

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA, Plaintiff-Appellee, v. YUZEF YUNOSOVICH ABRAMOV, aka Yuzef Abramov, Defendant-Appellant.	No. 16-50104 D.C. No. 2:14-cr-00241- ODW-1 MEMORANDUM* (Filed Nov. 7, 2018)
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Appeal from the United States District Court
for the Central District of California
Otis D. Wright II, District Judge, Presiding

Argued March 6, 2018; Resubmitted October 31, 2018
Pasadena, California

Before: GRABER, W. FLETCHER, and OWENS, Circuit Judges.

Defendant Yuzef Abramov appeals his conviction on five counts of engaging in illicit sexual conduct in foreign places, in violation of 18 U.S.C. § 2423(c) (2009). We affirm.

1. Defendant first argues that the district court erred by denying his motion to dismiss the indictment.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

We review that ruling de novo. United States v. Ubaldo, 859 F.3d 690, 699 (9th Cir. 2017), cert. denied, 138 S. Ct. 704 (2018). Defendant argues that the statute does not apply to his conduct because, even though he is a United States citizen, he resided and was domiciled in Russia and thus did not “travel[]” to Russia, 18 U.S.C. § 2423(c) (2009). See United States v. Pepe, 895 F.3d 675, 687–90 (9th Cir. 2018) (describing the correct interpretation of the statute). When we view the facts in the light most favorable to the government, Ubaldo, 859 F.3d at 701, the record does not bear out that characterization.¹ Defendant resided in Los Angeles, where he had a driver’s license and where his children and ex-wife lived. Indeed, Defendant asserted in a 2013 letter to his member of Congress that, though he has “visited” Russia several times, he has been a permanent resident of Los Angeles since 2000, and the charged conduct took place several years after that. Defendant traveled to Russia from California before each of the charged acts, which took place soon after his arrival in

¹ Defendant argues that, when granting a post-verdict acquittal on his conviction under 18 U.S.C. § 2423(b), which criminalizes a citizen’s travel in foreign commerce for the purpose of engaging in illicit sexual conduct, the district court “found” that Defendant lived in Russia. We disagree. The district court, in this jury trial, made no factual findings. Rather, the court came to a legal conclusion that there was insufficient evidence for a jury to find in the government’s favor on the dismissed count. And the reason why the court came to that conclusion appears to be that having sex with children was not the predominant reason for Defendant’s trips to Russia.

Russia, and then returned to California after each of the charged acts.²

2. We review for abuse of discretion the district court's denial of Defendant's motion to substitute counsel, United States v. Reyes-Bosque, 596 F.3d 1017, 1033 (9th Cir. 2010), and find none. The court conducted an evidentiary hearing concerning Defendant's request and permissibly concluded that the discord between Defendant and his counsel did not amount to a complete breakdown of communications but, rather, arose from Defendant's desire for delay and his disagreement with counsel's chosen trial strategy. The court permissibly concluded that counsel could provide an adequate defense.

3. Because we affirm the convictions, we need not consider the remaining issue.

AFFIRMED.

² Unlike the defendant in Pepe, Defendant does not challenge on appeal the jury instructions at his trial. Accordingly, Defendant has waived or forfeited any claim of erroneous jury instructions. United States v. Perez-Silvan, 861 F.3d 935, 938 (9th Cir. 2017).

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA –
WESTERN DISTRICT

UNITED STATES OF AMERICA, Plaintiff, v. YUSEF YUNOSOVICH ABRAMOV. Defendant.	No. CR 14-241-ODW [Redacted]
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VERDICT FORM

(Filed Oct. 30, 2015)

1. Count One of the Indictment

As to the offense of Engaging in Illicit Sexual Conduct in Foreign Places in violation of title 18, United States Code, Section 2423(c),

We, the Jury, find the defendant, YUSEF YUNOSOVICH ABRAMOV:

Guilty Not Guilty

If you found the defendant Guilty of this Count, please place an “X” by each form of “illicit sexual conduct” that your verdict is based on. Because it is important that you include every basis for your Guilty verdict on this Count, please choose one, two, or all three of the following:

the defendant knowingly engaged in a commercial sex act with a person under 18 years of age;

the defendant knowingly used force, threatened, or placed Victim 1 (Aleksandra) in fear that some person would be subjected to death or serious bodily injury to cause her to engage in a sexual act;

and/or

the defendant knowingly engaged in a sexual act with a person who has attained the age of 12 years but has not attained the age of 16 years, and is at least four years younger than the defendant.

