

APPENDIX C

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA

vs.

JOSE AMAYA-VASQUEZ

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)

PRESENTENCE INVESTIGATION REPORT

Docket No. 0312 1:16CR00016-1

Prepared For: THE HONORABLE NOEL L. HILLMAN
United States District Judge

Prepared By: MARK E. CORPORA
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Sentence Date: 01/12/2018

Offense: Count One: Kidnapping
18 U.S.C. § 1201(a)(1) - Life imprisonment/\$250,000 fine, a Class A
Felony
Count Two: Interstate Domestic Violence
18 U.S.C. §§ 2261(a)(2) and (b)(3) - 10 years imprisonment/\$250,000
fine, a Class C Felony
Count Four: Illegal Re-Entry
8 U.S.C. §§ 1326(a) and (b)(1) - 10 years imprisonment/\$250,000 fine, a
Class C Felony

Arrest Date: 05/26/2015: Arrested locally
10/26/2015: Arrested federally

Release Status: In continuous custody since date of arrest

Detainers: Bureau of Immigration and Customs Enforcement (BICE)

Date Report Prepared: 10/05/2017

Final Report Prepared: 12/12/2017

U.S. DISTRICT COURT

JOSE AMAYA-VASQUEZ

Codefendants: None

Related Cases: None

Identifying Data:

Date of Birth: January 1, 1985
Age: 32
Race: White, Hispanic origin
Sex: Male

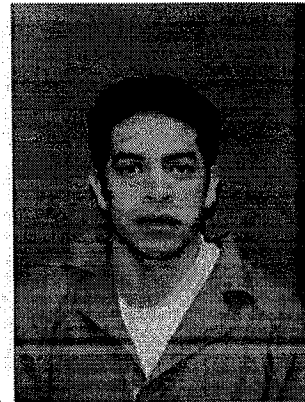
SSN: None (has used 152-39-4710)
FBI #: 375775HC8
USM #: 42949-380
ALIEN #: A098881792
STATE ID #'s: 38983848 (MO)
403904G (NJ)
0853345H (NY)
PACTS #: 1861701

Education: No High School Diploma or GED
Dependents: 2
Citizenship: Honduras
Immigration Status: Illegal Alien of the United States

Legal Address: Undomiciled

Custodial Address: Federal Detention Center
P.O. Box 562
Philadelphia, Pennsylvania 19105

Alias(es): Christian Fernando Amaya; Jose Cristino Amaya; Cristino Amaya



Restrictions on Use and Redisclosure of Presentence Investigation Report. Disclosure of this presentence investigation report to the Federal Bureau of Prisons and redisclosure by the Bureau of Prisons is authorized by the United States District Court solely to assist administering the offender's prison sentence (i.e., classification, designation, programming, sentence calculation, pre-release planning, escape apprehension, prison disturbance response, sentence commutation, or pardon) and other limited purposes, including deportation proceedings and federal investigations directly related to terrorist activities. If this presentence investigation report is redisclosed by the Federal Bureau of Prisons upon completion of its sentence administration function, the report must be returned to the Federal Bureau of Prisons or destroyed. It is the policy of the federal judiciary and the Department of Justice that further redisclosure of the presentence investigation report is prohibited without the consent of the sentencing judge.

PART A. THE OFFENSE

In U.S. v Booker & Fanfan, 543 U.S. 220 (2005), the Supreme Court ruled in the first part of its decision that its prior Blakely decision applies to the federal guidelines. In addressing the remedial solution, the second part of the decision invalidated only those statutes that made application of the federal guidelines mandatory, holding that the rest of the guidelines and Sentencing Reform Act were constitutionally valid and should be considered by courts, along with other factors listed in 18 U.S.C. § 3553(a), in imposing sentence. Per the subsequent Supreme Court decision in Gall v U.S., 552 S.Ct. 38 (2007), appellate courts must review all sentences for reasonableness under a deferential abuse-of-discretion standard. As only the "mandatory" statutes were invalidated, the Probation Office will apply the guidelines consistent with the remainder of the Sentencing Reform Act and the applicable edition of the U.S. Sentencing Commission Guidelines Manual.

Charge(s) and Conviction(s)

1. On January 13, 2016, a four-count indictment was filed in the District of New Jersey charging Jose Amaya-Vasquez with the following.
2. Count one charged from on or about May 24, 2015, in Kansas City, Missouri, in the Eastern District of Missouri, to on or about May 26, 2015, in Camden County, in the District of New Jersey, the defendant, Jose Amaya-Vasquez, did unlawfully seize, confine, inveigle, decoy, kidnap, abduct, and carry away Victim #1 and hold Victim #1 for ransom, reward and otherwise, including to physically assault, sexually assault and rape Victim #1 and so that Victim #1 and Victim #2 would have to live with defendant Amaya-Vasquez, and in committing and in furtherance of the commission of the offense did willfully transport Victim #1 and Victim #2 in interstate commerce from the State of Missouri to the State of New Jersey, in violation of Title 18, United States Code, Section 1201(a)(1), and Title 18, United States Code, Section 2.
3. Count two charged from on or about May 24, 2015, in Kansas City, Missouri, in the Eastern District of Missouri, to on or about May 26, 2015, in Camden County, in the District of New Jersey, the defendant, Jose Amaya-Vasquez, knowingly caused an intimate partner, namely Victim #1, to travel in interstate commerce by force, coercion, duress and fraud, and in the course of, and as a result of that conduct, did commit and attempt to commit a crime of violence against Victim #1, that is, kidnapping, physical assault and sexual assault, and during the offense used a dangerous weapon, a knife, and caused serious bodily injury to Victim #1, in violation of Title 18, United States Code, Sections 2261(a)(2) and 2261(b)(3), and Title 18, United States Code, Section 2.
4. Count three charged from on or about May 24, 2015, in Kansas City, Missouri, in the Eastern District of Missouri, to on or about May 26, 2015, in Camden County, in the District of New Jersey, the defendant, Jose Amaya-Vasquez, did unlawfully transport in interstate commerce a stolen motor vehicle, that is, the Chevy Equinox, from the State of Missouri to the State of Ohio and the State of New Jersey, knowing the same to be stolen,

in violation of Title 18, United States Code, Section 2312, and Title 18, United States Code, Section 2.

5. Count four charged on or about May 26, 2015, and prior to that date, in the District of New Jersey, and elsewhere, the defendant, Jose Amaya-Vasquez, did knowingly and willfully enter and was found in the United States without the express consent of the Attorney General and the Secretary of Homeland Security to Amaya-Vasquez's reapplying for admission, in violation of Title 8, United States Code, Sections 1326(a) and (b)(1).
6. On April 17, 2017, Amaya-Vasquez appeared before the Honorable Noel L. Hillman, United States District Judge, District of New Jersey, and entered a plea of guilty to count four of the indictment. On April 27, 2017, Amaya-Vasquez appeared before Judge Hillman and entered a plea of guilty to counts one and two of the indictment; count three is expected to be dismissed at the time of sentencing.

Status of Codefendants

7. There are no codefendants in this case.

Related Cases

8. There are no related cases.

Plea Agreement Information

9. There is no plea agreement in the case.

Pretrial Adjustment

10. On May 26, 2015, Jose Amaya-Vasquez was arrested by the Bellmawr, New Jersey Police Department and remanded to the Camden County Correctional Facility in Camden, New Jersey. Amaya-Vasquez was incarcerated at the Camden County Correctional Facility from May 26, 2015 until October 26, 2015, when he was transferred to federal custody.
11. On October 26, 2015, Amaya-Vasquez had an initial appearance before the Honorable Karen M. Williams, United States Magistrate Judge, District of New Jersey; the defendant appeared via a writ from local custody. At the initial appearance, the defendant consented to detention and was remanded to the custody of the United States Marshals Service. Amaya-Vasquez has been incarcerated at the Federal Detention Center-Philadelphia (FDC-Philadelphia) since October 26, 2015.

Adjustment to Incarceration

12. According to Bureau of Prisons records, as of December 12, 2017, the defendant has not incurred any disciplinary infractions while incarcerated at FDC-Philadelphia.

The Offense Conduct

13. The Offense Conduct was prepared after a review of court-filed documents and reports obtained from the United States Attorney's Office detailing a multi-state investigation conducted by the Federal Bureau of Investigation (FBI); the Kansas City, Missouri Police Department; the Bellmawr, New Jersey Police Department; and the Camden County, New Jersey Prosecutor's Office.

Background

14. Jose Amaya-Vasquez was a native and citizen of Honduras, who at various times resided in Kansas City, Missouri.
15. Victim #1 was a resident of Kansas City, Missouri. Jose Amaya-Vasquez and Victim #1 were previously involved in an intimate relationship and had a child together, Victim #2. Victim #1 owned a 2008 Chevrolet Equinox, with a vehicle identification number ending in 7620 (hereinafter "the Chevy Equinox").
16. Victim #2 resided with Victim #1 in Kansas City, Missouri. Victim #2 was born in 2012.

Amaya-Vasquez's Illegal Re-Entry into the United States

17. Jose Amaya-Vasquez was born in 1985 in Honduras. Amaya-Vasquez attempted to illegally enter the United States on February 14, 2005 and was arrested by U.S. Customs and Border Protection ("CBP"). Amaya-Vasquez was given a Notice to Appear in Immigration Court. On July 13, 2005, Amaya-Vasquez failed to appear and was ordered removed by an Immigration Judge.
18. On June 7, 2014, Amaya-Vasquez was arrested by the Kansas City, Missouri Police Department and charged with domestic assault on Victim #1. Amaya-Vasquez was turned over to Immigration and Customs Enforcement and was removed from the United States on July 4, 2014.
19. On September 9, 2014, a CBP agent arrested Amaya-Vasquez after he illegally entered the United States from Mexico near Eagle Pass, Texas. On September 16, 2014, Amaya-Vasquez pled guilty to Illegal Entry in the United States District Court, Western District of Texas, Del Rio Division, and was sentenced to 30 days' imprisonment. On October 22, 2014, Amaya-Vasquez was removed from the United States. According to the Warrant of Removal/Deportation, Amaya-Vasquez was barred from reentering the United States for a period of 20 years.
20. Amaya-Vasquez reentered the United States in approximately November 2014. Upon information and belief, neither the Attorney General nor the Secretary of Homeland Security authorized Amaya-Vasquez's re-entry into the United States.

Relationship History between Amaya-Vasquez and Victim #1

21. In 2010, Jose Amaya-Vasquez was residing with his brother in New York, New York. In February 2010, Victim #1, a native of Honduras, arrived in New York, New York.
22. Sometime in 2010, Victim #1 attended a party where Amaya-Vasquez was present. Victim #1 recognized Amaya-Vasquez from her hometown in Honduras; Amaya-Vasquez played soccer with Victim #1's brother. While at the party, Victim #1 and Amaya-Vasquez talked about Honduras, and soon after began dating and moved in together in New York.
23. Amaya-Vasquez and Victim #1 dated from 2010 to 2014. In 2012, they had a child together, Victim #2. During their relationship, Amaya-Vasquez and Victim #1 resided in New York and Missouri.

