NO.

IN THE SUPREME COURT OF THE UNITED STATES

SHA-RON HAINES,

Petitioner

v.

UNITED STATES OF AMERICA,

Respondent.

On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Ninth Circuit

PETITIONER'S APPENDIX VOL. 1 TO WRIT OF CERTIORARI

Dated this 7th day of June, 2019.

Respectfully Submitted.

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FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA, *Plaintiff-Appellee*, v. SHA-RON HAINES, *Defendant-Appellant*.	No. 17-10059 D.C. No. 2:14-cr-00264-APG-VCF-2 OPINION

Appeal from the United States District Court
for the District of Nevada
Andrew P. Gordon, District Judge, Presiding

Argued and Submitted January 17, 2019
San Francisco, California

Filed March 14, 2019

Before: J. Clifford Wallace and Michelle T. Friedland, Circuit Judges, and Lynn S. Adelman,* District Judge.

Opinion by Judge Adelman

* The Honorable Lynn S. Adelman, United States District Judge for the Eastern District of Wisconsin, sitting by designation.

SUMMARY**

Criminal Law

The panel affirmed the district court's judgment in a case in which the defendant was convicted of conspiracy to commit sex trafficking of a minor, sex trafficking of a minor, conspiracy to transport a minor to engage in prostitution, and transporting a minor to engage in prostitution.

At trial, the defendant sought to question minor J.C. about her prior prostitution activities (which apparently did not involve a pimp), arguing that this evidence was relevant to, among other things, whether he recruited or encouraged her to engage in prostitution on this occasion. The panel held that the district court did not err by excluding the testimony under Fed. R. Evid. 412, the "rape shield" rule. The panel rejected the defendant's contention that evidence of J.C.'s prior prostitution activities should have been admitted under the exception in Rule 412(b)(1)(C) for "evidence whose exclusion would violate [his] constitutional rights"—here, his due process right to present a complete defense and his Sixth Amendment right to confront witnesses. The panel saw no reason to depart from persuasive authorities holding that a defense such as the one the defendant sought to present—that he had no intent to, and did not, pimp out J.C.—triggers the exception. The panel also held that the applicability of Rule 412 should not depend on the alleged victim's desire to testify. The panel concluded that even if the district court misapplied Rule 412, any error would be

** This summary constitutes no part of the opinion of the court. It has been prepared by court staff for the convenience of the reader.

harmless. The panel held that the defendant's arguments that the government opened the door to testimony about J.C.'s prior activities lacked merit.

The panel addressed other arguments in a separate memorandum disposition.

COUNSEL

Karen A. Connolly (argued), Karen A. Connolly, Ltd., Las Vegas, Nevada, for Defendant-Appellant.

Vijay Shanker (argued), United States Department of Justice, Criminal Division, Appellate Section, Washington D.C., for Plaintiff-Appellee.

OPINION

ADELMAN, District Judge:

Sha-Ron Haines appeals his convictions for conspiracy to commit sex trafficking of a minor, sex trafficking of a minor, conspiracy to transport a minor to engage in prostitution, and transporting a minor to engage in prostitution. We have jurisdiction under 28 U.S.C. § 1291. We affirm.

I.

The government alleged that Haines and his friend Tyral King transported two minor females, J.C. (age 15) and A.S. (age 17), from Nevada to California to prostitute them, with J.C. working for Haines and A.S. working for King. The

girls found "dates" by walking a "track" where men picked up prostitutes and through ads posted on a website called "Backpage.com." King and Haines would drop the girls off at their dates and return to pick them up afterwards.

J.C. initially cooperated with the government's investigation, albeit reluctantly. She testified before the grand jury that ultimately indicted Haines and King that she worked for Haines and gave him the money she earned from prostitution. Prior to trial, however, her account changed. J.C. then claimed that she initially implicated Haines due to pressure from the investigating detective to testify in exchange for release from juvenile detention. This change may have been prompted by a jailhouse phone call in which Haines advised J.C. to make herself unavailable to testify at trial, of which the government later found a recording.

