

APPENDIX

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UNPUBLISHED

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

No. 19-4122

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CORNELL DEVORE RHYMES, a/k/a Fats,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Claude M. Hilton, Senior District Judge. (1:18-cr-00022-CMH-1)

Submitted: August 1, 2020

Decided: September 15, 2020

Before MOTZ and HARRIS, Circuit Judges, and TRAXLER, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Vernida R. Chaney, CHANEY LAW FIRM, PLLC, Fairfax, Virginia, for Appellant. G. Zachary Terwilliger, United States Attorney, Whitney Russell, Assistant United States Attorney, Raizza K. Ty, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Alexandria, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

A jury convicted Cornell Devore Rhymes of conspiracy to commit sex trafficking, in violation of 18 U.S.C. §§ 1591(a), (b)(1), (2), (c), 1594(c) (Count 1), and sex trafficking by force, fraud, and coercion, in violation of 18 U.S.C. §§ 2, 1591(a)(1), (b)(1) (Count 3).¹ The charges arose from Rhymes' alleged role in the sex trafficking of one adult prostitution victim, M.M., and one juvenile prostitution victim, M.B., in the summer of 2017. On appeal, Rhymes challenges the sufficiency of the evidence to support his convictions on Counts 1 and 3. He also argues that the district court erred in excluding certain evidence and in providing an "ambiguous" verdict sheet. We affirm.

I

Rhymes first challenges the sufficiency of the evidence supporting his convictions. A defendant challenging his conviction on sufficiency of the evidence grounds "must overcome a heavy burden." *United States v. Wolf*, 860 F.3d 175, 194 (4th Cir. 2017) (internal quotation marks omitted). "We will uphold [a jury's] verdict if, viewing the evidence in the light most favorable to the [G]overnment, it is supported by substantial evidence" *United States v. Savage*, 885 F.3d 212, 219 (4th Cir. 2018) (internal quotation marks omitted); *see Wolf*, 860 F.3d at 194. "Substantial evidence is evidence that a reasonable finder of fact could accept as adequate and sufficient to support a conclusion of a defendant's guilt beyond a reasonable doubt." *Wolf*, 860 F.3d at 194

¹ Rhymes had previously pled guilty to Count 4 of the superseding indictment, possession of a firearm by a prohibited person, in violation of 18 U.S.C. §§ 922(g)(1), 924(a)(2).

(alteration and internal quotation marks omitted). Furthermore, “the jury, not the reviewing court, weighs the credibility of the evidence and resolves any conflicts in the evidence presented.” *United States v. McLean*, 715 F.3d 129, 137 (4th Cir. 2013) (internal quotation marks omitted). “Reversal for insufficient evidence is reserved for the rare case where the prosecution’s failure is clear.” *Wolf*, 860 F.3d at 194 (internal quotation marks omitted).

In order to convict Rhymes of the conspiracy charged in Count 1, the Government was required to prove “(1) that two or more persons entered an agreement to commit sex trafficking in violation of 18 U.S.C. § 1591; (2) that [Rhymes] knew of the conspiracy; and (3) that [Rhymes] knowingly and voluntarily became part of the conspiracy.” *United States v. McMillan*, __ F. App’x __, __, No. 18-4175, 2020 WL 2494412, at *3 (4th Cir. May 14, 2020) (argued but unpublished) (citing *United States v. Burgos*, 94 F.3d 849, 857 (4th Cir. 1996) (en banc)). A conviction on Count 3 required the Government to prove that Rhymes

(1) did knowingly (2) in or affecting interstate [or] foreign commerce, (3) entice, recruit, harbor, transport, provide, obtain, or maintain by any means a person, (4) knowing, or in reckless disregard of the fact, (5) that fraud[, force, threats of force, or coercion] would be used to cause such person to engage in a commercial sex act.

United States v. Cooper, 926 F.3d 718, 735 (11th Cir.), *cert. denied*, 140 S. Ct. 613 (2019) (internal quotation marks omitted); *see United States v. Maynes*, 880 F.3d 110, 113 (4th Cir. 2018) (citing 18 U.S.C. § 1591(a)). “Coercion” includes both “threats of serious harm to or physical restraint against any person” and “any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person.” 18 U.S.C. § 1591(e)(2).

The evidence at trial, taken in the light most favorable to the Government, established that for over a two-day period in June 2017, M.M. engaged in approximately 10 commercial sex transactions in a Motel 6 in Springfield, Virginia, under Rhymes' direction. M.M. met Rhymes after she contacted a friend—Jada—seeking a place to stay because she had just left an abusive relationship. Jada sent three men, including Rhymes, to pick M.M. up. After asking M.M. about her background, the men began to discuss their involvement in prostitution. M.M. was uncomfortable with the conversation and did not expect to be asked to engage in prostitution. One of the men, known as “Byrd,” forced M.M. to perform oral sex; M.M. threw up in his lap as a result. The men purchased a prepaid cell phone for M.M. and brought her to the motel; Rhymes provided M.M. with the prepaid cell phone and denied her unsupervised access to her personal cell phone.

Rhymes and the others took photographs of M.M. in lingerie and posted an advertisement online. Rhymes set M.M.'s prices, determined what sex acts she would perform, instructed her how to interact with customers and how to accept payment, and received all of the proceeds from the transactions. Rhymes did not allow M.M. to sleep and instead provided her with cocaine, knowing that M.M. had an addiction. M.M. testified that she was under constant supervision and feared the consequences of trying to leave. M.M. also testified that she had nonconsensual vaginal and oral sex with Rhymes. After realizing that she was alone in the motel room, M.M. ultimately was able to escape and report her experience to the police.

Later that summer, in August 2017, Byrd transported M.B.—who was 16 at the time—to the Springfield Motel 6 and informed her that she needed to work for him as a

prostitute. Byrd forced M.B. to see between 10 and 20 commercial sex customers every 24 hours. He posted photos of M.B. in online advertisements, in which she wore only underwear, and he managed all aspects of M.B.'s commercial sex work, including the prices to charge, the acts to perform, and how to interact with customers. M.B. testified that Byrd often threatened her and used physical violence, including punching her and choking her. Rhymes had sex with M.B. several times, but he did not pay her; Byrd told M.B. that Rhymes would pay him directly. After moving to another motel, M.B. was able to contact staff at a youth home to ask for help. Law enforcement officers responded to the report of a missing juvenile and detained Byrd and Rhymes at the scene. One of the responding officers testified that Rhymes became nervous when questioned about M.B. Although Rhymes denied knowing Byrd, phone records established 24 contacts between Rhymes and Byrd in the time period when M.B. was being trafficked.

Rhymes argues that there was insufficient evidence of an agreement, as required to prove Count 1, and insufficient evidence that he employed force, fraud, or coercion, as required on Count 3. However, because a reasonable fact finder “could accept [the evidence adduced at trial] as adequate and sufficient to support a conclusion of [Rhymes’] guilt beyond a reasonable doubt,” *Wolf*, 860 F.3d at 194 (internal quotation marks omitted), we conclude that the evidence is sufficient to support Rhymes’ convictions.

II

Rhymes next challenges the district court’s decision to grant the Government’s motion in limine and exclude certain evidence of M.M.’s past sexual history under Fed. R. Evid. 412. In “criminal proceeding[s] involving alleged sexual misconduct[,]” Rule 412

prohibits the admission of evidence of a victim's past sexual behavior except in three narrow circumstances: (1) when it is relevant regarding the source of semen or injury found on the victim; (2) when it deals with prior sexual behavior between the victim and the accused and is relevant to the issue of consent; and (3) when it is constitutionally required. Fed. R. Evid. 412(b). "We review evidentiary rulings for abuse of discretion . . . and will not reverse a district court's [evidentiary] decision . . . unless it was arbitrary or irrational." *United States v. Faulls*, 821 F.3d 502, 508 (4th Cir. 2016) (citation and internal quotation marks omitted).

Rhymes contends that the district court's exclusion of the evidence deprived him of a meaningful opportunity to challenge M.M.'s credibility. However, Rhymes cross-examined M.M. on what he believed to be inconsistencies in her statements and on her prior drug use, and M.M. further admitted on cross-examination that she was aware that Jada worked as a prostitute when M.M. asked Jada for a place to stay. Evidence of M.M.'s sexual history therefore was not constitutionally mandated in order for Rhymes to challenge her credibility on cross-examination. *See Maynes*, 880 F.3d at 115 ("In considering Sixth Amendment challenges, specifically, the Confrontation Clause guarantees an *opportunity* for effective cross-examination, not cross-examination that is effective in whatever way, and to whatever extent, the defense might wish." (internal quotation marks omitted)). We therefore conclude that the district court did not abuse its discretion in granting the Government's motion in limine to exclude the challenged evidence.

III

Finally, Rhymes contends that the district court reversibly erred by providing an improperly vague verdict form, arguing that it is impossible to determine whether the jury reached a unanimous decision on the conspiracy charged in Count 1.² In issuing its instructions, the district court clearly informed the jury of the elements of each offense and advised the jury of the Government's responsibility to prove each element beyond a reasonable doubt. After the court submitted the case to the jury, the jury inquired whether it was sufficient if the jury believed there was a conspiracy to engage in sex trafficking involving just one of the named victims, rather than both victims. With no objection from Rhymes, the district court provided the jury with a revised verdict form that first asked the jury to make a finding of guilty or not guilty on Count 1. The form then required the jury to provide additional findings:

² To the extent that Rhymes raises a similar challenge to the substantive offense charged in Count 3, the indictment clearly stated that this count pertained to M.M. alone, and the district court instructed the jury accordingly.

If you find the defendant guilty [of Count 1], did you unanimously find that the defendant acted knowingly or in reckless disregard of the fact that:

(Check only one box):

___ M.B. had not attained the age of 18 and would be caused to engage in a commercial sex act; or

___ means of force, threats of force, fraud, coercion, or any combination of such means would be used to cause either M.B. or M.M. to engage in a commercial sex act;

or

___ both.

(J.A. 346).³

Because Rhymes did not object to the special verdict form in the district court, our review is for plain error. *See United States v. Ramirez-Castillo*, 748 F.3d 205, 211-12 (4th Cir. 2014). Under plain error review, “we will correct an unpreserved error if (1) an error was made; (2) the error is plain; (3) the error affects substantial rights; and (4) the error seriously affects the fairness, integrity, or public reputation of judicial proceedings.” *Id.* at 212. “The Constitution gives a criminal defendant the right to have a jury determine, beyond a reasonable doubt, his guilt of every element of the crime with which he is charged.” *United States v. Lovern*, 293 F.3d 695, 699 (4th Cir. 2002) (internal quotation marks omitted); *see United States v. Gaudin*, 515 U.S. 506, 509-10 (1995) (explaining that Fifth and Sixth Amendments together “require criminal convictions to rest upon a jury determination” of guilt of each element of the offense, beyond a reasonable doubt). The district court clearly informed the jury of this fact, both in its original jury instructions and in its follow-up response to the jury’s question regarding the conspiracy charge. “We

³ “J.A.” refers to the joint appendix filed by the parties in this appeal.

assume that the jury understood and followed the [district] court’s instructions.” *United States v. Udeozor*, 515 F.3d 260, 271 (4th Cir. 2008) (internal quotation marks omitted).

The verdict form first required the jury to determine that the Government had proven a conspiracy beyond a reasonable doubt; it then asked the jury to specify which theory it unanimously agreed that the Government had proven—that Rhymes had entered into an agreement to traffic by force, fraud, or coercion; or that Rhymes had entered into an agreement knowing, or recklessly disregarding, that a minor would be caused to engage in a commercial sex act. The jury therefore clearly rendered a unanimous verdict on each element of the charged offense, and any error in the district court’s decision to issue the special verdict form did not affect Rhymes’ substantial rights.

IV

Accordingly, we affirm the district court’s judgment. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

FILED: April 13, 2021

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-4122
(1:18-cr-00022-CMH-1)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

CORNELL DEVORE RHYMES, a/k/a Fats

Defendant - Appellant

O R D E R

The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 35 on the petition for rehearing en banc.

Entered at the direction of the panel: Judge Motz, Judge Harris, and Senior Judge Traxler.

For the Court

/s/ Patricia S. Connor, Clerk

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA)	
)	
VS.)	1:18-CR-22 CMH
)	
)	ALEXANDRIA, VIRGINIA
)	JULY 26, 2018
CORNELL DEVORE RHYMES)	
_____)	

TRANSCRIPT OF MOTION HEARING
BEFORE THE HONORABLE CLAUDE M. HILTON
UNITED STATES DISTRICT JUDGE

Proceedings reported by stenotype, transcript produced by
Julie A. Goodwin.

A P P E A R A N C E S

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1 (JULY 26, 2018, 1:05 P.M., OPEN COURT.)

2 THE COURTROOM DEPUTY: Criminal Number 2018-22, *United*
3 *States of America versus Cornell Rhymes*.

4 MS. RUSSELL: Good afternoon, Your Honor. Whitney
5 Russell and Raizza Ty on behalf of the United States.

6 THE COURT: All right.

7 MR. JENKINS: Good morning, Your Honor. May it please
8 the Court. Robert Jenkins on behalf of Mr. Rhymes.

9 THE COURT: Okay, Mr. Jenkins.

10 Now, I understand that the -- the Government was
11 requesting a ruling on this motion in limine to exclude
12 evidence of victims' other behavior and sexual predisposition.

13 At this time, I'm going to deny that motion, and
14 you're going to have to go forward and preserve whatever you
15 need to as far as the record is concerned. I'm going to have
16 to rule on it at the time of trial. We've got some allegations
17 in this case of a victim being held by force and that sort of
18 thing, and I can't tell at this point whether it's going to be
19 relevant or not.

20 MR. JENKINS: Thank you, Your Honor.

21 THE COURT: All right. We'll adjourn until tomorrow
22 morning at 9:00 o'clock.

23 THE LAW CLERK: All rise.

24 (PROCEEDINGS CONCLUDED AT 1:08 P.M.)

