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# APPENDIX

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19-2881(L)

*United States of America v. Sinmyah Amara Ceasar*

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

August Term, 2020

(Argued: October 19, 2020      Decided: August 18, 2021)

Docket Nos. 19-2881(L); 19-2892(con)

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UNITED STATES OF AMERICA,  
*Appellant,*

v.

SINMYAH AMARA CEASAR,  
*Defendant-Appellee.*

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Before:      SACK, SULLIVAN, AND MENASHI, *Circuit Judges.*

The government appeals the 48-month sentence imposed in an amended judgment, entered by the United States District Court for the Eastern District of New York (Jack B. Weinstein, J.), on defendant-appellee Sinmyah Amara Ceasar. Ceasar pleaded guilty to one count of conspiracy to provide material support to a foreign terrorist organization—the Islamic State of Iraq and Syria ("ISIS") (also referred to as the Islamic Sate of Iraq and the Levant or "ISIL")—in violation of 18 U.S.C. § 2339B(a). While on presentence release, Ceasar violated the conditions of her release by resuming contact with known supporters of ISIS and other

extremist groups, attempting to conceal these communications from law enforcement authorities, and then lying to the FBI about her conduct. Ceasar was also charged with obstruction of justice, to which she pleaded guilty. Ceasar faced a total Sentencing Guidelines range of 360 to 600 months' imprisonment; the district court imposed a far-below-Guidelines sentence of 48 months. The government appeals, arguing that Ceasar's sentence was substantively unreasonable. For the reasons set forth below, we agree. Accordingly, we VACATE the judgment of the district court and REMAND for resentencing.

IAN C. RICHARDSON, Assistant United States Attorney (David C. James and Joshua G. Hafetz, *on the brief*), for Jacquelyn M. Kasulis, Acting United States Attorney for the Eastern District of New York;

COLLEEN P. CASSIDY, Federal Defenders of New York, Inc., for Defendant-Appellee.

SACK, *Circuit Judge*:

It is undisputed that beginning in or around January 2016, the defendant-appellee, Sinmyah Amera Ceasar, conspired to provide material support to the

Islamic State of Iraq and Syria ("ISIS"),<sup>1</sup> in violation of 18 U.S.C. § 2339B(a) (the "Material Support Offense"). Using social media and the encrypted messaging application Telegram, Ceasar expressed her support for ISIS, encouraged others to join ISIS abroad, and helped individuals in the United States contact ISIS members overseas. The overseas ISIS members then facilitated U.S.-based ISIS supporters' travel to ISIS-controlled territory. Ceasar herself intended to travel to ISIS territory by way of Sweden, where she planned to marry another ISIS supporter. In November 2016, Ceasar was arrested at New York's John F. Kennedy International Airport on her way to Sweden via Turkey. Following her arrest, Ceasar entered into a cooperation agreement with the government in which she pleaded guilty to one count of conspiracy to provide material support to a foreign terrorist organization. In April 2018, the United States District Court for the Eastern District of New York granted her presentence release.

While on presentence release, Ceasar reoffended. Despite the fact that the conditions of her release explicitly prohibited her from contacting individuals or organizations affiliated with foreign terrorist groups, Ceasar obtained a laptop

<sup>1</sup> See *United States v. Doe*, 323 F. Supp. 3d 368, 370 (E.D.N.Y. 2018) (Weinstein, J.). ISIS is also known as the "Islamic State of Iraq and al-Sham," and the "Islamic State of Iraq and the Levant" ("ISIL"). See *United States v. Mumuni*, 946 F.3d 97, 101 n.4 (2d Cir. 2019). In this opinion, we use the acronyms "ISIS" and "ISIL" interchangeably. See *id.*

computer, recreated pseudonymous social media accounts, and resumed contacting or attempting to contact several individuals known to be supporters of ISIS or other extremist groups. The FBI, investigating Ceasar's conduct, found that she had intentionally deleted incriminating communications and had instructed others with whom she had been in contact to do the same. The bond underlying her presentence release was revoked, and she was remanded pending sentencing. When the FBI interviewed Ceasar about her conduct while on presentence release, she made a significant number of false and misleading statements.

In connection with her conduct while on presentence release, Ceasar pleaded guilty to an additional charge of obstruction of justice, in violation of 18 U.S.C. § 1512(c)(1) (the "Obstruction Offense").

Mental health professionals who met with and treated Ceasar characterize her conduct as a misguided search for community stemming from a lifetime of sexual, physical, and emotional abuse and neglect. Beginning in her childhood, Ceasar's father sexually abused her. At age 13, she entered the foster care system and was abused or neglected in each home in which she was placed. While Ceasar has never been legally married, she entered into three successive so-called

"religious marriages" with older men, beginning when she was 16. In each of those marriages, her husband physically or emotionally abused her. Ceasar was diagnosed with complex post-traumatic stress disorder as a result of the abuse and trauma she endured.

Ceasar faced a Sentencing Guidelines range of 360 to 600 months' imprisonment. Prior to sentencing, the district court ordered the government and Ceasar to provide expert witness testimony or other materials to assist in its sentencing determination. The district court held a multiday sentencing hearing at which two government and three defense experts testified as to Ceasar's involvement with and support of ISIS and whether she would be likely to reoffend.

The district court concluded that the advisory Guidelines range was "excessively harsh" and varied downward from it dramatically. The court found that Ceasar was motivated by the abuse and trauma she suffered most of her life, and that she needed educational and mental health support in lieu of a long prison sentence. On June 26, 2019, despite the Guidelines minimum of 360 months, the court imposed a 46-month sentence on Ceasar for the Material Support Offense, one month for the Obstruction Offense, and one month for

committing an offense while on presentence release, pursuant to 18 U.S.C. § 3147, all to run consecutively for a total term of 48 months' imprisonment. Because she had been in custody from the time of her arrest in November 2016 until she was granted presentence release in April 2018, and was then remanded to custody on July 19, 2018 (following her violation of the conditions of her presentence release), Ceasar served only 13 additional months from the time of sentencing (June 26, 2019) until she was released from prison on July 28, 2020.

The government appealed on substantive reasonableness grounds, arguing that the district court abused its discretion by considering Ceasar's need for rehabilitation to the exclusion of other sentencing factors, and that this mitigating sentencing factor could not bear the weight assigned to it. The government further argues that Ceasar's sentence was shockingly low compared with other sentences imposed for similar crimes.

We are not without sympathy for Ceasar, but we are constrained to agree with the government. We conclude that the district court placed more emphasis on Ceasar's need for rehabilitation than that sentencing factor could bear, and failed adequately to weigh section 3553(a) factors that balance the needs and circumstances of an individual defendant against, among other things, the goals

of protecting the public, deterring criminal behavior, and engendering respect for the law. We further conclude that in comparison with sentences for similar terrorism crimes, Ceasar's sentence of 48 months' imprisonment was shockingly low and unsupportable as a matter of law. We therefore vacate the judgment of the district court and remand for resentencing.

## BACKGROUND

### I. The Offense Conduct

Beginning in or around January 2016 and through November 2016, defendant-appellee Sinmyah Amera Ceasar conspired to provide material support to the Islamic State ("ISIS" or "ISIL")<sup>2</sup> in violation of 18 U.S.C. § 2339B(a). *United States v. Ceasar*, 388 F. Supp. 3d 194, 200 (E.D.N.Y. 2019). She acted as an ISIS "assistant" by using Telegram, an encrypted messaging application, to put individuals in the United States who were interested in joining ISIS in contact

<sup>2</sup> Since 2004, the United States Department of State has designated ISIS as a foreign terrorist organization. Bureau of Counterterrorism, *Foreign Terrorist Organizations*, U.S. DEP'T OF STATE, <https://www.state.gov/foreign-terrorist-organizations/>. As we have previously observed, ISIS is "an organization that has called on members to commit attacks in retaliation for the actions of the United States in Syria and Iraq." *Am. Civil Liberties Union v. U.S. Dep't of Def.*, 901 F.3d 125, 131 n.7 (2d Cir. 2018) (internal quotation marks omitted); *United States v. Khusanov*, 731 F. App'x 19, 23 (2d Cir. 2018) (summary order) (ISIS, to which the defendant was accused of giving material support, is "committed to surprise, as well as planned, attacks on United States persons inside, as well as outside, this country . . .").



with ISIS members overseas. Those ISIS members would then assist U.S.-based ISIS supporters in traveling to ISIS-controlled territory. During her plea allocution, Ceasar stated that she "believed that if these individuals made it to [ISIS-controlled territory], they would join the group and work under its directions and control." Gov't App'x at 19.

Ceasar also used social media to demonstrate her support for ISIS and to encourage others to join ISIS abroad. As the district court found, Ceasar

used multiple social media accounts to upload images and videos showing support for ISIL and encouraging people to migrate to ISIL-controlled territory, to post quotes and audio recordings of ISIL leaders, and to express her support for acts of violence by ISIL or inspired by ISIL. . . . Ceasar attempted to assist at least four people join ISIL abroad . . . .

*Ceasar*, 388 F. Supp. 3d at 200-01.

Ceasar herself intended to travel to ISIS-controlled territory by way of Sweden, where she planned to meet and marry another ISIS supporter. *Id.* at 202-03. On November 15, 2016, Ceasar was arrested at New York's John F. Kennedy International Airport on her way to Sweden via Turkey.

Following her arrest, Ceasar waived her *Miranda* rights and admitted that she had decided to support ISIS after watching online videos of ISIS members carrying out beheadings. She further admitted to putting individuals in the

United States in contact with ISIS members abroad who would assist those U.S.-based individuals in traveling to ISIS-controlled territory.

On February 10, 2017, pursuant to a cooperation agreement, Ceasar pleaded guilty to one count of conspiracy to provide material support to a foreign terrorist organization in violation of 18 U.S.C. § 2339B(a). The government describes her cooperation as initially "promising[,] and [it] resulted in the collection of some evidence valuable to several national security investigations." Gov't Br. at 12. Her cooperation, however, was short-lived.

In April 2018, Ceasar applied for and was granted presentence release on a \$50,000 bond with several conditions, including submission to electronic monitoring and a prohibition from contacting individuals or organizations affiliated with foreign terrorist groups. She was permitted to use a phone or computer for limited purposes only, such as contacting her counsel and conducting educational or vocational research. *Ceasar*, 388 F. Supp. 3d at 203.

Ceasar soon began to violate these conditions. She obtained a laptop computer and recreated pseudonymous social media accounts for use in contacting or attempting to contact at least seven people whom she had previously identified to the FBI as ISIS supporters or supporters of other

extremist groups. *Id.* On June 29, 2018, approximately one month after her release, Ceasar submitted the laptop to United States Pretrial Services to have monitoring software installed. *Id.* Inspection of the computer revealed Ceasar's use of these social media accounts to search for and contact individuals known to be supporters of terrorist organizations. *Id.* at 203-04.

FBI agents began to investigate Ceasar's conduct. They discovered that she had intentionally deleted incriminating communications and had instructed others with whom she had been in contact to do the same. She deleted at least 1,000 Facebook messages, approximately 1,000 text messages, and a collection of emails, audio files, and images from her cell phone. *Id.* at 204.

On July 19, 2018, the district court revoked Ceasar's bond and remanded her to custody pending sentencing. In the course of its investigation of Ceasar's presentence release conduct, the FBI interviewed her on January 2, 2019. *Id.* at 204-05. During the interview, Ceasar made many false and misleading statements about, among other things, her creation and use of pseudonymous Facebook and email accounts, her familiarity and interaction with an ISIS-related Facebook page and computer application, and her communications with ISIS supporters. *Id.*

For her conduct while on presentence release, Ceasar waived indictment and was charged by information with the Obstruction Offense. Gov't App'x at 22. The information alleged that from June to July 2018, Ceasar "did knowingly, intentionally and corruptly alter, destroy, mutilate and conceal one or more records, documents and other objects, to wit: Facebook messages and text messages, with the intent to impair the objects' integrity and availability for use in one or more official proceedings . . . ." *Id.* On March 7, 2019, pursuant to a plea agreement, Ceasar pleaded guilty to the Obstruction Offense.

## **II. Ceasar's Background**

It is undisputed that Ceasar has led an extremely difficult life. Her parents divorced when Ceasar was very young. Her father began sexually abusing her when she was four years old; the abuse continued until she was 11. Her mother was ill, suffering from diabetes and kidney failure, eventually going blind as a result of her diabetes. During Ceasar's childhood, she acted as her mother's primary caregiver. *Ceasar*, 388 F. Supp. 3d at 196. When Ceasar was 13 years old, her mother was admitted to a nursing home where she remained until her death from a heart attack at age 49, when Ceasar was 22 years old.

At the time her mother went to live in a nursing home, Ceasar was placed in the foster care system. She lived in three foster homes over four years and was abused or neglected in each. She dropped out of high school and signed herself out of foster care at age 17. *Id.* at 220.

While Ceasar has never been legally married, she entered into three successive "religious marriages" with older men, each of whom physically or emotionally abused her. *Id.* at 197. The marriages were arranged by a religious leader at Ceasar's mosque. She entered the first such marriage at age 16 and was married twice more before the age of 20. The third marriage ended in 2014 after a miscarriage that resulted in Ceasar's hospitalization for suicidal depression; she had begun experiencing suicidal ideation at age 11. As a result of the abuse she endured throughout her life, she suffers from complex post-traumatic stress disorder ("PTSD"). *Id.*

### **III. The Sentencing Proceedings—Expert Testimony**

Prior to sentencing, the district court ordered both the government and Ceasar "to provide expert witnesses or materials that might permit the court to make a more effective sentencing determination to protect the public and encourage the defendant's rehabilitation." Gov't App'x at 21. The district court

then held a three-day hearing at which two government and three defense experts testified as to Ceasar's involvement with and support of ISIS, and whether she would be likely to reoffend. In its opinion explaining Ceasar's sentence, the district court recounted the experts' testimony in detail. *Ceasar*, 388 F. Supp. 3d at 205-17. Their testimony as relevant to this appeal was as follows.

*1. The Government's Experts*

*A. Dr. Lorenzo Vidino*

The government's first expert witness was Dr. Lorenzo Vidino, Director of the Program on Extremism at George Washington University. *Ceasar*, 388 F. Supp. 3d at 199. Dr. Vidino is an expert on terrorism; his work focuses on radicalization and recruitment for organizations such as ISIS and al-Qaeda. Dr. Vidino testified as to the importance of ISIS recruiters and facilitators, as well as the processes of radicalization, mobilization, and deradicalization from jihadist groups. In preparation for his testimony, Dr. Vidino had reviewed some of Ceasar's social media postings and her post-arrest statements about her social media activity. He did not meet or speak with her.

Dr. Vidino testified that although ISIS no longer controlled territory, it continued to recruit and engage with supporters over the internet. He said that

Cesar had "played two main roles" for ISIS, acting as "a disseminator and a connector." Gov't App'x at 130. According to Dr. Vidino, Cesar acted as a "disseminator" by posting ISIS propaganda on social media and making it more accessible to the general public. *Id.* As the term suggests, Cesar acted as a "connector" by "mak[ing] the connection between . . . people who have no connections whatsoever with ISIS, who have just started this radicalization trajectory, . . . with people who are ISIS members or who are [part] of some kind of inner circle of this informal community." *Id.* at 130-31. Dr. Vidino classified "connectors" as "one step up" from "disseminators." *Id.* at 131.

Dr. Vidino identified several factors to assess whether a radicalized individual is disengaging and deradicalizing, such as "ending [one's] personal involvement in terrorism," "[d]istancing [oneself] from extremist activity," Gov't App'x at 186, "[d]istancing oneself from the group's ideology," "[b]reaking contact with individuals associated with the group or supporting its ideology," and "[a]ccepting the punishment for crimes committed," *Cesar*, 388 F. Supp. 3d at 207 (internal quotation marks and brackets omitted) (alterations added). As to whether Cesar was progressing toward disengagement and deradicalization, Dr. Vidino testified that based on his review of her communications while she

was on presentence release and after she was remanded to custody, she retained the "worldview [and] the analytical frames of ISIS." Gov't App'x at 138. In support of this conclusion, Dr. Vidino noted that Ceasar already had engaged in the same kind of behavior—communicating with ISIS sympathizers—while on presentence release; that she equated Islam with ISIS and framed her prosecution for providing material support to a foreign terrorist organization as persecution for practicing her religion; and that she used the same derogatory language ISIS has used to refer to the American legal system. *Id.* at 138-45. As Dr. Vidino summarized: "The way she speaks is the way somebody [who] supports ISIS speaks." *Id.* at 141.

When asked whether the United States has disengagement or deradicalization programs for people like Ceasar, Dr. Vidino responded in the negative. He explained that while some other countries, such as Denmark, the Netherlands, and Germany, offer such deradicalization programs, "we are miles away . . . from having programs that are effective, solid, with system[s] behind them. . . . And we have various initial experimental attempts which I think have not given results so far. That's the problem." *Id.* at 145-46.



B. Dr. Kostas Katsavdakis

The government's second expert witness was Dr. Kostas Katsavdakis, a clinical and forensic psychologist. Dr. Katsavdakis conducted a threat assessment of Ceasar's risk for "targeted violence." Gov't App'x at 197; *Ceasar*, 388 F. Supp. 3d at 208. Dr. Katsavdakis explained: "Targeted violence generally implies that a person engages in that kind of violence under a certain pathway," Gov't App'x at 196, and, as the name suggests, "targets" a "particular group . . . or a particular individual," *id.* at 207.

