

No. \_\_\_\_\_

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**IN THE SUPREME COURT OF THE UNITED STATES**

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WILLIAM BRADNER, PETITIONER  
*v.*  
UNITED STATES OF AMERICA, RESPONDENT

*ON PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT*

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**APPENDIX TO THE  
PETITION FOR A WRIT OF CERTIORARI**

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SUBMITTED: September 08, 2020

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No. 19-5928  
UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

FILED  
Jul 21, 2020  
DEBORAH S. HUNT, Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

WILLIAM BRADNER,

Defendant-Appellant.

O R D E R

**BEFORE:** SUTTON, COOK, and MURPHY, Circuit Judges.

The court received a petition for rehearing en banc. The original panel has reviewed the petition for rehearing and concludes that the issues raised in the petition were fully considered upon the original submission and decision of the case. The petition then was circulated to the full court. No judge has requested a vote on the suggestion for rehearing en banc.

Therefore, the petition is denied.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

Deborah S. Hunt  
Clerk

100 EAST FIFTH STREET, ROOM 540  
POTTER STEWART U.S. COURTHOUSE  
CINCINNATI, OHIO 45202-3988

Tel. (513) 564-7000  
[www.ca6.uscourts.gov](http://www.ca6.uscourts.gov)

Filed: July 21, 2020

Mr. Steven D. Jaeger  
The Jaeger Firm  
23 Erlanger Road  
Erlanger, KY 41018

Re: Case No. 19-5928, *USA v. William Bradner*  
Originating Case No.: 2:18-cr-20153-1

Dear Mr. Jaeger,

The Court issued the enclosed Order today in this case.

Sincerely yours,

s/Beverly L. Harris  
En Banc Coordinator  
Direct Dial No. 513-564-7077

cc: Ms. Naya Bedini  
Ms. Debra Lynn Ireland

Enclosure

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

Deborah S. Hunt  
Clerk

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Filed: June 22, 2020

Ms. Naya Bedini  
Ms. Debra Lynn Ireland  
Office of the U.S. Attorney  
167 N. Main Street  
Suite 800  
Memphis, TN 38103

Mr. Steven D. Jaeger  
The Jaeger Firm  
23 Erlanger Road  
Erlanger, KY 41018

Re: Case No. 19-5928, *USA v. William Bradner*  
Originating Case No. : 2:18-cr-20153-1

Dear Counsel,

The Court issued the enclosed opinion today in this case.

Sincerely yours,

s/Cathryn Lovely  
Opinions Deputy

cc: Mr. Thomas M. Gould

Enclosure

Mandate to issue

**NOT RECOMMENDED FOR PUBLICATION**

File Name: 20a0368n.06

Case No. 19-5928

**UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT**

UNITED STATES OF AMERICA, )  
Plaintiff-Appellee, )  
v. )  
WILLIAM BRADNER, )  
Defendant-Appellant. )

**FILED**  
Jun 22, 2020  
DEBORAH S. HUNT, Clerk

BEFORE: SUTTON, COOK, and MURPHY, Circuit Judges.

SUTTON, Circuit Judge. William Bradner pleaded guilty to charges arising out of molesting his two stepdaughters. Both parties agreed Bradner's sentence would be at least 300 months. Bradner argues that the government breached the agreement by requesting a sentence of 480 months or more during his sentencing hearing. He also argues that this request amounted to prosecutorial misconduct and rendered his guilty plea involuntary, and that his 480-month sentence was substantively unreasonable. Because the government did not breach the plea agreement, engage in prosecutorial misconduct, or coerce Bradner into pleading guilty, and because Bradner's plea bars his sentencing challenge, we affirm.

In April 2018, Bradner's then-wife found pictures and videos on his laptop depicting him engaged in sexual conduct with her two daughters, Bradner's stepdaughters. One daughter was 13, and the other was 15. She reported him to local law enforcement. Investigators searched their

Case No. 19-5928, *United States v. Bradner*

home and found stashes of covert cameras. They also found a data storage card in a trash can. On the card, forensic analysts found a folder named after each child. The folders contained over 400 sexually explicit photos and videos of the children, taken between October 2016 and February 2018.

The United States indicted Bradner on seven counts of sexually exploiting children, 18 U.S.C. § 2251(a)–(b), (e), and one count of possessing visual depictions of minors engaging in sexually explicit conduct, *id.* § 2252(a)(4)(B), (b)(2). Tennessee charged him with 11 counts arising out of the same conduct, including rape and aggravated sexual battery.

Bradner agreed to plead guilty to three exploitation counts and one possession count for a total sentence of “*not less than* 300 months.” R. 41 at 2. At his plea hearing, that part of the agreement came up three times. The government first summarized the agreement’s terms, confirming that the minimum sentence was 300 months, and “the parties will be able to argue for where the sentence should be fixed above that limit.” R. 69 at 19–20. Bradner agreed that the government accurately summarized the agreement. Minutes later, the court drew Bradner’s attention to that provision a second time: “[Y]ou and the Government are agreeing . . . that I sentence you to not less than 300 months.” *Id.* at 22. Bradner again confirmed his understanding. Soon after, the judge mentioned the provision a third time: “I also . . . have to consider the binding agreement that you and the Government made of the not less than 300 months in making my [sentencing] decision.” *Id.* at 24. “That’s fine,” Bradner confirmed. *Id.* at 25.

At sentencing, the government requested a sentence of 480 months or more. Bradner sought a 300-month sentence, mentioning the plea agreement to argue that, “in some fashion,” the government agreed that a 300-month sentence “is appropriate.” R. 66 at 32, 36. The court

Case No. 19-5928, *United States v. Bradner*

sentenced Bradner to 480 months. Bradner did not object to the prosecution's conduct or the plea agreement's validity.

On appeal, Bradner asks us to vacate his conviction because the government agreed to a minimum sentence of 300 months, then argued for a sentence of 480 months or more. That counts as a bait-and-switch to his mind, and it creates three legal problems: engaging in prosecutorial misconduct, breaching the agreement, and making the agreement involuntary.

Each argument suffers from the same problem. The prosecution did exactly what the plea agreement left it free to do. Bradner and the government agreed that his sentence would be 300 months or more. And the government sought a sentence of more than 300 months. That forecloses Bradner's prosecutorial misconduct argument because he cannot show the prosecutor behaved improperly, and it forecloses his breach argument because he cannot show the prosecution welched on the plea agreement. *United States v. Wandahsega*, 924 F.3d 868, 884 (6th Cir. 2019); *United States v. Moncivais*, 492 F.3d 652, 662 (6th Cir. 2007).

As for making the agreement involuntary, a similar problem lurks. A plea is knowing and voluntary if the defendant understands the plea's "likely consequences." *Brady v. United States*, 397 U.S. 742, 748 (1970). The plea agreement's text gave Bradner plenty of notice about this "likely consequence[]." *Id.* It did not lock either party into a position about where Bradner's sentence ought to fall above the 300-month floor. And if that were not clear enough, the plea colloquy removed all doubt. Bradner acknowledged that the government correctly summarized the agreement's terms when it said "the parties will be able to argue for where the sentence should be fixed above that [300-month] limit." R. 69 at 19–20. And he acknowledged the term twice more during the next few minutes of the hearing. It's hard to imagine a better way to establish more clarity about the point.

Case No. 19-5928, *United States v. Bradner*

Nor did the term amount to an illusory promise or empty the plea agreement of benefits to Bradner. *See United States v. Randolph*, 230 F.3d 243, 249–51 (6th Cir. 2000). On paper, both sides got something out of the agreement. The government dropped four counts against Bradner and agreed not to oppose a three-level reduction for acceptance of responsibility. Bradner agreed to admit to the other four counts and to receive a sentence of 300 months or more.

In context, the agreement makes even more sense. Bradner faced a serious 11-count indictment on Tennessee charges, too. Plea negotiations involved the prosecutors in both cases. Bradner's primary goal through the negotiations was to serve his sentence in federal prison rather than Tennessee's prison system so that he could take advantage of its rehabilitation programs and because he thought it would be more secure for people like him who committed crimes against children. And Bradner refused to go to trial to avoid further airing his misdeeds. He accomplished both goals through the agreement. Sure, agreeing to a minimum sentence disadvantaged Bradner rather than the United States. But nothing about his willingness to make that concession rendered the rest of the agreement worthless.

Bradner presses that the district court gave him a longer sentence than his conduct deserved. But he waived the right to make that argument. We enforce knowing and voluntary waivers of appellate rights. *United States v. Hockenberry*, 730 F.3d 645, 671 (6th Cir. 2013). Because Bradner expressly waived the right to challenge this point, we dismiss this part of the appeal.

We affirm in part and dismiss the appeal in part.

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

---

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Cr. No. 18-20153

WILLIAM BRADNER,

Defendant.

---

NOTICE OF APPEAL

---

Notice is hereby given that WILLIAM BRADNER appeals to the United States Court of Appeals for the Sixth Circuit from the JUDGEMENT entered in this action on August 19, 2019.

Respectfully submitted,

/s/ Lee Gerald  
Lee Gerald  
Attorney at Law  
619 South Cooper Street  
Memphis, TN 38104  
901-525-8848

DATE: August 19, 2019

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Notice of Appeal has been electronically forwarded to Ms. Deb Ireland, Assistant U.S. Attorney, this the 19<sup>th</sup> day of August, 2019.

/s/ Lee Gerald  
Lee Gerald

## UNITED STATES DISTRICT COURT

Western District of Tennessee

UNITED STATES OF AMERICA

v.

WILLIAM BRADNER

## JUDGMENT IN A CRIMINAL CASE

Case Number: 2:18CR20153-1-SHL

USM Number: 30861-076

Lee Gerald, Retained

Defendant's Attorney

## THE DEFENDANT:

 pleaded guilty to count(s) 2, 4, 6, and 8 of the Indictment on 3/28/2019. pleaded nolo contendere to count(s) \_\_\_\_\_ which was accepted by the court. was found guilty on count(s) \_\_\_\_\_ 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. § 2251	Coercion of a Minor to Engage in Sexually Explicit Conduct	9/30/2017	2
(a)and(e)	for the Purpose of Producing Visual Depictions		
18 U.S.C. § 2251	Coercion of a Minor to Engage in Sexually Explicit Conduct	11/30/2017	4

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) 1, 3, 5 and 7  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.

8/15/2019  
Date of Imposition of Judgments/Sheryl H. Lipman  
Signature of JudgeSheryl H. Lipman, US District Judge  
Name and Title of Judge8/19/2019  
Date

DEFENDANT: WILLIAM BRADNER  
CASE NUMBER: 2:18CR20153-1-SHL

**ADDITIONAL COUNTS OF CONVICTION**

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
(a)and(e)	for the Purpose of Producing Visual Depictions		
18 U.S.C. § 2251	Coercion of a Minor to Engage in Sexually Explicit Con	6/30/2017	6
(a)and(e)	for the Purpose of Producing Visual Depictions		
18 U.S.C. § 2252(a)(4)	Possession of Child Pornography	4/25/2018	8
(B) and (b)(2)			

DEFENDANT: WILLIAM BRADNER  
CASE NUMBER: 2:18CR20153-1-SHL

## IMPRISONMENT

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

360 months incarceration as to each of counts 2, 4, and 6 of the indictment to be served concurrent with each other; 120 months as to count 8 of the indictment to be served consecutive to counts 2, 4 and 6 for a total term of imprisonment of 480 MONTHS. The complete 480 sentence is to run concurrent with any undischarged sentence in Shelby County Criminal Court Docket 18-06998.

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

1. The defendant be incarcerated in a facility that offers sex offender treatment and houses sex offenders in any state OTHER THAN MASSACHUSETTS OR NEW YORK BECAUSE OF VICTIM LOCATIONS.

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 \_\_\_\_\_  
at \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

DEFENDANT: WILLIAM BRADNER  
CASE NUMBER: 2:18CR20153-1-SHL

### **SUPERVISED RELEASE**

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

5 YEARS supervised release as to each count to be supervised concurrent with each other for a total term of supervision of 5 YEARS

### **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.
  - 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 make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5.  You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6.  You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *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)*
7.  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: WILLIAM BRADNER  
CASE NUMBER: 2:18CR20153-1-SHL

## 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](http://www.uscourts.gov).

Defendant's Signature

Date

DEFENDANT: WILLIAM BRADNER  
CASE NUMBER: 2:18CR20153-1-SHL

### ADDITIONAL SUPERVISED RELEASE TERMS

1. The defendant shall cooperate in the collection of DNA.
2. The defendant shall participate in drug testing and treatment as directed by the probation officer.
3. The defendant shall submit to mental health testing and treatment as directed by the probation officer.
4. The defendant's employment and change of address must be approved by the probation officer.
5. The defendant must participate in a specialized sex offender treatment program that may include use of a polygraph
6. The defendant may not directly or indirectly have contact with any child under age 18; excluding biological children; and may not loiter near school yards, playgrounds, swimming pools, arcades, or other places frequented by children.
7. The defendant's place of residence may not be close in proximity to parks, playgrounds, public pools, or other locations frequented by children.
8. The defendant must abide by an evening curfew as set by the probation officer which may include submitting to remote monitoring, including wearing and maintaining a device for such purposes which may not be removed without the probation officer's permission.
9. The defendant shall not possess, or use, an electronic device or computer with access to any "on-line computer service" at any location (including employment) without the prior approval of the probation officer. This includes any Internet Service Provider, bulletin board system, or any other public or private network or e-mail system
10. The defendant shall complete and comply with sex offender registration requirements, sex offender treatment conditions, polygraph examination condition, and shall follow the specific instructions of the probation officer in regard to these requirements.
11. The defendant may not possess any sexually explicit material and may not use sexually oriented telephone numbers or services.
12. The defendant shall submit his or her person, property, house, residence, vehicle, papers, [computers (as defined in 18 U.S.C. § 1030(e)(1)), other electronic communications or data storage devices or media,] or office, to a search conducted by a United States Probation Officer. Failure to submit to a search may be grounds for revocation of release. The defendant shall warn any other occupants that the premises may be subject to searches pursuant to this condition. An officer may conduct a search pursuant to this condition only when reasonable suspicion exists that the defendant has violated a condition of his supervision and that the areas to be searched contain evidence of this violation. Any search must be conducted at a reasonable time and in a reasonable manner.

DEFENDANT: WILLIAM BRADNER

CASE NUMBER:

## CRIMINAL MONETARY PENALTIES

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

<u>TOTALS</u>	<u>Assessment</u>	<u>JVTA Assessment*</u>	<u>Fine</u>	<u>Restitution</u>
	\$ 400.00	\$	\$	\$
	(DUE IMMEDIATELY)			

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.

<u>Name of Payee</u>	<u>Total Loss**</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
<b>TOTALS</b>	\$ <u>0.00</u>	\$ <u>0.00</u>	

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.

DEFENDANT: WILLIAM BRADNER  
CASE NUMBER: 2:18CR20153-1-SHL

### ADDITIONAL FORFEITED PROPERTY

The defendant shall forfeit to the United States any and all right, title, and interest he has in:

- (a) any visual depiction described in Sections 2251 or 2252 of Title 18 United States Code, and any book, magazine, periodical, film, videotape, and other matter which contains any such visual depiction, which was produced, transported, mailed, shipped, or received in violation of the above-said statute;
- (b) any property, real or personal, constituting or traceable to gross profits of other proceeds obtained from the above-said offenses; and
- (c) any property, real or personal, used or intended to be used to commit or to promote the commission of the above-said offenses, including but not limited to the following:
  - (1) Pixtor Sandisk 64GB SD card
  - (2) Samsung SP-G360P cell phone
  - (3) Samsung SPH-L900 cell phone
  - (4) HP Split x2 laptop/tablet
  - (5) Fantom 2GB external hard drive
  - (6) Samsung CE 0890 Tablet

All pursuant to Title 18, United States Code, Section 2253.

DEFENDANT: WILLIAM BRADNER  
CASE NUMBER: 2:18CR20153-1-SHL  
DISTRICT: Western District of Tennessee

## STATEMENT OF REASONS

(Not for Public Disclosure)

Sections I, II, III, IV, and VII of the Statement of Reasons form must be completed in all felony and Class A misdemeanor cases.

### I. COURT FINDINGS ON PRESENTENCE INVESTIGATION REPORT

A.  The court adopts the presentence investigation report without change.

B.  The court adopts the presentence investigation report with the following changes. (Use Section VIII if necessary)  
(Check all that apply and specify court determination, findings, or comments, referencing paragraph numbers in the presentence report.)

1.  Chapter Two of the United States Sentencing Commission Guidelines Manual determinations by court: (briefly summarize the changes, including changes to base offense level, or specific offense characteristics)
2.  Chapter Three of the United States Sentencing Commission Guidelines Manual determinations by court: (briefly summarize the changes, including changes to victim-related adjustments, role in the offense, obstruction of justice, multiple counts, or acceptance of responsibility)
3.  Chapter Four of the United States Sentencing Commission Guidelines Manual determinations by court: (briefly summarize the changes, including changes to criminal history category or scores, career offender status, or criminal livelihood determinations)
4.  Additional Comments or Findings: (include comments or factual findings concerning any information in the presentence report, including information that the Federal Bureau of Prisons may rely on when it makes inmate classification, designation, or programming decisions; any other rulings on disputed portions of the presentence investigation report; identification of those portions of the report in dispute but for which a court determination is unnecessary because the matter will not affect sentencing or the court will not consider it)

C.  The record establishes no need for a presentence investigation report pursuant to Fed.R.Crim.P. 32. Applicable Sentencing Guideline: (if more than one guideline applies, list the guideline producing the highest offense level) \_\_\_\_\_

### II. COURT FINDING ON MANDATORY MINIMUM SENTENCE (Check all that apply)

A.  One or more counts of conviction carry a mandatory minimum term of imprisonment and the sentence imposed is at or above the applicable mandatory minimum term.

B.  One or more counts of conviction carry a mandatory minimum term of imprisonment, but the sentence imposed is below a mandatory minimum term because the court has determined that the mandatory minimum term does not apply based on:  
 findings of fact in this case: (Specify)  
 substantial assistance (18 U.S.C. § 3553(e))  
 the statutory safety valve (18 U.S.C. § 3553(f))

C.  No count of conviction carries a mandatory minimum sentence.

### III. COURT DETERMINATION OF GUIDELINE RANGE: (BEFORE DEPARTURES OR VARIANCES)

Total Offense Level: 43

Criminal History Category: I

Guideline Range: (after application of §5G1.1 and §5G1.2) 1200

to 1200

months

Supervised Release Range: 5 to LIFE years

Fine Range: \$ 50,000 to \$ 250,000

Fine waived or below the guideline range because of inability to pay.

