

No.

In The Supreme Court Of The United States

Brandon Lamar Pruitt,

Petitioner,

v.

United States of America,

Respondent.

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

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Appendix A

United States v. Pruitt, No. 19-10125,
Dkt. 74 (9th Cir. June 29, 2021) (unpublished),
Order denying petition for rehearing

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JUN 29 2021

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,
Plaintiff-Appellee,
v.
BRANDON LAMAR PRUITT,
Defendant-Appellant.

No. 19-10125

D.C. No.
2:16-cr-00285-APG-NJK-1
District of Nevada,
Las Vegas

ORDER

Before: LUCERO,* W. FLETCHER, and IKUTA, Circuit Judges.

The panel has unanimously voted to deny appellant's petition for rehearing. Judge Fletcher and Judge Ikuta voted to deny the petition for rehearing en banc and Judge Lucero so recommended. The petition for rehearing en banc was circulated to the judges of the court, and no judge requested a vote for en banc consideration.

The petition for rehearing and the petition for rehearing en banc (Dkt. 71) are DENIED.

* The Honorable Carlos F. Lucero, United States Circuit Judge for the U.S. Court of Appeals for the Tenth Circuit, sitting by designation.

Appendix B

United States v. Pruitt, 839 F. App'x 90,

(9th Cir. Dec. 16, 2020) (unpublished),

Memorandum affirming convictions and sentence

839 Fed.Appx. 90

This case was not selected for publication in West's Federal Reporter. See Fed. Rule of Appellate Procedure 32.1 generally governing citation of judicial decisions issued on or after Jan. 1, 2007. See also U.S.Ct. of App. 9th Cir. Rule 36-3. United States Court of Appeals, Ninth Circuit.

UNITED STATES of America, Plaintiff-Appellee,
v.

Brandon Lamar PRUITT, Defendant-Appellant.

No. 19-10125

Argued and Submitted December
8, 2020 San Francisco, California

FILED December 16, 2020

Synopsis

Background: Following denial of motion to suppress, [2017 WL 5505571](#), defendant was convicted in the United States District Court for the District of Nevada, [Andrew P. Gordon](#), J., of sex trafficking of minor, transportation of minor for prostitution, unlawful possession of firearm, and witness tampering. Defendant appealed.

Holdings: The Court of Appeals held that:

[1] district court did not plainly err in questioning juror during voir dire regarding her evaluation of law enforcement officers' testimony;

[2] female, who opened door to defendant's apartment, had apparent authority to consent to police officers' entry into apartment;

[3] district court did not constructively amend indictment;

[4] detective's testimony on sex trafficking, juvenile sex trafficking, and relationships between pimps and prostitutes was admissible as expert testimony;

[5] defendant's jailhouse phone call to minor victim acknowledging that he was "not supposed to be communicating" with her was relevant;

[6] district court did not abuse its discretion by failing to apply downward adjustment for acceptance of responsibility; and

[7] district court's error in failing to group witness tampering count with underlying offense count was harmless.

Affirmed in part, vacated in part, and remanded.

Procedural Posture(s): Appellate Review; Pre-Trial Hearing Motion.

West Headnotes (11)

[1] **Criminal Law** Summoning and impaneling jury

District court did not plainly err in questioning juror during voir dire regarding her evaluation of law enforcement officers' testimony; even assuming district court's statement was inappropriate, it was not prejudicial because district judge "sanitized" comment by giving multiple curative instructions and statements, and there were not extraordinary circumstances raising inference that juror was impliedly biased.

[2] **Searches and Seizures** Joint occupants

Female, who opened door to defendant's apartment, had apparent authority to consent to police officers' entry into apartment; female stated she lived in apartment, and there were no substantial indicia to the contrary. [U.S. Const. Amend. 4](#).

[3] **Indictments and Charging**

Instruments Sex offenses, incest, and prostitution

District court did not constructively amend indictment when it crafted jury instruction saying that "the defendant knew or recklessly disregarded the fact that anyone would cause" minor victim "to engage in a commercial sex act"; statute prohibiting sex trafficking of minor did not require government to prove

that defendant would cause minor to engage in commercial sex act. 18 U.S.C.A. § 1591(a)(2).

[4] **Criminal Law** ↗ Presentation of Evidence

Government did not engage in prosecutorial misconduct, where defendant opened door to use of cell-phone evidence, and defense counsel waived any challenge to its use by stating “I don’t really care if the phone comes in or not to be honest with you.”

[5] **Criminal Law** ↗ Practices or modus operandi of offenders

Detective's testimony on sex trafficking, juvenile sex trafficking, and relationships between pimps and prostitutes was admissible as expert testimony, in prosecution for sex trafficking of minor; testimony was helpful to jury in interpreting coded language used by pimps and prostitutes, testimony was relevant to rebut defendant's argument that his relationship with minor victim was romantic, and testimony was not unduly prejudicial. *Fed. R. Evid. 403*.

[6] **Criminal Law** ↗ Subornation of witnesses or jurors, and fabrication of evidence

Defendant's jailhouse phone call to minor victim acknowledging that he was “not supposed to be communicating” with her was relevant and, thus, was admissible, in prosecution for witness tampering; evidence tended to show defendant's consciousness of wrongdoing and that he knowingly corruptly persuaded victim with intent to influence, delay, or prevent the testimony of victim in case.

[7] **Human Trafficking and Slavery** ↗ Transporting Individuals for Illegal Sexual Activity or Immoral Conduct; Mann Act
Infants ↗ Indecent exhibition or use of child; child prostitution

Evidence was sufficient to support conviction for transportation of minor for prostitution, where testimony by defendant and minor victim established that defendant drove victim from California to Nevada to engage in prostitution. 18 U.S.C.A. § 2423(a).

[8] **Obstructing Justice** ↗ Offenses relating to witnesses or potential witnesses

Evidence was sufficient to support conviction for witness tampering, where defendant instructed victim to change her phone number and throw away her phone so police could not track her. 18 U.S.C.A. § 1512(b).