2. Count Two of the Indictment

As to the offense of Engaging in Illicit Sexual Conduct in Foreign Places in violation of title 18, United States Code, Section 2423(c),

We, the Jury, find the defendant, YUSEF YUNO-SOVICH ABRAMOV:

Guilty Not Guilty

If you found the defendant Guilty of this Count, please place an “X” by each form of “illicit sexual conduct” that your verdict is based on. Because it is important that you include every basis for your Guilty verdict on this Count, please choose one, two, or all three of the following:

the defendant knowingly engaged in a commercial sex act with a person under 18 years of age;

X the defendant knowingly used force, threatened, or placed Victim 1 (Aleksandra) in fear that some person would be subjected to death or serious bodily injury to cause her to engage in a sexual act;

and/or

X the defendant knowingly engaged in a sexual act with a person who has attained the age of 12 years but has not attained the age of 16 years, and is at least four years younger than the defendant.

3. Count 3 of the Indictment

As to the offense of Engaging in Illicit Sexual Conduct in Foreign Places in violation of title 18, United States Code, Section 2423(c),

We, the Jury, find the defendant, YUSEF YUNO-SOVICH ABRAMOV:

Guilty ✓ Not Guilty

If you found the defendant Guilty of this Count, please place an “X” by each form of “illicit sexual conduct” that your verdict is based on. Because it is important that you include every basis for your Guilty verdict on this Count, please choose one, two, or all three of the following:

X the defendant knowingly engaged in a commercial sex act with a person under 18 years of age;

X the defendant knowingly used force, threatened, or placed Victim 2 (Tatiana) in fear that some

person would be subjected to death or serious bodily injury to cause her to engage in a sexual act;

and/or

X the defendant knowingly engaged in a sexual act with a person who has attained the age of 12 years but has not attained the age of 16 years, and is at least four years younger than the defendant.

4. Count 4 of the Indictment

As to the offense of Engaging in Illicit Sexual Conduct in Foreign Places in violation of title 18, United States Code, Section 2423(c),

We, the Jury, find the defendant, YUSEF YUNO-SOVICH ABRAMOV:

Guilty ✓ Not Guilty

If you found the defendant Guilty of this Count, please place an “X” by each form of “illicit sexual conduct” that your verdict is based on. Because it is important that you include every basis for your Guilty verdict on this Count, please choose one, two, or all three of the following:

X the defendant knowingly engaged in a commercial sex act with a person under 18 years of age;

X the defendant knowingly used force, threatened, or placed Victim 3 (Rihan) in fear that some person would be subjected to death or serious bodily injury to cause her to engage in a sexual act;

and/or

X the defendant knowingly engaged in a sexual act with a person who has attained the age of 12 years but has not attained the age of 16 years, and is at least four years younger than the defendant.

5. Count 5 of the Indictment

As to the offense of Engaging in Illicit Sexual Conduct in Foreign Places in violation of title 18, United States Code, Section 2423(c),

We, the Jury, find the defendant, YUSEF YUNO-SOVICH ABRAMOV:

Guilty ✓ Not Guilty _____

If you found the defendant Guilty of this Count, please place an “X” by each form of “illicit sexual conduct” that your verdict is based on. Because it is important that you include every basis for your Guilty verdict on this Count, please choose one, two, or all three of the following:

X the defendant knowingly engaged in a commercial sex act with a person under 18 years of age;

X the defendant knowingly used force, threatened, or placed Victim 3 (Rihan) in fear that some person would be subjected to death or serious bodily injury to cause her to engage in a sexual act;

and/or

X the defendant knowingly engaged in a sexual act with a person who has attained the age of 12 years but has not attained the age of 16 years, and is at least four years younger than the defendant.

6. Count 6 of the Indictment

As to the offense of Travel With Intent To Engage in Illicit Sexual Conduct in violation of title 18, United States Code, Section 2423(b),

We, the Jury, find the defendant, YUSEF YUNO-SOVICH ABRAMOV:

Guilty ✓ Not Guilty

SO SAY WE ALL, this 30 day of October, 2015.

/s/ [Redacted]
FOREPERSON

**United States District Court
Central District of California**

UNITED STATES Docket No. CR 14-00241-ODW
OF AMERICA vs.
Defendant Yuzef Yunosovich **Social Security No.**
Abramov 2 1 6 3
akas: Yuzef Abramov (Last 4 digits)

**JUDGMENT AND PROBATION/
COMMITMENT ORDER**

In the presence of the attorney for
the government, the defendant
appeared in person on this date.

