

No. _____

In the

Supreme Court of the United States

Terry Ray Carter,

Petitioner,

v.

United States of America,

Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

Brandon E. Beck
Assistant Federal Public Defender

Federal Public Defender's Office
Northern District of Texas
1205 Texas Ave. #507
Lubbock, Texas 79401
(806) 472-7236
brandon_beck@fd.org

QUESTIONS PRESENTED

- I. Does a special condition of supervised release that prohibits possession or control of “any pornographic matter” violate due process as unconstitutionally vague?
- II. Does a special condition of supervised release that prohibits possession or control of “any pornographic matter” violate the First Amendment?
- III. Is a special condition of supervised release that prohibits going to “places where children may frequently congregate” overbroad and vague?

PARTIES TO THE PROCEEDING

Petitioner is Terry Ray Carter, who was the Defendant-Appellant in the court below. Respondent, the United States of America, was the Plaintiff-Appellee in the court below. No party is a corporation.

RULE 14.1(b)(iii) STATEMENT

This case arises from the following proceedings in the United States District Court for the Northern District of Texas and the United States Court of Appeals for the Fifth Circuit:

- *United States v. Carter*, 857 F. App'x 804 (5th Cir. 2021)
- *United States v. Carter*, No. 4:20-CR-234-O-1 (Jan. 29, 2021)

No other proceedings in state or federal trial or appellate courts, or in this Court, are directly related to this case.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Terry Ray Carter seeks a writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit.

OPINIONS BELOW

The opinion of the Court of Appeals is reported at *United States v. Carter*, 857 F. App'x 804 (5th Cir. 2021). The district court did not issue a written opinion.

JURISDICTION

The Fifth Circuit entered judgment on August 26, 2021. This Court has jurisdiction pursuant to 28 U.S.C. § 1254(1).

RULES AND GUIDELINES PROVISIONS

This case involves both the First Amendment and the Fifth Amendment's Due Process Clause.

STATEMENT OF THE CASE

On September 16, 2020, Terry Ray Carter, Petitioner, pleaded guilty to one count of Sexual Exploitation of a Child, in violation of 18 U.S.C. § 2251(a) and one count of Transportation of Child Pornography, in violation of 18 U.S.C. § 2252A. (ROA.115). The charges stemmed from Appellant making an illegal video and then transporting it to an undercover officer. (ROA.33-35). Mr. Carter's guilty plea was pursuant to a plea agreement that contained an appeal waiver. (ROA.146-54).

The district court imposed a 600-month sentence of imprisonment, followed by 20 years of supervised release. Prior to imposition of the sentence and the conditions of supervised release, Mr. Carter objected to the Guidelines calculation as well as several terms of supervised release. (ROA.143). The district court modified the term dealing with gaming consoles but left untouched the term prohibiting possession of "any pornographic matter" as well as a condition prohibiting Mr. Carter from going to places where children may frequently congregate. (ROA.61-62). The Fifth Circuit affirmed.

This appeal follows to challenge the prohibition on possession of "any pornographic matter" as well as the prohibition on going to places where children may frequently congregate.

REASONS FOR GRANTING THIS PETITION

The district court's supervised release prohibition on "pornographic matter" is problematic for two reasons. First, a prohibition on all "pornography" violates due process because it does not put an ordinary person on notice of what conduct is prohibited. Second, the prohibition is overly broad in light of the First Amendment.

The district court's supervised release prohibition on going to places where children may frequently congregate is both overbroad and vague.

When Mr. Carter is released from prison, he will be on supervised release for the next twenty years. (ROA.59). Two conditions of supervised release that he must abide by, or face another term of incarceration, are as follows:

[T]he defendant shall ... neither possess nor have under his/her control any pornographic matter or any matter that sexually depicts minors under the age of 18 including, but not limited to, matter obtained through access to any computer and any matter linked to computer access or use.

(ROA.60,62).

The defendant shall not have access to or loiter near school grounds, parks, arcades, playgrounds, amusement parks or other places where children may frequently congregate, except as may be allowed upon advance approval by the probation officer.

(ROA.60-61).

I. The Prohibition on “Pornographic Matter”

Mr. Carter will return to prison if he ever possesses or controls “pornographic matter.” (ROA.60,62). Such a broad and vague condition of supervised release, both as written and as interpreted, violates due process and cannot stand in light of the First Amendment.

