate of no less than \$20 each month during the period of
24 incarceration and \$100 each month during the period of
25 supervised release and provide verification of the same to the

1 probation office. This obligation is the least restrictive
2 means possible of ensuring that restitution is provided to the
3 victims of the offense for which you have been convicted.

4 You shall provide the probation office with your income
5 tax returns, authorization for release of credit information,
6 and information about any business or finances in which you
7 have a control or interest until all restitution is satisfied.
8 Like your restitution obligation, this condition is the least
9 restrictive means of ensuring that restitution is provided to
10 the victims of the offenses for which you have been convicted.

11 Now, in addition to the conditions that I have just
12 outlined, you are also subject to several additional conditions
13 because the offense with which you have been charged is a sex
14 offense.

15 Sex offender registration. You shall comply with the
16 sex offender registration requirements for convicted sex
17 offenders in any state or jurisdiction where you reside, are
18 employed, carry on a vocation, or are a student. Imposing
19 registration as a condition of supervised release is the least
20 restrictive means of protecting the public from further sex
21 crimes.

22 Contact restrictions. Your contact with minors will be
23 restricted during the period of supervision. You shall have no
24 unsupervised contact with minors under the age of 18 of more
25 than momentary duration without approval of your treatment

1 provider and the consent of the United States Probation Office.
2 This restriction includes work in any facility for the care or
3 education of children and is the least restrictive means
4 necessary of protecting the public from future sex crimes and
5 of deterring future offenses and encouraging registration.

6 Employment and volunteer restriction. You shall not be
7 employed in any capacity or participate in any volunteer
8 activity which may cause you to come in direct and/or
9 unsupervised contact with children, except after the
10 notification of supervisors of your criminal history and under
11 circumstances approved in advance by the United States
12 Probation Office. This restriction includes work in any
13 facility for the care or education of children. In light of
14 the nature of this -- the offense conduct, which is
15 distribution of child pornography, this restriction is the
16 least restrictive means necessary of protecting the public from
17 future sex crimes against minors and of deterring future
18 offenses.

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

1 supervision.

2 This condition is expressly authorized by a statute,
3 18 U.S.C. 3583(d) (3), and the Court finds that this condition
4 is reasonably related to the nature and circumstances of your
5 offense, the need to deter criminal conduct, protection of the
6 public, and treatment of your correctional needs because the
7 nature of your offense indicates some degree of risk of
8 recidivism and because any repeated criminal conduct of this
9 nature could well be carried out in your home. Permitting
10 searches upon reasonable suspicion will help to deter future
11 criminal conduct, to protect the public, and to aid in your
12 rehabilitation.

13 Sex offender assessment and treatment. You shall
14 participate in a program of sex offender assessment and
15 treatment as directed by the United States Probation Office.
16 You shall pay for all or any portion of the treatment at the
17 direction of the U.S. Probation Office, you shall waive your
18 right of confidentiality in treatment and sign any necessary
19 releases for any records imposed as a consequence of this
20 judgment to allow the United States Probation Office to review
21 your course of treatment and progress with treatment providers.
22 This condition is imposed because it is the least restrictive
23 means of providing you with treatment to rehabilitate yourself
24 so you can move forward from the underlying offense, and it
25 will also deter future conduct involving sex offenses.

1 And, finally, computer internet search and monitoring.
2 You shall identify all computer systems, internet-capable
3 devices, and similar memory and electronic devices to which you
4 have access and permit the installation of a computer and
5 internet monitoring program on any and all such devices. Given
6 that you initiated and planned the offense convicted online via
7 computer, and in light of your uncharged relevant -- sorry.
8 Given that you initiated and planned the offense of conviction
9 online via computer, which included possession of child
10 pornography, this condition is the least restrictive means of
11 protecting the public from future offenses, deterring you from
12 committing future offenses, and aiding in treating your
13 correctional needs.