MONTH DAY YEAR
March 14 2016

COUNSEL

Leonard B. Levine/
Anthony M. Solis, retained
(Name of Counsel)

PLEA

GUILTY, and the court being satisfied that there is a factual basis for the plea. **NOLO** **NOT**
CONTENDERE **GUILTY**

FINDING

There being a finding/verdict of
GUILTY, defendant has been convicted as charged of the offense(s) of:
**Counts 1-5: 18:2423(c): Engaging
in Illicit Sexual Conduct in Foreign Places**

**JUDGMENT
AND PROB/
COMM
ORDER**

The Court asked whether there was any reason why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the Court, the Court adjudged the defendant guilty as charged and convicted and ordered that: Pursuant to the Sentencing Reform Act of 1984, it is the judgment of the Court that the defendant is hereby committed to the custody of the Bureau of Prisons to be imprisoned for a term of:

150 years on Count 1 through 5 of the Indictment.

This term consists of 30 years on each of Counts 1 through 5 of the Indictment, to be served consecutively.

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of life. This term consists of life on each of Counts 1 through 5 of the Indictment, all such terms to run concurrently under the following terms and conditions:

1. The defendant shall comply with the rules and regulations of the United States Probation Office, General Order 05-02, and General Order 01-05, including the three special conditions delineated in General Order 01-05.
2. During the period of community supervision, the defendant shall pay the special assessment, fine, and restitution in accordance with

this judgment's orders pertaining to such payment.

3. The defendant shall cooperate in the collection of a DNA sample from himself.
4. The defendant shall apply all monies received from income tax refunds to the outstanding court-ordered financial obligation. In addition, the defendant shall apply all monies received from lottery winnings, inheritance, judgments and any anticipated or unexpected financial gains to the outstanding court-ordered financial obligation.
5. The defendant shall register as a sex offender, and keep the registration current, in each jurisdiction where he resides, where he is an employee, and where he is a student, to the extent the registration procedures have been established in each jurisdiction. When registering for the first time, the defendant shall also register in the jurisdiction in which the conviction occurred if different from his jurisdiction of residence. The defendant shall provide proof of registration to the Probation Officer within three days of release from imprisonment
6. The defendant shall participate in a psychological counseling or psychiatric treatment or a sex offender treatment program, as approved and directed by the Probation Officer. The defendant shall abide by all rules, requirements, and conditions of such program. The Probation Officer shall disclose the presentence report or any previous mental

health evaluations or reports to the treatment provider.

7. As directed by the Probation Officer, the defendant shall pay all or part of the costs of treating the defendant's psychological/psychiatric disorder(s) to the aftercare contractor during the period of community supervision, pursuant to 18 U.S.C. § 3672. The defendant shall provide payment and proof of payment as directed by the Probation Officer.
8. The defendant shall not view or possess any materials, including pictures, photographs, books, writings, drawings, videos, or video games depicting and/or describing child pornography, as defined at 18 U.S.C. § 2256(8), or sexually explicit conduct, as defined at 18 U.S.C. §2256(2). This condition does not prohibit the defendant from possessing materials solely because they are necessary to, and used for, a collateral attack, nor does it prohibit him from possessing materials prepared and used for the purposes of his Court-mandated sex offender treatment, when the defendant's treatment provider or the probation officer has approved of his possession of the materials in advance.
9. The defendant shall not contact the victims, by any means, including in person, by mail or electronic means, or via third parties. Further, the defendant shall remain at least 100 yards from the victim(s) at all times. If any contact occurs, the defendant shall immediately leave

the area of contact and report the contact to the Probation Officer.

10. The defendant shall not frequent, or loiter, within 100 feet of school yards, parks, public swimming pools, playgrounds, youth centers, video arcade facilities, or other places primarily used by persons under the age of 18.
11. The defendant shall not associate or have verbal, written, telephonic, or electronic communication with any person under the age of 18, except: (a) in the presence of the parent or legal guardian of said minor; and (b) on the condition that the defendant notify said parent or legal guardian of him [sic] conviction in the instant offense.

This provision does not encompass persons under the age of 18, such as waiters, cashiers, ticket vendors, etc., whom the defendant must interact with in order to obtain ordinary and usual commercial services.