IN THE UNITED STATES DISTRICT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

VS.

NO. 2:18-cr-20153-SHL

WILLIAM BRADNER,

Defendant.

10

11

12

SENTENCING HEARING

14

15

16

THURSDAY

18

15TH OF AUGUST, 2019

19

20

CANDACE S. COVEY, RDR, CRR  
OFFICIAL REPORTER  
FOURTH FLOOR FEDERAL BUILDING  
MEMPHIS, TENNESSEE 38103

23

24

25

UNREDACTED TRANSCRIPT

1 A P P E A R A N C E S  
2  
3  
4

5 Appearng on behalf of the Plaintiff:

6 MS. DEBRA LYNN IRELAND  
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UNREDACTED TRANSCRIPT

**E X H I B I T   I N D E X**

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Thursday

August 15, 2019

The Sentencing hearing in this case began on this date, Thursday, 15th day of August, 2019, at 11:00 a.m., when and where evidence was introduced and proceedings were had as follows:

THE COURT: Good morning.

MS. IRELAND: Good morning, Your Honor.

MR. GERALD: Good morning, Your Honor.

THE COURT: Good morning, Mr. Bradner.

THE DEFENDANT: Ma'am?

THE COURT: Good morning.

THE DEFENDANT: Good morning.

THE COURT: We are here for your sentencing. I was just handed -- and that's why I was a few minutes late coming out, trying to read these victim impact statements. Ms. Ireland, do you wish to make them an exhibit to the?

MS. IRELAND: No, Your Honor. The young ladies wanted Your Honor to know what they thought. Counsel and Mr. Bradner has seen them. They did not wish to read them aloud or speak to you directly but did wish to convey those thoughts to you. I don't think they need to be an exhibit,

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1 Your Honor, but if you do, I would ask that they be sealed.

2 MR. GERALD: Your Honor, if I may. Ms. Ireland  
3 allowed us to view the victim impact statements, but we were  
4 not allowed to get a copy of them. So Mr. Bradner has not  
5 seen them. I would think that he should be able at least to  
6 review them.

7 THE COURT: Is there any issue with him viewing  
8 them? I mean, they were submitted to me, so he has a right  
9 to see.

10 MR. GERALD: Oh, in that case, I understand.

11 MS. IRELAND: If Your Honor wishes to let him see  
12 it, that's fine. I just don't want to turn them over. I'm  
13 trying to respect the girls' privacy as best I can.

14 MR. GERALD: And I understand that, Your Honor.  
15 I'm not trying to invade anybody's privacy. I would just say  
16 that if it's something the Court is considering in the  
17 sentencing...

18 THE COURT: Yeah. I think he needs to see them  
19 but probably not keep copies.

20 MR. GERALD: No. Nor am I requesting that.

21 THE COURT: Right.

22 MR. GERALD: If we could just have a second, Your  
23 Honor?

24 THE COURT: Yes.

25 MR. GERALD: Thank you, Your Honor.

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1                   THE COURT: All right. And I think they should  
2 be an exhibit. I mean, it's something that's been submitted,  
3 and I certainly read them. And you know, based on my reading  
4 them, they're no doubt going to impact my decision. So I  
5 think they should be an exhibit. But I'm fine to seal them.

6                   MS. IRELAND: Thank you, Your Honor.

7                   THE COURT: So these will be -- we'll just enter  
8 them as collective Exhibit 1 to be sealed.

9                   (WHEREUPON, the above-mentioned documents were  
10 marked as Exhibit Number 1.)

11                  THE COURT: So I've got a presentence report with  
12 one addendum. I've got the Government's position paper and  
13 the two victim impact statements. I've got the Defendant's  
14 position paper filed late but with a motion to accept it.  
15 I'll grant the motion, and I certainly reviewed the position  
16 paper and will accept the position paper. So I'm not -- the  
17 minutes will show granting -- I don't have the ECF number but  
18 the motion to -- well, I guess it's part of -- wasn't it part  
19 of your position paper, or it was a separate motion?

20                  MR. GERALD: I filed it separately but  
21 contemporaneously.

22                  THE COURT: Here it is. ECF 53. The minutes  
23 will show that granted. And I understand the trial schedule  
24 and the busy schedule.

25                  MR. GERALD: Thank you, Your Honor.

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1                   THE COURT: Do your best to, you know, get them  
2 in on time. More for Probation but in this case, you were  
3 clear with Probation that you weren't objecting to anything.  
4 So that kind of relieved them of any issue, so I understand.  
5 Any other documents I should have?

6                   MS. IRELAND: Not at this time, Your Honor.  
7 Although during our argument, we will tender to the Court  
8 some text messages for consideration as part of the  
9 characteristics and history of the Defendant and going toward  
10 the argument that recidivism is unlikely. They are text  
11 messages that were part of discovery, and they are referenced  
12 in the presentence report regarding the young high school  
13 students.

14                   THE COURT: Okay.

15                   MR. GERALD: Your Honor, if I could. Ms. Ireland  
16 has, as of this morning, turned these over to us.  
17 Mr. Bradner has not had a chance to review them because I  
18 just got them.

19                   THE COURT: But you've seen them before because  
20 they were part of discovery.

21                   MR. GERALD: Well, that's what I was going to  
22 say.

23                   THE COURT: Yeah.

24                   MR. GERALD: Ms. Ireland said she turned them  
25 over in discovery. I don't recall having seen what we've

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1 seen today. So I'm not -- it's hard for me to dispute  
2 because I've gone through the discovery packet that I have,  
3 and these are not included. Now, that's not a basis to keep  
4 them out, and I'm not arguing that it is. However, they are  
5 hearsay, and I know hearsay is admissible. But in terms of  
6 the weight of the evidence, I would argue that we don't know  
7 at this point who these messages are to, who these people  
8 are. I don't know anything about it.

9 THE COURT: Let's move forward and I'll hear from  
10 you on those when we get to that point.

11 MR. GERALD: Very well, Your Honor. Okay.

12 THE COURT: As you know, the Rules of Evidence  
13 are not really applicable in this situation, but yet the  
14 concepts behind them are certainly things that I try and use  
15 in evaluating anything that's submitted to me.

16 MR. GERALD: Right. I would just be arguing the  
17 weight of this evidence is where I am.

18 THE COURT: Okay. All right. Any other  
19 documents?

20 MS. IRELAND: No, Your Honor.

21 MR. GERALD: Your Honor, there is -- I've got a  
22 copy, and I referred to this as an exhibit in my position  
23 paper. This is the complete packet from the sentencing  
24 guidelines as far as statistics. I intend to refer to a  
25 couple of other of those tables that I didn't refer to in my

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1 position paper. And I wanted the Court and the Government to  
2 have a copy of that complete packet.

3 THE COURT: I was going to say, the one for the  
4 Sixth Circuit you attached.

5 MR. GERALD: I did and this is specific to the  
6 national statistics and the Sixth Circuit, not to the other.  
7 It doesn't break down other circuits. But anyway...

8 THE COURT: Okay. All right. Anything else?  
9 Any other documents?

10 MR. GERALD: No, Your Honor.

11 THE COURT: Mr. Gerald, have you and Mr. Bradner  
12 read and discussed the presentence report?

13 MR. GERALD: In depth, Your Honor.

14 THE COURT: The filings of the parties indicate  
15 no objection to the presentence report; is that correct?

16 MR. GERALD: That is correct. On behalf of  
17 Mr. Bradner, there are no objections to the guideline  
18 calculations or factual.

19 THE COURT: Okay. I will then adopt the  
20 presentence report without change and as to all matters in  
21 the presentence report, adopt them as the findings of fact.  
22 So from the presentence report, we have the total offense  
23 level of a 43 and a criminal history category of I. We get  
24 to the 43 by first looking at the count group one, which  
25 includes Counts 2 and 8. Base offense level of a 32. Adding

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1       two points for the offense involving minors between the ages  
2       of 12 but not yet 16. I think I said that. Add two points  
3       for that. Add two points for the offense involving the  
4       commission of a sexual act or sexual conduct. Adding two  
5       points for the fact that Mr. Bradner was a parent, relative  
6       or legal guardian. That gets us to 38.

7               As to Count 4, start with a base offense level of  
8       a 32. Again, add the two points for the age of the victims  
9       involved -- the victim involved. Add two points for the  
10      commission of a sexual act or sexual conduct. Add two points  
11      for Mr. Bradner as a parent, relative or legal guardian.  
12      That also is 38.

13               As to Count 6, base offense level of a 32. Add  
14      two points again for the age of the victim. Add two points  
15      again for the fact that sexual act or sexual conduct was  
16      involved. Add two points again for Mr. Bradner's role in the  
17      minor's life. That gets us to the 38. Then you apply the  
18      multi-count adjustment. You get to the greater adjusted  
19      level of a 38 and then add three points for the number of  
20      units assigned in the table. So that gets us to the combined  
21      adjusted offense level of a 41.

22               The offense level is then increased by five.  
23      Because of a pattern of activity involving prohibited sexual  
24      conduct here as is stated in the presentence report, the  
25      Defendant is a repeat and dangerous sex offender against

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1 minors, so that puts us at 46. Deduct two points for  
2 acceptance of responsibility.

3 Ms. Ireland, do you have a motion as to the third  
4 point?

5 MS. IRELAND: We'll move for the third point.

6 THE COURT: I'll grant that motion. So that gets  
7 us to the 43. The guideline range for this, I guess, there's  
8 two different ways to state it. I'll confess that I don't  
9 understand the provision of the guidelines that somehow  
10 translates it into 1200 months. I read it 27 times and still  
11 don't understand what they're trying to say. If I look at  
12 the table, the table says life. And so that's what I'm going  
13 to recognize the guideline range is. And I'll tell you all  
14 that Ms. Roberts and I were e-mailing a little bit as she was  
15 trying to explain why it says 1200. And I guess the software  
16 program that Probation uses is the one that spit out the  
17 1200. But you know, in the ones I've seen before, it will  
18 say life.

19 MS. IRELAND: If I could, all of the counts to  
20 which Mr. Bradner entered a guilty plea have a maximum  
21 sentence. And so if you add the maximums together, a  
22 sentence can go no higher than that, and if Your Honor  
23 imposes life, that is technically outside the guidelines and  
24 so therefore would be an impermissible sentence. That's the  
25 way I understand it.

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1                   THE COURT: But how can you take the maximums and  
2 allow that -- and add that up and that be what the guidelines  
3 are? Because nothing -- it's not the mandatory minimum.  
4 You're looking at the maximums. That was my struggle with  
5 the guideline description. But I don't want to waste our  
6 time on this. If I look at the chart, 43 and a one says  
7 life, and so I'm viewing it as life. And when you say that  
8 would be an impermissible sentence, you're saying that would  
9 be different than what the guidelines say? Which of course I  
10 can --

11                   MS. IRELAND: It would exceed the statutory  
12 maximum, and so it would be an illegal sentence.

13                   THE COURT: Oh, life would exceed.

14                   MS. IRELAND: Yes, Your Honor.

15                   THE COURT: I see what you mean.

16                   MR. GERALD: I think -- I understand what  
17 Ms. Ireland is saying, but I think we're dealing in reality  
18 with some semantics here. But I understand what she's  
19 saying, that if it's conceivable Mr. Bradner could live a  
20 hundred more years than...

21                   THE COURT: It's a little ironic to say life  
22 would exceed the statutory maximum, but 1200 months would not  
23 exceed the statutory maximum. That makes absolutely no  
24 sense.

25                   MR. GERALD: I certainly don't disagree with you,

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1 Judge.

2 THE COURT: That was good. Thank you. I finally  
3 understand that provision.

4 MS. IRELAND: Glad to help.

5 THE COURT: All right. We'll deal with that as  
6 we're talking through this. Guideline supervised release  
7 range is five years to life. The fine range is 50,000 to  
8 250-. In terms of forfeiture, forfeiture of the devices  
9 involved has been sought by the Government. And I think you  
10 have possession of all of them at this point; is that  
11 correct?

12 MS. IRELAND: We do, Your Honor. And I believe  
13 Mr. Bradner agreed to that in the plea agreement. We would  
14 ask that that be made part of the judgment because it's  
15 easier bookkeeping-wise and paperwork-wise, and it expedites  
16 the process.

17 THE COURT: Okay. We will do that. No victim  
18 impact statements have been received seeking restitution,  
19 correct?

20 MS. IRELAND: That's correct, Your Honor.

21 THE COURT: Mandatory special assessment of \$400  
22 here along with the JVTA assessment of \$5,000 per count. And  
23 we'll come back to that as well. Mandatory minimum  
24 sentences, 15 years for Counts 2, 4 and 6.

25 Any objections for the record at this point?

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1 MR. GERALD: No, Your Honor.

2 MS. IRELAND: No, Your Honor.

3 THE COURT: Any other victim evidence to present,  
4 Ms. Ireland?

5 MS. IRELAND: Yes, Your Honor. Ms. Le Martin  
6 would like to address the Court.

7 THE COURT: All right. Well, let me start by  
8 saying --

9 MS. IRELAND: When you're done.

10 THE COURT: Yeah. Mr. Bradner, so where we are  
11 now, we've established the guideline range, defined in a  
12 couple of different ways, and we'll figure that out as we're  
13 talking through it. I think with Ms. Ireland's explanation,  
14 I think she's right. Ironically the 1200 months is probably  
15 what the range is. We also talked at your change of plea  
16 about the other things that go into the sentencing decision.  
17 And those are the 3553 factors. Nature and circumstances of  
18 the offense and the seriousness of it. Things about you,  
19 your history, your background. Do you remember when we  
20 talked about that?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: Okay. So that's where we are now is  
23 I'm going to hear from everyone on those factors and on, you  
24 know, what you all think including, you know, giving you a  
25 chance to say anything you want to say when we get there.

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1 What you all think the sentence should be. Okay?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: So that's process-wise where we are.  
4 And I guess we're going to start with the victim stuff. So  
5 if you all would step over to defense table.

6 MR. GERALD: Your Honor, I'm assuming you're  
7 going to have her on the stand and not here. So I'll clear  
8 all this off.

9 THE COURT: I'm not sure that --

10 MR. GERALD: I'll clear it off.

11 THE COURT: Yeah.

12 MS. IRELAND: And Your Honor, this is being  
13 presented as victim impact, not as witness testimony. So we  
14 would just ask that Ms. Le Martin be allowed to speak with  
15 you and address you.

16 THE COURT: Okay.

17 MS. IRELAND: Would you like her at the podium,  
18 Your Honor?

19 THE COURT: Yeah. Come on up to this one, if you  
20 would. And if you would first state your name for the  
21 record.

22 MS. LE MARTIN: Christina Ann Le Martin.

23 THE COURT: If you would spell that for us.

24 MS. LE MARTIN: C-H-R-I-S-T-I-N-A. Middle name  
25 is A-N-N. Last name is L-E space M-A-R-T-I-N.

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1                   THE COURT: Oh, Le Martin. Okay. What would you  
2 like to say, Ms. Le Martin?

3                   MS. LE MARTIN: So Your Honor, thank you for your  
4 consideration today. I am here on behalf of my two  
5 daughters, Alaina, Alissa, myself and the rest of our family,  
6 which have been harmed irreparably by Mr. Bradner's crimes.  
7 I thought I was raising my daughters in a safe home. The  
8 nebulous dangers were out there somewhere else, not something  
9 that affected a seemingly happy family and definitely not  
10 instigated by someone trusted under the same roof. I was  
11 wrong. And the impact cannot ever fully be known or  
12 quantified, but I can offer up my statement today in the  
13 hopes that the Court provides some justice.

14                   Mr. Bradner is a manipulative liar. He  
15 manipulated my family with the intent and action to cause  
16 grievous harm. He is trying to manipulate this Court today.  
17 He was not serving in the military in 2015 as he claims in  
18 the Defendant's position with respect to sentencing factors.  
19 In fact, he had been out of the military for many years. He  
20 was a civilian employee with a desk job who didn't like his  
21 bosses. Who hasn't at some point had a job they weren't  
22 happy with? They don't all go home and victimize the  
23 children in their homes. He had a supportive family that  
24 said yes, retire early, take time for yourself. Play music.  
25 Ride a motorcycle with your friends. He took this care and

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1 generosity and repaid it with abuse, which our family has to  
2 live with into perpetuity.

3 Alaina can't talk about what occurred yet. But  
4 no matter how much she disassociates or suppresses, the  
5 impact is still felt. Whether it's hiding, sitting in the  
6 floor in a dark room when a random event or comment triggers  
7 an issue or withdrawing from all of her friends or changing  
8 classes to avoid people who even know a small part of what  
9 happened, she is in pain and wants to run away from it all.  
10 Refusing to even consider colleges in the states which she  
11 associates with him.

12 Alissa almost seems normal most days, but she is  
13 anxious about everything and everybody. She considered  
14 suicide but feels it would be selfish and would hurt her  
15 family. So as I ask, how do you provide recompense for this  
16 kind of harm? What happens in the future when the girls are  
17 older? Will they ever have a healthy relationship with a  
18 spouse or children? And I just don't know. I do know their  
19 entire lives will be colored by what has occurred in their  
20 childhood as well as mine will be colored for the rest of my  
21 life for what has occurred. Someone that was trusted to  
22 love, care and protect instead offered betrayal and harm  
23 beyond measure.

24 I ask the Court to provide a sentence appropriate  
25 for Mr. Bradner's crimes with the multiple lives harmed and

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1 to put him in a location that does not give him the  
2 opportunity to continue doing harm. My children cannot only  
3 feel the pain for a portion of their lives and neither can I.  
4 25 years is not fair recompense for the multiple lifetimes he  
5 has damaged. He deserves to serve at least what's left of  
6 his life incarcerated, even if it in no way comes close to  
7 making up for the damage he has done to our family. Our  
8 family deserves the certitude of his lifetime confinement to  
9 help find closure and have the peace of mind to move forward  
10 without fear of some future release weighing on us.