Prior Domestic Violence Incidents Between Amaya-Vasquez and Victim #1*Domestic Violence Incidents Reported By Victim #1 (2010 to 2012)¹*

24. In 2010, while residing in New York, Amaya-Vasquez accused Victim #1 of having an affair with J.L., her former boyfriend and father of her three children. During an argument, Amaya-Vasquez put his hands around Victim #1's throat. While defending herself, Victim #1 kicked the wall, which caused the landlord who lived in the adjoining apartment to call the police. Victim #1 told the police upon their arrival that nothing was wrong. That night, Amaya-Vasquez decided he and Victim #1 were leaving New York City; the couple moved to Kansas City, Missouri, at the end of 2010.
25. Shortly after arriving in Kansas City, Missouri, Victim #1 obtained a job at Taqueria Mexico, located at 910 Southwest Boulevard in Kansas City. Victim #1 became friends with some of the waitresses she worked with. Victim #1 went out with her friends and got a nose ring without telling Amaya-Vasquez. Amaya-Vasquez did not like the nose ring, and fought about the nose ring with Victim #1. Amaya-Vasquez told Victim #1 that whores wear nose rings. During one argument, Amaya-Vasquez told Victim #1: "If you want to be ugly, I will make you ugly." While making this statement, Amaya-Vasquez had scissors in his hand and attempted to cut Victim #1's hair. Victim #1 ran out of the apartment and down the street. Amaya-Vasquez caught up with Victim #1 and pulled her into a shed in the back yard of a residence near Topping and Smart Avenues. While in the shed, Amaya-Vasquez removed his shirt, placed his shirt over Victim #1's mouth, and placed a knife to her side. As the two were struggling in the shed, a neighbor's dog heard the commotion and started barking. The neighbor then exited his residence and shined a flashlight on the shed. Amaya-Vasquez fled on foot. The neighbor escorted Victim #1 to his vehicle and located a police officer in a gas station on Independence Avenue. Victim #1 did not make a police report of the incident.

¹ Victim #1 reported these incidents to the FBI during interviews on May 9, 2016 and April 14, 2017.

26. On a date in approximately July 2011, Amaya-Vasquez watched Victim #1 through the window of Taqueria Mexico and thought she was too friendly with the customers. Upon returning home from work, Amaya-Vasquez argued with Victim #1 over the way she interacted with the customers of the restaurant. Amaya-Vasquez had a machete, and pressed the machete onto Victim #1's face and threatened to make her ugly. Victim #1 screamed and called for help from Amaya-Vasquez's brother, Heraldo, who was residing with the couple. Amaya-Vasquez stabbed the machete into the bed and left the room.
27. In 2012, Victim #1 became pregnant with Victim #2, which stabilized her relationship with Amaya-Vasquez. According to Victim #1, Amaya-Vasquez was very happy that Victim #1 was pregnant and having his child. There was no violence between Amaya-Vasquez and Victim #1 during Victim #1's pregnancy and for approximately one year after the birth of Victim #2.

Assault of Victim #1 on June 7, 2014

28. On June 7, 2014, Victim #1, who was off from work, took her daughter, Victim #2, to the park and then to buy ice cream. After arriving home, Victim #1 was confronted by Amaya-Vasquez, who accused Victim #1 of being unfaithful to him. As the two were arguing, Amaya-Vasquez pushed Victim #1 into a table and threw a hair brush at her; the hair brush missed Victim #1 but made a mark in the wall. Victim #1 told Amaya-Vasquez she was calling the police because she could no longer "live like this." Amaya-Vasquez did not believe Victim #1 would call the police and took Victim #2 to the corner store to get a soda.
29. When Amaya-Vasquez returned from the corner store, the police were at the house and arrested Amaya-Vasquez. After his arrest, Amaya-Vasquez was told by Victim #1 that their relationship was over. Amaya-Vasquez was subsequently taken to the immigration detention center and deported back to Honduras on July 4, 2014.
30. Amaya-Vasquez returned to the United States in approximately November 2014. After crossing the United States border, the defendant made his way to Kansas City, Missouri, arriving on January 10, 2015. Upon arriving back in Kansas City, Amaya-Vasquez called Victim #1 and asked Victim #1 if he could live with her until he got back on his feet. Victim #1 agreed because she did not want her daughter to grow up without a father. Shortly after Amaya-Vasquez moved in, Victim #1 kicked Amaya-Vasquez out of the house because Amaya-Vasquez insisted on sleeping in the same bed as Victim #1. Victim #1 informed Amaya-Vasquez that she was not interested in a relationship with Amaya-Vasquez.
31. After getting kicked out of Victim #1's house, Amaya-Vasquez rented a room at 2813 East 49th Street in Kansas City. Shortly after Amaya-Vasquez rented the room, Victim #1 and Victim #2 temporarily moved in with Amaya-Vasquez because they had no place to live.

Sexual Assault of Victim #1 on February 14, 2015

32. On February 14, 2015, at approximately 3:00 a.m., Victim #1 arrived home (2813 East 49th Street in Kansas City) after working and patronizing a club called "Camino Real" in Kansas City, Missouri. After arriving home, Victim #1 went to the bathroom to shower and get cleaned up. While inside the bathroom, Amaya-Vasquez knocked on the bathroom door. Amaya-Vasquez forced the door open after Victim #1 refused to let him inside the bathroom. Amaya-Vasquez removed his clothing and demanded sex from Victim #1. After Victim #1 refused, a struggle ensued inside the bathroom. Amaya-Vasquez possessed a .38 caliber revolver in the bathroom. Victim #1 was able to break free and run to the kitchen. Amaya-Vasquez grabbed a knife and forced Victim #1 to the floor of the kitchen, where he demanded sex from her. When Victim #1 refused, Amaya-Vasquez became angry and placed the knife close to Victim #1's neck, threatening to kill her. At that time, Victim #2 awoke and entered the kitchen. Victim #1 returned Victim #2 to the bedroom.
33. After Victim #2 fell asleep, Amaya-Vasquez entered the bedroom and inserted his penis in Victim #1's vagina without her consent and ejaculated. Afterwards, Amaya-Vasquez and Victim #1 fell asleep. At approximately 8:00 a.m., Amaya-Vasquez woke up and was picked up by his boss for work. After Amaya-Vasquez left for work, Victim #1 called the police.
34. Officers from the Kansas City Police Department observed a minor bruise on Victim #1 and slight redness on her right forearm. Victim #1 told police that Amaya-Vasquez told her that if she called the police he would kill her children and other family members in Honduras. Victim #1 explained that Amaya-Vasquez was jealous that she was "seeing" another individual, and had been since February 2014. Victim #1 told police Amaya-Vasquez returned to the United States two weeks prior from Honduras. In addition, Victim #1 consented to and underwent an invasive rape examination; the DNA found in the rape exam matched Amaya-Vasquez.

Assault of Victim #1 on February 27, 2015

35. On February 27, 2015, at approximately 1:00 a.m., Victim #1 was sitting inside the Chevy Equinox at 9th and Jackson Streets in Kansas City, Missouri, when Amaya-Vasquez approached the vehicle and opened the driver's side door. Amaya-Vasquez told Victim #1 that she and their daughter (Victim #2) had to move back to New York with him, where they would be a happy family. Victim #1 told Amaya-Vasquez that she did not want to be in a relationship with him and did not want to move to New York. Amaya-Vasquez then grabbed Victim #1's hair with one hand and punched Victim #1 numerous times with the other hand. Victim #1 was able to escape Amaya-Vasquez's grasp and drive away from the scene. Victim #1 sought help in Kansas and was accepted to a women's shelter.
36. Victim #1 contacted the Kansas City Police Department on February 28, 2015 to report the assault. Victim #1 told police Amaya-Vasquez had a silver-colored gun in his hand

during the altercation, and believed she heard the gun discharge as she was driving off. Victim #1 stated: "I think that he tried to take [the gun] out, because when I accelerated the car a lot and he was left behind, I heard a shot. But I don't know if he did it in the air, at me or--or to stop me." Officers observed bruising and swelling below Victim #1's right eye. Victim #1 complained of pain in her scalp, especially on the left side of her scalp, where Amaya-Vasquez had pulled her hair. However, Victim #1 declined medical attention. Officers then conducted a Lethality Assessment Program (LAP) assessment with Victim #1. During the LAP assessment, Victim #1 answered "Yes" to the following questions: a) has he ever used a weapon against you or threatened you with a weapon?; b) has he threatened to kill you or your children?; c) do you think he might try to kill you?; d) does he have a gun or can he get one easily?; e) has he ever tried to choke you?; f) is he violently or constantly jealous or does he control most of your daily activities?; g) have you left him or separated after living together or being married?; and h) does he follow or spy on you or leave threatening messages?" Additionally, officers noted the following in the LAP assessment: "She believes he could try to kill her children in Honduras."

37. On February 28, 2015, Victim #1 filed an Adult Abuse/Stalking Petition for Order of Protection against Amaya-Vasquez in the 16th Judicial Circuit Court of Jackson County, Missouri; the petition was issued that same day (Case Number 1516-FC01741). In the petition, Victim #1 noted that "[Amaya-Vasquez] is escalating as time goes by and I fear for my and my child's life."

Damage to Chevy Equinox on May 7, 2015

38. On May 7, 2015, at approximately 11:57 p.m., Victim #1 heard a noise in the back of her residence (2813 E. 49th Street in Kansas City). Victim #1 observed Jose Amaya-Vasquez in her back yard. Shortly thereafter, Victim #1 noticed damage to her vehicle – the Chevy Equinox; specifically, the Chevy Equinox had damage to the windshield. Victim #1 called the police after observing the damage to her vehicle.

Text Messages from Amaya-Vasquez to Victim #1 on May 8, 2015

39. On May 8, 2015, Amaya-Vasquez sent the following text messages to Victim #1; Victim #1 did not respond to the messages:

Amaya-Vasquez: Well, if you want me to cause a disaster/make a scene tomorrow at your party, don't answer me at all.²

Amaya-Vasquez: Today at your daughter's birthday we will go on a shooting spree and without pointing at anybody – in the other one not to miss.

² According to the FBI, the party Amaya-Vasquez is referring to was going to be for Victim #1's daughter in Honduras. Victim #1 cancelled the party in Honduras out of fear something would happen.

Amaya-Vasquez: We will think whether to have the shooting spree or not; we'll see what happens.