12. The defendant shall not affiliate with, own, control, volunteer or be employed in any capacity by a business or organization that causes him to have [sic] regularly contact persons under the age of 18.
13. The defendant shall not affiliate with, own, control, or be employed in any capacity by a business whose principal product is the production or selling of materials depicting or describing "sexually explicit conduct," as defined at 18 U.S.C. § 2256(2).

14. The defendant's employment shall be approved by the Probation Officer, and any change in employment must be pre-approved by the Probation Officer. The defendant shall submit the name and address of the proposed employer to the Probation Officer at least ten days prior to any scheduled change.
15. The defendant shall submit his person, and any property, house, residence, vehicle, papers, computer, other electronic communication or data storage devices or media, and effects to search at any time, with or without warrant, by any law enforcement or Probation Officer with reasonable suspicion concerning a violation of a condition of supervised release or unlawful conduct by the defendant. Also, entitled to conduct such a search is any Probation Officer in the lawful discharge of the officer's supervision function.

It is ordered that the defendant shall pay to the United States a special assessment of \$500, which is due immediately. Any unpaid balance shall be due during the period of imprisonment, at the rate of not less than \$25 per quarter, and pursuant to the Bureau of Prisons' Inmate Financial Responsibility Program.

It is ordered that the defendant shall pay restitution to the victims of the offense. Pursuant to 18 U.S.C. § 3664(d)(5), a final determination of the victims' losses and future expenses will be ordered at a deferred restitution hearing on June 6, 2016. After such information becomes available. An amended

judgment will be entered after such determination.

It is ordered that the defendant shall pay to the United States a total fine of \$25,000, consisting of the following: Count 1 through 5, a fine of \$5,000. The total fine shall bear interest as provided by law. The fine shall be paid in full immediately.

The defendant shall comply with General Order No. 01-05.

The Court recommends defendant to be housed in the Terminal Island facility.

The drug testing condition mandated by statute is suspended based on the Court's determination that the defendant poses a low risk of future substance abuse.

Count six (6) is dismissed.

Pursuant to 18 U.S.C. § 3553(a), the Court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection. The Court, in determining the particular sentence to be imposed, shall consider –

1. The nature and circumstances of the offense and the history and characteristics of the defendant;
2. The need for the sentence imposed –
 - a. To reflect the seriousness of the offense; to promote respect for the law, and to provide just punishment for the offense;

- b. To afford adequate deterrence to criminal conduct;
- c. To protect the public from further crimes of the defendant; and
- d. To provide the defendant with needed correctional treatment in the most effective manner.

3. The kinds of sentences available;
4. The guideline sentencing range.

In addition to the special conditions of supervision imposed above, it is hereby ordered that the Standard Conditions of Probation and Supervised Release within this judgment be imposed. The Court may change the conditions of supervision, reduce or extend the period of supervision, and at any time during the supervision period or within the maximum period permitted by law, may issue a warrant and revoke supervision for a violation occurring during the supervision period.

March 14, 2016 /s/ Otis D. Wright II
Date U.S.D. U.S. District Judge

It is ordered that the Clerk deliver a copy of this Judgment and Probation/Commitment Order to the U.S. Marshal or other qualified officer.

Clerk, U.S. District Court

March 14, 2016 By S. English /s/
Filed Date Deputy Clerk

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below).

STANDARD CONDITIONS OF PROBATION AND SUPERVISED RELEASE

While the defendant is on probation or supervised release pursuant to this judgment:

1. The defendant shall not commit another Federal, state or local crime;
2. the defendant shall not leave the judicial district without the written permission of the court or probation officer;
3. the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
4. the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
5. the defendant shall support his or her dependents and meet other family responsibilities;
6. the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;

7. the defendant shall notify the probation officer at least 10 days prior to any change in residence or employment;
8. the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances except as prescribed by a physician;
9. the defendant shall not frequent places where controlled substances are illegally sold, used, distributed or administered;
10. the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
11. the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
12. the defendant shall notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer;
13. the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
14. as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or

personal history or characteristics, and shall permit the probation officer to make such notifications and to conform the defendant's compliance with such notification requirement;

15. the defendant shall, upon release from any period of custody, report to the probation officer within 72 hours;
16. and, for felony cases only: not possess a firearm, destructive device, or any other dangerous weapon,

The defendant will also comply with the following special conditions pursuant to General Order 01-05 (set forth below).