Whatever the reason, at trial J.C. testified that she worked independently, that she kept her earnings, and that her prior grand jury testimony to the contrary was false. The government impeached J.C. with her previous testimony. *See* Fed. R. Evid. 801(d)(1)(A) (authorizing the admission of prior inconsistent statements by testifying witnesses as substantive evidence if the prior statements were given under oath). The government also presented testimony from King, who pleaded guilty and agreed to cooperate with the government, that J.C. worked for Haines and gave Haines her prostitution earnings.

The jury convicted Haines on all counts. The district court sentenced him to 156 months in prison.

II.

Haines's defense at trial was that he was merely along for the ride and did not act as J.C.'s pimp. In support of that

defense, he sought to question J.C. about her prior prostitution activities (which apparently did not involve a pimp), arguing that this evidence was relevant to, among other things, whether he recruited or encouraged her to engage in prostitution on this occasion. The district court excluded the testimony under Federal Rule of Evidence 412, the "rape shield" rule.

We review a district court's evidentiary rulings for abuse of discretion, though we review de novo the district court's interpretation of the Federal Rules of Evidence. *United States v. Kahre*, 737 F.3d 554, 565 (9th Cir. 2013). We also review de novo whether a district court's evidentiary rulings violated a defendant's constitutional rights. *United States v. Laursen*, 847 F.3d 1026, 1031 (9th Cir. 2017).

Rule 412 provides, in pertinent part:

> (a) Prohibited Uses. The following evidence is not admissible in a civil or criminal proceeding involving alleged sexual misconduct:
>
> > (1) evidence offered to prove that a victim engaged in other sexual behavior; or
> >
> > (2) evidence offered to prove a victim's sexual predisposition.
>
> (b) Exceptions.
>
> > (1) Criminal Cases. The court may admit the following evidence in a criminal case:
> >
> > > (A) evidence of specific instances of a victim's sexual behavior, if offered

> to prove that someone other than the defendant was the source of semen, injury, or other physical evidence;
>
> (B) evidence of specific instances of a victim's sexual behavior with respect to the person accused of the sexual misconduct, if offered by the defendant to prove consent or if offered by the prosecutor; and
>
> (C) evidence whose exclusion would violate the defendant's constitutional rights.

Fed. R. Evid. 412.

The district court correctly determined that the Rule applied. As our sister circuits have noted, sex trafficking cases involve "alleged sexual misconduct," *see United States v. Wardlow*, 830 F.3d 817, 820 (8th Cir. 2016) (applying Rule 412 in § 2423 prosecution); *United States v. Elbert*, 561 F.3d 771, 776 (8th Cir. 2009) (applying Rule 412 in § 1591 prosecution), and evidence of a trafficking victim's pre- or post-indictment involvement in prostitution implicates her "other sexual behavior" or "sexual predisposition," *see United States v. Lockhart*, 844 F.3d 501, 509 (5th Cir. 2016). Consistent with this construction of the Rule, courts have routinely barred evidence of a sex trafficking victim's other prostitution activities. *See, e.g.*, *United States v. Betts*, 911 F.3d 523, 528–29 (8th Cir. 2018); *United States v. Groce*, 891 F.3d 260, 267–68 (7th Cir. 2018); *United States v. Carson*, 870 F.3d 584, 593 (7th Cir. 2017), *cert. denied*, 138 S. Ct. 2011 (2018); *United States v. Gemma*, 818 F.3d 23, 34–35 (1st Cir. 2016); *Lockhart*, 844 F.3d at 510; *Elbert*, 561 F.3d at 777; *cf. United States v. Backman*, 817 F.3d 662, 670

(9th Cir. 2016) (affirming exclusion for failure to comply with the Rule's procedural requirements but expressing "doubt that evidence that the victim engaged in commercial sex acts *after* she had been coerced into prostitution has a bearing on whether Defendant earlier took coercive actions").

