

A-16



{In Archive} Re: Edited Plea Agreement

Archive: Melissa Day to: Morrissey, Kit R. (USAIRS)
This message is being viewed in an archive.

08/05/2013 11:43 AM

Okay. Thanks.

"Morrissey, Kit R. (USAIRS)" Yes, as to parents and possibly exten...

08/05/2013 11:42:28 AM

From: "Morrissey, Kit R. (USAIRS)" <Kit.Morrissey@usdoj.gov>
To: "Melissa_Day@fd.org" <Melissa_Day@fd.org>,
Date: 08/05/2013 11:42 AM
Subject: Re: Edited Plea Agreement

Yes, as to parents and possibly extended family.

----- Original Message -----

From: Melissa Day [mailto:Melissa_Day@fd.org]
Sent: Monday, August 05, 2013 12:34 PM Eastern Standard Time
To: Morrissey, Kit R. (USAIRS)
Subject: Re: Edited Plea Agreement

Kit,

I've been meeting with other clients, so I didn't get your voicemail message. At this point, I can't see Mr. Staszak until he arrives here. I've checked with the USM. He should be here about 1:00. Unfortunately, that means that I won't be able to call this off in time to save you a trip. However, I am hopeful it will proceed as planned.

I have one question, you mentioned foregoing charges against those who aided him while on fugitive status — does that include any extended family, parents or friends? I don't know if it would make a difference, but it might be worth knowing for when I speak to him.

Thanks,

Melissa.

From: "Morrissey, Kit R. (USAIRS)" <Kit.Morrissey@usdoj.gov>
To: "melissa_day@fd.org" <melissa_day@fd.org>,
Cc: "Scott, Angela (USAIRS)" <Angela.Scott@usdoj.gov>
Date: 08/05/2013 11:18 AM
Subject: Edited Plea Agreement

Melissa,

I apologize for this last minute change, but I forgot the mandatory sex offender registration language in the plea agreement. The plea with the added language is attached. It is found in Part IV, which makes the forfeiture section Part V. Part VI becomes the "No matters are in dispute" section. In case you did not get my VMM this morning, I have spoken with Agent Krug regarding the forfeiture of the Jeep and in light of the other concessions the government has made in this case, the government will not

GOVERNMENT
EXHIBIT

forego this forfeiture. Mr. Staszak must understand that we will stop pursuing the case against him for tampering with a witness and those aiding him while on fugitive status, including attempts to influence/tamper with witnesses. Those are concessions well above the concessions made as to sentencing in this case.

If any of the above becomes a "deal breaker," please contact me on my cell phone to save us the trip. I sincerely hope that Mr. Staszak will see the wisdom in taking this offer.

Sincerely,

Kit Morrissey

[attachment "Non-cooperating Plea Agreement He.wpd" deleted by Melissa Day/ILSF/07/FDO]

A-17

UNITED STATES OF AMERICA
SOUTHERN DISTRICT OF ILLINOIS

3 UNITED STATES OF AMERICA,)
4 Plaintiff,)
5 V.) No. 4:12-cr-40064-JPG-1
6 MATTHEW LEE STASZAK,)
Defendant.)

TRANSCRIPT OF PLEA PROCEEDINGS

BEFORE THE HONORABLE J. PHIL GILBERT
UNITED STATES DISTRICT JUDGE

August 5, 2013

APPEARANCES:

FOR PLAINTIFF: Kit R. Morrissey, Esq.
Angela Scott, Esq.
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FOR DEFENDANT: **Melissa A. Day, Esq.**
FEDERAL PUBLIC DEFENDER
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Melissa.Day@fd.org

REPORTED BY: Christine A. Dohack, RMR, CRR
Official Court Reporter
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Christine_Dohack@ilsd.uscourts.gov

Proceedings recorded by mechanical stenography, produced by computer-aided transcription.

1 (Proceedings began in open court at 1:59 p.m.)

2 THE CLERK: United States of America versus
3 Matthew Lee Staszak, Case No. 12-40064. This matter is
4 set for change of plea.

5 Are all the parties ready?

6 MS. MORRISSEY: Good afternoon, Your Honor. Kit
7 Morrissey and Angela Scott, Assistant United States
8 Attorneys. We are ready to proceed.

9 MS. DAY: Melissa Day appearing on behalf of
10 Matthew Staszak, who appears in person, Your Honor.

11 THE COURT: Okay. Let the record show that
12 defendant Matthew Staszak is present in court with counsel
13 Miss Day. Miss Morrissey and Miss Scott are present on
14 behalf of the Government. This matter comes before this
15 Court for change of plea.

16 Miss Day, will you and your client please approach
17 the podium.

18 Mr. Staszak, please raise your right hand to be
19 sworn.

20 (Defendant sworn by clerk.)

21 MATTHEW LEE STASZAK,
22 having been first duly sworn, was examined and testifies
23 as follows:

24 EXAMINATION
25 BY THE COURT:

1 Q. Do you understand you are now under oath and
2 anything that you say that is false or untrue can later be
3 used against you in another prosecution perjury or making
4 a false statement?

5 A. I do, Your Honor.

6 Q. State your full name for the record.

7 A. Matthew Lee Staszak.

8 Q. Your age?

9 A. 30 years old, Your Honor.

10 Q. Your level of education.

11 A. High school, part college.

12 Q. Can you read and understand the English language?

13 A. I can, Your Honor.

14 Q. Have you been provided a copy of the second
15 superceding indictment, that is, the written charges
16 against you, and have you discussed those charges and the
17 case in general with your attorney Miss Day?

18 A. I have, Your Honor.

19 Q. Are you fully satisfied with the counsel,
20 representation and advice given to you in this case by
21 Miss Day, your attorney?

22 A. I am, Your Honor.

23 Q. It's been alleged in the second superceding
24 indictment in count one that you committed the offense of
25 sexual exploitation of a minor, in that between on or

1 about June 1st, 2011, and on or about July 31st, 2011, in
2 Williamson County, within this district, you did knowingly
3 employ, use, persuade, induce, entice, and coerce a minor,
4 KG, to engage in sexually explicit conduct for the purpose
5 of producing a visual depiction of such conduct, and did
6 attempt to do so, which visual depiction was produced
7 using material that had been mailed, shipped, and
8 transported in interstate commerce in violation of federal
9 law.

10 Do you understand what you are charged with in
11 count one, being the sexual exploitation of a minor?

12 A. I do.

13 Q. Count two alleges you committed the offense of
14 travel with intent to engage in illicit sexual conduct in
15 that on or about March 22nd, 2011, in Williamson County,
16 within this district and the State of North Carolina, you
17 did knowingly travel in interstate commerce from North
18 Carolina to Williamson County, Illinois, for the purpose
19 of engaging in illicit sexual conduct, that being the
20 sexual act with a person under the age of 18 years of age,
21 in violation of federal law.

22 Do you understand what you are charged with in
23 count two?

24 A. I do, Your Honor.

25 Q. Count three charges you with the same offense,

1 travel with intent to engage in illicit sexual conduct, on
2 or about May 29th, 2011, in Williamson County, within this
3 district and the State of North Carolina.

4 Do you understand what you are charged with in
5 count three?

6 A. I do, Your Honor.

7 Q. Count four alleges you committed the offense of
8 failure to appear, in that on or about October 4, 2012, in
9 Franklin County, within this district, you, having been
10 charged with violations of 18 USC, Sections 2251(a) and
11 (e), and 2423(b), being felony offenses, and having been
12 released pursuant to Chapter 207 of Title 18 of United
13 States Code in connection with the aforementioned criminal
14 charges for appearance before Magistrate Judge Philip M.
15 Frazier at 11:30 a.m. on October 4, 2012, for an initial
16 appearance on a superceding indictment in this -- in Case
17 No. 12-40064, entitled *United States versus Matthew*
18 *Staszak*, that did you knowingly and willfully fail to
19 appear as required, all in violation of federal law.

20 Do you understand what you are charged with in
21 count four?

22 A. I do, Your Honor.

23 Q. There's also a forfeiture provision that states
24 that as a result of the commission of the offenses charged
25 in counts one and two of the second superceding

1 indictment, defendant Matthew Staszak shall forfeit to the
2 United States pursuant to federal law your interest in any
3 property used or intended to be used to commit or to
4 promote the commission of such offense or any property
5 traceable to such property.

6 The property to be forfeited includes but is not
7 limited to a 2007 Jeep Grand Cherokee and all accessories,
8 attachments and components therein and thereon, and a
9 Verizon cellular telephone, model Droid x2.

10 Do you understand that, as a result of the
11 commission of the offense charged in count three of the
12 second superceding indictment, the defendant Matthew
13 Staszak shall forfeit to the United States pursuant to
14 federal law your interest in any property used or intended
15 to be used to commit or facilitate the commission of the
16 offense, the property to be forwarded includes and not
17 limited to a Verizon cellular phone model Droid x2 bearing
18 a -- I guess a different serial number -- yeah, the first
19 one has a serial number SJUG-6250. This also is
20 SJUG-6250. That's for the forfeiture in count three, and
21 the other -- the same cellular is for the forfeiture in
22 counts one and two.

23 Do you understand the nature of the allegations
24 against you in counts one through four, plus the
25 forfeiture allegations?

1 A. Yes, sir, Your Honor.

2 Q. The possible penalties that could be imposed upon
3 a count one, being the sexual exploitation of a minor, the
4 maximum penalty can be imposed is a term of imprisonment
5 of not less than 15 years and up to 30 years, a fine of up
6 to \$250,000, or both, and a term of supervised release of
7 not less than five years, up to life.

8 Counts two and three that charge you with travel
9 with intent to engage in illicit sexual conduct, the
10 maximum penalty that can be imposed for each of counts two
11 and three is a term of imprisonment of up to 30 years, a
12 fine of up to \$250,000, or both, and a term of supervised
13 release of not less than five years, up to life.

14 And on count four, the failure to appear, the
15 maximum penalty that can be imposed for count four is a
16 term of imprisonment of up to ten years, said term to run
17 consecutively to any sentence this court imposes on counts
18 one through three, plus the fine of up to \$250,000, or
19 both, and a term of supervised release of three years.

20 There is also a special assessment on each count
21 of conviction, which means if you plead guilty to all four
22 counts there will be a 400-dollar special assessment.

23 And the effect of supervised release means that,
24 once you are released from prison, if you violate your
25 terms of supervised release you can be revoked and sent

1 back to prison.

2 Do you understand the possible penalties that
3 could be imposed upon a plea or a finding of guilty on
4 each of these counts?

5 A. Yes, sir, Your Honor, I do.

6 Q. Okay. I'm going to explain your rights to you:

7 You are innocent until proven guilty;

8 You need to be proven guilty beyond a reasonable
9 doubt;

10 You have a right to a jury trial;

11 You have a right to confront your accusers;

12 You have a right to bring witnesses in to testify
13 on your own behalf;

14 You have a right against self-incrimination,
15 meaning you do not need to testify unless you choose to do
16 so;

17 You have a right to have an attorney with you at
18 each stage of these proceedings;

19 And you have here represented by counsel Miss Day.

20 Do you understand the rights I have just explained
21 to you?

22 A. Yes, sir, I do.

23 Q. It's my understanding you wish to plead guilty to
24 all four counts in this second superceding indictment; is
25 that correct?

1 A. That is correct, Your Honor.

2 Q. Have any threats or promises been made to you in

3 an effort to induce you to plead guilty?

4 A. Not that I know of, Your Honor.

5 Q. Is it your intent to plead guilty as your own free

6 and voluntary act? (Pause.) Are you pleading guilty as

7 your own free and voluntary act?

8 A. Yes, Your Honor.

9 Q. You understand that you do not have to plead

10 guilty, that you can persist in a plea of not guilty and

11 have a trial, but if you change your plea from not guilty

12 to guilty there will be no trial and you will be sentenced

13 as if you were found guilty by a jury. Do you understand

14 that?

15 A. I do, Your Honor.

16 Q. It's my understanding that you, through your

17 attorney and the Government, have entered into a plea

18 agreement regarding this case; is that correct?

19 A. That is correct, Your Honor.

20 Q. Is this your signature to page 14 of this plea

21 agreement?

22 A. That is my signature, Your Honor.

23 Q. Did you read and review and go over this document

24 with your attorney before you signed it?

25 A. Yes, we did, Your Honor. Mm-hmm.

1 Q. You understand that this is an agreement between
2 you and your attorney and the Government and this Court is
3 not bound by this plea agreement. Do you understand that?

4 A. I do now, Your Honor.

5 Q. What do you mean, you do now? You didn't know
6 that before?

7 A. I didn't know that, Your Honor, no.

8 Q. You -- this plea agreement particularly states
9 that I am not bound by this. You understand that --

10 A. Yes, sir.

11 Q. And is it your intention to plead guilty the
12 result of negotiations that you and your attorney had with
13 the Government that resulted in the creation and execution
14 of this plea agreement?

15 A. Yes, Your Honor.

16 THE COURT: Miss Morrissey, the essential terms of
17 the plea agreement.

18 MS. MORRISSEY: Yes, Your Honor.

19 THE COURT: Can you speak into a mic? Do you have
20 a mic you can turn on?

21 MS. MORRISSEY: Yes. Is that better?

22 THE COURT: Yes.

23 MS. MORRISSEY: Your Honor, the essential terms of
24 the plea agreement are that in exchange for the
25 defendant's plea of guilty to the indictment, counts one

1 through four, and the defendant's forfeiture of the items
2 named in the second superceding indictment, the United
3 States will agree, and the defendant agree, to make a
4 joint recommendation as to sentencing in this case of a
5 sentence of 300 months imprisonment. That sentence is
6 below, Your Honor, the recommended guideline sentence by,
7 by five years, and it also takes into account the
8 consecutive nature of count four.

9 So, in other words, the parties agree to recommend
10 to this Court a final sentence of 25 years imprisonment on
11 all counts in the indictment, along with the forfeiture of
12 the property named therein.

13 The defendant also agrees to waive rights, any
14 right to appeal, any right to collateral attack. The
15 other standard appeal waiver provisions apply, Your Honor.

16 There is a section at paragraph -- or part four of
17 the plea agreement that just explains to Mr. Staszak that,
18 under state and federal law, he will be required, there is
19 mandatory registration for him now as a sex offender. And
20 that is set forth in part four, Your Honor.

21 Those are the essential terms of the plea
22 agreement.

23 THE COURT: Okay. Is there a waiver of appeal?

24 MS. MORRISSEY: There is, Your Honor. All the
25 waivers appear in count -- part three of the plea

1 agreement.

2 Q. (BY THE COURT) Okay. Mr. Staszak, are those the
3 essential terms of your plea agreement, as you understand
4 it?

5 THE WITNESS: Paragraph 30?

6 MS. DAY: The whole plea agreement, what she just
7 said.

8 A. That's correct, your Honor. Yes.

9 Q. (BY THE COURT) Okay. Did you and your attorney
10 go over the waiver of appeal rights and collateral attack
11 rights as contained in your plea agreement?