25 -oOo-

1 UNITED STATES DISTRICT COURT)
2 EASTERN DISTRICT OF VIRGINIA)
3

4 I, JULIE A. GOODWIN, Official Court Reporter for
5 the United States District Court, Eastern District of Virginia,
6 do hereby certify that the foregoing is a correct transcript
7 from the record of proceedings in the above matter, to the best
8 of my ability.

9 I further certify that I am neither counsel for,
10 related to, nor employed by any of the parties to the action in
11 which this proceeding was taken, and further that I am not
12 financially nor otherwise interested in the outcome of the
13 action.

14 Certified to by me this 7TH day of MAY, 2019.
15
16
17

18 /s/
19 JULIE A. GOODWIN, RPR
20 CSR #5221
21 Official U.S. Court Reporter
22 401 Courthouse Square
23 Eighth Floor
24 Alexandria, Virginia 22314
25

Julie A. Goodwin, CSR, RPR

7.26.18

Pet. App. 13a

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA

VS.

CORNELL DEVORE RHYMES

1:18-CR-22 CMH

ALEXANDRIA, VIRGINIA
NOVEMBER 14, 2018

TRANSCRIPT OF TRIAL
BEFORE THE HONORABLE CLAUDE M. HILTON
UNITED STATES DISTRICT JUDGE
AND A JURY

VOLUME 1, DAY 1

Proceedings reported by stenotype, transcript produced by
Julie A. Goodwin.

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1 (NOVEMBER 14, 2018, 10:38 A.M., DAY 1 EXCERPT, OPEN COURT ~ ALL
2 PERSONS PRESENT, INCLUDING THE JURY.)

3 THE COURTROOM DEPUTY: Please be seated.

4 Those jurors not selected are excused until your
5 next court date.

6 THE COURT: Members of the jury, now that you've been
7 sworn, I'll give you some preliminary instructions which I hope
8 will guide you in your participation in the trial.

9 It will be your duty to find from the evidence what
10 the facts are. You and you alone are the judges of the facts.
11 You will have to apply those facts to the law as the Court will
12 give it to you. You must follow that law whether you agree
13 with it or not.

14 Now, the evidence from which you will find the
15 facts will consist of the testimony of witnesses, documents,
16 and other things received into the record as exhibits, any
17 facts that the lawyers stipulate to or any facts that the Court
18 may instruct you to find. Certain things are not evidence and
19 must not be considered by you. Statements, arguments and
20 questions by lawyers are not evidence. Objections to questions
21 are not evidence.

22 Lawyers have an obligation to their clients to
23 object when they feel that evidence is being offered which is
24 improper under the rules of evidence. You should not be
25 influenced by the objection or by the Court's ruling on it. If

1 the objection is sustained, ignore the question. If it is
2 overruled, treat the answer like any other.

3 If you're instructed that some item of evidence is
4 received for a limited purpose only, you must follow that
5 instruction.

6 Testimony that the Court has excluded or told you
7 to disregard is not evidence and must not be considered by you.

8 Anything you have seen or heard outside the
9 courtroom is not evidence in this case. You must decide this
10 case solely on the evidence presented here in the courtroom.

11 Now, just a few words as to your conduct as jurors.

12 I'll instruct you that during the trial you should
13 not discuss this case with anyone or permit anyone to discuss
14 it with you. Until you retire to the jury room at the end of
15 the case to deliberate on your verdict, you simply should not
16 talk about the case.

17 Second, don't read or listen to anything touching
18 the case in any way. If anyone should try to talk to you about
19 it, bring it to the Court's attention promptly.

20 Don't try to do any research or make any
21 investigation about the case on your own.

22 And finally, don't form any opinion until all the
23 evidence is in. Keep an open mind until you begin your
24 deliberations at the end of the case.

25 Now, the trial is going to begin and the lawyers

1 will make their opening statements. You'll then hear the
2 witnesses that are called and the evidence that's presented.
3 When all the evidence is in, the lawyers will make their
4 closing arguments. I'll instruct you on the law and you will
5 retire to deliberate on your verdict.

6 Now, we'll take a recess in the middle of the
7 morning and recess for lunch at about 1:00, take a recess in
8 the middle of the afternoon. Let's say, I hope we get finished
9 with this evidence sometime along in the afternoon.

10 Now, I would ask you-all not to take notes. Listen
11 to the evidence as the testimony is given and rely on your
12 collective recollection when you retire to deliberate on your
13 verdict.

14 All right. Would you turn the podium around?

15 Do you-all want to make an opening statement?

16 OPENING STATEMENT ON BEHALF OF THE GOVERNMENT

17 MS. TY: May it please the Court. Good morning,
18 ladies and gentlemen of the jury.

19 This is a case about a man who used, controlled,
20 and benefitted from young women's bodies. Over the course of
21 the next day or so, you'll hear about how the defendant,
22 Cornell Rhymes, controlled and used young women, specifically
23 an 18-year-old named McKenzie and a 16-year-old named
24 Monserrat, to make money and for sexual gratification.

25 You will hear from the witnesses, including these

1 two young women, about how the defendant and other men forced
2 them to prostitute and have sex with them during the summer of
3 2017.

4 On June 3rd, 2017, McKenzie had nowhere to go. She
5 got in a fight with her boyfriend and reached out to her
6 friends asking for help. One friend responded that she would
7 send someone to pick her up.

8 The defendant, Cornell Rhymes, came to get McKenzie
9 in a car. You'll hear that McKenzie got into that car and soon
10 realized there were two other passengers there: Justin
11 Robinson, who you will learn is called Byrd; and another male
12 known as Tweez. Through the course of the trial, you'll learn
13 that Byrd and Tweez were pimps, and they worked with and hung
14 out with the defendant.

15 The men started discussing prostituting McKenzie.
16 While the defendant was driving, Byrd forced McKenzie to
17 perform oral sex on him in the car, causing her to vomit in his
18 lap.

19 They took her to a Motel 6 in Springfield,
20 Virginia. McKenzie's friend was there working as a prostitute
21 for one of the men, and soon McKenzie was forced to work as a
22 prostitute as well.

23 The defendant had an advertisement created for
24 McKenzie and posted it on a website called Backpage.com, which
25 is a website often used to advertise commercial sex and

1 prostitution.

2 McKenzie was given a flip phone so that the
3 defendant could monitor her, ensure she continued to perform
4 commercial sex acts, and communicate with customers, and to
5 make certain she did not leave.

6 Through the course of this trial, you'll learn that
7 the defendant set the rates for McKenzie, gave her cocaine to
8 keep her awake, and took the money that she made. You'll hear
9 that she was exhausted and wanted to sleep, but was forced to
10 seek commercial sex clients for the defendant instead.

11 The defendant forced her to have sex with him. He
12 also made her perform oral sex on him. He videotaped that. In
13 one video, the defendant tells McKenzie that she's going to
14 earn it even if she has to -- and I'm quoting the defendant's
15 language here -- throw up on the dick a hundred times.

16 After approximately 36 hours of being trafficked,
17 on the morning of June 5th, 2017, McKenzie was able to escape.
18 She fled and promptly reported the defendant to the police.
19 But the defendant and his friends continued pimping and
20 trafficking young women.

21 A few months later at the same Motel 6 in
22 Springfield some of the same men forced another girl to
23 prostitute for them, and this time they chose a juvenile.
24 Monserrat was only 16 years old at the time.

25 While this defendant was not Monserrat's pimp, you

1 will hear that the defendant took advantage of his relationship
2 with Robinson, another pimp, to benefit from the prostitution
3 of this young girl. In fact, Rhymes, the defendant, repeatedly
4 had sex with Monserrat without giving her any money.

5 At some point during the period she was trafficked,
6 the men transferred Monserrat to a Motel 6 in Dumfries. The
7 defendant was there in Dumfries too. And how do we know that?
8 Because you'll hear that on August 12th, 2017, when Monserrat
9 was finally left alone, she was able to call for help. Police
10 officers from Prince William County police department responded
11 to the Motel 6 in Dumfries and found her. Those officers also
12 found the defendant with Byrd near where Monserrat was
13 recovered. The defendant and Byrd were then detained.

14 The defendant stands before this jury charged with
15 three separate offenses: Conspiracy to commit sex trafficking;
16 benefitting from participating in a sex trafficking venture;
17 and sex trafficking by force, fraud, or coercion.

18 Ladies and gentlemen, I thank you all for your
19 service today. This is a difficult subject, and you will hear
20 testimony that may be disturbing to you. But it is the
21 defendant who created the facts of this case. At the end of
22 this trial, you will hear closing arguments from my colleague
23 Whitney Russell, and then you will retire to deliberate and
24 reach a verdict. At that point, we will ask you to return the
25 only verdict supported by the evidence and that justice

1 demands. We will ask that you return a verdict of guilty on
2 all counts.

3 Thank you.

4 MR. JENKINS: May counsel proceed, Your Honor?

5 THE COURT: Yes.

6 OPENING STATEMENT ON BEHALF OF THE DEFENDANT

7 MR. JENKINS: May it please the Court, Counsel, and
8 Mr. Rhymes.

9 Good morning, ladies and gentlemen. Again, my name
10 is Robert Jenkins. I have the pleasure this morning of
11 representing Mr. Cornell Rhymes, who is the defendant in
12 today's trial. You've heard from Government counsel what they
13 expect the evidence to show throughout the course of today's
14 trial. Now is my opportunity to give you Mr. Rhymes' version
15 of what we expect the evidence to be.

16 In June of 2017, you'll learn at a Motel 6 in
17 Springfield, Virginia -- there are going to be several
18 individuals you're going to come hear about today. One you've
19 already heard about, a gentleman who went by the name of Byrd,
20 another who went by the name of Tweez, a young lady who went by
21 the name of Jada, as well as the two young ladies that
22 Government counsel has already told you about.

23 You'll learn that at this Motel 6 they often hung
24 out, in which all types of behaviors and activities took place.
25 There was some prostitution. You'll undoubtedly hear about

1 that. There was some drug use. You'll undoubtedly hear about
2 that.

3 You will hear that some of the individuals who were
4 at this motel participated in prostitution while others simply
5 did not. You will hear that at this motel located in
6 Springfield, some individuals consumed cocaine, marijuana,
7 while others sold cocaine and marijuana.

8 At the end of this trial, you'll realize that this
9 Motel 6 was not a Four Seasons. It was not the Ritz Carlton.
10 It was a den of lions. But instead of lions, you had primarily
11 low-level criminals that hung out. No conspiracy, no plot, no
12 plan by the individuals who were there. Just a group of
13 individuals hanging out.

14 You'll learn that on June the 4th, a Ms. McKenzie,
15 who was friends with a Ms. Jada Morales, contacted one
16 another by cell phone. Ms. McKenzie will explain to you in her
17 own words that she was having some problems in her life. I'm
18 not certain whether or not she will claim it was because she
19 was being abused by her boyfriend, a Mr. Robert Parker, or
20 whether or not on this occasion she will claim that it was
21 because she lost her job, or whether or not on this occasion
22 she will claim that it was -- she just wanted to hang out with
23 her friend, Jada.

24 Because you'll learn during the course of this
25 trial her story about why she contacted Ms. Morales in June of

1 2017 has somewhat evolved. She's told multiple stories to law
2 enforcement about why she originally contacted Ms. Morales.

3 But she will, I suspect, tell you that at the time
4 she contacted Ms. Morales, she was fully aware of the fact that
5 Ms. Morales was a prostitute. She also will tell you that at
6 that time she was desperate and that she needed money and did
7 not have a job and was looking for a means to earn money.

8 After she had this discussion by way of text
9 message with Ms. Morales, Ms. Morales agreed to allow her to
10 stay with her at that Motel 6, and she offered to have some of
11 her friends go pick up McKenzie. Mr. Rhymes was one of these
12 individuals who volunteered to go pick up McKenzie, to
13 transport her back to the Motel 6 where she would stay with her
14 friend, Ms. Jada Morales.

15 You will hear that at the time Mr. Rhymes was
16 driving the vehicle, that there were two other gentlemen that
17 were in the car that went on this ride to pick up McKenzie.
18 That when McKenzie got into the car, there was a discussion
19 about prostitution and her willingness to engage in
20 prostitution.

21 The evidence will be that Mr. Rhymes did not
22 participate in this conversation, but instead this conversation
23 was going on toward the rear of the vehicle between the
24 individual that you will learn was Byrd and McKenzie.

25 You will hear -- it will not be in dispute -- that

1 McKenzie performed oral sex on the individual you will learn to
2 be known as Byrd. It was voluntary. It was consensual. There
3 was nothing forced about it. That she did so so that she could
4 demonstrate to Byrd how well she could perform this sex act
5 because, when she got into that vehicle, ladies and gentlemen,
6 she fully understood that she was going to be engaging in
7 prostitution.

8 You will hear that once she arrived at the Motel 6,
9 within moments her friend, Jada Morales, who was the only
10 individual she knew before that day, provided some skimpy
11 clothing for her and began taking photographs of her in this
12 outfit so that it could be posted to a Backpage account.

13 The Backpage account, you will learn, was operated,
14 was controlled by McKenzie's friend, Jada Morales, and not
15 Mr. Cornell Rhymes, and that an advertisement for her services
16 was then posted.

17 You will learn that Mr. Rhymes at that time did
18 have a hotel room at that motel, but he didn't get that motel
19 room on the day that McKenzie arrived. Instead, you will learn
20 that the day before, Mr. Rhymes had obtained a hotel room at
21 that facility.

22 You will hear further evidence that McKenzie began
23 to entertain clients, and she did so of her own free will.
24 That at the time, she had her own personal cell phone as well
25 as a separate phone that had been provided to her by her friend

1 Jada Morales, or someone else, but not Mr. Rhymes. That on
2 this second phone, a telephone number associated with it was
3 posted to the Backpage ad.

4 Now, during this period of time, McKenzie, you will
5 hear, started to consume cocaine. And before she started
6 consuming cocaine on that day, she already had a drug habit.
7 She was already someone who was regularly consuming marijuana.
8 But this, she will tell you, was her first introduction to the
9 consumption of cocaine. And she will tell you that that
10 cocaine was sold to her or provided to her by Mr. Rhymes.