Haines argues that evidence of J.C.'s prior prostitution activities should have been admitted under the exception to Rule 412 for "evidence whose exclusion would violate the defendant's constitutional rights"—here, his due process right to present a complete defense and his Sixth Amendment right to confront witnesses. But in cases involving adult victims forced or coerced into prostitution, courts have rejected such arguments, concluding that evidence of other prostitution activity has little or no relevance. Courts have reasoned that just because a victim agreed to engage in sex for money on other occasions does not mean she consented to, e.g., being beaten or having her earnings confiscated by the defendant. *See United States v. Rivera*, 799 F.3d 180, 185–86 (2d Cir. 2015); *United States v. Cephus*, 684 F.3d 703, 708 (7th Cir. 2012).

Haines argues that his case is different because his defense was not consent but rather that he had no intent to, and did not, pimp out J.C. However, he makes no attempt to distinguish *Elbert*, a case, like his, involving a minor victim (as to which the government need not show force, fraud, or coercion to prove a violation). The *Elbert* court rejected the argument that evidence of a child-victim's other sexual behavior should be admitted to rebut the allegation that the defendant recruited the victim to engage in commercial sex acts. The court explained:

> What Elbert fails to recognize is the evidence he wishes to admit does not provide a defense for the crime with which he was charged and convicted. Elbert repeatedly argues evidence of the victims' prior acts of prostitution demonstrates he did not cause them to engage in commercial sex acts. This argument relies upon an improper construction of the phrase "caused to engage." 18 U.S.C. § 1591(a). Because the victims were minors and could not legally consent, the government did not need to prove the elements of fraud, force, or coercion, which are required for adult victims. *Id.* Instead, the government was only required to prove Elbert knowingly recruited, enticed, harbored, transported, provided, or obtained a minor, knowing the minor would be caused to engage in commercial sex acts. *Id.* Whether the children engaged in acts of prostitution before or after their encounters with Elbert is irrelevant, and would only prove other people may be guilty of similar offenses of recruiting, enticing, or causing these victims to engage in a commercial sex act.

561 F.3d at 777. The court thus rejected Elbert's argument that this was "evidence [whose] exclusion . . . would violate the defendant's constitutional rights" and thus within the exception contained in Rule 412. *Id.* at 776–77 (quoting Fed. R. Evid. 412(b)(1)(C)).

That J.C. may have prostituted on other occasions on her own does not change the result. In *United States v. Shamsud-Din*, No. 10 CR 927, 2011 U.S. Dist. LEXIS

124449, at *3 (N.D. Ill. Oct. 27, 2011), the defendant sought to admit evidence that the alleged victims prostituted at other times without a pimp. In a passage that applies equally to this case, the court, ruling pre-trial, stated:

> Defendant contends that his defense is broader than that in *Elbert* because his proffered evidence here offers a complete defense to the charges. He specifically asserts that he is arguing that the proffered evidence shows that Victims A and B engaged in the prostitution on their own and without his involvement or knowledge. His argument is a distinction without a difference. Defendant is free to explore whether the Victims engaged in the prostitution activities at issue in this case on their own, rather than with his assistance. He can also question the Victims about their computer skills and whether or not they are familiar with Craigslist, without asking about using it for advertising prior or subsequent prostitution activities. Defendant cannot, however, inquire into other prostitution activities. Such evidence of prior and post prostitution activities is the equivalent of propensity evidence and irrelevant to the charges.

Id. at *11.

Haines cites no case holding that a defense such as the one he sought to present here triggers the exception in Rule

412. And we see no reason to depart from the persuasive authorities set forth above that held to the contrary.[1]

What *does* make this case somewhat different from those cited above is J.C.'s posture at trial. As Haines notes, Rule 412 aims to "safeguard the alleged victim against the invasion of privacy, potential embarrassment and sexual stereotyping that is associated with public disclosure of intimate sexual details." *See* Fed. R. Evid. 412, Advisory Committee's Notes to 1994 Amendments ("Advisory Committee Notes"). Haines contends that in his case J.C. actually *wanted* to testify about her prior acts of prostitution, and that the government used Rule 412 not as a shield to protect a cooperative victim's privacy, but as a sword to obtain a conviction by precluding him from eliciting favorable testimony from a recalcitrant witness. The parties do not cite—and we have not found—a case discussing applicability of the Rule to a witness hostile to the government.