[9] **Criminal Law** ↗ Elements of offense and defenses

Jury instructions for unlawful possession of firearm were not plainly erroneous, where one of defendant's prior felonies was for being a felon in possession of firearm, and such conviction proved beyond a reasonable doubt that defendant had required knowledge that he belonged to relevant category of persons barred from possessing firearm. 18 U.S.C.A. § 922(g)(1).

[10] **Sentencing and Punishment** ↗ Acceptance of responsibility

District court did not abuse its discretion by failing to apply downward adjustment for acceptance of responsibility, where defendant stipulated to only one of several counts. U.S.S.G. § 1B1.1(a)(5).

[11] **Criminal Law** ↗ Sentencing and Punishment
Sentencing and Punishment ↗ Grouping in general

District court's error in failing to group witness tampering count with underlying offense count was harmless; district court stated that, even if it made mistake in guidelines calculation, it would have imposed same sentence, which was

60 months below the guidelines range, because of seriousness of offense and nature of crimes.

1 Cases that cite this headnote

Attorneys and Law Firms

***92** [Christopher Floyd Burton](#), Assistant U.S. Attorney, Elham Roohani, Assistant U.S. Attorney, USLV - Office of the U.S. Attorney, Las Vegas, NV, [Elizabeth Olson White](#), Esquire, Assistant U.S. Attorney, USRE - Office of the US Attorney, Reno, NV, for Plaintiff-Appellee

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Appeal from the United States District Court for the District of Nevada, [Andrew P. Gordon](#), District Judge, Presiding, D.C. No. 2:16-cr-00285-APG-NJK-1

Before: LUCERO,* [W. FLETCHER](#), and [IKUTA](#), Circuit Judges.

MEMORANDUM **

Brandon Pruitt appeals his conviction and sentence for sex trafficking of a minor, [18 U.S.C. § 1591\(a\)\(1\)](#), transportation of a minor for prostitution, [18 U.S.C. § 2423\(a\)](#), unlawful possession of a firearm, [18 U.S.C. § 922\(g\)\(1\)](#), and witness tampering, [18 U.S.C. § 1512\(b\)](#). We have jurisdiction under [28 U.S.C. § 1291](#).

[1] The district court did not plainly err in questioning Juror K during voir dire regarding her evaluation of law enforcement officers' testimony. Even assuming the district court's statement was inappropriate, it was not prejudicial because the district judge "sanitized" the comment by giving multiple curative instructions and statements. [United States v. Milner](#), 962 F.2d 908, 911–12 (9th Cir. 1992). Nor were there "extraordinary" circumstances raising the inference that Juror K was impliedly biased. [United States v. Mitchell](#), 568 F.3d 1147, 1151, 1154 (9th Cir. 2009).

[2] The district court did not err by denying Pruitt's motion to suppress A.D.'s journal, because the female who opened the door to Pruitt's apartment had apparent *93 authority to consent to the officers' entry into the apartment; the female stated she lived in the apartment, and there were no substantial indicia to the contrary. See [United States v. Reid](#), 226 F.3d 1020, 1025 (9th Cir. 2000).¹

[3] The district court did not constructively amend the indictment when it crafted a jury instruction saying that "the defendant knew or recklessly disregarded the fact that anyone would cause A.D. to engage in a commercial sex act," because [18 U.S.C. § 1591\(a\)\(2\)](#) does not require the government to prove that the defendant will cause the minor to engage in a commercial sex act. See [United States v. Shryock](#), 342 F.3d 948, 988 (9th Cir. 2003); [18 U.S.C. § 1591\(a\)\(2\)](#).

[4] Nor did the government engage in prosecutorial misconduct, because Pruitt opened the door to use of the cell-phone evidence, and Pruitt's counsel waived any challenge to its use by stating "I don't really care if the phone comes in or not to be honest with you." See [United States v. Depue](#), 912 F.3d 1227, 1234 (9th Cir. 2019) (en banc).

[5] The district court did not abuse its discretion by allowing Detective Petrulli to testify. Detective Petrulli's training and experience qualified him as an expert on sex trafficking, juvenile sex trafficking, and "the relationships between pimps and prostitutes." [United States v. Brooks](#), 610 F.3d 1186, 1195 (9th Cir. 2010). His testimony was helpful to the jury in interpreting coded language used by pimps and prostitutes, and it was relevant to rebut Pruitt's argument that his relationship with A.D. was romantic. The testimony was not unduly prejudicial. See [United States v. Taylor](#), 239 F.3d 994, 998 (9th Cir. 2001); Fed. R. Evid. 403. Pruitt does not identify any case holding that a district court must give a limiting instruction when an expert witness gives expert testimony but not lay testimony. Therefore, the district court did not plainly err by failing to give a limiting instruction as to Detective Petrulli's testimony. See [Depue](#), 912 F.3d at 1234.

[6] The district court did not err by admitting Pruitt's jailhouse phone call to A.D. acknowledging that he was "not supposed to be communicating" with her. At the first trial, the evidence was relevant to the witness-tampering count, [18 U.S.C. § 1512\(b\)](#), because it tended to show Pruitt's consciousness of wrongdoing and that he knowingly corruptly persuaded A.D. with the intent to influence, delay, or prevent the testimony of A.D. in the case. At the second

trial, Pruitt opened the door to this evidence when his counsel implied that Pruitt had financial reasons for using the identification of other inmates to call A.D., rather than because he knew his calls violated a no-contact order. *See United States v. Sine*, 493 F.3d 1021, 1038 (9th Cir. 2007).