A. Due Process

The district court’s prohibition on “pornographic matter,” as currently written, violates due process because it fails to provide Mr. Carter with adequate notice of what he may and may not do. *United States v. Loy*, 237 F.3d 251, 267 (3d Cir. 2001). The condition “forbids ... an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application.” *Connally v. General Constr. Co.*, 269 U.S. 385, 391 (1926). As this Court is aware, “pornography” has been a historically difficult term to define. In *Farrell v. Burke*, the Southern District of New York described a parole officer’s testimony that “pornography” includes Playboy Magazine as well as a photograph of Michelangelo’s David. No. 97 Civ. 5708, 1998 WL 751695, 1998 U.S. Dist. LEXIS 16896, at *18 (S.D.N.Y. Oct. 21, 1998). In *American Booksellers Association v. Hudnut*, the Seventh Circuit observed that “pornography” could extend to W.B. Yeats’s poem “Leda and the Swan.” 771 F.2d 323, 327 (7th Cir. 1985). What then could be said about Vladimir Nabokov’s *Lolita*, Henry Miller’s *Tropic of Cancer*, Robert Maplethorpe’s photography, most R-rated movies, some PG-13-rated movies, or even advertisements by Calvin Klein? Reasonable minds could differ, which places Mr. Carter’s freedom under a cloud of

uncertainty for the rest of his life. As both the Third Circuit and Ninth Circuit’s have held, this violates due process. *Loy*, 237 F.3d at 262-67; *United States v. Guagliardo*, 278 F.3d 868, 872 (9th Cir. 2002).

1. **“Pornographic” matter is qualitatively different from “sexually explicit” materials because Congress has provided no guidance on the meaning of “pornographic” matter when adults are depicted.**

On at least two occasions, the Fifth Circuit has previously upheld conditions of supervised release prohibiting “sexually explicit” materials in the face of a due process challenge. *United States v. Brigham*, 569 F.3d 220, 232-33 (5th Cir. 2009); *United States v. Phipps*, 319 F.3d 177, 193-94 (5th Cir. 2003). It has done so on two grounds. First, a “sexually explicit” prohibition is not vague when read in a “commonsense way.” *See Phipps*, 319 F.3d at 193 (“Such a construction compels us to disagree with defendants’ suggestion that the condition could apply to newspapers and magazines that contain lingerie advertisements or even to the “Song of Solomon.”). Second, Congress has provided statutory guidance on what “sexually explicit” means. *Brigham*, 569 F.3d at 233 (“Even so, the definitions of ‘child pornography’ and ‘sexually explicit conduct’ set forth in 18 U.S.C. § 2256(2) & (8) offer some practical insight into the meaning of these terms.”). Even though the special condition in *Brigham* included the term “pornographic,” it—unlike here—listed “sexually oriented or sexually stimulating materials” in the same condition, which focused the meaning of “pornographic” in light of the broader context. *See Brigham*, 569 F.3d at 233.

In *Loy*, the Third Circuit observed the precise distinction that Mr. Carter advances here. The court explained at length that “sexually explicit materials” do not present the same due process, vagueness concerns over enforcement as “pornography.” Just as the court struck down a condition prohibiting possession of pornography, it explained:

To be sure, we are dealing here with an unusually broad condition. We in no way mean to imply that courts may not impose restrictions on the consumption of sexually explicit materials by persons convicted of sex crimes. ... [T]here is no question that the District Court could, perfectly consonant with the Constitution, restrict Loy’s access to sexually oriented materials, so long as that restriction was set forth with sufficient clarity and with a nexus to the goals of supervised release. Further, the Constitution would not forbid a more tightly defined restriction on legal, adult pornography, perhaps one that clarified whether it extended non-visual materials, or that borrowed applicable language from the federal statutory definition of child pornography located at 18 U.S.C. S 2256(8).

Loy, 237 F.3d at 266-267. Thus, a prohibition on “pornography” should be treated differently from a prohibition on “sexually explicit” materials.

B. The First Amendment

A special supervised release condition that bans sexually explicit material involving adults has “First Amendment implications.” *United States v. Thielemann*, 575 F.3d 265, 272 (3d Cir. 2009). The district court imposed an anti-pornography condition this case that is so broad it forbids him to have legal adult pornography—and has been interpreted to include much less—which impinges his First Amendment rights. As the Fifth Circuit has repeatedly observed, the question of whether a pornography prohibition violates the First Amendment is “unsettled.” *See United*

States v. Prieto, 801 F.3d 547, 555 (5th Cir. 2015) (“Because our law is unsettled, and the law of our sister circuits is not uniformly in the defendant's favor, plain error is not demonstrated.”).