Kidnapping of Victim #1 and Victim #2

Events of May 23, 2015

40. During the morning hours of May 23, 2015, Victim #1 dropped off Victim #2 at daycare and reported to work between 8:30 a.m. and 9:00 a.m. While at work, and prior to lunch, Victim #1 received a call from Amaya-Vasquez, who asked to "borrow" Victim #2 to take to a party. Victim #1 agreed and called the daycare to let Victim #2 leave with Amaya-Vasquez. Amaya-Vasquez subsequently picked Victim #2 up from daycare.
41. At approximately 8:30 p.m., Amaya-Vasquez met Victim #1 in the parking lot of a Burlington Coat Factory in Independence, Missouri; Amaya-Vasquez had Victim #2 in his vehicle. Amaya-Vasquez entered Victim #1's vehicle and threatened her, stating she had to decide that night if she wanted to live or die. Amaya-Vasquez had a white-handled folding knife in his hand when he made the threat. Amaya-Vasquez told Victim #1 that he was not kidding and poked her with the knife on the right thigh. Amaya-Vasquez then duct-taped Victim #1's wrists and ankles so she could not run; Amaya-Vasquez also threatened to kill Victim #1 if she screamed. Amaya-Vasquez told Victim #1 that he did not want to leave his vehicle in the Burlington Coat Factory parking lot, fearing it would be towed. Amaya-Vasquez instructed Victim #1 to follow him, and that if she did not follow him, Amaya-Vasquez threatened to hurt their baby (Victim #2) and himself. Victim #1 agreed and Amaya-Vasquez removed the duct tape so she could drive.
42. Victim #1 followed Amaya-Vasquez in her vehicle to an abandoned house located at 2214 Van Brunt Boulevard in Kansas City, Missouri.³ Once inside the abandoned house, Amaya-Vasquez instructed Victim #1 to place their daughter on a blue cot so she could sleep. Amaya-Vasquez threw clothing on the floor and told Victim #1 to lay on them; Amaya-Vasquez then laid next to Victim #1. Amaya-Vasquez told Victim #1 they needed to rest because they were going to New York and she needed to do everything he told her to do because he was the one who gave orders. Amaya-Vasquez told Victim #1 that she was here to be his woman. Amaya-Vasquez threatened to kill Victim #1's three children and her mother in Honduras.
43. Amaya-Vasquez told Victim #1 that she had to do everything he said. Amaya-Vasquez then had sexual intercourse with Victim #1 without her consent. Before the sexual assault, Victim #1 tried to separate herself from Amaya-Vasquez, but Amaya-Vasquez grabbed Victim #1 by her arms and wrists and forced himself on her. Amaya-Vasquez

³ This residence was owned by Amaya-Vasquez's former boss, Z.M.A., who allowed Amaya-Vasquez to live there for several weeks in 2015. The property was abandoned but was being rehabbed. The house had no running water or electricity. During Victim #1's statement to law enforcement, she said she urinated in a corner of the house because the toilets did not work. According to the FBI, the house was extremely dangerous to walk in. An officer from the Kansas City Police Department told the FBI that in full daylight, he had to be extremely careful walking around due to the holes in the floors.

then removed his clothing and told Victim #1 not to resist. Victim #1 tried to push Amaya-Vasquez away, but he grabbed her by her wrists and pinned her to the floor. Amaya-Vasquez then removed Victim #1's clothing and inserted his penis into Victim #1's vagina and ejaculated. Afterwards, Amaya-Vasquez told Victim #1 that she was going to be with him until death and to get some rest because the next day they were going to New York.

44. Approximately 20 to 25 minutes after the first sexual assault, Amaya-Vasquez told Victim #1 he wanted to have sex again, and threw Victim #1 to the floor and removed her clothing. Victim #1 begged Amaya-Vasquez to stop; Amaya-Vasquez replied that it would only be three minutes. Amaya-Vasquez caressed Victim #1's chest and inserted his penis into her vagina and ejaculated. Victim #1 attempted to get her keys and escape but the defendant caught Victim #1. Amaya-Vasquez and Victim #1 then fell asleep.

Events of May 24, 2015

45. When they woke up the next morning (May 24, 2015), Victim #1 asked Amaya-Vasquez to let her go. In response, Amaya-Vasquez told Victim #1 he would do everything to have his family back and that he loved Victim #1 and Victim #2. Amaya-Vasquez then tied up Victim #1's hands with duct tape and placed a blanket over her hands so no one could see. Amaya-Vasquez then handed Victim #1 their child and walked Victim #1 to her car. Amaya-Vasquez told Victim #1 that he had a job to finish (Amaya-Vasquez worked as a laborer) and drove her and their child to a house in North Kansas City.⁴ When Amaya-Vasquez got out of the vehicle, Victim #1 sent a text message to her friend, M.B., explaining that she was abducted by Amaya-Vasquez, and sent M.B. the address of a nearby house with the name of the street. After receiving the text message, M.B. walked into a police station in Kansas City, Missouri, and reported that his friend, Victim #1, sent him text messages at 1:30 p.m. which stated that she had been abducted by her ex-boyfriend and father of her child and that she had been tied up and her leg was cut. Victim #1 also provided two addresses to which she had been taken. After the text messages, M.B. spoke with Victim #1 and she told him that "she was tied up, her child was ok, and they were headed to an address on VanBurnt [which was in Kansas City]" and she asked for help. M.B. provided law enforcement officers with descriptions of Amaya-Vasquez's truck and Victim #1's vehicle.
46. After Amaya-Vasquez finished his job in North Kansas City, he took Victim #1 and their child to his boss's house, where Amaya-Vasquez retrieved several black trash bags of his clothing and placed the clothing in the Chevy Equinox. At approximately 2:00 p.m.,

⁴ The defendant worked as a laborer for M.Z.A. at Z Lawn, a business that preserved foreclosed homes as a subcontractor in the Kansas City area. The FBI interviewed the defendant's boss, M.Z.A., in May 2016. M.Z.A. recalled that on May 24, 2015, Amaya-Vasquez showed up at M.Z.A.'s house to pick up his pay in cash. Amaya-Vasquez was operating a white Ford F-150 pickup truck. M.Z.A. recalled Amaya-Vasquez had his daughter in the truck, and believed Amaya-Vasquez's ex-girlfriend was in the back seat; however, because the windows were tinted, he could not see well through the windows. Amaya-Vasquez told M.Z.A. that he was going to finish a job, specifically cut down a tree, and needed a chain saw. Amaya-Vasquez was provided a chain saw, and returned the saw to M.Z.A. later that day.

Amaya-Vasquez, Victim #1, and Victim #2 left Missouri in the Chevy Equinox on Highway 70 East towards New York.

Events of May 25, 2015

47. On May 25, 2015, at approximately midnight, Amaya-Vasquez stopped at a Motel 6 in Englewood, Ohio.⁵ After Victim #1 put the baby to sleep, Amaya-Vasquez approached her without any clothing on and removed Victim #1's clothing. Victim #1 tried to keep her legs closed but Amaya-Vasquez forced them open with his legs. Victim #1 said to Amaya-Vasquez: "No, no, please, not again." Amaya-Vasquez grabbed Victim #1's wrists and pinned her down onto the bed. Amaya-Vasquez told Victim #1 that she had to fulfill her "wifely duties." Amaya-Vasquez penetrated Victim #1's vagina with his penis and ejaculated. Amaya-Vasquez had plastic insertions/pellets on his penis that hurt Victim #1 during sexual intercourse. Amaya-Vasquez previously explained to Victim #1 that the plastic pellets were inserted on his penis while he was incarcerated in a jail in Mexico.⁶ Afterwards, Victim #1 went to the bathroom to clean herself up. Amaya-Vasquez and Victim #1 then fell asleep.
48. At approximately 9:00 a.m., Amaya-Vasquez and Victim #1 woke up and went to have breakfast. By this time, Victim #1 knew police were looking for her, so she tried to delay Amaya-Vasquez by stopping and looking in stores. Victim #1 told Amaya-Vasquez she would look for a Mexican restaurant on her phone, and turned on her cellphone to search for a restaurant. Amaya-Vasquez told Victim #1 that he turned the GPS off on her cellphone. However, Victim #1 turned the GPS back on with the hope that police would locate her. Amaya-Vasquez and Victim #1 then went to El Cazador Mexican Restaurant, located at 555 W. National Road in Englewood. However, the restaurant was closed, so Amaya-Vasquez and Victim #1 went inside a K-Mart near the restaurant and purchased underwear and clothing for Victim #2 until the restaurant opened. Once the restaurant opened, Amaya-Vasquez, Victim #1, and their child went inside and ate lunch. After they were done eating, they got back on Highway 70 East towards New York.
49. At one point during the trip, Victim #1 convinced Amaya-Vasquez to allow her to drive; Amaya-Vasquez agreed. While Victim #1 was driving, she began to speed in the hopes of getting pulled over by the police. Amaya-Vasquez realized what Victim #1 was doing, put a knife to her side, and forced her to pull the Chevy Equinox over. Amaya-Vasquez did not allow Victim #1 to drive again.
50. At approximately 11:36 p.m., Amaya-Vasquez, Victim #1, and Victim #2 arrived in Bellmawr, New Jersey. Amaya-Vasquez checked in at a Super 8 Motel located at 341 S. Black Horse Pike in Bellmawr. Upon arriving at the motel, Amaya-Vasquez entered the lobby and returned with a key to room 205. Amaya-Vasquez, Victim #1, and Victim #2 went to room 205. Once inside the room, Victim #1 laid down next to her child after the child went to sleep for a time; Amaya-Vasquez laid down in the other bed. Eventually,

⁵ A detective with the Englewood Police Department checked with the Motel 6 and learned that on May 25, 2015, an individual checked in under the name "Noe Banitez" with a listed address of "9325 N. Main St., Honduras."

⁶ The FBI confirmed that Amaya-Vasquez has plastic "beads" inserted at the top of his penis.

Amaya-Vasquez got up from his bed and approached Victim #1 with the knife in his hand. Victim #1 told Amaya-Vasquez that she would scream if he tried to have sex with her again. Amaya-Vasquez told her that he gave the orders while holding the knife in his hand. Amaya-Vasquez took off her clothing while she was in bed with their child. Amaya-Vasquez grabbed Victim #1 by the wrists and kissed her breasts; he then penetrated her vagina with his penis and ejaculated. Amaya-Vasquez then went to sleep; Victim #1 stayed with the baby.