[7] [8] Because the district court did not err (or any errors were harmless), there was no cumulative error. *See United States v. Fernandez*, 388 F.3d 1199, 1256–57 (9th Cir. 2004). Likewise, there was sufficient evidence to convict Pruitt, because taking the evidence in the light most favorable to the prosecution, a rational trier of fact could have found Pruitt guilty of child-sex trafficking, transportation of a minor for prostitution, and witness tampering. *See *94 United States v. Maggi*, 598 F.3d 1073, 1080 (9th Cir. 2010) *overruled on other grounds by United States v. Zepeda*, 792 F.3d 1103 (9th Cir. 2015) (en banc). As to child-sex trafficking, a rational trier of fact could have found Pruitt guilty based on A.D.’s testimony and the prison-call evidence. *See Vega v. Ryan*, 757 F.3d 960, 969 (9th Cir. 2014). As to transportation of a minor for prostitution, a rational trier of fact could have found, based on the testimony of Pruitt and A.D., that Pruitt drove A.D. from California to Nevada to engage in prostitution. And a rational trier of fact could have found that Pruitt’s instructions to A.D. to change her phone number and throw away her phone so the police could not track her constituted witness tampering.

[9] An indictment’s omission of the element that the defendant “knew he belonged to the relevant category of persons barred from possessing a firearm” in violation of 18 U.S.C. § 922(g)(1), *Rehaif v. United States*, — U.S. —, 139 S. Ct. 2191, 204 L.Ed.2d 594 (2019), does not deprive the district court of jurisdiction. *See United States v. Cotton*, 535 U.S. 625, 631, 122 S.Ct. 1781, 152 L.Ed.2d 860 (2002); *United States v. Velasco-Medina*, 305 F.3d 839, 845–46 (9th Cir. 2002). The jury instructions for the § 922(g)(1) offense were not plainly erroneous, given that one of the Pruitt’s prior felonies was for being a felon in possession of a firearm, and such a conviction proved beyond a reasonable doubt that Pruitt had the knowledge required by *Rehaif*. *See United States v. Benamor*, 937 F.3d 1182, 1189 (9th Cir. 2019).²

[10] [11] The district court did not abuse its discretion by applying a two-level enhancement for use of a computer. *See U.S.S.G. § 2G1.3(b)(3)*. Section 2G1.3(b)(3) does not require that the defendant himself use the computer, and the plain language of the Guidelines, rather than any contrary language in the application notes, *see U.S.S.G. § 2G1.3 cmt. n.4*

(2016), is controlling. *See United States v. Jackson*, 697 F.3d 1141, 1146 (9th Cir. 2012). Nor did the district court abuse its discretion by failing to apply a downward adjustment for acceptance of responsibility, *see U.S.S.G. § 1B1.1(a)(5)*, after Pruitt stipulated to only one of several counts, *see United States v. Ginn*, 87 F.3d 367, 370 (9th Cir. 1996). And, although the district court erred by failing to group the witness tampering count with the underlying offense count, the error was harmless. *See United States v. Ali*, 620 F.3d 1062, 1074 (9th Cir. 2010). The district court stated that, even if it made a mistake in the guidelines calculation, it would have imposed the same sentence—which was 60 months below the guidelines range—because of “the seriousness of the offense and the nature of [the] crimes.”

As to the conditions of supervised release, the place restriction is not unconstitutionally vague or overbroad. *See United States v. Blinkinsop*, 606 F.3d 1110, 1121 (9th Cir. 2010); *United States v. Evans*, 883 F.3d 1154, 1160 (9th Cir. 2018). Nor did the district court plainly err by imposing the pornography conditions or the polygraph condition, which are similar to conditions that we have upheld. *See United States v. Daniels*, 541 F.3d 915, 926, 927 (9th Cir. 2008). There is no contrary controlling authority on point. *See *95 United States v. Gnikre*, 775 F.3d 1155, 1164 (9th Cir. 2015). The risk-notification condition is nearly identical to the language in Sentencing Guideline Manual § 5D1.3(c)(12), which we approved in *United States v. Magdirila*, 962 F.3d 1152, 1159 (9th Cir. 2020) and *Evans*, 883 F.3d at 1164. Thus, the district court did not plainly err by implementing that condition.

The parties agree that we should order a limited remand so that the district court can conform its written judgment to its oral sentence on the following conditions: 1. Substance Abuse Treatment; 4. Place restriction; 11. Mental Health Treatment. The parties also agree that a limited remand is necessary to allow the district court to consider the enhancement for obstruction of justice, *see U.S.S.G. § 3C1.1*, and either make an express finding of willfulness or resentence the defendant without the enhancement. *See United States v. Castro-Ponce*, 770 F.3d 819, 823 (9th Cir. 2014); *United States v. Herrera-Rivera*, 832 F.3d 1166, 1175 (9th Cir. 2016).

We therefore affirm Pruitt’s conviction, vacate the obstruction enhancement and order a limited remand so that the district court can reconsider the obstruction enhancement and conform its written judgment to its oral sentence.

AFFIRMED in part, **VACATED** in part, and **REMANDED**.

All Citations

839 Fed.Appx. 90

Footnotes

- * The Honorable Carlos F. Lucero, United States Circuit Judge for the U.S. Court of Appeals for the Tenth Circuit, sitting by designation.
- ** This disposition is not appropriate for publication and is not precedent except as provided by [Ninth Circuit Rule 36-3](#).
- 1 We reject Pruitt's factual argument, raised for the first time on appeal, that the consent was involuntary. The district court did not plainly err, because there is no applicable case holding that the facts here constituted involuntary consent. See [Reid](#), 226 F.3d at 1026; see also [Depue](#), 912 F.3d at 1234 (holding that an "error is plain if it is contrary to the law at the time of appeal" (citation omitted)).
- 2 To the extent Pruitt argues that his stipulation to the elements of the felon-in-possession charge is invalid in light of [Rehaif](#), he has not shown that he would have entered a different stipulation in light of [Rehaif](#) or that he did not enter the stipulation with "sufficient awareness of the relevant circumstances and likely consequences." [United States v. Larson](#), 302 F.3d 1016, 1021 (9th Cir. 2002) (citation omitted).