Dr. Katsavdakis reviewed Ceasar's medical records and interviewed her over the course of five sessions, between 2017 and 2019, for approximately ten hours in total. *Ceasar*, 388 F. Supp. 3d at 208. He concluded that "she poses a moderate risk for targeted violence based upon nine factors." Gov't App'x at 203. The first of these is "pathway warning behaviors," which are "behaviors that the person is engaging in to indicate that they are accelerating or on the pathway to a potential attack." *Id.* at 221. This is a spectrum of conduct that begins with "grievance," progresses to violent ideation and planning, and ends with an attack. *Id.* at 222. Dr. Katsavdakis concluded, based on Ceasar's communications about traveling to marry another ISIS supporter, going to ISIS-controlled

territory, and engaging in jihad, that Ceasar fell within the "planning and preparing" stage. *Id.* The second factor is "fixation," a "pathological preoccupation with an idea." *Id.* at 223. Dr. Katsavdakis concluded that, although Ceasar stated that she was no longer interested in ISIS, her behavior indicated otherwise: While on presentence release, she obtained a computer and resumed searching for ISIS-related content and communicating with ISIS supporters online. The third factor, identification, is "an attempt to become a warrior or pseudocommando . . . , and usually it's a sign that you're affiliating with or interested in a particular group or individual." *Id.* at 225. As examples of Ceasar's "identification," Dr. Katsavdakis testified that Ceasar had created a video "espousing not only travel overseas for Islamic purposes but also jihad," and he cited her social media posts supportive of ISIS. *Id.* at 226. The fourth factor, "leakage," means "conveying to a third party, not the direct source, of your intent to engage in some kind of harmful act." *Id.* Here, Ceasar's internet posts and re-posts of videos were indicative of leakage. The fifth factor is presence of mental illness. Dr. Katsavdakis testified that Ceasar told him about her history of anxiety and depression, the abuse she suffered as a child, her religious marriages, and failures at school and work. Dr. Katsavdakis was also aware of

Cesar's prior suicidal ideation, which was exacerbated by her miscarriage and abuse by her then-husband.

The sixth factor is reliance on virtual community. This allows an individual engaged in activities supporting terrorism or terrorist groups to further isolate themselves and reinforce their extremist beliefs. Dr. Katsavdakis found this factor "evident" in Cesar. *Id.* at 229. The seventh factor, failed relationships, was also obvious in Cesar's history of, from a young age, successive, abusive marriages to older men. The eighth factor is thwarting occupational and academic goals. Cesar dropped out of high school, and she subsequently "held very few jobs for any sustained period of time." *Id.* at 230. The ninth and final factor, presence of deception, manifested in Cesar's obtaining a computer and returning to her ISIS-supporting community online while on presentence release, her false and misleading statements to the FBI about this conduct, and her statements to Dr. Katsavdakis that her awareness of the FBI's possible surveillance of her motivated her to move more quickly toward her end goals.

Based on these factors, Dr. Katsavdakakis concluded that Ceasar posed a moderate risk and "that it would be difficult and a long-term process to case manage [Ceasar] . . . on probation." *Id.* at 234.

## *2. The Defense's Experts*

### *A. Daisy Khan*

Daisy Khan is the founder and executive director of Women's Islamic Initiative for Spirituality and Equality ("WISE"). Ms. Khan was offered as an expert on counter-extremism and women in Islam. *Ceasar*, 388 F. Supp. 3d at 212. Ms. Khan met with Ceasar approximately six times while Ceasar was incarcerated and testified about what drew Ceasar to supporting ISIS. Ms. Khan stated that, in her opinion, Ceasar's motivations were personal, not ideological, and that Ceasar was no longer committed to an extremist cause.

Ms. Khan further testified that based on Ceasar's history of abuse, Ceasar needed reeducation, healing from years of trauma, and membership in a healthy and productive community: "In addition to the psychiatric help that she's been getting, she needs to be in a community which is going to welcome her as if she's a family member. . . . I have taken the time to find such a community for her and she needs a life coach and a life mentor, which I am willing to do for her." Gov't

App'x at 281. Ms. Khan recommended the creation of a pilot program specific to Ceasar to manage her rehabilitation. *Ceasar*, 388 F. Supp. 3d at 213. Ms. Khan acknowledged, however, that she had not yet created or tested the type of program she was suggesting for Ceasar's rehabilitation, nor could she identify any facility that could adequately provide for Ceasar's rehabilitation. *Id.*

B. Dr. Marc Sageman

The defense's second expert witness was Dr. Marc Sageman, a forensic psychiatrist and expert on terrorism. *Id.* Dr. Sageman met with Ceasar for several hours on April 19, 2019, while she was detained after violating the conditions of her presentence release. Dr. Sageman also reviewed some discovery materials and Ceasar's medical records.

Dr. Sageman testified that Dr. Katsavdakis's method of evaluating Ceasar was not validated or commonly used in the field of terrorism. He stated that the factors Dr. Katsavdakis relied upon apparently were taken from an article outside the terrorism literature and misapplied to Ceasar. The district court found this testimony unpersuasive because there was no evidence that Dr. Katsavdakis actually relied on that article. *Id.*

Dr. Sageman then offered his opinion on whether Ceasar would likely reoffend and, relatedly, on Ceasar's reasons for providing material support to ISIS. As to the continued risk Ceasar posed, Dr. Sageman testified that Ceasar was unlikely to reoffend with repeated conduct—connecting people to ISIS—because ISIS no longer controls physical territory, and its online presence has dwindled. Dr. Sageman further testified that, based on his interview of Ceasar, her affiliation with ISIS was "emotional" rather than radical. Gov't App'x at 318. He stated that Ceasar "was attracted to [ISIS] because it was . . . a caring community that [would] take care of her because she was basically looking for some people to take care of her." *Id.* at 320. Ceasar had experienced a lifetime of abuse that left her "alienated," and she was looking for a community; she found one, however violent and destructive, in the "idealized" online community of ISIS supporters. *Id.*; *Ceasar*, 388 F. Supp. 3d at 213-14.

In evaluating her conduct while on presentence release, Dr. Sageman testified that Ceasar's communications did not necessarily indicate an ongoing commitment to ISIS. She did not, in Dr. Sageman's view, pose a risk of violence, nor was she dangerous, but she could rejoin a destructive community if she were "abandoned" as she was while on bail. Gov't App'x at 321-22. Dr. Sageman

testified that "[t]he best way to mitigate [this risk] is to introduce her to a community that will take care of her . . . and I think she will do well." *Id.* at 322. Dr. Sageman did not believe that Ceasar would again lend support to a foreign terrorist organization. *Ceasar*, 388 F. Supp. 3d at 214.

C. Dr. Katherine Porterfield

The defense's third and final expert witness was Dr. Katherine Porterfield, a clinical psychologist and expert in trauma and extremism. As of the time of sentencing, Dr. Porterfield had met with Ceasar for a total of approximately 130 hours over the course of two years. She also had reviewed Ceasar's medical records and case-related materials.

Dr. Porterfield described Ceasar's lifetime of abuse and trauma as "quite astonishing," Gov't App'x at 347, and testified that it left Ceasar with ongoing "severe impairments," *id.* at 349. Dr. Porterfield diagnosed Ceasar with complex PTSD, coupled with a serious condition of dissociation. Dr. Porterfield testified: "[M]y opinion is that [Ceasar's] clinical problems are very much the root of her very misguided and destructive and dysfunctional actions. She was a person who did not know how to handle her feelings of pain, shame and fear." *Id.* at 351; *Ceasar*, 388 F. Supp. 3d at 214. As to why Ceasar sought out a violent

community online despite enduring years of abuse, Dr. Porterfield explained that Ceasar suffers from "betrayal trauma" from her father sexually abusing her and that, as a result, she developed a defense mechanism of self-destructive behavior. Gov't App'x at 352-54. The abuse Ceasar suffered impaired her "radar" for dangerous and delinquent people and situations; she "stayed in her cultural community, and, unfortunately, with her bad radar, went towards the worst forces in that community because of her very poor judgment and very poor emotional functioning." *Id.* at 354-55.

Dr. Porterfield explained Ceasar's conduct while on presentence release as a form of relapse. She analogized Ceasar's return to the ISIS-supporting online community to a domestic violence victim returning to an abuser. *Ceasar*, 388 F. Supp. 3d at 215-16. Dr. Porterfield testified that Ceasar "was released without enough planning and without enough support," and that she thought Ceasar "went back []to . . . some very familiar dysfunctional people" because "she could not handle the stress at that point of being out, not having enough treatment, and not having enough of a community." Gov't App'x at 356; *Ceasar*, 388 F. Supp. 3d at 215-16.



Dr. Porterfield further testified that Ceasar did not maintain any commitment to ISIS and that she no longer "yearn[ed] for this fantasied absurd thing that she back then thought was going to give her a new life." Gov't App'x at 361. As to whether Ceasar should be incarcerated, Dr. Porterfield testified that prison would do further harm to Ceasar; her mental health issues would not be addressed, nor would she get the trauma-focused treatment that she needed. *Ceasar*, 388 F. Supp. 3d at 216-17. Dr. Porterfield testified that in addition to ongoing trauma treatment, Ceasar needed support and structure "to process her relationship to her community, to Islam, and to who she is [as] a young woman going forward." Gov't App'x at 365. At the conclusion of her testimony, Dr. Porterfield stated that she believed, "with ongoing support and treatment this young person is committed to rebuilding her life and would do so in a healthy way. She needs help." *Id.* at 401.

#### **IV. The District Court's Sentence and Written Opinion**

At the conclusion of the three-day hearing, the defense asked the district court to impose a sentence of time served with a lifetime term of supervised release. The defense argued, based on the expert testimony, that Ceasar's conduct was the product of chronic abuse and that intensive treatment, not

prison, was the answer. The government disagreed. It asked the district court to impose a Guidelines sentence, arguing that Ceasar's serious offense—providing material support to ISIS—coupled with her conduct while on presentence release, and her ensuing lies about it to law enforcement authorities, demonstrated her dangerousness and risk of recidivism. The government argued, as it does on appeal, that a significant term of incarceration was necessary to incapacitate Ceasar and to deter those who may otherwise engage in similar conduct in the future.

Before the court imposed its sentence, Ceasar spoke on her own behalf. She acknowledged the wrongfulness of her conduct and that she "mistook a terroristic organization, who used [her] religion, to be a sort of guidance in [her] life." *Id.* at 447. She further stated that she no longer supports or associates with any terrorist organizations and that she aimed to focus on bettering her health, education, and future. The district court also read into the record a letter of support it had received from Ceasar's brother.

Based on Ceasar's total offense level of 40 and her criminal history category of VI due to applicable terrorism enhancements under section 3A1.4(b) of the Sentencing Guidelines, Ceasar faced a Guidelines range of 360 to 600

months' imprisonment. The district court concluded that this range was "excessively harsh," and varied downward from it considerably. *Id.* at 456.

The court found that Ceasar "has moved substantially towards rejection of ISIL and now abjures the terrorist ideology." *Id.* at 458. It went on to discuss the factors it weighed in imposing the sentence:

Under federal penal jurisprudence, the [c]ourt will consider general and specific deterrence; that is, what will indicate to the population generally what they should and should not do. And they should not do what this Defendant has done; that is, betray, in a sense, her citizens, the United States citizens, and its law enforcement by giving information to ISIL members or those who sought ISIL membership who are in this country. I believe that general and specific deterrence will result from the sentence I am imposing.

I also must consider incapacitation. In case she slips back into this role, will the people of the country be sufficiently protected by her being in prison?

We will also consider rehabilitation, although rehabilitation in prison, as we all know, is very difficult, and the question of punishment for doing bad acts; in this case, the aiding of ISIL.

...

It's apparent that this young woman is in need of intensive educational, emotional, and economic support to address the trauma she has experienced and which has, in part, motivated her actions.

*Id.* at 459-60. The district court further noted that the United States lacks the type of "intensive disengagement and deradicalization programs" that some European countries have implemented to rehabilitate those who commit terrorism-related

crimes. *Id.* at 461. The court also announced that it would issue a full written opinion.

The court sentenced Ceasar to 46 months' imprisonment for the Material Support Offense, one month for the Obstruction Offense, and one month for committing an offense while on presentence release, pursuant to 18 U.S.C. § 3147. These sentences were to run consecutively, for a total term of imprisonment of 48 months. The court also imposed eight years of supervised release. The government objected and requested that the court more fully explain its reasoning for the sentence imposed. The court replied that while it would lay out its reasoning in a written opinion, "a major factor is that[,] based on [the court's] repeated observations of [Ceasar]," along with the extensive record and expert testimony, "she is well on her way towards rehabilitation. And she presents or will present when this sentence has been served almost no danger to the country and that this sentence will also save her as a human being." *Id.* at 469.

Approximately one month after the sentencing hearing, the district court issued its written opinion. *See Ceasar*, 388 F. Supp. 3d at 194. The court recounted at length Ceasar's background, the offense conduct, and the experts'

and Ceasar's testimony at the sentencing hearing. *Id.* at 194-218. The court stated that it "carefully considered" the sentencing factors set forth in 18 U.S.C. § 3553(a), and while recognizing the seriousness of Ceasar's crimes, "the importance of specific deterrence, as well as general deterrence, to protect the public," it concluded that "[i]n this instance, rehabilitation and specific deterrence . . . go hand in hand." *Id.* at 219-20.

The district court acknowledged that in its view, the ideal sentence—Ceasar's placement in an intensive deradicalization or disengagement program—would not be possible because no such program exists in the United States. *Id.* at 220. Other countries, the court pointed out, have created such rehabilitative programs, and it recommended that the Bureau of Prisons follow suit. *Id.* at 221. Without an "adequate program of rehabilitation . . . , the court seriously considered whether a further term of incarceration was appropriate" and concluded that the seriousness of Ceasar's offenses "compelled . . . some incarceration as punishment and for control . . . ." *Id.*

The court was mindful of the likely negative impacts of a long prison sentence on Ceasar's physical and mental health, however, and concluded that "a lengthy term of incarceration during which her medical needs are not fully met

would be extremely harmful to Ceasar's development as a productive member of society." *Id.* at 222. The district court reiterated Ceasar's sentence of 48 total months of incarceration and the conditions of her supervised release. *Id.* at 223-25.

The government appealed.

### DISCUSSION

The government argues that Ceasar's well-below-Guidelines sentence was substantively unreasonable. We agree. Despite our admiration for the district court's meticulous inquiry and analysis, and its care and compassion for Ceasar, we conclude that it placed more emphasis on Ceasar's need for rehabilitation than that sentencing factor could bear. It failed adequately to weigh section 3553(a) factors that, *inter alia*, balance the needs and circumstances of an individual defendant against the goals of protecting the public, deterring criminal behavior, and engendering respect for the law. We further conclude that in comparison with sentences of others for similar terrorism crimes, Ceasar's sentence of 48 months' imprisonment was shockingly low and unsupportable as a matter of law.

## **I. Applicable Law**

District courts "shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes" of 18 U.S.C. § 3553(a)(2). 18 U.S.C.

§ 3553(a). In calculating a sentence, courts must consider and weigh the following factors:

- (1) the nature and circumstances of the offense and the history and characteristics of the defendant;
- (2) the need for the sentence imposed —
  - (A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;
  - (B) to afford adequate deterrence to criminal conduct;
  - (C) to protect the public from further crimes of the defendant; and
  - (D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;
- (3) the kinds of sentences available;
- (4) the kinds of sentence and the sentencing range established for—
  - (A) the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines . . .
- (5) any pertinent policy statement . . .
- (6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and
- (7) the need to provide restitution to any victims of the offense.

*Id.*

We are "constrained to review sentences for reasonableness," *United States v. Richardson*, 521 F.3d 149, 156 (2d Cir. 2008), and do so "under an abuse-of-discretion standard," *Gall v. United States*, 552 U.S. 38, 51 (2007); *see also United States v. Verkhoglyad*, 516 F.3d 122, 127 (2d Cir. 2008) ("reasonableness" review "applies both to the sentence itself and to the procedures employed in arriving at the sentence" (internal quotation marks omitted)). Review for "substantive reasonableness . . . requires that we consider only whether the length of the sentence is reasonable in light of the § 3553(a) factors." *Richardson*, 521 F.3d at 156.

In reviewing the substantive reasonableness of a sentence, we "consider whether [a sentencing] factor, as explained by the district court, can bear the weight assigned it under the totality of circumstances in the case." *United States v. Cavera*, 550 F.3d 180, 191 (2d Cir. 2008) (en banc). We do not consider how we might have weighed particular factors, *id.*, but instead, "[o]ur role is no more than to patrol the boundaries of reasonableness," *United States v. Stewart*, 590 F.3d 93, 135 (2d Cir. 2009) (internal quotation marks omitted). A sentence is substantively unreasonable if "affirming it would damage the administration of justice because the sentence imposed was shockingly high, shockingly low, or



otherwise unsupportable as a matter of law." *United States v. Park*, 758 F.3d 193, 200 (2d Cir. 2014) (internal quotation marks omitted).

Reviewing a sentence for substantive reasonableness requires us to "take into account the totality of the circumstances, including the extent of any variance from the Guidelines range." *Gall*, 552 U.S. at 51. While a sentence outside the Guidelines range is not presumptively unreasonable, the district court's justification for a non-Guidelines sentence must be "sufficiently compelling to support the degree of the variance." *Id.* at 50. And "a major departure should be supported by a more significant justification than a minor one." *Id.*

## **II. Analysis**

"Terrorism represents a particularly grave threat because of the dangerousness of the crime and the difficulty of deterring and rehabilitating the criminal." *United States v. Mumuni*, 946 F.3d 97, 112-13 (2d Cir. 2019) (internal quotation marks and alteration omitted); *see also United States v. Meskini*, 319 F.3d 88, 92 (2d Cir. 2003) ("Congress and the Sentencing Commission had a rational basis for concluding that an act of terrorism represents a particularly grave threat . . . , and thus that terrorists and their supporters should be incapacitated for a

longer period of time." ). But we have recognized in terrorism cases, too, that "sentencing is one of the most difficult—and important—responsibilities of a trial judge." *United States v. Thavaraja*, 740 F.3d 253, 259 (2d Cir. 2014). We will not lightly set aside such exercises of judicial discretion. As with sentencing appeals in other contexts, we do so only in "exceptional cases." *Cavera*, 550 F.3d at 189. For the reasons that follow, we conclude that this is one such case.

#### **A. Ceasar's Need for Rehabilitation**

It is not unusual for criminal conduct to arise from tragic circumstances affecting the defendant. In Ceasar's case, those circumstances were particularly pronounced. She suffered terrible sexual, physical, and emotional abuse for much of her life. That this traumatic history may have played a role in Ceasar's search for acceptance in a community—no matter how destructive or violent—does not, however, cancel out the seriousness of her offenses. When weighing Ceasar's personal history, the district court appears to have considered her background and ensuing needs for mental healthcare and rehabilitation nearly to the exclusion of countervailing sentencing factors. We conclude that this was an abuse of discretion.