14 The probation office shall release the presentence
15 investigation report to all appropriate agencies in order to
16 execute the sentence of this Court. Treatment agencies shall
17 return the presentence report to the probation office upon the
18 defendant's completion or termination from treatment.

19 Mr. Sears, you have the right to appeal the sentence
20 imposed by this Court under the limited circumstances laid out
21 in your plea agreement. If you choose to appeal, you must file
22 an appeal within 14 days after the Court enters judgment. If
23 you are unable to afford the cost of an appeal, you may request
24 permission from the Court to file an appeal without cost to
25 you.

1 Let me ask counsel, are there any objections to the
2 sentence imposed that are not already noted on the record.

3 MS. LAZARUS: No, Your Honor.

4 MR. CARROLL: Not objections. Clarifications. I had
5 asked the Court if the Court would set a cap on the amount of
6 his restitution while in the BOP of \$20 per month. I'd ask the
7 Court, again, to do that. In addition --

8 THE COURT: Tell me how you want that worded. I
9 thought I did it, but maybe I didn't give you what you were
10 looking for.

11 MR. CARROLL: I must have missed it.

12 THE COURT: I said you will pay restitution -- the
13 defendant shall pay the balance of any restitution owed at a
14 rate of -- you know what I said? I may have said no less than.
15 Maybe it's no more than is what you mean; right?

16 MR. CARROLL: Yes. No more than \$20.

17 THE COURT: No more than \$20 a month for the period
18 of incarceration.

19 MR. CARROLL: I'm satisfied with that.

20 THE COURT: I'll make that adjustment to the
21 judgment.

22 MR. CARROLL: And the Court also stated the 500 hours
23 for the drug rehab program. Would the Court specifically
24 reference the Residential Drug and Alcohol Program, the RDAP
25 program, because I don't want someone in Beaumont, Texas,

1 saying, well, she didn't really ask for the RDAP program. She
2 asked for 500 hours. So if the Court could specifically
3 reference that.

4 THE COURT: All right. This is, of course, in my
5 recommendation. The Bureau of Prisons will have to make its
6 own determination, but I will recommend Mr. Sears be housed at
7 a facility that has a 500-hour Residential Drug Abuse Program.

8 MR. CARROLL: Yes, Your Honor. Thank you.

9 THE COURT: All right. Now, let me just ask you one
10 thing, Mr. Carroll, before you sit down. I think I was more
11 general than that because of your request for a specific
12 facility. Sometimes, you know, we don't -- have you checked
13 that Devens has an RDAP program? If they don't and I recommend
14 that, he may be sent somewhere else.

15 MR. CARROLL: The benefit he gets from the RDAP
16 program, I don't want him to lose that.

17 THE COURT: So even -- so if turns out Devens doesn't
18 have it --

19 MR. CARROLL: Well, I looked and it's a -- it's --
20 it's a Federal Medical Center. It's what it is. It's not
21 the -- it's not considered an FCI.

22 THE COURT: All right.

23 MR. CARROLL: And you would think they would have
24 that being a Federal Medical Center. I mean --

25 THE COURT: I don't know. The courts don't control

1 BOP.

2 MR. CARROLL: I understand that, but that's -- that's
3 where Eliot Spitzer went from New York City, and he was just
4 released from there.

5 THE COURT: Okay.

6 MR. CARROLL: And I --

7 THE COURT: I don't think -- I don't think you mean
8 to suggest that he needed the RDAP program.

9 MR. CARROLL: I'm sure that his lawyers suggested he
10 needed everything.

11 THE COURT: Okay. All right. Well, I will make the
12 specific request for both Devens and the 500-hour Residential
13 Drug Abuse Program?

14 MR. CARROLL: Thank you, Your Honor.

15 THE COURT: All right. Any other objections or
16 clarifications?

17 MS. LAZARUS: Nothing from the government.

18 MR. CARROLL: No, Your Honor.

19 THE COURT: All right. Thank you, Mr. Sears. Good
20 luck.

21 (The proceedings were concluded at 4:21 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