12 A. We did, Your Honor.

13 Q. Do you have any questions regarding those waivers?

14 A. Not at this time, Your Honor.

15 Q. Well, it's either this time --

16 A. No, sir, Your Honor.

17 Q. Okay. Now, I -- on page nine of your -- I want
18 you to turn to page nine of your plea agreement, paragraph
19 11. And Miss Morrissey referenced this, that parties
20 agree that a sentence of 25 years imprisonment is
21 reasonable -- in fact, this is all in bold -- is
22 reasonable under the facts and circumstances of the case
23 and the sentencing factors that the Court must consider in
24 18 USC 3553(a), and the parties will make such a
25 recommendation.

1 The next sentence says, the agreement of the
2 parties is not binding upon the Court or the United States
3 Probation Office and the Court may impose any sentence
4 authorized by law.

5 Do you understand that?

6 A. I do, sir. I do -- yes, sir, Your Honor. I do.

7 Q. And you also understand about the mandatory sex
8 offender registration?

9 A. Yes, sir, I do.

10 Q. And the forfeiture provision?

11 A. Yes, Your Honor, I do.

12 Q. Okay. Again, do you have any questions at all
13 regarding the, the plea agreement that you entered into?

14 A. I do not, Your Honor.

15 Q. Okay. Have you and your attorney talked about the
16 federal sentencing guidelines and the 3553(a) factors that
17 may apply to your sentencing?

18 A. Yes, Your Honor, we have.

19 Q. Do you understand the guidelines are now advisory
20 and the Court will consider those guidelines along with
21 the 3553(a) factors and any mandatory minimums -- and
22 there is a mandatory minimum here -- when it sentences
23 you. Do you understand that?

24 A. I do, Your Honor. Yes.

25 Q. And if I sentence you to a term of imprisonment

1 that, that is, of course if it's below the 25 years I'm
2 sure you wouldn't appeal, but if it's even above the 25
3 years, you're waiving your right to appeal. Is that --

4 MS. DAY: He is, with the limitation -- the
5 standard limitations that apply to changes that might be
6 made in the law that applies to the 25-year sentence in
7 this case, not to the guideline sentence.

8 THE COURT: Okay. All right.

9 Q. (BY THE COURT) But you understand that?

10 A. I do, Your Honor. Yes.

11 Q. Okay. Anything that I have stated to you so far
12 that you do not understand?

13 A. I understand everything, Your Honor.

14 THE COURT: What would be the factual basis for
15 the acceptance of this plea?

16 MS. MORRISSEY: Yes, Your Honor. If the case were
17 called to trial, the United States would expect its
18 evidence to establish beyond a reasonable doubt that from
19 approximately February of 2011, continuing through May
20 29th, 2012, the defendant who was born on December 15th,
21 1982, engaged in a sexual relationship with KG -- whose
22 being identified by her initials -- a person under the age
23 of 17, with a date of birth of May 29th, 1995.

24 On or about the dates named in the second
25 superceding indictment, Mr. Staszak resided in North

1 Carolina and KG resided in the Southern District of
2 Illinois.

3 The evidence would further establish that on or
4 about March 22nd, 2011, Mr. Staszak traveled interstate
5 from North Carolina to Williamson County, Illinois, within
6 the Southern District of Illinois, for the purpose of
7 engaging in illicit sexual conduct, that is, sexual
8 intercourse, including genital to genital intercourse with
9 KG, who was then 15, and the two did engage in such
10 conduct. That is the allegation in count two, Your Honor.

11 Further, that on or about May 29th, 2011, on KG's
12 16th birthday, Mr. Staszak traveled interstate from North
13 Carolina to Williamson County, Illinois, within this
14 district, for the purpose of engaging in illicit sexual
15 conduct, that is, sexual intercourse involving genital to
16 genital intercourse, with KG, and the two did engage in
17 such conduct.

18 That is the allegation in count three, Your Honor.

19 Additionally, in or around June or July 2011, when
20 KG was 16, Mr. Staszak used KG to take part in sexually
21 explicit conduct, that is, sexual intercourse, including
22 genital to genital intercourse, for the purpose of
23 producing a visual depiction of such conduct with his
24 Verizon cellular telephone, model Droid X2, bearing the
25 serial number set forth in the indictment. And Mr.

1 Staszak did produce such a visual depiction that he and KG
2 watched after it was produced.

3 The Verizon cellular telephone is not manufactured
4 in the State of Illinois and it would necessarily have had
5 to travel in interstate and/or foreign commerce to be
6 present in the State of Illinois, in our district, when
7 the visual depiction was created with it. That is the
8 allegation in count one, Your Honor.

9 Finally, Your Honor, the evidence would establish
10 that on or about October the 4th, 2012, at 11:30 a.m., Mr.
11 Staszak was scheduled for an initial appearance on a
12 superceding indictment in this matter, *United States*
13 *versus Matthew Staszak*, No. 12-40064, before Magistrate
14 Judge Philip M. Frazier, at the United States Courthouse
15 in Benton, within Franklin County, in the southern
16 district of Illinois. Mr. Staszak was on pretrial release
17 pursuant to Chapter 207 of Title 18 pending trial on
18 charges in the same case for violations of Title 18 United
19 States Code, Sections 2251(a) and (e) and Section 2423(b),
20 all felony offenses.

21 Mr. Staszak knowingly and willfully failed to
22 appear as required on that date, having removed an
23 electronic ankle monitoring device the night before, and
24 fled the location of his electronic monitoring, the home
25 of his father, for the purpose of avoiding prosecution.

1 Mr. Staszak remained a fugitive until his capture on June
2 2nd of this year.

3 Those would be substantially the facts United
4 States would expect to produce at a trial, Your Honor.

5 Q. (BY THE COURT) Is the factual basis, Mr. Staszak,
6 correct as to each count?

7 A. Yes, sir, Your Honor, they are.

8 Q. Okay. At this time I ask you how you plead to
9 count one of the second superceding indictment alleging
10 you committed the offense of sexual exploitation of a
11 minor, guilty or not guilty?

12 A. Guilty, Your Honor.

13 Q. How do you plead to counts two and three of the
14 superceding indictment, those counts each charge you with
15 the offense of travel with intent to engage in illicit
16 sexual conduct, guilty or not guilty?

17 A. Guilty, Your Honor.

18 Q. How do you plead to count four, the failure to
19 appear as alleged in count four, guilty or not guilty?

20 A. Guilty, Your Honor.

21 Q. Have any threats or promises been made to you in
22 an effort to induce you to plead guilty?

23 A. No, sir, Your Honor, I have not.

24 Q. Are you doing so as your own free and voluntary
25 act?

1 A. Yes, sir, I am.

2 THE COURT: The Court finds that a factual basis
3 exists, that the defendant has knowingly and voluntarily
4 and competently pled guilty to counts one through four of
5 the second superseding indictment, and the Court hereby
6 judges the defendant guilty of violating said offenses.

7 Sentencing will be set for December 6th at 10:00.

8 A written presentence investigation report will be
9 prepared by Probation to assist me in sentencing you. You
10 will have an opportunity to give information for that
11 report. You may have your attorney with you at the time,
12 if you so choose.

13 Anything further, Miss Day?

14 MS. DAY: No, Your Honor.

15 THE COURT: Anything further, Miss Morrissey?

16 MS. MORRISSEY: No. Thank you, Your Honor.

17 THE COURT: I assume that you'll be notifying the
18 victim of the sentencing? Is that --

19 MS. MORRISSEY: We will, Your Honor. And they
20 were notified, the victim and her parents, of today's
21 hearing and elected not to be here today.

22 THE COURT: Okay. All right. That will be all.

23 (Court adjourned at 2:20 p.m.)

24

25

REPORTER'S CERTIFICATE

2 I, Christine A. Dohack, Registered Merit Reporter
3 and Certified Realtime Reporter in and for the United
4 States District Court for the Southern District of
5 Illinois, do hereby certify that I was present at and
6 reported in machine shorthand the proceedings in the
7 above-mentioned court; and that the foregoing transcript
8 is a true, correct, and complete transcript of the
9 electronic recording.

10 I further certify that I am not an attorney for,
11 nor employed by, nor related to any of the parties or
12 attorneys in this action, nor financially interested in
13 the action.

14 I further certify that this transcript contains
15 pages 1-19 and that this reporter takes no responsibility
16 for missing or damaged pages of this transcript when same
17 transcript is copied by any party other than this
18 reporter.

19 IN WITNESS WHEREOF, I have hereunto set my hand at
20 Benton, Illinois, this 28th day of July, 2014.

s/Christine A. Dohack, RMR, CRR

Christine A. Dohack, RMR, CRR

A-18

UNITED STATES OF AMERICA
SOUTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,)
Plaintiff,)
v.) No. 4:12-cr-40064-JPG-1
MATTHEW LEE STASZAK,)
Defendant.)

TRANSCRIPT OF SENTENCING PROCEEDINGS

BEFORE THE HONORABLE J. PHIL GILBERT
UNITED STATES DISTRICT JUDGE

February 5, 2014

APPEARANCES:

FOR PLAINTIFF: Kit R. Morrissey, Esq.
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FOR DEFENDANT: Melissa A. Day, Esq.
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Proceedings recorded by mechanical stenography, produced by computer-aided transcription.

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I N D E X

Statement by KG (victim)

PAGE
8:9

1 (Proceedings began in open court at 1:56 p.m.)

2 THE CLERK: United States of America versus
3 Matthew Lee Staszak, Case No. 12-40064. This matter is
4 set for disposition.

5 Are all the parties ready?

6 MS. MORRISSEY: Good afternoon, Your Honor. Kit
7 Morrissey, Assistant United States Attorney, on behalf of
8 the United States. With me at counsel table are case
9 agents Patrick Parker and Mark Krug of the FBI. We're
10 ready to proceed, Your Honor.

11 THE COURT: Good afternoon.

12 MS. DAY: Melissa Day appearing on behalf of the
13 Matthew Staszak, who appears in person, Your Honor.

14 THE COURT: Okay. Let the record show that the
15 defendant Matthew Staszak is present in court with counsel
16 Miss Day. Miss Morrissey is present on behalf of the
17 Government. This matter comes before this Court for
18 sentencing.

19 Mr. Staszak, will you please stand?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: A written presentence investigation
22 report has been prepared by Probation to assist me in
23 sentencing you. Have you received a copy of that report?

24 THE DEFENDANT: Yes, Your Honor, I have, sir.

25 THE COURT: Have you had an opportunity to read

1 it?

2 THE DEFENDANT: Yes, sir, I have.

3 THE COURT: Are there any errors, corrections,
4 alterations, or additions to the report which you wish to
5 make to it?

6 THE DEFENDANT: No, Your Honor, there is not.

7 THE COURT: Miss Day, does the defendant have any
8 objections to the report at this time that would affect
9 the advisory guideline range?

10 MS. DAY: No, Your Honor, he does not.

11 THE COURT: Okay. You may be seated.

12 Does the Government have any objections to the
13 report that would affect the advisory guideline range?

14 MS. MORRISSEY: No objections, Your Honor.

15 THE COURT: There being no objections to the
16 probation officer's presentence investigation report, the
17 Court hereby adopts the presentence investigation report
18 and the findings contained therein as the findings of this
19 Court, including the finding that -- and there's a
20 multiple-count grouping here on counts one, two, and
21 three, and then you have count four.

22 That the base level offense on count one of sexual
23 exploitation of a minor is 32. There are specific offense
24 characteristic enhancements because the offense involved
25 the sexual act or sexual contact, the offense is increased

1 by two levels. There's another two-level enhancement,
2 involved the use of a interactive computer service for --
3 and then there is another two-level enhancement for
4 obstruction of justice, with an adjusted offense level of
5 38 on count one.

6 On count two, there is -- with travel with intent
7 to engage in illicit sexual conduct, there is -- the base
8 guideline offense is 24. Again, there are some specific
9 offense enhancements as the defendant influenced a minor
10 to engage in sexual conduct, increased by two levels.
11 Because the offense involved the use of an interactive
12 computer service, the internet, another two-level
13 enhancement, and because the offense involved the
14 commission of a sex act or sexual contact, the offense,
15 again another two-level increase, for -- and then a
16 two-level increase for obstruction of justice, with an
17 adjusted offense level on count two of 32.

18 With count three, travel with intent to engage in
19 illicit sexual conduct, the base level offense is 24.
20 Again, there are several specific offense enhancements.
21 Because the defendant influenced a minor to engage in
22 sexual conduct, a two-level enhancement; another two-level
23 enhancement as the offense involved the interactive
24 computer service, the internet, as in the previous counts,
25 and -- another two-level enhancement; and then because the

1 offense involved the commission of a sex act or sexual
2 contact, another two-level enhancement; and again, the
3 obstruction of justice, two-level enhancement, rendering
4 adjusted offense level on count three of 32.

5 The multiple count adjustments on counts one, two,
6 and three, doing the mathematical factoring of the units,
7 there's two units enhancement, so there is a greater of an
8 adjusted offense level is 38. You increase the two levels
9 to 40.

10 There is also a chapter four enhancement as the
11 conviction is a covered sex crime under 2B1.1. The
12 defendant engaged in a pattern of activity involving
13 prohibited sexual conduct, therefore, the offense level is
14 increased five levels.

15 There is no acceptance of responsibility because
16 the defendant took off during the commission of his
17 prosecution here, rendering a total offense level of 45.

18 But those -- again, the maximum is 43. So there
19 is a total -- the total offense level for a guideline
20 application is 43. The -- which ordinarily would be a
21 lifetime advisory guideline range, however, there is a
22 statutory maximum on count one of five to 40 years; on
23 count two and three of up to 30 years; and on count four,
24 ten years consecutive to all other counts.

25 (off the record.)

1 THE COURT: Five to 30 years -- yeah, five to 30
2 years, I mean. Five to 30 years on count one. There's a
3 30-year maximum.

4 The guideline provision on counts one, two, and
5 three is 360 months.

6 On count four, if imprisonment imposed, not more
7 than 120 months consecutive to the sentences imposed on
8 counts one, two, and three.

9 Supervised release range on count one of five
10 years to life and, on count four, of up to three years.

11 Fine range of 25,000 to \$250,000, and a 100-dollar
12 special assessment on each count.

13 There's also a forfeiture of 2007 Jeep Grand
14 Cherokee and a Verizon cell phone, model Droid X2, and the
15 serial numbers are in the, in the documents.

16 Any objections to those specific guideline range
17 findings?

18 MS. MORRISSEY: No objection, Your Honor.

19 MS. DAY: No, Your Honor.

20 THE COURT: Okay. Does the Government have
21 anything to say or offer in aggravation or a
22 recommendation?

23 MS. MORRISSEY: Your Honor, I have nothing say in
24 aggravation. I do have a recommendation and I do want to
25 -- the victim would like an opportunity to speak, Your

1 Honor.

2 THE COURT: Okay, yes. Is the victim -- let's do
3 that right now.

4 MS. MORRISSEY: All right.

5 THE COURT: If the victim is here, would the
6 victim approach the podium.

7 Please state your name and your age. You can go
8 by initials, if you wish.

9 VICTIM KG: KG, age 18.

10 Honorable Judge Gilbert, I want to thank you for
11 allowing me to speak today. As we all know why we are
12 here, this is my chance to have a voice and to let you and
13 the court know how this impacted me personally and my
14 family.