In articulating its "ideal sentence"—which it recognized was unavailable—the district court nonetheless stressed that Ceasar would have benefited from rehabilitation programs that did not then exist, nor, to our knowledge, have since been developed. *Ceasar*, 388 F. Supp. 3d at 220-22. As both the government and defense experts testified at the sentencing proceeding, any such rehabilitation program and its efficacy remain untested in this country. In particular, Daisy Khan testified that Ceasar would benefit from the creation of a rehabilitation program but acknowledged that she had neither a facility nor a tested methodology or existing program to manage Ceasar's rehabilitation.

The court's apparent acceptance of the experts' agreement that "no such satisfactory general [deradicalization or disengagement] program exists in the United States" is in considerable tension with its emphasis on Ceasar's need for rehabilitation as the factor that most influenced its sentencing decision. *See id.* at 220-21. The district court stated that "Ceasar's counsel and the Probation Department are developing a program of intensive treatment and support for the term of her supervision after her incarceration" and instructed that "the treatment should begin in prison and connect seamlessly with control and assistance by Probation." *Id.* at 196. This reasoning suggests that Ceasar could get the

rehabilitative care she requires after—or even during—a term of incarceration, and therefore seems to render less persuasive the court's reliance on rehabilitation as a factor weighing against a longer prison sentence. Moreover, if at the time of sentencing, Ceasar's treatment program still required development and could not have been implemented until some future time, it is difficult to see how a longer sentence would have been detrimental to Ceasar's ultimate rehabilitation; she would have been awaiting the availability of such a program in any event. Gov't App'x at 389. We think the district court was mistaken in imposing a sentence so heavily based on the prospective creation of one or more such programs.

### **B. Our Relevant Jurisprudence**

When we view Ceasar's sentence in the context of the crimes she committed, other defendants who have committed similar terrorism crimes, and our treatment of them, we conclude that the 48-month sentence imposed in the case at bar was shockingly low and therefore substantively unreasonable.

In *United States v. Stewart*, 590 F.3d 93 (2d Cir. 2009) ("*Stewart I*"), the defendant-appellant Lynne Stewart had been a "dedicated public servant who had, throughout her career [as an attorney], represented the poor, the

disadvantaged and the unpopular," often as court-appointed counsel. *Id.* at 147 (internal quotation marks omitted). She represented Sheikh Omar Ahmad Ali Abdel Rahman, who "was convicted of a variety of terrorism-related crimes," including "soliciting the murder of Egyptian President Hosni Mubarak," "attacking American military installations," "conspiring to bomb the World Trade Center in 1993, which succeeded," and "conspiring subsequently to bomb various structures in New York City, including bridges, tunnels," and the FBI's New York office, which did not succeed. *Id.* at 101. While imprisoned, Abdel Rahman was subject to Special Administrative Measures ("SAMs"), which, among other things, "prohibited him from having contact with others . . . that could foreseeably result in his communicating . . . terrorist information." *Id.* at 102 (internal quotation marks and alterations omitted). Abdel Rahman was permitted to remain in contact with his lawyers, including Stewart, and Stewart executed documents in which she agreed to abide by the SAMs. *Id.* During visits with Abdel Rahman, however, Stewart violated the SAMs by "pass[ing] messages between third parties . . . and Abdel Rahman," and from Abdel Rahman to others. *Id.* at 103 (internal quotation marks omitted); *see also United States v. Stewart*, 686 F.3d 156, 161-62 (2d Cir. 2012) ("*Stewart II*").

Although Stewart faced a Sentencing Guidelines range of 360 months' imprisonment, the district court imposed a 28-month sentence. *Stewart I*, 590 F.3d at 144. The government appealed the sentence as "unreasonable and unduly lenient." *Id.* at 134. Although we were "impressed by the factors that figured in Stewart's modest sentence—particularly her admirable history of providing, at no little personal cost to herself, proficient legal services in difficult cases to those who could not otherwise afford them," we found Stewart's sentence to be "strikingly low" in light of her criminal conduct and her use of "her privileged status as a lawyer to facilitate her serious violation of the law." *Id.* at 147-48. Together with her possible commission of perjury at trial—a fact on which the district court had not made an explicit finding—we concluded that remand was required for the district court to make such a finding and then to resentence Stewart. *Id.* at 151.

On remand, the district court imposed a below-Guidelines, but greatly increased, sentence of 120 months' imprisonment. We affirmed despite Stewart's claim that the new sentence was substantively unreasonable. *Stewart II*, 686 F.3d at 179-80. In light of her "severe criminal conduct in aid of a terrorism conspiracy," and the facts that she "abus[ed] the trust that the government had

placed in her as a member of the bar" and had "lied repeatedly under oath," we rejected her contention that the 120-month sentence was "shockingly high." *Id.* at 181.

As in our *Stewart* decisions, so too here there are mitigating factors that may render a Guidelines sentence unduly harsh and that may merit consideration and weight when determining the appropriate sentence. But also as in *Stewart*, the sentence imposed is "strikingly low" in light of the seriousness of the defendant's conduct. *Stewart I*, 590 F.3d at 148.

In *United States v. Mumuni*, 946 F.3d 97 (2d Cir. 2019), we held that the district court had abused its discretion by imposing a sentence well below the applicable Guidelines range where that sentence was based on, *inter alia*, assigning mitigating factors weight that they could not bear. *Id.* at 112. There, the defendant pleaded guilty to multiple terrorism counts, including conspiracy and attempt to provide material support to ISIS, conspiracy to assault federal officers, attempted murder of federal officers, and assault of a federal officer with a deadly or dangerous weapon. *Id.* at 101. Mumuni faced a Guidelines sentence of 85 years' imprisonment. *Id.* at 104. The district court imposed a 17-year sentence, and the government appealed on substantive reasonableness grounds.

*Id.* at 101, 105-06. One of the three bases on which we concluded that Mumuni's sentence (albeit more than four times that imposed in Ceasar's case) was "shockingly low and unsupportable as a matter of law" was that the district court placed improper weight on mitigating factors, including Mumuni's youth at the time of his offense, his lack of criminal record, and his good behavior while incarcerated pretrial and presentence. *Id.* at 108, 112. To the extent that such mitigating factors accounted for an 80% downward variance from the Guidelines, we concluded that in a "case involving terrorism and such serious offense conduct, . . . reliance on these mitigating factors produced a sentence that shocks the conscience and cannot be located within a permissible range of decisions." *Id.* The same is true with respect to the sentence before us here.

Ceasar's attempts to distinguish the instant case from *Mumuni* are unavailing. She argues that our decision there should have "no bearing on this case" and that it is best understood as a reflection of our disapproval of the district court's discounting the violent nature of Mumuni's crimes. Def. Br. at 55-57. But there, "we identif[ied] three errors that render[ed] Mumuni's sentence substantively unreasonable," including the district court's (1) reliance "on a sterilized account" of Mumuni's attack on a federal agent and its second-guessing



of the record that conflicted with its own acceptance of Mumuni's guilty plea; (2) unsupported and contradictory explanations of the sentencing disparity between Mumuni and his co-conspirator; and (3) reliance on mitigating factors that could not bear the weight assigned to them. *Mumuni*, 946 F.3d at 107-08. None of these errors was determinative. To the contrary, we concluded that "[j]ointly and severally, these errors caused the [d]istrict [c]ourt to render a sentence that is shockingly low and unsupportable as a matter of law." *Id.* at 108.

Cesar further argues that the mitigating factors present here—her lifetime of abuse and neglect and need for rehabilitation—are more serious than those considered in *Mumuni* and, according to Cesar, merit the weight assigned to them. In an appeal we decided before *United States v. Booker*, 543 U.S. 220 (2005), at a time when the Guidelines were thus understood to be mandatory, we nonetheless "conclude[d] that in extraordinary circumstances . . . district courts may properly grant a downward departure [from a Guidelines sentence] on the ground that extreme childhood abuse caused mental and emotional conditions that contributed to the defendant's commission of the offense." *United States v. Rivera*, 192 F.3d 81, 85 (2d Cir. 1999). While *Booker* has since rendered the Guidelines non-mandatory and variances—as distinct from "departures"—from

them are therefore permissible, *Stewart I*, 590 F.3d at 137 n.32 (distinguishing between departures and variances), variances must still be reasonable. We conclude that the district court's very substantial downward variance from the Guidelines sentence here was unreasonable; it was not "within the range of permissible decisions." *Park*, 758 F.3d at 200 (internal quotation marks omitted). It was, as we have noted, based on the potential creation of then-untested rehabilitation programs—which may never come into existence—and failed to weigh competing sentencing considerations. Obviously, as Dr. Porterfield acknowledged, not every person who suffers such extreme abuse and trauma seizes the opportunity to provide material support to ISIS or commit obstruction. Gov't App'x at 367. To the extent Ceasar invites us to decide the threshold at which the gravity of a defendant's personal circumstances merits a sentencing variance of this magnitude, we decline to do so.

In sum, the district court's approximately 87% downward variance from the bottom of the 360- to 600-month Guidelines range was based on Ceasar's need for rehabilitation and the potential detrimental effects of a long prison sentence on her physical and mental wellbeing. *Ceasar*, 388 F. Supp. 3d at 221-22. Under the facts and circumstances of this case, in which the lives and safety of

innocents were ultimately at risk, this factor could not bear the weight assigned to it. The court did not adequately balance the need for rehabilitation against the competing punitive goals of sentencing recognized by section 3553(a), including the needs for the sentence "to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;" "to afford adequate deterrence to criminal conduct;" and "to protect the public from further crimes of the defendant." 18 U.S.C. § 3553(a)(2). We now turn to these considerations.

### **C. The Section 3553(a) Factors**

In its discussion of the length of Ceasar's term of imprisonment, the district court aimed to "minimize the amount of time [Ceasar] would go without effective medical and social supports." *Ceasar*, 388 F. Supp. 3d at 222. It did not meaningfully balance that concern against the seriousness of Ceasar's offenses, the goals of general and specific deterrence, the need to protect the public from future crimes Ceasar could commit, and the need to avoid unwarranted sentencing disparities among defendants with similar records who have been found guilty of similar conduct. 18 U.S.C. § 3553(a)(2), (a)(6).

The district court recognized that Ceasar's crimes were "serious" and that she "was not simply an individual who posted propaganda; she intentionally and knowingly connected individuals in the United States with those abroad who would do the United States harm." *Ceasar*, 388 F. Supp. 3d at 220. We cannot reconcile that with the 48-month sentence imposed.

Strikingly—yet nearly absent from the district court's discussion—Ceasar had already exhibited recidivist behavior while on release awaiting sentencing. To be sure, the district court acknowledged that "Ceasar's deletion of her communications with others while on presentence release impeded the government's ability to investigate the extent of her bail violations." *Id.* at 220. But that captures only a small part of her conduct underlying the post-release Obstruction Offense: recreating pseudonymous social media accounts to reconnect with ISIS supporters; deleting incriminating communications to evade punishment and encouraging others to do the same; and then making false and misleading statements to law enforcement when questioned about this conduct. The district court recognized the experts' disagreement as to Ceasar's "risk of reoffending," but did not address the remarkable fact that, independent of the experts' opinions, Ceasar had indeed already reoffended. *Id.*

The district court's conclusion that "rehabilitation and specific deterrence of [Ceasar] seem to go hand in hand" is further subject to question in light of the fact that Ceasar was already being treated by Dr. Porterfield when she reoffended while on presentence release. *Id.* Indeed, Dr. Porterfield testified that she was unaware that Ceasar was reoffending even though, to the best of her recollection, she had met with Ceasar during that time. The district court did not address the tension between connecting Ceasar's rehabilitation to specific deterrence and the fact that Ceasar was receiving therapy to correct her problematic decision-making while she had resumed her criminal conduct—and then attempted to conceal it from law enforcement authorities (and presumably from Dr. Porterfield).

Ceasar mischaracterizes her behavior while on presentence release as "contact[ing] former friends, some of whom she had cooperated against." Def. Br. at 46. This conduct, according to Ceasar, "did not amount to new criminal conduct or 'recidivism' on [its] own." *Id.* But the context in which Ceasar engaged in such conduct is crucial. She went beyond reaching out to old friends. She violated the express terms of her presentence release by obtaining and using a laptop to resume her operation of pseudonymous social media accounts in

order to contact or attempt to contact several people she knew to be supporters of ISIS or other extremist groups. She deleted incriminating social media and text messages, emails, audio files, and images and instructed others with whom she had been in contact to do the same. She then lied to the FBI about it. While Ceasar may have been searching for a community and a sense of belonging in her course of recovery from a lifetime of abuse and neglect, that can only go so far in determining—in light of her remarkably dangerous and unlawful conduct—a just and adequate punishment.

Indeed, despite recognizing Ceasar's violations of the conditions of her presentence release to some extent, the district court's sentencing of Ceasar for these additional offenses was remarkably low. Of the total 48-month sentence imposed, the court sentenced Ceasar to 46 months for the Material Support Offense, one month for the Obstruction Offense, and only one month for committing an offense while on bail, pursuant to 18 U.S.C. § 3147. Gov't App'x at 467-68; *Ceasar*, 388 F. Supp. 3d at 223. We conclude that the district court abused its discretion as a matter of law by failing to give adequate weight to the gravity of Ceasar's reoffending conduct while on presentence release, her conduct taken

to obstruct justice, and the demonstrated threat she posed to the public when at liberty.

Finally, it does not appear that the district court considered whether Ceasar's sentence would be "shockingly low" compared with the sentences imposed on other defendants with similar records who committed similar terrorism crimes. *Mumuni*, 946 F.3d at 107 (internal quotation marks omitted); see 18 U.S.C. § 3553(a)(6). To be sure, "[u]ltimately, what shocks the conscience depends on the informed intuition of the appellate panel. It is a highly contextual standard that involves some degree of subjectivity in its application . . . ." *Mumuni*, 946 F.3d at 107 (internal quotation marks and footnotes omitted). But the sentences imposed in a handful of recent material support cases illustrate the unwarranted disparity reflected by the 48-month sentence imposed here.<sup>3</sup>

In *United States v. Naji*, No. 16-cr-653 (FB) (E.D.N.Y. June 11, 2019), for example, defendant Mohamed Naji pleaded guilty to one count of attempting to

<sup>3</sup> We do not require district courts to "discuss every § 3553(a) factor individually," nor do we "require robotic incantations by district judges." *United States v. Villafruerte*, 502 F.3d 204, 210 (2d Cir. 2007) (internal quotation marks omitted). Indeed, "this Court presumes that the sentencing judge has considered all relevant § 3553(a) factors and arguments unless the record suggests otherwise." *United States v. Rosa*, 957 F.3d 113, 118 (2d Cir. 2020). In this case, though, the record suggests that the district court failed to consider some relevant sentencing factors, including the need to avoid unwarranted sentence disparities.

provide material support to ISIS, in violation of 18 U.S.C. § 2339B. Gov't Sentencing Mem. at 9, *Naji*, No. 16-cr-653 (FB) (E.D.N.Y. June 11, 2019), ECF No. 21. Naji, like Ceasar, posted violent, pro-ISIS content on social media, but went a step further: He in fact traveled to Yemen to join ISIS, whereas Ceasar was intercepted at JFK on her way to ISIS-controlled territory. *Id.* at 1-9. Naji, like Ceasar, attempted to conceal his activities and obstruct justice by instructing those with whom he was communicating to delete their messages, but Naji's plea agreement protected him from an obstruction charge. *Id.* at 9 n.2. The district court sentenced Naji to the statutory-maximum 240 months' imprisonment. Judgment at 2, *Naji*, 16-cr-653 (FB) (E.D.N.Y. June 27, 2019), ECF No. 25.

In *United States v. Saidakhmetov*, No. 15-cr-95 (WFK), 2018 WL 461516 (E.D.N.Y. Jan. 18, 2018), the district court sentenced the defendant to the statutory maximum of 15 years where the defendant pleaded guilty to one count of conspiring to provide material support to a terrorist organization, in violation of 18 U.S.C. § 2339B(a)(1). *Id.* at \*1. Like Ceasar, Saidakhmetov was "in contact with ISIL operatives and supporters." *Id.* at \*2. Saidakhmetov and his co-conspirator took steps to join ISIL, including planning travel to ISIL-controlled territory. *Id.* Also like Ceasar, he was arrested at JFK when attempting to travel



to Turkey. *Id.* Saidakhmetov faced a Guidelines range of 360 months' to life imprisonment; the statutory maximum was 180 months (15 years), which the district court imposed. *Id.* at \*3-4. Saidakhmetov's co-conspirator, Juraboev, also received a sentence of 180 months' imprisonment. *United States v. Juraboev*, No. 15-cr-95 (WFK), 2017 WL 5125523, at \*1, 2017 U.S. Dist. LEXIS 181402, at \*2 (E.D.N.Y. Nov. 1, 2017). Juraboev, like Saidakhmetov, pleaded guilty to one count of conspiracy to provide material support to a terrorist organization. Juraboev had, *inter alia*, expressed support for ISIL online, and, like Saidakhmetov, purchased a plane ticket to travel to Turkey and planned to continue on to Syria. He was arrested at his apartment in Brooklyn. *Id.*, 2017 WL 5125523, at \*2, 2017 U.S. Dist. LEXIS 181402, at \*7-8.

Perhaps the most obvious difference between these cases and Ceasar's is that Ceasar was not going to take up arms to fight on behalf of ISIS. Ceasar was an intermediary who connected U.S.-based individuals to others overseas who could assist them in traveling to ISIS-controlled areas. Ceasar did, however, plan to travel to ISIS-controlled territory and marry another ISIS supporter on the way. Like Saidakhmetov, she was arrested while attempting to leave the United States to travel to ISIS territory. While Ceasar's conduct may not have risen to

the level of criminality engaged in by some of these other defendants, the difference in the length of the sentences seems significantly out of proportion to the difference in the seriousness of their not-so-dissimilar crimes.<sup>4</sup>

Cesar argues that the cases to which the government cites are inapposite because the mitigating circumstances present here render the instant case distinguishable. For the reasons discussed above, however, we conclude that the mitigating factors—the abuse Cesar has suffered and her ensuing needs for mental healthcare and rehabilitation—may merit significant consideration but cannot bear the apparently decisive weight assigned to them by the district court. That such mitigating circumstances were not present in these other cases,

<sup>4</sup> An opinion from the Fourth Circuit, albeit a "summary opinion" and therefore deemed by that court to be non-precedential, is similarly instructive. In *United States v. Young*, 818 F. App'x 185 (4th Cir. 2020), the Fourth Circuit affirmed a 15-year sentence imposed on Young, who was charged with attempting to provide material support to ISIL and attempting to obstruct justice. *Id.* at 188-89. Unbeknownst to Young, he was in communication with an FBI informant, he "advised [the informant] on how to travel abroad without being flagged by authorities," and, as prompted by the informant, transmitted Google gift cards to be used to buy encrypted messaging accounts, ostensibly in order to recruit more ISIL fighters. *Id.* at 189. Like Cesar, Young does not himself seem to have planned to become an ISIL fighter. The court focused instead on Young's recruiting others, examined comparable material support sentences in the Fourth Circuit, and emphasized the district court's conclusion that it was "important for people to understand that if they intend to provide material support for a terrorist organization . . . there's a very harsh penalty to be paid." *Id.* at 194 & n.10 (internal quotation marks omitted).

therefore, does not so drastically distinguish them in Ceasar's favor as to warrant a 48-month sentence.