Arrest of Jose Amaya-Vasquez

51. On May 24, 2015, the Kansas City Police Department's Career Criminal Unit began tracking Victim #1's cellphone. On May 25, 2015, at 10:25 p.m. and 10:43 p.m., the Career Criminal Unit was notified that Victim #1's cellphone was located in the area of the New Jersey Turnpike and Route 168 near Bellmawr, New Jersey.
52. On May 25, 2015, at approximately 11:50 p.m., the Kansas City Police Department requested the assistance of the Bellmawr Police Department for a well-being check on Victim #1. The Kansas City Police Department provided vehicle descriptions for Amaya-Vasquez's vehicle and Victim #1's vehicle.
53. On May 26, 2015, at approximately 1:50 a.m., the Bellmawr Police Department located Victim #1's vehicle at the Super 8 Motel. Officers questioned the clerk at the Super 8 Motel regarding the vehicle, and the clerk advised that a Hispanic male named "Benitez Hondurena" checked into room 205 with what he believed was a woman and a child. Officers knocked on the door of room 205 and received no response. After police knocked on the door, Amaya-Vasquez fled room 205 through the bathroom ceiling. Victim #1, holding her child, emerged from room 205. Victim #1 and her child were escorted to a patrol car and room 205 was secured. Victim #1 told police that Amaya-Vasquez stabbed her in Kansas City and held a knife to her while forcing her to have sex with him. Victim #1 showed police a small cut on her right knee. She also had a puncture wound on her right thigh. Victim #1 was shaking and crying during the interview. Officers found no one else in room 205 but did locate a chrome and ivory-colored folding knife with a 2½ - 3 inch blade in the room. Victim #1 advised police that Amaya-Vasquez went up into the ceiling when police knocked on the door. A review of the Super 8 Motel security video revealed that Amaya-Vasquez exited room 206, jumped over the railing to the ground, and walked away from the motel at 1:53 a.m.
54. At approximately 4:13 a.m., an officer with the Bellmawr Police Department spotted Amaya-Vasquez walking towards a Dunkin Donuts located at 220 S. Black Horse Pike in Bellmawr. The officer stopped Amaya-Vasquez in the parking lot. Amaya-Vasquez stated he was coming from the gas station across the street and was getting a coffee. When directed by the officer to sit down, Amaya-Vasquez fled on foot behind the Dunkin Donuts. Officers pursued Amaya-Vasquez on foot, ordering Amaya-Vasquez to stop running and that he was under arrest. Amaya-Vasquez ran to the rear yard of 218 Saunders Avenue and jumped over a wooden fence. As he jumped over the fence, Amaya-Vasquez broke a whole panel of fence, which cut the left forearm of a chasing

Although the U.S. Probation Office failed to apply this enhancement, the Court can consider Victim #1's injuries when determining where within the applicable guideline to sentence Amaya-Vasquez.

65. Pursuant to U.S.S.G. §2A4.1(b)(3), if a dangerous weapon is used, increase by two levels. Throughout the kidnapping, Amaya-Vasquez possessed and used a knife (dangerous weapon) to threaten Victim #1. For example, on May 25, 2015, while Victim #1 was driving, she began to speed in the hopes of getting pulled over by the police. Amaya-Vasquez realized what Victim #1 was doing, put a knife to her side, and forced her to pull the Chevy Equinox over. Therefore, this enhancement applies to the defendant.
66. Pursuant to U.S.S.G. §2A4.1(b)(5), a six-level enhancement applies if the victim was sexually exploited. According to U.S.S.G. §2A4.1, comment. (n.3), "sexually exploited" includes offenses set forth in 18 U.S.C. §§ 2241-2244, 2251, and 2421-2423. According to 18 U.S.C. § 2241, aggravated sexual abuse occurs when a defendant "knowingly causes another person to engage in a sexual act...by using force against that other person... or by threatening or placing that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping." Amaya-Vasquez used force and threats against Victim #1 to engage in sexual intercourse throughout the offense of conviction; therefore, this six-level enhancement applies to the defendant.
67. Therefore, the adjusted offense level for Group Count One is 40.

Group Count Two (Illegal Reentry)

68. A violation of Title 8, United States Code, Section 1326(a) is found at U.S.S.G. §2L1.2, and calls for a base offense level of 8, pursuant to U.S.S.G. §2L1.2(a).
69. Pursuant to U.S.S.G. §2L1.2(b)(3)(D), if, at any time after the defendant was ordered deported or ordered removed from the United States for the first time, the defendant engaged in criminal conduct resulting in a conviction for any other felony offense (other than an illegal reentry offense), the offense level is increased by four levels. Amaya-Vasquez was deported on October 22, 2014, and reentered the United States in approximately November 2014. In May 2015, Amaya-Vasquez kidnapped Victim #1 and Victim #2, and eventually pled guilty to the instant offense. As such, the defendant engaged in criminal conduct resulting in a felony conviction after he was deported in 2014; therefore, the offense level is increased by four levels.
70. The adjusted offense level for Group Count Two is 12.

Grouping

71. Pursuant to U.S.S.G. §3D1.4, after all counts and groups are calculated, one unit is assigned to the Count or Group with the highest adjusted offense level. Any counts or groups that are one to four levels less than the highest offense level are also assigned one unit. Any counts or groups that are five to eight levels less than the highest offense level

are assigned one-half unit. Finally, pursuant to U.S.S.G. §3D1.4(c), disregard any Group that is 9 or more levels less serious than the Group with the highest offense level; such Groups will not increase the applicable offense level but may provide a reason for sentencing at the higher end of the sentencing range for the applicable offense level.

72. Group Count One (40) is the highest offense level; therefore, one unit is assigned to that group. Group Count Two (offense level of 12) is 28 levels less serious than Group Count One (offense level of 40); therefore, Group Count Two will not increase the applicable offense level, that is, 40.

Victim Impact

73. The provisions of the Mandatory Victim Restitution Act of 1996 (MVRA) apply to this Title 18 offense.
74. On July 26, 2017, Victim #1 completed and signed a Declaration of Losses form claiming \$6,100.00 in restitution. Victim #1 indicated that as a result of the offense, she was unable to work for three months, which resulted in a loss of \$3,600.00 (\$300.00 per week/\$1,200.00 per month for three months). Additionally, Victim #1 advised she lost a 1999 Ford F-150 valued at \$2,500.00 as a result of this offense. Therefore, the total restitution owed to Victim #1 is \$6,100.00.
75. Victim #1 also provided a written victim impact statement, which is recited below. The statement was written in Spanish and translated by the Official Court Translator for the District of New Jersey.

July 26, 2017

Dear Judge Noel L. Hillman,

I am M.J.S.D., the victim in the case encaptioned United States of America vs. José Amaya Vásquez.

I am thankful to God for restoring safety and confidence once again to my life, and I am likewise thankful to you and all the staff who impart the Justice of the United States of America for the decision to protect the population in general and[,] in particular[,] for all the support that I have received up to now.

For a long time I M.J.S.D. was a victim of domestic violence verbal and emotional by the defendant José C. Amaya Vásquez his man caused great harm to my life, a lack of confidence, fear, low self-esteem After being tormented for so long tired and desperate made the decision to seek help from the police in K.C. MO, which they gave me ut that was not enough to stop the fury and anger of the defendant José C. Amaya Vásquez.

After a period of receiving text messages and telephone calls with threats to my person and my family the defendant deprived me of my liberty, with my daughter A.J.A. his took place over a period of approximately 3 days, during which time I suffered blows, sexual abuse, verbal abuse, [and] an injury with a bladed weapon to my right leg. To all of this I add the psychological damage he caused me, moments of depression, sleepless nights, financial harm, loss of employment, loss of a vehicle and loss of time.

With gratitude for the time you take to read my letter and the time you have taken to handle this case up to its culmination with a considerable sentence I M.J.S.D. as a victim, demand Justice because the defendant José C. Amaya Vásquez is not a person who can be trusted to live in the midst of society. In the interest of Justice and the safety of our community and especially my safety and that of my family I ask that Justice be done.

[Signature]

Most sincerely,

[M.S.D.]

Adjustment for Obstruction of Justice

76. During the early morning hours of May 26, 2015 (date of the defendant's arrest), Amaya-Vasquez was stopped by an officer with the Bellmawr Police Department while walking towards a Dunkin Donuts located at 220 S. Black Horse Pike in Bellmawr. After a brief conversation, Amaya-Vasquez fled behind the Dunkin Donuts and a foot pursuit ensued. During the foot pursuit, Amaya-Vasquez jumped over a wooden fence, which broke a whole panel of fence; the broken panel cut the left forearm of a chasing officer (the injury was described as "scrapes and cuts" in the Bellmawr Police Department Investigation Report). Amaya-Vasquez proceeded to run into a wooded area and up a tree. Police set up a perimeter of the wooded area, and observed Amaya-Vasquez approximately 25 feet up a tree. Officers then surrounded the tree and ordered Amaya-Vasquez to come down. Amaya-Vasquez eventually came down from the tree and was placed under arrest without incident.
77. According to U.S.S.G. §3C1.1, comment (n.5(D)), avoiding or fleeing from arrest ordinarily does not warrant application of U.S.S.G. §3C1.1 (Obstruction of Justice) but may warrant a greater sentence within the otherwise applicable guideline range. Additionally, although the police officer cut his arm while pursuing Amaya-Vasquez, it is the position of the U.S. Probation Office that the applicability of U.S.S.G. §3C1.2 (Reckless Endangerment During Flight) does not apply, as the defendant's actions did not create a substantial risk of *death* or *serious bodily injury* (emphasis added) to pursuing officers.

Adjustment for Acceptance of Responsibility

78. As of December 9, 2017, the defendant has not provided a statement regarding acceptance of responsibility.
79. However, based upon the defendant's guilty plea, it appears that the defendant has accepted responsibility for the offense of conviction and is entitled to the two-level reduction in the offense level under U.S.S.G. §3E1.1(a). The defendant entered a guilty plea in this case on April 17, 2017, after a jury was impaneled and opening statements were to commence; therefore, the defendant will not be awarded an additional one-level reduction under U.S.S.G. §3E1.1(b) for timely notifying authorities of his intention to plead guilty.

Offense Level Computation

80. The 2016 Guidelines Manual, incorporating all guideline amendments, was used to determine the defendant's offense level. U.S.S.G. §1B1.11.
81. Counts 1 and 2 are grouped ("Group Count 1") for guideline calculation purposes. U.S.S.G. §3D1.2(a).

Group Count 1: Kidnapping

- | | |
|--|-----------|
| 82. Base Offense Level: The guideline for a violation of 18 U.S.C. § 1201(a)(1) is U.S.S.G. §2A4.1, and calls for a base offense level of 32, pursuant to U.S.S.G. §2A4.1(a). | <u>32</u> |
| 83. Specific Offense Characteristics: A dangerous weapon (knife) was used; therefore, the offense level is increased by two levels, pursuant to U.S.S.G. §2A4.1(b)(3). | <u>+2</u> |
| 84. Specific Offense Characteristics: The victim was sexually exploited; therefore, the offense level is increased by six levels, pursuant to U.S.S.G. §2A4.1(b)(5). | <u>+6</u> |
| 85. Victim Related Adjustment: None. | <u>0</u> |
| 86. Adjustment for Role in the Offense: None. | <u>0</u> |
| 87. Adjustment for Obstruction of Justice: None. | <u>0</u> |
| 88. Adjusted Offense Level (Subtotal): | <u>40</u> |

Group Count 2: Illegal Re-Entry

- | | |
|---|----------|
| 89. Base Offense Level: The guideline for a violation of 8 U.S.C. § 1326(a) is U.S.S.G. §2L1.2, and calls for a base offense level of 8, pursuant to U.S.S.G. §2L1.2(a). | <u>8</u> |
|---|----------|

On October 3, 2006, Amaya-Vasquez was arrested for this offense. The defendant reportedly made several oral admissions to police after his arrest; he also gave a sworn written statement to police.