15 The defendant began his relationship with me more
16 aggressively after my father had moved away and at a time
17 when my parents' marriage was falling apart. I believe
18 that the defendant studied me and my family before he
19 targeted me. He manipulated me, controlled me, and
20 brainwashed me to a certain extent. He lied to me about
21 his profession in the U.S. Navy and frightened me into
22 believing he was an investigator with access to
23 confidential information.

24 I became sick with chronic stomach problems
25 because of the manipulation and overbearing control the

1 defendant had on me. The past two years, I have spent a
2 large amount of my time and money on doctor visits and
3 counseling sessions while the defendant had escaped and
4 went on with his life as if nothing happened.

5 As a result of the defendant removing his
6 monitoring device and becoming a federal fugitive, I lost
7 focus of everything that should have been important in my
8 life, such as my education, my family, and career
9 opportunities. I was always worried about who, who is
10 watching me and when the defendant was going to strike
11 again.

12 He was possessive over me. He never wanted me to
13 speak to any other male besides him. The defendant's way
14 of thinking was, if he couldn't have me, then no one
15 could.

16 My mother and stepfather witnessed a lot while I
17 was residing in Crestwood, Missouri. At that time, the
18 defendant had escaped on October 4th, 2012. When I got
19 that phone call, I began panicking and could not sleep.
20 That night, I watched out the window at the police cars
21 patrolling the house. I was so upset that I didn't fall
22 asleep until around 4:00 in the morning. When I finally
23 got to sleep, it was in my parents' bedroom because I
24 didn't feel safe in my own room downstairs.

25 I became very isolated and would not want to leave

1 the house or go outside alone for the fear that I was
2 being watched. I would sit and stare at the clock from
3 the time I learned of his escape until several weeks
4 later, according to how long the defendant had been on the
5 run. Finally, after a few months had passed, my mother
6 and stepfather convinced me to get a job in hopes that it
7 would help keep me occupied and take my mind off of the
8 escape. They both watched me suffer from physical and
9 emotional stress for many months. I went from being a
10 happy, confident, cheerful, upbeat high school student who
11 participated in extracurricular activities to a depressed,
12 suspicious, angry, untrusting high school dropout.

13 I am here to attest to the character of the man
14 that the defendant showed me. It was the complete
15 opposite of the character he showed his family and
16 friends. For over two years, I was unaware that the
17 defendant was a chaplain's assistant. He hid it very well
18 with all of the profanity, drinking, and the way he
19 conducted himself around me. The way he portrayed himself
20 to me was not the way he portrayed himself to others. If
21 I did not answer his phone calls right away, he would
22 become angry and give me ultimatums. He would have
23 conversations with me about what would happen if our
24 relationship were to be found out. He told me that he
25 would tell the authorities that he believed that I was 18

1 years old when really I was 15, 16, and 17 years old.

2 I also would like to add that even though the
3 defendant is attempting to show remorse and is being
4 apologetic, I cannot accept his feeble apology to me
5 because it is as thin as the paper it is written on.

6 I believe the defendant is only sorry that he was
7 caught.

8 Lastly, Matthew Staszak...(Pause.)

9 THE COURT: Take your time.

10 VICTIM KG: I want you to know that even though
11 you assaulted me and harassed my family, I am standing
12 tall. My scars will heal and I will move on. I will walk
13 out of this courtroom today knowing that I have saved
14 countless young women from going through what I have gone
15 through.

16 You have deprived me of my teenage years, and I
17 gave you several opportunities to walk away from this and
18 make your life right, when I asked you over and over again
19 to leave me alone and forget about me.

20 Due to your actions, you chose the position you
21 are in. I have hopes that one day I can forgive you. But
22 until you have fully accepted your part in this, I cannot.

23 Again, Your Honor, thank you for hearing me out
24 today.

25 THE COURT: Okay. How are you doing today?

1 VICTIM KG: I'm all right. A little emotional.

2 THE COURT: And that's understandable.

3 VICTIM KG: Yeah.

4 THE COURT: KG, I, first, want to tell you that
5 you are not at fault for what happened here. And I want
6 you to always believe that. As someone that was not at
7 the age of consent, you are not at fault.

8 I do -- would like to, would like to ask a couple
9 questions. How did this relationship start? Did it start
10 on Facebook, according to what I read in the
11 presentence --

12 VICTIM KG: Yeah, I was 15 years old. I was a
13 sophomore in high school living in Hardin, Illinois. The
14 defendant had added my sister on Facebook. She's actually
15 here today, I don't know if...

16 THE COURT: Well, how did the defendant get your
17 sister's Facebook?

18 VICTIM KG: You have mutual friends, I guess?
19 He's from Southern Illinois, so are we. From what I
20 recall, he mentioned that he had a car and that he could
21 come visit her or something. She thought it was a little
22 odd, so she deleted him.

23 THE COURT: Well, then how did you hook up with
24 him on Facebook?

25 VICTIM KG: He then, he then added me to Facebook.

1 THE COURT: Why didn't you delete him?

2 VICTIM KG: I -- I'm not sure. I didn't see a
3 problem at that point.

4 THE COURT: Did you know he was an adult?

5 VICTIM KG: I knew he was an adult. I didn't
6 really know his actual age.

7 THE COURT: Okay. Go ahead.

8 VICTIM KG: So, um, then he asked me why my sister
9 deleted him and that he wasn't, you know, he didn't do
10 anything wrong and stuff. So he was, he was dating
11 someone at that point so we talked very vaguely. Then I
12 moved out of the state, to Georgia.

13 THE COURT: With who?

14 VICTIM KG: With my family.

15 THE COURT: Okay.

16 VICTIM KG: Yeah. And then I hadn't heard from
17 him for a few months, until December around his birthday.
18 Then we started talking on Facebook again and he wanted to
19 meet with me. I actually called off one time that he
20 wanted to meet with me. I was nervous. I didn't know him
21 from Adam.

22 THE COURT: Was your mother aware of all this?

23 VICTIM KG: Huh?

24 THE COURT: Was your mother aware of all this?

25 VICTIM KG: Yes, she was, some of it.

1 THE COURT: Okay. Go ahead.

2 VICTIM KG: Where do you want me to stop?

3 THE COURT: Wherever you want to stop.

4 VICTIM KG: Okay. So, I was living in Georgia.

5 It was, I guess it was around January or so, was the first

6 time that he wanted to meet up with me. Then I called it

7 off. And then we met sometime around early February.

8 THE COURT: And where did you meet?

9 VICTIM KG: We met in Columbia, South Carolina.

10 THE COURT: And how did you get there?

11 VICTIM KG: My mother drove me.

12 THE COURT: Your mother drove you there?

13 VICTIM KG: Mm-hmm.

14 THE COURT: So, she was aware you were meeting Mr.

15 Staszak?

16 VICTIM KG: She was, yes.

17 THE COURT: Okay. Well, you don't need to -- I

18 know this is very painful and I don't want you to suffer

19 any more than you have already suffered. Thank you very

20 much.

21 VICTIM KG: Thank you.

22 MS. MORRISSEY: Thank you, Your Honor.

23 THE COURT: Yes.

24 MS. MORRISSEY: Your Honor, first of all, as the

25 Court is aware, the parties have reached an agreement, at

1 least the parties have, on what they believe to be a
2 reasonable sentence in this case, and I believe the
3 parties have both taken into consideration all the factors
4 that led to these charges and -- anything in aggravation
5 and mitigation in the case in coming to the conclusion
6 that a 25-year sentence was a just and reasonable
7 sentence. And so all these remarks, Your Honor, that I
8 make are with that agreed recommendation in, in place.

9 Your Honor, the sentencing memorandum of Mr.
10 Staszak and his attorney paints a picture of a person
11 who's clearly very proud of his military career, and
12 rightfully so. Mr. Staszak has conducted himself well in
13 the military as a military -- or as assistant chaplain.
14 He served his country. But I think that weighs both ways,
15 Your Honor. I think that can be both a mitigating and an
16 aggravating factor.

17 I've had the pleasure of knowing many military
18 people in my lifetime. Many of our law enforcement
19 officers come from military backgrounds. Many people that
20 become Assistant United States Attorneys and Public
21 Defenders have military backgrounds. And one of my most
22 favorite people happens to be a retired colonel from the
23 United States Army; he works in our office. And one of
24 the things he has often said is that a military person, it
25 doesn't begin and end with their service in the military,

1 it's -- there's a concept of the whole person, and a
2 concept of the whole person holding themselves to a higher
3 standard of service.

4 And I think here, Mr. Staszak's actions are, the
5 crimes he committed stand in real juxtaposition to the
6 pride he takes in his military service. I find it
7 troubling, for example, that he's so proud of the service
8 and the aid he gave to Haitians, yet he would abuse a
9 15-year-old teenager. That doesn't, that doesn't jive.

10 And a person that takes great pride in service to
11 their country, I hope, has really -- is sorrowful and
12 sorry for what he did to this young woman.

13 I note too, Your Honor, that in great
14 juxtaposition to his pride in his military service is the
15 fact that he couldn't obey a court order of a bond. And
16 that he was absent from this court for about, I think it
17 was a total of about eight months, from October 3rd to
18 June the 2nd.

19 And, Your Honor, there is nothing worse in my
20 career than having to contact the victim the night I found
21 out that Mr. Staszak escaped and to tell her and her
22 family that. We made efforts -- the police officers in
23 this case made great efforts to make sure that there were
24 extra patrols at both her -- both of her parents' house;
25 her mother's house where she was living at that time, and

1 her father's house where she later, later moved. And that
2 was a trying time for all of us, Your Honor. It's, it's
3 -- I know it was for this Court. I know it was for the
4 Marshals Service. I know it was for us, as we sought to
5 bring this man to justice.

6 This was a relationship, Your Honor. It wasn't a
7 -- although it's charged as three counts in the
8 indictment, it's clear from the PSR that this was a
9 relationship that carried on for about 14 months, right
10 after the defendant -- or, I'm sorry, right after -- well,
11 the defendant was 27 years of age when the relationship
12 began, and the victim was 15, and it basically ended at
13 the time of her 17th birthday.

14 It was brought to the attention of authorities,
15 Your Honor, by a young woman, a teenager herself, who was
16 living -- whose family had taken in KG. That young woman
17 saw that KG was suffering from this relationship mentally
18 and physically, and she went to a police officer in the
19 small town of Hardin that she knew, and that's how it
20 eventually came to the attention of law enforcement.

21 And, Your Honor, I think it's significant that Mr.
22 Staszak chose KG as a victim at a time when the family was
23 in turmoil. The mother and father had left the State of
24 Illinois and moved to Georgia; it was a place they had
25 always loved to vacation as a family; they had good

1 memories there; and they were looking for a fresh start
2 there. It didn't work out well for them at all. They --
3 as KG said, her parents' marriage disintegrated and it was
4 soon that her father had to move back to Illinois to find
5 employment as he was unable to find employment in Georgia.

6 It was during that time, Your Honor, when KG and
7 her mother were there in Georgia alone that the
8 relationship went from a Facebook relationship to a
9 personal one. It was a time when there was all this
10 family turmoil, family difficulties, her father was
11 absent, and of course her mother was not acting as a
12 mother should.

13 Her mother was not providing adequate protection
14 to her daughter. And by taking her 15-year-old daughter
15 to meet this man, that was clearly -- it is clearly a
16 shocking act. It was shocking for all of us to learn
17 about it. It is still shocking to this day. And, Your
18 Honor, as I, as I have told the Court before hearing
19 today, this is a subject of an ongoing investigation. Mr.
20 Staszak has been invited to provide any information he has
21 about this. And we certainly aren't here to defend the
22 mother's actions with respect to her introduction of her
23 daughter to an adult male in this manner.

24 But, Your Honor, we're not here on the mother
25 today. We're here on Mr. Staszak. We're not here on the

1 mother's inaction as a mother. We're here on the actions
2 he took. And, Your Honor, in every case that this Court
3 -- that comes before this Court, in every case, as this
4 Court knows, Congress has put into place laws that put the
5 responsibility with respect to children on adults. They
6 don't put the responsibility with the child. They rightly
7 put it with the adults.

8 Some people say it takes a village to raise a
9 child, and I have raised teenagers and I think that's
10 true. We have to rely on adults to do the right thing and
11 to make the right choices. Sometimes we have children,
12 young teenagers who are, who are over-sexualized, who are
13 left alone for long periods of time, who are allowed to
14 freely search the internet, communicate with people they
15 don't know on Facebook, on their cell phones. But there's
16 one thing that's always true in a civilized society, and
17 that it's an adult who ultimately has to draw the
18 boundaries, where boundaries need to be drawn. And Mr.
19 Staszak failed to do that with respect to this victim.

20 He really went after one of the most vulnerable
21 members of our society: a young girl whose parents were
22 in the midst of a devastating divorce. And where he could
23 have, as a decent human being, as a civilized decent man,
24 particularly one who'd had the experience he's had in the
25 military, it was up to him to draw the boundary, to draw

1 the lines, and to encourage, if anything, if he had any
2 dealings or association with KG, to make certain that they
3 were on the up and up and they were truly more of a big
4 brother or father figure person in her life than one who
5 took sexual advantage of her.

6 For all these reasons, Your Honor, the United
7 States respectfully requests that the Court impose a
8 sentence that the parties have agreed is a reasonable
9 sentence in this case. It is a sentence we have
10 recommended of 25 years. I understand that the Court has
11 to impose some portion of that to run concurrently for the
12 escape --

13 THE COURT: Consecutive for the escape.

14 MS. MORRISSEY: Consecutively, Your Honor. I'm
15 sorry, Your Honor, I misspoke. And I would submit, Your
16 Honor, that two years of that consecutively would be
17 appropriate. But whatever this Court feels is just. And
18 I do have the preliminary order of forfeiture, Your Honor,
19 for the Court at the right time.

20 Thank you.

21 THE COURT: Miss Day. The Court has read your
22 sentencing memorandum.

23 MS. DAY: Thank you, Your Honor.

24 THE COURT: And all of the letters attached to it.

25 MS. DAY: Thank you, Your Honor. I appreciate --

1 THE COURT: Both of them. Both sentencing
2 memoranda.

3 MS. DAY: I appreciate that, Your Honor. And
4 along with Miss Morrissey, we are recommending an
5 imposition of a sentence of 25 years. That is something
6 that I believe the parties thought encompassed the
7 underlying conduct as well as the flight from prosecution
8 that occurred in this case. And that's the recommendation
9 that we stand by and I ask Your Honor to consider in
10 making your determination of sentence, which I know in any
11 case is difficult, and I imagine no less so in this
12 particular case, Your Honor.

13 I appreciate Miss Morrissey's comments about
14 service in the military, and I probably have a deeper
15 understanding of the price of service in the military than
16 most anybody in this room.

17 It takes a certain caliber of person to dedicate
18 their life to their country, and Mr. Staszak did that for
19 a long time, for a number of years. And he comes from a
20 family that believes in dedication of service to country.
21 He has in the courtroom today his father, who has served
22 in the military for 30 years.

23 Your Honor, also just so that you're aware, he has
24 a great deal of family support. In the courtroom today is
25 -- are: His parents Norena Staszak; Daniel Staszak; his

1 Aunt Carrie Staszak; family friends Richard Pratt -- or
2 family friend Richard Pratt; his grandparents Gene and
3 Betty Hudgens; uncles Bill Bradley and Ed Staszak; cousin
4 Sherry Franks; friend Melissa Hampton; cousin Shelby
5 Modglon; friends and neighbors, Larry Phipps, Sandy
6 Phipps, Sam Beggs; his Aunt Julie Martin; a friend and
7 neighbor Becky Malone; an aunt, Donna Jackson; and friends
8 Joe and Livia Farmer.