11                   And finally, regardless of the length of sentence  
12 imposed, I beg that he not be allowed to serve that sentence  
13 anywhere in the northeastern states, specifically  
14 Massachusetts or New York. Alaina dreams of going to MIT,  
15 which has one of the best computer science programs in the  
16 world. And while there is no guarantee she will be accepted  
17 to MIT or another of the premier computer science programs  
18 such as Cornell and Columbia, she deserves the chance to  
19 pursue her dream without the fear or anxiety of his  
20 proximity. And I want to thank you for your consideration.

21                   THE COURT: Thank you, Ms. Le Martin.

22                   Any other testimony?

23                   MS. IRELAND: No, Your Honor.

24                   THE COURT: Okay. Come on back up to the podium.

25 Ms. Ireland?

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1 MS. IRELAND: As we just have this one chance to  
2 address you, Your Honor, I'm going to first go through some  
3 of the sentencing factors. As we all know, a sentence should  
4 be sufficient but not greater than necessary to accomplish  
5 the purposes of sentencing. One of the things that we have  
6 to look at is the history and characteristics of Mr. Bradner.  
7 And because I don't get to do rebuttal in these  
8 circumstances, I do want to anticipate a couple of arguments  
9 and address those.

10 Standing before Your Honor and in light of the  
11 entry of his plea, Mr. Bradner has accepted his  
12 responsibility. He pled and he did not make us go to trial.  
13 That's it though, Your Honor. There was no setting aside of  
14 money to pay for potential future counselling for these  
15 children. And more than anything, when you accept  
16 responsibility and say you regret and you're sorry, you still  
17 have to look at the actions of the individual. And every  
18 single time Mr. Bradner had an opportunity to stop, every  
19 time one of the children brushed his hand away or moved  
20 further away from him, it was a sign that this was not right  
21 and they were unhappy. Every single time he could have  
22 stopped and he didn't. So standing here now, once it's been  
23 discovered and accepting responsibility is acknowledgeable,  
24 but the real conduct is what happened, and that's what really  
25 needs to be considered here.

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1 Sometimes in cases like this, Your Honor, people  
2 come before you and say I've seen murderers get smaller  
3 sentences. Yes, probably. Murder is a horrible thing. It's  
4 a one-time thing. Sometimes in the heat of the moment. This  
5 was a deliberate, planned, ongoing, perpetual abuse under the  
6 guise of affection. 12, 13, 14, 15 years old, these girls  
7 were. It was an extended period of time, and they made their  
8 displeasure known. What did they get? More abuse and video  
9 games to distract them while Mr. Bradner continued to touch  
10 them and abuse them.

11 Ms. Le Martin mentioned something about the  
12 ongoing effect of what this does to children. And I think  
13 that that is something I will save for a little bit later in  
14 the argument, Your Honor. First, finishing up with the  
15 Defendant himself. In his submission to the Court, he  
16 self-reports abuse. And that's a tragic thing, no matter who  
17 it happens to. But common sense would suggest that someone  
18 who has been abused would know how damaging it is and would  
19 keep from abusing other people. They would understand the  
20 long-term repercussions. They would understand the  
21 psychological and emotional impact that linger to this day.

22 And frankly, Your Honor, if that were something  
23 that could be shown by the evidence, we would have a lot more  
24 female offenders than we do. Women get abused. It doesn't  
25 beget abuse. Men get abused. It doesn't beget abuse.

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1 People have free will, and they do what they do.

2 Further evidence of Mr. Bradner's character and  
3 to rebut the argument of a low likelihood of recidivism. The  
4 reason this case is before Your Honor is because  
5 Ms. Le Martin found some chats that concerned her. Little  
6 did she know she was going to find things that concerned her  
7 even more than the chats. That Mr. Bradner in his retirement  
8 was spending time with high school students. Some as an  
9 official chaperon for the high school band but also privately  
10 texting and messaging these young people.

11 I'm going to hand up to Your Honor two exhibits.  
12 They can be collective. They are from Mr. Bradner's phone.  
13 They are from the time period of March and April. This  
14 offense was discovered in May of 2018. They were provided in  
15 discovery, and redacted versions were provided in  
16 supplemental discovery. The phone numbers are removed as are  
17 the identities of the children.

18 And Your Honor, one of the young ladies is here  
19 in court today. I had initially planned to talk a little bit  
20 about the content of the videos, but this is closure for her  
21 in some way and hopefully beginning for the rest of her life.  
22 And I know Your Honor reviews before you come on the bench.  
23 I know you are familiar with the statement of facts and  
24 what's in the presentence report. So I'm not going to  
25 belabor those points today. Everyone understands how awful

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1 the conduct is in this particular case.

2 And one more thing to address in Mr. Bradner's  
3 submission. He is asking --

4 THE COURT: Before you move on to another point,  
5 is there anything you want to point out in particular on  
6 these documents you handed me?

7 MS. IRELAND: Yes, Your Honor. If I could direct  
8 you to the two-page document.

9 THE COURT: Yes.

10 MS. IRELAND: The Numbers 192 and 193.

11 THE COURT: These are the documents.

12 MR. GERALD: I apologize for interrupting. In  
13 particular the one that Ms. Ireland is now referring to. I  
14 understand that the one-page document is -- that the  
15 recipient of other party in this is in the courtroom. So I  
16 understand that. And I certainly don't want her to have to  
17 take the stand to authenticate anything.

18 MS. IRELAND: That is not the case.

19 MR. GERALD: Oh, I thought it was.

20 MS. IRELAND: No. These are students at the high  
21 school, not the ladies that are here.

22 MR. GERALD: Okay. I apologize. I thought that  
23 -- my objection to these is based on the weight of the  
24 evidence and their -- and the Court shouldn't really consider  
25 them. I certainly understand hearsay is admissible. And

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1       they have been turned over to us. And if they got turned  
2       over to us through discovery, I just don't have a  
3       recollection of that. I'm certainly not impugning  
4       Ms. Ireland's credibility.

5               However, we have no idea who these are from. We  
6       have no witness here to testify that yes, I sent those. Yes,  
7       I'm of this age. Yes, I go to Arlington High School, so on  
8       and so forth. So the weight of these is questionable at  
9       best. So I would argue that they should not be reviewed in  
10       detail by the Court and much less taken into consideration.

11               THE COURT: Well, in terms of the weight, I guess  
12       I'm going to review them in order to determine what weight to  
13       give them. But I will apply whatever weight I find they  
14       deserve once I figure out what they are. Thank you,  
15       Ms. Ireland.

16               MS. IRELAND: Yes, Your Honor. And again, on the  
17       two-page document, they are from Mr. Bradner's phone.  
18       Number 192 and 193, these are chronological from the bottom  
19       up. Communicating with a teenager about looking her up on  
20       facebook during "normal stalking hours." And that he would  
21       go home and look for her second social media account that  
22       evening.

23               THE COURT: Okay.

24               MS. IRELAND: And on the single-page document,  
25       for the most part, Numbers 68 through 185 are depicted here.

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1 The numbers that are not represented are communications with  
2 other individuals. These are redacted to contain only what's  
3 pertinent. But it's talking about Mr. Bradner wanting to  
4 look up a young lady on social media. He can't find her  
5 online except a facebook that's private. She says, oh, I  
6 don't use my facebook, but you can follow me on Instagram.  
7 Later she asks if he can come to the school tomorrow because  
8 she wants to see him again.

9 I would argue that that goes to rebut  
10 Mr. Bradner's argument that there is no likelihood of  
11 recidivism. At the time he was abusing the two young women  
12 in his household, he was also putting himself in contact with  
13 high school students and maintaining private chat  
14 communications with them. Acting as though he is younger  
15 than his age. And even people who are 80 can act younger  
16 than their age and can still act out and offend and do things  
17 that are inappropriate. So we would argue that that is not  
18 really a particularly strong argument.

19 The seriousness of the offense, I know no one  
20 denies that this is extremely serious. But there are effects  
21 other than what's visible on the images. When a mother's  
22 children have been abused and she thinks she failed to  
23 protect them because it happened under her nose, that's a  
24 lifetime. When she brought this man into her house, does she  
25 carry that blame? When two sisters are both being abused and

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1       one of them thinks the other, if she had only told, it  
2       wouldn't happen to me, does that damage the person who should  
3       be your best friend for life? The relationship that you have  
4       with that person? The effects of this abuse, this selfish  
5       abuse, touching for gratification, sexual gratification will  
6       not end for these kids. The touching has stopped, but  
7       processing this stuff is difficult. It is hard to make sense  
8       of. They are emotionally not mature enough to understand  
9       what happened. And it will come back to haunt them when a  
10       certain smell is encountered some day when they're in  
11       college. Or they go on their first date and the cologne or  
12       the deodorant smells like what Mr. Bradner wore. Those  
13       effects will be with them for life.

14                   And Mr. Bradner is asking Your Honor to -- if  
15       there is -- if Your Honor has any say in the matter -- allow  
16       him to spend his time in federal prison and at particular  
17       locations. Again thinking of himself. Asking for what he  
18       wants and needs. What is a just punishment here? One that  
19       shows respect for the law. One that takes into consideration  
20       all of the harm that the Defendant has done and all of the  
21       things that he has to show for his life.

22                   And what is just for these girls? That matters  
23       too. The peace of mind that he won't hurt another person no  
24       matter how old he is. That he won't try to find them. That  
25       he won't try to apologize. That he will have to remember

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1 what he did every single day of his life just as they do is  
2 of critical importance.

3 It's the position of the U.S. Attorney's Office  
4 to ask for a guideline sentence. And as Your Honor was  
5 mentioning earlier, 1200 months is -- it does seem rather  
6 random and long. But we do believe that the equivalent of a  
7 life sentence is important. Elders can offend as well. It's  
8 the person, not their age.

9 And there is nothing to indicate that Mr. Bradner  
10 would not be a threat to others in the community or a threat  
11 to the well-being of the young ladies that he hurt, that he  
12 was supposed to serve as a parent to. So we will ask for the  
13 equivalent of a life sentence, Your Honor. Given  
14 Mr. Bradner's age, we would suggest no less than 40 years.

15 THE COURT: So that's 480 months is what you're  
16 asking for?

17 MS. IRELAND: For bottom end, Your Honor. We  
18 certainly would recommend higher, but we would suggest that  
19 Your Honor consider nothing below that.

20 THE COURT: Okay. Mr. Gerald?

21 MR. GERALD: Your Honor, if I could make a couple  
22 of quick corrections to my position paper.

23 THE COURT: Yes.

24 MR. GERALD: On page 6, in the first top  
25 paragraph, that should read "at worst, when he is 80," not

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1 70. And I thought you'd probably catch that.

2 THE COURT: I did.

3 MR. GERALD: But I wanted for the record to  
4 correct it. And also --

5 THE COURT: What page was that on?

6 MR. GERALD: That was page 6, Your Honor, at the  
7 very top. The second line that ends with, "and at worst,  
8 when he is 70." It should be 80.

9 THE COURT: I remember reading it. I'm not  
10 seeing where it is in your paper, but that's okay.

11 MR. GERALD: What the sentence says is,  
12 Mr. Bradner will not be eligible for release at best until he  
13 is 75 and at worst when he is -- it should say 80. It says  
14 70.

15 THE COURT: I got it at the bottom of page 5, but  
16 yeah. Okay.

17 MR. GERALD: And the second correction would be  
18 on page 5. And this is my mistake. And Ms. Le May (sic), if  
19 I mispronounce your name, I apologize. But when she  
20 testified, she is correct. In 2015, he was not in the  
21 military. That's my mistake. And it doesn't say that in the  
22 presentence report. I made an assumption based on that he  
23 had gone to a military hospital where he was diagnosed. I  
24 made an assumption that at that time he was in the military.  
25 That was incorrect. So I apologize for that mistake.

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1                   THE DEFENDANT: Your Honor, at that time I was  
2 serving the military. I worked for a military command as a  
3 Department of the Army civilian.

4                   THE COURT: But that's not -- well, it's a matter  
5 of proper description, I guess. Civilian -- working for the  
6 military as a civilian is not serving in the military.

7                   MR. GERALD: That's correct, Your Honor. That's  
8 my mistake. He was not -- at that time -- he has served in  
9 the military and was honorably discharged. But in 2015 at  
10 the time of that diagnosis, he was not serving in the  
11 military.

12                  THE COURT: Okay.

13                  MR. GERALD: He was not in active duty forces, so  
14 to speak. So I just wanted to clear that up. That's my  
15 mistake. And the probation report does not say he was in the  
16 military at that time. I just made an incorrect  
17 interpretation.

18                  THE COURT: Okay.

19                  MR. GERALD: With that being said, Your Honor.  
20 First off -- and I'm sorry. I'm sorry. This is tough, Your  
21 Honor. And Ms. Ireland is right. This is a bad case. To  
22 stand up here and say anything otherwise would be  
23 disingenuine and ridiculous.

24                  We have two young ladies who will suffer the  
25 consequences of this almost certainly for the rest of their

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1 lives. We have a mother who will feel guilt for the rest of  
2 her life, and that's a sad fact. I would disagree with  
3 Ms. Ireland that people who are abused, sexually abused as  
4 children in common that they do not themselves become  
5 abusers. And that is not ever meant as an excuse or an  
6 explanation or any type of minimization or mitigation. It's  
7 simply that Mr. Bradner himself, one of the reasons that  
8 Mr. Bradner did not go forward on any Fourth Amendment  
9 issues, any litigation, even trial, you have to understand  
10 that Mr. Bradner -- because I met with Probation extensively  
11 to figure out these guidelines because they were complicated.  
12 He knew going into this when he stepped up here to plead  
13 guilty, he had been informed that his guidelines were going  
14 to be life. He knew that. The logical thing in those  
15 situations from a defense attorney's point of view is if it's  
16 going to be life plea and it's going to be life at trial, you  
17 might as well go to trial. I mean, there's some logic to  
18 that. You never know what a jury is going to do.

19 But in Mr. Bradner's case because of his history,  
20 having been abused, he said no. I'm not going to trial. I  
21 don't want to put them through anything else. And so there  
22 were no Fourth Amendment motions. There was no trial. He  
23 accepted responsibility. And even his acceptance statement  
24 speaks to the ability of him to be able to understand the  
25 harm he has caused when he states, "I'm fully responsible for

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1 these actions and hope that by quickly admitting my  
2 responsibilities and guilt, I will somehow lessen the pain  
3 and suffering I have caused."

4 I'm not trying to make this about Mr. Bradner  
5 because Mr. Bradner is going to speak, and he is going to  
6 speak not of himself but what he has done. But in terms of  
7 his family history, it wasn't easy. And his parents  
8 divorced. As I said in my position paper, his parents  
9 divorced when he was young. He bounced around between the  
10 two houses. At his father's house, he was physically and  
11 emotionally abused, and he was sexually abused by step  
12 siblings. The horrible part about that is that apparently  
13 his father knew about it and did nothing to stop it.

14 And then at the age of 14, his father disappeared  
15 for 25, 26 years, not to reemerge until Mr. Bradner was 40.  
16 At that time, his mother was an active alcoholic and living  
17 in a one-bedroom apartment. And when he went there to what  
18 one would assume was a safe haven -- and that's one of the  
19 reasons I think Mr. Bradner understands the harm he has done.  
20 Because when he went home to that safe haven, he again was  
21 sexually molested by his own mother. Now, when she got  
22 sober, that stopped, and as he said, it basically saved both  
23 of their lives. But I think that that creates an empathy and  
24 understanding in Mr. Bradner.

25 Which I think also in the long term, it's one of

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1 the main reasons Mr. Bradner wanted so badly to get into  
2 federal custody and wants to get into these programs, that  
3 hopefully, if he ever gets out, which even at the 11(c)(1)(C)  
4 agreement is unlikely. But hopefully, if he ever gets out,  
5 he will have gone through these programs. Now, Ms. Ireland  
6 is absolutely right. At 80 years old, at 90 years old, he  
7 could still reoffend. There's no question about it. I can  
8 tell the Court with Ms. Ireland, I've represented a gentleman  
9 who was so old he could barely stand up.

10                   But the fact of the matter is -- the Federal  
11 Bureau of Prisons has these programs set up to give  
12 individuals the tools to not reoffend. And if the logic is  
13 don't ever let him out because he's going to reoffend, then  
14 why do we have the programs? The programs are set up to give  
15 him the tools and the ability to understand why he did what  
16 he did, why he has his proclivities and why -- given the  
17 tools to not reoffend.

18                   In addition, Your Honor, if he gets out, he's  
19 going to be under the strict supervision of supervised  
20 release up to, I think, a minimum of five years and up to  
21 life. So I would argue that Mr. Bradner is -- chances of  
22 recidivism are not great, especially if he's -- if the  
23 minimum amount he's going to get -- the minimum age is 75  
24 years old. He's 54, I believe, as we stand here today.

25                   Now, going back to Mr. Bradner's life. Even

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1 though he had a difficult childhood, he still graduated with  
2 honors. He still served honorably in the military. He  
3 received a commendation medal. He never served in a combat  
4 zone, which I think is significant in this regard.

5 Oftentimes we see people, veterans and soldiers diagnosed  
6 with PTSD and these diagnoses that Mr. Bradner was diagnosed  
7 with having served in combat zones. Mr. Bradner did not  
8 serve in a combat zone.

9 So I would proffer to the Court that the reality  
10 of this is is that when he was diagnosed in 2015 with  
11 anxiety, depression and PTSD by a psychiatrist and he's  
12 currently receiving psychotropic medication at West Tennessee  
13 Detention, this is based on the trauma he suffered as a  
14 child. Because there's no indication in the report that he  
15 suffered trauma anywhere else. He wasn't in a combat zone.  
16 And again, I am certainly not making this argument as an  
17 excuse for what Mr. Bradner did.

18 So the life -- the 300 months, which is 25 years  
19 is what we're asking the Court to do. I would like to just  
20 talk about the 3553 factors. 25 years, that's a long time,  
21 Judge. I don't know how else to put it. And Ms. Ireland is  
22 right. There are murderers -- I mean, Lorenzo's wife or  
23 widow, I guess, she had her husband murdered and got, what,  
24 30 years at 30 percent or something. I'm not comparing --  
25 Ms. Ireland is right. When you kill somebody, they're dead.

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1 I get that. But in our -- in the law, murder is looked at as  
2 a bit more serious than the crimes under it. So -- and I  
3 realize we're not in state court.