For several reasons, however, we conclude that the applicability of the Rule should not depend on the alleged victim's desire to testify. First, Rule 412 is a rule of exclusion containing three specific exceptions in criminal cases; the victim's desire to testify or waive the protections of the Rule is not one of them. Second, to the extent that Rule 412 also serves the purpose of keeping irrelevant,

[1] For the same reasons, we reject Haines's argument that his right to present a defense was violated when, after the government challenged the credibility of J.C.'s trial testimony, he was not permitted to "rehabilitate" her with irrelevant and otherwise inadmissible evidence about her prior sexual behavior. *See United States v. Scheffer*, 523 U.S. 303, 308 (1998) (explaining that the right to present a defense is not unfettered, and law-makers retain broad latitude to establish rules excluding evidence from criminal trials).

prejudicial, and/or inflammatory evidence from the jury, it should not matter whether the witness *wants* its protection; the district court enforces the Rule to ensure that the jury decides the case based on proper considerations. *See* Advisory Committee Notes (noting that the Rule prevents "the infusion of sexual innuendo into the factfinding process"); *Privacy of Rape Victims: Hearing Before the Subcomm. on Crim. J. of the H. Comm. on the Judiciary on H.R. 14666 and Other Bills*, 94th Cong. 41 (1976) (statement of Mary Ann Largen, National Organization of Women) ("[Proposed Rule 412] assures that highly inflammatory and arguably irrelevant matters will not be injected."). Third, allowing the victim's wishes to control opens the door to mischief. Indeed, in this case the government suspected that J.C. changed her testimony based on pressure from Haines.

Finally, even if the district court misapplied Rule 412 here, and we do not believe it did, any error would be harmless. *See United States v. Preston*, 873 F.3d 829, 835 (9th Cir. 2017) (noting that evidentiary rulings are subject to harmless error review); *United States v. Nielson*, 371 F.3d 574, 581 (9th Cir. 2004) ("Confrontation Clause violations are subject to harmless error analysis[.]"); *see also United States v. Torres*, 794 F.3d 1053, 1062–63 (9th Cir. 2015) (holding that an evidentiary ruling excluding evidence desired by the defense did not violate the right to present a complete defense because the evidence would not have substantially furthered the defense's trial theories). Haines was able to present his theory of the case through J.C.'s testimony that he was not her pimp during the trip to California, that she engaged in the charged acts of prostitution on her own and without his encouragement or involvement, and that she kept the money she earned. Haines was also able to argue to the jury in closing that this trip to California was not J.C.'s "first rodeo," that she knew

where the track was, and that she knew how to place ads on Backpage. The district court also gave the jury a "mere presence" instruction in support of the defense, explaining that to convict in this case "[t]he defendant must be a participant and not merely a knowing spectator," which Haines incorporated into his argument. It is hard to see how additional testimony about J.C.'s other "solo" prostitution-related activities would have materially aided the defense. *See United States v. Hofus*, 598 F.3d 1171, 1180 (9th Cir. 2010) (holding that limitation on testimony from key witness did not violate the defendant's ability to present a defense, where counsel was still able to argue his theory of the case).

We have considered Haines's additional arguments that the government opened the door to testimony about J.C.'s prior activities, but none has merit. The government did not elicit testimony suggesting that Haines introduced J.C. to prostitution or that she was, in the district court's words, "an innocent lamb led to the slaughter." The district court took the issue seriously, warning the government that it could open the door depending on how it presented its case. We hold there was no abuse of discretion in its rulings.

Haines argues that his defense was prejudiced by the district court's refusal to allow him to recall J.C. to ask her about her prior prostitution activities after King testified that Haines, A.S., and J.C. came up with the idea to prostitute while they were at a pool party together. As the district court noted in denying Haines's request, J.C. had already testified that she and A.S. came up with the idea, without Haines's involvement, and the jury would have to decide who was telling the truth, J.C. or King. The government did not open the door simply by presenting evidence contrary to J.C.'s trial testimony.

III.

For the foregoing reasons, and those stated in our separate memorandum disposition addressing Haines's other arguments, we affirm the district court's judgment.

AFFIRMED.