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Appendix C

United States v. Pruitt, No. 2:16-cr-00285-APG-NJK-1,
Dkt. 216 (D. Nev. Mar. 28, 2019) (unpublished),
Final Judgment of Conviction

UNITED STATES DISTRICT COURT

District of Nevada

UNITED STATES OF AMERICA) **JUDGMENT IN A CRIMINAL CASE**
 v.)
 Brandon Lamar Pruitt) Case Number: 2:16-cr-00285-APG-NJK-1
) USM Number: 53611-048
) Heidi A Ojeda and Raquel Lazo
) Defendant's Attorney

THE DEFENDANT:

- pleaded guilty to count(s) _____
- pleaded nolo contendere to count(s) _____ which was accepted by the court.
- was found guilty on count(s) 1, 2, 3 and 4 of the Superseding Indictment (ECF. #21) after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

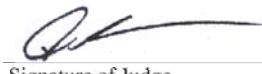
<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. §§ 1591(a)(1),(a)(2), (b)(2) and (c), 18:2	Sex Trafficking; Aiding and Abetting	7/22/2016	1s
18 U.S.C. §§ 2423(a) and 2	Transportation for Prostitution or Other Criminal Sexual Activity; Aiding and Abetting	7/22/2016	2s

The defendant is sentenced as provided in pages 2 through 9 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s) _____
- Count(s) all remaining is are dismissed on the motion of the United States.

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

March 22, 2019
Date of Imposition of Judgment


Signature of Judge

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

March 28, 2019
Date

DEFENDANT: Brandon Lamar Pruitt

CASE NUMBER: 2:16-cr-00285-APG-NJK-1

ADDITIONAL COUNTS OF CONVICTION

DEFENDANT: Brandon Lamar Pruitt

CASE NUMBER: 2:16-cr-00285-APG-NJK-1

IMPRISONMENT

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

Counts 1 and 2, 300 months, concurrent to each other.
Count 3, 120 months, concurrent with Counts 1 and 2.
Count 4, 240 months, concurrent with Counts 1, 2 and 3. Total term of 300 months.

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

1. FCI Butner
2. FCI Coleman 2

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

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

- at _____ a.m. p.m. on _____.
 as notified by the United States Marshal.

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

- before 2 p.m. on _____.
 as notified by the United States Marshal.
 as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

a _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Brandon Lamar Pruitt

CASE NUMBER: 2:16-cr-00285-APG-NJK-1

SUPERVISED RELEASEUpon release from imprisonment, you will be on supervised release for a term of: LIFETIME (all counts)**MANDATORY CONDITIONS**

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court, not to exceed 104 tests annually.
 The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. You must participate in an approved program for domestic violence. *(check if applicable)*

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

DEFENDANT: Brandon Lamar Pruitt

CASE NUMBER: 2:16-cr-00285-APG-NJK-1

STANDARD CONDITIONS OF SUPERVISION

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

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

U.S. Probation Office Use Only

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

Defendant's Signature _____

Date _____

DEFENDANT: Brandon Lamar Pruitt

CASE NUMBER: 2:16-cr-00285-APG-NJK-1

SPECIAL CONDITIONS OF SUPERVISION

1. Substance Abuse Treatment – You must participate in an outpatient substance abuse treatment program and follow the rules and regulations of that program. The probation officer will supervise your participation in the program (provider, location, modality, duration, intensity, etc.). You must pay the costs of the program.

2. Drug Testing – You must submit to substance abuse testing to determine if you have used a prohibited substance. Testing shall not exceed 104 tests per year. You must pay the costs of the testing. You must not attempt to obstruct or tamper with the testing methods.

3. Minor Prohibition – You must not have direct contact with any child you know or reasonably should know to be under the age of 18, not including your own children, without the permission of the probation officer. If you do have any direct contact with any child you know or reasonably should know to be under the age of 18, including your own children, without the permission of the probation officer, you must report this contact to the probation officer within 24 hours. Direct contact includes written communication, in-person communication, or physical contact. Direct contact does not include incidental contact during ordinary daily activities in public places.

4. Place Restriction – Children Under 18 – You must not go to, or remain at, any place that primarily caters to children under the age of 18, including parks, schools, playgrounds, childcare facilities, and juvenile detention centers.

5. No Contact – You must not communicate, or otherwise interact, with victim, A.D.L.P., either directly or through someone else, without first obtaining the permission of the probation office.

6. No Pornography - You must not view or possess any “visual depiction” (as defined in 18 U.S.C. § 2256(5)), or any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of “sexually explicit conduct” (as defined by 18 U.S.C. § 2256(2)) involving children , or “actual sexually explicit conduct” (as defined by 18 U.S.C. § 2257(h)(1)) involving adults, that would compromise your sex offense-specific treatment. These restrictions do not apply to materials necessary to, and used for, any future appeals, or materials prepared or used for the purposes of sex-offender treatment.

7. No Pornography – Treatment – You must not view or possess any “visual depiction” (as defined in 18 U.S.C. § 2256), including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of “sexually explicit conduct” (as defined in 18 U.S.C. § 2256), that would compromise your sex offense-specific treatment.

8. Sex Offender Treatment – You must participate in a sex offense-specific treatment program, and follow the rules and regulations of that program. The probation officer will supervise your participation in the program. The provider will determine, location, modality, duration, intensity, etc. You must pay the costs of the program.

9. Polygraph Testing – You must submit to periodic polygraph testing at the discretion of the probation officer as a means to ensure that you are in compliance with the requirements of your supervision or treatment program.

10. Educational Program – You must participate in an educational services program and follow the rules and regulations of that program. Such programs may include high school equivalency preparation, English as a Second Language classes, and other classes designed to improve your proficiency in skills such as reading, writing, mathematics, or computer use. You must pay the costs of the program.

DEFENDANT: Brandon Lamar Pruitt
CASE NUMBER: 2:16-cr-00285-APG-NJK-1

SPECIAL CONDITIONS OF SUPERVISION

11. Mental Health Treatment – You must participate in a mental health treatment program and follow the rules and regulations of that program. The probation officer, in consultation with the treatment provider, will supervise your participation in the program (provider, location, modality, duration, intensity, etc.). You must pay the costs of the program.

12. Search and Seizure – You must submit your person, property, house, residence, vehicle, papers, computers (as defined in 18 U.S.C. § 1030(e)(1)), other electronic communications or data storage devices or media, or office, to a search conducted by a United States Probation Officer. Failure to submit to a search may be grounds for revocation of release. You must warn any other occupants that the premises may be subject to searches pursuant to this condition.