9 Miss Morrissey commented on the fact that his
10 service -- my client's service to country called for him
11 to act in a different way than what he did in this case.
12 And Matthew will acknowledge that, and he will address
13 that, and he has apologies to make that, that need to be
14 made, and he understands that.

15 But, Your Honor, I think the fact that knowing
16 what occurred in this case, that this many people are
17 still willing to come and stand up for Matthew Staszak and
18 say, we know the person that he truly is, and we will
19 support him. They will support him through the service of
20 this sentence and in any way they can. I think that
21 speaks very, very highly of Matthew Staszak.

22 I think that there are other things -- I know that
23 you have read the letters. I will tell you, I was
24 specifically called by the letter from Reverend Paul
25 Lemoi. That is one of the people that Matthew -- that is

1 a chaplain that Matthew served under. And he served in
2 that capacity as chaplain's assistant, also as bodyguard,
3 so he would have also served in that position with
4 Reverend Lemoi, who is a retired chaplain -- or colonel as
5 a chaplain in the military. And he said that Matthew
6 above all was and I still believe a good example of the
7 dedication of service that the men and women of armed
8 forces have for our great nation. He was a person who had
9 to hear -- he ministered to others or assisted in that
10 counseling. And Reverend Lemoi said that Matthew held
11 things in the strictest confidence. As a chaplain's
12 assistant Matthew is always professional, and off duty
13 Matthew became a good friend.

14 He asks that you take those qualities into account
15 as you determine the appropriate sentence to be imposed in
16 this case.

17 In looking over his military records, as I said,
18 he was both a chaplain's assistant and did the duties
19 entailed in being a bodyguard. But one of the things that
20 also stood out to me both from his father's letter to you
21 as well as from his military record, is that he served 12
22 months of deployments within a 17-month span. It enabled
23 him to provide and facilitate ministry to a 937-man
24 battalion. He was indispensable in allowing marines and
25 sailors in remembering their fellow servicemen who gave

1 their lives for their country during the initial ground
2 war in Operation Iraqi Freedom. And I might also say Mr.
3 Staszak -- Matthew, some of those services were for his
4 compatriots in the service, for men and women that he
5 knew.

6 But the fact that he was that person, Your Honor,
7 he is still that person as his family can attest to.

8 None of them understands. I don't think that
9 fully Matthew will ever understand what it was that called
10 him to step out of character in this particular situation.
11 But I think that the true character is that man that is
12 seen in the service to his country.

13 When you look at the 3553(a) factors, Your Honor,
14 there is no question that the sentence that we are
15 requesting reflects the seriousness of the offense and
16 will promote respect for the law.

17 It will also have a huge deterrent impact, for 25
18 years is a massive sentence for a relatively young man
19 with no prior criminal history.

20 To protect the public from further crimes of the
21 defendant. It's unlikely that after service of such a
22 sentence that, that he would be likely to commit further
23 crimes. And if the Court has any concerns about crimes of
24 this nature, there is also the fact that he will be
25 required to register as a sex offender for the remainder

1 of his life. And as a result, will be subject to random
2 checks to make sure that he's registered and also checks
3 of his home to make sure he's living in an appropriate
4 place.

5 There is no additional need for educational or
6 vocational training, medical care or other correctional
7 treatment. I'm sure that Matthew will continue with his
8 education. we have discussed that. But I don't think
9 that there is anything in the service of sentence that
10 improves that situation.

11 I think, Your Honor -- well, I know, as I said,
12 this is an incredibly difficult case. I know that Matthew
13 will be addressing you.

14 One thing that did jump out at me as well that
15 Miss Morrissey said is that Matthew has the opportunity to
16 assist in that further investigation of the mother in this
17 case, and I have discussed that comment with Mr. Staszak
18 and the prior communications that counsel and I had before
19 hearing today. And Mr. Staszak has indicated that he is
20 interested in assisting the Government, should they so
21 require or request his assistance in that matter. It's
22 been a, not an easy decision for him, but nothing about
23 this case has been easy.

24 Your Honor, given all of the facts, the letters,
25 the family support, the nature and circumstances of the

1 offense, and particularly Matthew Staszak himself, Your
2 Honor, we are requesting that you impose the sentence that
3 is agreed upon, 25 years as a total sentence, combining in
4 whatever fashion the Court deems appropriate to give the
5 consecutive sentence that's necessary.

6 THE COURT: Mr. Staszak, will you and your counsel
7 please approach the podium.

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Anything you wish to say or offer in
10 mitigation before this Court imposes sentence?

11 THE DEFENDANT: Yes, I do, Your Honor.

12 Good afternoon, Judge Gilbert. I am aware of the
13 right and wrong things I have done in my life. I do feel
14 guilt over the wrongs, but I am here to do absolutely
15 everything that I can to make things right. I live by
16 faith and hope that you make the best decision of my life
17 based upon your wisdom and knowledge.

18 Your Honor, please consider my personal character
19 in sentencing. I have been described as, quote,
20 outstanding sailor, mentor, and exceptional leader. End
21 of quote.

22 By my superiors in the military. I, quote,
23 greatly, end of quote, exceeded the standards for
24 teamwork.

25 I was recommended for the Seaman to Admiral stay

1 21 Program.

2 I was treasurer and later president of the Petty
3 Officers Association; voting officer for deployed sailors
4 and marines.

5 I volunteered with numerous organizations,
6 including: The Veteran of Foreign wars; the American
7 Legion; Habitat For Humanity; the Boy Scouts of America;
8 the USO; Special Olympics; Wounded Warrior Project; the
9 Masonic Lodge; the Buccaneers Club; the Jaycees; the St.
10 Jude's Children's Network; and the Republican party, to
11 include the Marine Corps Toys For Tots program.

12 I have received numerous military commendations
13 during my 13-year career, but I am especially proud of:

14 One, completion of my Fleet Marine Force Warfare
15 pin, which means the United States Marine Corps's highest
16 qualifications and elite standards; less than one percent
17 of U.S. Naval personnel achieve this high qualification;

18 Two, being trained and qualified in the Marine
19 Corps martial arts program and being a qualified Marine
20 Corps expert in rifle and pistol marksmanship, and being
21 the most personally selected bodyguard for senior Navy
22 chaplains and officers, including the Navy Chief of
23 Chaplains; Admiral Burt; Cardinal George for the
24 Archdiocese of Chicago; and the Senior Chaplain of the
25 Afghanistan Theater of Operation Enduring Freedom, Colonel

1 Lemoi;

2 Two -- or three, excuse me, being an instructor
3 and leader;

4 And last, most importantly, serving my country
5 both here and in combat zones for over 13 years, as is
6 demonstrated by my numerous awards, decorations, and
7 commendations.

8 Additionally, Your Honor, sir, I come from a
9 family that is educated, hardworking, and very well
10 respected within the community. They have been active
11 professionals such as business people, elected or
12 appointed officials, both active and retired military
13 service members, educators, healthcare professionals, coal
14 miners, and farmers.

15 Judge Gilbert, I would like to apologize to my
16 family for the heartache that they have had to endure. I
17 would like to point out that I have two very fantastic
18 parents who have worked their entire lives. My father was
19 born and raised in Chicago and moved to Christopher,
20 Illinois, in 1970, when he was a teenager. He joined the
21 United States Army over 30 years ago, and is a well
22 respected, decorated, staff noncommissioned officer.

23 My mother, who raised three boys and retired from
24 Wal-Mart after obtaining the rank and position of manager,
25 later became a full-time waitress, following the same hard

1 working and dedicated ethic just as my great aunt, Mary
2 Lou, the founder of Mary Lou's in Carbondale.

3 Your Honor, with consideration of all this, I
4 humbly offer my sincere apology to KG for my actions. I
5 hope she finds the healing she seeks and will grant
6 forgiveness eventually. I wish her all the best in the
7 future.

8 I also offer my apologies to Your Honor, the
9 Honorable Philip Frazier, the United States Marshals, the
10 United States Probation, and the United States Navy for my
11 absence without leave status beginning in October of 2012.
12 I deeply regret the decision I made at that time and I
13 have learned from my mistakes.

14 Your Honor, I do respectfully request that you
15 consider this information in determining sentence. Thank
16 you, sir.

17 THE COURT: Okay, Mr. -- is it Staszak or -- how
18 do you pronounce your last name?

19 THE DEFENDANT: It's Staszak, sir.

20 THE COURT: Staszak, all right.

21 THE DEFENDANT: Yes, sir.

22 THE COURT: I'm going to ask you a few questions,
23 too.

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Let's start from the -- going

1 backwards, why did you abscond when you were on bond?

2 THE DEFENDANT: Sir --

3 THE COURT: Why did you take off?

4 THE DEFENDANT: -- I got scared.

5 THE COURT: And don't just say, I made a bad
6 decision.

7 THE DEFENDANT: No. I got scared. The deal on
8 the table was, if you take this to trial, you're going to
9 get life in prison if you are found guilty. Well, that
10 just scared the tar out of me and I just -- I couldn't
11 deal with it. So, I had made -- I took it upon myself to
12 make a decision that, okay, I was going to offer both the
13 victim and the mother to come forward with the truth --
14 which I did write letters to them, okay? -- to come
15 forward with the absolute truth to lighten the load off of
16 this case here. So, I made a decision upon myself, sir,
17 to basically just abscond, get away, spend time by myself,
18 figure some things out in my life, straighten my life out
19 somehow, and eventually, like I told the marshal earlier,
20 I was going to turn myself in. But I came --

21 THE COURT: They always say that.

22 THE DEFENDANT: Yeah, I know. But I came back to
23 the local area and I got caught.

24 THE COURT: Yeah, in a bar.

25 THE DEFENDANT: Yes, sir.

1 THE COURT: So you weren't, you weren't
2 straightening your life out that much then.

3 THE DEFENDANT: Well, I did have a beer or two,
4 yes, sir.

5 THE COURT: What's your version in how this
6 relationship started with KG?

7 THE DEFENDANT: My version is: KG and I first
8 officially met in Columbia, South Carolina, in person.
9 She was with her family at the time.

10 THE COURT: Whoa. Whoa. Whoa.

11 THE DEFENDANT: Yes.

12 THE COURT: You didn't just happen to go to South
13 Carolina and, I mean --

14 THE DEFENDANT: I was stationed in South Carolina,
15 sir.

16 THE COURT: Well, I know, but I'm reading the
17 presentence report and they said this relationship started
18 on Facebook.

19 THE DEFENDANT: There was, there was not a
20 relationship. I was already in a relationship with
21 someone --

22 THE COURT: All right. Well, whatever you want to
23 call it.

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Started -- the contact started on

1 Facebook; is that correct?

2 THE DEFENDANT: Yes, sir. That's correct.

3 THE COURT: How did you get her Facebook? You
4 know, I'm not on Facebook. They don't allow me to be on
5 Facebook and I'm glad now, but --

6 THE DEFENDANT: The mother at the time was having
7 an affair -- am I allowed to mention individuals?

8 MS. DAY: Don't use names.

9 THE DEFENDANT: Okay. -- with an individual with
10 the initials DP. And at that time I was introduced,
11 through DP, to the victim's mother. At that time, I did
12 become friends with the mother on Facebook, as well as the
13 sister, and then eventually the victim, sir.

14 THE COURT: When did you know that the victim was
15 underage?

16 THE DEFENDANT: Approximately -- I sent her a
17 cellular phone through the mail. And as you read, if you
18 can go back, there is no age described on there. Her age
19 was never on Facebook. So I would have to guess it was in
20 the summer of 2000 --

21 THE COURT: So her Facebook page didn't have her
22 age?

23 THE DEFENDANT: That is correct. Yes, sir. Is
24 your question, did I know the age before I met -- or at
25 the time I met her on Facebook?

1 THE COURT: Yeah, let's start with that.

2 THE DEFENDANT: No, sir.

3 THE COURT: Then when did you find out that she
4 was underage?

5 THE DEFENDANT: After the victim and I had met on
6 a couple of occasions after the first initial contact in
7 Columbia, South Carolina.

8 THE COURT: And yet you continued the
9 relationship?

10 THE DEFENDANT: We did have an on-and-off
11 relationship, yes, sir.

12 THE COURT: Big mistake.

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Didn't you know that was illegal?

15 THE DEFENDANT: Well, let me think about this. I
16 think so --

17 THE COURT: No. You're a chaplain. You're
18 educated.

19 THE DEFENDANT: Yes, sir. Yes, sir. Yes, sir.

20 THE COURT: You knew she was a minor.

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And when you found out she was a
23 minor, you should have said, that's it, you're too young.
24 But you didn't. And you just continued this relationship.
25 You know, you can't blame her.

1 THE DEFENDANT: Correct. Yes, sir.

2 THE COURT: You're the one at fault here.

3 Anything else you wish to say?

4 THE DEFENDANT: I thank you for your time
5 considering the circumstances, Your Honor, and appreciate
6 you letting me speak today, sir.

7 THE COURT: Mr. Staszak, there's no explanation,
8 no excuse, no, no matter how you try to slice and dice
9 this, what you did in taking advantage of this minor, it
10 was unconscionable. And whether or not she was or was not
11 a willing participant is of no consequence. The law is
12 what it is and you are to be punished for that.

13 THE DEFENDANT: Aye, aye, sir.

14 THE COURT: The Court, in looking at the 3553(a)
15 factors, which I do, has to look at the nature and
16 circumstances of the offense, which I have described as an
17 unconscionable offense. The sexual exploitation of a
18 minor is one of the most horrendous crimes there is.

19 The history and characteristics of you as the
20 defendant, and that's in total opposite to what the nature
21 and circumstances of the offense is. You are now 30 years
22 old, with no criminal history; you have family support;
23 involved with the church; assistant -- a decorated combat
24 veteran. And the Court thanks you for your service to
25 this country.

1 THE DEFENDANT: Thank you, sir.

2 THE COURT: It's people like you that make people
3 like me be able to walk down the street without fear of
4 being blown up.

5 You were a chaplain assistant in the military
6 which, which makes this crime even more puzzling in the
7 fact that you should have known better. Your humanitarian
8 work for -- in Haiti is acknowledged.

9 The Court, also looking at the history and
10 characteristics, no criminal history for sexual offenses.
11 The Court acknowledges you are probably a low risk for
12 recidivism. Your attorney made the argument of collateral
13 consequences of being a sex offender and the Court is
14 taking all of that into consideration.

15 Your attorney makes the argument of the flawed
16 pornography guidelines; I'm not sure they're that
17 applicable here but the Court has considered all of that
18 in trying to fashion a sentence that is sufficient but not
19 greater than necessary to comply with the purposes set
20 forth in 3553(a).

21 You know, sentencing someone is the most
22 difficult, emotional, stressful, and personal aspect of
23 what I do, of what any judge does. When you are deciding
24 the freedom of someone, we do not take that decision
25 lightly. But by the same token, punishment has to fit the

1 crime. And you have, you have pled guilty to some serious
2 offenses here, for which you will be punished and for
3 which you will be spending a considerable amount of time
4 incarcerated.