11 And I will submit to you, ladies and gentlemen,
12 that when you hear all the evidence in this case, you will be
13 convinced that that is the only connection that Mr. Rhymes had
14 with McKenzie that would be criminal in nature at all. That
15 beyond that, all other contacts he had with McKenzie were all
16 voluntary and were all consensual.

17 You will hear evidence that McKenzie at -- during
18 this 36-hour period of time was nearly constantly in contact
19 with the number associated with Mr. Rhymes. But the evidence
20 will not be that these contacts were for prostitution, but
21 instead because McKenzie saw Mr. Rhymes as her source of
22 cocaine, and during this period of time she was using cocaine.

23 She will tell you herself that Mr. Rhymes never
24 struck her, that Mr. Rhymes never threatened to strike her.
25 You will hear no evidence that Mr. Rhymes ever did any of those

1 things.

2 She will tell you herself that Mr. Rhymes never
3 threatened her with a weapon, never displayed a weapon to her,
4 that she never saw him with a weapon, because Mr. Rhymes was
5 not engaged in forcibly making McKenzie do anything.

6 You will have introduced into evidence a video of a
7 sexual encounter between Mr. Rhymes and McKenzie. And on that
8 video, if you choose to review it, there will be nothing on
9 that video that would lead you to believe that what you saw was
10 nonconsensual.

11 At some point in time, McKenzie decided that she
12 no longer wanted to engage in prostitution and she left the
13 motel. And she went to police with her boyfriend, Mr. Robert
14 Parker. And you'll hear that when she was first interviewed
15 by law enforcement, she told a tale very similar to the one
16 that you heard explained to you by Government counsel this
17 morning.

18 But you will hear that when law enforcement
19 attempted to investigate and solicit her help so that those who
20 had done these things that she claimed were done to her could
21 be brought to justice, that McKenzie refused, that she refused
22 to cooperate.

23 You will hear that she was offered to be given an
24 exam, a sexual assault exam, so that evidence could be
25 collected to corroborate her claim that Mr. Rhymes had brutally

1 raped her, that he had forced her to have unprotected sex with
2 him, all within 24 hours of when she allegedly was reporting
3 this to law enforcement.

4 You'll hear that at that time she had no physical
5 signs that supported her claim that Mr. Rhymes had done
6 anything to her. You'll hear that law enforcement attempted to
7 solicit her to make some secret consensual phone calls between
8 her and Mr. Rhymes so they could gather some evidence to
9 support her claim that Mr. Rhymes had forced her into
10 prostitution. And you will hear she refused to cooperate.

11 You will hear that she destroyed evidence that
12 could have corroborated her story about Mr. Rhymes'
13 involvement. And at the end of the day, ladies and gentlemen,
14 of all the witnesses that you will hear from, not one witness
15 who saw McKenzie and Mr. Rhymes interact, not one will take
16 that witness stand and confirm what she says. There won't be
17 any witnesses to do that.

18 You will hear that there were text messages
19 constantly going on among these individuals, but there will not
20 be any text messages between Mr. Rhymes and McKenzie which
21 would evidence that he forced her to do anything.

22 You will hear that there were cell phone
23 communications between the two of them. Unfortunately, you
24 won't have any evidence to corroborate what McKenzie says
25 those conversations were about. And it is for that reason,

1 ladies and gentlemen, as it relates to the counts charging
2 Mr. Rhymes with forcibly making McKenzie engage in
3 prostitution, you will have no choice at the end of the
4 evidence but to find him not guilty.

5 Later, in August 2017, you will learn that at
6 another location here in Northern Virginia, in the Eastern
7 District of Virginia, a young teenager by the name of Monserrat
8 -- that she engaged in prostitution. And you will get to
9 see her testimony offered by way of a video deposition. And in
10 that video she will explain to you that the person who forced
11 her into prostitution was not Mr. Rhymes, that it was this
12 individual that you will come to know as Byrd. That at times
13 he physically assaulted her, that he raped her, that he beat
14 her. And she will tell you in her own words that when she was
15 suffering at the hands of Mr. Byrd, Mr. Rhymes was never
16 present. That he wasn't there when Byrd beat her, that he
17 wasn't there when Byrd raped her, that he wasn't there when
18 Byrd took her money.

19 She will tell you that, as far as she knew, there
20 was only one other individual that was working with Byrd to
21 help traffic her, to force her to engage in prostitution, and
22 she will tell you out of her own mouth it was not my client,
23 Mr. Rhymes.

24 She will tell you that she had two encounters with
25 Mr. Rhymes at the motel. And she will tell you that Mr. Rhymes

1 did engage in sexual activities with her, but she will tell you
2 that it was not a commercial transaction. She will tell you
3 that Mr. Rhymes did not give her any money in exchange for her
4 performing sex with him.

5 She will tell you that Mr. Rhymes never threatened
6 her, never struck her, never displayed any weapons to her, and
7 in fact Mr. Rhymes was not the person who forced her to do
8 anything.

9 The only thing that she will tell you that led her
10 to believe that Mr. Rhymes may have even known that she was a
11 prostitute is that she will testify that her pimp told her --
12 not Mr. Rhymes -- that her pimp told her that Mr. Rhymes had
13 already paid for her services.

14 But she will tell you that when that supposed
15 conversation occurred, she wasn't present. She will also tell
16 you she doesn't even know if it's true, that all she knows is
17 that's what Byrd told her, and that Mr. Rhymes met her at the
18 motel and engaged in sex with her. But he didn't pay her, he
19 didn't beat her, he didn't force her.

20 Ladies and gentlemen, that's going to be the
21 evidence that you're going to hear. The judge at the end
22 will instruct you that Mr. Rhymes is only on trial for the
23 charges in the superseding indictment and nothing more.

24 He's not on trial for being a cocaine dealer. He's
25 not on trial for using marijuana. He's on trial for the

1 charges that have been explained to you. And at the end of
2 this trial, I suspect that you will return not guilty verdicts
3 on all three counts because Mr. Rhymes is not guilty.

4 Thank you.

5 THE COURT: Please call your first witness.

6 MS. RUSSELL: Your Honor, the Government calls
7 Ms. McKenzie.

8 (THE OATH WAS ADMINISTERED.)

9 MCKENZIE //,

10 having been first duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MS. RUSSELL:

13 Q. Good morning.

14 A. Good morning.

15 Q. Can you tell the Court your name, please.

16 A. McKenzie //.

17 Q. And can you spell your last name.

18 A. //.

19 Q. How old are you today?

20 A. 19.

21 Q. And where do you live?

22 A. In the DMV area.

23 Q. Do you have a stable residence?

24 A. Yes.

25 Q. I want to ask you about some events that occurred about a

1 year and a half ago in June of 2017. Okay?

2 A. Okay.

3 Q. How old were you in June of 2017?

4 A. 18.

5 Q. And when had you turned 18?

6 A. On January ///.

7 Q. I'd like to direct your attention to the evening of
8 Saturday, June 3rd, 2017. Where were you living at that point?

9 A. I had just left my ex-boyfriend.

10 Q. And how were things going with your boyfriend at that
11 point?

12 A. Not well.

13 Q. And why had you left?

14 A. Because he was physically abusive.

15 Q. Did you do anything in response to that situation?

16 A. I left.

17 Q. And what did you do to try and find help?

18 A. I started calling some of my friends to see if I could stay
19 with them for a night or two until I found a permanent place,
20 and nobody was answering.

21 Q. Eventually, did somebody respond?

22 A. Yes.

23 Q. And who responded to you?

24 A. A friend, Jada.

25 Q. And what was her response?

1 A. She said she was busy at the moment, but she would send one
2 of her guys to come pick me up. And that she cleared it out
3 with her mom that I could stay with her for a night.

4 Q. At some point this evening -- that evening did you meet
5 this man?

6 A. Yes.

7 Q. And where did you meet him?

8 A. Prince William Parkway, the Harris Teeter.

9 Q. And how did he arrive to the Harris Teeter?

10 A. In a gray rental van.

11 Q. Were you expecting a car to come?

12 A. Yes.

13 Q. Who was driving the car?

14 A. The defendant.

15 Q. Was your friend in the car?

16 A. No.

17 Q. Was there anyone else in the car?

18 A. Yes.

19 Q. And who was in the car?

20 A. Two other guys.

21 Q. With the assistance of the Court Security Officer, could
22 you take a look at the Government Exhibit 202, please.

23 COURT SECURITY OFFICER: In the binder or box?

24 MS. RUSSELL: In the binder.

25 BY MS. RUSSELL:

1 Q. Do you recognize that person?

2 A. Yes.

3 Q. And who is that?

4 A. Byrd.

5 Q. Byrd.

6 Do you know his real name?

7 A. No.

8 MS. RUSSELL: We would move Government Exhibit 202
9 into evidence, Your Honor.

10 MR. JENKINS: No objection, Your Honor.

11 THE COURT: It's admitted.

12 (GOVERNMENT'S EXHIBIT 202 ADMITTED.)

13 BY MS. RUSSELL:

14 Q. Who else was in the car?

15 A. Another guy.

16 Q. Do you know his name?

17 A. Tweez.

18 Q. And do you know his real name?

19 A. No.

20 Q. What happened once you got in the car?

21 A. Started talking about -- just asking questions about
22 myself, where I came from. Started talking about working and
23 prostitution and -- just sex and stuff like that.

24 Q. Who was talking about that?

25 A. All of them.

1 Q. All of the guys?

2 A. Yes.

3 Q. What was your response to that?

4 A. I got nervous and scared. I didn't really know what to
5 say. I was just kind of speechless.

6 Q. Did the three of them -- how comfortable did they seem
7 talking about it?

8 A. Very.

9 Q. And how comfortable were you?

10 A. Not comfortable at all.

11 Q. At some point did something happen in the car?

12 A. Yes.

13 Q. What happened?

14 A. Byrd -- Byrd forced me to perform oral sex on him.

15 Q. And can you tell the jury what you mean when you say he
16 forced you?

17 What did he do to you?

18 A. Grabbed my head and made me suck his dick.

19 Q. What happened while you were performing oral sex on Byrd?

20 A. I threw up on him.

21 Q. Why did you throw up?

22 A. Because he was forcing me and I couldn't control it.

23 Q. Did you choose to perform oral sex on Byrd?

24 A. No.

25 Q. Did you want to perform oral sex on him?

1 A. No.

2 Q. Did this defendant do anything when Byrd was forcing you to
3 perform oral sex?

4 A. No.

5 Q. Did the defendant act like it was normal?

6 A. Yes.

7 Q. What else happened during the car ride?

8 A. We made a stop.

9 Q. Where did you stop?

10 A. A gas station.

11 Q. What happened at the gas station?

12 A. They picked up the phone, a prepaid phone.

13 Q. And what did they do with that prepaid phone?

14 A. Later on -- well, they held onto it. Then later on I found
15 that it was used to make calls.

16 Q. Eventually, were you brought to a motel?

17 A. Yes.

18 Q. What motel were you brought to?

19 A. The Motel 6 in Springfield.

20 Q. Was -- the young woman that you had reached out to, was she
21 there?

22 A. Yes.

23 Q. Do you know how old that young woman was?

24 A. I believe 18.

25 Q. Did you observe her interacting with the men who were in

1 the car?

2 A. Yes.

3 Q. Did she appear to know them?

4 A. Yeah.

5 Q. Did she appear comfortable with them?

6 A. Yeah.

7 Q. How did that make you feel?

8 A. Nervous and confused and scared.

9 Q. Did you feel like you could trust her?

10 A. No.

11 Q. Do you know what Jada, that woman, was doing at the
12 Motel 6?

13 A. Looked like she was tricking.

14 Q. And when you say tricking, what do you mean?

15 A. Prostituting.

16 Q. And what makes you think that she was prostituting?

17 A. She had wads of cash. She had outfits. She would get
18 calls and say we'd have to leave for a moment. She just -- it
19 just was obvious.

20 Q. And what happened to you at that Motel 6?

21 A. They were talking amongst themselves, getting undressed.
22 And Jada had offered an outfit, lingerie, and they made me put
23 it on, and they took pictures.

24 Q. Who took pictures of you?

25 A. I don't remember who.

1 Q. Did you take the pictures of yourself?

2 A. No.

3 Q. Was the defendant present?

4 A. Yes.

5 Q. Do you know what happened to those pictures?

6 A. They went on her site.

7 Q. Did they go on Backpage.com?

8 A. Yes.

9 Q. Can you take a look in your binder at Government
10 Exhibit 111, please.

11 A. (Complies.)

12 Q. Do you recognize that document?

13 A. Yeah.

14 Q. And what is it?

15 A. Me.

16 Q. Is this your Backpage ad?

17 A. Yes.

18 Q. Are these real pictures of you?

19 A. Yes.

20 Q. The top picture has a star tattoo on the arm. Is that a
21 tattoo that you have?

22 A. Yes.

23 Q. Can you show it to the jury, please?

24 A. (Complies.)

25 Q. What are you wearing in these pictures?

1 A. Lingerie and...

2 Q. What are you wearing in the bottom picture?

3 A. Nothing on the bottom.

4 Q. At the top of the ad -- are you comfortable reading that?

5 A. No.

6 MS. RUSSELL: May I read it, Your Honor?

7 MR. JENKINS: Your Honor, if it's going to be
8 introduced into evidence, I --

9 THE COURT: Objection sustained. The jury can read it
10 if you want to introduce it.

11 BY MS. RUSSELL:

12 Q. Referring to the description at the top of the ad, is that
13 something that you wrote?

14 A. No.

15 Q. Do you know who wrote it?

16 A. No.

17 Q. There's a phone number in that description. Do you
18 recognize that phone number?

19 A. Yeah.

20 Q. And what number is that?

21 A. The number of the prepaid phone.

22 Q. The prepaid phone that you were given?

23 A. Yes.

24 Q. And who gave it to you?

25 A. The defendant.

1 Q. This defendant?

2 A. Yes.

3 MS. RUSSELL: We would move Government Exhibit 111
4 into evidence, Your Honor.

5 MR. JENKINS: No objection, Your Honor.

6 THE COURT: Admitted.

7 (GOVERNMENT'S EXHIBIT 111 ADMITTED.)