The probation officer may conduct a search under this condition only when reasonable suspicion exists that you have violated a condition of supervision and that the areas to be searched contain evidence of this violation. Any search must be conducted at a reasonable time and in a reasonable manner.

DEFENDANT: Brandon Lamar Pruitt

CASE NUMBER: 2:16-cr-00285-APG-NJK-1

CRIMINAL MONETARY PENALTIES

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

TOTALS	\$ 400.00	\$ 10,000.00	\$ N/A	\$ N/A
---------------	------------------	---------------------	---------------	---------------

- The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.
 - The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

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

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

- Restitution amount ordered pursuant to plea agreement \$ _____

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

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

the interest requirement is waived for the fine restitution.

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

⁴ * Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Brandon Lamar Pruitt

CASE NUMBER: 2:16-cr-00285-APG-NJK-1

SCHEDULE OF PAYMENTS

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

- A Lump sum payment of \$ 10,400.00 due immediately, balance due
 not later than _____, or
 in accordance with C, D, E, or F below; or
- B Payment to begin immediately (may be combined with C, D, or F below); or
- C Payment in equal _____ (*e.g., weekly, monthly, quarterly*) installments of \$ _____ over a period of _____ (*e.g., months or years*), to commence _____ (*e.g., 30 or 60 days*) after the date of this judgment; or
- D Payment in equal _____ (*e.g., weekly, monthly, quarterly*) installments of \$ _____ over a period of _____ (*e.g., months or years*), to commence _____ (*e.g., 30 or 60 days*) after release from imprisonment to a term of supervision; or
- E Payment during the term of supervised release will commence within _____ (*e.g., 30 or 60 days*) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F Special instructions regarding the payment of criminal monetary penalties:

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

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

- Joint and Several

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

- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court cost(s):
- The defendant shall forfeit the defendant's interest in the following property to the United States:

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

Appendix D

United States v. Pruitt, No. 2:16-cr-00285-APG-NJK-1,
Dkt. 239, pp. 1, 8-13 (D. Nev. Mar. 22, 2019) (unpublished),
Partial Sentencing Transcript

-2:16-cr-285-APG-NJK - March 22, 2019-

4 UNITED STATES OF AMERICA,)
5 Plaintiff,) Case No. 2:16-cr-285-APG-NJK
6 vs.) Las Vegas, Nevada
7 BRANDON LAMAR PRUITT,) Friday, March 22, 2019
8 Defendant.) Courtroom 6C, 8:38 a.m.
) SENTENCING HEARING
) C E R T I F I E D C O P Y

REPORTER'S TRANSCRIPT OF PROCEEDINGS

BEFORE THE HONORABLE ANDREW P. GORDON,
UNITED STATES DISTRICT JUDGE

14 APPEARANCES:

15 | For the Plaintiff:

16 UNITED STATES ATTORNEY'S OFFICE
17 BY: ELHAM ROOHANI
18 CHRISTOPHER BURTON
19 501 Las Vegas Boulevard South, Suite 1100
20 Las Vegas, Nevada 89101
21 (702) 388-6336

COURT REPORTER:

Heather K. Newman, RPR, CRR, CCR #774
United States District Court
333 Las Vegas Boulevard South, Room 1334
Las Vegas, Nevada 89101
HN@nvd.uscourts.gov

25 Proceedings reported by machine shorthand; transcript produced by computer-aided transcription.

2:16-cr-285-APG-NJK - March 22, 2019

1 Next is Paragraph 27. This is the two-level increase
2 for the use of a computer or interactive device.

3 The defendant objects, in summary, that it was A.D.
4 who was posting ads on Backpage and the like rather than
5 Mr. Pruitt. The government's position is that, amongst other
6 things, Mr. Pruitt used the computer to entice her to move --
7 or to come up to Las Vegas from California to engage in these
8 acts, and also that Mr. Pruitt knew about her use of Backpage
9 on the computer to post ads and took pictures to help her do
10 that. That's a general summary of the support's position but
11 I'll entertain additional arguments, if any.

12 MS. OJEDA: Yes, Your Honor, and the last argument
13 that the government made was that, in fact, he also used a
14 computer or interactive device to book a hotel room for A.D.'s
15 prostitution and I would just note that the Application Note to
16 this guideline section actually specifically prohibits the
17 enhancement to apply when the use of a computer or interactive
18 device was used to let's say obtain an airline ticket for a
19 minor to travel. It has to be direct communication with the
20 minor, so I don't think the government's last argument stands.

21 In regards to the use of a computer, the government
22 argues that Mr. Pruitt first used Facebook to lure her from
23 California to Las Vegas. Well, if the Court remembers the
24 testimony at trial, and even Alexxis' testimony supported this,
25 is she received a Facebook message from Mr. Pruitt right after

2:16-cr-285-APG-NJK - March 22, 2019

1 he had gotten out of custody and right when she had gotten out
2 of the group home. She then, in response to that, asked for
3 Mr. Pruitt's phone number. After that, the entire conversation
4 from there, where she learned that Mr. Pruitt was in Vegas,
5 where she learned where the conversation ensued about her
6 coming, buying a bus ticket and going there, all happened via
7 the phone, not the computer and if you reference Mr. Pruitt's
8 testimony, he said, in fact, that he had just sent happy
9 birthday messages to everyone who had birthdays or was this
10 specific horoscope sign. And, so, the use of the computer or
11 Facebook specifically in that instance was not to entice or
12 persuade her to come or travel for the purposes of
13 prostitution, it was simply a, hey, what's going on message and
14 from there, the conversation took place over the phone. So we
15 don't think that that would be sufficient to support this
16 enhancement.