NOT FOR PUBLICATION

FILED

MAR 14 2019

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U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA, Plaintiff-Appellee, v. SHA-RON HAINES, Defendant-Appellant.	No. 17-10059 D.C. No. 2:14-cr-00264-APG-VCF-2 MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Andrew P. Gordon, District Judge, Presiding

Argued and Submitted January 17, 2019
San Francisco, California

Before: WALLACE and FRIEDLAND, Circuit Judges, and ADELMAN,** District Judge.

Sha-Ron Haines appeals his convictions for sex trafficking a minor. We address in a separate, published opinion his argument that the district court erred in

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

** The Honorable Lynn S. Adelman, United States District Judge for the Eastern District of Wisconsin, sitting by designation.

excluding testimony under Federal Rule of Evidence 412. His other arguments are addressed herein. We affirm.

1. We decline to order a new trial based on alleged prosecutorial misconduct.

First, the district court did not abuse its discretion in denying a mistrial based on co-defendant Tyral King's testimony that he met Haines at a youth detention center. *See United States v. Cardenas-Mendoza*, 579 F.3d 1024, 1029 (9th Cir. 2009) ("When there are allegations of prosecutorial misconduct, the court reviews a district court's denial of a mistrial for abuse of discretion."). To obtain a reversal based on prosecutorial misconduct, the defendant must establish both misconduct and prejudice. *United States v. Lloyd*, 807 F.3d 1128, 1167 (9th Cir. 2015). The record does not compel Haines's contention that the prosecutor intentionally elicited this testimony. *See id.* at 1168 ("A prosecutor's inadvertent mistakes or misstatements are not misconduct."). Further, the district court quickly sustained Haines's objection, ordered the jury to disregard the improper testimony, and offered to provide a curative instruction (which Haines declined for strategic reasons). *See United States v. Lemus*, 847 F.3d 1016, 1024 (9th Cir. 2016) ("A cautionary instruction from the judge is generally sufficient to cure any prejudice from the introduction of inadmissible evidence, and 'is the preferred alternative to declaring mistrial when a witness makes inappropriate or prejudicial remarks[.]'" (quoting *United States v. Escalante*, 637 F.2d 1197, 1203 (9th Cir. 1980)). The district court

was better positioned to evaluate the magnitude of any possible prejudice from the passing mention of the juvenile detention facility, and we will not disturb its decision here.

Second, the district court did not abuse its discretion in denying a mistrial based on a police detective's reference, while testifying about a call between Haines and the victim, J.C., to his "training and experience from listening to jail calls." Haines fails to show that the government deliberately violated the court's previous order not to reference jail calls. More importantly, the district court promptly sustained Haines's objection and struck the testimony. These curative measures were sufficient.

Third, Haines fails to demonstrate that he should be granted a new trial based on improper vouching. During rebuttal argument, the prosecutor said: "Tyral King, you don't want to listen to what he said, I think he was honest – I'm not going to say that – withdrawn." She then recast her statement as "the evidence shows that he was saying that he was honest and truthful." Because Haines did not object to the initial, withdrawn statement, our review is for plain error. *See, e.g.*, *United States v. Leon-Reyes*, 177 F.3d 816, 821 (9th Cir. 1999). While a prosecutor may not place the prestige of the government behind a witness through personal assurances of the witness's veracity, *id.*, here the prosecutor quickly withdrew the assertion of personal belief and recast her argument in terms of what the evidence showed. The

district court then instructed the jury that the lawyers' arguments are not evidence, that the jury determines witness credibility, and that the jury should use "greater caution" in evaluating King's testimony. These instructions were sufficient; reversal is not required under the plain error standard. *See United States v. Daas*, 198 F.3d 1167, 1178-79 (9th Cir. 1999).

Finally, Haines fails to demonstrate a pattern of misconduct that so affected the jury's ability to consider the totality of the evidence fairly that it tainted the verdict and deprived Haines of a fair trial. *See United States v. Reyes*, 660 F.3d 454, 463 (9th Cir. 2011).