“When a ban restricts access to material protected by the First Amendment, courts must balance the § 3553(a) considerations ‘against the serious First Amendment concerns endemic in such a restriction.’” *Thielemann*, 575 F.3d at 272–73 (internal citation omitted). In so doing, the courts must ensure that restrictions on a defendant’s “pornographic matter” have “a clear nexus to the goals of supervised release.” *Id.* at 272 (quoting *Loy*, 237 F.3d at 267). No such nexus existed here. While the record reveals that Mr. Carter viewed child pornography in the past, nothing shows that pornographic material involving only adults contributed in any way to his offence. *United States v. Voelker*, 489 F.3d 139, 151 (3d Cir. 2007) (vacating ban on legal adult pornography); *Thielemann*, 575 F.3d at 274 (narrow ban on adult pornography upheld where record showed defendant’s experience with adult pornography inextricably linked to his sexual interest in children).

Neither was there any reason to believe that viewing adult pornography would cause Mr. Carter to reoffend. *Voelker*, 489 F.3d at 151; *Thielemann*, 575 F.3d at 274 (record showed defendant’s exposure to adult pornography will contribute to future offenses against children); *Brigham*, 569 F.3d at 234 (evidence that sexually stimulating adult images would contribute to defendant’s risk of recidivism supported ban on sexually stimulating material). Because this nexus was absent, the condition

banning Mr. Carter from viewing, or even reading, “pornographic matter” was overly broad in light of the First Amendment.

II. The district court erred by ordering a special condition of supervision prohibiting Mr. Carter from “places where children may frequently congregate.”

Mr. Carter contends that prohibiting him, under penalty of imprisonment, from “places where children may frequently congregate” as a special condition of supervision is both overly broad and unconstitutionally vague. In candor to the Court, the defense recognizes that a similar arguments were rejected in *United States v. Paul*, 274 F.3d 155 (5th Cir. 2001) and, more recently, in *United States v. Hilderbrand*, 687 F. App’x 361 (5th Cir. 2017). Appellant raises the argument here to preserve it for further review.

Overbreadth arguments pertaining to special conditions of supervision are analyzed under the provisions of 18 U.S.C. § 3583(d)(2). *Paul*, 274 F.3d at 165 n.12. Section 3583(d)(2) states that special conditions of supervision should involve “no greater deprivation of liberty than is reasonably necessary” to achieve the goals of sentencing.

Mr. Carter argues that this condition makes it virtually impossible for him to go to places necessary to live his life if he is prohibited from going anywhere “where children may frequently congregate.” This could include grocery stores, gas stations, restaurants, and just about any other public place. As a result, Mr. Carter will be effectively imprisoned in his home if this special condition of supervision stands.

Under these facts, the subject condition of supervision is overly broad, as it is tantamount to being under house arrest.

The special condition of supervision is also unconstitutionally vague. “[T]he same principles of due process and notice that apply to criminal statutes apply to supervised release conditions.” *Paul*, 274 F.3d at 166 (citation omitted). As this Court held in *Paul*, “[r]estrictions on an offender’s ability to interact with particular groups of people, to hold certain types of employment, and to frequent certain places must provide ‘fair notice’ of the prohibited conduct.” *Id.* Upholding a similar provision in *Paul*, this Court held that “conditions of probation can be written – and must be read – in a common sense way.” 274 F.3d at 167 (citation omitted). Yet here, common sense and fair notice conflict with one another. As in the overbreadth argument, almost all places in America are “frequented by minors.” Given this undeniable reality, and given the reality that Mr. Carter must go to places like the grocery store in order to survive, the subject special condition of supervision does not give him “fair notice” of the places he can and cannot go. For this reason, the condition is unconstitutionally vague.

CONCLUSION

This Court should grant the Petition and request briefing on the merits. Ultimately, this Court should vacate or modify the conditions of supervised release that violate the U.S. Constitution.

Respectfully submitted,

JASON D. HAWKINS
Federal Public Defender
Northern District of Texas

/s/ Brandon Beck
Brandon Beck
Assistant Federal Public Defender
Federal Public Defender's Office
1205 Texas Ave. #507
Lubbock, TX 79424
Telephone: (806) 472-7236
E-mail: brandon_beck@fd.org

Attorney for Petitioner

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

August 26, 2021

Lyle W. Cayce
Clerk

No. 21-10086
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

TERRY RAY CARTER,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:20-CR-234-1

Before DAVIS, JONES, and ELROD, *Circuit Judges*.

PER CURIAM:*

Terry Ray Carter was convicted of sexual exploitation of children and of transportation of child pornography, and he has appealed his sentence. The Government has moved for summary affirmance or, in the alternative, for an extension of time within which to file its brief.