17 In addition to that, Your Honor, we cited several
18 places from the transcripts where it was unequivocal that
19 Alexxis was the one who decided when to post on Backpage, that
20 posted on Backpage. The government might bring up the fact
21 that Mr. Pruitt was the one that took pictures of her, but
22 there was no testimony to support that those pictures were
23 taken for the purposes of the Backpage ads. Instead, they were
24 in a relationship, these pictures were taken, and then Alexxis
25 was the one who decided to use these photographs and post them

2:16-cr-285-APG-NJK - March 22, 2019

1 on her Backpage ads that were through her e-mail, her account,
2 she paid for them, she decided whether to post, where to post
3 and that is what the testimony is at trial from Alexxis
4 herself.

5 And then the last argument that the government makes,
6 again, Your Honor, I think the Application Note prohibits the
7 Court finding that him -- and there is no evidence, in fact,
8 that he actually used a computer to book hotel rooms or
9 anything like that, but if the government were to suggest that,
10 especially under clear and convincing standard, I don't think
11 the Court could find that. The Application Note to this
12 enhancement specifically prohibits the Court from using that
13 type of computer use to impose this enhancement.

14 THE COURT: Thank you.

15 Hang on one second, Ms. Roohani.

16 (Brief pause in proceedings).

17 Ms. Roohani.

18 MS. ROOHANI: Your Honor, I want to start by
19 apologizing if I was less than clear in my Sentencing
20 Memorandum. The government's position is not that Mr. Pruitt
21 used a computer to book the hotel. That wasn't the argument.

22 THE COURT: No. I didn't say that -- maybe I
23 misstated if I said that. I did not interpret that to be your
24 argument.

25 MS. ROOHANI: Okay. And to be clear, Your Honor, the

2:16-cr-285-APG-NJK - March 22, 2019

1 testimony was that the victim in this case is the person who
2 posted the ads, but those ads were posted with the knowledge
3 of -- Mr. Pruitt's knowledge, his acquiescence to that, and he
4 took steps to facilitate the actual prostitution that came out
5 of those advertisements. So, that by itself is sufficient to
6 support this enhancement.

7 The fact that he reached out to her on Facebook is
8 also sufficient when you consider the fact that the phones that
9 they were using were smartphones, which -- are considered
10 computer and interactive devices under this particular
11 enhancement. So that, by itself, would also support this
12 enhancement.

13 I understand that Mr. Pruitt testified contrary to
14 this at trial. The jury, obviously, didn't believe his
15 testimony and ultimately found him guilty, and we would ask
16 that you disregard his testimony in this -- for this particular
17 purpose. And I believe, Your Honor, that Alexxis actually
18 testified that the photographs that Mr. Pruitt took of her --
19 and they were very specific photographs, she even pointed out
20 which photographs they were -- that he knew that they were
21 going to be used on the advertisements and I believe that that
22 was her testimony. I believe that would also support this
23 particular enhancement.

24 Your Honor, I'll also note the fact of the matter is,
25 is that he's her pimp, when he is directing her activities, any

2:16-cr-285-APG-NJK - March 22, 2019

1 of the activities or any of the actions that she takes at his
2 direction or with his acquiescence or that he ultimately
3 benefits from would also support this enhancement.

4 THE COURT: Ms. Ojeda, anything further?

5 MS. OJEDA: Your Honor, I would just add that, yes,
6 while I recognize that a smartphone can be interactive device,
7 they weren't using the smartphone feature, they were using the
8 telephone lines when they talked about coming from Las Vegas --
9 or California to Las Vegas.

10 THE COURT: Thank you.

11 (Brief pause in proceedings).

12 MS. ROOHANI: And, Your Honor, I'm sorry. Can I make
13 one more point?

14 THE COURT: Yes.

15 MS. ROOHANI: Mr. Burton makes a really good point.
16 The way that this particular enhancement is written, it doesn't
17 make a distinction between whether Mr. Pruitt is the person who
18 solicited the person to engage in the prohibited sexual conduct
19 or if Alexxis did and I think that that's also an important
20 consideration for the Court.

21 THE COURT: I do understand that. I was looking at
22 that language as well.

23 My recollection from the trial. . . Well, I could be
24 mistaken, but my recollection from the trial is similar to
25 Ms. Ojeda's about the initial conduct -- contact about

2:16-cr-285-APG-NJK - March 22, 2019

1 Mr. Pruitt reaching out by Facebook to sort of say happy
2 birthday or whatever the initial contact was, but then A.D.,
3 the victim, then talked to him on the phone and he persuaded
4 her to buy a bus ticket and come up to Vegas. So I don't think
5 that that satisfies this section by clear and convincing
6 evidence. But, I do agree with the government that under
7 2G1.3(b) (3), particularly Subsection (B) of that, that the
8 offense involved the use of a computer or interactive computer
9 service to offer or solicit a person to engage in a prohibited
10 sexual conduct with a minor. And the ads were posted on
11 Backpage and did result in -- well, at least to solicit, my
12 recollection is some of those were fulfilled, but there is, I
13 think, there is clear and convincing evidence to satisfy under
14 2G1.3(b) (3) (B) that the computer or interactive device was used
15 to entice, encourage, offer, or solicit a person to engage in
16 prohibited sexual conduct with a minor.

17 Now, if Mr. Pruitt was completely unaware of that
18 activity, there may be a different argument that he shouldn't
19 be tagged with that enhancement, but it's clear from the
20 evidence at trial that he was aware of and encouraged the use
21 of Backpage to solicit prostitution clients, so I will impose
22 that two-level enhancement.

23 Next is Paragraph 28, a two-level enhancement if the
24 offense involved the commission of a sex act or sexual contact.
25 I think that's pretty clear from the record that that is the

Appendix E

United States v. Pruitt, No. 2:16-cr-00285-APG-NJK-1,
Dkt. 192 (D. Nev. Feb. 1, 2018) (unpublished),
Second Jury Verdict

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 * * *

4 UNITED STATES OF AMERICA,

5 Plaintiff,

6 v.