Ceasar invokes this Court's decision in *Thavaraja*—in which we upheld a below-Guidelines sentence of 108 months—as a relevant comparator. *See Thavaraja*, 740 F.3d at 260. While the defendant's conduct in that case was undoubtedly serious, we noted the district court's finding that his procuring of weapons for a foreign terrorist organization "was motivated solely to assist the Tamil minority in Sri Lanka who were engaged in an ongoing civil war." *Id.* at 262 (internal quotation marks omitted). By contrast, Ceasar did not assist "people who certainly pose no direct threat to the United States," *id.* at 261 (internal quotation marks omitted). She aided an organization that intentionally targets the United States and its citizens. Moreover, the defendant in *Thavaraja* was described as "a very model, positive inmate," *id.* at 257 (internal quotation marks omitted), who "had accepted full responsibility for his crimes," *id.* at 260. By contrast, Ceasar, as she explained, acted out of anxiety "to find a way out of [her] situation," such that she failed to "realize the severity of what people could convince [her] into believing." Gov't App'x at 447. She also did not consistently accept responsibility for her criminal conduct. Her offense conduct while out on

presentence release reflected an extraordinary breach of trust and evidenced her likelihood of reoffending. When the FBI interviewed her about this conduct, she lied. She also had attempted to conceal her offending conduct while on presentence release by intentionally deleting incriminating communications and by instructing others with whom she had been in contact to do the same. These facts alone render *Thavaraja* distinguishable from the instant case.

Although every case is unique and no two defendants are ever exactly alike, the significant differences between the sentences imposed on Naji, Saidakhmetov, Juraboev, and Young, on the one hand, and Ceasar on the other, reflect a troubling and unwarranted disparity "among defendants with similar records who have been found guilty of similar conduct." 18 U.S.C. § 3553(a)(6). That disparity, coupled with the seriousness of Ceasar's Material Support and Obstruction Offenses, her demonstrated recidivist tendencies while on presentence release, and her attempts to cover up her conduct by deleting incriminating material and lying to law enforcement authorities, lead us to conclude that the 48-month sentence imposed on Ceasar "shocks the conscience." *Mumuni*, 946 F.3d at 107 (internal quotation marks omitted).

## CONCLUSION

Our jurisprudence in this area is built on the understanding that district courts are generally better positioned than appellate courts to make sentencing determinations. *See United States v. Broxmeyer*, 699 F.3d 265, 289 (2d Cir. 2012). It is the role of this Court, however, "to patrol the boundaries of reasonableness" of those decisions. *Stewart I*, 590 F.3d at 135 (internal quotation marks omitted). For the reasons stated at some length above, we conclude that Ceasar's far-below-Guidelines sentence was outside the bounds of what was reasonable in light of the facts and circumstances of this case. While Ceasar's need for rehabilitation from years of trauma and abuse was one factor that the district court could have properly taken into consideration at sentencing—perhaps it may indeed merit, in the court's discretion, a below-Guidelines sentence—the district court's assigning it overwhelming weight while failing to give adequate consideration to the competing goals of sentencing—including the need for the sentence to protect the public, deter criminal conduct of the defendant specifically and others generally, promote respect for the law, and reflect the seriousness of the offense committed—was an abuse of discretion. For the

foregoing reasons, we VACATE the judgment of the district court and REMAND for resentencing consistent with 18 U.S.C. § 3553(a) and this opinion.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

– against –

SINMYAH AMERA CEASAR,

Defendant.

**Statement of Reasons Pursuant to  
18 U.S.C. § 3553(c)(2)**

17-CR-48  
19-CR-117

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For Defendant

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**JACK B. WEINSTEIN, Senior United States District Judge:**

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## **I. Introduction**

Sinmyah Amera Ceasar (“Ceasar” or “Defendant”) pled guilty to (1) conspiring to provide material support and resources to the Islamic State of Iraq and the Levant (“ISIL” or “ISIS”), designated by our government as a foreign terrorist organization, and (2) obstruction of an official proceeding.

Extensive sentencing hearings were conducted. The parties filed briefs and provided the court with more than 1,000 pages of exhibits. Over the course of three days, the court heard testimony from five experts. Defendant’s half-brother submitted a letter in support of his sibling. She spoke at length on her own behalf.

Defendant had a traumatic life: Now 24 years old, she is a survivor of serious sexual, physical, and emotional trauma. Her father abused her sexually. Her mother’s limiting physical conditions prevented her care of Ceasar, so Defendant was repeatedly shifted from foster care placement to foster care placement, and abused continuously along the way. Her three husbands were each physically and emotionally abusive.

Identifying as Muslim, as a young adult, Ceasar sought acceptance with an organization advocating violence and destruction in the United States and other parts of the world: ISIL. She connected individuals in the United States with individuals affiliated with ISIL and posted propaganda for ISIL online. She planned to travel to ISIL territory and to join the organization there. Subsequent to her guilty plea for conspiracy to provide material support, when on presentence release because of health problems, Ceasar engaged in similar conduct, lied to the government about it, and deleted records of her communications favoring ISIL.

Against this backdrop of aiding ISIL, under federal penal jurisprudence, the court considers general and specific deterrence, incapacitation, rehabilitation, and punishment. She is sentenced to a total of 48 months of incarceration—about 28 months already served while she

awaited sentencing in jail. Incarceration is to be followed by eight years of supervised release. The sentence is designed to ensure that (1) the public is adequately protected from ISIL and organizations like it, (2) Ceasar is punished for her dangerous criminal conduct, and (3) her rehabilitation to a productive, lawful citizen of the United States is encouraged.

It is apparent that this young woman is in need of long-term intensive educational, emotional, and economic support to address her traumas, which have, in part, motivated her actions to join a dangerous organization as a substitute for normal family life.

In Europe, countries such as Denmark and the Netherlands have designed and used intensive disengagement and deradicalization programs to assist prisoners charged and convicted of terrorism-related offenses. The United States has no such program. The Bureau of Prisons should seriously consider designing an appropriate program to deal with American terrorists like this one. Without access to treatment while incarcerated or on supervised release, Defendant will likely remain an unrehabilitated supporter of ISIL and a continuing danger to the United States. Ceasar's counsel and the Probation Department are developing a program of intensive treatment and support for the term of her supervision after her incarceration; the treatment should begin in prison and connect seamlessly with control and assistance by Probation.

The sentence is sufficient, but not greater than necessary. The Bureau of Prisons and other relevant federal agencies should design and use disengagement and deradicalization programs to help ensure that people in similar circumstances have a reasonable chance at rehabilitation. *See United States v. Doe*, 323 F. Supp. 3d 368 (E.D.N.Y. 2018) (explaining the non-incarceration sentence of a young person who had broken from ISIL and was on the path to reintegration into lawful society).

## II. Facts

### A. Defendant's Background

Cesar had a difficult childhood: She was born in New Jersey in 1994. Revised Presentence Investigation Report (“PSR”) ¶ 81. She is the only child born to her parents, who divorced when she was three years old following her father’s physical abuse of her mother. *Id.* Cesar’s mother had custody of her during the week, and her father had custody on weekends. Def.’s Sent. Mem. 3, No. 17-cr-48, ECF No. 102. Defendant has four paternal half-siblings, but has a passing relationship with only her oldest half-brother. PSR ¶ 82. He is now supportive, intending to help her live a lawful way of life. *Id.*; Def. Ex. XX (letter of Defendant’s half-brother in support of Defendant).

Cesar’s father sexually abused her from the age of four to 11. PSR ¶ 81. Defendant’s mother reported the abuse. *Id.* A restraining order was issued against him. *Id.* Though out of contact with him for many years, she saw him mostly recently in 2017, when he criticized her for her involvement in the instant offenses and for bringing dishonor on her family. Def.’s Sent. Mem. 6. She has been ostracized by all in the family but the half-brother.

Cesar’s mother was gravely ill for most of Defendant’s life, suffering from diabetes and kidney failure. PSR ¶¶ 81, 83. Her mother was unable to work as a result of her physical maladies; the two suffered financially. PSR ¶ 83. When Cesar was seven, her mother became blind because of diabetes-related complications. PSR ¶ 81; Def.’s Sent. Mem. 3. By the time Cesar was ten, she was her mother’s primary caregiver. Def.’s Sent. Mem. 3–4. Defendant was responsible for grocery shopping, cooking meals, cleaning their apartment, and monitoring her mother’s medication and medical appointments. *Id.* The mother’s medical complications became so serious that when Cesar was 13, her mother was admitted to a nursing home, where she remained until her death from a heart attack in 2017 at the age of 49. PSR ¶¶ 81, 83.

Defendant was placed in foster care and lived with three families in four years. PSR ¶ 83. Her first foster parent locked her in a room for one month and fed her only peanut butter. *Id.* This foster parent would not allow Ceasar to speak to her mother. Def.'s Sent. Mem. 4. Ceasar told her teachers about this and she was removed from this foster placement. *Id.* Defendant's next foster placement was with a paternal aunt and her paternal grandparents, who pressured Ceasar to forgive her father for abusing her. PSR ¶ 83; Def.'s Sent. Mem. 4–5. She was hurt that they supported him over herself and requested a transfer to a new home. *Id.* The final foster placement was with a family that had previously served as a foster placement for Ceasar's mother. Def.'s Sent. Mem. 5. It lasted two years, but Ceasar reports that the family refused to spend the foster care maintenance payments it received from the state on her care. *Id.*; PSR ¶ 83. She signed herself out of foster care when she was 17. PSR ¶ 83.

Ceasar's living and family situations became increasingly unstable. From 2011 until her arrest in 2017, she lived with friends, romantic partners, and in homeless shelters. PSR ¶¶ 83–85.

Seeking a stable family, between 2011 and 2013, she entered into successive religious marriages with three older men. PSR ¶ 84; Def.'s Sent. Mem. 5. Each of the relationships ended quickly. PSR ¶ 84. Defendant's first marriage in 2011 to a 25-year-old man ended because he physically abused her; he was using drugs. Def.'s Sent. Mem. 2, 5. Her next marriage in 2012 was to a 39-year-old man who frequently punched and choked her. PSR ¶ 84; Def.'s Sent. Mem. 2, 5. Ceasar's final marriage, in 2013, was to a 42-year-old man who was possessive and controlling. *Id.* Their relationship ended shortly after Defendant had a miscarriage. PSR ¶ 84.

At the time of her arrest, Ceasar contends that she was en route to Sweden to marry a fourth man, whom she met online. Def.'s Sent. Mem. 6, 18. The government suspected her real reason for wanting to go abroad was to join ISIL. *See* Sent. Hr'g Tr. 149:22–150:12.

Throughout her life, Defendant struggled in school and shifted from one educational institution to another. PSR ¶ 91; Def.'s Sent. Mem. 4–5. When she was in the fourth grade, she was placed in special education classes under the classification “communication impaired.” Def.'s Sent. Mem. 4. She attended five high schools before dropping out during her senior year. PSR ¶ 91. Ceasar went on to hold different temporary jobs—as a childcare provider, grocery store clerk, and line cook. PSR ¶¶ 93–99. In 2016, she completed a health aide course and registered as a home health aide. PSR ¶ 92. She worked as a health aide for less than one year. PSR ¶¶ 94–95.

#### **B. Defendant's Health**

Ceasar has struggled with chronic physical health problems for years. Def.'s Sent. Mem. 8–10. Her physical medical diagnoses have required frequent specialist attention during her incarceration. *Id.* She has experienced suicidal ideation since age 11. *Id.* at 12; PSR ¶ 89. She suffers from complex post-traumatic stress disorder (“PTSD”) as a result of abuse.

Expert Dr. Katherine Porterfield was called by the defense. She explained Defendant's serious PTSD at length during the sentencing hearing. *See also* Section III.A.5. Dr. Porterfield is a clinical instructor at New York University School of Medicine and a senior psychologist at Bellevue New York University Program for Survivors of Torture. Sent. Hr'g Tr. 233:16–19. For 20 years, she has worked with children, teenagers, families, and adults who have suffered severe violence as a result of war, prison, or torture. *Id.* 234:12–20. Individuals held in Guantánamo Bay Naval Station and young people involved with various forms of extremism in the United States and elsewhere, including ISIL, paramilitary organizations, and white

supremacist groups have been treated and studied by her. *Id.* 235:19–236:9. Dr. Porterfield has also conducted research on issues relating to torture and other physical and psychological abuse, as well as their effects. *Id.* 234:20–21. She met with Ceasar for about 130 hours over the last two years and reviewed medical records and other materials relevant to Ceasar’s offenses. *Id.* 238:13–21.

Dr. Porterfield testified that Ceasar “has a childhood history of such severe and chronic and pervasive trauma as to really be quite astonishing.” *Id.* 239:17–19. Her childhood presents nine of ten Adverse Childhood Experience factors (“ACE factors”) that are indicative of great adversity and bad outcomes: (1) physical abuse in childhood that was chronic and ongoing; (2) sexual abuse in childhood that was chronic and ongoing; (3) emotional abuse in childhood that was chronic and ongoing; (4) physical neglect; (5) emotional neglect; (6) parental separation and abandonment; (7) mother treated violently; (8) an incarcerated family member; and (9) mental illness and/or substance abuse in a family member. *Id.* 239:20–241:1. “[Nine] out of 10, it means that person is going to be suffering with severe impairments . . . .” *Id.* 241:5–6. Dr. Porterfield explained:

When you have childhood trauma over and over and over again, what we now understand is that children make their bodies and their brain functioning, their neurophysiological response to that, is that those functions change and the child develops patterns of what we call emotional regulation, handling emotions, that are very impaired. They develop a sense of self that’s very impaired and they develop relationships to other people that are very impaired. Those are sort of the hallmark of complex post-trauma[ti]c stress disorder. And then what’s also with that is the other parts . . . of the original Post-Traumatic Stress Disorder, which are hyperarousal, problems with feeling frightened, startle difficulties, et cetera. If I could just wrap that up . . . [:] Ms. [Ceasar’s] diagnosis of Complex Post-Traumatic Stress is severe and she has . . . [what] I called emotional dysregulation, that means inability to recognize emotions and deal with them. And she has a very severe condition of dissociation and dissociation is a really problematic symptom that happens . . . when

children get overwhelmed, scared and hurt and left over and over again, because the child's brain and body reaction to that is to begin to shut it off, make it stop, make it go away. And that dissociation then leads to real trouble in adulthood if it doesn't get treated.

*Id.* 242:3–243:2. Defendant's offenses, Dr. Porterfield opined, are directly related to her clinical problems. The expert testimony is discussed in more detail *infra*, in Section III.A.5.

### **C. Defendant's Involvement with ISIL**

#### **1. Brief Background of ISIL**

ISIL is an organization with roots in a Sunni Islamist group founded in 1999. Gov't Ex. 1 ("Vidino Rep."), at 2. It was designated by the United States as a foreign terrorist organization in 2004, when it was known by its former name, al-Qa'ida in Iraq. U.S. Department of State, *Foreign Terrorist Organizations*, <https://www.state.gov/foreign-terrorist-organizations/> (last visited July 25, 2019). Around 2012, the organization began operations in Syria, and in 2013, it became known by its current name. Vidino Rep. at 2.

Though reportedly it no longer controls any territory, at the height of its power in approximately 2015, ISIL ruled territory the size of France across Iraq and Syria. *Id.* Its power stretched further abroad. *Id.* at 3–4. Abu Bakr al-Baghdadi, ISIL's leader, urged Muslims to migrate to ISIL territory and take up arms on behalf of the organization. In 2014, he said, "O Muslims everywhere, whoever is capable of performing hijrah to the Islamic State, then let him do so, because hijrah to the land of Islam is obligatory." *See Isis leader calls on Muslims to 'build Islamic state'*, BBC (July 1, 2014), <https://www.bbc.com/news/world-middle-east-28116846>.

Dr. Lorenzo Vidino, Director of the Program on Extremism at George Washington University, and the government's expert on radicalization, mobilization, disengagement, and deradicalization from jihadist groups, explained the meaning of the term 'hijrah':

*Hijrah* in the Qur'an refers to the prophet Muhammad's (and his followers') migration from Mecca—his place of birth and upbringing—to Medina in 622 CE to flee persecution. Those who followed Muhammad were the first converts and followers of Islam and demonstrated their faith by fleeing with Muhammad before fighting alongside him and helping establish the first Islamic society.

For jihadists, *hijrah* is a term used predominantly for supporters/followers in countries outside the operational zones of the jihadist group to travel to those zones and join the group. To make *hijrah* is to travel from a "land of disbelief" . . . to a territory where a jihadist group has created or seeks to create what it deems a perfect Islamic society.