8 BY MS. RUSSELL:

9 Q. What happened after your ad was posted?

10 A. Started asking Jada to teach me some things and told me
11 what to do. And about -- not only -- or about two hours later,
12 people started coming in and I had to start performing sex.

13 Q. Who asked Jada to teach you how to do things?

14 A. The defendant and Byrd.

15 Q. You said a few hours later, men started coming?

16 A. Yes.

17 Q. When you arrived at the motel, did you expect to have to
18 prostitute?

19 A. No.

20 Q. Who decided what sex acts you would perform as a
21 prostitute?

22 A. The defendant.

23 Q. What sex acts did you perform?

24 A. Oral sex and sex.

25 Q. Who set the prices for you?

1 A. The defendant.

2 Q. Do you remember what those prices were?

3 A. 150 for a quickie, which is, like, 10 to 15 minutes. And
4 200 for an hour.

5 MS. RUSSELL: Just speak into the microphone.

6 BY MS. RUSSELL:

7 Q. Did the defendant give you any instructions for how to
8 interact with customers?

9 A. I was told to meet them when they came through the
10 elevator, get the money as soon as they come in, and check the
11 \$100 bills. Put the money, you know, wherever they could see,
12 and that was it. When they left, he immediately came in
13 afterwards and all the money went to him.

14 Q. Was it always the defendant who took the money from you?

15 A. Yes.

16 Q. Did you feel that you could refuse to have sex with a
17 customer?

18 MR. JENKINS: Objection, Your Honor. Leading.

19 THE WITNESS: No.

20 THE COURT: Objection sustained.

21 BY MS. RUSSELL:

22 Q. How did you feel about your ability to choose to engage in
23 sex with any particular customer?

24 A. Not well.

25 Q. Did you feel that you could refuse --

1 MR. JENKINS: Objection. Leading.

2 THE COURT: Objection sustained.

3 BY MS. RUSSELL:

4 Q. Whose choice was it as to whether you engaged in sex with a
5 customer?

6 A. The defendant's.

7 Q. Did the defendant give you any instructions with regards to
8 condoms?

9 A. I was to always use them.

10 Q. Do you remember approximately how many hours you were at
11 the Motel 6?

12 A. 36.

13 Q. And do you remember approximately how many customers you
14 had to see over that time?

15 A. I couldn't count.

16 Q. Was it more than ten?

17 A. Yes.

18 Q. Was it more than 20?

19 A. Maybe. I can't remember.

20 Q. While you were at that Motel 6, did you see this defendant?

21 A. Yes.

22 Q. And did you see the other men who brought you to the motel?

23 A. Yes.

24 Q. Did you feel that you could leave?

25 A. No.

1 Q. And why not?

2 A. I just felt intimidated and scared. And I didn't -- I just
3 didn't feel like I was allowed. If I had tried, I would have
4 consequences.

5 Q. In June of 2017, do you remember -- and I apologize -- do
6 you remember how much you weighed?

7 A. Oh, gosh. No. Probably about, like, 95, maybe close to
8 100 pounds.

9 Q. Did you weigh significantly less than you weigh today?

10 A. Yes.

11 Q. And how tall are you?

12 A. 5'3".

13 Q. During the time that you were at the motel, did you have
14 sexual interactions with this defendant?

15 A. Yes.

16 Q. And what were those interactions?

17 A. Oral sex, sex.

18 Q. How many times over that 36 hours did you perform oral sex
19 on the defendant?

20 A. Multiple.

21 Q. Do you remember the defendant taking videos of you
22 performing oral sex on him?

23 A. No, I don't remember.

24 Q. Have you seen those videos in preparation for trial?

25 A. Yes, I have.

1 Q. Can you take a look -- it's Exhibits 400, 401, and 402.

2 MS. RUSSELL: I'm not sure if they're bulk or in the
3 exhibits binder.

4 They are in the binder. It's a disk.

5 BY MS. RUSSELL:

6 Q. Are those the videos that you reviewed?

7 A. Yes.

8 Q. And do they have your initials on them?

9 A. I'm sorry?

10 Q. Do they have your initial on them?

11 A. Yes, they do.

12 MS. RUSSELL: We'd move Government Exhibits 400, 401,
13 and 402 into evidence.

14 MR. JENKINS: No objection.

15 THE COURT: They're admitted.

16 (GOVERNMENT'S EXHIBITS 400 THROUGH 402 ADMITTED.)

17 BY MS. RUSSELL:

18 Q. What do these videos show?

19 A. Me performing oral sex.

20 Q. What is the defendant doing while you are performing oral
21 sex on him?

22 A. He was telling me what to do and telling me he was going to
23 show me what to do and -- just talking about -- teaching me,
24 basically.

25 MS. RUSSELL: Your Honor, may we play Government

1 Exhibit 402?

2 MR. JENKINS: Your Honor, I would object to it being
3 played, Your Honor. If it's going to be introduced into
4 evidence, the jury is going to have the opportunity to review
5 it in the privacy of the jury room.

6 THE COURT: You can play a portion of it. How long do
7 you plan to play?

8 MS. RUSSELL: It's approximately a minute, Your Honor.

9 THE COURT: All right. Go ahead.

10 MS. RUSSELL: Government Exhibit 402, please.

11 (VIDEO PLAYED.)

12 BY MS. RUSSELL:

13 Q. For the record, who is the man in the video?

14 A. The defendant.

15 Q. And is that you in the video?

16 A. Yes.

17 Q. At the end of the video, you say, I really need to sleep
18 for, like, two minutes.

19 How much did you get to sleep during that 36 hours
20 that you were at the motel?

21 A. Approximately an hour or two.

22 Q. And did you tell the defendant other than that that you
23 wanted to sleep?

24 A. Yes.

25 Q. And did he let you sleep?

1 A. No.

2 Q. Were you high during that video?

3 A. Yes.

4 Q. And what were you high on?

5 A. Cocaine.

6 Q. And who gave you the cocaine?

7 A. The defendant.

8 Q. Were you addicted to cocaine at that point?

9 A. Yes.

10 Q. Did this defendant know that you were addicted to cocaine?

11 A. Yes.

12 Q. Have you sought treatment for your addiction?

13 A. Yes.

14 Q. And how long have you been sober?

15 A. Two months today.

16 Q. Turning your attention back to the time that you were being
17 trafficked, how did the cocaine make you physically feel?

18 A. Awake, full of energy.

19 Q. During the 36 hours that you were being trafficked, did the
20 defendant have sex with you other than oral sex?

21 A. Yes.

22 Q. Did you want to have sex with him?

23 A. No.

24 Q. Did you tell him that?

25 A. Yes.

1 Q. And what happened when you told him no?

2 A. It wasn't acceptable, and he said I do what he wants.

3 Q. Did he use a condom when he had sex with you?

4 A. No.

5 Q. At some point, were you ultimately able to leave the
6 Motel 6?

7 A. Yes.

8 Q. How did that come about?

9 A. I remember when I got to sleep for that hour or two, I woke
10 up, and there was a bunch of missed calls and text messages on
11 the prepaid phone on the dresser. And they were from the
12 defendant, and he said that he was gone, he'll be back shortly,
13 not to go anywhere, and to look on the bathroom counter.

14 Q. Did you look on the bathroom counter?

15 A. Yes.

16 Q. What was on the bathroom counter?

17 A. A bag of cocaine.

18 Q. What did you do when you heard that the defendant was not
19 there?

20 A. I immediately packed my bags, started calling people I
21 knew, because it was still early in the morning, and got ahold
22 of somebody in my past. He was only ten minutes away. He came
23 and got me and we left the motel.

24 Q. Did you go to the police station that day?

25 A. After I left?

1 Q. Uh-huh.

2 A. Yes.

3 Q. What did you tell them?

4 A. I told them what had happened the last about two days,
5 almost, and showed them bruises. Told them what I knew, told
6 them the names.

7 Q. Were you able to give them the phone that the defendant had
8 given you?

9 A. No.

10 Q. And why weren't you able to give them the phone that the
11 defendant had given you?

12 A. On the way back from the hotel -- or motel, it started
13 ringing. It was him. And I panicked and I threw it out the
14 window.

15 Q. That was before you got to the police station?

16 A. Yes.

17 Q. Did you talk with the defendant at all after you left out
18 of the motel?

19 A. He had tried to call me once.

20 Q. Did you answer?

21 A. Yes. I didn't know it was him.

22 Q. And what was his demeanor when he called you?

23 A. He was talking about, oh, I miss you so much, and I don't
24 know where you went, I thought somebody took you, and, are you
25 okay? I miss you so much. Where did you go?

1 Q. And how did that make you feel?

2 A. Freaked out. And I hung up.

3 Q. After you told everything to the police, did you make a
4 decision about whether you wanted to proceed with prosecution?

5 A. Yes.

6 Q. And what was your decision?

7 A. I did not want to.

8 Q. And why didn't you want to go forward?

9 A. Because I didn't want to be in this position right now,
10 seeing him in court.

11 Q. Do you want to testify here today?

12 A. No.

13 Q. And are you here voluntarily?

14 A. No.

15 Q. Are you, in fact, under subpoena to be here?

16 A. Yes.

17 MS. RUSSELL: I have no further questions.

18 THE COURT: All right. It's time for us to take a
19 brief recess.

20 THE LAW CLERK: All rise.

21 (11:26 A.M. RECESS TAKEN, OFF THE RECORD.)

22 (JURY OUT AT 11:27 A.M.)

23 MS. RUSSELL: Your Honor, very briefly. Before we
24 begin our cross, I wanted to raise one issue for the Court,
25 which is that in July, prior to the trial in July, the

1 Government filed a motion in limine to exclude any reference by
2 defendant to evidence of the victims' other sexual behavior.
3 And the Court actually didn't rule on that motion but held it
4 until today. And I failed to remind the Court of that before
5 we started trial.

6 I anticipate -- I could be wrong -- that defense
7 counsel will likely ask -- want to ask this witness about two
8 instances in which she allegedly participated in prostitution
9 with someone other than the defendant for herself prior to this
10 instance, in June 2017, where she was trafficked. And I would
11 note for the Court that rule 412(a)(1) bars admission of any
12 such evidence and bars the questioning of any such witnesses
13 under the rape shield law that Congress enacted specifically
14 for this purpose.

15 And I would note for the Court that that's set
16 forth in our motion on page 3 and 5. Specifically, I would
17 note for the Court that the Fourth Circuit has addressed this
18 exact issue in 1991, and the case that's cited repeatedly on
19 this issue is *United States versus Saunders*, S-A-U-N-D-E-R-S,
20 943 F.2d 388 -- it's Fourth Circuit, 1991 -- affirming the
21 exclusion of evidence of a victim's prior alleged prostitution.

22 In that case, like this one, the issue that defense
23 counsel wanted to raise was whether the victim -- whether her
24 consent was present or not, whether her prostitution alleged
25 was non-voluntary or not. And in that case, defense counsel

1 wanted to show evidence that she had, in prior instances,
2 engaged in acts of prostitution. And the Fourth Circuit held
3 in that case that, applying the rape shield law in 412, rule
4 412, that evidence of sexual history with respect to any third
5 party is still not relevant.

6 I would note that the rape shield law, Federal Rule
7 of Evidence 412, does have a narrow exception for past
8 instances of consensual interactions with the defendant when
9 the alleged act is between the defendant and the witness. So,
10 for example, if the defendant and the witness had had a history
11 of a past consensual relationship and then the witness in a
12 rape case was alleging non-consensualness, the defendant would
13 be permitted to say that, well, over the past year we've had a
14 certain number of consensual interactions.

15 But that's specifically excluded from this type of
16 situation because the alleged incidents that defense counsel
17 would like to ask about are with respect to prostitution. So I
18 would argue those should be excluded under 412.

19 THE COURT: That sounds correct, doesn't it?

20 MR. JENKINS: Your Honor, if I may be heard. I do
21 respectfully disagree, and here's the reason why, Your Honor.

22 I agree with counsel that if my purpose was to ask
23 her about her prior sexual contacts, even prostitution, just
24 that on this occasion she consented to the conduct that she's
25 described here today, that would be barred by the rule. But

1 that's not my purpose, Your Honor.

2 She's been interviewed no less than at least four
3 times that I'm aware of. And not until last week, sometime
4 last week, for the very first time did she report to the
5 Government that, in fact, she had engaged in prostitution prior
6 to June of 2017. And, therefore, Your Honor, I think it is
7 fair and relevant, highly probative, for me to be able to
8 question as to why she left that very important fact out for
9 almost a year and a half during the course of this
10 investigation and only chose to reveal it a week ago. And that
11 is my purpose for asking her.

12 Your Honor, I think it goes to her credibility.
13 I'm going to have a line of questions that's going to, as I
14 told the jury in opening, to show that this witness' story, her
15 account that she gave today, has evolved, that she said certain
16 things at certain times, she left certain information out,
17 she's added certain things, like she did here today, Your
18 Honor. And that's the purpose of it. By no means do I believe
19 it goes to whether or not she consented to this conduct,
20 because I don't think that's -- necessarily would be proper,
21 Your Honor.

22 However, for the purpose of putting before the jury
23 her credibility as to whether or not she has consistently told
24 the same story about this encounter, Your Honor, I think it's
25 highly probative.

1 You heard her on direct, Your Honor, give an
2 account that when she got in the car, she was just overwhelmed
3 and shocked by the mere discussion of prostitution, as though
4 that this was just something that she had never heard of
5 before. When -- come to find out a week ago, Your Honor, she
6 admit, not only once, but on at least two prior occasions,
7 having nothing to do with this defendant, she engaged in
8 prostitution.

9 She's testified to this jury that the only way she
10 knew about pricing, the only way she knew about acts related to
11 prostitution was based off of what this defendant told her. I
12 think that goes directly to her credibility, Your Honor, the
13 fact that she now, I believe, if answered truthfully my
14 questions, will say that she already knew about pricing, she
15 already knew about the -- about how to perform sex acts in the
16 prostitution trade because she had already been engaged in it.