4                   But if we look at the national averages and what  
5 I submitted to the Court as Exhibit 1 to my presentence  
6 report, the national average in months nationally, it's  
7 191 months for sexual abuse cases and in the Sixth Circuit,  
8 227. I'm not going to address the national averages for  
9 child pornography because I do believe that those numbers  
10 have been shifting fairly dramatically as we kind of get a  
11 different perspective on people who possess child  
12 pornography. And Mr. Bradner's primary offense is production  
13 or sexual abuse.

14                   If we go to -- in the packet I passed to the  
15 Court and to the Government to Table 7, sentence length by  
16 crime, sexual abuse -- I'm sorry -- is the mean months is  
17 227. If we go to Table, I believe, 10, when we talk about  
18 sentence imposed relative to the guideline range and we talk  
19 about variances, on sexual abuse crimes, there's a variance  
20 in 52 percent of the cases at the bottom under the  
21 Sixth Circuit, there's a variance in these cases of  
22 52 percent.

23                   Now, that brought a question to me as was that a  
24 variance up or down? So in this same packet, if I can find  
25 that. The variance, the downward variances were extremely --

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1 I mean, the upward variances were extremely low in that  
2 number. And I beg the Court's indulgence for just a second.

3 THE COURT: I mean, in some ways, that doesn't  
4 matter here because actually what you both are asking for is  
5 a variance.

6 MR. GERALD: It is.

7 THE COURT: So to some extent the variance issue  
8 is not really the relevant one here.

9 MR. GERALD: Right. The variance issue, I agree.  
10 However, the averages nationally is an issue.

11 THE COURT: I understand.

12 MR. GERALD: To avoid disparity in sentences. So  
13 punishment, 25 years is a long time. And I've said this  
14 before, but I used to look at sentences that, a long sentence  
15 and say, look in the future and say my child is going to be X  
16 amount of age years older, you know. But I think the better  
17 way of looking at it is going back and looking back. Because  
18 if you go back 25 years in each of our lives and look at what  
19 you would not have experienced and not done in terms of life  
20 experiences, 25 years gives some perspective as to how long  
21 that is. Now, 25 years, if he's good time/earned time, he'll  
22 get out when he's 75. 75 is getting old.

23 And per the report that I submitted in my  
24 presentence report, the research on this research had shown  
25 that there's a very good likelihood -- and I hate to say

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1 this, that Mr. Bradner is not going to survive 25 years at  
2 his age in federal custody or in any custody. So if the  
3 Court were to give him a 25-year sentence, there's a very  
4 strong likelihood that is a life sentence.

5 Now, the advantage to Mr. Bradner of giving him  
6 the 25-year sentence is this. Is that it gives him some  
7 hope, some hope that some day he may get out. That he may --  
8 I don't know how else to put it, he may die outside of a  
9 prison at an old age. It also gives him motivation to go  
10 into these programs and get better. It gives him something  
11 to live for, even if he's not going to make it, it gives him  
12 some hope of getting out.

13 I believe that a 25-year sentence to anybody  
14 who's looking at these type of crimes is a strong deterrent.  
15 As far as protecting the public, I've addressed that.  
16 Mr. Bradner admits he needs treatment. He's seeking  
17 treatment. He's done everything he can to get into federal  
18 custody and serve his sentence. He has a pending state  
19 indictment. It's a mirror case. And he has done everything  
20 possible to get himself into federal custody so that he can  
21 get the treatment he needs in one of those two institutions.

22 And I understand the family's concern with  
23 Massachusetts. I think that that's a ways down the road as  
24 far as anybody going to a school in Massachusetts. But if  
25 the Court sees fit to recommend him for the facility in

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1       Illinois, we certainly have no objection to that. Anywhere  
2       they would have a treatment program for him.

3               Your Honor, I guess I can't stress enough how  
4       long 25 years is. And one thing I would ask the Court to  
5       keep in mind is that the plea agreement itself -- well, I'll  
6       say this. The Tennessee statute that he is charged under in  
7       the state court which is Tennessee Code Annotated 39-13-522,  
8       rape of a child, it carries a mandatory 25 years. So the  
9       people -- the legislature in Tennessee sees a 25-year  
10      sentence as an appropriate sentence for these actions.

11               And last but not least, the 11(c)(1)(C). No  
12      matter what Ms. Ireland says to the Court, I understand that  
13      she's asking that Mr. Bradner never have the possibility of  
14      stepping out of prison. But at the end of the day, the  
15      Government has agreed that the Court should not go below  
16      25 years. So in some fashion, they have agreed that a  
17      25-year sentence is appropriate. Now --

18               THE COURT: I don't take it that way,  
19      Ms. Ireland. He's trying to argue it but don't --

20               MR. GERALD: Your Honor --

21               THE COURT: They've agreed --

22               MR. GERALD: A 25-year minimum is appropriate.

23               THE COURT: Okay. Well, you -- that's fine. You  
24      make your record however you want to make it. Ms. Ireland,  
25      you don't need to respond.

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1 MS. IRELAND: Thank you.

2 MR. GERALD: So Your Honor, I believe that 25 --  
3 the 3553 factors are met with a 25-year 300-month sentence  
4 followed by a lengthy period of supervised release. I  
5 believe he's accepted responsibility. He has not filed any  
6 motions. He has not gone to trial. He understands the  
7 damage he has caused. He comes from a damaged childhood  
8 himself. And at the age of 54, 25 years is one heck of a  
9 long time, if he even survives it.

10 THE COURT: Thank you, Mr. Gerald. Mr. Bradner,  
11 anything you would like to say?

12 THE DEFENDANT: Yes, ma'am. I don't know that I  
13 can describe to you how ashamed and how sorry I am. As  
14 Ms. Ireland said, having been abused, I should know the  
15 impact of what that does to someone. And I do. I do know  
16 the impact and how much I've hurt those kids. Because of  
17 military service and a divorce, I never got to raise my own  
18 kids, and I was thrilled to be able to be a daddy to those  
19 girls, and I love those girls. But I failed them. I failed  
20 them and I failed Christina, and I failed my own family. And  
21 I've hurt so many people.

22 I can't even begin to imagine. My kids aren't  
23 going to have me around to see their grandkids. My daughter  
24 is not going to have me around to walk her down the aisle.  
25 Alissa and Alaina and Christina and her parents and uncles.

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1 I get it, Your Honor. I do understand how much I've hurt  
2 people and how badly they're hurt. One of the first things I  
3 said to my lawyers when I ended up in 201 was I don't want to  
4 go to trial. And that's not because I was scared of trial.  
5 It's because I wanted this all over and behind all of us as  
6 soon as possible so we could all start to heal as soon as  
7 possible.

8                   When Mr. Gerald came back to me and said you're  
9 looking at a minimum of 25 years, he did suggest to me that,  
10 you know, normally I would tell a client let's go fight this  
11 in court. And I again refused to do so. I went to great  
12 expense to get out of state custody and get into federal  
13 custody because I want help. When I was doing what I was  
14 doing to those girls, I knew it was wrong. I wanted to stop.  
15 I tried to stop. I couldn't go anywhere for help. If I went  
16 anywhere for help, they would be obligated to report it, and  
17 I would end up in jail. I mean, I had backed myself into a  
18 corner where all I could do was wait for the ax to fall, and  
19 the ax, it's fallen.

20                   I wish I could gather both girls into my arms and  
21 tell them how much I love them and how sorry I am. And I  
22 know after reading the impact statements today they don't  
23 even want that. I know Christina wouldn't hear it because of  
24 her anger and her hurt. I only hope that some day that  
25 they'll believe that I am sorry. That I love all three of

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1 them and never wanted to hurt any of them.

2 I guess I'm asking for a little mercy from the  
3 Court, Your Honor. I'm asking that I go some place where I  
4 can get help. I go some place where I'm not scared to death.  
5 How does a 65, 70, 75-year-old man defend himself against  
6 other convicts when I'm facing the charges I'm facing? How  
7 do I live to get to 70 in the prison system?

8 I'd like to have a little hope that maybe I can  
9 die surrounded by my kids and my grandkids and not alone in a  
10 jail cell. I know what I did was wrong. I know how much I  
11 hurt people because I know how much I hurt. All I can do is  
12 say I'm sorry and hope that everybody hears that. That's it,  
13 Your Honor.

14 THE COURT: Thank you, Mr. Bradner.

15 Anything from anyone else?

16 MS. IRELAND: No, Your Honor.

17 MR. GERALD: No, Your Honor. Thank you.

18 THE COURT: So my job is to consider the advisory  
19 sentencing guidelines as well as the 3553 factors to make an  
20 individual assessment about Mr. Bradner's sentence. To  
21 impose a sentence that's sufficient but not greater than  
22 necessary to accomplish the purposes of sentencing.

23 Looking at the 3553 factors first, the nature and  
24 circumstances of the offense and the seriousness of it. You  
25 know, I think it's hard for anyone to fully describe the

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1 seriousness of this offense. And I don't think anyone here  
2 contests that. You've stolen the childhood of your former  
3 stepdaughters. You've affected their lives forever in  
4 horrific ways. As I was going through this, I also was  
5 thinking about your -- the children's mother, and I didn't  
6 know that she would be here today, but hearing from her  
7 described what -- a little bit of what I think she also is  
8 suffering.

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: You know, she is a victim here too  
11 because of the impact of all of this on her, and she  
12 described it well. You know, her desire, I think it's every  
13 parent's desire to provide a safe environment for their  
14 children, first and foremost, and she thought she was doing  
15 this. She thought she was doing that. And to have the trust  
16 she put in you so, so violated at such a fundamental and in  
17 such a critical way is something she's going to have to deal  
18 with. The children, you know, I can't say it any better than  
19 they said it in their own statements. Although I'm not sure  
20 they feel this way now, I certainly have a little bit more  
21 confidence in counselling and other things that I really hope  
22 will help them as they move forward in their lives. But I  
23 understand why they might not see that now.

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: They know they've been through

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1 something that was unfair, unjust, horrific, something they  
2 should not have ever, ever, ever been subjected to. And you  
3 know, without a doubt, their lives will never be the same.  
4 You knew that too.

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: You know, Ms. Ireland is right that  
7 you, above all else, should have known the impact of these  
8 actions on someone. You're obviously a smart man, an  
9 educated man. Those don't always translate into mental  
10 health and psychological health, but I do have an issue with  
11 the idea that you knew what you were doing was wrong but  
12 didn't reach out because you would be arrested. You know,  
13 that --

14 THE DEFENDANT: I understand, Your Honor.

15 THE COURT: You don't have to respond. But you  
16 know, what you're saying honestly goes back to something  
17 Ms. Ireland said, which is that was unbelievably selfish.  
18 You know, in terms of legal things, I'm not telling you that  
19 as a judge, you're legally required -- actually you're  
20 legally required, I guess, to report child abuse, but I'm  
21 trying not to say that from a legal perspective. I'm saying  
22 that from the perspective of, you know, you made a choice,  
23 and your choice was to continue to abuse as opposed to seek  
24 help, whatever the ramifications of seeking help were going  
25 to be. And that adds to the seriousness of the offense.

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1                   Now, I do recognize as part of that though, once  
2 you were confronted, once you were arrested that you didn't  
3 contest anything, and as Mr. -- the point Mr. Gerald has made  
4 that you didn't seek to go to trial or bring any other  
5 motions. Late in the game, but I still recognize that that's  
6 what you did at that point.

7                   In terms of your history and your  
8 characteristics, no criminal history. But again, your own  
9 abuse, the abuse you suffered growing up. Horrific for you,  
10 but it's, you know, I have that same struggle that  
11 Ms. Ireland described is because you knew how horrible such a  
12 thing was to a person, I sort of feel pain for you at the  
13 same time that, you know, you're to be held accountable for  
14 the fact that you just translated that abuse --

15                   THE DEFENDANT: Over. Yes, ma'am.

16                   THE COURT: Exactly. I'm not going to go back  
17 through your upbringing. Mr. Gerald said it, you know,  
18 stated it. And no child should have to go through what you  
19 went through, but again, of course it got us to where we are  
20 today. I think I had this right in the notes. I guess I  
21 didn't pay as much attention to Mr. Gerald's mistake about  
22 the military. So married from '91 to 2001. You've got the  
23 three kids, and then you married the mother of the children  
24 in 2012. High school grad. Some college. Served in the  
25 Army but then had the civilian position after that. And had,

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1 it looked like, one other job in between the military and  
2 civilian positions.

3 In terms of adequate deterrence to criminal  
4 conduct, protecting the public from further crime, promoting  
5 respect for the law and providing a just punishment.  
6 Wherever I end up in this, it's going to be a long sentence.  
7 And I certainly hope that such a long sentence ensures  
8 specific deterrence. And let me say a word about general  
9 deterrence because we know that's always important. Again,  
10 wherever I end up, this is going to be a significant sentence  
11 that I certainly would hope would deter others.

12 I don't often focus on just punishment when I go  
13 through these factors. You know, I -- it's a weighing of the  
14 different factors. And I certainly try to talk about all of  
15 them, and I always consider all of them, whether I talk about  
16 them or not. But just punishment frankly jumps out at me in  
17 this case. The damage here that you've done to these girls'  
18 lives and this mother's life is just beyond words, and  
19 there's a need to recognize that.

20 Just a -- I guess this fits into several  
21 different things but bringing up the chats with the high  
22 school girls. I don't think the material Ms. Ireland showed  
23 me frankly adds anything to what's in the presentence report.  
24 The presentence report alone indicates contact with girls at  
25 the high school. And I have to say that that's disturbing

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1 just on the face of it. I'm not going to attribute any other  
2 activity to it because I can't. I don't have it in front of  
3 me.

4                   But Mr. Bradner was clearly engaging in horrific  
5 acts that we know about and was in communication with people  
6 he should -- no man of 54 years old should be in contact with  
7 high school girls, period. And so it is -- it's disturbing  
8 just on the face of it, for what it's worth. I'm not going  
9 to read anything else into it. Without a doubt, all of this  
10 indicates what Mr. Bradner actually is asking for, which is a  
11 lot of help. A lot of help in working through and dealing  
12 with these issues. A lot of help in figuring himself out and  
13 figuring out why he's done the things he's done and what's  
14 going to stop him from doing those in the future.

15                   And you know, Mr. Bradner, your best move from my  
16 standpoint is getting into federal custody because I think we  
17 do have those programs, and we do have facilities that house  
18 folks that have engaged in behavior like what you have done.  
19 And I have every reason to believe that sort of does keep the  
20 population safe because of housing folks together and paying  
21 attention to those kinds of safety issues.

22                   In terms of educational/vocational training,  
23 things we can help with. Certainly to the extent you're on  
24 supervised release, substance abuse treatment and mental  
25 health treatment must be part of those conditions. And I

UNREDACTED TRANSCRIPT

1 think based on everything you've said, you know, I think you  
2 would -- you've indicated you would agree with those things.

3 So in determining what sentence to impose, I  
4 consider the presentence report as well as the other  
5 documents filed in the case and the positions taken by the  
6 parties. First, I find that the dismissal of Counts 1, 3, 5  
7 and 7 of the indictment will not undermine the statutory  
8 purposes of sentencing or the sentencing guidelines. The  
9 remaining charges adequately reflect the seriousness of the  
10 actual offense behavior here. So from that perspective, I'll  
11 accept the terms of the plea agreement.

12 Mr. Bradner, based on the 3553 factors I've  
13 outlined and the advisory sentencing guidelines, I am going  
14 to sentence you to 480 months. It's obviously a incredibly  
15 significant sentence. And it is -- it's based on a couple  
16 things. It's based on all the factors. But some of the  
17 things that stand out to me are the fact that in this  
18 instance, you were trusted, loved, respected, part of the  
19 family. Someone these victims looked to as a parent and a  
20 protector and you, you know, completely abused that position  
21 and all the impact that will have on these victims, the two  
22 children and their mother for the rest of their lives. I  
23 guess from that perspective, it's really about the nature and  
24 circumstances of the offense and the seriousness of it as  
25 well as a just punishment.

UNREDACTED TRANSCRIPT

1                   Now, let me say I frankly hope that you do get  
2 out. I realize you would be very old. But I hope at the  
3 conclusion of this sentence and, you know, we know what it  
4 means in terms of 85 percent and all that, I hope that you do  
5 go -- that you are in a position where your last days are  
6 with your family. So I don't -- I guess my message to you is  
7 I'm not trying to tell you I want you to die in prison. But  
8 I can't help but get away from the fact that I think that  
9 very long sentence is the one that's appropriate here.

10                  I'm not going to impose a fine or restitution.  
11 Supervised release range is five years to life. I had  
12 written down ten years, but of course I don't decide what I'm  
13 going to do in terms of the sentence until I've heard from  
14 everyone. So I had not decided on 480 months at the time I  
15 wrote down ten years. Probably five years, which I think is  
16 the recommendation of Probation is more appropriate, but does  
17 anyone wish to be heard on any of that?

18                  MS. IRELAND: No, Your Honor.

19                  MR. GERALD: No, Your Honor.

20                  THE COURT: And then I've got as special  
21 conditions collection of DNA, drug testing and treatment,  
22 mental health counselling, the sex offender provisions, as  
23 well as the standard conditions. Anyone wish to be heard on  
24 any of that?

25                  MR. GERALD: No, Your Honor.

UNREDACTED TRANSCRIPT

1 MS. IRELAND: No, Your Honor.

2 THE COURT: The \$5,000 assessment per count.

3 Does anyone wish to be heard on that?

4 MR. GERALD: No, Your Honor.

5 MS. IRELAND: Your Honor, it would seem that  
6 should Your Honor determine that Mr. Bradner is indigent,  
7 Your Honor can waive that. While he may have the opportunity  
8 to earn some income in prison, I'm certain it won't arise to  
9 the level of satisfying those. So we'll leave it to the  
10 Court's discretion.

11 MR. GERALD: We ask him to be declared indigent  
12 for that purpose.

13 THE COURT: Okay. You are appointed or retained?

14 MR. GERALD: Retained, Your Honor.

15 THE COURT: I don't -- I guess I do have the  
16 financial information that's in the presentence report. But  
17 I think that's all I have in terms of financial information  
18 to declare him indigent. I mean, it does show a monthly cash  
19 flow.

20 MR. GERALD: Your Honor, a large part of the  
21 monthly cash flow is a retirement Army benefit.

22 THE COURT: Right.

23 MR. GERALD: In the divorce settlement, his now  
24 ex-wife, the mother of these children is receiving per -- I'm  
25 not sure what the pro rata split is, but she's getting a

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1 chunk of that.