Vidino Rep. at 23 (italics in original). It is believed that about 5,000 European citizens migrated to ISIL territory and became ISIL fighters. *Id.* at 4. About 250 individuals from the United States are said to have traveled or attempted to travel there to participate in the conflict. *Id.*

ISIL has claimed responsibility for numerous terrorist attacks. On March 18, 2015, gunmen at the Bardo Museum in Tunis, Tunisia killed 23 people; ISIL claimed responsibility. Tim Lister et al., *ISIS goes global: 143 attacks in 29 countries have killed 2,043*, CNN, <https://www.cnn.com/2015/12/17/world/mapping-isis-attacks-around-the-world/index.html> (last updated Feb. 12, 2018). A series of attacks in Paris, France on November 13, 2015, committed with assault rifles and explosives, killed at least 130 people and wounded more than 350 others; ISIL claimed responsibility for these attacks. *Id.* Other attacks have been inspired by ISIL. Here in the United States, on June 12, 2016, a gunman killed 49 people at Pulse, a gay nightclub in Orlando, Florida; the gunman is believed to have been inspired by ISIL. *Id.*



ISIL also engaged in serial human rights violations in the territory it controlled. Yazidis, a religious minority, were targeted by ISIL and “subjected to almost unimaginable horrors,” including killings, sexual slavery, enslavement, torture, forced religious conversion, and the transfer of Yazidi children from their families to ISIL fighters. See United Nations Human Rights Council, Independent International Commission of Inquiry on the Syrian Arab Republic, *“They came to destroy”: ISIS Crimes Against the Yazidis* (2016), [https://www.ohchr.org/Documents/HRBodies/HRCouncil/CoISyria/A\\_HRC\\_32\\_CRP.2\\_en.pdf](https://www.ohchr.org/Documents/HRBodies/HRCouncil/CoISyria/A_HRC_32_CRP.2_en.pdf). ISIL imposed severe restrictions on those people living in the territory it captured. See Human Rights Watch, *“We Feel We Are Cursed”: Life under ISIS in Sirte, Libya* (2016), <https://www.hrw.org/report/2016/05/18/we-feel-we-are-cursed/life-under-isis-sirte-libya> (describing restrictions on resident right to privacy, freedom of religion, freedom of movement, and freedom of expression, and failure to comply with notions of due process, fair trial rights, and the prohibition on cruel, inhuman, and degrading punishments).

## **2. Defendant’s Conduct in Material Support of ISIL**

For at least 11 months until her arrest in November 2016, Ceasar actively sought to support and assist ISIL and conspired with others to do so. At the hearing during which she pled guilty before the court, she described her conduct:

From January 2016 to November . . . 2016, I knowingly and intentionally agreed with others to provide material support to foreign terrorist organization, that I know . . . is run by Dawla or Islamic State.

This is the same organization that the U.S. Government calls “ISIS” or “ISIL.” At the time, I agreed with others to provide material support to Dawla. I was aware that they’re engaged in terrorist activity and that the U.S. government had this (inaudible) as a terrorist organization.

Specifically, I was aware that ISIL had claimed responsibility for the attacks in Paris and in Brussels that happened in 2015 of

November and March 2016. I am aware that these attacks involved the use of firearms and explosives, and that they were intending, and, did endanger the safety of one or more individuals. I worked as an assistant to the other members more than once. I put U.S. based individuals who wanted to make [hijrah] or migration to the Dawla in touch with the other members who were based overseas. I did this by passing the [T]elegram contact information of the other members to these U.S. based individuals, [T]elegram is [an] encrypted messaging application. I put these U.S. based individuals in touch with all the members on [T]elegram[]so they would have contacts in Dawla, who could help them travel overseas to the territory controlled by Dawla.

I believed that if these individuals made it to Dawla, they would join the group and work under its directions and control. I personally spoke on . . . [T]elegram and other social network applications to Dawla members whose contact information I passed to these individuals. When I passed the information on [T]elegram to contact the Dawla members, I was in the United States, Brooklyn, at the time. I also intended to make [hijrah] to Dawla to join the group. First, I was going . . . to move to Sweden to get married to a Dawla supporter, and after that we agreed . . . to go to make [hijrah] to Dawla to control the territory.

Plea Hr'g Tr. 25:19–27:7, No. 17-cr-48, ECF No. 18 (filed under seal).

The record shows that Ceasar used multiple social media accounts to upload images and videos showing support for ISIL and encouraging people to migrate to ISIL-controlled territory, to post quotes and audio recordings of ISIL leaders, and to express her support for acts of violence by ISIL or inspired by ISIL. *See* PSR ¶¶ 7–17. Through her social media presence, she connected with individuals who supported ISIL and were interested in traveling to ISIL-controlled territory. Ceasar attempted to assist at least four people join ISIL abroad by connecting individuals in the United States to ISIL operatives who might facilitate their travel.

**i. Individual 1**

In February 2016, Defendant posted on Facebook the following quotation attributed to now-deceased al-Qaeda in the Arabian Peninsula leader Anwar al-Awlaki: “Running away from Jihad will not save you from death, You can die as a coward or you can die as a Martyr!”

PSR ¶ 13. In response, another Facebook user (“Individual 1”) commented: “True I would love to die as a shaheed it a big honor.” *Id.* A “shaheed” is a person who has achieved martyrdom; among extremists, it is specifically someone who engages in a suicide operation or a violent operation in which the outcome is very likely to be death. Vidino Rep. at 23. Ceasar responded to Individual 1, “Then do hijrah,” and provided a screenshot of the user profile of an ISIL operative. PSR ¶ 13. She instructed Individual 1 to “Add him he will guide you.” *Id.* Ceasar believed this ISIL operative was an individual in Libya who wanted to help people travel to join ISIL. Gov’t Sent. Mem. 9, No. 17-cr-48, ECF No. 101. When he changed his user profile to a new name, Ceasar provided the new name to Individual 1. *Id.* Post-arrest, Defendant admitted that she was attempting to connect Individual 1 to this ISIL operative so that Individual 1 could join ISIL. *Id.* at 8.

## **ii. Confidential Source 1**

In April 2016, a confidential source working at the direction and under the supervision of the Federal Bureau of Investigation (the “FBI”) (“Confidential Source 1”) contacted Ceasar posing as a United States-based individual seeking to travel overseas to join ISIL. PSR ¶ 18. She and Confidential Source 1 exchanged text messages discussing the best routes for making hijrah to ISIL-controlled territory. PSR ¶ 19. Defendant then provided Confidential Source 1 with the contact information for Abu Sa’ad al-Sudani, also known as Abu Isa Al Amriki, (“al-Sudani”). *Id.*; Gov’t Sent. Mem. 9. Al-Sudani was involved in planning attacks against the United States, Canada, and the United Kingdom; he and his wife were active recruiters of foreign fighters to induce “attacks against Western interests.” Department of Defense Press Briefing by Pentagon Press Secretary Peter Cook in the Pentagon Briefing Room (May 5, 2016), <https://dod.defense.gov/News/Transcripts/Transcript-View/Article/752789/departments-of-defense-press-briefing-by-pentagon-press-secretary-peter-cook-in/>.

Cesar continued to communicate with Confidential Source 1 about how to connect with ISIL operatives after she put him in touch with al-Sudani. She advised Confidential Source 1 about how to respond to operatives' questions and warned him to encrypt his phone. PSR ¶ 20. Several months later, Defendant contacted the username of Confidential Source 1—now operated by an undercover FBI agent—and offered to help him get a visa to migrate to ISIL territory. PSR ¶¶ 25–26. She put him in contact with an ISIL operative who had, with another individual, taken over the recruitment role of al-Sudani and his wife. PSR ¶ 27. Referring to her own role with new ISIL recruiters, Defendant said “they put me as assistant to help them out because all gates are closed except for Afghanistan so we need[] [Muslims].” PSR ¶ 26; Gov’t Ex. 7.

### **iii. Confidential Source 2**

In early 2016, a second confidential source working under the supervision of the FBI (“Confidential Source 2”) initiated contact with Cesar via Facebook. Gov’t Sent. Mem. 12. After Confidential Source 2 disclosed that she wanted to travel to ISIL-controlled territory, Defendant provided her with the contact information of al-Sudani’s wife and instructed “if u serious about making hijrah then download [the Internet messaging application] and add the head sister committee leader.” *Id.* Cesar later followed up with Confidential Source 2 and informed her that one of the recruiters who had replaced al-Sudani was looking for her, suggesting that Confidential Source 2 reply to him. *Id.* at 13.

### **iv. Individual 2**

At the end of June 2016, Defendant began communicating via Facebook with a United States-based individual who had been previously convicted in Florida state court of armed robbery and assault on police officers (“Individual 2”). PSR ¶ 28. Defendant and Individual 2 discussed his desire to migrate to ISIL-controlled territory and join ISIL, and she provided him

with the contact information for several ISIL facilitators. *See* PSR ¶¶ 29–30. Individual 2 engaged in a series of exchanges with the facilitators about joining ISIL. PSR ¶¶ 30–31. On July 7, 2016, he sent to Ceasar a screenshot of his conversation with the facilitator, in which the facilitator encouraged him to engage in violence in the United States because travel to ISIL-controlled territory would take too long: “Because of ur visa . . . It takes one year . . . That is long . . . So it would be better for u to do work there. Till Then. And scare them.” Gov’t Ex. 9A; *see* PSR ¶ 31. Two days later, Individual 2 was arrested for violating the terms of his probation by traveling from Florida to New York City, where he met with Ceasar. PSR ¶ 28; Gov’t Sent. Mem. 14.

In August 2016, Defendant received \$273 from an ISIL facilitator who had been corresponding with Individual 2. *See* PSR ¶¶ 32–33. When she asked “what is this,” an ISIL facilitator told her “u did big work.” Gov’t Ex. 10; *see* PSR ¶ 33.

### **3. Defendant’s Plans To Travel to ISIL-Controlled Territory**

While Defendant was facilitating individuals’ recruitment and travel, she was formulating a plan to migrate to ISIL territory herself. In June 2016, she obtained a 30-day tourist visa for Afghanistan. PSR ¶ 28. In July, Ceasar told the ISIL facilitator who had been corresponding with Individual 2 that she would travel to Afghanistan as soon as she had sufficient money. PSR ¶ 32. She later informed him that she was renewing her visa for Afghanistan (it was set to expire shortly) so that she could travel at a time when flights were less expensive. PSR ¶ 34. In September 2016, a different ISIL contact promised to purchase for Defendant a plane ticket to Turkey where she could secure a visa at the airport. PSR ¶ 36. This contact instructed her to live a normal life and wait to do anything until her email address was requested so a plane ticket

could be sent. PSR ¶ 37. Defendant alerted the contact that she would be putting aside \$100 per week to pay for a plane ticket to Turkey. PSR ¶ 38.

#### **D. Defendant's Arrest and Material Support Guilty Plea**

Cesar never made it to Turkey, or anywhere else outside the United States. In October 2016, she reported to a New York City transit police officer that she had lost her purse, which contained two cell phones. PSR ¶ 40. The purse was turned into the New York City Police Department, after which a magistrate judge issued a warrant allowing the FBI to search both cell phones. *Id.* The search revealed that Defendant had corresponded with several individuals regarding her plans to travel to ISIL territory and to provide ISIL with potential new members. *Id.* She was arrested on November 15, 2016 when she checked into a flight from New York to Sweden, via Turkey, at John F. Kennedy International Airport in Queens, New York. PSR ¶ 40. She claimed she was on her way to Sweden to marry a man she met online. Def.'s Sent. Mem. 6, 18.

Three months later, Defendant pled guilty to conspiring to provide material support and resources, as defined in 18 U.S.C. § 2339A(b), including personnel, including herself, to a foreign terrorist organization, specifically, ISIL. PSR ¶ 1. This organization, during relevant times, has been designated by the Secretary of State as a foreign terrorist organization. *Id.*

#### **E. Defendant's Obstruction of Official Proceeding**

Defendant had been incarcerated for more than a year and was awaiting sentencing when she was released on bond pending sentencing because her health was deteriorating. PSR ¶ 2; Def.'s Sent. Mem. 6. While on presentence release, Cesar was subject to strict conditions, including that she was barred from using any computer or mobile communication device without prior notification to and consent of Pretrial Services and/or the FBI. Order Setting Conditions of Release and Bond Attachment A ¶ 4, No. 17-cr-48, ECF No. 38-2 (filed under seal). Her

computer usage was limited to educational and vocational research. *Id.* She was also prohibited from knowingly contacting individuals or organizations affiliated with foreign terrorist organizations, or individuals or groups that promote violence for the purpose of effecting political change. *Id.* ¶ 6. Her telephone use was limited to contacting her counsel, treatment providers, sureties, the residential staff of the location where she would be residing, the United States Attorney's Office or the FBI, or to call for assistance in the event of a medical or other grave emergency. *Id.* ¶ 5. To facilitate the monitoring of her communications, Defendant's presentence release terms required that all of her written online communications be in English. *Id.* ¶ 4.

Shortly after her release, Ceasar violated her bond conditions by, among other things, obtaining and using a laptop without the knowledge or consent of Pretrial Services, downloading and using multiple cell phone applications without the knowledge or consent of Pretrial Services, and creating and using multiple Facebook accounts under various pseudonyms to contact and attempt to contact numerous people, including individuals she had previously identified to the FBI as supporters of ISIL or other extremist groups. PSR ¶ 48. Pretrial Services became aware of the unlawful computer usage when Defendant submitted a laptop computer to Pretrial Services to have computer-monitoring software installed. PSR ¶ 43. Following a hearing on the violations, Defendant's bond was revoked and she was remanded to federal custody. PSR ¶ 48.

An investigation into the scope and content of Ceasar's communications and activities while on presentence release turned up widespread violations of her release conditions. In addition to performing online searches for known ISIL affiliates and news of the organization's activities, PSR ¶ 43, Defendant created at least three pseudonymous social media accounts and used them to contact or attempt to contact at least seven people she had previously identified to

the FBI as supporting ISIL or other extremist groups, Gov't Sent. Mem. 17. She also contacted or attempted to contact other individuals about whom she had not previously provided information to the government, but who had expressed support for ISIL or were associated with ISIL supporters. *Id.*

For example, Ceasar searched for and initiated Facebook communications with an individual whom she had previously identified to the FBI as associated with United Kingdom-based ISIL supporters linked to terrorist attacks. *Id.* After this individual posted on Facebook "Be very careful as to who you trust on here especially if they send you any links that maybe incriminating," Defendant responded, "Yea that's true that how I went to prison because some the Muslims were spies." Gov't Ex. 12. Ceasar also engaged in Facebook communications with an individual based in Belgium with whom she had been in contact before her 2016 arrest. Gov't Sent. Mem. 17. On at least one instance, Defendant, this individual, and an ISIL facilitator, to whom Defendant referred people for help in traveling to ISIL-controlled territory, engaged in a multi-user Facebook posting. *Id.* at 18. Following her 2016 arrest, Defendant never disclosed to the government her contact with the individual in Belgium. *Id.* She deleted their messages exchanged while she was out on presentence release, though they were subsequently recovered. *Id.*

Ceasar's messages with ISIL supporters from this time period indicate that she believed that her conduct leading to conviction for conspiring to provide material support to ISIL was not wrong. As noted above, in response to the post "Be very careful as to who you trust on here especially if they send you any links that maybe incriminating," Defendant responded, "Yea that's true that how I went to prison because some the Muslims were spies." Gov't Ex. 12. Two weeks later, she posted on Facebook, "I didn't do anything wrong under Islam but stand up for



my deen and got arrested for what I believe in . . . .” Gov’t Ex. 14. “Deen” is an Arabic term for religion which has been interpreted narrowly by jihadists, “to refer explicitly to their in-group, and [they] often use *deen* to express following and adhering to ‘the right path’ represented by their group’s interpretation of Islam.” Vidino Rep. at 23 (italics in original).

Cesar ultimately deleted at least 1,000 Facebook messages and at least 1,000 text messages, as well as emails, audio files, and images. PSR ¶ 44. On the day before she was to meet with Pretrial Services, she used Facebook to tell at least eight people that she intended to delete her Facebook accounts and provided many of these people alternative means of contacting her. Gov’t Sent. Mem. 18. Defendant also instructed others with whom she was communicating via Facebook to delete their Facebook messages with her. PSR ¶ 44.

During the government’s investigation of Defendant’s conduct while out on presentence release, she provided incomplete, inaccurate, and incorrect answers about her behavior. Cesar lied about reading ISIL-related news sources and propaganda outlets, denying her familiarity with a Facebook account that regularly posted propaganda even though she “friended” the account and “liked” posts by the account. Gov’t Sent. Mem. 21. She denied knowledge of a cell phone application offering “full coverage of ISIS news,” but acknowledged that she might have viewed the app when confronted by records indicating that she searched for it and attempted to download it. *Id.* at 19, 21. Defendant was unable to explain why extremist imagery was found on her phone. *Id.* at 21–22.

The lies expanded. Cesar lied about her creation and use of a pseudonymous Facebook account and her creation and use of an email account. *Id.* at 21. She lied about her use of the name “Umm Nutella,” the *nom de guerre* she used to identify herself among ISIL supporters throughout 2016; records indicate that she at least twice identified herself with this pseudonym in

messages while on presentence release. *Id.* at 20–21; Gov’t Ex. 15; Gov’t Ex. 16. She explained that she had not used that name because it would mean she was “back supporting ISIS.” Gov’t Sent. Mem. 21.

Defendant also lied about her interactions and communications with ISIL supporters. With respect to one Facebook user, Ceasar first denied any knowledge of the account, or the identity of the account’s owner. *Id.* When confronted with records indicating that she searched for the account and engaged in a lengthy exchange with the Facebook user, Defendant stated that she remembered the exchange but denied knowing who the owner of the account was even though she had interacted with the account in 2016 and records show a 40-minute voice call between her account and that user’s account. *Id.* When asked about writing to that Facebook user the phrase “I used to be with the Islamic State,” she admitted to doing so and claimed that she immediately followed up that statement by writing in Arabic that she no longer supported ISIL and was getting her life back together. *Id.* There is no record that Ceasar followed up in the manner that she described. *Id.* When confronted by her statements disavowing responsibility for her crimes, she denied making the statements. *Id.* at 22. When confronted by records showing the comments, Defendant claimed that any denials of accountability she made on Facebook were intended to cover up her cooperation with the government. *Id.*

Ceasar was charged with and pled guilty to “between June 2018 and July 2018 . . . , while released under Title 18, United States Code, Chapter 207, corruptly alter[ing], destroy[ing], mutilat[ing] and conceal[ing] one or more records, documents and other objects, specifically: Facebook messages and text messages, with the intent to impair the objects’ integrity and availability for use in one or more official proceedings, specifically (a) bail proceedings in the Eastern District of New York; and (b) sentencing proceedings in the Eastern District of New

York, in violation of 18 U.S.C. § 1512(c)(1).” PSR ¶ 3; *see* Information, No. 19-cr-117, ECF No. 5.

Defendant remained incarcerated before sentencing, dealing with various health problems and concerns about a prospective sentence.