17 MS. RUSSELL: Your Honor --

18 MR. JENKINS: And that's why I think it's relevant,
19 Your Honor.

20 MS. RUSSELL: Your Honor, respectfully, I disagree
21 both as to that summation of her testimony -- she never
22 testified that the only reason she knew about pricing was
23 because the defendant told her. She testified that the
24 defendant set her prices.

25 And moreover, I would proffer for the Court that

1 what has been conveyed to defense counsel is that the two prior
2 acts of prostitution that this woman engaged in was exchanging
3 a sex act for drugs, which I would argue is actually very
4 different. It didn't involve setting of prices. It didn't
5 involve being advertised.

6 But more to the point, Your Honor, that Congress
7 and the Supreme Court, when they promulgated the rules of
8 evidence, promulgated the rules precisely for this. This is
9 the -- as you may imagine, this issue arises ad nauseam in
10 these types of cases where people are being forcibly trafficked
11 and victims have, in fact, voluntarily prostituted before or
12 since. And the -- and rule 412 and the Fourth Circuit have
13 expressly and repeatedly held that that type of information,
14 even for impeachment purposes, Your Honor, is simply not
15 admissible.

16 The defendant is totally entitled to cross-examine
17 her on what he characterizes as her many other inconsistencies.
18 I disagree with that characterization, but he can ask her about
19 them. But he cannot ask her about any acts --

20 THE COURT: All right. I understand. I understand.

21 I believe that's correct, it would be a violation
22 of the rule and what the Fourth Circuit has indicated.

23 MR. JENKINS: Well, Your Honor --

24 THE COURT: The motion in limine will be granted.

25 MR. JENKINS: Your Honor, could I just ask for one

1 clarification? Can I ask her whether or not what she has
2 testified, that Mr. Rhymes is the one who told her about
3 pricing and acts -- whether or not, exclusive of Mr. Rhymes,
4 she knew about those type of things? How she may have known
5 about it, I'll just have to live with her answer. But I think
6 the impression that is now being put before the jury is that he
7 was the only way that she knew about such things.

8 THE COURT: Well, she didn't say that.

9 MR. JENKINS: Well --

10 THE COURT: That's a conclusion that you've drawn, but
11 I don't know that anybody else has.

12 MR. JENKINS: Very well, Your Honor.

13 THE COURT: She didn't say that. She just said that
14 he told her what prices to charge.

15 MR. JENKINS: Very well, Your Honor.

16 THE COURT: That's her testimony.

17 All right. Would you bring in the jury.

18 (JURY IN AT 11:52 A.M.)

19 THE COURT: Y'all can sit wherever you like. Have a
20 seat.

21 All right. Where is our witness?

22 MR. JENKINS: May counsel proceed, Your Honor?

23 THE COURT: Yes.

24 MR. JENKINS: Thank you.

25 CROSS-EXAMINATION

1 BY MR. JENKINS:

2 Q. Good morning, McKenzie.

3 A. Good morning.

4 Q. McKenzie, you and I have not met before. Correct?

5 A. Correct.

6 Q. McKenzie, I'm going to ask you to keep your voice up so
7 that the jury and everyone can hear you. And I know sometimes
8 I speak a little bit fast. If I'm speaking too fast, just
9 please let me know. Okay?

10 A. Okay.

11 Q. And also, if you don't understand one of my questions,
12 before you attempt to answer it, just ask me whether or not I
13 can rephrase it. Okay?

14 A. Okay.

15 Q. And I'll do my best to do so. Okay?

16 A. Okay.

17 Q. All right.

18 Now, McKenzie, prior to June 2017, did you know
19 Mr. Rhymes?

20 A. No.

21 Q. Had you ever met him?

22 A. No.

23 Q. The men who you described coming to pick you up in June of
24 2017 from the parking lot in Harris Teeter, had you met any of
25 them before?

1 A. No.

2 Q. But you did know Ms. Jada Morales. Correct?

3 A. Yes.

4 Q. And you did know -- how long had you known Ms. Morales?

5 A. I had known her for about -- see, I was in a placement with
6 her, actually, and we hadn't talked from the time I was in that
7 placement until then. I had just gone through and saw her
8 number and...

9 Q. Well, did you know her for months beforehand?

10 A. I had never interacted with her outside of the placement.

11 Q. And you knew from -- prior to June 2017, you knew she was a
12 prostitute. Correct?

13 A. Yes.

14 Q. You knew she had engaged in prostitution activities.
15 Correct?

16 A. Yes.

17 Q. And you knew that, through prostitution, she made money.
18 Correct?

19 A. Yes.

20 Q. And that's how she was able to support herself. Correct?

21 A. Okay.

22 Q. Is that a yes?

23 A. Yes.

24 Q. And when you first reached out to her in June -- on
25 June 3rd, 2017, you explained to her that you needed a place to

1 stay. Correct?

2 A. Yes.

3 Q. And did you explain to her at that point in time that you
4 were having trouble with your boyfriend?

5 A. Yes. I had said basically that he was very physically
6 abusive and that I had just decided to leave him without a
7 plan, because that was a good opportunity, and I was, like, I
8 just need a place to stay for a night or two.

9 Q. Now, McKenzie, you've been interviewed by law enforcement
10 on multiple occasions about this situation. Correct?

11 A. Yes.

12 Q. And you've had the occasion to explain to them the
13 circumstances that led to your originally contacting Ms. Jada
14 Morales. Correct?

15 A. Yes.

16 Q. And is it not true that on at least one occasion you told
17 law enforcement that the reason why you contacted Ms. Morales
18 was because you had lost your job? Correct?

19 A. No.

20 Q. You never told law enforcement that?

21 A. Honestly, I don't remember, sir.

22 Q. Okay.

23 Do you remember that you were interviewed on
24 June 5th, 2017, by the Fairfax County police?

25 A. Yes.

1 Q. And do you remember that, in relation to that interview,
2 toward the end they asked you to hand-write out your story?
3 Correct?

4 A. Yes.

5 Q. And you could write out what all had happened to you.
6 Correct?

7 A. Yes, I remember that.

8 Q. And do you remember doing that?

9 A. I do.

10 Q. And isn't it true that, when you were given that
11 opportunity to do that, you explained in that -- in your own
12 words, in your own handwriting, that the reason why you
13 contacted Ms. Morales was because you had lost her job?

14 A. I may have said that, but it wasn't the reason why I
15 contacted her. Because the reason why I contacted her was
16 because I had just left my ex-boyfriend and had nowhere to
17 go --

18 Q. And do --

19 A. -- and had no other support, so...

20 Q. Do you remember writing in that statement that you were --
21 you were with your boyfriend, you still were together with him,
22 and that he had went to work?

23 Do you remember writing that?

24 A. Right. He had went to work, yes.

25 Q. And do you remember writing that, I became overwhelmed and

1 stressed over a job?

2 Do you remember writing that?

3 A. Yeah, over the job I had had.

4 Q. Right. But you didn't say anything about an abusive
5 boyfriend when you wrote this handwritten statement. Correct?

6 A. No.

7 Q. Okay. And you indicated that -- in this writing, you said
8 that you just needed some time to chill. Correct?

9 A. Yeah.

10 Q. Isn't that what you wrote?

11 A. Yes, I was scared to turn him in, basically.

12 Q. Well, at this point in time when you were making this
13 written statement, did you understand that law enforcement
14 expected you to tell the truth?

15 A. Yes.

16 Q. Did you understand that they expected you to tell the whole
17 truth?

18 A. Yes.

19 Q. Do you understand that this jury expects you to tell the
20 truth?

21 A. Yes.

22 Q. Do you understand that this jury expects you to tell the
23 whole truth?

24 A. Yes.

25 Q. And would you agree with me that when you gave this

1 handwritten statement, you told a different story about why you
2 were going -- why you were contacting Ms. Morales? Correct?

3 A. Yes.

4 Q. Now, after that interview on June the 5th, you again were
5 interviewed in August of 2017. Correct?

6 A. Yes.

7 Q. And the agent from the FBI who's seated here to my right,
8 he was present then. Correct?

9 A. Uh-huh, yes.

10 Q. Was he?

11 A. Yes.

12 Q. Now, this was your second occasion. Correct?

13 A. Yes.

14 Q. And you now were two months away from this incident.
15 Correct?

16 A. Yes.

17 Q. And you, once again, had the opportunity to explain to law
18 enforcement what was your motivation for contacting
19 Ms. Morales. Correct?

20 A. Yes.

21 Q. And during that occasion, is it not true that you once
22 again neglected to mention anything about an abusive boyfriend?
23 Correct?

24 A. I don't remember exactly when I mentioned it, but I do
25 remember at some point within the last year of this going on, I

1 had mentioned that he was abusive to me.

2 Q. And was there a particular reason why you left that fact
3 out in your earlier interviews?

4 MS. RUSSELL: Objection. Mischaracterizes prior
5 testimony.

6 THE COURT: Objection overruled.

7 BY MR. JENKINS:

8 Q. Is there a reason why you left that fact out?

9 A. I had just, like I said, mentioned a couple minutes ago
10 that I was not ready to turn him in yet, and --

11 Q. And this is -- and this is -- Mr. Palmer is his name?

12 A. No.

13 Q. Robert? What is his name? What was your boyfriend's name
14 at that time?

15 A. Ronnie Parker.

16 Q. Ronnie Parker. And is it fair to say that in June of 2017
17 you were in love with Mr. Parker?

18 MS. RUSSELL: Objection. Relevance.

19 MR. JENKINS: Your Honor -- I think it's going to go
20 to motive to fabricate, Your Honor.

21 THE COURT: Objection overruled.

22 THE WITNESS: I wouldn't say I was in love with him,
23 but I liked him a lot.

24 BY MR. JENKINS:

25 Q. And you now have testified to this jury that he also was

1 abusive to you. Correct?

2 A. Yes.

3 Q. And on June the 5th, 2017, when you left the motel and went
4 to the Fairfax Police Department to report these incidents, he
5 was with you. Correct?

6 A. Yeah, he was.

7 Q. And you didn't want him to know what you had been engaged
8 in. Correct?

9 A. I told him what happened.

10 Q. And you told him that you were forced to do these things.
11 Correct?

12 A. Yes.

13 Q. And it was him, your boyfriend, who told you you needed to
14 go to the cops. Correct?

15 A. He wanted me to, but I chose to as well.

16 Q. But it's true that you told law enforcement that it was
17 your boyfriend who convinced you to go to the cops. Correct?

18 A. It was both of our's ideas.

19 Q. So you went to -- so you went to meet with the Fairfax
20 Police Department. Correct?

21 A. Yes.

22 Q. And at that point in time you had thrown away the phone
23 that you said was given to you. Correct?

24 A. Yes. And --

25 Q. And that was the flip phone. Correct?

1 MS. RUSSELL: Objection. Could we let her answer the
2 question, Your Honor?

3 THE COURT: Objection sustained.

4 BY MR. JENKINS:

5 Q. Had you thrown away the phone?

6 A. Yes.

7 Q. And this was when you were sitting down to meet with the
8 Fairfax Police Department. Correct?

9 A. I had thrown it out the window on the way to the police
10 department, not while I was at the police department.

11 Q. But you still had your own personal cell phone. Correct?

12 A. Yes.

13 Q. And that was the cell phone that you explained to law
14 enforcement that you had used to text with Ms. Jada Morales
15 prior to arriving at the motel. Correct?

16 A. Yes.

17 Q. And that was the cell phone that contained text messages
18 that would evidence what you say the communications were
19 between you and Ms. Morales. Correct?

20 A. Can you rephrase that?

21 Q. Well, on that cell phone that you had in your possession
22 when you were meeting with the Fairfax Police Department, the
23 text messages between you and Ms. Morales were on that phone.
24 Correct?

25 A. Yes.

1 Q. And the detective asked you whether or not he could see
2 that phone. Correct?

3 A. Yes.

4 Q. Did you give him the phone?

5 A. No.

6 Q. And later on, you also explained that you had prior
7 communications with Ms. Morales over a Facebook messaging. Do
8 you remember that?

9 A. Yes.

10 Q. And that is a means of communication that you use where you
11 spoke directly with Ms. Morales by using your cell phone.
12 Correct?

13 A. Yes.

14 Q. And that was your personal cell phone that you had these
15 communications with over Facebook messaging. Correct?

16 A. Rephrase that, please.

17 Q. Well, did you use Facebook messaging to speak with her?

18 A. Yes.

19 Q. And "her," I mean Ms. Morales. Correct?

20 A. Yes.

21 Q. And that was the day that you called her for help.

22 Correct?

23 A. Yes -- no. I had messaged her and talked to her both ways.
24 So I had to use Facebook Messenger and I had talked to her
25 through calling her --

1 Q. And --

2 A. -- with a regular number, not on Facebook Messenger.

3 Q. And when you met with members of the Fairfax County Police
4 Department, they asked you about whether or not you still had
5 that Facebook account. Correct?

6 A. Correct.

7 Q. And you told them that you did. Correct?

8 A. Uh-huh. Yes.

9 Q. And they asked you could they have access to it so that
10 they could see the messages between you and Ms. Morales.
11 Correct?

12 A. Yes.

13 Q. And you told them that you would provide it to them.
14 Correct?

15 A. Yes.

16 Q. Did you ever provide it to them?

17 A. I don't remember. I believe I did, but I can't remember.
18 I don't -- I don't remember, sir.

19 Q. In preparation for your testimony here today --

20 A. Yes.

21 Q. -- you testified that you reviewed some videos. Correct?

22 A. Yes.

23 Q. Did members of the prosecution team allow you to review
24 anything else exclusive of those videos?

25 A. Can you rephrase that, please?

1 Q. Did you review any text messages in preparation for your
2 testimony here today?

3 A. No.

4 Q. Did you review any cell phone records in preparation for
5 your testimony here today?

6 A. No.

7 Q. Other than the videos that you've already testified about
8 reviewing, did you review anything else in preparation for your
9 testimony here today?