During the presentence interview on May 18, 2017, Amaya-Vasquez claimed he was given a check that another individual wanted Amaya-Vasquez to cash. Once Amaya-Vasquez cashed the check, he gave the individual the money; the individual then gave the defendant \$50.00.

107. 06/07/2014 Assault; Kansas City Police 06/10/2014: Bench
(Age 29) Case No.: Department, Kansas Warrant Issued (\$5,000
G00061709-9 City, Missouri bail)

The circumstances for this case are detailed in Paragraphs 28 to 31.

Active Warrants

108. In addition to the warrants listed above, Amaya-Vasquez has three active warrants out of Kansas City, Missouri. The warrants are as follows:

<u>Date of Warrant</u>	<u>Charge</u>	<u>Court/Case Number</u>	<u>Bail</u>	<u>Date of Offense</u>
05/27/2015	Rape or Attempted Rape – 1 st Degree	Circuit Court of Jackson County, Missouri (1516-CR01972)	\$175,000	02/14/2015 (PSR ¶ 32-34)
06/06/2016	Domestic Assault – 2 nd Degree	Circuit Court of Jackson County, Missouri (1616-CR01964)	\$50,000	02/27/2015 (PSR ¶ 35-37)
11/09/2016	Rape or Attempted Rape – 1 st Degree	Circuit Court of Jackson County, Missouri (1516-CR04278)	\$50,000	05/23/2015 (PSR ¶ 40-44)

Other Arrests

- | | <u>Date of Arrest</u> | <u>Charge</u> | <u>Agency</u> | <u>Disposition</u> |
|------|------------------------|--|--|----------------------------------|
| 109. | 02/14/2005
(Age 20) | Alien Inadmissibility;
Case No.: 31737385 | Customs and Border Protection,
Brownsville, Texas | 07/04/2014: Deported to Honduras |

The circumstances for this case are detailed in Paragraph 17.

110. 05/26/2015 (Age 30) Count One: Possession of Weapon for Unlawful Purpose
Count Two: Unlawful Possession of Weapon
Count Three: Resisting Arrest/Eluding
Count Four: Aggravated Sexual Assault-Armed
Count Five: Criminal Restraint-Risk of Serious Bodily Injury to Victim
Count Six: Kidnapping-Bodily Injury or Terrorize Victim
Count Seven: Terroristic Threats;
Case No.'s: W 2015-000132-0404, W 2015-000133-0404, and W 2015-000136-0404
- Bellmawr Police Department, Bellmawr, New Jersey
- 10/27/2015: Charges Dismissed

This arrest marks the instant federal offense.

Motor Vehicle History

111. A motor vehicle check in New York and Missouri was unsuccessful in locating a driver's license for the defendant.

PART C. OFFENDER CHARACTERISTICS

The following information was obtained during personal interviews with the defendant on May 18, 2017 and September 27, 2017, at the Federal Detention Center-Philadelphia; defense counsel was present for the interviews. Both interviews were translated in Spanish.

Personal and Family Data

112. Jose Cristino Amaya-Vasquez was born on January 1, 1985, in Marcala, Honduras. The defendant is one of seven children born to the former marital union of Jose Cristino Amaya-Benitez and Marta Alicia Vasquez. The defendant's father, 65, resides in Marcala, Honduras, and is a self-employed coffee farmer. Mr. Amaya-Benitez is reportedly in good health. The defendant's mother, 50, resides in Marcala, Honduras, and is unemployed. Ms. Vasquez suffers from diabetes. The defendant's parents divorced in

2008; neither has remarried. The defendant keeps in contact with his parents over the telephone; they are aware of the defendant's legal issues.

113. The defendant has five surviving siblings and one deceased sibling. The defendant's surviving siblings are as follows: Jose Heraldo Vasquez, 38, resides in Kansas City, Missouri, is married, has three children, and is employed as a cook for Applebee's; Alicia Marleni Amaya-Vasquez, 30, resides in Marcala, Honduras with her mother, is not married, has three children, and is unemployed; Milton Misael Amaya-Vasquez, 28, resides in Northport, New York, is not married, has one child, and is a cook at a pizzeria; Lennin Isaid Amaya-Vasquez, 25, resides in Honduras, is married, has two children, and works on the family's coffee plantation; and Yasmin Noemi Amaya-Vasquez, 22, resides with her mother in Honduras, is not married, has one child, and may be unemployed (she was a student but withdrew from school due to lack of funds). Amaya-Vasquez had a brother, Vicente Antonio Amaya-Vasquez, who died in 1983 at the age of 2. The defendant was uncertain how his brother died. Amaya-Vasquez's mother reportedly blamed the defendant for his brother's death, as she had to stop breastfeeding Vincente to breastfeed the defendant.
114. As noted above, the defendant was born in 1985 in Marcala, a municipality in the Honduran department of La Paz and a region known for its coffee production. Amaya-Vasquez resided in Marcala for the first 20 years of his life before entering the United States in 2005.
115. Amaya-Vasquez recalled an impoverished childhood in Honduras. The defendant and his five siblings resided with their parents on 15-acre coffee plantation in rural Marcala. The family lived in a wooden house consisting of one large room and a kitchen. The house had one window, one bed, and no floors (dirt only). Although the children had food and shelter, the family was "poor." The family raised pigs and chickens, which would be used for their own consumption. Also, water was retrieved from local wells. The defendant's father worked in the coffee plantation fields while the defendant's mother stayed home with the children; she occasionally helped her husband in the fields. The defendant's parents enjoyed a happy marriage, but sometimes argued with each other. During arguments, Amaya-Vasquez's parents sent the kids outside so they would not observe or hear the arguments. For fun as a child, the defendant recalled spending time in the local rivers, swinging on vines similar to the ones found in the movie "Tarzan." The defendant also climbed trees. As a result, the defendant often fell from trees, and would sometimes lose consciousness and wake up at home.
116. Amaya-Vasquez indicated that Marcala was infested with gangs who "fought each other" and left the citizens of the town living in fear. Because the defendant's family lived one hour from El Salvador, members of the MS-13 gang would cross into Honduras and cause violence in the area. "It was awful," said Amaya-Vasquez. The defendant recalled his father prohibiting his children from leaving their property due to the gang violence. Local newspapers often reported on the gang violence, and the defendant recalled accounts of beheadings and body parts "everywhere." Although the defendant denied

witnessing any killings, he recalled seeing the body of a police officer floating in a river; the police officer was reportedly murdered by a local gang.

117. Amaya-Vasquez's relationship with his father was "hard." The defendant was forced to withdraw from school at the age of 12 to help his father tend to the coffee plantation. According to the defendant, he was physically abused by his father from the age of 6 until the age of 15, for "doing things [his father] didn't like," such as waking up late or not wanting to work. The defendant's father would reportedly hit the defendant with sticks from the coffee trees. As the defendant got older, he was verbally abused by his father. Amaya-Vasquez recalled his father insulting him, calling him a "whore," "lazy," "dummy," and "stupid." Amaya-Vasquez's mother also verbally abused the defendant. The defendant's siblings were also subjected to abuse, but not to the extent of the defendant.
118. Due to the abuse he suffered, the defendant often warned his parents he would move out of the home. At the age of 15, Amaya-Vasquez followed through and left the family home for an uncle's house in a neighboring town. One month later, Amaya-Vasquez returned home and the abuse stopped. Today, the defendant maintains a close relationship with his parents and holds no grudges for the abuse he suffered as a child.
119. In 2005, the defendant left Honduras for the United States. The defendant explained he left Honduras to financially support his family, who was "in dire economic straits" at that time. For example, the defendant's siblings had no shoes, and the family had to sell one hundred pounds of coffee to make \$15.00. Also, the defendant's uncle was reportedly killed by the local gangs in Honduras.
120. Upon entering the United States, Amaya-Vasquez was reportedly stopped by immigration authorities while crossing a river near the United States border in Texas. According to the defendant, at that time, immigration officials allowed immigrants of Honduras to enter the United States on brief visas. The defendant was reportedly given a three-month visa to enter the United States and a court date in immigration court. The defendant failed to appear for that court date; instead, Amaya-Vasquez took a bus and a train to New York, where he lived with a family friend – Doris Membreño – in Long Island, New York. The defendant immediately obtained employment at The Fox Hollow country club in Long Island, New York.
121. After approximately six months living with Doris Membreño in Long Island, Amaya-Vasquez saved up enough money to move out on his own. The defendant rented an apartment on 13th Street in Huntington, New York, and lived by himself. After a couple of months, "acquaintances" from Honduras moved in with Amaya-Vasquez in Long Island. After six months living on 13th Street, Amaya-Vasquez moved to an apartment on Depot Road in Huntington, where he lived with his brother, who came to the United States to reunite with the defendant. After three months, the building where the defendant and his brother lived was foreclosed on, which forced the defendant and his brother to move to an apartment on 11th Street in Huntington.

122. In 2007, Amaya-Vasquez left New York for Missouri. According to the defendant, he left New York because he had "a problem with police" after his arrest for forgery and outstanding immigration warrant. Amaya-Vasquez left New York on a Greyhound bus and arrived in Kansas City, Missouri. The defendant reunited with Olvin Chicas, a friend from Honduras, and the two lived together for approximately one year at 2610 Elmwood Street in Kansas City. Amaya-Vasquez obtained a job as a roofer and saved money.
123. In 2008, the defendant returned to New York and settled in Northport with friends from Honduras. The defendant returned to New York because he was "not well paid" in Kansas City.
124. In early 2010, the defendant met Mariela Suazo Diaz at a house party in Northport. Ms. Diaz recognized Amaya-Vasquez from her hometown in Honduras; Amaya-Vasquez played soccer with Ms. Diaz's brother. While at the party, Amaya-Vasquez and Ms. Diaz talked about Honduras, and soon after began dating and moved in together in New York. The defendant and Ms. Diaz resided at 219 Laurel Road in Northport for several months before moving to Huntington, New York, for four months.
125. In late 2010, Amaya-Vasquez and Mariela Suazo Diaz left New York for Kansas City, Missouri, on a Greyhound bus. According to the defendant, the couple left New York because Ms. Diaz wanted to move away from an ex-husband who was jealous of the relationship between Ms. Diaz and the defendant.
126. From 2011 to 2014, the defendant and Mariela Suazo Diaz lived in Kansas City. In 2012, Ms. Diaz gave birth to their daughter, Ashlee Jackyeyn Amaya Diaz. The defendant worked as a laborer while Ms. Diaz worked as a waitress.
127. According to investigative reports from the Kansas City Police Department and the FBI (as detailed in the Offense Conduct section), the relationship between the defendant and Ms. Diaz involved instances of domestic violence. The tumultuous relationship between the defendant and Ms. Diaz ended on June 7, 2014, when the defendant was arrested for assaulting Ms. Diaz; he was eventually deported on July 4, 2014 to Honduras.
128. Upon arriving in Honduras, the defendant lived with his family for one month before attempting to enter the United States again in September 2014. On September 11, 2014, Amaya-Vasquez was apprehended by Border Patrol in Texas and charged with Illegal Entry; the defendant was deported back to Honduras on October 22, 2014. The defendant reportedly stayed in Honduras for two weeks before returning to the United States in November 2014. Amaya-Vasquez entered the United States by walking across the border in Texas before paying individuals to drive him to Kansas City. The defendant returned to the United States to reunite with Ms. Diaz and their daughter; the defendant advised he did not want his daughter raised by another man. The defendant claimed he was in constant contact with Ms. Diaz during his journey back to Kansas City, and was reportedly picked up by Ms. Diaz when returning to the area.
129. Amaya-Vasquez arrived in Kansas City, Missouri on January 10, 2015. After arriving in Kansas City, the defendant resided with Ms. Diaz and their daughter for one month.

before moving out on his own. Amaya-Vasquez reportedly moved out due to "problems with Mexican people." The defendant explained that while he was in Honduras, he received a call from Ms. Diaz, who claimed she was raped by her boss, Guadencio Pacheco, while working at Taqueria Mexico in Kansas City. Once back in Kansas City, the defendant confronted Guadencio Pacheco, who apparently sent six "Mexicans" to assault the defendant. The defendant recalled an evening in February 2015 where he had a struggle with approximately six Mexican individuals at his home. Amaya-Vasquez fled the area in his truck while the Mexicans followed in another vehicle. The defendant was able to elude his chasers and subsequently moved out of Ms. Diaz's home one week later.