2 THE COURT: Well, this indicate -- this has him  
3 getting 1300. But that's probably the -- is that the total  
4 you get? Do you have a civilian and a military retirement?

5 THE DEFENDANT: No. Just the civilian  
6 retirement.

7 THE COURT: Just a civilian retirement. Yeah.  
8 You wouldn't have enough military years. I mean, that -- my  
9 husband has a military and a civilian retirement, and that  
10 looks like a number that's more like the civilian retirement,  
11 the whole civilian retirement, or is that just the portion  
12 that you get?

13 THE DEFENDANT: No. I believe that's the whole,  
14 ma'am.

15 MR. GERALD: There was a QDRO entered pursuant to  
16 the marital dissolution agreement that she receives one-third  
17 of that Army retirement plan each month.

18 THE DEFENDANT: And that went straight into my  
19 USAA account, ma'am, and all of my insurance for the home and  
20 the cars and everything was pulled straight out of that. So  
21 yeah, 13 is probably the full amount.

22 THE COURT: Any position?

23 MS. IRELAND: Submit to the Court.

24 THE COURT: Okay. I will...

25 MR. GERALD: Your Honor, I would simply state in

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1 regards -- I'm not sure what the Court is considering here,  
2 but Mr. Bradner is going to be in prison for a long, long  
3 time. He will -- there's obviously a commissary, the reasons  
4 for him to have some money.

5 THE COURT: It's not going to be -- it's not  
6 going to end up being that much anyway with the portion that  
7 goes to the ex-wife. I'll declare him indigent for the  
8 purposes of that assessment.

9 Any other objections before I impose the  
10 sentence?

11 MR. GERALD: Your Honor, I've never asked the  
12 Court to do this. I've been in front of you in a number of  
13 sentencing hearings and I rarely, if ever, do this. But I  
14 ask the Court to reconsider the 480 months in regards to the  
15 Court's own declaration that you hope that at some point he  
16 does get out. And I don't think that realistically that 480  
17 months, that that comes out to 30 -- over 30 years, I  
18 believe.

19 THE COURT: 34.

20 MR. GERALD: 34 years. He's 54 now. That would  
21 put him at...

22 THE COURT: 88.

23 MR. GERALD: 88 years old, Your Honor. That  
24 is -- that is a guarantee that he will not survive that. All  
25 we're asking the Court to consider is to give him a sentence

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1 that gives him a hope of getting out. And I would argue that  
2 at 88, there is no hope. This is a bad case. And I realize  
3 and the Court recognizes that. And everybody in here  
4 recognizes that.

5 But a 480-month sentence is just -- we've seen so  
6 much -- it's difficult because in an attempt to compare it to  
7 other things, it sounds like I'm minimizing it. And that is  
8 not my intent. But it's inevitable that in my mind I compare  
9 it to other things and other cases that have been handled  
10 here. And these facts are bad, but what -- they don't  
11 include things like trafficking. Backpage. Child sex  
12 trafficking. They don't include any distribution. The acts  
13 themselves are horrific, but they did not arise to that even  
14 more horrific level of acts that could have come. And thank  
15 God they didn't come. Maybe they were coming, but they  
16 didn't.

17 In comparison to other cases that we've seen here  
18 in this district that -- and I looked on the ECF, and the  
19 most severe sentence I could find in these type of cases in  
20 this district at least was 410 months. Now, Ms. Ireland,  
21 she's going to know better than I do because, I mean, she  
22 handles these cases. But when I pulled this statute, that  
23 was -- 410 was the most severe I could find. All I'm asking  
24 the Court is to reconsider the sentence in light of not just  
25 giving him a hope of some day getting out but also in light

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1 of what this case isn't. And I'm not minimizing the damage  
2 to these people. I'm not. I understand. I understand. But  
3 I'd ask the Court to reconsider that.

4 THE COURT: Ms. Ireland?

5 MS. IRELAND: Your Honor, if we're going to go  
6 there, Mr. Terrence Milam was sentenced to 171 years before  
7 Judge Mays approximately two and a half years ago for  
8 producing images of his girlfriend's children with whom he  
9 lived and served as a parent and created images of their  
10 sexual abuse.

11 THE COURT: I guess -- is that all you wanted to  
12 say?

13 MS. IRELAND: I'm just going to leave it there  
14 and ask the Court to not reconsider the sentence imposed.

15 THE COURT: Mr. Gerald, look, I know you're just  
16 advocating for your client, and I hope that those in the  
17 courtroom realize that, you know, your job is to advocate for  
18 your client. You know, in -- Ms. Ireland actually on a  
19 different case have looked at some of these things  
20 differently. In this case, like in all my cases, I really  
21 try and focus on what's in front of me, on the person and on  
22 the facts in front of me.

23 In this case where Mr. Bradner not only knew the  
24 victims but was a parent to the victims, I view that as worse  
25 than the production and distribution that you're describing.

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1 You know, the level of trust that these particular victims  
2 had in Mr. Bradner himself makes it a whole different case in  
3 comparing to those other situations that you're describing.  
4 And that's a big part of why I think this is an appropriate  
5 sentence.

6 I understand the contradictions in what I'm  
7 saying in imposing such a long sentence but still hoping that  
8 Mr. Bradner, you know, can -- would still be able to spend  
9 his last days out with his family. I understand the  
10 contradiction. And I can't reconcile them. I can just tell  
11 you that those are both things that I think should -- you  
12 know, that I wish could happen. Despite my wish that he not,  
13 you know, spend his last days in prison, I still think that's  
14 the appropriate sentence. So I note your position for the  
15 record, but that's where I am.

16 Have I addressed all Defendant's arguments?

17 MR. GERALD: I believe so, Your Honor.

18 THE COURT: Any other objections?

19 MS. IRELAND: No objections, Your Honor. And  
20 would ask that forfeiture be included in the judgment.

21 THE COURT: Okay. Pursuant to the Sentencing  
22 Reform Act of 1984, it's the judgment of the Court that the  
23 Defendant William Bradner is hereby committed to the custody  
24 of the Bureau of Prisons to be imprisoned for a term of  
25 480 months. Upon release from imprisonment, the Defendant

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1 shall be placed on supervised release for a term of five  
2 years. Within 72 hours of release from the custody of the  
3 Bureau of Prisons, the Defendant shall report in person to  
4 the probation office in the district in which the Defendant  
5 is released. The Defendant shall abide by the following  
6 conditions of supervised release.

7 The Defendant shall cooperate in the collection  
8 of DNA. The Defendant shall participate in drug testing and  
9 treatment as directed by the probation officer. The  
10 Defendant shall participate in mental health assessment and  
11 counselling as directed by the probation officer. The  
12 Defendant's employment and change of address must be approved  
13 by the probation officer.

14 The Defendant must participate in specialized sex  
15 offender treatment program that may include use of a  
16 polygraph. The Defendant may not directly or indirectly have  
17 contact with any child under age 18 excluding biological  
18 children. And may not loiter near school yards, playgrounds,  
19 swimming pools, arcades or other places frequented by  
20 children. The Defendant's place of residence may not be  
21 close in proximity to parks, playgrounds, public pools or  
22 other locations frequented by children.

23 The Defendant must abide by an evening curfew as  
24 set by the probation officer, which may include submitting to  
25 remote monitoring, including wearing and maintaining a device

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1 for such purposes which may not be removed without probation  
2 officer's permission. The Defendant shall not possess or use  
3 an electronic device or computer with access to online  
4 computer service at any location including employment without  
5 the prior approval of the probation officer. This includes  
6 any Internet service provider, bulletin board system or any  
7 other public or private network or e-mail system.

8                   The Defendant shall complete and comply with sex  
9 offender registration requirements. Sex offender treatment  
10 conditions. Polygraph examination condition. And shall  
11 follow the specific instructions of the probation officer in  
12 regard to these requirements. The Defendant shall not  
13 possess any sexually explicit material and may not use  
14 sexually oriented telephone numbers or services.

15                   The Defendant shall submit his person, property,  
16 house, residence, vehicle, papers, computers as defined by 18  
17 U.S.C. Section 1030(e)(1), other electronic communications or  
18 data storage devices or media or office to a search conducted  
19 by a United States probation officer. Failure to submit to a  
20 search may be grounds for revocation of release. The  
21 Defendant shall warn any other occupants that the premises  
22 may be subject to searches pursuant to this condition. An  
23 officer may conduct a search pursuant to this condition only  
24 when reasonable suspicion exists that the Defendant has  
25 violated a condition of the supervision and that the areas to

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1 be searched contain evidence of this violation. Any search  
2 must be conducted at a reasonable time and in a reasonable  
3 manner.

4 The Defendant shall not commit another federal,  
5 state or local crime. The Defendant shall not possess  
6 illegal controlled substances. The Defendant shall not be in  
7 possession of firearms. All other standard conditions shall  
8 apply. There will be no fine. Forfeiture of the devices at  
9 issue here as listed in the indictment shall be ordered, and  
10 we'll include that language in the judgment. It's further  
11 ordered that the Defendant shall pay to the United States a  
12 special assessment of \$400, which shall be due immediately.

13 Let me say there was also some mention of a car  
14 and a motorcycle that were seized.

15 MS. IRELAND: No, Your Honor. That's not the  
16 case.

17 THE COURT: Okay.

18 MS. IRELAND: Only electronics.

19 THE COURT: Okay. Mr. Bradner, Defendants have a  
20 right to appeal a sentence. That right is often waived as  
21 part of the plea agreement. Here you've waived your right to  
22 appeal unless you believe there's been prosecutorial  
23 misconduct or ineffective assistance of counsel. The waiver  
24 is usually enforced by the Court of Appeals, but if you think  
25 something was improper with the waiver, you can argue that to

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1 the Court of Appeals. If you wish to appeal, the notice has  
2 to be filed within 14 days of the entry of the judgment here  
3 or 14 days if the Government were to appeal. If you wish the  
4 clerk to prepare and file your notice of appeal, you can make  
5 that request. If you wish to appeal and can't afford the  
6 cost of an appeal or the cost of a lawyer, you can seek to  
7 appeal in forma pauperis without paying and seek the  
8 appointment of counsel. That packet has your appeal rights  
9 in it.

10 Ms. Ireland, motion as to Counts 1, 3, 5 and 7?

11 MS. IRELAND: Move to dismiss the remaining  
12 counts, Your Honor.

13 THE COURT: And I will grant that motion. Any  
14 mistakes or problems with the sentence?

15 MS. IRELAND: No, Your Honor.

16 MR. GERALD: No, Your Honor.

17 THE COURT: For the judgment, Mr. Gerald has  
18 requested specific facilities.

19 MR. GERALD: My understanding is they have sex  
20 offender treatment programs at those facilities.

21 THE COURT: The mother -- and I keep trying to --  
22 I'm not using her name out of disrespect. I'm not using her  
23 name to not put her name all over the record. The mother  
24 mentioned Massachusetts in particular -- well, New York and  
25 Massachusetts as places that she and the children hope

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1 Mr. Bradner is not housed. I typically don't recommend a  
2 specific facility. What I would recommend is a facility with  
3 sex offender programs or a facility that houses sex  
4 offenders. What is the position on exempting those two  
5 states?

6 MR. GERALD: Your Honor, with all due respect to  
7 the mother and the children, I don't -- I certainly  
8 appreciate the desire of wanting to go to MIT, however we're  
9 not exactly there yet. We're talking down the road and then  
10 the possibility. It seems somewhat vague to restrict where  
11 he can be sentenced.

12 I would ask the Court to recommend that he be  
13 sentenced to a facility that has a sex offender treatment  
14 program and houses sex offenders. It serves multitude of  
15 purposes. These two facilities, in looking at the research,  
16 each had a treatment program. Obviously he needs treatment,  
17 and also I don't want him to get killed in prison, which he's  
18 justifiably worried about. So that would hopefully assure  
19 some safety for him and also treatment.

20 He's going to serve the rest of his life. I ask  
21 the Court to just make that recommendation to one of those  
22 two facilities. If the Government wants to file something  
23 with the BOP, at the appropriate time that she gets into MIT,  
24 but it's just at this moment in time, she's not even through  
25 high school. If she gets into MIT, Ms. Ireland can certainly

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1 file something to have him moved if he's in Massachusetts.

2 MS. IRELAND: I don't think it's too little to  
3 ask that a very small portion of the country be exempted so  
4 that a child planning her future can do so with all options  
5 available. And there are treatment programs at a variety of  
6 security levels throughout the country. Many of the  
7 offenders from this area wind up in Louisiana. There's a  
8 treatment facility there. And BOP does take into account the  
9 security level needed for each person when deciding where to  
10 assign them and occasionally will move them throughout the  
11 system to suit their needs.

12 I would also remind the Court that the state has  
13 primary jurisdiction, and he will serve state time first if  
14 his state case is resolved. He is going to the custody of  
15 the Bureau of Prisons after that has either been dismissed or  
16 after he has done his state time.

17 MR. GERALD: If I may --

18 THE COURT: Do they have primary?

19 MR. GERALD: They do not, Your Honor.

20 Mr. Bradner because the state and the U.S. Attorney's Office  
21 would not agree to a transfer of primary jurisdiction,  
22 Mr. Bradner posted bond in the state and was transferred into  
23 federal custody and pursuant and in a conversation with  
24 Matthew Mellady, who is a senior counsel with the Bureau of  
25 Prisons, that will effectively transfer primary jurisdiction.

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1 MS. IRELAND: That is not my understanding of how  
2 it works, Your Honor.

3 THE COURT: Well, if someone has some definitive  
4 answer as to how it works, God bless you, because I have no  
5 idea.

6 MR. GERALD: I always refer to Mr. Mellady. He's  
7 been with the Bureau of Prisons. He's in Baltimore, and he  
8 seems to always know. And whatever he has advised me has  
9 worked in the past. And he did advise me that the Bureau of  
10 Prisons' number one path to changing primary jurisdiction is  
11 an agreement between the jurisdictions. And in the  
12 alternative, posting bond in the state as opposed to asking  
13 the state to ROR him or something of that nature. My  
14 understanding from the Bureau of Prisons' counsel is that he  
15 is now in federal jurisdiction.

16 THE COURT: All right. Well, that does raise  
17 another question though, that let's answer that quickly. And  
18 that is that this sentence is to run concurrently with the  
19 anticipated undischarged sentence in Shelby County General  
20 Sessions Docket Number 18-06998. As for the other language,  
21 a recommendation that Mr. Bradner be housed in a facility  
22 that has a sex offender treatment program and that houses  
23 other sex offenders. And I am going to include the language  
24 not in the state of Massachusetts or New York.

25 And Mr. Gerald, the reason I'm going to include

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1 that is Ms. Ireland is right, there are facilities throughout  
2 the country, not just the two you've identified. And so I  
3 don't think that will at all keep Mr. Bradner from getting  
4 into a safe and robust, in terms of the treatment program,  
5 facility. If for whatever reason that does become a problem,  
6 Mr. Gerald, I'm happy to hear back from you and to reconsider  
7 that.

8 MR. GERALD: Thank you, Your Honor.

9 THE COURT: All right. Anything else for the  
10 judgment?

11 MR. GERALD: Your Honor, the only thing I would  
12 say is when you -- in concurrence with the state matter, if  
13 it ever becomes relevant, I know that he has now been  
14 indicted. I'm referring to Mr. Corman. He represents  
15 Mr. Bradner in the state.

16 THE COURT: Okay.

17 MR. GERALD: I want to make sure we've got the  
18 number right. If I may, Your Honor.

19 THE COURT: Yes.

20 MR. GERALD: 18-06998.

21 THE COURT: That's the one we had.

22 MR. GERALD: I just wanted to make sure we were  
23 talking the same number.

24 THE COURT: Okay. We've got it as Shelby County  
25 general sessions.

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1 MR. GERALD: It's actually in criminal court now.

2 THE COURT: So same indictment number but  
3 criminal court.

4 MR. GERALD: That's correct.

5 THE COURT: Okay. All right. Anything else for  
6 the judgment or anything else to address?

7 MR. GERALD: No, Your Honor.

8 MS. IRELAND: No, Your Honor.

9 THE COURT: Mr. Bradner, do you have any  
10 questions about anything?

11 THE DEFENDANT: No, ma'am.

12 THE COURT: Okay. All right. Thank you all very  
13 much. Mr. Bradner, good luck to you. Thank you.

14 (Adjournment.)

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UNREDACTED TRANSCRIPT

C E R T I F I C A T E

I, CANDACE S. COVEY, do hereby certify that the foregoing 62 pages are, to the best of my knowledge, skill and abilities, a true and accurate transcript from my stenotype notes of the Sentencing hearing on the 15th day of August, 2019, in the matter of:

United States of America

vs.

William Bradner

Dated this 28th day of October, 2019.

S/Candace S. Covey

CANDACE S. COVEY, LCR, RDR, CRR  
Official Court Reporter  
United States District Court  
Western District of Tennessee

UNREDACTED TRANSCRIPT

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

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UNITED STATES OF AMERICA,	)	
Plaintiff,	)	
v.	)	18-20153-SHL
WILLIAM BRADNER,	)	
Defendant.	)	

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ORDER ON CHANGE OF PLEA

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This cause came to be heard on March 28, 2019, the Assistant United States Attorney for this district, Debra Lynn Ireland, appearing for the Government, and the Defendant, William Bradner, appearing in person and with counsel, Lee Howard Gerald.

With leave of the Court, the defendant withdrew the not guilty plea heretofore entered and entered a plea of guilty as to Counts 2, 4, 6, and 8 of the Indictment.

Plea colloquy was held and the Court accepted the guilty plea.

SENTENCING in this case is set THURSDAY, JULY 18, 2019 at 2:00 P.M. in Courtroom No. 1, on the 11<sup>th</sup> floor before Judge Sheryl H. Lipman.

Pursuant to Local Criminal Rule 32.1, the Presentence Report prepared by the United States Probation Officer shall be provided to the parties at least thirty-five (35) days prior to sentencing. Counsel for the parties shall submit any objections or requests in writing to the Probation Officer no more than fourteen (14) days after receiving the report and attempt to resolve any issues involving the report. No more than twenty-one (21) days after receiving the report, the parties shall file their position papers on sentencing with the Court. At least 7 days before the sentencing, the Probation Officer shall submit the final report to the Court and the parties.

Defendant is remanded to the custody of the United States Marshal.