2. The district court properly denied Haines's motion to dismiss based on outrageous government conduct and subornation of perjury regarding J.C.'s grand jury testimony. Dismissing an indictment for outrageous government conduct is limited to extreme cases in which the defendant can demonstrate that the government's conduct violates fundamental fairness and is so grossly shocking as to violate the universal sense of justice. *United States v. Black*, 733 F.3d 294, 302 (9th Cir. 2013). An indictment obtained through the submission of perjured testimony will be dismissed only if that testimony was material and knowingly presented to the grand jury. *See United States v. Brown*, 347 F.3d 1095, 1098 (9th Cir. 2003). Our review is de novo. *See United States v. Fuchs*, 218 F.3d 957, 964 (9th Cir. 2000).

Haines does not explain how the fact that J.C. later changed her testimony about giving Haines money meant the prosecutor knowingly misled the grand jury. Further, even excising J.C.'s grand jury testimony that she gave her money to Haines, sufficient evidence remained to indict; receipt of money is not an element of any of the charges. Finally, Haines cites no authority for the proposition that a government officer engages in the sort of misconduct warranting the extreme remedy of dismissal by pressuring a witness (already under subpoena) to testify, as the detective allegedly did here.

3. Haines argues that the government knowingly presented false testimony at trial when the detective testified that he never called J.C.'s probation officer. *See Napue v. Illinois*, 360 U.S. 264, 269 (1959) (holding that a due process violation occurs where the state uses false evidence to obtain a criminal conviction). A *Napue* violation requires proving that (1) the testimony was actually false, (2) the government knew or should have known it was false, and (3) the testimony was material. *United States v. Renzi*, 769 F.3d 731, 751 (9th Cir. 2014). Because he did not raise this issue before the district court, Haines must show that any error was plain. *See United States v. Houston*, 648 F.3d 806, 813 (9th Cir. 2011).

Haines fails to show that detective gave false, as opposed to merely inconsistent, direct testimony. Nor can he show that, even if false, the testimony

was material. Haines cross-examined the detective about the additional calls he made, permitting the jury to fully evaluate the issue. *See Renzi*, 769 F.3d at 752.

4. We find no reversible error in the district court's evidentiary rulings, which we review for abuse of discretion. *United States v. Mikhel*, 889 F.3d 1003, 1035 (9th Cir. 2018).

First, the district court did not abuse its discretion in admitting the phone call between Haines and J.C. The government did not disclose the call prior to trial because it did not know of its existence until it debriefed King the Friday before trial; the detective was able to authenticate the call based on his familiarity with Haines's voice, *see United States v. Ortiz*, 776 F.3d 1042, 1044-45 (9th Cir. 2015); and the detective did not narrate the call, as Haines alleges, but rather merely identified the speakers. J.C. also authenticated the call at trial.

Second, the district court did not violate Haines's confrontation rights by allowing "hearsay" testimony that J.C.'s mother, not the investigating detective, reported J.C.'s use of social media to J.C.'s probation officer, resulting in J.C.'s arrest shortly before her grand jury appearance. This testimony was not offered for the truth of the matter – that J.C. really was on social media – but rather to show why J.C. was arrested. *See United States v. Wahchumwah*, 710 F.3d 862, 871 (9th Cir. 2013).

Third, the district court did not abuse its discretion in refusing to allow Haines to admit the minutes of a juvenile court hearing at which J.C. was released, which indicated that J.C. testified before the grand jury earlier that day. Haines argues that the document should have been admitted as a business or public record, but he admitted in the district court that he did not have a records custodian or certification for the document, *see* Fed. R. Evid. 803(6), and he does not even address the "hearsay within hearsay" issue that troubled the district court, *see* Fed. R. Evid. 805. In any event, Haines got this evidence in through J.C.'s probation officer, so any error was harmless.

Fourth, the district court did not err in allowing J.C.'s probation officer and advocate to testify that J.C. never advised them of the detective's alleged coercion. Testimony that a declarant did *not* say something is not hearsay. Further, J.C. herself testified that she did not report the coercion to these people, so any error was harmless.

Finally, the district court did not err in allowing the detective to testify that J.C.'s text messages were indicative of prostitution. Haines cannot show that this amounted to improper expert testimony, rather than lay opinion based on the detective's experience as a vice officer and his knowledge of the investigation. *See United States v. Barragan*, 871 F.3d 689, 704 (9th Cir. 2017).