5 The Court, having considered the, any aggravating
6 and mitigating circumstances -- and have I addressed all
7 of your mitigating circumstances, Miss Day?

8 MS. DAY: Yes, Your Honor.

9 THE COURT: -- has considered all the information
10 in the presentence report, including guideline
11 computations and factors set forth in 18 US 3553(a). And
12 it will be the judgment of this Court, defendant Matthew
13 Staszak is hereby committed to the custody of the Bureau
14 of Prisons to be in prison for a term of 240 months,
15 consisting of 180 months on each of counts one, two, and
16 three, to be served concurrently; and a term of 60 months
17 on count four, to be served consecutively to the terms
18 imposed on counts one, two, and three. It is ordered that
19 you -- for a total of 20 years.

20 It is ordered that the Court feels that a 20-year
21 sentence is sufficient but not greater than necessary to
22 comply with the provision of the statute as well as the
23 facts of this case, and it is below the recommendation of
24 both the Government and your counsel.

25 It is ordered, you shall pay the United States a

1 special assessment of \$400, and the special assessment is
2 payable through the Clerk of the U.S. District Court.

3 It is further ordered that you shall pay the
4 United States a fine of \$1,250 consisting of a 300-dollar
5 fine on each of counts one, two, and three, and a fine of
6 \$350 on count four. The fine is due immediately.

7 It is further ordered that you shall notify the
8 United States Attorney for this district within 30 days of
9 any change of name, residence or mailing address, until
10 all fines, restitution, costs and special assessments
11 imposed by this judgment are fully paid.

12 Having assessed your ability to pay, payment of
13 the total criminal monetary penalties shall be paid in
14 equal monthly installments of \$20, or 10 percent of your
15 net monthly income, whichever is greater.

16 You shall pay any financial penalty that is
17 imposed by this judgment that remains unpaid at the
18 commencement of the term of supervised release.

19 Upon release from imprisonment, you shall be
20 placed on supervised release for a term of 10 years. This
21 term consists of a term of 10 years on counts one, two,
22 and three, and a term of three years on count four, all
23 such terms to run concurrently.

24 Within 72 hours of release from the custody of the
25 Bureau of Prisons, you shall report in person to the

1 probation office in the district to which you are
2 released.

3 while on supervised release, you shall comply with
4 the following mandatory conditions:

5 You shall not commit another federal, state or
6 local crime;

7 You shall not unlawfully possess a controlled
8 substance and shall refrain from the unlawful use of a
9 controlled substance;

10 You shall submit to one drug test within 15 days
11 of release from imprisonment, and at least two periodic
12 drug tests thereafter, as determined by the Court, not to
13 exceed 52 tests in any one-year period;

14 You shall not unlawfully possess controlled
15 substance and shall refrain from the unlawful use of
16 controlled substance;

17 As there is no indication of recent substance
18 abuse, the Court suspends mandatory drug tests. And as
19 you impose low risk for future substance abuse, mandatory
20 drug testing will be suspended.

21 You shall not possess a firearm, ammunition,
22 destructive device, or any other dangerous weapon.

23 You shall comply with the collection of DNA as
24 directed by the probation officer.

25 You shall comply with the requirements of the Sex

1 Offender Registration and Notification Act as directed by
2 the probation officer, the Bureau of Prisons, or any state
3 sex offender registration agency in which you reside,
4 work, or are a student, or have a qualifying -- convicted
5 of a qualifying offense.

6 You shall pay any fines or restitution in
7 accordance with the schedule of payments as ordered by the
8 Court, and you must comply with the following standard
9 conditions that have been adopted by this Court as well as
10 the following additional special conditions:

11 Due to concerns related to your mental health, you
12 shall participate in a program of mental health treatment
13 which may include participation in treatment for anger
14 management, domestic violence, cognitive skills, or other
15 forms of therapy or counseling that may be recommended as
16 directed by the probation officer. This may include a
17 mental health assessment and/or psychiatric evaluation.
18 This may require participation in a medication regimen
19 prescribed by a licensed practitioner at the direction of
20 the probation officer.

21 You shall pay for the costs associated with
22 services rendered based on a court-approved sliding fee
23 scale as directed by the probation officer.

24 Your financial obligation shall never exceed the
25 total cost of services rendered.

1 Based upon the nature of the offense, and your
2 history, you shall not have any contact with KG.

3 You shall submit your person, residence, real
4 property, place of business, computer, electronic
5 communication or data storage device or media, vehicle,
6 and any other property under your control to a search
7 conducted by any United States probation officer and such
8 other law enforcement personnel as the probation officer
9 may deem advisable, and at the direction of the probation
10 officer, at a reasonable time and in a reasonable manner
11 based upon reasonable suspicion of contraband or evidence
12 of a violation of a condition of release, all without a
13 warrant.

14 Failure to submit to such a search may be grounds
15 for revocation.

16 You shall inform any other residents that the
17 premises and other property under your control may be
18 subject to a search pursuant to this condition.

19 You shall permit the probation officer to have
20 access to any personal computer and/or electronic device
21 capable of accessing the internet, worldwide web,
22 electronic mail. You shall also allow the probation
23 officer or a designee to conduct regular searches of your
24 computer and/or electronic device using software
25 monitoring devices if deemed necessary by the probation

1 || officer.

2 You shall advise the probation officer of all
3 e-mail addresses used on both public and private
4 computers.

5 You shall consent to third party disclosures to
6 any employer or potential employer concerning any
7 computer-related restrictions that may be imposed.

8 You shall warn other residents or occupants of
9 your home that computer systems will be subject to
10 inspection by the probation officer and/or authorized
11 contractor.

12 And you shall also participate in an approved
13 sexual offender treatment program as directed by the
14 probation officer.

15 If deemed necessary, you shall submit to an
16 approved sexual predator evaluation as directed by the
17 probation officer. You shall abide by all rules,
18 requirements and conditions of the treatment program,
19 including submission to polygraph and/or plethysmograph
20 examination to determine compliance with conditions of
21 release.

22 You shall remain in the program until successfully
23 completed or until such time as you are released from the
24 program by the Court and/or probation officer.

25 || You shall pay for the costs associated with

1 services rendered based on a court-approved sliding fee
2 scale as directed by the probation officer. Your
3 financial obligation shall never exceed the total cost of
4 services rendered.

5 You shall not possess or use electronic devices
6 capable of taking photographs and/or videos.

7 You shall not subscribe to any text messaging
8 services or any data file services.

9 You are prohibited from activity in social media
10 sites, internet chat rooms, and internet forums.

11 Based upon the nature of this offense and your
12 history, you shall not have any contact with females under
13 the age of 18 unless in the presence of a responsible
14 adult who is aware of the nature of your background and
15 instant offense and who has been approved by the probation
16 officer.

17 You shall provide the probation officer and the
18 Financial Litigation Unit of the United States Attorney's
19 Office with access to any requested financial information.
20 You are advised that the Probation Office may share such
21 information with the Financial Litigation Unit.

22 You shall apply all moneys received from income
23 refunds, lottery winnings, judgments, and any other
24 anticipated or unexpected financial gains to the
25 outstanding court-ordered financial obligation. You shall

1 immediately notify the probation officer of the receipt of
2 any indicated moneys.

3 In addition to the sentence imposed, you shall
4 forfeit your interests in the following property: Your
5 2007 Jeep Grand Cherokee, and also your Verizon cellular
6 telephone, model Droid X2.

7 The Court needs to advise you, you have a right to
8 appeal this, your sentence if you believe your guilty plea
9 was somehow lawful or involuntary or if there was some
10 other fundamental defect in the proceedings that was not
11 waived by your guilty plea. You also have a statutory
12 right to appeal the sentence itself, particularly if you
13 believe the sentence this Court just imposed is contrary
14 to law.

15 However, a defendant may waive those rights as
16 part of a plea agreement, and you have entered into a plea
17 agreement that waives some or all of your rights to appeal
18 the sentence itself. Such waivers are generally
19 enforceable, but if you believe the waiver is
20 unenforceable, you can present that theory to the
21 appellate Court.

22 With few expectations, any notice of appeal must
23 be filed within 14 days after entry of judgment. If you
24 cannot afford the services of an attorney to handle your
25 appeal, one will be appointed for you.

1 Do you understand that?

2 THE DEFENDANT: Yes, sir, I do.

3 THE COURT: Okay. Anything further, Miss Day?

4 MS. DAY: Your Honor, I have two requests: One,
5 would be that the Bureau of Prisons be informed that he
6 would request placement at the facility at Marion; and
7 second, would be that he have a moment with his family.

8 THE COURT: Okay. The Court will grant both of
9 those requests.

10 THE DEFENDANT: Thank you.

11 THE COURT: You may have a seat. There's more
12 things I need to say here.

13 THE DEFENDANT: Okay, sir.

14 MS. MORRISSEY: Your Honor?

15 THE COURT: Do you have the forfeiture order
16 there?

17 MS. MORRISSEY: Yes, I do, Your Honor.

18 THE COURT: Anything else from the Government?

19 MS. MORRISSEY: I just want to make sure I
20 understood, the total sentence is 300 months, 240 with 60
21 consecutive.

22 THE COURT: No.

23 MS. MORRISSEY: No.

24 THE COURT: The sentence is 240 months: 180 and
25 60 consecutive. 20 years and not 25 years.

1 MS. MORRISSEY: Okay. Thank you, Your Honor.

2 THE COURT: Okay? It's a 20-year sentence and not

3 25.

4 This is the -- any objections to the preliminary

5 forfeiture order?

6 MS. DAY: None, Your Honor.

7 THE COURT: Is this something I initial or sign?

8 I sign it?

9 THE CLERK: Just sign it. (Pause.) Thank you.

10 THE COURT: Okay, usually at this point in a

11 sentencing I get up and walk out the door. But I'm not

12 doing that now because this case has bothered me. And I

13 want to let everybody know it's bothered me.

14 There's no justification for what Mr. Staszak has

15 done. And as I said earlier, there's no fault at all on

16 behalf of the victim KG.

17 Miss Morrissey was absolutely correct when she

18 said that Congress puts the responsibility for protecting

19 children on adults. But that includes parents.

20 And not only when it comes to being a parent does

21 Congress put the responsibility of protecting their own

22 children, but Mother Nature does. And if someone -- and

23 if anybody believes in a higher power, that they -- that

24 goes along with it.

25 What disturbs me about this case is that I feel

1 that I don't have all the facts here, and that I have
2 sentenced Mr. Staszak partly in a vacuum.

3 There's no question in my mind that when I read
4 the presentence report and then read the letters that were
5 given in the defense filing, that what we have here is a
6 tale of two stories on how this relationship may have
7 started, how it was fostered, how it continued for so
8 long.

9 And it's the opinion of this Court that the mother
10 of KG is culpable, almost as culpable as Mr. Staszak. She
11 took her daughter, her minor daughter, who she knew,
12 across state -- across state lines for her to engage in
13 illicit sexual activity with the defendant. That's a
14 federal offense. That's a crime.

15 There's allegations that maybe the, you know, the
16 defendant may have provided financial support during the
17 time that there was a breakup of the marriage of KG's
18 mother and father and to maybe help them. There's also
19 allegations of possible extortion. That doesn't excuse
20 Mr. Staszak for what he did. He should have stopped, but
21 he didn't, and that's an error in judgment aggravated in
22 already an abhorrent situation.

23 But the mother should bear some responsibility
24 here. I think it's the opinion of this Court she should
25 be prosecuted. She has failed not only her, not only the

1 duties of being a mother in protecting her child but she
2 failed the law, as Miss Morrissey pointed out.

3 Congress has asked adults to protect children.
4 She didn't do that here. And not only didn't do it, she
5 didn't even -- she wasn't the one that turned Mr. Staszak
6 in. She had ample opportunity for many months to stop
7 this relationship by contacting the authorities. But she
8 didn't. why? I don't know the answer to those questions.

9 But I do know that, that this case has a peculiar
10 aroma to it. Mr. Staszak is going to jail for 20 years.
11 He's paying for the crimes that he has committed and the
12 hurt he has occasioned on, on the victim here. And he's
13 paying the price for it. But I don't think that he should
14 be alone, because I think there's -- the mother should be
15 looked at.

16 And I'm asking the U.S. Attorney to take a look at
17 this, maybe send a copy of this transcript to the U.S.
18 Attorneys in South Carolina and North Carolina for
19 possible prosecution for the same, one of the same counts
20 that Mr. Staszak pled guilty to.

21 It's unconscionable for a mother to knowingly
22 allow a minor daughter to have a relationship with an
23 adult. It's not only unconscionable but it's a violation
24 of the law.

25 That concludes this hearing.

1 And, Mr. Staszak, you will be able to have an
2 opportunity say goodbye to your family before they head
3 you off to the Bureau of Prisons.

4 THE DEFENDANT: Thank you, sir.

5 THE CLERK: All rise.

6 (Court adjourned at 3:05 p.m.)

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REPORTER'S CERTIFICATE

2 I, Christine A. Dohack, Registered Merit Reporter
3 and Certified Realtime Reporter in and for the United
4 States District Court for the Southern District of
5 Illinois, do hereby certify that I was present at and
6 reported in machine shorthand the proceedings in the
7 above-mentioned court; and that the foregoing transcript
8 is a true, correct, and complete transcript of the
9 electronic recording.

10 I further certify that I am not an attorney for,
11 nor employed by, nor related to any of the parties or
12 attorneys in this action, nor financially interested in
13 the action.

14 I further certify that this transcript contains
15 pages 1-49 and that this reporter takes no responsibility
16 for missing or damaged pages of this transcript when same
17 transcript is copied by any party other than this
18 reporter.

19 IN WITNESS WHEREOF, I have hereunto set my hand at
20 Benton, Illinois, this 28th day of July, 2014.

s/Christine A. Dohack, RMR, CRR

Christine A. Dohack, RMR, CRR

A-19

UNITED STATES DISTRICT COURT

for the
Southern District of Illinois

MATTHEW LEE STASZAK

Petitioner(s)

vs.

UNITED STATES OF AMERICA

Respondent(s)

Case Number: 15 cv 00020 JPG

AFFIDAVIT

I, Melissa A. Day, the undersigned affiant, state as follows:

1. The Federal Public Defender's Office was appointed to represent Petitioner in the matter of *United States v. Matthew Lee Staszak*, 12 CR 40064-001 JPG, on June 3, 2013. Cr. Doc. #59.¹

2. On August 5, 2013, Petitioner entered a negotiated plea of guilty to sexual exploitation of a minor (count one); travel with intent to engage in illicit sexual conduct (count two); travel with intent to engage in illicit sexual conduct (count three); and failure to appear (count four). Cr. Doc. #68. On February 7, 2014, Petitioner was sentenced to a term of 180 months incarceration on counts one, two and three, to run concurrently, and a term of 60 months on count four, to run consecutively to counts one, two and three; ten years' supervised release, a \$400 special assessment and a total fine of \$1,250.00. Cr. Doc. #82.

3. On or about January 8, 2015, Petitioner filed a habeas petition and attached affidavit alleging that counsel provided ineffective assistance in the matter of *United States v.*

¹ References to the docket in case number 15 CV 00020 JPG will be denoted as "Cv Doc." while references to the docket in case number 12 CR 40064 JPG will be denoted as "Cr Doc."