7 BRANDON LAMAR PRUITT,

8 Defendant.

Case No. 2:16-cr-00285-APG-NJK

FILED	RECEIVED
ENTERED	SERVED ON
COUNSEL/PARTIES OF RECORD	
FEB 01 2018	
CLERK US DISTRICT COURT	
DISTRICT OF NEVADA	
BY:	DEPUTY

VERDICT

11 We, the jury in the above entitled case, upon our oaths, do say:

12

13 **COUNT ONE:** We find BRANDON LAMAR PRUITT

14 GUILTY NOT GUILTY

15 of the offense of Sex Trafficking of a Minor as charged in Count One of the Superseding
16 Indictment.

17 Does the jury unanimously find beyond a reasonable doubt that the defendant knew that A.D. had
18 not attained the age of 18 years?

19 YES NO

20 If not, does the jury unanimously find beyond a reasonable doubt that the defendant had a
21 reasonable opportunity to observe A.D. and was in reckless disregard that A.D. had not attained
22 the age of 18 years?

23 YES NO

24 ////

25 ////

26 ////

27 ////

28

1 **COUNT TWO:** We find BRANDON LAMAR PRUITT

2 GUILTY NOT GUILTY

3 of the offense of Transportation of a Minor for Prostitution as charged in Count Two of
4 the Superseding Indictment.

5

6

DATED this 1st day of February, 2018.

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FOREPERSON

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Appendix F

United States v. Pruitt, No. 2:16-cr-00285-APG-NJK-1,
Dkt. 191, p. 12 (D. Nev. Feb. 1, 2018) (unpublished),
Partial Jury Instructions from Second Trial

Jury Instructions

SEX TRAFFICKING OF A MINOR

Mr. Pruitt is charged in Count 1 of the Superseding Indictment with sex trafficking of a minor. For a defendant to be found guilty of that charge, the Government must prove each of the following elements beyond a reasonable doubt:

First, the defendant knowingly recruited, enticed, harbored, transported, provided for, obtained, or maintained A.D. by any means;

Second, the defendant knew or recklessly disregarded the fact that A.D. had not attained the age of 18 years;

Third, the defendant knew or recklessly disregarded the fact that anyone would cause A.D. to engage in a commercial sex act; and

Fourth, the offense was in or affecting interstate commerce.

The Government may satisfy its burden of proof with respect to the defendant's knowledge of A.D.'s age by proving beyond a reasonable doubt that the defendant:

1. was aware of a high probability that A.D. was under the age of 18; and
2. deliberately avoided learning the truth.

You may not find such knowledge, however, if you find that the defendant actually believed that A.D. was over the age of 18, or if you find that the defendant was simply careless. If you find that the defendant had a reasonable opportunity to observe A.D., then the Government does not need to prove that the defendant knew that A.D. had not attained the age of 18 years.

“Reckless disregard” means the defendant was aware of facts which, if considered and weighed in a reasonable manner, indicate a substantial and unjustifiable risk that A.D. had not attained the age of 18 years and would be caused to engage in a commercial sex act.

It is not a defense to the crime of sex trafficking of a minor that A.D. consented to or voluntarily participated in traveling or being transported in interstate commerce for the purpose of engaging in a commercial sex act, or that A.D. consented to or voluntarily participated in a commercial sex act.

Appendix G

United States v. Pruitt, No. 2:16-cr-00285-APG-NJK-1,
Dkt. 136 (D. Nev. Dec. 21, 2017) (unpublished),
First Jury Verdict

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

* * *

UNITED STATES OF AMERICA,

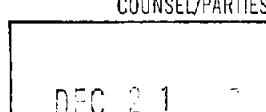
Plaintiff,

V.

BRANDON LAMAR PRUITT,

Defendant.

Case No. 2:16-cr-00285-APG-NJK

FILED ENTERED	RECEIVED SERVED ON COUNSEL/PARTIES OF RECORD
 DEC 21 19	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY: _____	DEPUTY

VERDICT

We, the jury in the above entitled case, upon our oaths, do say:

COUNT ONE: We find BRANDON LAMAR PRUITT

GUILTY NOT GUILTY

of the offense of Sex Trafficking of a Minor as charged in Count One of the Superseding Indictment.

Does the jury unanimously find beyond a reasonable doubt that the defendant knew that A.D. had not attained the age of 18 years?

YES NO

If not, does the jury unanimously find beyond a reasonable doubt that the defendant had a reasonable opportunity to observe A.D. and was in reckless disregard that A.D. had not attained the age of 18 years?

YES NO

COUNT TWO: We find BRANDON LAMAR PRUITT

GUILTY NOT GUILTY

of the offense of Transportation of a Minor for Prostitution as charged in Count Two of the Superseding Indictment.

1 **COUNT THREE:** We find BRANDON LAMAR PRUITT

2 GUILTY NOT GUILTY

3 of the offense of Felon in Possession of a Firearm as charged in Count Three of
4 the Superseding Indictment.

6 **COUNT FOUR:** We find BRANDON LAMAR PRUITT

7 GUILTY NOT GUILTY

8 of the offense of Tampering with a Witness as charged in Count Four of the
9 Superseding Indictment.

11 DATED this 21st day of December, 2017.

14 _____
14 FOREPERSON

Appendix H

United States v. Pruitt, No. 2:16-cr-00285-APG-NJK-1,
Dkt. 135, p. 12 (D. Nev. Dec. 21, 2017) (unpublished),
Partial Jury Instructions from First Trial

Jury Instructions

SEX TRAFFICKING OF A MINOR

Mr. Pruitt is charged in Count 1 of the Superseding Indictment with sex trafficking of a minor. For a defendant to be found guilty of that charge, the Government must prove each of the following elements beyond a reasonable doubt:

First, the defendant knowingly recruited, enticed, harbored, transported, provided, obtained, or maintained by any means, A.D.; ~~✓~~ ✓

Second, the defendant knew or recklessly disregarded the fact that A.D. had not attained the age of 18 years and would be caused to engage in a commercial sex act; and ✓

Third, the offense was in or affecting interstate commerce.

The Government may satisfy its burden of proof with respect to the defendant's knowledge of A.D.'s age by proving beyond a reasonable doubt that the defendant:

1. was aware of a high probability that A.D. was under the age of 18; and
2. deliberately avoided learning the truth.