### **III. Sentencing Hearing**

A sentencing hearing was conducted on June 24, June 25, and June 26, 2019. Guilty pleas in both cases were accepted by the magistrate judge and again by the court.

The proceedings were videotaped to record the atmosphere in the courtroom and Ceasar’s demeanor. *See In re Sentencing*, 219 F.R.D. 262, 264 (E.D.N.Y. 2004) (“The sentencing hearing normally requires that the defendant be observed for credibility, mental astuteness, physical characteristics, ability to withstand the rigors and dangers of incarceration, and . . . myriad other relevant factors. . . . A judge applies mental impressions of many tangible and intangible factors when imposing a sentence.”).

Defendant addressed the court, as did five experts. A letter from her half-brother was accepted in evidence in lieu of his testimony.

#### **A. Expert Testimony**

##### **1. Dr. Lorenzo Vidino**

Dr. Lorenzo Vidino, Director of the Program on Extremism at George Washington University, testified as the government’s expert on radicalization, mobilization, disengagement, and deradicalization of jihadist groups, including ISIL. Sent. Hr’g Tr. 17:19–25. The Program on Extremism at George Washington University researches extremism around the world, but centers its research on jihadist extremism in the United States, including advising policy makers and law enforcement. *Id.* 12:5–11, 13:6–10.

For the last 20 years, Dr. Vidino has been researching, studying, and writing about terrorism. *Id.* 12:21–25. He has published several books and articles on the subject. *Id.* Dr. Vidino submitted an expert report and opinion about ISIL’s history, radicalization by ISIL, deradicalization, and disengagement, with a focus on Defendant’s past and current relationship with ISIL.

Dr. Vidino first placed Ceasar’s criminal conduct in the broader context of ISIL recruitment. Online recruitment plays an important role in radicalizing Americans for ISIL, he testified, “from how the individual first encounters ISIS ideology to how he or she embraces that and starts interacting with like-minded individuals online.” *Id.* 18:14–20. Online recruitment is a key activity of ISIL in the United States

because of the lack or almost . . . complete lack of physical recruiters on U.S. ground, meaning that people who are ISIS sympathizers in the Middle East or in Europe will find it fairly easy to make a connection with somebody in a physical space who is an ISIS sympathizer or ISIS recruiter, somebody who can connect them to the organization.

Those individuals in the United States are fairly rare, so the internet is the only safe space -- with a handful of exceptions, where that kind of connection with ISIS can be made.

*Id.* 19:9–21.

Ceasar played two roles in ISIL’s online recruitment strategy, Dr. Vidino concluded:

(1) as a disseminator of propaganda, and (2) as a connector of ISIL-sympathetic individuals with ISIL recruiters. He explained these roles:

The disseminator is a fairly common [role]. I would say the vast majority of people who are in this sort of informal online community are disseminators of propaganda. They repost or retweet ISIS propaganda. That, of course, has value in itself because it makes ISIS propaganda more readily available, more accessible. So, that’s fairly common.

What I think is also important is that in some cases [Defendant] is a connector. She makes the connection between people who are on the lower level, people who have no connections whatsoever with ISIS, who have just started this radicalization trajectory, or for one reason or another . . . do not have connections with ISIS, she connects them with people who are ISIS members or who are part of some kind of inner circle of this informal community. So, that is not as common as the first one.

Disseminator, as I said, vast majority of people are disseminators. Connector is definitely one step up.

*Id.* 22:14–23:5.

Connectors are important because the online space in which ISIL recruiters operate includes law enforcement agencies and other government entities seeking information.

*Id.* 23:13–19. “The value of [a] connector is that th[e] person is trusted by the ISIS recruiter and can point to a lower level person as somebody that should be trusted.” *Id.* 23:20–22. In sum, Dr. Vidino’s testimony explained the value and importance of Ceasar’s conduct to help ISIL.

Dr. Vidino also gave his opinion about extremist individuals’ capacity and ability to leave ISIL-associated networks and reintegrate into mainstream society, as well as Ceasar’s progress toward these goals. He described two concepts—disengagement and deradicalization.

*Id.* 26:14–28:3. Disengagement is a behavioral process and is “marked by a change in role or function that is usually associated with a reduction of violent participation.” Vidino Rep. at 20 (internal quotation marks omitted). Deradicalization, by contrast, is “an attitudinal or cognitive process” that is “complete[d] when the commitment to, and involvement in, violent radicalization is reduced to the extent that . . . [the individual] [is] no longer at risk of involvement and engagement in violent activity.” *Id.* (internal quotation marks and citation omitted).

Programs aimed to facilitate disengagement and deradicalization are multilayered and bring together mentors, security services, social workers, and psychologists to work with the

radicalized individual according to a specific plan. Sent. Hr’g Tr. 38:7–19. These programs exist in various Western European countries, Dr. Vidino stated, but not in the United States. *Id.* 38:20–39:5. Thus, Defendant, under present conditions, would not have the benefit of such a program of disengagement or deradicalization in or out of prison.

In discussing Defendant’s current trajectory toward disengagement and deradicalization, Dr. Vidino relied on several factors identified in academic literature, which are fully explicated in his expert report. *See id.* 28:16–29:23. “[C]ommonly cited signs of disengagement are: [1] Ending personal involvement in terrorism and related activities[;] [2] Distancing oneself from terrorism and extremist activity by acknowledging the shortcomings of their actions[;] [3] Distancing oneself from the group’s ideology[;] [4] Breaking contact with individuals associated with the group or supporting its ideology[; and] [5] Accepting the punishment for crimes committed.” Vidino Rep. at 21.

“Signs of a deeper level of disengagement include: [1] Providing intelligence and/or serving as a witness in court[;] [2] Meeting victims as part of reconciliation and restorative justice initiatives[; and] [3] Taking part in activities aimed at reducing recruitment and radicalization to extremist groups as well as taking part in activities aimed at encouraging disengagement for those currently involved (e.g., counter-radicalization efforts).” *Id.* at 22 (citation omitted).

Dr. Vidino testified that Ceasar exhibited two “red flags” signaling a danger that she would reengage with ISIL if released from prison: (1) maintenance of extremist views, and (2) engagement with people known by her to be ISIL supporters—in some instances the same people she engaged with during the charged conduct. *See* Sent. Hr’g Tr. 30:10–37:5.

Dr. Vidino's opinion was based on his review of Ceasar's communications with others, both recent and from her time on presentence release. *See id.* 30:19–37:5; Vidino Rep. at 27–28. He testified that the content of her communications suggests that she maintains extremist views. As recently as February 28, 2019, Dr. Vidino explained, Defendant engaged in a recorded telephone call while incarcerated, during which she denied responsibility for her actions and equated her material support for ISIL with the practice of her religious beliefs:

JA. I know you didn't do anything. I know that you're innocent. I know you didn't understand a lot of things . . .

. . . you were trying to survive, you weren't trying to do anything wrong.

Defendant. Yeah. And I didn't understand . . . when I got arrested and he told me 'oh you gotta enter a plea and plead guilty' and I said why do I have to plead guilty, if I feel like I've not committed a crime, yes, I understood that United States don't like certain religious beliefs and don't allow you to exercise certain beliefs. I did understand that. That was something that was against the law. But I didn't know it was a crime. You know what I mean? I didn't know it was a cyber crime [interrupted] No. They said it was a cyber crime. I don't understand.

Gov't Sent. Mem. 22 (emphasis added); *see also* Vidino Rep. at 27. And just four days before that phone call, Ceasar sent from her Bureau of Prisons email account the following email: "im your friend i did not do anything wrong as a Muslim but a cyber crime in social media which is a violation in USA to support certain shari'ah islaamiya so al maghreb tul horriya." Gov't Ex. 3 (emphasis added); *see* Sent. Hr'g Tr. 35:23–37:5.

Ceasar's frequent explanation that she was prosecuted because of her religion, which is also present in Ceasar's messages while on presentence release, indicates that she retains the mindset of an ISIL supporter, Dr. Vidino explained. *See* Sent. Hr'g Tr. 33:6–35:22; Vidino Rep. at 27–28. The consequence of this behavior, he explained, is that Ceasar has the potential to reoffend. *See* Sent. Hr'g Tr. 33:1–5.

## 2. Dr. Kostas Katsavdakakis

Also testifying was the government's expert on threat assessment—Dr. Kostas Katsavdakakis, a clinical and forensic psychologist. *Id.* 84:18–85:4. Whereas clinical psychologists treat patients on a regular basis, forensic psychologists evaluate and assess individuals for a forensic or legal purpose, generally upon request by a court or attorneys. *Id.* 85:9–12. Dr. Katsavdakakis was awarded a BA in psychology from Baruch College and a PhD from California School of Professional Psychology. *Id.* 85:15–18. He is a board certified forensic psychologist and teaches forensic psychology at John Jay College of Criminal Justice. *Id.* 85:22–23, 86:22–87:2.

Dr. Katsavdakakis conducted a threat assessment of Defendant. *Id.* 98:7–10. He met with and interviewed her for about ten hours in five sessions in 2017, 2018, and 2019. Gov't Ex. 2 (“Katsavdakakis Rep.”), at 1–2. He also reviewed her medical, educational, and other records. Sent. Hr'g Tr. 100:7–8; *see generally* Katsavdakakis Rep. Based on his professional judgment and review of academic literature, he identified nine factors bearing on Defendant's conduct and her likelihood of reoffending: (1) pathway warning behaviors, (2) fixation, (3) identification, (4) leakage, (5) presence of mental illness, (6) reliance on virtual community, (7) failed relationships, (8) thwarting of occupational/academic goals, and (9) presence of deception—violation of supervisory conditions. Katsavdakakis Rep. at 15. Dr. Katsavdakakis testified in detail about his evaluation of Ceasar vis-à-vis the factors:

Q So, starting with the first factor of the nine factors, walk us through that. That's pathway warning behaviors.

A Yes, it's called pathway warning behaviors, originally written about in the mid 1990s, and it's essentially the behaviors that the person is engaging in to indicate that they are accelerating or on the pathway to a potential attack.



The bottom of the pathway warning behavior generally starts with a grievance . . . ; it's followed by moving to violent ideation, which is the way to solve the grievance . . . through violence, either through oneself or affiliating with a group; from there, it goes to what we call pre-attack planning behaviors, and this could vary from contacting persons with extremist views, securing weaponry, securing travel documents; and it goes from research to more planning, probing, which can be . . . going to [a] facility to see if you could enter it or going to the airport; and then the attack is the end.

And you want to know where are they on the pathway . . . .

Q Where did the Defendant fall for you within that pathway?

A Planning and preparing.

Q What's that . . . based on?

A Her messages through different forums to different persons indicating that she was preparing to secure travel documents to go overseas to marry. Some of the messages that she posted on line regarding doing jihad or engaging in jihad or wanting to die as well.

. . .

Q Can you talk about what[, the next factor,] fixation is and how it relates to your assessment?

A Generally, fixation means . . . a pathological preoccupation with an idea -- doesn't have to be an extremist idea but any idea -- to such an extent that it interferes with functioning, can get the person into problems socially, occupationally, interpersonally, or with the law.

And that data was collected via some of the posts . . . , interest in ISIS material, connecting people. And, again, the posts from 2016 until the time she was arrested. And then subsequent to that, her interest in ISIS individuals when she was released on bail and under supervision.

Q As part of your examination of the Defendant this time around, this year, did she tell you whether she was or was not still interested in ISIS?

A I think what she said was she was not interested and there were several factors of why she got involved. Generally, it fell into one of four categories.

First category was that she was brainwashed.

Second category was that she was living a life that was quite hopeless and wanted to find an alternative lifestyle to kind of get away from everything she had been going through, some of her past.

Third was curiosity.

And the fourth major category was knowledge. In particular, of 2018 when she was released, indicating that she just wanted to [know] what people were doing in their other cases who had been arrested for terroristic-like behavior. So, it fell in one of those four categories.

Q Doctor, if she tells you in 2019 that she doesn't have any interest in ISIS anymore, why are you counting fixation as one of the factors in your analysis?

A Because one of the things in a threat assessment we're trained to do is to look at the consistency or inconsistency between what they say verbally and what they do behaviorally.

So, . . . someone can tell me or anybody that they're not interested in a particular subject or a particular person they're stalking, but if their behavior indicates otherwise then that generally indicates there's some interest at least in that area.

Q What, if anything, about the Defendant's behavior indicated contrary to what she was saying?

A Well, around June 2018, she was able to get a computer, I think from a friend at a mosque, and started browsing the internet for -- not all of it was ISIS-related material but some of it was ISIS-related. And that was also found on her phone . . . .

Q And doctor, the next factor, identification.

A Yes.

Q Can you explain why that is or how that is relevant to your analysis?

A Identification is an attempt to become a warrior or pseudocommando or someone with a military or could be a police-like background, and usually it's a sign that you're affiliating with or interested in a particular group or individual.

[Defendant] had a video she created in February 2016, espousing not only travel overseas for Islamic purposes but also jihad. That's one. She had also posted different kinds of emoticons with

weapons, guns, bombs. She had also reposted messages from ISIS leaders . . . . She had also referenced Omar Mateen, who . . . killed 49 people on June 12, 2016, in reference to some of the acts subsequent to that.

So, those are all examples of identification that we're looking for in a threat case.

Q What about[, the next factor,] "leakage," what is that?

A Leakage is conveying to a third party . . . your intent to engage in some kind of harmful act. It's not a direct threat to the target, not a direct threat to the individual, but, again, leaking it. Generally, nowadays, it's online . . .

But you are telling someone somewhere that you are thinking of doing these things, acting this way, engaging in violence, doing jihad, or hurting people or killing people.

Q In this case, what action or actions of the Defendant indicated leakage?

A That would be her online post or reposts and . . . the video that she made that I saw.

. . .

Q What about the presence of mental illness, was that a factor?

A It is. We do assess for the presence of mental illness; not per se a diagnosis.

One of the common misconceptions in threat assessment/risk assessment is the belief that if you have a mental illness it could be a buffer to a threat. As a threat assessment professional, we pay less attention to the diagnosis but more attention to the symptoms.

Based upon what [Defendant] told me, that she has been suffering from some kind of anxiety and depression probably on or around age eleven . . . with regard to her past reported victimization by various family members, marriages, failures at school, failures at work that she experienced up until the time she was arrested in November 2016.

Q Are you aware of any diagnosed mental illness?

A No. The diagnosis that was referenced in the available records from Temple University, on September 14, 2015 . . . is the suicidal

ideation diagnosis. At around that time, she was hospitalized in the emergency room for complications related to a miscarriage about three days earlier and reported victimization by one of the spouses. And at that time, she had reported suicidal ideation via overdose to the practitioner at the hospital, who then referred her case management. I don't think they followed up but I know they referred to case management. Again, that was around September 14 of 2015. There was no documentation of psychiatric distress or symptoms in the school records from 2004 all the way up until about 2014. Philadelphia. The primary diagnosis that [Ceasar] had was what we called a specific learning disability, and that diagnosis was for what we call expressive and receptive language problems. And she was under an IEP -- the name has changed over the last 40 years, but generally stands for individualized education plan. . . .

Q To be clear, doctor, you reviewed her IQ records?

A I did.

Q Was there anything abnormal about them?

A [Her] full scale IQ is 98. Her verbal and performance IQ are within 96 to 98, which fall in the average [range].

The two below average ranges for [Ceasar] are in what we call achievement testing, using the [Wechsler Individual Achievement Test] . . . [,] she has below average functioning on reading comprehension and mathematics computations; not significantly below average, but I believe below average.

That was the main testing that was done with [Defendant] while she was in school at the four, five schools she attended.

Q Doctor, the next factor on your list, reliance on virtual community, can you explain what that factor means and why it's relevant to your assessment?

A One of the things that we see with terrorist[] cases in particular is that the person isolates and begins to rely on a monitor in front of them or a computer screen, like a phone, and that becomes their primary method of interacting with the social wor[l]d, which was evident in my opinion with [Ceasar], especially from late 2015 until she was arrested in November 2016.

You can again further harden your beliefs or have further extremist beliefs by relying on just communicating with people online. Sometimes a person thinks they know who they're interacting with when, in fact, they really don't know who they're interacting with.

...

Q Failed relationship, I think, is the next factor. Can you [ex]plain to the Court and how it relates?

A In part, kind of a thwarting of relationships.

[Defendant] has had successive or sequential relationships that have been destructive and at times abusive with three separate men. . . . She was married at a very young [age], 18, and she was married again on or around 2014 to 2015. These are short-lived marriages with men typically 25 to 30 years older than [her].

Q Doctor, the next, which is the second to last [factor], the thwarting of occupational and academic goals, can you explain what that means and how it relates to your assessment?

A This goes, again, to trying to establish some kind of pattern for her to succeed professionally or otherwise.

She struggled academically. I would say she did okay up until the eleventh grade and when she moved to Philadelphia all things kind of fell apart. Her grade point [average] decreased and then she dropped out of school. Her last full grade was the eleventh grade. And then subsequent to that, she's held very few jobs for any sustained period of time.

...

Q Doctor, the last factor is presence of deception.

Can you explain what that means and why it's important to your assessment?

A Yes, you essentially want to see the cooperation or the level of involvement the person has in whatever probation or parole or supervisory conditions you have.

Subsequent to the time that she was released on bail, she was able to, within 50 days, at least get a computer from someone and then return to some of her online activities, including ISIS interests . . . . In addition, when she was asked [about] some of her behavior by the FBI, I think it was the beginning of January 2019, she had indicated that she was not engaged in some of this activity; later, she pled guilty to some of the same activity.

When I interviewed her, I asked her about some of the techniques or some of the methodologies she may have used in 2016, when she

was aware that the FBI was perhaps surveilling her. Part of what she said is that, in, part, motivated her to move sooner, to move quicker, which is not uncommon in these cases.

Often in a threat case, once the individual realizes that they're monitored by law enforcement or the workplace, they tend to actually increase the pathway to get to the end result faster. It's actually a factor that we look for a lot, what is the organization or the people around her doing to make the situation worse? We don't really look at that too much in regular violence assessment.

So, those are some examples of deception that are relevant.

Sent. Hr'g Tr. 113:19–124:21.

These factors demonstrate, Dr. Katsavdakakis concluded, that Ceasar poses a moderate risk for violent/extremist beliefs, further radicalization, and possible acts. *Id.* 95:12–14, 124:22–125:2; *see also* Katsavdakakis Rep. at 15.