IT IS SO ORDERED, this the 5<sup>th</sup> day of April, 2019.

s/Sheryl H. Lipman  
SHERYL H. LIPMAN  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs. NO. 2:18-cr-20153-SHL

WILLIAM BRADNER,

Defendant.

NO. 2:18-cr-20153-SHL

CHANGE OF PLEA HEARING

BEFORE THE HONORABLE SHERYL H. LIPMAN, JUDGE

THURSDAY

28TH OF MARCH, 2019

CANDACE S. COVEY, RDR, CRR  
OFFICIAL REPORTER  
FOURTH FLOOR FEDERAL BUILDING  
MEMPHIS, TENNESSEE 38103

UNBEDACTED TRANSCRIPT

1 A P P E A R A N C E S  
2  
3  
4

5 Appear on behalf of the Plaintiff:

6 MS. DEBRA LYNN IRELAND  
7 United States Attorney's Office  
167 N. Main Street  
8 Suite 800  
Memphis, TN 38103  
9 (901) 544-4231

10  
11 Appear on behalf of the Defendant:

12 MR. LEE HOWARD GERALD  
13 Attorney at Law  
14 Law Office of Lee Gerald  
15 619 South Cooper  
Memphis, TN 38104  
16 (901) 525-8848

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UNREDACTED TRANSCRIPT

Thursday

March 28, 2019

The Change of Plea hearing in this case began on this date, Thursday, 28th day of March, 2019, at 11:00 a.m., when and where evidence was introduced and proceedings were had as follows:

MR. GERALD: Your Honor, I've met with Mr. Bradner this morning, and I came over early enough to do that and reviewed the plea agreement in detail with him. I just need him to be able to sign in when he comes in. If we could just have a second at counsel table, we'll move through that as quickly as possible.

THE COURT: Okay. We're behind already.

MR. GERALD: I understand, Your Honor. Trust me.

THE COURT: Good morning, Mr. Bradner.

THE DEFENDANT: Good morning, ma'am.

THE COURT: It's my understanding you wish to change your plea today; is that correct?

THE DEFENDANT: Yes, ma'am.

THE COURT: There are a number of questions I need to ask you on the record to be sure this is what you want to do, to be sure you understand what happens when you

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1 change your plea. If I ask you a question that you don't  
2 understand, it's my fault for asking a bad question, so tell  
3 me and I'll figure out a better way to ask it. Okay?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: If you need to stop and talk to  
6 Mr. Gerald at any point, that's absolutely fine. Just let me  
7 know, and we'll let you stop and talk to him. Okay?

8 THE DEFENDANT: Yes, ma'am.

9 (Defendant Sworn.)

10 THE COURT: Mr. Bradner, do you understand you're  
11 now under oath and must answer all my questions truthfully?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Do you understand that? Do you  
14 understand that if you don't, if you give a false answer to a  
15 question, that you could be charged with a crime of making a  
16 false statement?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: What is your full name?

19 THE DEFENDANT: William Peter Bradner.

20 THE COURT: If you would spell that for the  
21 record. Spell the last name.

22 THE DEFENDANT: B-R-A-D-N-E-R.

23 THE COURT: Okay. Where were you born,  
24 Mr. Bradner?

25 THE DEFENDANT: Norwood, Massachusetts.

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1                   THE COURT: How old are you?

2                   THE DEFENDANT: 55.

3                   THE COURT: Are you married?

4                   THE DEFENDANT: No, ma'am.

5                   THE COURT: Any kids?

6                   THE DEFENDANT: Yes, ma'am.

7                   THE COURT: How many kids?

8                   THE DEFENDANT: Three children.

9                   THE COURT: How far did you go in school?

10                  THE DEFENDANT: Through high school, some  
11 college.

12                  THE COURT: So when you read a piece of paper,  
13 you understand what you're reading?

14                  THE DEFENDANT: Yes, ma'am.

15                  THE COURT: Have you taken any drugs or drank any  
16 alcohol within the last 24 hours?

17                  THE DEFENDANT: No, ma'am.

18                  THE COURT: Ever been treated for any mental  
19 illness or addiction to drugs?

20                  THE DEFENDANT: No, ma'am.

21                  THE COURT: Do you understand what you're doing  
22 here today?

23                  THE DEFENDANT: Yes, ma'am.

24                  Ma'am, I am currently taking some psych meds.  
25 I'm being treated while I'm in custody for depression.

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1                   THE COURT: Okay. Tell me what meds you've  
2 taken.

3                   THE DEFENDANT: Demerol and -- no. No. I don't  
4 remember, ma'am. I don't remember the names.

5                   THE COURT: Two medications?

6                   THE DEFENDANT: Yes. I'm taking some in the  
7 morning and some in the evening.

8                   THE COURT: Okay. Did you take them this  
9 morning?

10                  THE DEFENDANT: Yes, ma'am.

11                  THE COURT: Take them last night?

12                  THE DEFENDANT: Yes, ma'am.

13                  THE COURT: Take them yesterday morning?

14                  THE DEFENDANT: Yes, ma'am.

15                  THE COURT: Take them every morning and every  
16 night?

17                  THE DEFENDANT: Yes, I do, ma'am.

18                  THE COURT: Today you're making a decision about  
19 how you want to proceed in the case.

20                  THE DEFENDANT: Yes.

21                  THE COURT: Does the medication prevent you in  
22 any way from being able to make this decision for yourself?

23                  THE DEFENDANT: No, ma'am.

24                  THE COURT: Is it helping you in any way to make  
25 the decision?

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1                   THE DEFENDANT: Actually, it is. It's taken some  
2 of the fear and anxiety. So yes, ma'am.

3                   THE COURT: Okay. Do you understand what you're  
4 doing here today?

5                   THE DEFENDANT: Yes, ma'am.

6                   THE COURT: What are you here to do today?

7                   THE DEFENDANT: I'm here to change my plea to  
8 guilty.

9                   THE COURT: Mr. Gerald, do you consider  
10 Mr. Bradner competent to enter a plea of guilty?

11                  MR. GERALD: I do. Thank you, Your Honor.

12                  THE COURT: Mr. Bradner, did you receive a copy  
13 of the indictment against you?

14                  THE DEFENDANT: Yes, ma'am.

15                  THE COURT: Did you fully discuss the charges in  
16 the indictment and the case in general with Mr. Gerald?

17                  THE DEFENDANT: Yes, ma'am.

18                  THE COURT: Did you tell him everything you knew  
19 about the case?

20                  THE DEFENDANT: Yes, I did.

21                  THE COURT: Do you believe he's fully aware of  
22 the facts upon which these charges are based?

23                  THE DEFENDANT: Yes, ma'am.

24                  THE COURT: Did he advise you as to the nature  
25 and the meaning of the charges against you?

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1                   THE DEFENDANT: Yes.

2                   THE COURT: Did he explain the meaning of any  
3 words in the indictment you might not understand?

4                   THE DEFENDANT: Yes, ma'am.

5                   THE COURT: Did he specifically advise you as to  
6 every element of these offenses that the Government must  
7 prove beyond a reasonable doubt to get convictions against  
8 you?

9                   THE DEFENDANT: Yes, he did.

10                  THE COURT: Did he advise you as to any defenses  
11 you might have to the charges?

12                  THE DEFENDANT: Yes. We discussed them.

13                  THE COURT: Did he explain the terms of the plea  
14 agreement to you?

15                  THE DEFENDANT: Yes, ma'am.

16                  THE COURT: Are you fully satisfied with the  
17 counsel, representation and advice that you've been given in  
18 this case?

19                  THE DEFENDANT: Yes, ma'am.

20                  THE COURT: Mr. Gerald, are you satisfied that  
21 Mr. Bradner understands the charges, the elements of the  
22 offenses charged and the legal meaning of the words used in  
23 the indictment?

24                  MR. GERALD: I am, Your Honor.

25                  THE COURT: Mr. Bradner, by pleading guilty, you

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1 give up valuable civil rights. These are felony offenses,  
2 and do you understand that as a felon, you may lose the right  
3 to vote, the right to hold public office, the right to serve  
4 on a jury and the right to possess any kind of a firearm,  
5 meaning a gun, ammunition, any type of explosive?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: By pleading guilty you also give up  
8 constitutional rights that would have been part of a trial if  
9 we had a trial in the case. So do you understand you have  
10 the right to plead not guilty and to hold on to that plea  
11 throughout the whole process?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: If you pled not guilty, you would  
14 have the right to trial by jury. Do you understand that  
15 right?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: At a trial you would be presumed to  
18 be innocent, and it would be the Government's job to prove  
19 your guilt beyond a reasonable doubt. Do you understand that  
20 right?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: At a trial you have the right to  
23 assistance of counsel, appointed by the Court if necessary.  
24 And you would have the right to that lawyer throughout each  
25 stage of the process. Do you understand that right?

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1                   THE DEFENDANT: Yes, ma'am.

2                   THE COURT: At a trial you'd have the right to  
3 see and to hear all of the witnesses the Government would  
4 offer against you and to have your lawyer cross examine those  
5 witnesses in your defense. Do you understand that right?

6                   THE DEFENDANT: Yes, ma'am.

7                   THE COURT: At a trial you would have the right  
8 to not testify unless you voluntarily chose to do so in your  
9 own defense. Do you understand that right?

10                  THE DEFENDANT: Yes, ma'am.

11                  THE COURT: Also at a trial you would have the  
12 right to have your own witnesses here, people who could  
13 testify in your case, and you would have the right to present  
14 documents if that might help you in your case. Do you  
15 understand those trial rights?

16                  THE DEFENDANT: Yes, ma'am.

17                  THE COURT: If we had the trial and you decided  
18 not to testify or to offer any evidence, witnesses or  
19 documents, those facts could not be held against you. Do you  
20 understand that right?

21                  THE DEFENDANT: Yes, ma'am.

22                  THE COURT: If we had the trial and you were  
23 found guilty at the trial, you would have had the right to  
24 appeal that conviction to another court and be represented by  
25 a lawyer on that appeal. Do you understand that right?

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1                   THE DEFENDANT: Yes, ma'am.

2                   THE COURT: Finally, by entering a plea of guilty  
3 now, we will not have a trial in the case. We'll go directly  
4 to the sentencing phase of the case. Do you understand that?

5                   THE DEFENDANT: Yes, ma'am.

6                   THE COURT: Ms. Ireland, if you could summarize  
7 the charges in Counts 2, 4, 6 and 8 and let Mr. Bradner know  
8 what the maximum possible penalty for those counts are.

9                   MS. IRELAND: Yes, I will, Your Honor. Counts 2,  
10 4 and 6 are violations of 18 U.S.C. 2251(a) and (e). In  
11 short, they are attempts and knowing persuasion, induction,  
12 enticement, coercion of a minor female under the age of 18 to  
13 engage in sexually explicit conduct as it is defined in  
14 Title 18 United States Code Section 2256(2)(A), for the  
15 purpose of producing a visual depiction of the conduct, and  
16 it was also produced using materials that moved in interstate  
17 or foreign commerce.

18                   The time range for Count 2 is in or about  
19 September 2017. The time range for Count 4 is in or about  
20 November 2017. The time range for Count 6 is in or about  
21 June 2017. The subject in Count 2 is minor Victim A. The  
22 subject in Count 4 is also minor Victim A. The subject in  
23 Count 6 is minor Victim B.

24                   And finally, Count 8 alleges that on or about  
25 April 25th, 2018, Mr. Bradner knowingly possessed digital

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1 storage devices, specifically a Pixtor SanDisk SD card and  
2 two cellular phones that contained visual depictions,  
3 computer images of minors engaging in sexually explicit  
4 conduct, and they were produced using materials that moved in  
5 interstate or foreign commerce.

6 The penalties for Counts 2, 4 and 6 are not less  
7 than 15 years to not more than 30 years in custody. Not more  
8 than \$250,000 in fines or both. Plus a period of supervised  
9 release for any term of years not less than five to life.

10 There's also a mandatory special assessment of  
11 \$100 per count of conviction and a special assessment of  
12 \$5,000 per count of conviction, unless the Court finds  
13 Mr. Bradner to be indigent. For Count 8 the penalty is not  
14 more than 10 years. But if a minor depicted is under the age  
15 of 12, that increases to not more than 20. A fine of not  
16 more than \$250,000 or both. Plus a period of supervised  
17 release for a term not less than five, and the same special  
18 assessments would apply.

19 THE COURT: And in this situation, is the  
20 allegation that the -- for Count 8, the maximum would be  
21 10 or 20?

22 MS. IRELAND: It would be 10 in this case, Your  
23 Honor. The youngest victim for the counts that Mr. Bradner  
24 is changing his plea to was 13. And the higher penalty range  
25 is for under the age of 12.

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1                   THE COURT: Okay. The plea agreement just talks  
2 about the 20 years. It doesn't have the 10 years in it.

3                   MS. IRELAND: That would be my error, Your Honor.

4                   THE COURT: Okay.

5                   MS. IRELAND: So it should be not more than ten.

6                   THE COURT: Okay. It has the lineage "and if  
7 minors depicted are under age 12, the term of incarceration  
8 of not more than 20," it doesn't have the first part of that,  
9 the "not more than 10 years" in there.

10                  All right. Mr. Bradner, do you --

11                  Would you write that in the?

12                  MS. IRELAND: Yes, Your Honor.

13                  THE COURT: So it should, I guess, read "The  
14 maximum penalty for violation of Section 2252(a)(4) be as  
15 charged is" and write in there "a term of incarceration of  
16 not more than 10 years" and the fine, and then the rest can  
17 go on. Okay.

18                  MS. IRELAND: I would need to strike through that  
19 line.

20                  THE COURT: You don't have to strike the other  
21 because, I mean, the other is true.

22                  MS. IRELAND: It is true, Your Honor. It just  
23 doesn't apply in this case.

24                  THE COURT: Right. But that's fine to leave it.  
25 I think it's clear on the record that the Government's

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1 position is that it's "the not more than 10 years" that  
2 applies.

3 MS. IRELAND: Yes, Your Honor.

4 THE COURT: Yeah. That's fine.

5 Mr. Bradner, do you understand the charges  
6 against you?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: And do you understand the maximum  
9 possible penalty?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: Do you understand also that as to  
12 Counts 2, 4 and 6, there is what we call a mandatory minimum  
13 charge that I would -- as to those counts, I would have to  
14 sentence you to at least 15 years incarceration?

15 THE DEFENDANT: Understood. Yes, ma'am.

16 THE COURT: Supervised release will be a -- will  
17 be imposed for after incarceration. While on supervised  
18 release, there'll be conditions you have to follow. Do you  
19 understand that if you violate conditions while on supervised  
20 release that I can return you to prison?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: In this case there are mandatory  
23 minimums for supervised release as well, which is not less  
24 than five years.

25 THE DEFENDANT: Understood. Yes, ma'am.

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1                   THE COURT: There are mandatory restitution  
2 requirements that apply in this case. Do you understand you  
3 would be obligated to make payments for restitution?

4                   THE DEFENDANT: Yes, ma'am.

5                   THE COURT: Do you understand there's no such  
6 thing as parole in the federal system?

7                   THE DEFENDANT: Yes, ma'am.

8                   THE COURT: Also the Government is seeking  
9 forfeiture of the various electronic devices that were at  
10 issue. Do you understand that?

11                  THE DEFENDANT: Yes, ma'am.

12                  THE COURT: Finally, there's a special  
13 assessment, which in these cases is \$5,000 per count unless  
14 there's a showing that you're -- unless I find that you're  
15 indigent. Do you understand that applies?

16                  THE DEFENDANT: Yes, ma'am.

17                  THE COURT: And if there's a finding of  
18 indigency, I think the \$100 special assessment still applies.  
19 Do you understand that?

20                  THE DEFENDANT: Yes, ma'am.

21                  THE COURT: Okay. Any questions about any of the  
22 possible consequences of the plea?

23                  THE DEFENDANT: No, ma'am.

24                  THE COURT: Ms. Ireland, I'm going to have you  
25 summarize the terms of the plea agreement, but let me say

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1 first that I did this -- I've done this once before so far.  
2 I've got a problem with a defendant waiving an argument about  
3 the unconstitutionality of a statute. I don't think that's a  
4 proper waiver.

5 MS. IRELAND: It is direction from DOJ, Your  
6 Honor.

7 THE COURT: I'm not willing to accept it. I  
8 don't think anyone should have to waive their right to make  
9 an argument that the law is unconstitutional. I guess it  
10 could be an agreement between you and the Defendant, but I'm  
11 not enforcing it.

12 MS. IRELAND: I think the -- Your Honor can  
13 accept or reject the agreement. At this point I'm following  
14 guidance that I have been told to follow, and a defendant can  
15 agree to what they want to agree to. If Mr. Bradner doesn't  
16 want to agree to that, respectfully, Your Honor, it's  
17 something that is up for negotiation. But it is part of this  
18 agreement.

19 THE COURT: Well, last time I raised this,  
20 everyone struck it out. Again, I'm not going to -- I'm not  
21 going to accept a line that says a defendant can't argue that  
22 something is unconstitutional. I'm just not going to do it.

23 MS. IRELAND: It's not that the statute is  
24 unconstitutional. It's that -- I'm sorry.

25 THE COURT: No. There's --

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1 MS. IRELAND: Actually it is.

2 THE COURT: It is. The other piece that his  
3 conduct doesn't fall under the statute, I'm fine with that  
4 waiver. But to say to someone that they cannot argue that  
5 something is unconstitutional, I don't think is appropriate.

6 MS. IRELAND: Well, Your Honor, I'm not really  
7 sure what to do.

8 THE COURT: Well...

9 MS. IRELAND: I'm not trying to be disrespectful  
10 in any way, but it is guidance. I've been asked to follow  
11 that guidance. I understand Your Honor's position. I don't  
12 know what to do with that, Your Honor.

13 THE COURT: Mr. Gerald, anything?

14 MR. GERALD: Your Honor, it struck me as unusual  
15 because I had never seen it before. But we have been  
16 struggling to get this plea done, both with Ms. Ireland and  
17 the office here and also with the state. So I did not raise  
18 it because we had so much trouble getting a plea agreement  
19 worked out that -- and we did -- Mr. Bradner and I did  
20 discuss it but not specifically in regard to any detail to  
21 that clause or that statement.