130. From February 2015 until May 2015, the defendant resided in an apartment in Kansas City. In May 2015, the events of the instant offense occurred. The defendant was arrested on May 26, 2015 and has been incarcerated since.
131. The defendant has never married and is currently single. Amaya-Vasquez had a romantic relationship with Mariela Suazo Diaz, 29, from 2010 to 2014. The relationship between Amaya-Vasquez and Ms. Suazo Diaz produced one child, Ashlee Amaya Diaz, 5, who resides with Ms. Diaz in Kansas City, Missouri. The defendant has an outstanding child support order for Ashlee. Records obtained from the Missouri Department of Social Services Family Support Division reflect the defendant was ordered to pay Mariela Suazo Diaz \$1.00 per month starting on November 15, 2016 (Order Number 1616MC17531; Case 81556113). As of September 27, 2017, Amaya-Vasquez has an outstanding child support balance of \$10.00.
132. In addition to his daughter Ashlee, Amaya-Vasquez has one additional child, Thomas Macale Ayala, 9, who resides with his mother, Susana Ayala, in Kansas City, Missouri; Susana is reportedly an ex-girlfriend of the defendant. Amaya-Vasquez advised that he has not had contact with his son since his arrest for the instant offense, and indicated he does not owe child support for Thomas, as Susana "said she didn't need it." Amaya-Vasquez denied having any other children.
133. The defendant currently has an Immigration and Customs Enforcement detainer lodged against him at FDC-Philadelphia. Amaya-Vasquez was ordered removed by an Immigration Judge on March 14, 2017.
134. The defendant denied any gang affiliation.

Physical Condition

135. Jose Amaya-Vasquez stands 5'6" tall, weighs 185 pounds, and has brown eyes and black hair. Amaya-Vasquez reported five scars on his body: on his left hand is a scar from a roofing accident; on his right thumb is a scar from a dog bite; on his right wrist is a scar from a fence; on his left lower back is a scar from a fence; and on his upper back is a scar from a fall. The defendant denied having any tattoos.
136. The defendant advised he is in generally good health. Amaya-Vasquez denied suffering from any health conditions, but advised he sometimes gets headaches and "sees stars."

which he believes is the result of multiple falls from trees. Amaya-Vasquez takes Motrin for headache relief. The defendant also has an infection in his tonsils but is not taking any medications to treat the infection at FDC-Philadelphia.

137. At the age of 15, Amaya-Vasquez was treated for a kidney infection in Honduras. The defendant recalled that doctors wanted to do a biopsy but due to medical costs, the defendant opted to treat the infection with injections instead. Since that time, the defendant denied any issues with his kidney.
138. The defendant denied any history of surgeries or extended hospitalizations.
139. According to medical records obtained from the Bureau of Prisons, Amaya-Vasquez does not suffer from any health problems and is not prescribed any medication. On May 5, 2017, Amaya-Vasquez was treated for laceration to his scalp after hitting his head on a concrete wall while playing handball in the recreation yard at FDC-Philadelphia. The defendant was treated with sutures to his scalp and prescribed ibuprofen for pain relief.

Mental and Emotional Health

140. Amaya-Vasquez denied any history of mental or emotional health issues, and denied ever being prescribed psychotropic medications; he has never received mental health treatment. The defendant advised he felt "depressed" after his arrest for the instant offense, primarily because he missed his daughter. Amaya-Vasquez advised his adjustment to incarceration has been "difficult" because he misses his daughter and cannot help his siblings with school. The defendant also indicated his mother needs help. The defendant advised he maintains jobs in jail to help pass the time.
141. According to Bureau of Prisons records, the defendant has been identified as a CARE1-MH inmate due to the absence of mental illness. However, on April 29, 2016, Amaya-Vasquez was seen by the Psychology Department at FDC-Philadelphia due to "ongoing stress" related to his concerns over his daughter. The defendant reported ongoing worries related to the people his ex-wife allows in the home. The defendant stated he "just wanted to talk and let things out." Amaya-Vasquez is not prescribed any psychotropic medications at this time.

Substance Abuse

142. The defendant reportedly used cocaine on six occasions. According to Amaya-Vasquez, he first "snorted" cocaine in 2008 and last used cocaine on January 20, 2015. The defendant denied any other history of illicit substance use. Additionally, the defendant advised he drinks alcohol only during holidays, and denied any alcohol-related issues. The defendant never attended drug and alcohol treatment, and denied the need for the same.

Educational, Vocational and Special Skills

143. The defendant withdrew from grade school in the 6th grade and has never pursued further education; the defendant attended the Francisco Morazan School, located in the outskirts of his hometown in Marcala, Honduras. According to Amaya-Vasquez, his parents forced him to withdraw from school at a young age because the family had no money and needed the defendant to work on the coffee plantation. Despite a lack of education, Amaya-Vasquez can read and write Spanish.
144. The defendant advised he has received specialized training in construction, painting, and sheet rock. Amaya-Vasquez denied having any professional licenses. He speaks the Spanish language and some English.

Employment Record

145. The defendant has been incarcerated since May 26, 2015. Prior to his incarceration, Amaya-Vasquez reported a steady employment history, consisting mostly as a laborer.
146. Amaya-Vasquez first held employment at a young age when he worked on his family's coffee plantation in Honduras with his father. Initially, at the age of 6, the defendant picked coffee with his mother; he also followed his mother around the plantation and covered the coffee trees that were fertilized. As he got older, the defendant's responsibilities increased, such as chopping the coffee trees with machetes, raking the coffee tree weeds, picking coffee beans from the trees, and preparing and measuring out coffee beans for production. Amaya-Vasquez typically worked from 7 a.m. until 1 p.m. After work, the defendant was tasked with finding well water and firewood for the family. The defendant worked on coffee plantations from the age of 12 until 20.
147. Upon entering the United States in 2005, Amaya-Vasquez obtained employment at The Fox Hollow Country Club in Woodbury, New York. The defendant recalled working long hours as a busboy, maintenance man, and landscaper. According to the assistant controller for The Fox Hollow, Amaya-Vasquez was employed from December 5, 2005 to October 9, 2006, as a catering waiter and busboy. As verified by the defendant's W-2 Wage and Tax Statement, he earned \$318.50 in 2005 and \$4,461.00 in 2006. It is noted that the defendant allegedly forged a check on August 19, 2006, while working at The Fox Hollow (see Paragraph 106).
148. After leaving The Fox Hollow country club, Amaya-Vasquez worked for a landscaping company – Fred Large Landscaping – in Northport, New York. The defendant reportedly worked for this company for one year.
149. In late 2006, the defendant moved from New York to Missouri, and obtained employment at Blackburn All-Star Roofing in Kansas City. As verified by the Vice President of Blackburn All-Star Roofing Company, Amaya-Vasquez was employed at the company from February 1, 2007 to September 13, 2007, as a roofer; the defendant earned \$10.00 per hour.

150. In 2008, Amaya-Vasquez left Missouri and returned to New York, where he resumed work at Fred Large Landscaping in Northport, New York. The defendant continued working at Fred Large Landscaping until 2010. Simultaneously, the defendant worked as a stocker for Best Jet supermarket in Northport and as a waiter at Larkfield, a catering hall located in East Northport, New York. The defendant worked long hours, often 15 hour days, to support both himself and his family. In fact, the defendant was able to save enough money to pay for his sister Yasmin's high school and college education in Honduras.
151. In late 2010, the defendant moved back to Kansas City and worked as a roofer. Amaya-Vasquez explained that he worked for independent contractors for approximately one year before gaining employment with AR Surprise, a construction company that cleaned foreclosed homes. In this capacity, Amaya-Vasquez removed trash and debris from foreclosed properties. Amaya-Vasquez worked for AR Surprise from 2012 to 2014.
152. From 2013 to 2015, Amaya-Vasquez worked for Z Lawn, a business which cleaned foreclosed homes as a sub-contractor in the Kansas City, Missouri area. The defendant worked on and off with Z Lawn from approximately 2013 to 2015; he was paid in cash. This information was verified by the FBI, who interviewed Amaya-Vasquez's boss, Mohd Zaiham Abdullah. Abdullah described the defendant as a good worker who showed up on time. Amaya-Vasquez worked for Abdullah when Amaya-Vasquez was in Kansas City, as the defendant would spend months at a time in New York.

Potential Reentry Needs

153. The defendant is expected to be deported upon his release from imprisonment.

Financial Condition: Ability to Pay

154. On May 18, 2017, the defendant completed and signed a Net Worth and Monthly Cash Flow Statement. Amaya-Vasquez reportedly owns six "hectares" of land in Honduras (one hectare is equivalent to approximately two-and-a-half acres), as well as an empty lot in La Union, Honduras, reportedly worth \$12,000. According to defense counsel, he will assume Power of Attorney for the defendant and, with the assistance of the defendant's family, sell the empty lot and send the money to the defendant's daughter, Ashlee. Amaya-Vasquez also owns a house and lot in Honduras, which was inherited from his father. The home and lot are reportedly worth \$20,000. Amaya-Vasquez plans on residing at this house after deportation; his mother currently occupies this residence. The defendant denied having any other assets.
155. The defendant advised he owes child support to Mariela Suazo Diaz for their daughter, Ashlee Amaya Diaz. Records obtained from the Missouri Department of Social Services Family Support Division verified a child support order against Amaya-Vasquez for his daughter, Ashlee Diaz. The defendant was ordered to pay Mariela Suazo Diaz \$1.00 per month starting on November 15, 2016 (Order Number 1616MC17531; Case 81556113). As of September 27, 2017, Amaya-Vasquez has an outstanding child support balance of \$10.00. The defendant denied having any other liabilities.