### **3. Daisy Khan**

Defendant's first expert to testify was Daisy Khan, an expert in counter-extremism and women in Islam. Sent. Hr'g Tr. 158:25–159:3. Khan is the founder and executive director of the Women's Islamic Initiative in Spirituality and Equality, a global network of Muslim women working on issues of peacebuilding, gender equality, and human dignity. Def. Ex. II. She is the editor of *WISE UP: Knowledge Ends Extremism*, a book representing "a community-led effort to address the issue of the rise of extremism, wherever it might be, but, also, to prevent the rise of Islamophobia in this country." Sent. Hr'g Tr. 162:16–19. The book has three sections; the first section discusses Islam in the United States, *see id.* 163:24–164:19; the second section provides information about the websites and periodicals of ISIL and how propaganda is used to manipulate individuals' views on various topics, *see id.* 164:20–165:6; the third section concerns prevention of recruitment, *see id.* 165:7–166:3. Khan's goal with respect to the book was to

“help . . . to revive and to rehabilitate and reform people that may fallen into this trap.”

*Id.* 166:22–24.

Khan testified about Defendant’s previous and current relationship with ISIL, as well as Khan’s own potential role in Defendant’s rehabilitation. She testified that Ceasar’s attraction to ISIL was personal, not ideological. *Id.* 170:19–21. Ceasar was motivated, Khan says, by the social isolation and trauma in her life, as well as her desire for purpose in life:

[Ceasar] said social isolation and the trauma in her life had isolated her from others. She felt abandoned, but also she was feeling socially isolated as a citizen in this country because somebody pulled her hijab. Then she said love, marriage and sex. She craved family. She wants to be loved. She has los[t] her mother and had an abusive childhood and she really wanted to be part of that. She also said that . . . the Muslim imam was dishonored. That Muslims are dishonored all over the world and she wanted to lift up Muslims. It gave her an important role to play to make Islam great again, like make America great again.

So it’s that kind of thinking. So I knew that a lot of her issues were deeply personal. The motivation was personal. It was not ideological. I didn’t find any religious zeal in her. She doesn’t know that much about her religion in my assessment of her religiosity. She craves it and wants to be accepted, but after seeing the push and pulls I came to the conclusion that her reasons for going [to ISIL territory] were primarily personal and she also mentioned that she would be assured a job the day she landed there because she was skilled and . . . she could provide for herself because she has been a solo provider for herself. She’s . . . been working since she was very young girl and so this would also make her feel like she was independent. So that was the push and pull factor.

*Id.* 170:8–171:7. Khan believes that Ceasar is no longer committed to ISIL and that she is regretful of her conduct. *Id.* 171:8–24.

Khan went on to testify that Defendant would benefit from access to a supportive and understanding community, as well as from continued psychiatric treatment. *See id.* 172:3–173:16. She suggested piloting a rehabilitation program in which Defendant would be placed in a residential program, provided financial assistance, and given intensive mentoring and support

in a Muslim community. *Id.* 173:18–174:10. Khan volunteered to act as her mentor. *Id.* 173:7–9. The details of the suggested program were not specified and Khan has never designed or used such a program. *Id.* 184:18–21.

#### **4. Dr. Marc Sageman**

Dr. Marc Sageman testified as Defendant’s expert on terrorism and forensic psychiatry. *Id.* 197:16–18. Dr. Sageman is a Senior Fellow at the Foreign Policy Research Institute’s Center for the Study of Terrorism and a forensic psychiatrist. *See* Def. Ex. SS, at 1. His scholarship focuses on terrorism, the process of radicalization, and political violence. *Id.* Dr. Sageman previously served as the Special Adviser to the Deputy Chief of Staff of the Army and to the Deputy Chief of Staff of the International Security Assistance Forces (Intelligence) on the Insider Threat in Afghanistan, and he was a scholar-in-residence at the New York City Police Department. *Id.* He testified before the 9/11 Commission, and has consulted for United States government agencies, local law enforcement agencies, and more than 20 foreign governments. *Id.* Dr. Sageman is also the author of books and articles about terrorism. *Id.* He holds a PhD in sociology and an MD from New York University, and an AB from Harvard College. *Id.*

Dr. Sageman first opined on Dr. Katsavdakis’s evaluation of Ceasar, specifically his use of various factors to evaluate Ceasar’s threat risk. *See* Sent. Hr’g Tr. 197:20–205:18. Dr. Sageman contends that these factors were taken from a specific piece of unreliable academic literature, then inappropriately used and misapplied. *Id.* The court did not find Dr. Sageman’s testimony on this topic persuasive, since Dr. Katsavdakis did not testify that he relied upon the article in question. *Id.*

Dr. Sageman then testified about Ceasar’s past and current relationship with ISIL and her risk of recidivism. In addition to meeting with her, he reviewed materials relating to the instant offenses. *Id.* 196:16–17, 212:20–25.



Dr. Sageman testified that Defendant's connection with ISIL was "more of an emotional affiliation":

A . . . [T]his kind of very strong bond of loyalty and identification with this community, this is why she was attracted to ISIS, because she felt she idealized this community, this caliphate, and so that it would be a fair and just community in the Middle East unlike all of the other tyrannies that exist [in the] Middle East. And she felt that this community, she was attracted to it because it was online a caring community that will take care of her because she was basically looking for some people to take care of her.

Q And how did her personal history contribute to her desire for that community?

A Well, she was very disappointed and alienated from people around her because they abused her, they exploited her, they . . . since she was . . . five or six, all the way to . . . the three husbands who abused her, and, so, she was looking -- so, she felt very alienated. And no Muslim was coming to her aid. No Muslim was coming to her help. So, she was very alienated, not only by the people who would not take care of her, but also the ambient community here in the United States. So, she basically looked up to this community as an ideal community for her and [was] willing to overlook a lot of the horror that goes along with this community. So that's how she became attracted to this idealized community, online community.

*Id.* 211:21–212:19.

He further explained that the language Defendant used in her communications while on presentence release was not indicative of a continued commitment to ISIL because of the passage of time and the patterns people assume in friendships. *Id.* 213:6–16. "There is no risk of violence" by Defendant, said Dr. Sageman, because there is no evidence that she has been or is violent. *Id.* 205:20–206:3. He noted that the risk of Defendant engaging in the conduct that led to her convictions was low because ISIL no longer controls any territory:

One is connecting people to ISIS. And this is now very unlikely because there's no people to connect to ISIS; it's no longer around, as even Dr. Vidino mentioned, in terms of territory. And ISIS online

is now very, very small and they don't really respond to people.

...

Second . . . , her body going to Iraq or Syria. Again, there's no territory to go to, so I see that as very, very unlikely.

*Id.* 206:10–25.

Dr. Sageman also testified about a recent study of recidivism among those convicted of terrorism offenses in the United States, which indicates that risk of recidivism among convicted terrorists is low. *See id.* 209:25–210:15. The study by Dr. Omi Hodwitz—Assistant Professor in the Department of Sociology and Anthropology at the University of Idaho and a Research Affiliate of the National Consortium for the Study of Terrorism and Responses to Terrorism at the University of Maryland—collected data for terrorist offenders and analyzed their postrelease criminal histories. Def. Ex. UU, at 56. Only 1.6% of terrorist offenders released between 2001 and 2018 recidivated, and none of the crimes which they committed postrelease were clearly politically motivated. *Id.* at 59–61.

The court's impression from Dr. Sageman's testimony is that he believes Defendant does not pose a risk of reoffending because of changed political circumstances, her own personal growth, and her lack of a history of violence.

#### **5. Dr. Katherine Porterfield**

Defendant's final expert to testify was psychiatric expert Dr. Katherine Porterfield. Her background is discussed *supra*, in Section II.B. During the sentencing hearing, she testified at length about Defendant's PTSD, as well as how her offenses directly relate to her clinical problems:

A So my opinion is that Ms. [Ceasar's] clinical problems are very much the root of her very misguided and destructive and dysfunctional actions. She was a person who did not know how to handle her feelings of pain, shame and fear.

Those are pretty much the feelings she walks around with every day and especially in her younger sort of late adolescence. She did not have the tools with which to handle those feelings and, therefore, she managed them by . . . disassociating, not connecting to those feelings.

She did not have the tools to manage her self-loathing and self-attack. So she repetitively found herself in relationships with hurtful people who would again misuse her. These three men we've heard about, . . . these informal marriages, and then ultimately the people online who were exploiting her.

And she did not know how to handle what I call radar. You know, radar is like the thing you develop as a person when you get taken care of as a little kid. You get radar that says, oh, this person's bad news. They're going to hurt me. They're going to scare me. And then you get radar that says, hey, this person's kind, and gentle, and they're taking care of me. That's a good feeling.

When you get abused by your caregivers, especially sexual abuse at the level she had from her father, your radar, your ability to perceive who's dangerous, who's safe, becomes incredibly distorted.

Ms. [Ceasar's] perceptions of other people have been so severely harmed by this abuse and abandonment that she didn't have good radar. And we have worked on that an awful lot in two years, she and I, because it's one of the most critical things you need as a person. You better know who's safe and who's good, and you have to know who's harmful and dangerous.

Q And it doesn't really make sense to me. If she was abused, why is she seeking out a violent community?

A It's one of the most painful, difficult things about child abuse, especially what we call betrayal trauma.

So Ms. [Ceasar] had betrayal trauma. That is the overwhelming experiences coming at her of fear of hurt of her body, of sexual abuse; were coming from the person who's supposed to protect her. So now you have a double whammy. You have fear and overwhelmed feelings of sexual abuse, and it's coming at you from the person who's supposed to be your protector.

So what happens is that children, unfortunately, in those moments, often have to develop a defense mechanism. They have to make sense of what's happening to them. I must be worthless. I must have brought this on. I must be bad.

And children internalize that and then, tragically, if they have really severe abuse and nobody helps them and nobody takes care of them, they repeat it. And that repetition is really the core of what Ms. [Ceasar] has struggled with and continues to work on and really show more insight in, which is the repeated violence and hurt against herself over and over again.

She went towards danger instead of going towards health and protection and that's a very tragic thing, as we see sitting here today.

Sent. Hr'g Tr. 243:5-245:11.

Dr. Porterfield explained that Ceasar's behavior while on presentence release was typical of the behavior survivors of trauma exhibit during recovery:

Q Based on your training and experience, do you have an opinion about what caused this behavior on bail?

A I do. I think that when you work with people who are troubled and especially very severely traumatized and abused, their trajectory is not a straight line. They, not unlike drug addiction, and not unlike domestic violence sufferers, meaning people who are abused and then return to abusive partners, the trajectory goes like this: It is a wavy line. There is relapse. There is mistake.

I believe that's what this was. I believe she was released without enough planning and without enough support, frankly. I wish I had been, myself, more available during that period. I feel badly about that.

And I think that she could not handle the stress at that point of being out, not having enough treatment, and not having enough of a community. And I think she went back into, you know, sort of dipping her toe in the water of some very familiar dysfunctional people. That's what I think happened.

I was just going to say, it was not a good thing legally, but frankly, clinically, it gave us a lot to work with, because I was quite shocked and I was really, really -- I was shocked and I was disappointed, and I was able to talk very intensely with Ms. [Ceasar] about these choices and about where her life is going.

And, you know, in clinical work, that's actually the kind of meat that really helps, is if you have some stuff to work with. And I'm

not glad it happened for all kinds of reasons, but we worked with it and we continue to work with it.

*Id.* 248:1–249:4.

Despite the “wavy line” of Defendant’s recovery from trauma, Dr. Porterfield does not believe Defendant has a continuing commitment to ISIL:

Q And do you have an opinion about her current level of commitment to ISIS based both on your conversations with her, your review of discovery, but also your experience working with extremists?

A She does not have a commitment to ISIS. She is very saddened that she did that and embarrassed.

I think she’s struggling more now with her relationship to her faith and to Islam, which is why I think it is an incredible benefit to have someone like Ms. Khan, who is a spiritual guide in the field, a spiritual guide in Islam. But Ms. [Ceasar] does not yearn for this fantasied absurd thing that she back then thought was going to give her a new life. She does not.

*Id.* 253:2–14.

Dr. Porterfield testified that continuing incarceration would be more harmful to Ceasar than it would be beneficial, given her PTSD:

Q And shifting to her current state, do you have an opinion about how incarceration affects her complex PTSD?

A I think that prison is not an easy place for anyone. It’s not an easy place to be.

I think that it has been harmful to her in that she hasn’t had a community around her of healthy people. She’s had other women who are under terrible stress and who also have terrible judgment issues, frankly. She has medical problems that do not get addressed, which leads her then into a very anxious state because she has so many medical problems.

By the way, if you remember the ACE model I talked about . . . , one of the biggest predictors is the higher ACE also the higher medical difficulties. And she has very serious medical difficulties for her age, I believe not unrelated to the traumatic stress she endured as a child.

Prison is not a great environment for her. It has, I think, been a place where she has had to deal with her behaviors and face consequences, and I don't think that's actually a bad thing to face consequences when we make mistakes. But I think that prison itself is not helpful to her condition and it's not helpful to her mental health issues.

She needs now trauma-focused treatment, which is not what I've done.

*Id.* 253:15–254:13 (emphasis added). Trauma-focused treatment, Dr. Porterfield testified, cannot be accomplished while Defendant is incarcerated because of her vulnerability. *See id.* 254:14–255:16. Trauma-focused treatment is intensive and would require Ceasar to discuss in detail her past experiences, including sexual and physical abuse, so that she and a professional could “integrate” those experiences into emotional management strategies. *Id.* 254:15–255:3. The emotional difficulty of doing this while emotionally isolated during incarceration, Dr. Porterfield explained, might lead to Ceasar’s further deterioration and potentially suicide. *Id.* 255:4–16.

#### **B. Defendant’s Testimony**

Appearing calm and sincere, Ceasar spoke briefly on her own behalf. Defendant explained how she sought out ISIL as a way to improve her own situation and how incarceration has allowed her to learn how to discipline herself and avoid negative influences. *See id.* 339:1–18. She testified that she no longer supports or associates with terrorist organizations. *See id.* 339:19–24. Ceasar also spoke with insight about her improvements in judgment and mental health, both in the past and going forward:

A year ago out on bail, I trusted my own judgment. The difference is now that I understand that I have terrible judgment and I can't trust what I think are good decisions. I now know the difference, which is that I know to seek proper help and advice only from the people like Dr. Porterfield, my attorneys and their team, and Daisy Khan.

. . . What I want everyone to know is I was foolish and ignorant. I understand the actions I took were wrong, and I will never do it

again. I'm not . . . going to engage with any terrorists or radical groups.

What I want to focus on is getting my mental, my education, and my physical health, and to become a productive citizen. I know I can be. What I have mentally accomplished about my mental health with Dr. Porterfield, she has taught me boundaries, self-esteem, and cleansing myself away from trauma. Also, Ms. Daisy Khan helped me understand the confusion I had in my beliefs. I am more aware of my emotions and communicate better with my peers.

*Id.* 341:4–22.

### **C. Letter of Defendant's Half-Brother**

In lieu of speaking during the sentencing hearing, Defendant's half-brother submitted to the court a letter describing his support of her and his commitment to assisting in her rehabilitation:

Dear Judge Weinstein,

I am writing on behalf of my sister, Sinmyah Amera Ceasar. I know that my sister has made many mistakes and has plead guilty to supporting ISIS.

I am writing you today, with a heavy heart, and of my own free will, to share my support for my sister. As you know, she has faced a lifetime of hardship, abuse, neglect, and pain. I believe this contributed to her crimes and caused her to be involved with those whom she was involved with.

My sister and I fell out of touch when she went to live with her mother. I didn't reconnect with her until college via telephone and found out she was in foster care. She's been in and out of the system ever since. Her mother dying was heartbreaking as well, as her mother was my stepmother for some time.

I didn't have the means to take Sinmyah in then and I don't now. She doesn't have support from her aunts, uncles, or cousins the way she does from me. I care about her and I keep in touch with her.

I believe with proper care, support, and rehabilitation, my sister can live life as a healthy American citizen, and I'm aware that this will be no easy feat.

Again, she and I re-connected once she was in prison after many years apart. I came to visit her in person, and was heartbroken by all that she'd went through. She and I talked each week afterwards by phone for the past couple of years, and she's spoken to me of the harsh realities of prison and her hopes for the future. My sister has always been driven and optimistic.

I don't know what the outcome of these hearings will be, but I will support my sister as best I can and love her.

Thank you for your time and consideration,

Brother of Sinmyah Amera Ceasar

Def. Ex. XX.

#### **IV. Offense Level, Criminal History Category, and Sentencing Guidelines Range**

The base offense level for Defendant's conspiracy to provide material support offense is 26. U.S.S.G. §§ 2X1.1(a), 2M5.3(a). Two levels are added because the crime "involved the provision of . . . funds or other material support or resources with the intent, knowledge, or reason to believe they are to be used to commit or assist in the commission of a violent act." *Id.* § 2M5.3(b)(1)(E). Another twelve levels are added because the offense is a felony involving terrorism. *Id.* § 3A1.4(a). The adjusted offense level is 40.

The base offense level for Defendant's obstruction of an official proceeding offense is 14. *Id.* § 2J1.2(a). Eight levels are added: Three because Ceasar's false statements and concealment of evidence substantially interfered with the administration of justice, *id.* § 2J1.2(b)(2); two because the offense involved the destruction of a substantial number of records, documents, or tangible objects, *id.* § 2J1.2(b)(3)(A); and three more because Ceasar committed the offense while on bail release for the conspiracy to provide material support offense, *id.* § 3C1.3. Three levels are deducted for acceptance of responsibility. *Id.* §§ 3E1.1(a), (b). The adjusted offense level is 19.



Adjusting for the multiple counts, the total offense level is 40. *Id.* § 3D1.4(c).

Although she has no prior criminal record, because the instant case is a felony involving “the federal crime of terrorism,” Defendant’s criminal history category is automatically category VI. *Id.* § 3A1.4(b).

The guideline imprisonment range for a total offense level of 40 and a criminal history category of VI is 360 months to life. Because of the statutory maximum terms of imprisonment, the restricted guideline term of imprisonment is 360 months to 480 months. Since Ceasar committed the obstruction offense while on bail release for the conspiracy to provide material support offense, a term of imprisonment of not more than 120 months must also be imposed consecutive to any term of incarceration for the obstruction of an official proceeding offense. 18 U.S.C. § 3147.