22 I obviously don't like waiving any appeal right,  
23 but there have been concessions by the United States  
24 Attorney's Office in exchange for some waivers. I would  
25 prefer not to waive that part of it. But in exchange for the

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1       concessions made as to the floor and I don't object to it.  
2       But I understand the Court's concern. And as far as the  
3       Court rejecting the plea agreement, that's within the Court's  
4       discretion, and I certainly would step away and talk to  
5       Ms. Ireland see if we can come up with a solution if you want  
6       us to.

7                   THE COURT: Well, the line "I waive my right to  
8       appeal on the basis that the statutes under which I am  
9       pleading guilty are unconstitutional." I am not willing to  
10      accept that line.

11                  MS. IRELAND: As this is an agreement pursuant to  
12      11(c)(1)(C), I don't do these often. Correct me if I'm  
13      wrong, please. Must the Court accept the agreement in its  
14      entirety?

15                  THE COURT: Well, the only 11(c)(1)(C) part of  
16      the agreement is this sentence. It's not the agreement as a  
17      whole.

18                  MR. GERALD: If I could just have a second with  
19      Ms. Ireland?

20                  THE COURT: Yes.

21                  (Short break.)

22                  MS. IRELAND: Your Honor, for the purposes of  
23      today's hearing only, I am going to remove the phrase that  
24      the Court is objecting to from the agreement, date and  
25      initial it. I do anticipate that this will come up again

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1 before Your Honor. And I'll do my best to find a little bit  
2 more clarity, so that if it should be with one of my cases,  
3 we're prepared to deal with it.

4 THE COURT: Okay.

5 MS. IRELAND: Is that a fair way to address it?

6 THE COURT: Yes. So where you're scratching out  
7 -- actually what stays, "I further waive my right to appeal  
8 on the basis that" and then scratch out "the statutes under  
9 which I am pleading are unconstitutional or" because I'm not  
10 taking a position on "that the conduct to which I have  
11 admitted does not fall within the scope." Is that clear  
12 where I'm talking about?

13 MS. IRELAND: Yes, Your Honor. And we're both  
14 initialling and dating it.

15 THE COURT: All right. Now, Ms. Ireland, if you  
16 could summarize the terms of the plea agreement.

17 MS. IRELAND: I will, Your Honor. Mr. Bradner  
18 has agreed to enter a plea of guilty to Counts 2, 4, 6 and 8  
19 of the indictment. At sentencing the United States in  
20 exchange will agree to dismiss Counts 1, 3, 5 and 7. The  
21 parties have agreed to a bottom end for the sentencing,  
22 pursuant to Rule 11(c)(1)(C), that the sentence will be not  
23 less than 300 months.

24 Other than that, if the Court accepts the  
25 agreement, the parties will be able to argue for where the

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1 sentence should be fixed above that limit. Any term of  
2 incarceration will be followed by supervised release, and it  
3 will also require Mr. Bradner to register as a sex offender.  
4 He is aware of that.

5 The Government will be asking the Court to impose  
6 an additional, more extensive search provision during the  
7 supervision time. The proper citation to the code that  
8 allows it is contained in the plea agreement. The Government  
9 agrees that Mr. Bradner should receive full acceptance for  
10 responsibility unless his conduct between now and then  
11 changes significantly, and we don't anticipate that it will.

12 And Mr. Bradner is waiving appellate rights under  
13 Title 18 Section 3742 to appeal the sentence. And under  
14 Title 28 Section 2255 regarding collateral methods of  
15 challenging the sentence imposed by the Court. He's  
16 reserving the right however to file an action with a claim  
17 for ineffective assistance of counsel or prosecutorial  
18 misconduct. And the remainder of the agreement contains an  
19 agreement to forfeit the digital devices that have been  
20 identified in the indictment. And that an understanding that  
21 restitution will also be requested.

22 THE COURT: Mr. Bradner, is that the agreement  
23 you agreed to?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Looking at the last page of the

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1 document, is that your signature on the last page?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Or the next to last page maybe.

4 THE DEFENDANT: Page 4.

5 THE COURT: Pardon?

6 THE DEFENDANT: Page 4, ma'am.

7 THE COURT: Yeah. Did you have a chance to read  
8 and discuss this agreement with Mr. Gerald before you signed  
9 it?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: Did you ask him questions about it?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Do you have any other questions you  
14 need to ask him now?

15 THE DEFENDANT: No, ma'am.

16 THE COURT: Does the agreement include all the  
17 understandings and agreements that you believe you have with  
18 the Government?

19 THE DEFENDANT: Yes, it does, ma'am.

20 THE COURT: So there are no side deals that are  
21 not written down in the document?

22 THE DEFENDANT: No.

23 THE COURT: Do you understand the terms of the  
24 agreement?

25 THE DEFENDANT: Yes, ma'am.

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1                   THE COURT: Has anyone promised you anything not  
2 written down in this document in an effort to try and  
3 persuade you to accept the agreement?

4                   THE DEFENDANT: No, ma'am.

5                   THE COURT: Has anyone threatened you in any way  
6 to get you to accept the agreement?

7                   THE DEFENDANT: No, ma'am.

8                   THE COURT: In the agreement the Government is  
9 telling you they're going to give me -- they're going to  
10 recommend to me that I give you credit for accepting  
11 responsibility. Do you understand if for some reason I don't  
12 give you that credit that you would not be able to get out of  
13 the agreement?

14                  THE DEFENDANT: Yes, ma'am.

15                  THE COURT: Also you and the Government are  
16 agreeing to what we call a binding provision that I sentence  
17 you to not less than 300 months. At the time of your  
18 sentencing, I will either accept or reject that provision.  
19 If I reject it, both sides have a chance to get out of the  
20 agreement. If I accept it, we just go on. Do you understand  
21 that?

22                  THE DEFENDANT: Yes, ma'am.

23                  THE COURT: Mr. Gerald -- well, let me say. You  
24 also understand you're agreeing to comply with the sex  
25 offender conditions?

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1                   THE DEFENDANT: Yes, ma'am.

2                   THE COURT: You understand the Government is  
3 going to request a search provision as part of supervised  
4 release?

5                   THE DEFENDANT: Yes, ma'am.

6                   THE COURT: And you understand you're agreeing to  
7 the restitution that's mandated, although there's no specific  
8 amount at this point?

9                   THE DEFENDANT: Yes, ma'am.

10                  THE COURT: Mr. Gerald, were all formal plea  
11 offers from the Government conveyed to Mr. Bradner?

12                  MR. GERALD: They were, Your Honor.

13                  THE COURT: And let me say, Mr. Bradner, the line  
14 that I had an issue with has nothing to do with you or your  
15 situation. It's a philosophical thing that strikes me wrong.

16                  THE DEFENDANT: Yes, ma'am.

17                  THE COURT: Do you understand that? Okay.  
18 Mr. Bradner, at the time of your sentencing, my job will be  
19 to sentence you to something sufficient but not greater than  
20 necessary to accomplish the purposes of sentencing. To make  
21 my decision, I'm required to look at several things. In your  
22 case I have to comply with the mandatory minimums that apply  
23 here. I also look at the advisory sentencing guidelines, the  
24 range of the sentence that applies in your situation.

25                  And then finally I'm to look at what we call the

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1 3553 factors. Those include the nature and circumstances of  
2 the offense and the seriousness of it. Things about you,  
3 your history, your background. A sentence that would send a  
4 message to you and to others of deterrence, meaning to  
5 respect and follow the law going forward. A sentence that  
6 would be a just punishment. A sentence that would protect  
7 the safety of the community. A sentence that would help you  
8 in your life going forward.

9                   So I have to look at all those factors and to  
10 listen to what everyone has to say at the sentencing hearing  
11 before I make my decision. So I'll give the lawyers a chance  
12 to say anything they want to say. I'll give you a chance to  
13 say anything you want to say before I make my decision. Have  
14 you and Mr. Gerald talked about those different things that  
15 go into the sentencing decision?

16                   THE DEFENDANT: Yes, ma'am, we have.

17                   THE COURT: Also I don't think I mentioned, I  
18 also obviously have to consider the binding agreement that  
19 you and the Government made of the not less than 300 months  
20 in making my decision.

21                   THE DEFENDANT: You have to consider that, Your  
22 Honor?

23                   THE COURT: Yes.

24                   THE DEFENDANT: Okay. I guess the only question  
25 I have, Your Honor, is if you choose not to go to the 300

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1 months, does that negate the entire agreement or?

2 THE COURT: It would allow the Government to get  
3 out of the agreement.

4 THE DEFENDANT: Okay.

5 THE COURT: Yeah.

6 THE DEFENDANT: That's fine.

7 THE COURT: Well, it would allow both of you to  
8 get out of the agreement, but if I'm less than 300 months, my  
9 guess is it's the Government that might take advantage of  
10 that.

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: Okay. Any other questions about any  
13 of that?

14 THE DEFENDANT: No, ma'am.

15 THE COURT: And you and Mr. Gerald have talked  
16 about those different things that go into the sentencing  
17 decision?

18 THE DEFENDANT: Yes, we have.

19 THE COURT: Okay. Do you understand though even  
20 though we have this agreement and the other things that  
21 Mr. Gerald I know has talked to you about in terms of  
22 sentencing, today you don't know what the sentence will be  
23 because I don't know yet, and I don't make that decision  
24 until the sentencing hearing.

25 THE DEFENDANT: Understood. Yes, ma'am.

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1                   THE COURT: Okay. Defendants have a right to  
2 appeal a sentence, but that right is often waived as part of  
3 the plea negotiation. Do you understand here you've waived  
4 your right to appeal unless you believe that there's been  
5 prosecutorial misconduct or ineffective assistance of  
6 counsel?

7                   THE DEFENDANT: Yes, ma'am.

8                   THE COURT: If you believe one of those things is  
9 present, you can appeal, but otherwise, you've given up any  
10 other right to either appeal the sentence, the case or to  
11 challenge it on what we call a 2255 or a collateral attack,  
12 which is another way to challenge the sentence or challenge  
13 the voluntariness of the plea. Do you understand that?

14                  THE DEFENDANT: Yes, ma'am.

15                  THE COURT: Ms. Ireland, if you could review what  
16 the evidence would have been at trial.

17                  MS. IRELAND: Yes, Your Honor. Had the United  
18 States proceeded to trial through admissible and credible  
19 evidence, the Government would have proven the following. On  
20 April 25th, 2018, a woman identified by the initials CLM, who  
21 was at the time married to Mr. Bradner, reported to the  
22 Shelby County Sheriff's Office that she had been looking at  
23 his laptop computer and found images of her husband,  
24 Mr. Bradner the Defendant, interacting inappropriately with  
25 two females who are identified in the indictment as Minor A

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1 and Minor B.

2 CLM explained that she guessed the computer's  
3 password because it was similar to one she knew the Defendant  
4 had used in the past. It's a variation on her name. The  
5 minors depicted are known to CLM. They were 15 years old at  
6 the time, Minor A and 13 years old, Minor B, during the  
7 period covered by the indictment.

8 The images were found in the recycle bin on the  
9 laptop. CLM viewed the images and then showed them to law  
10 enforcement agents. The Defendant was arrested on state  
11 charges, based on the conduct depicted in the images. CLM  
12 subsequently gave written consent for officers to search the  
13 home they shared with the Defendant. Of note, investigators  
14 found a Pixtor SD card. It was wadded up in a Tractor Supply  
15 mailer ad and had been tossed into a wastebasket in a shared  
16 office space where objects like coat hangers and USB charging  
17 adapters that concealed digital cameras were also found.

18 Forensic examination of the SD card revealed two  
19 folders. One entitled with the name of Minor A and one with  
20 the name of Minor B. Within each folder were subfolders  
21 labeled Pix, P-I-X and Vids, V-I-D-S. Metadata on the images  
22 indicated they were created on different Samsung devices, to  
23 include a Note 3, Galaxy Prevail and Galaxy S5. Those are  
24 cell phone models. Creation dates ranged from as early as  
25 October 2016 through as late as February of 2018. Those

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1 devices used to create the videos and images were recovered  
2 during the search of the residence, and CLM confirmed that  
3 they belonged to the Defendant.

4 The video recording that underlies Count 2 of the  
5 indictment was stored in the folder named for Minor A.  
6 Metadata embedded in the image indicates it was recorded one  
7 day in September 2017 at approximately 2:48 a.m. Minor A  
8 appears to be lying on her side asleep in her bed. She's  
9 seen in a closeup with her face and the top of her shoulder  
10 visible. Investigators who've seen the inside of the Bradner  
11 residence and recognized the surroundings as Minor A's bed  
12 and bedroom area.

13 The images recorded from the point of view of an  
14 adult male, the Defendant, standing next to the bed looking  
15 down on the sleeping child. His penis is visible. It is  
16 erect and sticking through the fly of the blue shorts he's  
17 wearing. The Defendant then records himself placing his  
18 erect penis very near the face of Minor A. Minor A had just  
19 turned 15 about a month earlier at this time.

20 The recording that underlies Count 4 of the  
21 indictment was also stored in the folder named for Minor A.  
22 Metadata embedded in the image indicates it was recorded  
23 November 7th, 2017 at 3:02 in the afternoon. Investigators  
24 recognized the voice of the Defendant and Minor A, who is  
25 known to the investigators as heard in the video and

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1 recognize the surroundings of the office of the Bradner  
2 residence. Visual recording depicts a pubescent female  
3 reclining in the lap of the Defendant also reclining and is  
4 shot from the Defendant's point of view as he looks over the  
5 shoulder of the female and down her body.

6 Minor A is watching something on the desktop  
7 computer monitor nearby. Her shirt has been pulled up to  
8 expose her stomach. The Defendant's hand moves down her  
9 torso and then to fondle her vaginal area under her clothing.  
10 The child tries to cross her leg and pull away from the  
11 Defendant's hand. He then moves his hand to the child's  
12 breast. Minor A can be heard saying "Your hand is shaking."  
13 In reply the Defendant says, "My whole body is shaking"  
14 followed by something unintelligible and then "trying to hold  
15 you up." Minor A was 15 years old.

16 The video that underlies Count 6 of the  
17 indictment was stored in the folder named for Minor B.  
18 Metadata indicates that video was recorded at approximately  
19 1:26 in the morning in June 2017. Minor B appears to be  
20 lying on her side asleep in her bed. She is seen in a  
21 closeup with her face and the top of her shoulder visible.  
22 She's hugging a stuffed animal and wears a purple knit mitten  
23 or glove on her right hand. CLM told investigators Minor B  
24 wore the glove at night to keep her from sucking her thumb as  
25 she slept. Investigators have seen the inside of the Bradner

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1 residence, and they've recognized the surroundings as  
2 Minor B's bedroom.

3 The image is recorded from the point of view of  
4 an adult male, the Defendant, standing next to the bed  
5 looking down on the sleeping child. His penis is erect and  
6 exposed. The Defendant then records himself placing the tip  
7 of his erect penis at the mouth of the sleeping child. He  
8 subsequently rubs his penis slowly back and forth across the  
9 child's lower lip. Minor B had just turned 13.

10 The visual depictions that underlie Count 8 of  
11 the indictment were found on the Pixtor SD card on the file  
12 as entitled Minor A and Minor B. There were approximately  
13 295 image files and 45 video files relating to Minor A.  
14 There were approximately 46 image files and 56 video files  
15 for Minor B. A few of the visual depictions are of the  
16 minors showering. Others recorded with a hidden camera.  
17 Others are of the girls changing clothes. In one video, the  
18 Defendant can be seen setting up the camera before Minor A  
19 enters the room to try on a dress.

20 Some images depict the Defendant fondling the  
21 girls' breasts while they're either lying on his lap or  
22 playing video games on their phones or on a game console.  
23 And the remainder of the images depict the minor females  
24 engaging in sexually explicit behavior, which is specifically  
25 the Defendant fondling the vaginal area of the child over and

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1 under the clothing and close-up images of the genital area of  
2 the children while they are asleep. In those, they are  
3 either covered by some clothing or entirely covered by  
4 clothing but are directed at the crotch area.

5 Specifically a series of still images of the  
6 clothed genital area or crotch of a sleeping child. The  
7 bedding is the same as that depicted in the videos described  
8 earlier in which the face of the victim is visible. Here it  
9 is not. The image appears to have been taken over several  
10 days because the series has different underwear in every  
11 approximately three images.

12 There's also a video depiction of the Defendant  
13 using Minor B to masturbate. The recording is an extreme  
14 closeup of the Defendant's erect penis being held by a small  
15 hand in a purple knit glove. The Defendant's hand is  
16 identified by the wedding ring that he wears, which was  
17 confiscated at the time of his arrest. That hand is guiding  
18 the child's hand as the Defendant moves back and forth and  
19 begins to ejaculate.

20 There's a video also of the Defendant seated on a  
21 sofa with Minor B who's playing a video game. The  
22 Defendant's voice can be heard, as can the child's, which is  
23 known to investigators. The Defendant first fondles her  
24 breasts, then her vaginal area over her clothing and finally  
25 her vaginal area under her clothing and underwear while the

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1 child continues to play the video game.

2                   The devices used to create these images were  
3 manufactured in whole or in part in China and therefore moved  
4 in interstate and foreign commerce. And these acts were  
5 intentional and knowing, not done by accident, mistake or  
6 other innocent reason. That would have been the Government's  
7 proof, Your Honor.

8                   THE COURT: And where? In the Western District  
9 of Tennessee, I would assume.

10                  MS. IRELAND: This would have been in Arlington,  
11 which is in Shelby County, Western District of Tennessee.  
12 Thank you, Your Honor.

13                  THE COURT: Mr. Gerald, does the Defense  
14 stipulate to the facts as described?

15                  MR. GERALD: Your Honor, we stipulate those facts  
16 would have been presented at trial and would have been  
17 sufficient to convict Mr. Bradner.

18                  THE COURT: Mr. Bradner, do you agree with the  
19 facts as described by the Government?

20                  THE DEFENDANT: Yes, ma'am. I do.

21                  THE COURT: Mr. Bradner, we've talked about  
22 several different issues here. We've talked about what the  
23 charges are here and what the maximum possible penalty for  
24 the charges is, including the mandatory minimums. We've  
25 talked about the plea agreement, the terms of the plea

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1 agreement. We've talked about rights you give up when you  
2 plead guilty. We've talked about what I'll look at to make a  
3 decision on your sentence, but also that I don't make that  
4 now, I make it at the time of your sentencing hearing.