5. Because the district court committed no reversible error, Haines's cumulative error argument fails as well. *See United States v. Jeremiah*, 493 F.3d 1042, 1047 (9th Cir. 2007).

AFFIRMED.

AO 245B (Rev. 11/16) Judgment in a Criminal Case
Sheet 1

UNITED STATES DISTRICT COURT

District of Nevada

UNITED STATES OF AMERICA
v.
SHA-RON HAINES

JUDGMENT IN A CRIMINAL CASE

Case Number: 2:14-cr-00264-APG-VCF-2

USM Number: 49378-048

Karen Connolly
Defendant's Attorney

THE DEFENDANT:

☐ pleaded guilty to count(s) _____

☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.

☑ was found guilty on count(s) 1 through 4 of the Superseding Indictment
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18 U.S.C. § 1594(c)	Conspiracy to Commit Sex Trafficking	5/24/2014	1
18 U.S.C. §§ 1591(a)(1), (a)(2), (b)(2) and (c); 18 U.S.C. § 2	Sex Trafficking; Aiding and Abetting	5/24/2014	2

The defendant is sentenced as provided in pages 2 through 8 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) _____

☒ Count(s) all remaining counts ☐ is ☒ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

January 27, 2017
Date of Imposition of Judgment

Signature of Judge

ANDREW P. GORDON, UNITED STATES DISTRICT JUDGE
Name and Title of Judge

January 30, 2017
Date

AO 245B (Rev. 11/16) Judgment in a Criminal Case
Sheet 1A

DEFENDANT: SHA-RON HAINES
CASE NUMBER: 2:14-cr-00264-APG-VCF-2

ADDITIONAL COUNTS OF CONVICTION

Title & Section	Nature of Offense	Offense Ended	Count
18 U.S.C. § 1594(c)	Conspiracy to Transport for Prostitution or Other Illegal Sexual Activity	5/24/2014	3
18 U.S.C. § 2423(a); 18 U.S.C. § 2	Transportation for Prostitution or Other Illegal Sexual Activity and Aiding and Abetting	5/24/2014	4

AO 245B (Rev. 11/16) Judgment in Criminal Case
Sheet 2 — Imprisonment

DEFENDANT: SHA-RON HAINES
CASE NUMBER: 2:14-cr-00264-APG-VCF-2

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of:

156 months, per count, all to run concurrent.

☑ The court makes the following recommendations to the Bureau of Prisons:

The Court recommends the defendant be permitted to serve his term of incarceration at a facility in Phoenix, Arizona.

☑ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____.

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____.

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

a _____, with a certified copy of this judgment.

_____
UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

AO 245B (Rev. 11/16) Judgment in a Criminal Case
Sheet 3 — Supervised Release

DEFENDANT: SHA-RON HAINES
CASE NUMBER: 2:14-cr-00264-APG-VCF-2

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of : Lifetime

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court, not to exceed 104 tests annually.
   ☐ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. ☑ You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
5. ☑ You must comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
6. ☐ You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

DEFENDANT: SHA-RON HAINES
CASE NUMBER: 2:14-cr-00264-APG-VCF-2

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature _____ Date _____

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SPECIAL CONDITIONS OF SUPERVISION

1. Sex Offender Treatment - The defendant shall attend, cooperate with, and actively participate in a sex offender treatment program, which may include polygraph examinations, as approved and directed by the probation officer, and as recommended by the assigned treatment provider.

2. Mental Health Treatment - You shall participate in and successfully complete a mental health treatment program, which may include testing, evaluation, and/or outpatient counseling, as approved and directed by the probation office. You shall refrain from the use and possession of beer, wine, liquor, and other forms of intoxicants while participating in mental health treatment. Further, you shall be required to contribute to the costs of services for such treatment, as approved and directed by the probation office based upon your ability to pay.