156. A credit check conducted through Equifax revealed no credit history for the defendant. Also, a public records check conducted through Accurint/LexisNexis revealed no record of the defendant.

Analysis:

157. Based on the defendant's financial profile and the fact he is facing a lengthy term of imprisonment, it appears he does not have the ability to pay a fine within the guideline range, in addition to mandatory restitution. If the defendant is incarcerated, payment on a fine or restitution can commence through the Bureau of Prisons Inmate Financial Responsibility Program. An inmate participating in this program will be able to contribute half of monthly prison work earnings, for every month of imprisonment served, toward any immediately due fine or restitution.

PART D. SENTENCING OPTIONS

Custody

158. **Statutory Provisions:** Count 1: The maximum term of imprisonment is life. 18 U.S.C. § 1201(a)(1). Count 2: The maximum term of imprisonment is 10 years. 18 U.S.C. §§ 2261(a)(2) and (b)(3). Count 4: The maximum term of imprisonment is 10 years. 8 U.S.C. §§ 1326(a) and (b)(1).
159. **Guideline Provisions:** Based upon a total offense level of 38 and a criminal history category of I, the guideline imprisonment range is 235 months to 293 months.

Impact of Plea Agreement

160. There is no plea agreement in this matter.

Supervised Release

161. **Statutory Provisions:** Count 1: The Court may impose a term of supervised release of not more than five years. 18 U.S.C. § 3583(b)(1). Count 2: The Court may impose a term of supervised release of not more than three years. 18 U.S.C. § 3583(b)(2). Count 4: The Court may impose a term of supervised release of not more than three years. 18 U.S.C. § 3583(b)(2).
162. Multiple terms of supervised release shall run concurrently. 18 U.S.C. § 3624(c).
163. **Guideline Provisions:** Count 1: Since the offense is a Class A Felony, the guideline range for a term of supervised release is 2 years to 5 years. USSG §5D1.2(a)(1). Count 2: Since the offense is a Class C Felony, the guideline range for a term of supervised release is 1 year to 3 years. USSG §5D1.2(a)(2). Count 4: Since the offense is a Class C Felony, the guideline range for a term of supervised release is 1 year to 3 years. USSG §5D1.2(a)(2).

Probation

164. **Statutory Provisions:** Count 1: The defendant is ineligible for probation because the offense is a Class A Felony. 18 U.S.C. § 3561(a)(1). Count 2: The defendant is eligible for not less than one nor more than five years' probation because the offense is a Class C Felony. 18 U.S.C. § 3561(c)(1). One of the following must be imposed as a condition of probation unless extraordinary circumstances exist: a fine, restitution, or community service. Count 4: The defendant is eligible for not less than one nor more than five years' probation because the offense is a Class C Felony. 18 U.S.C. § 3561(c)(1). One of the following must be imposed as a condition of probation unless extraordinary circumstances exist: a fine, restitution, or community service.
165. Multiple terms of probation shall run concurrently. 18 U.S.C. § 3564(b).
166. **Guideline Provisions:** Since the applicable guideline range is in Zone D of the Sentencing Table, the defendant is ineligible for probation. USSG §5B1.1, comment.(n.2).

Possible Special Conditions

167. Pursuant to the provisions of 18 U.S.C. §§ 3563 and 3583, and USSG §§ 5B1.3 and 5D1.3, with regard to the special conditions of probation and supervised release, respectively, the Court has the discretion to impose special conditions of supervision to the extent that such conditions are reasonably related to the factors set forth in 18 U.S.C. §§ 3553(a)(1) and (a)(2) and to the extent that such conditions involve only such deprivations of liberty or property as are reasonably necessary for the purposes indicated in 18 U.S.C. § 3553(a)(2). The special conditions that may be imposed at sentencing are listed in Appendix A of this report.

DNA Collection

168. Prior legislation in 2000 and 2001 (Public Law Nos. 106-546 and 107-56) amended 18 U.S.C. §§ 3563(a), 3583(d), and 4209 to require persons convicted of certain current or prior federal offenses to cooperate in the collection of a DNA sample. Public Law No. 108-405 (October 30, 2004) amended 42 U.S.C. § 14135a(d)(1) to expand the list of qualifying federal offenses to include any felony, any offense under Chapter 109A of Title 18, any crime of violence (as defined in 18 U.S.C. § 16), and any attempt or conspiracy to commit any of the above offenses. The law amended 10 U.S.C. § 1565(d) to expand the list of qualifying military offenses to include any offense under the Uniform Code of Military Justice for which a sentence of confinement of more than one year can be imposed, and any other offense under the Uniform Code of Military Justice that is comparable to a qualifying federal offense. Cooperation in the collection of a DNA sample is a mandatory condition of community supervision unless a sample has been secured by the U.S. Bureau of Prisons during a term of imprisonment. Failure to cooperate in the collection of a DNA sample is a Class A misdemeanor, pursuant to 42 U.S.C. § 14135(a)(5).

Fines

169. **Statutory Provisions:** Counts 1, 2, and 4: The maximum fine is \$250,000 per count. 18 U.S.C. § 3571(b).
170. Counts 1, 2, and 4: A special assessment of \$100 is mandatory per count. 18 U.S.C. § 3013.
171. **Guideline Provisions:** The fine range for this offense is from \$25,000 to \$250,000. USSG §§5E1.2(c)(3) and 5E1.2(h)(1).
172. Costs of prosecution shall be imposed on the defendant as required by statute. USSG §5E1.5. In determining whether to impose a fine and the amount of such fine, the Court shall consider, among other factors, the expected costs to the government of any term of probation, or term of imprisonment and term of supervised release imposed. USSG §5E1.2(d)(7) and 18 U.S.C. § 3572(a)(6). These costs may include drug and alcohol treatment, electronic monitoring, and/or contract confinement costs. The most recent advisory from the Administrative Office of the United States Courts, dated July 13, 2017, provides the following monthly cost data:

	<u>Bureau of</u> <u>Prisons Facilities</u>	<u>Community</u> <u>Correction Centers</u>	<u>Supervision by</u> <u>Probation Officer</u>
Daily	\$95.00	\$80.00	\$12.00
Monthly	\$2,898.00	\$2,440.00	\$366.00
Annually	\$34,770.00	\$29,280.00	\$4,392.00

173. The Criminal Fine Improvement Act of 1987 is applicable. Any fine exceeding \$2,500, not satisfied within 15 days, will be charged interest at a rate determined by the U.S. Treasury auctions. If a defendant is unable to pay interest, the Court may waive the interest, limit the total interest to a specific dollar amount, or limit the time of interest accrual. See 18 U.S.C. § 3612(f). The liability to pay a fine terminates the later of 20 years from the entry of judgment or 20 years after release from imprisonment. See 18 U.S.C. § 3613(b). Fine payments, as well as the special assessment, should be made payable to the U.S. Treasury and forwarded to the Clerk of the Court.

Restitution

174. **Statutory Provisions:** The Antiterrorism and Effective Death Penalty Act of 1996 requires the Court to enter a restitution order if the instant offense is a crime of violence (see 18 U.S.C. § 16), an offense against property, or a crime related to product tampering (see 18 U.S.C. § 1365) and when an identified victim suffers a physical injury or pecuniary loss, regardless of the defendant's ability to pay. This mandatory restitution provision (18 U.S.C. § 3663A) pertains to offenses committed after April 24, 1996, and can only be waived if the Court finds that the sheer number of identifiable victims makes a restitution order impracticable or the complexity of fashioning an order outweighs the

need to provide restitution. See 18 U.S.C. § 3663A(c)(3). If the Court does not order restitution or only partial restitution, it must state its reasons for doing so, pursuant to 18 U.S.C. § 3553. The liability to pay restitution terminates the later of 20 years from the entry of judgment or 20 years after release from imprisonment. See 18 U.S.C. §§ 3613(b) and (f); 3664(m). Any restitution exceeding \$2,500, not satisfied within 15 days, will be charged interest at a rate determined by the U.S. Treasury auctions. If a defendant is unable to pay interest, the Court may waive the interest, limit the total interest to a specific dollar amount, or limit the time of interest accrual. See 18 U.S.C. §§ 3612(f); 3664(m). Restitution is due in this case in the amount of \$6,100.00. Payments should be made payable to the U.S. Treasury and forwarded to the Clerk of the Court for distribution to the victim(s).

175. **Guideline Provisions:** In accordance with the provisions of U.S.S.G. §5E1.1, restitution shall be ordered, unless the Court determines that the complication and prolongation of the sentencing process resulting from fashioning such an order outweighs the need to provide restitution to any victim through the criminal process.

PART E. FACTORS THAT MAY WARRANT DEPARTURE

176. In the instant offense, the defendant kidnapped his ex-girlfriend and repeatedly sexually assaulted her over a three-day period. During the kidnapping and sexual assaults, the defendant's three-year-old daughter was present, lying feet away from her mother during the sexual assaults. As such, an upward departure may be warranted, pursuant to U.S.S.G. §5K2.8, for Extreme Conduct. According to §5K2.8, if the defendant's conduct was unusually heinous, cruel, brutal, or degrading to the victim, the court may increase the sentence above the guideline range to reflect the nature of the conduct. Examples of extreme conduct include torture of a victim, gratuitous infliction of injury, or prolonging of pain or humiliation.

PART F. FACTORS THAT MAY WARRANT A SENTENCE OUTSIDE OF THE ADVISORY GUIDELINE SYSTEM

177. Pursuant to 18 U.S.C. § 3553(a)(1) through (7), the following factors are to be considered in imposing a sentence: the nature and circumstances of the offense and the history and characteristics of the defendant; the need for the sentence imposed to satisfy the statutory purposes of sentencing; the kinds of sentences available; the applicable guidelines; pertinent Sentencing Commission policy statements; the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and the need to provide restitution. Available information concerning these factors is contained throughout the presentence report.

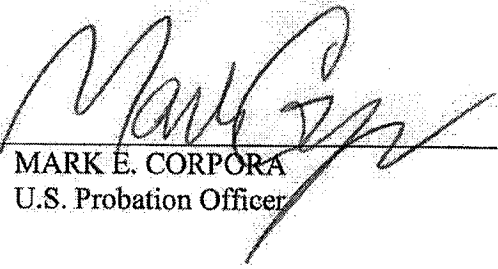
U.S. DISTRICT COURT

JOSE AMAYA-VASQUEZ


Respectfully submitted,

WILFREDO TORRES
Chief U.S. Probation Officer

By:


MARK E. CORPORA
U.S. Probation Officer

Approved:


THOMAS A. LEAKAN
Supervising U.S. Probation Officer

12/12/17
Date

APPENDIX A

U.S. Probation Office - District of New Jersey Special Conditions of Supervision That May Be Imposed at Sentencing

ALCOHOL/DRUG TESTING AND TREATMENT

You must refrain from the illegal possession and use of drugs, including prescription medication not prescribed in your name, and the use of alcohol, and must submit to urinalysis or other forms of testing to ensure compliance. It is further ordered that you must submit to evaluation and treatment, on an outpatient or inpatient basis, as approved by the U.S. Probation Office. You must abide by the rules of any program and must remain in treatment until satisfactorily discharged by the Court. You must alert all medical professionals of any prior substance abuse history, including any prior history of prescription drug abuse. The U.S. Probation Office will supervise your compliance with this condition.