Matthew Lee Staszak, 12 CR 40064 JPG. Cv Doc. #1. On July 17, 2015, Petitioner filed a "Response" in which he stated that he "waive[d] attorney-client privilege" as to Affiant and members of her office and did not oppose the government's request for an order authorizing the affidavits. Cv Doc. #11. On July 21, 2015, a Memorandum and Order was entered authorizing Affiant and certain others to provide affidavits to Counsel for the Government. Doc. #12. This affidavit follows.

4. Following review of the allegations of ineffective assistance of counsel, affiant reviewed her file. In light of that review, counsel responds to allegations as follows.²

A. **Grounds one, three, five and six: Counsel used threats of third party prosecutions to coerce movant into pleading guilty; Counsel failed to investigate Count One; Counsel was informed the allegations in Count One and Count Two never occurred.**

My notes reflect that, following appointment of the Federal Public Defender's Office, I first met with Petitioner on June 7, 2013, at the Jackson County Jail.³ At that time, Petitioner informed counsel that he was planning on having a jury trial, but would look at offers. Speedy trial was discussed with Petitioner and he authorized that his case be continued as needed for trial purposes. During this initial meeting, we also discussed the injuries received at the time of his arrest; we discussed the bond hearing/motion to revoke bond; we reviewed the filings, motions and responses in his case to date; reviewed his prior attorney's file which had been supplied to

² The Honorable J. Phil Gilbert entered an Order on January 16, 2014, authorizing Affiant to provide a written response to Petitioner's allegations. CV Doc. #12.

³ Counsel's notes reflect that she initially met with Petitioner one year prior on June 21, 2012, as a part of his initial appearance on the original indictment. Petitioner retained counsel at that time. The Federal Public Defender's Office was appointed to represent Petitioner on June 3, 2013. Cr. Doc. #59.

me;⁴ read through and discussed the discovery reports (including the report of the victim's interview which states that Petitioner used his Verizon Droid phone to make a video of them having sex which they then viewed together and which he later reported to her he had deleted); discussed certain potential motions; discussed the need for me to prepare a sentencing letter for Petitioner;⁵ we discussed Petitioner's current military status; discussed "mom's testimonial issue" and noted the need to request information on the investigation of "mom." We also discussed questions Petitioner had regarding the victim in this case. Petitioner gave me "full permission" to speak with his parents "as needed." We also discussed the potential for any lesser included charges.

On June 10, 2013, I corresponded with government counsel and noted that a continuance would be needed if the matter proceeded to trial and that I was not expecting a plea. I also noted that there were outstanding motions issues (from before my representation) and that I needed to determine whether additional motions or responses needed to be filed. The government responded with a tentative offer of 30 years, noting that they would forego additional charges against Petitioner, and asked whether it was worth further discussion. I agreed to review the guideline calculations and noted I would have to meet with my client again to determine whether there was a need to further discuss negotiations. I also requested additional discovery. The government responded, noting that there would be additional discovery.

⁴ Of note, prior Counsel's file notes reflect specifically that on August 7, 2012, Petitioner listened to the May 29, 2012, recorded telephone conversation of Petitioner and the victim. The May 29, 2012, recording includes Petitioner's acknowledgement of the existence of the video by reference to the fact that he deleted it, apparently in part because he was in the video and recognized that its existence would be a detriment to his future.

⁵ "Sentencing letter" is my shorthand term for a letter I try to prepare for all clients. The letter outlines the charges, the statutory penalties, the elements of the offense and trial options, various plea options, and potential guideline calculations based upon the information currently in my possession.

Upon review of the guideline calculations, I questioned the calculations as tendered.

Government Counsel ultimately agreed that one suggested enhancement was inapplicable.

On June 14, 2013, I prepared a "sentencing letter" for Petitioner which outlined the following: 1) the statutory penalties for each charged count; 2) the elements of each charge and other information relevant to trial; 3) options for plea (including the government's suggested deal for a recommended 30-year sentence); 4) sentencing guideline information and 5) information concerning the collateral consequences of a conviction. In that letter, I informed Petitioner of the following:

If you proceed to trial and are acquitted on all counts, sentencing will not be at issue. If you plead guilty or are found guilty at trial, you will be sentenced.

...

Your case is still under investigation. There is a distinct possibility that additional charges will be brought against you, if you proceed to trial.

...

If you proceed to trial, I will be filing a Motion to Continue as we discussed and as you agreed. Additionally, I believe the government will consider additional charges, if you proceed to trial.

...

... Mr. Keefe indicated that you might have a defense to counts two and three regarding the purpose of your travel. At best this is a difficult defense. The jury would have to find that the travel was only for a lawful purpose. If the determined that it was for a lawful purpose *and* the illegal purpose, it would not benefit you. For instance, if they believed you travelled to Southern Illinois to visit your family and also to visit KG and/or have sex with her, they can still find you guilty.

...

You have the right to a speedy trial, as we discussed last week. However, there is not sufficient time for me to adequately prepare by the currently set jury trial date. If you proceed to trial, I will be filing a Motion to Continue as we discussed and you agreed.

A-20

AFFIDAVIT OF MATTHEW L. STASZAK

I Declare under penalty of perjury and pursuant to 28 U.S.C. § 1746 that the statements contained herein are true and correct to the best of my knowledge. I am the Defendant in Case No. 4:12-cr-40064-JPG. My attorney during the events described herein was Melissa A. Day of the Federal Defender's Office in Benton, Illinois. I make the following Declarations:

1. That at the time that I entered a guilty plea to Counts 1-4 of the Second Superseding Indictment, I did so under a threat, relayed to me by Counsel, that the Government would prosecute my family for aiding and abetting me during the time that I had failed to appear at a scheduled Court proceeding. That the plea offer by the Government was for a 25-year sentence. When I asked my Counsel to negotiate a 20-year sentence, and allow my 2007 Jeep Grand Cherokee to be returned to my father, Daniel Staszak, my Counsel told me Prosecutors Kit Morrissey and Angela Scott became furious, and again threatened that my family, and in particular my parents, Daniel and Norena Staszak, would be immediately prosecuted if I did not accept the 25-year plea. These threats were made to me during June and July of 2013, while I was incarcerated at the Jackson County Jail. When I asked Counsel what evidence the Government possessed that my family aided and abetted me during the time I had failed to appear, Counsel assured me emphatically that the Government was in possession of this evidence. Based upon these threats, which I was told by Counsel originated from the United States Attorney's Office, I agreed to the 25-year sentence. I would not have entered a guilty plea to the charges, had these threats not been made to me. Instead, I would have proceeded to trial.

2. That when I was apprehended by the United States Marshal Service, I was severely beaten by U.S. Marshal Clark Meadows. At the time of the beating I was handcuffed, lying on my back, on the floor, and offering no resistance. I was punched hard in the face four times. No other Marshal attempted to stop Meadows, or express their disapproval of Meadows' actions. I was then taken to Marion Heartland Medical Center for treatment. This incident occurred at Rameses Lounge in Marion, Illinois on June 2, 2013, at approximately 12:30 a.m., and was witnessed by several patrons at the Lounge. This incident is well documented, and I presently have a case pending against the U.S. Marshals Service.

3. That following my apprehension, I was eventually taken to Jackson County Jail, in Murphysboro, Illinois, and Melissa A. Day assumed representation as my Counsel. That I was pressured repeatedly by her and other staff from the Federal Defender's Office to plead guilty. I had meetings with Phillip Kavanaugh, Melissa Day, Jared Martin, and Investigator Gail Jones while I was incarcerated at the Jackson County Jail. At all of these meetings, the only topic of discussion was that I should plead guilty. Even though I repeatedly questioned Counsel about my upcoming trial, neither Counsel, nor any member of the Federal Defender's Office, discussed any aspect of my trial with me, including what investigations were being conducted, what discovery had been received, what trial strategies

were being considered, what potential witnesses were being interviewed, or whether I should testify at my trial, or any other matter concerning my trial.

4. That when I continued to insist on going to trial, Counsel advised me that the Government was investigating K.G.'s mother, Amy Primo, and that I could assist in the investigation by providing the Government with information concerning the mother. Counsel informed me that if I do this, then after I was sentenced, I would receive a reduction of my sentence "at a minimum 50%." I told Counsel I was interested in cooperating, but I still wanted to go to trial. These conversations occurred during June and July of 2013, while I was incarcerated at the Jackson County Jail. Both the Prosecutor and Counsel stated at my sentencing that there was an ongoing investigation against K.G.'s mother, and that I would be given the opportunity to cooperate with the investigation of K.G.'s mother, but I have never been contacted concerning this, and when I inquired to Counsel about this, she became evasive, and suggested that there had never been a serious attempt to investigate K.G.'s mother.

5. That around July 25, 2013, Phillip J. Kavanaugh, the head of the Federal Defender's Office, visited me at the Jackson County Jail. The sole purpose of his visit was to obtain a guilty plea. He stated that there was no way I could win at trial, and that if by some miracle I did prevail at trial, which he described as having the same probability as "lightening striking inside a bottle," the Prosecutor, Kit Morrissey, had informed him that she had already arranged for me to be indicted in the Eastern District of Missouri. He further stated that the Jackson County, Illinois States Attorney, Michael Carr, who previously worked at the United States Attorney's Office for the Southern District of Illinois, would charge me in the State of Illinois, and that if I go to State prison with a sex charge I would not survive. He made a reference to the conversations I had with Melissa Day, and stated that if I continued to hold out on the guilty plea, I would be "putting my family through Hell." He did not specifically recount the threats of prosecution against my family that Ms. Day had previously made to me, but the implication was clear; either plead guilty or my family would suffer greatly.

At this point Mr. Kavanaugh softened his tone somewhat, and told me that if I would just plead guilty, he could guarantee me that this matter would end, and no charges would ever be brought against "anyone." In addition to this, he told me that he could arrange it so that I could serve my sentence at the Federal Correctional Complex at Marion, Illinois, which was a prison that catered especially to sex offenders, and that I would have a private cell with a television set and cable, and with my own key to the cell. He reaffirmed the statements made by Melissa Day that I would be allowed to cooperate in the investigation against K.G.'s mother, and he would authorize Ms. Day to continue representing me while I was assisting the Government in the investigation of K.G.'s mother. He assured me that I would have e-mail access so I could communicate with Ms. Day concerning the cooperation, and this representation would continue until I received a sentence reduction.

6. That Counsel again threatened me with the arrest of my family when she presented me with the Stipulation of Facts and Plea Agreement. That I had previously advised Counsel that I never produced a video of me and K.G. engaged in sexual activity (Count 1), and that K.G. and I did not engage in sex on March 22, 2011 (Count 2). That

concerning the March 22 incident, I advised Counsel that on March 10, 2011, I took a 14-day Military leave, and traveled to Illinois to spend time with my father, whose birthday is March 22, and that during these 14 days, I did not meet with K.G. until after K.G. contacted me on March 16, four days after I arrived in Illinois, and told me that her mother, Amy, wanted to meet with me to repay me \$200.00 she owed me due to a bad check she had written me during her stay at my home in North Carolina in February of 2011. I met Amy and K.G. on March 21 at the Carterville McDonalds parking lot around 1:00 p.m., and Amy repaid me, and during this meeting K.G. told me she had something important to tell me, and had to see me privately. The next day, March 22, Amy drove K.G. to Cannon Park in Carterville to meet me around 11:00 a.m. We rented a room at the Comfort Suites so we could speak privately. It was then that K.G. told me that she believed she had contracted a sexually transmitted disease (later diagnosed as Chlamydia) from Kyle Ferguson, a Student at Southern Illinois University in Carbondale, who she had recently been involved with. K.G. told me that she and Ferguson had sex several times, and smoked Pot. She also told me that Ferguson took nude photographs of her, and he had made a video of them having sex, and she was worried that he was going to show them to his friends. She apologized to me for what she had done, and I drove her home. I told Counsel that I did not travel to Illinois to have sex with K.G., and never intended on seeing her, and only saw her after she contacted me to tell me her mother wanted to see me to repay the money, and that we did not engage in sex. When I read the Stipulation of Facts and the Plea Agreement, I advised Counsel that I was not comfortable signing these documents, and that I was only willing to stipulate to conduct that I had actually committed. Counsel advised me that it did not matter; that it would not affect the sentence that I would receive, and that I had no choice. That if I do not agree to the Stipulation of Facts and Plea Agreement as presented by the Government, the offer would be withdrawn and my family would be prosecuted.

7. That the threats, promises, and misrepresentations made by Counsel and other members of the Federal Defender's Office to induce my guilty plea were continuous and relentless from the date the Federal Defender's Office was first appointed to represent me, and that I only agreed to plead guilty because of these threats, promises, and misrepresentations, and that had these threats, promises, and misrepresentations not been made to me, I would not have pled guilty, but instead I would have proceeded to trial.

8. That Counsel advised me that when I go before the Court to change the plea, I would be asked if I was satisfied with the legal representation that I received from her, and I should say that I was, and that I would also be asked if anyone had threatened me or promised me anything to induce my plea, and that I should answer no to this, and when the Judge questions me about whether the factual basis for the charges are correct, I should answer that it was. I told Ms. Day this was wrong, that if I was going to plead guilty, I did not want to lie to Judge Gilbert about what actually happened. I asked her if there was any other way. She said this was the way it had to be, that this is what the Government wanted, that "Kit just wants to get this off her desk," and that I needed to "stay on track" and not deviate from the plan.

9. That within five minutes of entering my guilty plea, I told Melissa Day that I had made a mistake and wanted to withdraw the plea, and tell Judge Gilbert the truth. She said

it was too late, that it could not be done, that if I even attempted to withdraw the plea, it would make the Judge mad and I would receive a longer sentence. My father later told me that he and my mother spoke with Melissa Day on the day of my plea, and Melissa told them that I had to plead guilty, that if I had not pleaded guilty that they (my father and mother) would be arrested, and that Kit had told her the Government had solid evidence against them for assisting me while I was a fugitive. My father told me he and my mother were willing to be arrested, that we should do what is right, and not let the Government get away with their lies and threats. My father told me that he told Melissa Day to begin the process that would withdraw the plea and she refused.

10. That after I was returned to Jackson County Jail following my guilty plea, I began calling Counsel and requesting that I be provided with the discovery in my case. At first, Counsel refused, but later she sent Investigator Gail Jones to the Jackson County Jail to review my discovery with me. I asked her to show me the alleged video and the Forensic Report of my Cell Phone that had supposedly been used to produce the video. She did not have it, and during a subsequent visit still did not have it, so I terminated the visit. Following that, Jared Martin visited me and informed me that no sexually explicit video or Forensic Report was ever turned over during discovery, and that as far as he knew neither one ever existed. I told Mr. Martin that I had been lied to all this time concerning the video and Forensic Report, and to instruct Counsel to immediately file for a withdrawal of my guilty plea, and Counsel failed to do so.

11. That later when I was preparing for my sentencing, Counsel told me that I needed to forget about withdrawing my sentence, that I needed to "stay on track" and "do what I was told," or I could go to prison for a 100 years, and that my parents would be arrested, and reminded me that I could still get a sentence reduction by assisting the Government in their investigation of K.G.'s mother. I relented at this point and did what I was told even though I knew it was wrong.