You may not find such knowledge, however, if you find that the defendant actually believed that A.D. was over the age of 18, or if you find that the defendant was simply careless. If you find that the defendant had a reasonable opportunity to observe A.D., then the Government does not need to prove that the defendant knew that A.D. had not attained the age of 18 years.

~~✓~~ “Reckless disregard” means the defendant was aware of facts which, if considered and weighed in a reasonable manner, indicate a substantial and unjustifiable risk that A.D. had not attained the age of 18 years and would be caused to engage in a commercial sex act.

It is not a defense to the crime of sex trafficking of a minor that A.D. consented to or voluntarily participated in traveling or being transported in interstate commerce for the purpose of engaging in a commercial sex act, or that A.D. consented to or voluntarily participated in a commercial sex act.

25

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Appendix I

United States v. Pruitt, No. 2:16-cr-00285-APG-NJK-1,
Dkt. 21 (D. Nev. Dec. 28, 2016) (unpublished),
Superseding Indictment

1 DANIEL G. BOGDEN
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6 Attorney for Plaintiff
 7 United States of America

FILED	RECEIVED
ENTERED	SERVED ON
COUNSEL/PARTIES OF RECORD	
DEC 28	
CLERK US DISTRICT COURT	
DISTRICT OF NEVADA	
BY:	DEPUTY

8

9 UNITED STATES DISTRICT COURT
 10 DISTRICT OF NEVADA

11 -0Oo-

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 vs.

15 BRANDON LAMAR PRUITT,

16 Defendant(s).

-) **SUPERSEDING CRIMINAL INDICTMENT**
-) Case No. 2:16-cr-285-APG-NJK
-)
-) **VIOLATIONS:**
-) **COUNT ONE**
-) Sex Trafficking, in violation of 18 U.S.C. §§ 1591(a)(1), (a)(2), (b)(2) and (c); 18 U.S.C. § 2
-)
-) **COUNT TWO**
-) Transportation for Prostitution or Other
-) Criminal, Sexual Activity, in violation of 18
-) U.S.C. § 2423(a); 18 U.S.C. § 2
-)
-) **COUNT THREE**
-) Felon in Possession of a Firearm, in violation of
-) 18 U.S.C. § 922(g)(1)
-)
-) **COUNT FOUR**
-) Tampering with a witness or victim, in violation
-) of 18 U.S.C. § 1512(b)
-)

17

18 **THE GRAND JURY CHARGES THAT:**

19

20 **COUNT ONE**
 21 *Sex Trafficking*

22 Beginning on a date unknown but in no event earlier than 2013, and continuing through

23 on or about July 22, 2016, in the State and Federal District of Nevada and elsewhere,

24 **BRANDON LAMAR PRUITT,**

defendant herein, did knowingly recruit, entice, harbor, transport, provide, obtain, and maintain by any means, and benefited financially from participation in a venture which did recruit, entice, harbor, transport, provide, obtain and maintain by any means, in and affecting interstate commerce, "A.D.," who had not yet reached the age of 18, and having a reasonable opportunity to observe "A.D." and knowing and in reckless disregard of the fact that said person had not attained the age of 18, and would be caused to engage in a commercial sex acts, all in violation of Title 18, United States Code, Sections 1591(a)(1), (a)(2), (b)(2) and (c), and Title 18, United States Code, Section 2.

COUNT TWO

Transportation for Prostitution or Other Criminal Sexual Activity

Beginning on a date unknown but in no event earlier than 2013, and continuing through on or about July 22, 2016, in the State and Federal District of Nevada and elsewhere,

BRANDON LAMAR PRUITT.

defendant herein, did knowingly transport an individual, that is, "A.D.", who had not yet reached the age of 18, in interstate commerce from the state of California to Las Vegas, Nevada, with intent that such individual engage in prostitution and in sexual activity for which any person can be charged with a criminal offense, all in violation of Title 18, United States Code, Sections 2423(a) and 2.

COUNT THREE

Felon in Possession of a Firearm

On or about July 20, 2016, in the State and Federal District of Nevada and elsewhere,

BRANDON LAMAR PRUITT,

defendant herein, having been convicted of crimes punishable by imprisonment for a term exceeding one year, in the State of California, to wit: Grand Theft Auto, on or about January 30,

1 2003, in case number BA241286-01; Burglary, on or about February 21, 2006, in case number
2 SA05825801; and Felon in Possession of Firearm, on or about December 4, 2013, in case
3 number XSEVA13076501, did knowingly possess a firearm, to wit: a Browning .22 caliber
4 buck mark, bearing serial number 515ZM26579, and a Glock .40 caliber, bearing serial number
5 BXR520, said possession being in and affecting interstate and foreign commerce and said
6 firearm having been shipped and transported in interstate and foreign commerce, all in violation
7 of Title 18, United States Code, Sections 922(g)(1) and 924(a)(2).

8 **COUNT FOUR**

9 *Tampering with a witness or victim*

10 From on or about September 1, 2016, to on or about October 12, 2016, in the State and
11 Federal District of Nevada,

12 **BRANDON LAMAR PRUITT,**

13 defendant herein, did knowingly corruptly persuade "A.D.," with the intent to: influence, delay,
14 and prevent the testimony of "A.D." in an official proceeding; cause and induce "A.D" to evade
15 legal process summoning "A.D." to appear as a witness in an official proceeding; and hinder,
16 delay, and prevent the communication to a law enforcement officer of information relating to the
17 commission and possible commission of a Federal offense, or attempted to do so, all in violation
18 of Title 18, United States Code, Section 1512(b).

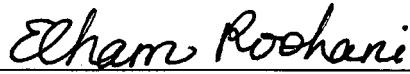
19 **DATED:** this 28th day of December, 2016

20 **A TRUE BILL:**

21 /S/

22 FOREPERSON OF THE GRAND JURY

23 DANIEL G. BOGDEN
24 United States Attorney

25 
ELHAM ROOHANI
Assistant United States Attorney