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

No. 21-10086

Carter asserts that the special condition of supervised release prohibiting him from possession or control of “any pornographic matter” violates due process as unconstitutionally vague because the term “pornographic” is undefined. He also asserts that this special condition violates his rights under the First Amendment because it is overbroad. Carter concedes that these questions are foreclosed by *United States v. Abbate*, 970 F.3d 601, 605-06 (5th Cir. 2020), *cert. denied*, 2021 WL 1951889 (U.S. May 17, 2021) (No. 20-6923). In light of *Abbate*, Carter cannot show that the district court abused its discretion in imposing this condition of supervised release. *See* 970 F.3d at 605-06.

Next, Carter contends that the special condition of supervised release prohibiting him from going to “places where children may frequently congregate” is overbroad and vague. He concedes that this question is foreclosed by *United States v. Paul*, 274 F.3d 155, 167 (5th Cir. 2001). In light of *Paul*, Carter cannot show that the district court abused its discretion in imposing this condition of supervised release. *See* 274 F.3d at 165-67.

Because the issues raised by Carter are foreclosed by circuit precedent, summary affirmance is appropriate. *See Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969). Accordingly, the Government’s motion for summary affirmance is GRANTED, the alternative motion for an extension of time within which to file a brief is DENIED as moot, and the district court’s judgment is AFFIRMED.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF TEXAS

Fort Worth Division

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

v.

TERRY RAY CARTER

Case Number: 4:20-CR-00234-O(01)

U.S. Marshal's No.: 60529-177

Aisha Saleem, Assistant U.S. Attorney

Loui Itoh, Attorney for the Defendant

On September 16, 2020 the defendant, TERRY RAY CARTER, entered a plea of guilty as to Count One and Two of the Information filed on September 14, 2020. Accordingly, the defendant is adjudged guilty of such Count, which involves the following offense:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. §§ 2251 (a) and (e)	Sexual Exploitation of Children	7/9/2020	One
18 U.S.C. §§ 2252A(a)(1) and (b)(1)	Transportation of Child Pornography	7/9/2020	Two

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to Title 18, United States Code § 3553(a), taking the guidelines issued by the United States Sentencing Commission pursuant to Title 28, United States Code § 994(a)(1), as advisory only.


The defendant shall pay immediately a special assessment of \$200.00 as to Count One and Two of the Information filed on September 14, 2020.

The Court further concluded the defendant is indigent and the \$5,000 assessment required pursuant to 18 U.S.C. § 3014 is waived.

The defendant shall pay an assessment pursuant to 18 U.S.C. § 2259A to the United States in the amount of \$200 as to each count for a total of \$400, payable to the U.S. District Clerk, 501 West 10th Street, Room 310, Fort Worth, TX 76102. If upon commencement of the term of supervised release any part of the assessment imposed pursuant to 18 U.S.C. § 2259A remains unpaid, the defendant shall make payments on such unpaid balance beginning 60 days after release from custody at the rate of at least \$25 per month until the assessment is paid in full.

The defendant shall notify the United States Attorney for this district within thirty 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.

Sentence imposed January 29, 2021.


REED O'CONNOR
U.S. DISTRICT JUDGE

Signed January 29, 2021.

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IMPRISONMENT

The defendant, TERRY RAY CARTER, is hereby committed to the custody of the Federal Bureau of Prisons (BOP) to be imprisoned for a term of **THREE HUNDRED SIXTY (360) MONTHS** as to Count One and **TWO HUNDRED FORTY (240) MONTHS** as to Count Two of the Information filed on September 14, 2020, to run consecutively for a total of SIX HUNDRED (600) MONTHS.

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

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of **TWENTY (20) YEARS** as to each count of the Information filed on September 14, 2020, to run concurrently.

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.

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- (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.

In addition the defendant shall:

not commit another federal, state, or local crime;

not illegally possess controlled substances;

cooperate in the collection of DNA as directed by the probation officer;

not possess a firearm, ammunition, destructive device, or any dangerous weapon;

report in person to the U.S. Probation Office in the district to which the defendant is released from the custody of the Federal Bureau of Prisons within 72 hours of release;

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;

make restitution in accordance with 18 U.S.C. §§ 2248, 2259, 2264, 2327, 3663, 3663A, and 3664;

notify the court of any material change in your economic circumstances that might affect your ability to pay restitution, fines, or special assessments;

have no contact with the victim(s), including correspondence, telephone contact, or communication through third parties except under circumstances approved in advance by the probation officer and not enter onto the premises, travel past, or loiter near the victims' residences, places of employment, or other places frequented by the victims;