12. That I submitted a Sentencing Memorandum (Doc. #77) to the Court, where I stated truthfully to the Court the circumstances surrounding my offense. I was told by Counsel that when the Prosecutor read the Memorandum, she stated that if I do not withdraw it, the Government would rescind the Plea Agreement, and members of my family would be immediately prosecuted. This threat was made to me on or about the first week of January of 2014, while I was incarcerated at the Jackson County Jail and awaiting sentencing. Based upon these Government threats, I withdrew my Sentencing Memorandum, and submitted an amended version acceptable to the Government.

SWORN TO ON THIS 14TH DAY OF NOVEMBER, 2014, UNDER PENALTY OF PERJURY PURSUANT TO 28 U.S.C. § 1746.



MATTHEW L. STASZAK

A-21

AFFIDAVIT OF DANIEL L. STASZAK

I Certify under penalty of perjury that the following is true and correct to the best of my knowledge. My name is Daniel L. Staszak. I am the father of Matthew L. Staszak the defendant in Case No. 4:12-cr-40064-JPG. I am submitting this Affidavit in support of Section 2255 Motion that has been filed by Matthew L. Staszak, and swear to all of the following:

1. While Matthew was on bond, he failed to appear at a scheduled Court hearing, and a warrant was issued for his arrest. At the time Matthew was taken into custody by the United States Marshals, while handcuffed and offering no resistance, he was severely beaten by U.S. Marshal Clark Meadows. Following Matthew's apprehension for his failure to appear at Court, Melissa Day of the Federal Defenders' Office was appointed to represent him, and during the time that Ms. Day was representing Matthew, I had numerous contacts with her. These contacts consisted of personal meetings, telephone conversations, emails and letter by courier. During all personal meetings, Norena Staszak Matthew's mother was present.
2. The purpose of these contacts was to provide assistance to Ms. Day in preparation for Matthew's trial. It was always Matthew's desire to go to trial on the charges he faced. At no time did Matthew ever seriously consider a plea bargain. When I asked Ms. Day about trial strategies or other preparations being undertaken, her response was always that she could not formulate a strategy until discovery was completed. When I asked her when that would occur, she was usually vague, and would respond that it was on going.
3. While Matthew was incarcerated at the Jackson County Jail, His mother and I visited him and we had numerous phone conversations, and also communicated by post mail. Matthew informed me and his mother that he was being pressured by Ms. Day (And later by Phillip Kavanaugh) to plead guilty to all the charges on his indictment, and to accept a plea agreement that would include a prison sentence of 25 years. Matthew told me and his mother that Ms. Day had told him that the Government had evidence that his mother and I had assisted him while he was a fugitive for failing to appear at Court, and that the Government was threatening to have his mother and I arrested and prosecuted for aiding and abetting him during this time. I subsequently spoke with Ms. Day about these threats, and she informed me that Government Prosecutors had assured her that they were in possession of sufficient evidence to prove that Norena and I assisted Matthew during the time he was a fugitive, and the prosecutors were telling Matthew that if he did not plead guilty, Norena and I would be arrested.
4. Even though Matthew knew that we had not assisted him, he was conflicted by these threats. I told Matthew that I was willing to be arrested and I was not afraid of the Government's threats, but Matthew was extremely concerned for his mother.

Matthew knew that while he was a fugitive the U.S. Marshals had questioned his mother, they told Norena if they thought Matthew was armed they would kill him on the spot. Matthew was deeply worried that the U.S. Marshals may react the same being accompanied by U.S. Marshal Meadow's and might do to us the same during an arrest as the way he was arrested and beaten while cuffed and on the floor. I told Matthew that the decision was his to make regardless of what he decided, and that I would stand by him.

5. The next time I had discussion with Matthew concerning a guilty plea was after Matthew was visited by Phillip Kavanaugh. Matthew told me that Kavanaugh visited him at the Jackson County Jail, and Kavanaugh told him that he needed to plead guilty, and that Matthew had absolutely no chance of prevailing at trial. He also told Matthew that the Government was already planning to have him indicted in other jurisdictions in the unlikely event he did prevail at trial, and that one of these jurisdictions would be in the state of Illinois, where Matthew would not survive if he was sent to an Illinois State Prison as a sex offender. Matthew told me that Kavanaugh assured him that he would be allowed to assist the Government in the prosecution of Amy Primo, and would receive a significant sentence reduction in exchange for his assistance, and the Federal Public Defenders' office would continue to represent him until he achieved the reduction. Matthew said that Kavanaugh told him that if he would plead guilty, he could guarantee him that this case would end now, and that no one else would ever face charges, but if he persists with efforts to have a trial, his family and some of his friends would be at great risk.

6. Matthew told me that when he decided to plead guilty it was because he could not risk the consequences that arrest could have on his mother, the threat to her safety, the humiliation of strip and cavity search, being handcuffed and shackled, the embarrassing media reports, being taken from her family, and especially her youngest son, who is was still a minor, and everything else involved in the processing of a person charged with a crime.

7. On August 5, 2013 the day Matthew pleaded guilty, I met with Ms. Day outside the Courtroom shortly after the proceeding ended. It was approximately 2:30 p.m. Norena Staszak was with me and witnessed the conversation. I told Ms. Day that Matthew had made a mistake, that he should not have pleaded guilty, and he only did it to protect his mother from arrest and prosecution by the Government. I told Ms. Day that Matthew should change his plea back to not guilty, and asked her if it was possible. I told her that Norena and I were willing to face charges the Government cared to bring against us. Ms. Day told us it was too late, that the plea could not be changed back once it was given in open Court. She told us that the Government had solid evidence against us for aiding and abetting Matthew, and that we would not only be arrested, but we would be sent to prison for years.

8. Ms. Day and I had another conversation which occurred prior to Matthew pleading guilty, which concerned a video recording the Government was alleging that Matthew had produced. Matthew had told me that he never produced this alleged video and that the

forensic examination of this telephone would prove this. Matthew had told me that he asked Ms. Day several times to show him the video and the forensic report on his cell phone that the Government had made, but Ms. Day would only tell him that the Government had not turned it over yet, but she assured Matthew that the Government had the video and proof that it was made on his cell phone. Matthew asked me to contact Ms. Day and try to find out what I could about it. When I spoke with Ms. Day, she informed me that she did not have a copy of a video or the forensic report, but she was certain the Government had them, and she should be receiving them soon, and would let me know when she had them. She never contacted me about a video or forensic report after that.

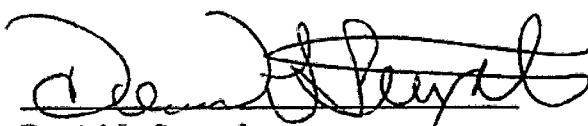
9. I had many conversations with Matthew about what he should do, and he was adamant about going to trial. We never had serious conversation about a plea bargain until after Ms. Day began telling Matthew that if he did not plead guilty, his mother and I would be arrested and prosecuted for aiding and abetting him during the time he was a fugitive. I am absolutely certain had these threats not occurred Matthew would have gone to trial.

10. After Matthew had pleaded guilty, we had conversation about withdrawing his guilty plea. He told me he asked Ms. Day about it on the same day (August 5, 2013), and immediately after he pleaded guilty. I told Matthew that was strange, because I had also asked her about it. Matthew told me that Ms. Day said a guilty plea cannot be changed after it is stated in an open court, and I told Matthew that was exactly what she had said to me. About a month after that Matthew told me that the video issue and the forensic report had really been bothering him, and that he asked Ms. Day to show him the discovery in its entirety the Government had turned over in his case. Matthew told me Ms. Day kept putting him off, but after Matthew had persisted, she sent Gail Jones to the jail with it. Apparently Ms. Jones did not bring the video or forensic report with her and Matthew insisted that she bring it to him, which she never did. After Matthew complained about this, according to Matthew, Jared Martin from that point on visited him at jail and told Matthew there was no video that there never had been a video and that the Government never provided a forensic report which would have proven Matthew's cell phone was never used to make a video. Matthew told me that he had decided to withdraw his plea, and that he had told Jared Martin to tell Ms. Day about his decision. Matthew later told me that Ms. Day had again told him that he could not withdraw his plea that it would only make the judge mad, and he would end up with a longer sentence and that Norena would end up in jail. Around this time frame is when I had again questioned Ms. Day about the alleged video since I had not ever received her response. I started off explaining to Ms. Day that I was not some sick person that wanted to see pornography and told her I could understand why she could not show this video to me and that since she could not show it she could answer a simple yes or no answer to my question. I asked Ms. Day in statement is there any type of pornography of either Matthew and/or this girl individually and/or together. By any means electronic, digital, video or print. Ms. Day responded no there is not. I have very strong reason to believe up to this day no one has actually ever seen this video, and I

strongly believe that the prosecutor and Matthew's defense attorney were lying about having a video and that I never believed of its existence.

11. The statements contained in this Affidavit are comprised of recounts of events made to me by Matthew L. Staszak, and statements made to me by Melissa Day. The statements relayed to me directly from Melissa Day can be summarized as follows: (1) that if Matthew had not pleaded guilty, Norena and I would have been arrested and prosecuted; (2) that the government was in possession of solid evidence that Norena and I, and others, had aided and abetted Matthew while he was a fugitive; (3) that the government was in possession of a sexually explicit video that had been produced on Matthew's cell phone and a forensic report proving this; and (4) that a guilty plea cannot be changed once it is made in an open court.

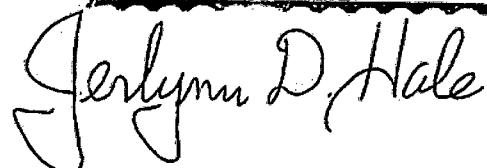
SWORN TO ON THIS 24 DAY OF December, 2014.



Daniel L. Staszak

NOTARY PUBLIC

County of Williamson)
) ss:
State of Illinois)



I Certify that Daniel Staszak appeared before me personally and was either known to me or presented sufficient identification to me and did affix his signature on this Affidavit in the space above in my presence on this 24 day of Dec, 2014.

A-22

AFFIDAVIT OF NORENA A STASZAK

I Certify under penalty of perjury that the following is true and correct to the best of my knowledge. My name is Norena A Staszak. I am the mother of Matthew L. Staszak the defendant in Case No. 4:12 -cr-40064-JPG. I am submitting this Affidavit in support of Section 2255 Motion that has been filed by Matthew L. Staszak, and swear to all of the following:

1. During the time Matthew was released on bond, he failed to appear at a scheduled court hearing and an arrest warrant was issued. When Matthew was apprehended, he was beaten by U.S. Marshal Clark Meadows. He was handcuffed at the time, on the floor, and offered no resistance. After this incident, Melissa Day was appointed by the Federal Public Defenders Office to represent Matthew. I had numerous contacts with her by way of personal meetings and telephone conversations. During all personal meetings, Daniel Staszak, Matthews Father, was present.
2. These meetings were designed to prepare Matthew and Ms. Day for Matthews defense. Matthew was always insistent on going to trial to defend himself and under no circumstances ever considered a plea bargain. Whenever Ms. Day was questioned about defense strategies or particulars involving the case, she was extremely vague and appeared overwhelmed. She usually responded with the same excuse, that discovery was still ongoing and she could not give any more information other than that.
3. While Matthew was temporarily held at Jackson County Jail, his Father and I visited him on numerous occasions, we also communicated by phone and mail. Matthew stated on several occasions to Me and his Father, that he was being pressured by Ms. Day, (and later by Phillip Kavanaugh) to plead guilty to all the charges on the indictment and to accept a plea agreement that would include a prison sentence of 25 years. Ms. Day stated to Matthew that the Government had evidence involving myself and his father. The evidence they claimed was we assisted him after his failure to appear in court and we were being targeted for a charge of aiding and abetting. After Daniel spoke to Ms. Day about these threats, she informed him that Federal Prosecutors were in possession of sufficient evidence proving that I had assisted Matthew after the warrant was issued and Daniel and I would be arrested if he did not plead guilty.

4. Obviously Matthew knew that he had not been assisted by his Father and I, but he was conflicted by the threats and had no desire to involve anyone else in the case against him. His Father told Matthew that he was not afraid of the alleged evidence and was willing to be arrested if necessary, but Matthew was extremely concerned for me and worried about the threats and pressure they were applying. At the time, I was raising Matthews 13 year old brother alone and that was also a big concern for him. Before Matthew was apprehended, Federal Marshals questioned me and told me if they thought he was armed, they would kill him on the spot. Matthew was worried that the Marshals may react the same being accompanied by Clark Meadows and might do to us the same as they did to him when they beat him while he was handcuffed on the floor. We told Matthew that the ultimate decision was his to make and we would stand by him regardless of the outcome.

5. The next time we had a discussion with Matthew concerning a guilty plea was after he was visited by Phillip Kavanaugh. He said that Kavanaugh had told him he needed to plead guilty and that he had absolutely no chance of prevailing at his trial. He also said that Government Prosecutors were already planning to have him indicted in other jurisdictions in the unlikely event that he did prevail at his trial and that one of these jurisdictions would be the State of Illinois where he would not survive if he were sent to an Illinois state prison as a sex offender. Matthew also told us that Kavanaugh assured him that he would be allowed to assist in the prosecution of Amy Primo, and he would receive a significant reduction in sentencing for his assistance and that the Federal Public Defenders office would continue to represent him until he achieved the aforementioned reduction. Kavanaugh also stated that if Matthew plead guilty, he could guarantee him that the case would end right then and that no one else would ever face further charges, but if he persisted with his efforts to go to trial, his family and some of his friends would be at great risk.

6. Matthew explained that when he decided to plead guilty, it was because he could not risk the consequences that an arrest would have on me. The threat to my safety, the humiliation of strip and cavity searches, being handcuffed and shackled, the embarrassing media reports, the removal from

family and friends, (and especially from my youngest son), and the other extenuating circumstances involved with arrest and prosecution.

7. On August 5th of 2013, the day Matthew plead guilty, Daniel and I met with Melissa Day outside the courtroom shortly after the proceedings ended. It was approximately 2:30 p.m. and Daniel told Ms. Day that he thought Matthew had made a mistake and that he should not have plead guilty and he only did it to protect me from arrest and prosecution. He told Ms. Day that Matthew should change his plea back to not guilty and asked her if that was possible. He said that he and I were willing to face the charges the Prosecutors were threatening us with. Ms. Day stated that not only was it too late to change the plea, but that we would be arrested for aiding and abetting and sent to prison for years. She said that once a plea is given in open court, it cannot be changed.

8. Ms. Day and Daniel had another conversation prior to Matthew pleading guilty which concerned the alleged video recording the Prosecutors stated they possessed. Matthew had stated on several occasions that the video never existed and was very adamant about it from the beginning of the case. Later, a forensic examination of the phone would prove this. Matthew had stated he asked Ms. Day on several occasions to produce the video and the forensic report that Prosecutors had made, but, Ms. Day would only tell him that it had not been turned over yet. She assured him that Prosecutors had the video and proof that it was made on his cellular phone. Matthew asked his father to contact Ms. Day and try to find out what he could about it. When he spoke to Ms. Day, she informed him that she did not have a copy of the video and the forensic report but she was certain the Prosecutors had them and she should be receiving them soon and that she would let him know when she had them. He, nor I, were ever contacted about the video or the forensic report after that day.