3. No Contact with Minors - The defendant shall not associate with children under the age of 18, without the consent of a parent or guardian who is aware of the nature of the defendant's background and offense conduct. Furthermore, the association shall only occur in the presence of a responsible adult who is also aware of the nature of the defendant's background and offense conduct. The consent and notifications shall be confirmed and approved by the probation officer in advance. The defendant shall not loiter within 100 feet of places primarily used by children under the age of 18. This includes, but is not limited to, school yards, playgrounds, arcades, public swimming pools, water parks, and day care centers. The defendant shall not engage in any occupation, either paid or volunteer, that caters to known persons under the age of 18.

4. Victim-Witness Prohibition - You shall not have contact, directly or indirectly, with any victim or witness in this instant offense, unless under the supervision of the probation officer.

5. No Contact Condition - You shall not have contact, directly or indirectly, associate with Tyral King, or be within 500 feet of Tyral King, his residence or business, and if confronted by Tyral King in a public place, you shall immediately remove yourself from the area.

6. Warrantless Search - You shall submit your person, property, residence, place of business and vehicle under your control to a search, conducted by the United States probation officer or any authorized person under the immediate and personal supervision of the probation officer, at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of supervision; failure to submit to a search may be grounds for revocation; the defendant shall inform any other residents that the premises may be subject to a search pursuant to this condition.

7. Computer Restriction and Monitoring - The defendant shall keep the probation officer accurately informed of all computers and computer related digital devices or equipment with memory and/or wireless capabilities that he/she owns, uses, possesses or has access to. This includes, but is not limited to, desktop, laptop, and tablet computers, smart phones, cameras, digital readers, and thumb drives. The defendant shall provide to the probation officer all device and program passwords and internet service provider information, upon request. The defendant shall consent to the installation of any hardware or software systems on any computer or computer related digital device, to monitor the use of said equipment, at the direction of the probation officer; and the defendant agrees not to tamper with such hardware or software and not install or use any software programs designed to hide, alter, or delete his/her computer activities. Furthermore, the defendant shall consent to the inspection, imaging, copying of data, or removal of any device to ensure compliance with conditions.

8. Notice to Employer of Computer Restriction - The defendant shall consent to third-party disclosure to any employer or potential employer, concerning any computer related restrictions that are imposed upon him/her. This includes activities in which the defendant is acting as a technician, advisor, or consultant with or without any monetary gain or other compensation.

9. True Name - You shall use your true name at all times and will be prohibited from the use of any aliases, false dates of birth, social security numbers, places of birth, and any other pertinent demographic information.

AO 245B (Rev. 11/16) Judgment in a Criminal Case
Sheet 5 — Criminal Monetary Penalties

DEFENDANT: SHA-RON HAINES
CASE NUMBER: 2:14-cr-00264-APG-VCF-2

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	Assessment	JVTA Assessment*	Fine	Restitution
TOTALS	$ 400.00	$	$	$

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

Name of Payee	Total Loss**	Restitution Ordered	Priority or Percentage

TOTALS $ _____ $ _____

☐ Restitution amount ordered pursuant to plea agreement $ _____

☐ The defendant must pay interest on restitution and a fine of more than $2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.
** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

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SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

A ☑ Lump sum payment of $ 400.00 due immediately, balance due

☐ not later than _____, or
☐ in accordance with ☐ C, ☐ D, ☐ E, or ☐ F below; or

B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or

C ☐ Payment in equal _____ *(e.g., weekly, monthly, quarterly)* installments of $ _____ over a period of _____ *(e.g., months or years)*, to commence _____ *(e.g., 30 or 60 days)* after the date of this judgment; or

D ☐ Payment in equal _____ *(e.g., weekly, monthly, quarterly)* installments of $ _____ over a period of _____ *(e.g., months or years)*, to commence _____ *(e.g., 30 or 60 days)* after release from imprisonment to a term of supervision; or

E ☐ Payment during the term of supervised release will commence within _____ *(e.g., 30 or 60 days)* after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or

F ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers *(including defendant number)*, Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

☐ The defendant shall pay the cost of prosecution.

☐ The defendant shall pay the following court cost(s):

☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) JVTA assessment, (8) penalties, and (9) costs, including cost of prosecution and court costs.

Additional material from this filing is available in the Clerk's Office.