10 A. No.

11 Q. So, would you agree with me that no one from the
12 prosecution team presented Facebook messaging text messages for
13 your review prior to here today?

14 A. Yes, no one -- no one reviewed Facebook messages.

15 Q. But your testimony is that you just don't remember whether
16 you gave them those messages. Correct?

17 A. Rephrase that.

18 Q. You don't remember whether you gave anyone in law
19 enforcement access to your Facebook messaging account?

20 A. No.

21 Q. Now, when you were meeting with the Fairfax Police
22 Department, they also asked you whether or not you would be
23 willing to place a monitored phone call directly to Mr. Rhymes.
24 Correct?

25 A. Correct.

1 Q. And they explained to you that the reason why they wanted
2 to do that was so that they could gather further evidence to
3 back up your story. Correct?

4 A. Correct.

5 Q. And when they asked you whether or not you would do that,
6 you refused. Correct?

7 A. Yes.

8 Q. You said you would think about it. Correct?

9 A. Yes.

10 Q. Now, that was in June of 2017. Correct?

11 A. Yes.

12 Q. And at that point in time you've testified that, after
13 showing up to the police department, telling them this entire
14 story, you decided you didn't want to prosecute. Correct?

15 A. Yes.

16 Q. But two months later, you again found yourself in a meeting
17 with law enforcement. Correct?

18 A. Yes.

19 Q. And that was in August of 2017. Correct?

20 A. Yes.

21 Q. And at that point in time had you decided still that you
22 didn't want to prosecute?

23 A. Correct.

24 Q. But you nevertheless agreed to meet with law enforcement?

25 A. Rephrase that.

1 Q. Well, were you forced to meet with law enforcement on
2 August 24, 2017?

3 A. I wasn't forced, but I agreed to.

4 Q. Okay. You agreed to meet with them. Correct?

5 A. I did.

6 Q. And again, you told your story about you had been forced
7 into prostitution by Mr. Rhymes. Correct?

8 MS. RUSSELL: Objection to the characterization of the
9 question, Your Honor. Argumentative.

10 THE COURT: Objection overruled.

11 BY MR. JENKINS:

12 Q. You again -- on August 17th, 2017, you explained to law
13 enforcement that you had been forced into prostitution by the
14 defendant. Correct?

15 A. Yes.

16 Q. And at that point in time, they again solicited your help.
17 Correct?

18 They asked you to help with the prosecution.
19 Correct?

20 A. Yes.

21 Q. They asked you whether or not the cell phone number you
22 used to speak with Ms. Jada Morales was still in your
23 possession. Do you remember that?

24 A. Yes.

25 Q. And you remember telling them, yes. Correct?

1 A. No, I don't remember, but I'm not saying that I did not say
2 that.

3 Q. Do you remember providing to law enforcement on that date,
4 among other things, your e-mail account address? Correct?

5 A. Yes.

6 Q. Now, your e-mail account address that you provided, was
7 that the same e-mail account that was associated with your
8 Facebook account?

9 A. I believe so, yes.

10 Q. And you provided that to them in order to provide them a
11 means to be able to access your Facebook account. Correct?

12 A. Yes.

13 Q. Now, in preparation for your trial -- for your testimony
14 here today, has anyone showed you any of your Facebook account
15 communications?

16 A. No.

17 Q. And that was so that you could verify the communications
18 you've told this jury about you had with Ms. Morales over
19 Facebook. Correct?

20 MS. RUSSELL: Objection. She said she didn't review
21 anything, Your Honor. So there's no --

22 MR. JENKINS: No. I asked her why she provided it.
23 Why did she give the e-mail address?

24 MS. RUSSELL: Then I object that the question was
25 confusing.

1 THE COURT: Objection overruled.

2 BY MR. JENKINS:

3 Q. Why did you provide law enforcement on August 17, 2017,
4 your e-mail account?

5 A. Can you rephrase that?

6 Q. Why -- was there a reason why you provided law enforcement
7 your e-mail account on August 17, 2017?

8 A. Because I couldn't get into my Facebook at the time, and
9 they said that they had some special way of doing things, so I
10 gave them the information that I knew. There wasn't a specific
11 reason that they asked for it.

12 Q. You also provided the telephone number that you were using
13 at the time of June of 2017. Correct?

14 A. I had mentioned provide -- when providing the telephone
15 number that I wasn't sure if it was the correct one, but I
16 tried my best to remember and I gave them what I remembered.

17 Q. Prior to June 2017, had you used cocaine before?

18 A. Yes.

19 Q. Do you remember telling law enforcement when you were
20 interviewed on August 17, 2017, that you had smoked weed before
21 but you had never used hard-core drugs before meeting my
22 client?

23 A. Can you repeat that, please?

24 Q. On August the 17th, 2017, did you not tell the FBI agent
25 that, before meeting Mr. Rhymes, you had smoked weed before,

1 but you had never used hard-core drugs before?

2 A. I don't remember saying that.

3 Q. Well, but your testimony here today now is that you, in
4 fact, had used hard-core drugs beforehand.

5 A. Yes, I have.

6 Q. So if someone were to say during that interview that you
7 denied ever using hard-core drugs, would that be untrue?

8 MS. RUSSELL: Objection, Your Honor. Argumentative.
9 It's not --

10 THE COURT: Objection sustained.

11 BY MR. JENKINS:

12 Q. Now, how long had you been using what you would
13 characterize as hard-core drugs prior to meeting Mr. Rhymes?

14 A. Started using hard-core drugs when I was -- right when I
15 turned 18, so January.

16 Q. And that would have been when? January?

17 A. Of 2017.

18 Q. So approximately six months prior to meeting Mr. Rhymes,
19 began using what you call hard-core drugs?

20 A. Yes.

21 Q. And can you tell the ladies and gentlemen of the jury, what
22 do you define as hard-core drugs?

23 A. Cocaine, meth, heroin.

24 Q. All right. Let's start with cocaine.

25 A. Okay.

1 Q. Was that the first among the three drugs that you started
2 to use?

3 MS. RUSSELL: Objection as to relevance, Your Honor.
4 Relevance to the --

5 THE COURT: Objection overruled.

6 BY MR. JENKINS:

7 Q. Was cocaine the first of the three hard-core drugs that you
8 started to use?

9 A. Yes.

10 Q. How often were you using cocaine between the period of
11 January 2017 and June 2017?

12 A. I started maybe every other day, and it soon became every
13 day unless I couldn't get it, but mainly every day.

14 Q. So for that six-months period prior to meeting Mr. Rhymes,
15 it's your testimony that at some point in time you became an
16 everyday user of cocaine?

17 A. Yes.

18 Q. And you've testified here today on direct examination that
19 cocaine made you feel alert, is it?

20 A. Awake.

21 Q. Awake.

22 And did it produce any other feelings in you?

23 A. No. Just awake and alert and...

24 Q. And did it affect your ability to recall?

25 A. Like --

1 Q. To remember things?

2 A. No, it didn't, because it's not like Xanax or anything
3 where that really takes your memory away to where you can't
4 remember anything. But I remember things pretty well on coke.

5 Q. So your testimony is that although you were using cocaine
6 nearly every day, that other than making you feel alert, it had
7 no other effects on you?

8 A. Depending on the situation that I was in whenever I was
9 using it, because, like you just said, I had been using it for
10 a while. There have been times where I've had good times using
11 it and bad times, but sometimes it would make me feel just,
12 like, happy or -- but mainly the main effect of cocaine is just
13 being alert and being awake and just -- I mean, yeah, I don't
14 really know any other way to explain it.

15 Q. Well, let me ask you about meth. You testified that was
16 one of your three hard-core drugs. Correct?

17 MS. RUSSELL: Same objection, Your Honor. Like -- the
18 defense counsel has inquired as to whether she can call recall,
19 which is a proper line of inquiry. Aside from her ability to
20 recall the events in question, Your Honor, this is not a proper
21 line of inquiry.

22 MR. JENKINS: I've asked her about cocaine, Your
23 Honor. She's got two more drugs.

24 THE COURT: Well, objection overruled, but we don't
25 need to go into detail. We're not trying the drugs themselves

1 here. You can get to the questions very quickly.

2 MR. JENKINS: I will.

3 BY MR. JENKINS:

4 Q. You testified that there were two other hard-core drugs
5 that you used, and that was meth and heroin. Correct?

6 A. Yes.

7 Q. Did you -- what effect did the use of those two drugs have
8 on you?

9 A. Heroin made me nod out and meth made me even more awake
10 than coke.

11 Q. Did either one of them affect your ability to recall?

12 A. No.

13 Q. And how long had you been using meth and heroin?

14 MS. RUSSELL: Your Honor, objection. The relevant
15 question has been asked, which is, how did it affect her
16 ability to recall?

17 THE COURT: Objection sustained.

18 MR. JENKINS: Okay.

19 BY MR. JENKINS:

20 Q. And you also used -- other than those hard-core drugs, you
21 also were consuming marijuana. Correct?

22 A. Yes.

23 Q. Now, when did you start using marijuana?

24 A. When I was 18.

25 Q. 15?

1 A. 18.

2 Q. 18. Around the same time that you started with the other
3 drugs?

4 A. Yeah.

5 Q. And did your use of marijuana affect your ability to
6 recall?

7 A. No.

8 Q. Now, when you arrived -- when you first got into the
9 vehicle, it's your testimony that you did not know you were
10 going to engage in prostitution. Correct?

11 A. Yes.

12 Q. This was a complete surprise to you. Correct?

13 A. Yes.

14 Q. How long after did you enter the vehicle did anyone in the
15 car start talking about prostitution?

16 A. How long --

17 Q. How long did you get in the car?

18 A. How long after --

19 Q. Yeah.

20 A. -- I got in the car did they start talking about it?

21 Q. Yes.

22 A. Like two, three minutes.

23 Q. Two to three minutes. And before that, they were just
24 asking you questions about where you were from?

25 A. Myself and where I was from.

1 Q. And at some point in time, the gentleman in the back seat
2 of the vehicle, you began performing oral sex on him. Correct?

3 MS. RUSSELL: Objection. Mischaracterizes her
4 testimony.

5 THE COURT: Objection overruled.

6 BY MR. JENKINS:

7 Q. At some point in time did you begin performing sex on the
8 gentleman -- excuse me -- oral sex on the gentleman in the back
9 of the vehicle?

10 A. He forced me to. I didn't begin --

11 Q. That's a yes?

12 A. -- automatically, but he forced me to.

13 Q. And that was the gentleman that you have testified was
14 Byrd. Correct?

15 A. Yes.

16 Q. Now, before you began having -- performing oral sex on
17 Byrd, is it not true that he explained to you that you would be
18 expected to do -- perform oral sex. Correct?

19 A. Once I got in the van?

20 Q. In fact, he asked you whether or not you could do it well.
21 Correct?

22 MS. RUSSELL: Objection. Can the witness answer the
23 question that was asked?

24 MR. JENKINS: I thought she did, Your Honor.

25 THE COURT: Well, I don't know. You're going to have

1 to ask it again because I don't know whether she answered it or
2 not. I was --

3 MR. JENKINS: I thought she did.

4 THE WITNESS: I was asking a question in return.
5 Sorry.

6 BY MR. JENKINS:

7 Q. Is it true that the individual you described as Byrd --

8 A. Yes.

9 Q. -- he asked you whether or not you were good at performing
10 oral sex?

11 A. Yes.

12 Q. And your response to him was that you had never had any
13 complaints. Correct?

14 A. No.

15 Q. What did you say in response to him asking you were you
16 good at performing oral sex?

17 A. That I wasn't really familiar with it, I hadn't done it a
18 lot before, didn't really know what I was doing.

19 Q. You told him you didn't really know what you were doing?

20 A. Yes.

21 Q. And at that point in time, he took his penis out. Correct?

22 A. Yes.

23 Q. And he, according to you, forced you to perform oral sex on
24 him?

25 A. Yes.

1 Q. Did he have any weapons at that time?

2 A. Not that I saw.

3 Q. Describe he strike you at that time?

4 MS. RUSSELL: Objection, Your Honor, as to the --

5 THE COURT: Objection overruled.

6 MS. RUSSELL: -- characterization of force.

7 THE COURT: Objection overruled.

8 BY MR. JENKINS:

9 Q. Did he strike you at that time?

10 A. With what?

11 Q. With anything.

12 A. Like with a weapon?

13 Q. With his hands?

14 A. No.

15 Q. With his feet?

16 A. No.

17 Q. With anything?

18 A. No.

19 Q. Did he threaten you at that time?

20 A. No.

21 Q. He just forced you to perform oral sex on him?

22 A. Yes.

23 Q. And once this was over, you were taken to a gas station?

24 A. Yes.

25 Q. That's your testimony?

1 A. I stayed in the car.

2 Q. This was on June the 3rd. Correct?

3 A. I don't remember the date.

4 Q. But it was nighttime. Correct?

5 A. Yes.

6 Q. And after you left the gas station, your testimony is that
7 you went to a hotel. Correct?

8 A. Yes.

9 Q. Now, at this point in time, did you have your personal cell
10 phone with you?

11 A. No, they took it.

12 Q. Who took it?

13 A. The defendant.

14 Q. Did he ever give it back?

15 A. I would have it sometimes, but he was always right there
16 when I was using it. And it was running out of service. I
17 couldn't make calls on it, like.

18 Q. Well, let me ask you this, McKenzie. At this point in
19 time, according to you, he had already provided you a cell
20 phone. Correct?

21 A. Yes.

22 Q. And the cell phone that he had provided you, it had been
23 explained to you that that phone would be used for the sex
24 services that you were providing. Correct?