9. We had many conversations with Matthew about what he should do, and from the beginning he was very adamant about going to trial. The possibility of a plea bargain was never discussed until Ms. Day began telling Matthew that if he did not plead guilty, his Father and I would be arrested and prosecuted for aiding and abetting. We are 100% certain that if these threats hadn't existed, Matthew would have had his day in court.

10. After Matthew had pled guilty, we had talked about withdrawing his guilty plea. He told me he asked Ms. Day about it on the same day, (August 5, 2013), and immediately after he pled guilty. Daniel told Matthew that was strange because he had also asked her about it and she responded the same way she did to him, telling him that once a plea has been given in open court it cannot be changed. About a month later, Matthew told Daniel that the video claim and forensic report had really been bothering him and that he asked Ms. Day to show him the discovery in its entirety that the Federal Prosecutors had

turned over in the case. Matthew told him that Ms. Day kept putting him off, but after Matthew had persisted, she sent Gail Jones to show him. Apparently Ms. Jones did not bring the video or forensic report with her and Matthew had insisted she bring it to him, which she never did. After Matthew complained about this, from that point on he was visited by Jared Martin who told him there was no video, there had never been a video, and that the Prosecutors never provided a forensic report which would have given proof that his phone was never used to make a video. Matthew told us that he had decided to withdraw his plea and that he had told Jared Martin to tell Ms. Day about his decision. Later Matthew told us that Ms. Day had again explained to him that he could not withdraw his plea and that it would only make the judge mad, he would end up with a longer sentence and that I would also go to jail. Right about this time Daniel had once again questioned Ms. Day about the video, since he had never received a response from her before. He explained to her that he wasn't some sick individual that just wanted to see pornography and that he could understand why she couldn't show the video, but if she couldn't she should at least be able to answer a simple yes or no question regarding it. He asked Ms. Day if there were any type of pornography of either Matthew, and this girl either together or individually, in any form, electronic, digital, video or print. Ms. Days response was no, there was not. We have never spoken to anyone who can produce this video, nor do any of us believe in the existence of it. Matthew believes the Prosecutors were lying about it from the beginning.

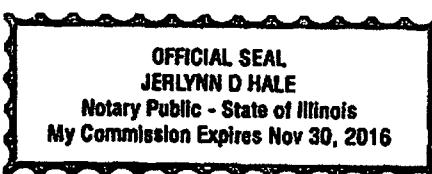
11. The statements contained in this Affidavit are comprised of recounts of events made to me by Matthew Staszak, and to me made by Melissa Day, and to me by Daniel Staszak. The statements relayed to me directly from Melissa Day can be summarized as follows: (1) that if Matthew had not pled guilty, Daniel and I would have been arrested and prosecuted; (2) that the Prosecutors were in possession of solid evidence that Daniel and I, and others, had aided and abetted Matthew after an arrest warrant was issued for him; (3) that the Prosecutors were in possession of a sexually explicit video that had been produced on Matthews cellular phone and a forensic report proving this; and (4) that a guilty plea cannot be changed once it is made in a open court.

SWORN TO ON THIS 24 DAY OF Dec, 2014

Norena Staszak

Norena A Staszak

NOTARY PUBLIC



Jerlynn D. Hale
EXHIBIT "C"

A-23

**Daniel L. Staszak and
Norena A. Staszak
1505 Benton Avenue
Johnston City, Illinois 62951
(618) 559-5414
dstasz49@gmail.com**

February 5, 2020

RE: PETITIONER MATTHEW LEE STASZAK - CASE NO. 15-CV-00020-JPG (S.D. IL) SECTION 2255 MOTION

The Honorable Brett Kavanaugh
Supreme Court of the United States
1 First Street, N.E.,
Washington, D.C. 20543-0001
LEGAL CORRESPONDENCE

Honorable Justice Kavanaugh:

To introduce ourselves we are Daniel and Norena Staszak the parents of Matthew Lee Staszak. We come to you in humble respects to provide you and the other judges courtesy copied a summation of our son Matthew's situation.

Matthew is a former U.S. Navy Assistant Chaplain and a decorated combat veteran of both Iraq and Afghanistan campaigns with the U.S. Marine Corps. He is currently incarcerated at the Forrest City, Arkansas, Correctional Complex (Low) facility where he was sentenced by U.S. District Court Judge J. Phil Gilbert to 240 months imprisonment on February 5, 2014. Since Matthew's incarceration he has litigated, on his own, pro se, his Section 2255 Motion, and that Motion was filed on January 8, 2015, (over five-years ago).

Since Matthew filed his 2255 an Evidentiary Hearing was finally ordered almost three years later in November of 2017. This order occurred after the conclusion of a federal lawsuit that went to trial against the United States that Matthew had filed pro se against the United States/U.S. Marshals. Matthew's lawsuit alleged he was severely beaten in his face by DUSM Dennis Clark Meadows while handcuffed, on the ground, unarmed with no weapons, and offering no resistance. Matthew was hospitalized from the incident. Both of us, and Matthew, were just happy that an Evidentiary Hearing was finally ordered just days after the lawsuit and that he could finally begin to proceed forward towards his freedom. But, moving forward has proven to be a deliberately slow-moving process for him every step of the way. (See Docket 3:15-cv-00020-JPG for an abundance of Government Extensions of Time).

We along with dozens of others attended the five day Evidentiary hearing process on Matthew's behalf. On the prosecution side of the room was bare-bones with no one in attendance to support the Government, (other than Matthew's former lawyer the Government's advocate in waiting, a detective Mark Krug and the prosecutors Kit Morrissey and Angela Scott).

On the first day of the Evidentiary hearing the courtroom was standing-room only in support of Matthew. Additionally, chairs for seating had to be brought into the courtroom by the Marshals to accommodate the seating, and there still was not enough seating. Matthew is highly supported in his Section 2255 cause throughout most of our community throughout Southern Illinois and even throughout the United States. Upstanding, respected, and hardworking individuals support our son 100 percent and attended his proceedings.

After a total of five-days of Kit Morrissey doing everything other than to promote any definition of true and honorable justice towards the case by her continued ridiculous and even vicious attempts to bring forth ridicule, degradation, mockery humiliation and embarrassment upon our son, the Evidentiary hearings did finally conclude on April 25, 2018. While in the courtroom we both, as well as Matthew, and his Attorney Terry M. Green, specifically heard Judge Gilbert state in a clear tone of voice from the bench that he would start going over the cases.

In a spectacle of events, after the hearing, Matthew was immediately transferred from the Williamson County Jail, in Marion, Illinois, by the Marshal Service, and was not able to neither see nor speak to his Attorney because of this, where they had a scheduled visit. This obviously was a maneuver that the Government decided needed to be executed to keep Matthew at length from his Attorney because of the obvious outcome from the previous proceedings and the continued egregious conduct by the Government against Matthew.

However, to the day of this letter, our son remains in federal custody and Judge Gilbert has not ruled on the merits of his case. We find there is something extremely wrong with this. We also find that the violations of our son's Attorney-Client Privileges on November 30, 2018, by a Federal Bureau of Prisons employee, Darlene Gallardo, to a complete disgrace upon the legal system and just another attempt to divert, hinder and obstruct any justice for our son. (See ongoing lawsuit of Staszak v. USA. Darlene Gallardo, 2:19-cv-00052-KGB-PSH, E.D. AR).

We have complete access to public records, and we clearly see the ongoing adjudications and other events performed all the time by Judge Gilbert and the other Judges in the Southern District of Illinois by our review of these records. Matthew's 2255, since April 25, 2018, remains without a ruling on the case. Again, his Habeas Corpus 2255 has been docketed for over five-years. Still yet, Matthew remains confined having a very strong case soaked through-and-through with crystal clear meritorious issues. Although we are not "lawyers", we see for ourselves what is happening and for what it is. We know this is not right. Matthew has a right to have his case ruled on in a timely manner as he has shown within his Writ of Mandamus. We continue on a daily basis asking ourselves, why in the world is our son being denied this right?

Now, we both understand Matthew's case is very lengthy totaling over 130-documents and closing in on 2000-pages; that the Assistant U.S. Attorney/Prosecutor Kit R. Morrissey is most likely on edge and worried of losing her license to practice law; and, of the further exposure of misconduct, corruption, and fraudulent activities by officials within the U.S. Attorneys Office, Federal Public Defender's Office, and the Federal Bureau of Investigation, specifically, a Det. Mark A. Krug of the Collinsville, Illinois, police department. We further understand that the mother of K.G., Amy Lynne

Primo, whom now resides in the Southern District of Georgia has not been prosecuted for her crimes as requested by Judge Gilbert at Matthew's sentencing on February 5, 2014. Once again, we ask ourselves daily, what is really going on here? As Judge Gilbert on day one of the Evidentiary Hearing stated: what are we trying to hide here, Mr. Green? Well, we now ask ourselves the same exact question everyday. What is it that is being attempted to be hidden in this case?

Matthew filed his Writ of Mandamus because he simply had no other choice. The Seventh Circuit did not issue the Mandamus and used the word "might" in its Order denying the Mandamus. The Supreme Court actually showed Matthew a little hope and ordered show cause, but a waiver was filed by the Solicitor General from showing cause. Other individuals have thoroughly read and examined Matthew's Mandamus to include attorneys. Matthew's Mandamus, in so many words, for a pro se litigant, using a prison typewriter, was deemed spectacular and straight to the point by numerous people.

In essence, we ask the following three questions:

1. Why is our son Matthew Staszak being denied his Constitutional right to Due Process of Law with no ruling and/or adjudication by Judge Gilbert within his Section 2255 cause, after the Judge openly announced he would begin going over the cases since April 25, 2018, and it is now February 2020?

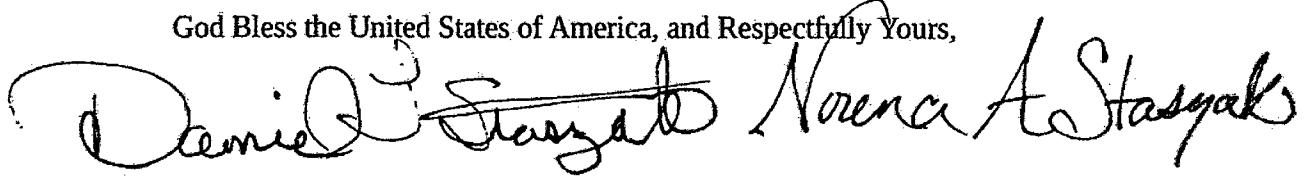
2. Why does our son Matthew Staszak remain incarcerated on a case that reeks of merit where he was left with no other choice but to file a Writ of Mandamus, (since he is no longer allowed to file anything pro se to the District Court and his appointed attorney will not file anything neither)?

3. As Judge Gilbert stated himself, Matthew was sentenced into a vacuum on February 5, 2014. The record clearly shows of abundant levels of egregious misconduct by the Assistant U.S. Attorneys Kit R. Morrissey and Angela Scott, whom both used FPD Melissa A. Day and CFPD Phillip J. Kavanaugh as conduits and as their advocates instead of Matthew's advocate, in order to coerce and threaten our son into a state of duress where he decided to plead guilty by means of threats of arrest and prosecution against us, his parents, and was told to "stay on track" at the Plea Hearing, Why?

I, Daniel L. Staszak, 33-years Honorably retired U.S. Army, and I, Norena A. Staszak, retired as Manager of Wal-Mart Stores, both parents of Matthew Lee Staszak, as honorable members of the surrounding community and as credible witnesses at the Evidentiary proceedings on behalf of our son Matthew Lee Staszak personally thank-you for the assistance in this matter and the needed answers to our three important questions, our final request is not one out-of-the-ordinary:

I, Daniel L. Staszak, and I, Norena A. Staszak, as friends of the Court, and the direct blood relation as the parents of Matthew Lee Staszak, request that Judge Gilbert or a Circuit Judge from the panel of the Seventh Circuit, or a Supreme Court Justice provide an immediate ruling on the Section 2255 Motion filed by our son Matthew Lee Staszak on January 8, 2015. Furthermore, upon receiving our letter of support in our son's current legal cause to afford him his request for his Constitutional right of Due Process be honored and for his well-earned, overdue, and well-deserved dismissal with prejudice of the Government's Second Superseding Indictment against him and for his immediate release from the Federal Bureau of Prisons.

God Bless the United States of America, and Respectfully Yours,



Daniel and Norena Staszak
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618 559-5414
dstasz49@gmail.com

cc: Donald J. Trump, President of the United States
Honorable Neil Gorsuch, Supreme Court Justice
Honorable William J. Bauer, Circuit Judge
Honorable Diane S. Sykes, Circuit Judge
Honorable David F. Hamilton, Circuit Judge
Honorable J. Phil Gilbert, Senior District Court Judge
Honorable Nancy J. Rosenstengel Chief District Court Judge
Attorney Terry M. Green
Mike Bost, Congressman 12th District of Illinois
William Barr, United States Attorney General
Steven D. Weinhoeft, United States Attorney for the Southern District of Illinois
Stephen R. Welby, Chief Federal Public Defender for the Southern District of Illinois
Matthew L. Staszak Legal File

Ref: Case No. 19-2367, (7th Cir.), Writ of Mandamus
Case No. 19-6121, Supreme Court, Writ of Mandamus
Case No. 3:15-cv-00020-JPG, Section 2255 Motion
Case No. 2:19-cv-00052-KGB-PSH, Lawsuit against United States of America and Darlene
Gallardo

A-24

U. S. NAVAL CRIMINAL INVESTIGATIVE SERVICE

INVESTIGATIVE ACTION

07JUN12

CONTROL: 30MAY12-CAPI-0032-8BNA

S/STASZAK, MATTHEW LEE/RP2 USN
M/W/NEES/S/343-74-3451/15DEC82/CARBONDALE, IL
DUSTA: BASE CHAPEL, MCAS BEAUFORT, SC

RESULTS OF MEDICAL RECORD REVIEW OF S/STASZAK

1. On 07JUN12, Reporting Agent (RA) conducted a medical record review for RP2 Matthew Lee STASZAK (S/STASZAK), USN, Base Chapel, Headquarters and Headquarters Squadron (H&HS), Marine Corps Air Station (MCAS) Beaufort, SC at the MCAS Branch Medical Clinic (BMC).
2. For background, Special Federal Officer (SFO) Mark KRUG, Federal Bureau of Investigation (FBI), requested assistance in determining whether or not S/STASZAK has ever had or received treatment for the sexually transmitted disease (STD) Chlamydia. V/G [REDACTED] reported contracting Chlamydia from another boyfriend, and then inadvertently transferring the STD to S/STASZAK. V/G [REDACTED] reported that S/STASZAK claimed he had contracted the STD, but received no formal treatment as S/STASZAK claimed to have stolen the appropriate medications for its treatment.
3. RA contacted the BMC Medical Records department and conducted a review of S/STASZAK's treatment history, previous laboratory results, and prescribed medications. There was no information located within S/STASZAK's prior five years of medical history that indicated he had ever suffered from or received treatment for any STD.

REPORTED BY: Kelly J. Parrish, Special Agent
OFFICE: NCISRA Parris Island, SC

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