COMMUNITY SERVICE

You must contribute ___ hours of community service work over a period of ___ or less, from the date supervision commences. Such service will be without compensation, with the specific work placement to be approved by the U.S. Probation Office.

COMPUTER MONITORING

You must submit to an initial inspection by the U.S. Probation Office, and to any unannounced examinations during supervision, of your computer equipment. This includes, but is not limited to, personal computers, personal digital assistants, entertainment consoles, cellular telephones, and/or any electronic media device which is owned or accessed by you. You must allow the installation on your computer of any hardware or software systems which monitor computer use. You must pay the cost of the computer monitoring program. You must abide by the standard conditions of computer monitoring. Any dispute as to the applicability of this condition will be decided by the Court.

DENIAL OF COMPUTER

You must not possess, procure, purchase or otherwise obtain access to any form of computer network, bulletin board, internet, or exchange format involving computers unless specifically approved by the U.S. Probation Office. Any dispute as to the applicability of this condition will be decided by the Court.

(In accordance with Third Circuit case law, this condition shall only be recommended for offenses that involve the following statutes: 18 §§ 2241, 2242, 2243(a) & (b), 2244, 2421, 2422, 2423, 2325, 2251, 2260(b), 2251(a), 2252(A)(g), 2252(B) & (C), 1591, 1460, 1462, 1463, 1465, 1470, and 8 § 1328).

FINANCIAL DISCLOSURE

Upon request, you must provide the U.S. Probation Office with full disclosure of your financial records, including co-mingled income, expenses, assets and liabilities, to include yearly income tax returns. With the exception of the financial accounts reported and noted within the presentence report, you are prohibited from maintaining and/or opening any additional individual and/or joint checking, savings, or other financial accounts, for either personal or business purposes, without the knowledge and approval of the U.S. Probation Office. You must cooperate with the U.S. Probation Office in the investigation of your financial dealings and must provide truthful monthly statements of your income. You must cooperate in the signing of any authorization to release information forms permitting the U.S. Probation Office access to your financial records.

FINANCIAL - NEW DEBT RESTRICTIONS

You are prohibited from incurring any new credit charges, opening additional lines of credit, or incurring any new monetary loan, obligation, or debt, by whatever name known, without the approval of the U.S. Probation Office. You must not encumber or liquidate interest in any assets unless it is in direct service of the fine and/or restitution obligation or otherwise has the expressed approval of the Court.

GAMBLING ESTABLISHMENTS RESTRICTION

You must not enter any gambling establishment without the permission of the U.S. Probation Office and/or the Court.

GAMBLING RESTRICTIONS AND REGISTRATION ON EXCLUSION LISTS

You must refrain from all gambling activities, legal or otherwise, to include the purchase or receipt of lottery tickets and internet gambling. You must register on the self-exclusion lists maintained by the New Jersey Casino Control Commission and Racetrack Commission within 60 days of the commencement of supervision and remain on these lists for the duration of supervision. The U.S. Probation Office will supervise your compliance with this condition.

GANG/CRIMINAL ASSOCIATIONS PROHIBITION

You must refrain from associating with, or being in the company of, any members of any street gang, outlaw motorcycle gang, traditional or non-traditional organized crime group, or any other identified threat group. You are restricted from frequenting any location where members of said organizations are known to congregate or meet. You must not have in your possession any item or paraphernalia which has any significance or is evidence of affiliation with said organizations.

GATEWAY NATIONAL PARK RESTRICTION

You must refrain from entering Gateway National Park while on supervision.

IMMIGRATION AND CUSTOMS ENFORCEMENT - COMPLIANCE

You must comply with instructions from Immigration and Customs Enforcement to resolve any problems with your status in the United States. You must provide truthful information and abide by the rules and regulations of Immigration and Customs Enforcement. You must seek proper documentation from U.S. Immigration and Customs Enforcement authorizing you to work in the United States. If deported, you must not re-enter the United States without the written permission of the Secretary of United States Department of Homeland Security. If you re-enter the United States, you must report in person to the nearest U.S. Probation Office within 48 hours.

INTERNAL REVENUE SERVICE - COOPERATION

You must fully cooperate with the Internal Revenue Service by filing all delinquent or amended returns within six months of the sentence date and timely file all future returns that come due during the period of supervision. You must properly report all corrected taxable income and claim only allowable expenses on those returns. You must provide all appropriate documentation in support of said returns. Upon request, you must furnish the Internal Revenue Service with information pertaining to all assets and liabilities, and you must fully cooperate by paying all taxes, interest and penalties due and otherwise comply with the tax laws of the United States.

LIFE SKILLS/EDUCATION

As directed by the U.S. Probation Office, you must participate in and complete any educational, vocational, cognitive or any other enrichment programs offered by the U.S. Probation Office or any outside agency or establishment while under supervision.

LOCATION MONITORING PROGRAM

You must submit to home detention for a period of ____ months and comply with the Location Monitoring Program requirements as directed by the U.S. Probation Office. You will be restricted to your residence at all times except for employment, education, religious services, medical, substance abuse and mental health treatment, court-ordered obligations, and any other such times specifically authorized by the U.S. Probation Office. The location monitoring technology is at the discretion of the U.S. Probation Office. You must pay the cost of the monitoring. (Or waive).

MENTAL HEALTH TREATMENT

You must undergo treatment in a mental health program approved by the U.S. Probation Office until discharged by the Court. As necessary, said treatment may also encompass treatment for gambling, domestic violence and/or anger management, or sex offense-specific treatment, as approved by the U.S. Probation Office, until discharged by the Court. The U.S. Probation Office will supervise your compliance with this condition.

MINORS - RESTRICTED CONTACT/MATERIALS AND REASONABLE SEARCH

With the exception of brief, unanticipated and incidental contacts, you must not associate with children under the age of 18, except for family members or children in the presence of an adult who has been approved by the U.S. Probation Office. You must not obtain employment or perform volunteer work which includes, as part of its job/work description, contact with minor children, without the expressed approval of the U.S. Probation Office. You must not maintain, within your residence or within any outside establishment within your control or custody, a collection of digital images or videos, films, slides, pictures, tapes, videotapes or other form of pictorial representation whose subject matter involves minor children of either sex and can be deemed to be pornographic. The U.S. Probation Office will have the right of reasonable search of your person and residence, or any other establishment within your custody or control, and will, if necessary, request the assistance of other law enforcement personnel to enforce the provisions of this special condition.

MOTOR VEHICLE COMPLIANCE

You must not operate any motor vehicle without a valid driver's license issued by the State of New Jersey, or in the state in which you are supervised. You must comply with all motor vehicle laws and ordinances and must report all motor vehicle infractions (including any court appearances) within 72 hours to the U.S. Probation Office.

OCCUPATIONAL RESTRICTIONS

As a further special condition of supervision, you must refrain from _____.

{As an underlying foundation for this special condition, the Court must find that: (1) a reasonably direct relationship existed between the defendant's occupation, business or profession and the conduct relevant to the offense of conviction; (2) imposition of such a restriction is reasonably necessary to protect the public because there is reason to believe that, absent such restriction, the defendant will continue to engage in unlawful conduct similar to that for which the defendant was convicted; and (3) that the time frame and structure of the special condition is for the minimum time frame and to the minimum extent necessary to protect the public.}

POLYGRAPH EXAMINATION

You must submit to an initial polygraph examination and subsequent maintenance testing, at intervals to be determined by the U.S. Probation Office, to assist in treatment, planning, and case monitoring. You will be required to contribute to the costs of services rendered in an amount to be determined by the U.S. Probation Office, based on ability to pay or availability of third-party payment.

PRETRIAL OPPORTUNITY PROGRAM (POP)

You must continue to participate in the Pretrial Opportunity Program during the full term of supervision as directed.

RESIDENTIAL REENTRY CENTER PLACEMENT

You must reside for a period of ___ months in a community corrections center, halfway house or similar residential facility and must observe all the rules of that facility. You will be eligible for weekend privileges. (Or deny). You must pay subsistence as required by the program.

SELF-EMPLOYMENT/BUSINESS DISCLOSURE

You must cooperate with the U.S. Probation Office in the investigation and approval of any position of self-employment, including any independent, entrepreneurial, or freelance employment or business activity. If approved for self-employment, you must provide the U.S. Probation Office with full disclosure of your self-employment and other business records, including, but not limited to, all of the records identified in the Probation Form 48F (Request for Self-Employment Records), or as otherwise requested by the U.S. Probation Office.

STATUS CONFERENCE

You must appear before this Court after commencement of supervision for a conference to assess your progress and compliance with the conditions of supervision. [The Court will establish the time frame.]

SUPPORTING DEPENDENTS

If you are court-ordered to make child support payments or to make payments to support a person caring for a child, you must make the payments and comply with the other terms of the order.

(Revised July 15, 2017)

ADDENDUM TO THE PRESENTENCE REPORT

**UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY
UNITED STATES V. JOSE AMAYA-VASQUEZ, DOCKET NO. 0312 1:16CR00016-1**

REVISIONS

The following paragraphs were revised following the disclosure of the draft presentence report: 12, 47, 112, 113, 119, 120, 121, 126, 129, 137, 139, 146, 151, and 152.

Any objection letters received by this office accompany the presentence report.

GUIDELINE OBJECTIONS

By the Government

In an email dated November 3, 2017, counsel for the government advised of no guideline objections or corrections to the draft presentence report.

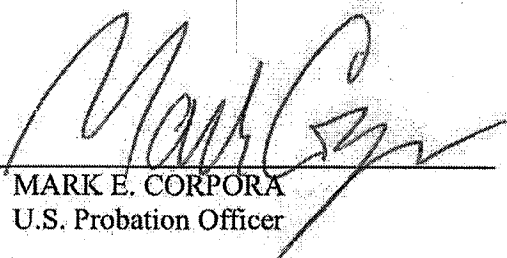
By the Defendant

In an email dated November 13, 2017, counsel for the defendant advised of no objections to the draft presentence report. Counsel offered several corrections to the defendant's personal history and characteristics section (Part C), which were adopted by the U.S. Probation Office in the final presentence report.


Respectfully submitted,

WILFREDO TORRES
Chief U.S. Probation Officer

By:


MARK E. CORPORA
U.S. Probation Officer

Approved:


THOMAS A. LEAKAN
Supervising U.S. Probation Officer

12/12/17
Date