25 A. Yes.

1 Q. And he took your cell phone -- your personal cell phone
2 from you. Correct?

3 A. Yes.

4 Q. Do you know why?

5 A. No.

6 Q. Okay.

7 A. I figured maybe that he didn't want me to call somebody or
8 say what was going on, basically, call the police.

9 Q. But your testimony also is that he gave it back to you.
10 Correct?

11 A. Yes. At certain times.

12 Q. And --

13 A. He didn't take it away the whole time I was there, but I
14 was provided with it with his supervision.

15 Q. If your testimony is that he gave you the flip phone to use
16 for the prostitution services -- correct? And that your
17 understanding was that he didn't want you to have access to
18 your private phone because you might use it to alert others.
19 Correct?

20 A. Okay.

21 Q. Why did he ever give it back to you?

22 A. I don't know.

23 Q. But your testimony is that he did give it back to you?

24 A. Yes. Sometimes.

25 Q. And, in fact, when you left the motel, you had it with you.

1 Correct?

2 A. Yes.

3 Q. Because, in fact, that's --

4 A. It was -- when I woke up, it was just there.

5 Q. That's --

6 A. He left it there.

7 Q. That's the phone that you used to call some friends to pick
8 you up from the hotel. Correct?

9 A. No.

10 Q. What phone did you use?

11 A. The prepaid.

12 Q. And was there a reason why you didn't use your own personal
13 cell phone?

14 A. Because I no longer had service on it.

15 Q. Didn't have service on it?

16 A. No longer.

17 Q. Now, when you arrived -- well, strike that.

18 While you are at that motel, there were times in
19 which Mr. Rhymes was not there. Correct?

20 A. There was always somebody there. It may not have been him,
21 but there was always somebody there.

22 Q. And when Mr. Rhymes was there, is it true that Mr. Rhymes
23 never physically assaulted you?

24 A. That is true.

25 Q. He never punched you. Correct?

1 A. No. He would grab me pretty hard, but he never hit me, no.

2 Q. Well, you did tell law enforcement that he never put his
3 hands on you. Correct?

4 A. Right.

5 Q. And he never displayed any weapons to you or anything of
6 that nature. Correct?

7 A. No.

8 Q. And the video that you testified to, that was just one
9 among other times in which you performed oral sex on
10 Mr. Rhymes. Correct?

11 A. Yes.

12 Q. And during that video, Mr. Rhymes didn't threaten you in
13 any way. Correct?

14 A. Yes.

15 Q. And at that point in time, Mr. Rhymes knew that you were
16 engaged in prostitution. Correct?

17 MS. RUSSELL: Objection. Confusing.

18 MR. JENKINS: I don't know if it's confusing.

19 THE COURT: Objection overruled.

20 THE WITNESS: I was about to ask you if you could
21 rephrase that, please.

22 BY MR. JENKINS:

23 Q. Did he know that you were performing oral sex on men in
24 exchange for money?

25 A. Can you rephrase that one more time? I don't understand

1 what you're saying.

2 Q. Did Mr. Rhymes know that men were paying you money in order
3 for you to perform oral sex on them?

4 A. They weren't paying me -- well, they were paying -- okay.
5 He set this up. He told me -- he knew that men would come in
6 or people would come in and I would have to have sex with them,
7 get the money from them, and immediately when they left, the
8 money went to him. So I don't know understand what you're
9 trying to say. But that's what happened.

10 Q. So the answer is yes, he knew?

11 MS. RUSSELL: Objection. Misstates her answer.

12 THE COURT: Objection --

13 MS. RUSSELL: Her answer was --

14 THE COURT: -- sustained.

15 BY MR. JENKINS:

16 Q. And on the video, he also didn't have any weapons or
17 anything of that nature. Correct?

18 A. No.

19 Q. Had he provided you cocaine before that time?

20 A. Before what time?

21 Q. Before the -- what we saw depicted on the video.

22 A. Yes.

23 Q. He had?

24 A. Yes.

25 Q. Okay. What we saw depicted on the video, was that earlier

1 to when you arrived at the motel or later?

2 A. I'm sorry?

3 Q. When did it happen?

4 A. When did the oral sex happen?

5 Q. Yes.

6 A. After we were arrived -- or after -- yeah, after we got to
7 the motel.

8 Q. You testified that when you gave this account to the
9 Fairfax Police Department, that you had injuries, you had
10 bruises. Correct?

11 A. Yes.

12 Q. Did you tell the detectives who were interviewing you that
13 you had bruises?

14 A. Yes.

15 Q. Did they take any photographs of these bruises?

16 A. I believe they did, yes.

17 Q. Prior to your testimony here today, did anyone from the
18 prosecution team show you these photographs of your -- what you
19 described as your bruises?

20 A. No.

21 Q. After -- when you were at the police department, your
22 boyfriend was with you. Correct?

23 A. Yes.

24 Q. At that point in time, were you guys back together?

25 A. I wouldn't say that, no.

1 Q. Okay. At some point in time, did you decide you wanted to
2 go forward with this prosecution?

3 A. No.

4 Q. You never did?

5 A. No.

6 Q. Since June 2017, and your testimony here today, have you
7 used any illegal drugs?

8 MS. RUSSELL: Objection. Objection.

9 BY MR. JENKINS:

10 Q. Since that time.

11 THE COURT: What relevance is that?

12 MS. RUSSELL: Objection.

13 MR. JENKINS: After -- Your Honor, her ability to
14 recall. If she's using drugs after --

15 THE COURT: Objection overruled.

16 THE WITNESS: Repeat it, please.

17 BY MR. JENKINS:

18 Q. Have you used drugs since that June 2017?

19 MS. RUSSELL: Same objection, Your Honor.

20 THE COURT: Objection overruled -- objection
21 sustained. I'm sorry. I misspoke.

22 MR. JENKINS: Okay. I'm sorry, Your Honor.

23 THE COURT: Objection sustained. I meant to sustain
24 that --

25 MR. JENKINS: I'm sorry, Your Honor. I didn't

1 understand you.

2 THE COURT: Now you understood me. I said it.

3 MR. JENKINS: Now I do, Your Honor.

4 BY MR. JENKINS:

5 Q. When was the last time you were interviewed by law
6 enforcement concerning these matters?

7 A. Interviewed? What do you mean by interviewed?

8 Q. I mean with anyone from the prosecution.

9 A. Yesterday.

10 Q. How many times have you met with people from the
11 prosecution team?

12 A. I couldn't count.

13 Q. Is it more than six times?

14 A. Six or seven. Six -- six or seven actually sounds about
15 correct. Not more than that, but around that.

16 Q. And your testimony is that Mr. Rhymes had vaginal sex with
17 you also?

18 A. Like regular sex?

19 Q. Yeah.

20 A. Yes.

21 Q. Without a condom?

22 A. Yes.

23 Q. And you declined to be examined by a SANE nurse. Correct?

24 A. Rephrase that.

25 Q. By a sexual assault nurse.

1 A. Right.

2 Q. You declined to be examined by one. Correct?

3 A. No, I didn't, actually. I was seen.

4 Q. You were seen by one?

5 A. I was seen.

6 Q. When?

7 A. I don't remember when, but I can tell you the name of the
8 doctor and what hospital.

9 Q. And was that before or after you made your report to the
10 Fairfax Police Department?

11 A. After.

12 Q. In your preparation for the trial here today, did anyone
13 show you any medical reports related to this exam you said you
14 had?

15 A. No.

16 MR. JENKINS: I have no further questions, Your Honor.

17 THE COURT: All right. Do you have anything further?

18 MS. RUSSELL: No, I have no further questions. You're
19 done.

20 THE COURT: All right. Thank you. You may step down
21 and you may be excused.

22 Who's next?

23 MS. RUSSELL: Your Honor, the Government would call
24 Officer Kenner Fortner.

25 (THE OATH WAS ADMINISTERED.)

1 **OFFICER KENNER FORTNER,**
2 having been first duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MS. RUSSELL:

5 Q. Good morning, Officer. How are you?

6 A. Good morning. I'm doing all right.

7 Q. Where do you work?

8 A. I work with the Fairfax County Police.

9 Q. And what is your name?

10 A. My name is Kenner Fortner.

11 Q. And what is your title?

12 A. I'm a police officer.

13 Q. In your role as an officer for Fairfax, what do you do?

14 A. I patrol the streets of Sully district station, basically
15 taking calls for service.

16 Q. And how long have you been with Fairfax?

17 A. Today, about three-and-a-half years.

18 Q. I want to direct your attention to June 5th of 2017. Were
19 you working that day?

20 A. I was.

21 Q. And at that point, how long had you been with Fairfax?

22 A. Closer to two years at that time.

23 Q. Did you have an occasion that day to interact with a
24 Ms. McKenzie?

25 A. Yes.

1 Q. And do you actually recall McKenzie?

2 A. I do.

3 Q. And why do you recall her?

4 A. Her particular report was very detailed, and I did a full
5 interview with her.

6 Q. What do you recall about her demeanor when you first
7 interacted with her?

8 A. McKenzie appeared very nervous when she initially
9 starting giving her report. I could tell she had been upset.
10 I feel like she had been crying. And during her report she did
11 mention being scared.

12 Q. Did she look scared to you?

13 A. Yes.

14 Q. And what did you observe that made you think that she was
15 scared?

16 A. Well, there was times when I would ask her questions -- in
17 these particular cases, they have to go into more detail than
18 they probably feel comfortable, and she was very hesitant in
19 responding.

20 Q. Did she ultimately give you details?

21 A. Oh, yes.

22 Q. When did the events that she was reporting to you occur?

23 A. So she gave the report Monday evening around 8:00 or
24 9:00 p.m., and the events that she was reporting took place the
25 previous Saturday through Monday morning.

1 Q. And how much detail was she able to give you about the
2 events?

3 A. She was able to provide most of the details of the sexual
4 assaults. There were multiple of them. She also was able to
5 provide nicknames, description of the suspects, and telephone
6 numbers.

7 Q. Was she able to provide real names of the suspects or just
8 nicknames?

9 A. Just nicknames and descriptions.

10 Q. Did anything strike you about the level of detail she was
11 able to provide?

12 A. I was surprised at the level of detail she was able to
13 recall. Throughout the interview process of me taking the
14 report, she was able to recall those details, so she gave me a
15 phone number in the beginning. By the end of it, she could
16 still recall that phone number from memory.

17 Q. Did she make a written statement that day?

18 A. She did.

19 Q. If you could take a look at the binder in front of you, at
20 Government Exhibit 505.

21 A. Yes.

22 Q. Do you see that document in front of you?

23 A. I do.

24 Q. What is it?

25 A. This is her statement of release, and then followed by her

1 written statement that she provided me.

2 Q. Is this the statement she made with you when she was
3 reporting the offense?

4 A. Yes.

5 Q. And what did you do with that written statement?

6 A. When she finished it and I wrote my report, I scanned it
7 into the computer and attached it as is pictured here.

8 MS. RUSSELL: Your Honor, we would move to admit
9 Government Exhibit 505 as a prior consistent statement.

10 MR. JENKINS: No objection, Your Honor.

11 THE COURT: It's admitted.

12 (GOVERNMENT'S EXHIBIT 505 ADMITTED.)

13 BY MS. RUSSELL:

14 Q. Did you ultimately investigate and identify this defendant
15 in your case?

16 A. No.

17 Q. And why were you not able to do that?

18 A. Towards the end of the interview, she decided she didn't
19 want to prosecute. After speaking with a detective, it would
20 have been their job to essentially pursue what I wrote. And
21 because her lack of wanting to prosecute at that time, we
22 didn't do it.

23 Q. And why did she not want to prosecute?

24 MR. JENKINS: Objection, Your Honor. Calls for
25 speculation.

1 THE COURT: Objection sustained.

2 BY MS. RUSSELL:

3 Q. What did you observe about her when she was making a
4 decision whether she wanted to prosecute or not?

5 A. Again, it was her hesitation and fear. And she actually
6 told me that she felt safer having made the report, so she
7 didn't want to go further.

8 Q. Turning the last page of Government Exhibit 505, which is
9 admitted into evidence at this point, does it actually say why
10 she doesn't want to prosecute?

11 A. She says that she was afraid of being tracked or found by
12 him and hurt.

13 Q. And who is the "him" that that sentence is referring to?

14 A. The main suspect in the case.

15 MS. RUSSELL: No further questions.

16 CROSS-EXAMINATION

17 BY MR. JENKINS:

18 Q. Good afternoon, Officer.

19 A. Good afternoon.

20 Q. Officer, when you met with McKenzie, were you the first
21 member from the Fairfax Police Department to meet with her?

22 A. Yes.

23 Q. Did you have an opportunity to observe her?

24 A. I did.

25 Q. And the purpose of you meeting with her was to take her

1 account as to what had occurred?

2 A. Correct.

3 Q. After you finished meeting with her, did anyone else, to
4 your knowledge, meet with her from the Fairfax Police
5 Department?

6 A. Yes. Well, can I clarify?

7 Q. Yes.

8 A. While I was taking the interview, there were a few times
9 that my supervisor was in the room, so she encountered them.
10 And then I do know a detective tried to reach out to her a few
11 times.

12 Q. When the detective tried to reach out to her a few times,
13 was that on the same night that she was reporting or sometime
14 thereafter?

15 A. I believe it was afterwards.

16 Q. As far as you know, on the evening of June the 5th that
17 you've testified to, were you the only person who spoke
18 directly to her from the Fairfax Police Department?

19 A. To my knowledge.

20 Q. Did you take any photographs of her?

21 A. I did not.

22 Q. Did you -- you didn't take any photographs of her?

23 A. No.

24 Q. Do you know on that night whether or not she was offered
25 the opportunity to be examined by a sexual assault nurse?

1 A. Typically, that's the place of the detective. And when she
2 signed her statement of release, we didn't pursue any sort of
3 SANE exam.

4 Q. So is it your testimony that she didn't?

5 A. I don't recall offering it to her.

6 Q. Do you recall taking her to any hospital to have a SANE
7 exam done?

8 A. No, I do not.

9 Q. Tell the ladies and gentlemen what a SANE exam is.

10 A. A SANE exam is a special examination by a certain nurse for
11 individuals that have experienced sexual assault.

12 Q. As a police officer, why would you offer a SANE exam to
13 someone who has reported a sexual assault?

14 A. They specifically gather evidence related to that alleged
15 assault that can be used in court.

16 Q. And it is your testimony that you offered this opportunity
17 to McKenzie. Correct?

18 A. I do not recall offering it to her because she signed a
19 statement of release and did not want to pursue charges at that
20 time.