A lifetime of supervised release may be imposed for the conspiracy to provide material support offense. *Id.* § 3583(j). Up to three years of supervised release may be imposed for the obstruction of an official proceeding offense if a term of imprisonment is imposed. *Id.* §§ 3583(a), (b)(2).

## **V. Law**

The United States Sentencing Guidelines (“Guidelines”) are advisory and allow the court to exercise its discretion in sentencing. *United States v. Booker*, 543 U.S. 220, 245–46 (2005). “A district court may not presume that a Guidelines sentence is reasonable; it must instead conduct its own independent review of the sentencing factors, aided by the arguments of the prosecution and defense.” *United States v. Cavera*, 550 F.3d 180, 189 (2d Cir. 2008) (en banc). The district court may depart from the Guidelines range when it “consider[s] all of the § 3553(a) factors to determine whether they support the sentence requested by a party.” *Gall v. United States*, 552 U.S. 38, 49–50 (2007).

The court must impose a sentence sufficient, but not greater than necessary, after considering the following factors:

- (1) the nature and circumstances of the offense and the history and characteristics of the defendant;
- (2) the need for the sentence imposed--
  - (A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;
  - (B) to afford adequate deterrence to criminal conduct;
  - (C) to protect the public from further crimes of the defendant; and
  - (D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;
- (3) the kinds of sentences available;
- (4) the kinds of sentence and the sentencing range established for--
  - (A) the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines--
    - (i) issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, subject to any amendments made to such guidelines by act of Congress (regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section 994(p) of title 28); and
    - (ii) that, except as provided in section 3742(g), are in effect on the date the defendant is sentenced; or
  - (B) in the case of a violation of probation or supervised release, the applicable guidelines or policy statements issued by the Sentencing Commission pursuant to section 994(a)(3) of title 28, United States Code, taking into account any amendments made to such guidelines or policy statements by act of Congress (regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section 994(p) of title 28);
- (5) any pertinent policy statement--

(A) issued by the Sentencing Commission pursuant to section 994(a)(2) of title 28, United States Code, subject to any amendments made to such policy statement by act of Congress (regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section 994(p) of title 28); and

(B) that, except as provided in section 3742(g), is in effect on the date the defendant is sentenced.

(6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and

(7) the need to provide restitution to any victims of the offense.

18 U.S.C. § 3553(a).

#### **VI. 18 U.S.C. § 3553(a) Considerations**

The court carefully considered the above factors in fashioning Defendant's sentence.

##### **A. Rehabilitation, Punishment, and Deterrence**

Defendant is a 24-year-old United States citizen. Her traumatic childhood has already been described in detail. *See* Section II.A. Raised by an ill, single mother, Ceasar was sexually abused by her father and placed in foster care after her mother became too ill to care for her. She dropped out of high school and lived with friends and romantic partners, and in homeless shelters, after signing herself out of foster care. Employment of Ceasar was temporary. A series of marriages with older men ended after physical and emotional abuse. Defendant lacks stable relationships with friends and family, with the exception of her half-brother. She also suffers from serious health conditions, including complex PTSD. *See* Section II.B.

Defendant's testimony was supported by her experts: She sought ISIL as a way to deal with her harsh circumstances and because of clinical issues affecting her judgment. *See* Section III.A.3 (describing Khan's testimony); Section III.A.4 (describing Dr. Sageman's testimony); Section III.A.5 (describing Dr. Porterfield's testimony); Section III.B (describing Defendant's

testimony); *see also* Richard L. Abel, *Law's Trials: The Performance of Legal Institutions in the US "War on Terror"* 72 (2018) (describing how many terrorism defendants, "[s]eeking a sense of meaning through identification with a larger group and cause, . . . were easily manipulated").

Whatever her motivations, there is no question that Defendant's criminal offenses were serious. Dr. Vidino's testimony helpfully placed Defendant's conduct—connecting individuals in the United States with ISIL-affiliated individuals—in context. *See* Section III.A.1. Defendant was not simply an individual who posted propaganda; she intentionally and knowingly connected individuals in the United States with those abroad who would do the United States harm. An objective observer can only conclude that Ceasar's deletion of her communications with others while on presentence release impeded the government's ability to investigate the extent of her bail violations.

The sentence must reflect the importance of specific deterrence, as well as general deterrence, to protect the public. The experts disagreed about the risk of reoffending posed by Defendant, but seemed to agree that deradicalization of Defendant (whether or not that has already occurred in whole or part) would reduce the likelihood of reoffending. In this instance, rehabilitation and specific deterrence of Defendant seem to go hand in hand.

The ideal sentence, in the court's estimation following the hearing, would be Defendant's placement in a deradicalization or disengagement program with provision for intensive educational, emotional, and economic support to address her childhood trauma and its attendant results. This treatment might begin while Defendant is incarcerated, or while she was supervised under strict conditions by the Probation Department. As disclosed during the hearing, no such satisfactory general program exists in the United States.

For many years, countries in Western Europe and the Middle East have incorporated deradicalization and disengagement programs into their regular practice when confronted with individuals assessed as having been radicalized or individuals that have been charged or convicted of a terrorism-related crime. *See, e.g.*, United Nations Office on Drugs and Crime, *Handbook on the Management of Violent Extremist Prisoners and the Prevention of Radicalization to Violence in Prisons* 122–23 (2016) (“The [Danish] Back on Track . . . programme was designed to help prisoners who have been charged or convicted of terrorism-related offences, or who have been assessed as vulnerable to radicalization.”); Kelly A. Berkell, *Off-Ramp Opportunities in Material Support Cases*, 8 Harv. J. Nat’l Security 1, 28–32 (2017) (describing the deradicalization program used by Saudi Arabia).

Such intensive programs may be integrated into terms of incarceration. *See, e.g.*, Liesbeth van der Heide & Bart Schuurman, *Reintegrating Terrorists in the Netherlands: Evaluating the Dutch Approach*, 17 J. Deradicalization 196, 204–07 (2018) (describing the Dutch Terrorism, Extremism and Radicalization team, which was designed to “a) improve efforts made to reintegrate terrorist prisoners while still in detention, b) provide better aftercare upon their release, and c) create a central and coordinated approach for dealing with this offender class in the future”). The efficacy of such programs is under study; their existence is evidence of a commitment to dealing with the problem of radicalization by focusing on rehabilitation.

The United States lacks adequate rehabilitation programs. The absence is of particular concern because the kind of incarceration presently utilized in federal prisons can make radicalization more likely to persist. *See* United Nations Office on Drugs and Crime, *supra* at 109 (“prison radicalization to violence is an issue of considerable importance and recruitment attempts, successful or otherwise, do occur”). Apparently only the United States District Court

for the District of Minnesota has made an effort to incorporate deradicalization programming into terrorism-related sentences, and this appears to have been limited to one criminal prosecution. Berkell, *supra* at 45–51.

The federal Bureau of Prisons would be well-served by incorporating a formal deradicalization and disengagement program into its offerings. This program might build on those programs in effect abroad and with demonstrated records of success. Such a program should also account for differences on the basis of sex and gender. *See generally* Sofia Patel & Jacqueline Westermann, *Women and Islamic-State Terrorism: An Assessment of How Gender Perspectives Are Integrated in Countering Violent Extremism Policy and Practices*, 14 Security Challenges 53, 56 (2018) (“Gender perspectives are rarely holistically integrated into definitions and processes of radicalisation. This has resulted in incomplete understanding of female pathways into and out of violent extremism, as well as the ways in which women develop resilience to resist radicalisation . . . .”); Nur Irfani Binte Saripi, *Female Members of ISIS: A Greater Need for Rehabilitation*, 7 Counter Terrorist Trends & Analysis 26 (2015) (describing women’s roles in ISIL and noting the importance of tailoring rehabilitation to address their specific experiences with ISIL).

With no adequate program of rehabilitation available to Defendant, the court seriously considered whether a further term of incarceration was appropriate. The seriousness of the offenses ultimately compelled the conclusion that some incarceration as punishment and for control was necessary.

## **B. Potential Harm of Long Incarceration**

The manner in which Defendant's physical and emotional health will be impacted by a lengthy term of incarceration was seriously considered by the court. *See United States v. Rosado*, 254 F. Supp. 2d 316, 321 (S.D.N.Y. 2003) ("Since rehabilitation may not be a basis for incarceration but must be considered as a basis for sentencing, Congress must have anticipated that sentencing judges would use their authority, in appropriate cases, to reduce a defendant's sentence to permit him to continue his rehabilitation in the most effective manner." (citing *United States v. Maier*, 975 F.2d 944, 947 (2d Cir. 1992))).

Both Defendant and her experts testified that further incarceration would run the risk of being detrimental to Defendant's physical and psychiatric conditions. *See, e.g.*, Section III.A.5 (describing Dr. Porterfield's testimony); Section III.B (describing Defendant's testimony). Ceasar's brief presentence release was because of her physical conditions, which have not yet been fully addressed in prison. And Ceasar cannot benefit from the trauma-focused treatment that she requires while she is incarcerated.

The court's conclusion is that a lengthy term of incarceration during which her medical needs are not fully met would be extremely harmful to Ceasar's development as a productive member of society.

Continued separation of Defendant from a supportive, non-incarcerated community will also be detrimental to the goal of rehabilitation.

Ceasar's connection to a supportive community in view of her crimes is essential. The expert testimony, as well as academic literature, is clear that an individual in Defendant's position must have stable and supportive relationships for rehabilitation. *See Daniel Koehler, Family Counselling, De-radicalization and Counter-Terrorism: The Danish and German programs in context*, in *Countering Violent Extremism: Developing an Evidence-base for Policy*

and Practice 129, 129 (Sara Zeiger & Anne Aly eds., 2015) (“social bonds and relationships are considered to be essential for desistance focussed probation and reintegration work . . . , effective treatment of PTSD . . . , as well as the success of terrorist de-radicalization programs . . . ”

(internal citations omitted)); United Nations Office on Drugs and Crime, *supra* at 72

(“Relationships are one of the primary vehicles for disengagement from violent extremism and, further, appear to be what most optimally enables subsequent engagement of a former violent extremist elsewhere in society.”). And, in light of Defendant’s testimony that she sought ISIL in part to find a supportive community, her rehabilitation will be aided by her connections to her half-brother and experts such as Daisy Khan.

These considerations compel the conclusion that any term of incarceration should be tailored to minimize the amount of time Defendant would go without effective medical and social supports.

### **C. First Amendment Issues**

Not raised by either Defendant or the government was whether the First Amendment to the United States Constitution protected any of Defendant’s speech or her speaking activities in support of ISIL. The court, in assessing Defendant’s behavior, did consider the free speech issue, namely the extent to which Defendant’s behavior amounted only to engaging in protected, unpopular speech.

This country’s consideration of constitutional protection of unpopular speech goes back to its founding. The Sedition Act of 1798 criminalized “false” speech critical of the government subject to the defense of truth. *See* Sedition Act of 1798, 1 Stat. 596. Condemned by some at the time as unconstitutional, “the attack upon its validity has carried the day in the court of history.” *New York Times Co. v. Sullivan*, 376 U.S. 254, 273–76 (1964). “The general proposition that freedom of expression upon public questions is secured by the First Amendment



has long been settled by [Supreme Court] decisions.” *Id.* at 269; *see also Whitney v. California*, 274 U.S. 357, 377 (1927) (Brandeis, J., dissenting) (“Those who won our independence by revolution were not cowards. They did not fear political change. They did not exalt order at the cost of liberty. To courageous, selfreliant men, with confidence in the power of free and fearless reasoning applied through the processes of popular government, no danger flowing from speech can be deemed clear and present, unless the incidence of the evil apprehended is so imminent that it may befall before there is opportunity for full discussion. If there be time to expose through discussion the falsehood and fallacies, to avert the evil by the processes of education, the remedy to be applied is more speech, not enforced silence. Only an emergency can justify repression. Such must be the rule if authority is to be reconciled with freedom. Such, in my opinion, is the command of the Constitution.”).

Upon consideration of the underlying constitutional free speech issue, the court concluded that Defendant acted physically to help ISIL. She had adequate actus reus and mens rea under constitutional criminal law. She did not act by speech alone, merely praising that terrorist organization. Rather, her activity went far beyond speech in physically supporting the cause of ISIL.

## **VII. Sentence**

Defendant is sentenced to 48 months total incarceration. This compares to the 360 to 600 months’ imprisonment requested by the government.

Cesar is given 46 months in prison for the material support offense, and one month in prison for the obstruction offense, with an additional one month to be served pursuant to 18 U.S.C. § 3147; the terms of incarceration are to be served consecutively. The court recommends that Defendant be incarcerated at a prison medical facility such as that in Danbury,

Connecticut, where she can be treated by appropriate programming and where she can be visited by her half-brother.

Cesar is sentenced to eight years of supervised release on the material support offense and three years of supervised release on the obstruction offense, to run concurrently.

Supervision will be subject to the following special conditions, among others, intended to aid her disengagement and deradicalization, as well as her general rehabilitation:

1. Defendant shall participate in an educational or vocational training program as approved by the court's Probation Department.
2. Defendant shall participate in a mental health treatment program approved by the Probation Department. She shall contribute to the cost of such services rendered and/or any psychotropic medications prescribed to the degree she is reasonably able to do so, and shall cooperate in securing any applicable third-party payment. She shall disclose all relevant financial information and documents to the Probation Department to assess her ability to pay.
3. Defendant shall not associate in person, through mail, electronic mail, the Internet, social media, telephone, or any other means with any individual known by her to be affiliated with any terrorism-related groups, organized crime groups, gangs or any other criminal enterprise; nor shall she frequent any establishment, or other locale where these groups may meet, pursuant, but not limited to, a prohibition list provided by the Probation Department.
4. Defendant shall participate in polygraph examinations required by Probation to obtain information necessary for risk management and correctional treatment.
5. Defendant shall cooperate with the Probation Department's Computer and Internet Monitoring program. Cooperation shall include, but not be limited to, identifying computer systems, Internet capable devices, and/or similar electronic devices she has access to,

and allowing the installation of monitoring software/hardware on said devices, at her expense to the extent she can reasonably pay. Defendant may be limited to possessing only one personal Internet capable device, to facilitate the Probation Department's ability to effectively monitor her Internet related activities.

6. Defendant shall permit random examinations of said computer systems, Internet capable devices, and similar electronic devices, and related computer peripherals, such as CD's, under her control.

7. Defendant shall report to the Probation Department any and all electronic communications service accounts (as defined in 18 U.S.C. § 2510(15)) used for communications, dissemination and/or storage of digital media files (i.e., audio, video, images). This includes, but is not limited to, email accounts, social media accounts, and cloud storage accounts.

8. Defendant shall provide the Probation Department with account identifiers and passwords for each account, and shall report the creation of new accounts, changes in identifiers and/or passwords, transfer, suspension and/or deletion of any account within five days of such action. Failure to provide accurate account information may be grounds for revocation of release.

9. Defendant shall permit the Probation Department to access and search any account using her credentials when reasonable suspicion exists that she has violated a condition of supervision and that the account to be searched contains evidence of this violation. Failure to submit to such a search may be grounds for revocation of release.

10. Defendant agrees that the Probation Department may, in its discretion, share information obtained during its monitoring of her phone, electronic, Internet capable, and/or computer systems, communications accounts, and devices with the FBI in order for the FBI to

assist the Probation Department in evaluating such information as part of assessing Defendant's compliance with the terms of her supervision.

11. Defendant agrees to monitoring by the Probation Department by location monitoring and/or global positioning systems ("GPS") for a period of six months. Such monitoring may include home detention and/or a curfew. Defendant agrees to abide by all technology requirements and all location monitoring and/or GPS policies and procedures. Defendant must pay the costs of monitoring to the degree she is reasonably able. Defendant must disclose all financial information and documents to the Probation Department to assess her ability to pay.

12. Defendant shall submit her person, property, house, residence, vehicle, papers, computers (as defined in 18 U.S.C. § 1030(e)(1)), other electronic communications or data storage devices or media, or office, to a search conducted by a female United States Probation officer. Failure to submit to a search may be grounds for revocation of release. Defendant shall warn any other occupants of her home that the premises may be subject to searches pursuant to this condition. An officer may conduct a search pursuant to this condition only when reasonable suspicion exists that Defendant has violated a condition of her 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.

Probation shall issue monthly reports to the court on the progress of Defendant so that the judge in charge of the case can consider shortening or lightening post-incarceration monitoring. Any supervision problems shall be promptly reported to the court. Both Probation and Defendant may move by letter for court intervention, limiting or expanding supervision.

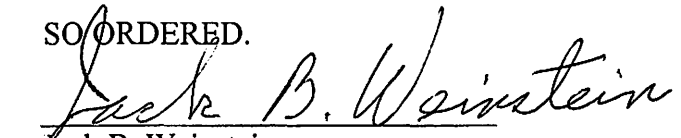
A special assessment of \$200, \$100 on each count, is imposed.

No fine is imposed because it is unlikely that Defendant will be able to pay a fine. A forfeiture order has been entered separately.

#### **VIII. Conclusion**

All relevant issues have been considered, with special attention given to the Guidelines, to ensure the appropriate sentence. The sentence imposed is sufficient, but not greater than necessary.

SO ORDERED.

  
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Jack B. Weinstein  
Senior United States District Judge

Dated: July 31, 2019  
Brooklyn, New York

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

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At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 9<sup>th</sup> day of November, two thousand twenty-one.

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United States of America,

Plaintiff - Appellant,

v.

Sinmyah Amera Ceasar,

Defendant - Appellee.

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**ORDER**

Docket Nos: 19-2881 (Lead)

19-2892 (Con)

Appellant, Sinmyah Amera Ceasar, filed a petition for panel rehearing, or, in the alternative, for rehearing *en banc*. The panel that determined the appeal has considered the request for panel rehearing, and the active members of the Court have considered the request for rehearing *en banc*.

IT IS HEREBY ORDERED that the petition is denied.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk

A circular official seal of the United States Court of Appeals for the Second Circuit is stamped over the signature. The seal contains the text "UNITED STATES", "SECOND CIRCUIT", and "COURT OF APPEALS" around a central emblem.