5 Do you have any questions about anything we've  
6 talked about?

7 THE DEFENDANT: No, ma'am.

8 THE COURT: Considering everything we've  
9 discussed, how do you plead to the charges in Counts 2, 4, 6  
10 and 8 in the indictment, guilty or not guilty?

11 THE DEFENDANT: Guilty, Your Honor.

12 THE COURT: Is this your decision to plead guilty  
13 made voluntarily by you because you are guilty?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: I've observed Mr. Bradner's  
16 appearance and listened to his answers to my questions.  
17 Based on my observations and his answers, I find that  
18 Mr. Bradner is fully competent and capable of entering an  
19 informed plea, that he's aware of the nature of the charges  
20 and the consequences of the plea. Mr. Bradner's plea of  
21 guilty is a knowing and a voluntary plea, supported by an  
22 independent basis in fact, containing each of the essential  
23 elements of the offenses.

24 I further find that Mr. Bradner has had the  
25 assistance of counsel through Mr. Gerald. Has been fully

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1 informed of his rights at trial and fully advised the maximum  
2 possible punishment. I accept Mr. Bradner's plea of guilty  
3 and enter a judgment of guilty on Counts 2, 4, 6 and 8 of the  
4 indictment. I'm looking at a date for sentencing.

5 How about July 18th at two o'clock?

6 MR. GERALD: No objection to that, Your Honor.

7 MS. IRELAND: That's fine, Your Honor.

8 THE COURT: All right. Anything else we need to  
9 address?

10 MS. IRELAND: Not from the Government, Your  
11 Honor.

12 MR. GERALD: No, Your Honor.

13 THE COURT: Any questions, Mr. Bradner?

14 THE DEFENDANT: No, ma'am.

15 THE COURT: Okay. We'll see you on July 18th for  
16 your sentencing.

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: Thank you.

19 MS. IRELAND: Thank you, Your Honor.

20 (Adjournment.)

21

22

23

24

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C E R T I F I C A T E

I, CANDACE S. COVEY, do hereby certify that the foregoing 35 pages are, to the best of my knowledge, skill and abilities, a true and accurate transcript from my stenotype notes of the Change of Plea hearing on the 17th day of December, 2019, in the matter of:

United States of America

vs.

William Bradner

Dated this 17th day of December, 2019.

S/Candace S. Covey

CANDACE S. COVEY, LCR, RDR, CRR  
Official Court Reporter  
United States District Court  
Western District of Tennessee

UNREDACTED TRANSCRIPT

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WILLIAM BRADNER,

Defendant.

FILED IN OPEN COURT

DATE: 3-28-2019

TIME: 12:00 pm

INITIALS: J.B.

Criminal No. 2:18-cr-20153-SHL

PLEA AGREEMENT

(1) I, William Bradner, have been charged with eight (8) felony counts in the above-referenced criminal indictment.

I have been charged in Counts 1 through 7 with violating Title 18, United States Code, Section 2251(a), production of visual depictions of a minor engaging in sexually explicit conduct. The maximum penalty for a violation of Section 2251(a), as charged, is a fine of not more than \$250,000, and a term of incarceration not less than fifteen (15) years to not more than thirty (30) years, plus a period of supervised release for any term of years, not less than five (5) years, to life.

*BB*  
*BS*  
*en (15)*  
*dz*

I have been charged in Count 8 with violating Title 18, United States Code, Section 2252(a)(4)(B), possession of visual depictions of a minor engaging in sexually explicit conduct. The maximum penalty for a violation of Section 2252(a)(4)(B), as charged, is a fine of not more than \$250,000, and, if minors depicted are under the age of twelve, a term of incarceration of not more than twenty (20) years, plus a period of supervised release for any term of years, not less than five (5) years, to life.

Fees may be imposed to pay for incarceration or supervised release. There is a \$100 special assessment per felony count of conviction, pursuant to Title 18, United States Code, Section 3013. Furthermore, pursuant to Section 3014, unless the Court finds me indigent, there is also an additional special assessment of \$5,000 per count of conviction for the charges filed against me. The United States is also seeking forfeiture of the devices set forth in the indictment that were used to produce or obtain material involving the sexual exploitation of minors.

Bradner, William, plea agreement, ctd.

(2) My attorney, Lee Gerald, who has been retained to represent me, has informed me of the nature of these criminal charges and the elements of the charges, each of which must be proved by the government beyond a reasonable doubt before I could be found guilty as charged.

(3) By voluntarily pleading guilty, I knowingly waive and give up my constitutional right to plead not guilty, to compel the government to prove my guilt beyond a reasonable doubt, to not be compelled to incriminate myself, to confront and cross-examine the witnesses against me, to have a jury or judge determine my guilt on the evidence presented, and other constitutional rights which apply to a defendant on trial in a criminal case.

(4) I am pleading guilty to the charges described herein because I am guilty and because it is in my best interest to do so, and not because of any threats or promises. There has been no representation made whatsoever by any agent or employee of the United States to me as to what the final disposition of this matter should or will be. I understand that the matter of sentencing is within the sole discretion of the Court. I have discussed sentencing with my attorney.

**I understand the plea agreement in this case to be as follows:**

(5) I will enter a plea of guilty to Counts 2, 4, 6 and 8 of the above-referenced indictment, charging me with the felony violations listed above.

(6) At sentencing, following the entry of my guilty plea and my full compliance with the terms of this agreement, the United States agrees to dismiss Counts 1, 3, 5 and 7.

(7) I understand that this is a plea agreement pursuant to Rule 11(c)(1)(C), and that we have agreed to a sentence of not less than 300 months, to be followed by a period of supervised release to be determined by the Court. I understand that the Court may accept or reject the terms of this agreement immediately, or may postpone its decision until the Court has had the opportunity to review a presentence investigation report. I further understand that, if the Court rejects the terms of this agreement, either party will be given the opportunity to withdraw from the agreement.

(8) I understand that any term of incarceration will be followed by a term of supervised release of not less than five (5) years and up to life. I agree that as an explicit condition of my supervised release, that because I have been convicted of a qualifying felony sex offense and as a result of that conviction I am required to register as a sex offender under the Sex Offender Registration and Notification Act (SORNA) and the laws of the State of Tennessee, that I will comply with those requirements.

(9) I understand that the United States will ask this Court to impose as a special condition of supervised release, that I am to submit my person, property, house, residence, vehicles, papers, computer, other electronic communications or data storage devices or media, and

Bradner, William, plea agreement, ctd.

effects to search at any time, with or without a warrant, by any law enforcement or probation officer with reasonable suspicion concerning a violation of a condition of my supervised release or any unlawful conduct on my part, and also by any probation officer in the lawful discharge of the officer's supervision functions. The Court's authority to impose this condition is set forth at Title 18, United States Code, Sections 3583(d) and 3563(b)(23).

(10) I understand that, given the facts in the possession of the United States at the time of the writing of this agreement, the United States does not oppose my receiving acceptance of responsibility credit pursuant to U.S.S.G. Section 3E1.1. I understand that if the United States receives information between the signing of this agreement and the time of the sentencing that I have previously engaged in, or if I engage in the future, in conduct inconsistent with the acceptance of responsibility, including, but not limited to, participation in any additional criminal activities between now and the time of sentencing, this position could change. Further, I understand that whether or not acceptance of responsibility credit pursuant to Section 3E1.1 is granted is a matter to be determined by the Court. Failure of the Court to grant acceptance of responsibility credit is not a basis for me to withdraw my guilty plea.

(11) I understand that Title 18, United States Code, Section 3742 gives me the right to appeal the sentence imposed by the Court. Acknowledging this, I knowingly and voluntarily waive my right to appeal any sentence imposed by the Court and the manner in which the sentence is determined so long as my sentence is not greater than the advisory guideline range. I further waive my right to appeal on the basis that ~~the statute/s under which I am pleading guilty are unconstitutional~~, or that the conduct to which I have admitted does not fall within the scope of the statute/s under which I am pleading guilty. These waivers are made in exchange for the concessions made by the United States in this plea agreement.

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28 mar 19  
JL

(12) I understand that Title 28, United States Code, Section 2255 provides an additional method by which to challenge the sentence imposed by the Court. Acknowledging this, I knowingly and voluntarily waive my rights to file an action pursuant to Section 2255 with one exception: I retain my right to file any claim for ineffective assistance of counsel or prosecutorial misconduct.

(13) I understand that persons convicted of crimes are required to pay a mandatory assessment of \$100 per felony count of conviction. I agree that payment of this assessment, in full, is a condition of this agreement. I understand that payment should be made at the time of sentencing. I further understand that the offense to which I am pleading guilty carries an additional special assessment of \$5,000 pursuant to the Justice for Victims of Trafficking Act of 2015 unless the Court finds that I am indigent and unable to pay the assessment.

(14) I am relinquishing any and all rights I have or had to the digital devices identified in the indictment. I consent to forfeiture of these devices and their destruction.

Bradner, William, plea agreement, ctd.

(15) I understand that restitution is mandated for the offense to which I am pleading guilty, pursuant to Title 18, United States Code, Section 2559. I agree that I may be required to pay the full amount of the losses to all victims of the offense to which I am pleading guilty. Any restitution obligation should be paid to the Clerk of Court for eventual disbursement. I agree to cooperate in efforts to collect the restitution obligation, by any means the United States deems appropriate. I understand imposition or payment of restitution will not restrict or preclude the filing of any civil suit or administrative action. I agree any restitution imposed will be non-dischargeable in any bankruptcy proceeding and I will not seek a discharge or a finding of dischargeability as to the restitution obligation.

(16) I understand that this agreement does not apply to any crimes that I may have committed (other than those specifically set forth herein), or that I may commit hereafter, including perjury.

(17) I willingly stipulate that there is a sufficient factual basis to support each and every material factual allegation contained within the count of the indictment to which I am pleading guilty.

(18) I understand that a thorough presentence investigation will be conducted and sentencing recommendations independent of the United States Attorney's Office will be made by the preparer of the presentence report, which the Court may adopt or take into consideration.

(19) I have not been coerced, threatened, or promised anything other than the terms of this plea agreement, described above, in exchange for my plea of guilty. I understand that I will have an opportunity to personally address the Court prior to sentence being imposed.

(20) I can read and write, and I have read and discussed the terms of the foregoing plea agreement with my attorney, Lee Gerald, and am satisfied with my attorney and her advice and counsel. Being aware of all of the possible consequences of my plea, I have independently decided to enter this plea of my own free will, and am affirming that agreement on the date and by my signature below.

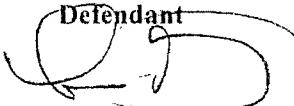
3/28/19

DATE SIGNED

William Bradner

WILLIAM BRADNER

Defendant



3/28/19

DATE SIGNED

LEE GERALD

Attorney for William Bradner

Bradner, William, plea agreement, ctd.

28 March 19

DATE SIGNED

  
**DEBRA L. IRELAND**  
Assistant United States Attorney  
U.S. Attorney's Office

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

UNITED STATES OF AMERICA, )  
Plaintiff, )  
vs. )  
WILLIAM BRADNER, )  
Defendant. )  
Criminal No.: 18-20153 SHL  
18 USC § 2251(a) & (e)  
18 USC § 2252(a)(4)(B) & (b)(2)  
18 USC § 2253

## INDICTMENT

## THE GRAND JURY CHARGES:

## **COUNT 1**

In or about October, 2016, in the Western District of Tennessee, the defendant,

## WILLIAM BRADNER

attempted to and knowingly employed, used, persuaded, induced, enticed and coerced Victim A, a female then under eighteen years of age, to engage in sexually explicit conduct as defined in Title 18, United States Code, Section 2256(2)(A), specifically, masturbation and the lascivious exhibition of the pubic area, for the purpose of producing a visual depiction of such conduct, and the visual depiction was produced using materials that had been mailed, shipped, and transported in and affecting interstate and foreign commerce; all in violation of Title 18, United States Code, Section 2251(a) and (e).

**COUNT 2**

In or about September, 2017, in the Western District of Tennessee, the defendant,

**WILLIAM BRADNER**

attempted to and knowingly employed, used, persuaded, induced, enticed and coerced Victim A, a female then under eighteen years of age, to engage in sexually explicit conduct as defined in Title 18, United States Code, Section 2256(2)(A), specifically oral sex and masturbation, for the purpose of producing a visual depiction of such conduct, and the visual depiction was produced using materials that had been mailed, shipped, and transported in and affecting interstate and foreign commerce; all in violation of Title 18, United States Code, Section 2251(a) and (e).

**COUNT 3**

In or about October, 2017, in the Western District of Tennessee, the defendant,

**WILLIAM BRADNER**

attempted to and knowingly employed, used, persuaded, induced, enticed and coerced Victim A, a female then under eighteen years of age, to engage in sexually explicit conduct as defined in Title 18, United States Code, Section 2256(2)(A), specifically, masturbation, for the purpose of producing a visual depiction of such conduct, and the visual depiction was produced using materials that had been mailed, shipped, and transported in and affecting interstate and foreign commerce; all in violation of Title 18, United States Code, Section 2251(a) and (e).

**COUNT 4**

In or about November, 2017, in the Western District of Tennessee, the defendant,

**WILLIAM BRADNER**

attempted to and knowingly employed, used, persuaded, induced, enticed and coerced Victim A, a female then under eighteen years of age, to engage in sexually explicit conduct as defined in Title 18, United States Code, Section 2256(2)(A), specifically, masturbation, for the purpose of producing a visual depiction of such conduct, and the visual depiction was produced using materials that had been mailed, shipped, and transported in and affecting interstate and foreign commerce; all in violation of Title 18, United States Code, Section 2251(a) and (e).

**COUNT 5**

In or about April, 2017, in the Western District of Tennessee, the defendant,

**WILLIAM BRADNER**

attempted to and knowingly employed, used, persuaded, induced, enticed and coerced Victim B, a female then under eighteen years of age, to engage in sexually explicit conduct as defined in Title 18, United States Code, Section 2256(2)(A), specifically, masturbation, for the purpose of producing a visual depiction of such conduct, and the visual depiction was produced using materials that had been mailed, shipped, and transported in and affecting interstate and foreign commerce; all in violation of Title 18, United States Code, Section 2251(a) and (e).

**COUNT 6**

In or about June, 2017, in the Western District of Tennessee, the defendant,

**WILLIAM BRADNER**

attempted to and knowingly employed, used, persuaded, induced, enticed and coerced Victim B, a female then under eighteen years of age, to engage in sexually explicit conduct as defined in Title 18, United States Code, Section 2256(2)(A), specifically, oral sex, for the purpose of producing a visual depiction of such conduct, and the visual depiction was produced using materials that had been mailed, shipped, and transported in and affecting interstate and foreign commerce; all in violation of Title 18, United States Code, Section 2251(a) and (e).

**COUNT 7**

In or about January, 2018, in the Western District of Tennessee, the defendant,

**WILLIAM BRADNER**

attempted to and knowingly employed, used, persuaded, induced, enticed and coerced Victim B, a female then under eighteen years of age, to engage in sexually explicit conduct as defined in Title 18, United States Code, Section 2256(2)(A), specifically, oral sex, for the purpose of producing a visual depiction of such conduct, and the visual depiction was produced using materials that had been mailed, shipped, and transported in and affecting interstate and foreign commerce; all in violation of Title 18, United States Code, Section 2251(b) and (e).

**COUNT 8**

On or about April 25, 2018, in the Western District of Tennessee, the defendant,

**WILLIAM BRADNER**

knowingly possessed digital storage devices, specifically, one (1) Pixtor Sandisk 64GB SD card, one (1) Samsung SP-G360P cell phone, and one (1) Samsung SPH-L900 cell phone, which then contained visual depictions, specifically digital computer image and video files, including files depicting a minor under eighteen years of age; said visual depictions were produced using materials which had been shipped and transported in interstate and foreign commerce; the production of said visual depictions involved the use of a minor engaging in sexually explicit conduct, as defined in Title 18, United States Code, Section 2256(2)(A), and each said visual depiction is of such conduct; all in violation of Title 18, United States Code, Section 2252(a)(4)(B) and (b)(2).

**NOTICE OF INTENT TO SEEK FORFEITURE**

1. The allegations contained in Counts 1 through 8 of this Indictment are incorporated by reference as if fully set forth herein.
2. Upon conviction for violating Title 18, United States Code, Sections 2251 or 2252, the defendant, William Bradner, shall forfeit to the United States any and all right, title, and interest he has in:
  - (a) any visual depiction described in Sections 2251 or 2252 of Title 18 United States Code, and any book, magazine, periodical, film, videotape, and other matter which contains any such visual depiction, which was produced, transported, mailed, shipped, or received in violation of the above-said statute;

(b) any property, real or personal, constituting or traceable to gross profits of other proceeds obtained from the above-said offenses; and

(c) any property, real or personal, used or intended to be used to commit or to promote the commission of the above-said offenses, including but not limited to the following:

- (1) Pixtor Sandisk 64GB SD card
- (2) Samsung SP-G360P cell phone
- (3) Samsung SPH-L900 cell phone
- (4) HP Split x2 laptop/tablet
- (5) Fantom 2GB external hard drive
- (6) Samsung CE 0890 Tablet

All pursuant to Title 18, United States Code, Section 2253.

**A TRUE BILL:**

**FOREPERSON**

**DATE**

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**D. MICHAEL DUNAVANT  
UNITED STATES ATTORNEY**

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

UNITED STATES OF AMERICA )  
Plaintiff, ) Criminal No.: 18-20153 SHL  
vs. )  
WILLIAM BRADNER, ) 18 USC § 2251(a) & (e)  
Defendant. ) 18 USC § 2252(a)(4)(B) & (b)(2)  
 ) 18 USC § 2253

## **NOTICE OF PENALTIES**

## COUNTS 1-7

[Not less than 15 years, but not more than 30 years, not more than \$250,000 fine, or both, plus a period of supervised release for any term of years not less than 5 or life, see 18 U.S.C. § 3583(k), together with a mandatory special assessment of \$100, see 18 U.S.C. § 3013(a), and a mandatory special assessment of \$5,000, see 18 U.S.C. § 3014.]

## COUNT 8

[Nmt 10 years, but if minor depicted is under the age of 12, then nmt 20 years, nmt \$250,000 fine, or both, plus a period of supervised release for any term of years nlt 5 years or life, see 18 U.S.C. § 3583(k), together with a mandatory special assessment of \$100, see 18 U.S.C. § 3013(a), and a mandatory special assessment of \$5,000, see 18 U.S.C. § 3014.]