STATUTORY PROVISIONS PERTAINING TO PAYMENT AND COLLECTION OF FINANCIAL SANCTIONS

The defendant shall pay interest on a fine or restitution of more than \$2,500, unless the court waives interest or unless the fine or restitution is paid in full before the fifteenth (15') day after the date of the judgment pursuant to 18 U.S.C. §3612(f)(1). Payments may be subject to penalties for default and delinquency pursuant to 18 U.S.C. §3612(g). Interest and penalties pertaining to restitution, however, are not applicable for offenses completed prior to April 24, 1996.

If all or any portion of a fine or restitution ordered remains unpaid after the termination of supervision, the defendant shall pay the balance as directed by the United States Attorney's Office, 18 U.S.C. §3613.

The defendant shall notify the United States Attorney within thirty (30) days of any change in the defendant's mailing address or residence until all fines, restitution, costs, and special assessments are paid in full. 18 U.S.C. §3612(b)(1)(F).

The defendant shall notify the Court through the Probation Office, and notify the United States Attorney of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay a fine or restitution, as required by 18 U.S.C. §3664(k). The Court may also accept such notification from the government or the victim, and may, on its own motion or that of a party or the victim, adjust the manner of payment of a fine or restitution-pursuant to 18 U.S.C. §3664(k). See also 18 U.S.C. §3572(d)(3) and for probation 18 U.S.C. §3563(a)(7).

Payments shall be applied in the following order:

1. Special assessments pursuant to 18 U.S.C. §3013;
2. Restitution, in this sequence:
 - Private victims (individual and corporate),
 - Providers of compensation to private victims,
 - The United States as victim;
3. Fine;
4. Community restitution, pursuant to 18 U.S.C. §3663(c); and

5. Other penalties and costs.

**SPECIAL CONDITIONS FOR PROBATION
AND SUPERVISED RELEASE**

As directed by the Probation Officer, the defendant shall provide to the Probation Officer: (1) a signed release authorizing credit report inquiries; (2) federal and state income tax returns or a signed release authorizing their disclosure and (3) an accurate financial statement, with supporting documentation as to all assets, income and expenses of the defendant. In addition, the defendant shall not apply for any loan or open any line of credit without prior approval of the Probation Officer.

The defendant shall maintain one personal checking account. All of defendant's income, "monetary gains," or other pecuniary proceeds shall be deposited into this account, which shall be used for payment of all personal expenses. Records of all other bank accounts, including any business accounts, shall be disclosed to the Probation Officer upon request.

The defendant shall not transfer, sell, give away, or otherwise convey any asset with a fair market value in excess of \$500 without approval of the Probation Officer until all financial obligations imposed by the Court have been satisfied in full.

These conditions are in addition to any other conditions imposed by this judgment.

RETURN

I have executed the within Judgment and Commitment as follows:

Defendant delivered on _____ to _____

Defendant noted on appeal on _____

Defendant released on _____

Mandate issued on _____

Defendant's appeal determined on _____

Defendant delivered on _____ to _____

at _____

the institution designated by the Bureau of Prisons,
with a certified copy of the within Judgment and Commitment.

United States Marshal

By _____

Date

Deputy Marshal

CERTIFICATE

I hereby attest and certify this date that the foregoing document is a full, true and correct copy of the original on file in my office, and in my legal custody.

Clerk, U.S. District Court

By _____

Filed Date

Deputy Clerk

FOR U.S. PROBATION OFFICE USE ONLY

Upon a finding of violation of probation or supervised release, I understand that the court may (1) revoke supervision, (2) extend the term of supervision, and/or (3) modify the conditions of supervision.

These conditions have been read to me. I fully understand the conditions and have been provided a copy of them.

(Signed) _____
Defendant Date

U. S. Probation Officer/
Designated Witness

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA, Plaintiff-Appellee, v. YUZEF YUNOSOVICH ABRAMOV, aka Yuzef Abramov, Defendant-Appellant.	No. 16-50104 D.C. No. 2:14-cr-00241-ODW-1 Central District of California, Los Angeles ORDER (Filed Mar. 29, 2019)
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Before: GRABER, W. FLETCHER, and OWENS, Circuit Judges.

Appellant's Motion to File Oversize Petition for Panel Rehearing is GRANTED. The petition for panel rehearing tendered March 26, 2019, is ordered filed.

Appellant's Petition for Panel Rehearing is DENIED.