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have no contact with minors under the age of 18, including by correspondence, telephone, internet, electronic communication, or communication through third parties. The defendant shall not have access to or loiter near school grounds, parks, arcades, playgrounds, amusement parks or other places where children may frequently congregate, except as may be allowed upon advance approval by the probation officer;

not use any computer other than the one the defendant is authorized to use without prior approval from the probation officer;

not use any software program or device designed to hide, alter, or delete records and/or logs of the defendant's computer use, Internet activities, or files stored on the defendant's computer;

not use any computer or computer-related equipment owned by his/her employer except for the strict benefit of his/her employer in the performance of his/her job-related duties;

provide the probation officer with accurate information about his/her entire computer system. The defendant's email shall only be accessed through a pre-approved application;

not install new hardware, perform upgrades, or effect repairs on his/her computer system without the prior permission of the probation officer;

take notice that without prior approval of the probation officer, the defendant shall not maintain or create a user account on any social networking site (i.e., Facebook, Twitter, Snapchat, Instagram, Grindr, Tinder, etc.) that allows access to persons under the age of 18, or allows for the exchange of sexually-explicit material, chat conversations, or instant messaging. The defendant shall neither view nor access any web profile of users under the age of 18;

participate and comply with the requirements of the Computer and Internet Monitoring Program, contributing to the cost of the monitoring in an amount not to exceed \$40 per month. The defendant shall consent to the probation officer's conducting ongoing monitoring of his/her computer/computers. The monitoring may include the installation of hardware and/or software systems that allow evaluation of computer use. The defendant shall not remove, tamper with, reverse engineer, or circumvent the software in any way. The defendant shall only use authorized computer systems that are compatible with the software and/or hardware used by the Computer and Internet Monitoring Program. The defendant shall permit the probation officer to conduct a preliminary computer search prior to the installation of software. At the discretion of the probation officer, the monitoring software may be disabled or removed at any time during the term of supervision;

not access any service or use any software that allows for direct peer to peer contact, that may include chat rooms, file sharing or file transfer protocol activity, or other similar activity, without permission from the probation officer;

submit to periodic, unannounced examinations of his/her computer/computers, storage media, and/or other electronic or Internet-capable devices, performed by the probation officer at reasonable times and in a reasonable manner based on reasonable suspicion of contraband evidence of a violation of

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supervision. This may include the retrieval and copying of any prohibited data and/or the removal of such system for the purpose of conducting a more thorough inspection. The defendant shall provide written authorization for release of information from the defendant's Internet service provider;

not access any Internet Service Provider account or other online service using someone else's account, name designation, or an alias, and shall not use or own any device that allows Internet access, other than as authorized by the probation officer. This includes, but is not limited to, PDA's, electronic games, and cellular/digital telephones;

not possess or use removable media configured with bootable operating systems. He shall not view, possess, and/or compose any material that describes or promotes the unauthorized access to computer systems, and shall not purchase, download, possess, and/or install software applications whose primary purpose is to scan and detect vulnerabilities in computer networks or to cause damage to other computer systems;

not possess, have access to, or utilize a computer or Internet connection device, including, but not limited to Xbox, PlayStation, Nintendo, or similar device, without permission of the probation officer. This condition requires preapproval for categories of computer or Internet access or use; it does not require separate pre-use approval every time the defendant accesses or uses a computer or the Internet;

refrain from incurring new credit charges or opening additional lines of credit without approval of the probation officer unless the probation officer makes a determination that the defendant has fully satisfied the restitution obligation;

neither possess nor have under his/her control any pornographic matter or any matter that sexually depicts minors under the age of 18 including, but not limited to, matter obtained through access to any computer and any matter linked to computer access or use;

participate in sex-offender treatment services as directed by the probation officer until successfully discharged, which services may include psycho-physiological testing to monitor the defendant's compliance, treatment progress, and risk to the community, contributing to the costs of services rendered (copayment) at the rate of at least \$25 per month; and,

register as a sex offender with state and local law enforcement as directed by the probation officer in each jurisdiction where the defendant resides, is employed, and is a student, providing all information required in accordance with state registration guidelines, with initial registration being completed within three business days after release from confinement. The defendant shall provide written verification of registration to the probation officer within three business days following registration and renew registration as required by his probation officer. The defendant shall, no later than three business days after each change of name, residence, employment, or student status, appear in person in at least one jurisdiction and inform that jurisdiction of all changes in the information required in the sex-offender registry.

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FINE/RESTITUTION

The Court does not order a fine or costs of incarceration because the defendant does not have the financial resources or future earning capacity to pay a fine or costs of incarceration.

Restitution is not ordered because there is no victim other than society at large.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

United States Marshal

BY _____
Deputy Marshal