21 Q. But it's your testimony that you didn't take her to the
22 hospital for that purpose. Correct?

23 A. I did not take her to the hospital.

24 Q. Do you -- is it your -- well, let me ask you this. Did a
25 medical professional come to where you were interviewing her

1 for the purpose of giving her a SANE exam?

2 A. No.

3 Q. And you didn't take any photographs of any injuries.

4 Correct?

5 A. I did not.

6 MR. JENKINS: I have no further questions.

7 REDIRECT EXAMINATION

8 BY MS. RUSSELL:

9 Q. In the course of your job, do you have some experience with
10 SANE exams?

11 A. I know what they are and I know when they're given.

12 Q. And are they typically given in a -- when are they
13 typically given?

14 A. It depends on the time frame of the alleged assault, as
15 well as other factors, but typically it's done with the
16 detective as they pursue their investigation.

17 Q. And in what types of cases is a SANE exam administered?

18 A. Alleged sexual assaults.

19 Q. And do you know what a SANE nurse examines when she
20 performs a SANE exam?

21 A. Yes.

22 Q. And what happens to the victim when a SANE exam is
23 performed?

24 A. They have to undress, they're photographed and physically
25 inspected in their private areas.

1 Q. And do you know if DNA or other physical evidence is
2 collected from their vaginas?

3 A. Yes.

4 Q. Is that penetrative?

5 A. Yes, it is.

6 Q. Have you ever experienced victims being reluctant to
7 participate in SANE exams?

8 A. Yes.

9 MS. RUSSELL: I have no further questions.

10 THE COURT: Thank you. You may step down and may be
11 excused.

12 MS. RUSSELL: Your Honor, our next witness is a video
13 deposition of the juvenile, which is approximately 30 minutes
14 long.

15 THE COURT: All right.

16 MS. RUSSELL: That would include the entirety of
17 direct and cross.

18 THE COURT: Very well. Play it.

19 MS. RUSSELL: For the record, the Government calls
20 Monserrat -- M-O-N-S-E-R-R-A-T -- B, last initial B, by video
21 deposition, which has been admitted, pursuant to stipulation,
22 as Government Exhibit 508.

23 And we would also move to admit Government
24 Exhibit 509, which is the transcript of the deposition that the
25 jury is about to watch.

1 MR. JENKINS: No objection, Your Honor.

2 THE COURT: It's admitted.

3 (GOVERNMENT'S EXHIBIT 509 ADMITTED.)

4 MS. RUSSELL: And with the assistance of the Court
5 Security Officer, we would ask that the transcripts be
6 presented to the jury so they could follow in the transcript --
7 we have copies for everybody -- while they watch the video.

8 THE COURT: There is an audio, isn't there?

9 MS. RUSSELL: There is, Your Honor. It is -- it's
10 fairly good.

11 The transcripts have been admitted now as
12 Government Exhibit 509 and it may be of use to the jurors to be
13 able to follow along while they watch. So we would ask that
14 they be distributed. We have copies for everyone.

15 MR. JENKINS: Your Honor, I don't have an objection to
16 the transcripts being admitted, because then they can go back
17 in the jury room to assist the jury. But I've listened to the
18 audio, Your Honor. I think having transcripts at this point
19 would only be distracting.

20 THE COURT: All right. Let's move it along. Let's
21 hear it. And they're admitted, so they can go to the jury
22 room.

23 MS. RUSSELL: Your Honor, may counsel approach very
24 briefly?

25 (ON-THE-RECORD BENCH CONFERENCE, TO WIT:

1 MS. RUSSELL: Your Honor, we have a witness who I
2 believe has been subpoenaed in the defense case that is at the
3 door, and we would ask that he be allowed to be instructed to
4 go somewhere so he doesn't watch the video of the juvenile.
5 He's a witness in the defense's case.

6 MR. JENKINS: He is, Your Honor. I can -- I'll go
7 tell him.

8 THE COURT: All right. Go tell the Marshal. Send him
9 somewhere.

10 (END OF BENCH CONFERENCE.)

11 THE COURT: Marshal, there's a witness out there at
12 the door that's not supposed to see this video as well as to
13 hear anything in the courtroom. So he needs to go somewhere
14 else.

15 All right. Let's play this. We need to get going
16 here. We've got a half an hour and we're going to miss lunch.

17 (VIDEO PLAYED FOR JURY.)

18 THE COURT: How much longer does this go?

19 MS. RUSSELL: It's 30 minutes total, Your Honor. I
20 think -- I think it ends at 1:15, ten minutes.

21 THE COURT: Your examination?

22 MS. RUSSELL: No, the whole thing.

23 THE COURT: All right.

24 MS. RUSSELL: Ten more minutes.

25 THE COURT: We'll pause -- when it's done with your

1 exam, we'll pause. Unless you're going to be ten minutes; then
2 we'll pause now.

3 MS. RUSSELL: It's ten minutes total, the whole video,
4 ten more minutes.

5 MR. JENKINS: I think it's about two minutes for her
6 examination to conclude.

7 THE COURT: All right.

8 MS. RUSSELL: Did you want us to stop there? It's
9 about seven minutes left.

10 THE COURT: All right. We'll conclude the video after
11 lunch. We'll recess now until 2:15.

12 THE LAW CLERK: All rise.

13 (1:06 P.M. LUNCH RECESS TAKEN ~ OFF THE RECORD.)

14 (JURY OUT AT 1:06 P.M.)

15 (2:15 P.M. ON THE RECORD.)

16 MS. RUSSELL: Your Honor, it has come to the
17 Government's understanding that defense counsel has indicated
18 an interest in calling a witness that the Government
19 understands has a Fifth Amendment issue and would request the
20 Court appoint counsel to discuss that with the witness before
21 he testified. My understanding is defense counsel has
22 subpoenaed him and he is present in the courthouse, but he does
23 not yet have an attorney.

24 MR. JENKINS: Your Honor, he does not, as far as I
25 know, have an attorney. I think he is aware of what his Fifth

1 Amendment rights are. I would suggest that the Court just make
2 an inquiry of him with respect to that and inquire as to
3 whether or not he desires to have counsel. My understanding is
4 that he doesn't, and he's prepared to testify today on behalf
5 of the defendant.

6 MS. RUSSELL: I would proffer for the Court that this
7 is one of the pimps who was in a conspiracy and engaged in the
8 activities with the defendant. It's the Government's
9 understanding that he clearly has exposure and so, if he is to
10 make a decision to testify and waive that, that's fine, but I
11 think he needs to discuss that with counsel before he does so.

12 I submitted a list of counsel conflicts in the case
13 to the clerk's office, so the clerk's office has indicated that
14 they might be able to do that and have counsel here by 3:00 so
15 he wouldn't be holding up the process. My understanding is
16 that witness is physically present in the building, or at least
17 was this morning, and so is local.

18 THE COURT: All right. Well, if the clerk's office
19 can get somebody here, we'll work it out. If he doesn't want
20 counsel, he doesn't want counsel. We'll work it out then.

21 Bring in the jury.

22 (JURY IN AT 2:19 P.M.)

23 THE COURT: You-all have a seat.

24 All right. Go ahead with your tape.

25 MS. RUSSELL: Your Honor, during the Government's

1 case-in-chief in the video deposition, the Government moved
2 into evidence several exhibits, none of which had objections,
3 and I would just note that those are moved into -- I would
4 request that the Court formally move those into this record.
5 That's Exhibit 201, 205, 206, 204, 110, 301, 112, 404, 303,
6 302A and B, and 403.

7 THE COURT: All right.

8 MR. JENKINS: Again, no objection, Your Honor.

9 THE COURT: They're admitted.

10 MS. RUSSELL: Thank you.

11 (GOVERNMENT'S EXHIBITS 201, 205, 206, 204, 110, 301, 112,
12 404, 303, 302A, 302B, AND 403 ADMITTED.)

13 (VIDEO DEPOSITION PLAYED.)

14 THE COURT: All right.

15 Who is next?

16 MS. TY: Government calls Detective Anthony Mellis,
17 Your Honor.

18 (THE OATH WAS ADMINISTERED.)

19 **DETECTIVE ANTHONY MELLIS,**

20 having been first duly sworn, testified as follows:

21 **DIRECT EXAMINATION**

22 BY MS. TY:

23 Q. Good afternoon. Can you please state your name and spell
24 it for the record.

25 A. Anthony Mellis, A-N-T-H-O-N-Y, M-E-L-L-I-S.

1 Q. How are you employed?

2 A. I am a detective with Prince William County police.

3 Q. For how many years?

4 A. I've been with the department for eight years, a detective
5 for two years.

6 Q. Where are you presently assigned?

7 A. The special victims bureau.

8 Q. Detective Mellis, were you working on the evening of
9 August 12, 2017?

10 A. Yes.

11 Q. During your shift, did you respond to a call for officers
12 to the Motel 6 in Dumfries?

13 A. Yes.

14 Q. Is that within the Eastern District of Virginia?

15 A. Yes.

16 Q. Approximately what time did that call come in, if you
17 recall?

18 A. I don't recall the exact time.

19 Q. In the evening?

20 A. It was in the evening, I remember. Nighttime.

21 Q. What was the nature of this investigation?

22 A. It had to do with a missing juvenile from the Youth for
23 Tomorrow facility, and the additional info was that the
24 juvenile was discovered at the Motel 6 being held against her
25 will.

1 Q. And what did you do first upon your arrival at the Motel 6?

2 A. Upon arrival, I spoke to the officers that were on scene
3 and then I spoke to the juvenile.

4 Q. Did you determine the girl's identity during the course of
5 your investigation?

6 A. Yes.

7 Q. What was her name?

8 A. // // // // Monserrat.

9 Q. Based on your investigation, did you determine whether she
10 had any other identifying markings on her?

11 A. Yes. Apparently, she had a tattoo that was on her hand.

12 Q. And with the assistance of the Court Security Officer, I
13 would like to show you what's been admitted as Government
14 Exhibit 201 in the binder.

15 Do you recognize Government Exhibit 201?

16 A. Yes.

17 Q. What is it?

18 A. That's a photograph of Monserrat.

19 Q. And is the photograph of Monserrat an accurate depiction of
20 how she looked the night you recovered her?

21 A. Yes.

22 Q. What, if anything, did you observe about her appearance
23 that night?

24 A. Well, when I encountered her, she was in the back of the
25 police cruiser and, just from speaking to her, she was scared.

1 Based on the questions that I asked her, I determined that she
2 was scared at that time.

3 Q. Did you talk to her on the scene?

4 A. Yes.

5 Q. After speaking with her, what was the next thing you did?

6 A. After speaking with her, I obtained consent to go in the
7 room. And I went into the room with the officers.

8 Q. And do you recall the room number?

9 A. It was 225.

10 Q. Who had occupied that room, to the best of your knowledge?

11 A. To the best of my knowledge, it was the juvenile here and a
12 gentleman that had rented the room.

13 Q. During your investigation, did you determine who had paid
14 for the room at room 225 at the Motel 6?

15 A. Yes.

16 Q. Who was that?

17 A. The name was Justin Robinson.

18 Q. When you arrived at room 225, was anyone there?

19 A. No.

20 Q. What did the room look like?

21 A. There were two beds. There was one bed closest to the door
22 that was unmade. It was used. The bed was used. The other
23 one was completely made. It appeared that it hadn't been
24 touched.

25 Closest to the door there was a table. There was a

1 trash can next to the bed. And there was another table
2 directly in front of the beds in the room.

3 Q. What, if any, articles of clothing did you see?

4 A. As I looked around the room, I noticed that there was a
5 backpack with clothes, and underneath the first bed there was
6 a -- underwear.

7 Q. Can you describe the underwear?

8 A. It was blue.

9 Q. I would like to show you what's been admitted as
10 Government's Exhibit 303. It's a bulk exhibit.

11 MR. JENKINS: Your Honor, I'm going to object on
12 relevancy grounds.

13 THE COURT: I'm sorry?

14 MR. JENKINS: Relevancy, Your Honor, to the underwear
15 coming in.

16 MS. TY: It's already been admitted through
17 Monserrat's testimony. It's been previously admitted, Your
18 Honor.

19 THE COURT: Well, it's been testified to. Do we need
20 to pass around it and look at it?

21 MS. TY: It's just for the witness to identify that it
22 was, in fact, the same underwear that was found in the hotel
23 room.

24 THE COURT: All right. Go ahead.

25 BY MS. TY:

1 Q. Is it in the same or substantially the same condition today
2 as it was when you saw it at the Motel?

3 A. I believe so.

4 Q. Did you determine if the blue underwear that had been
5 admitted at Government's Exhibit 303 was significant to your
6 investigation?

7 A. Yes, it is.

8 Q. And how was it significant?

9 A. During further investigation, we had discovered a Backpage
10 posting with a female that we determined to be Monserrat
11 wearing that underwear.

12 Q. What other items in the room, if any, did you see that were
13 relevant to your investigation?

14 A. Upon entering the room and looking around, the trash can
15 that was closest to the first bed, it had an open blunt wrapper
16 and it had a used condom wrapper in it.

17 Q. In the binder in front of you could you please turn to
18 what's been marked for identification as Government's
19 Exhibit 113?

20 MR. JENKINS: Your Honor, at this point, I would
21 object. It's cumulative.

22 MS. TY: Your Honor --

23 MR. JENKINS: It's cumulative, Your Honor. We've
24 already had testimony -- these items have already been
25 introduced and they're really not in dispute.

1 MS. TY: These are photographs of the room, Your
2 Honor. We have not yet introduced them into evidence. We
3 would do so now. And the defendant --

4 THE COURT: What's going on there -- what significance
5 is there to the room now?

6 MS. TY: Your Honor, so that the jury can -- can see
7 what the room looked like when Monserrat was recovered. The
8 witness is merely testifying to --

9 THE COURT: Well, that's nothing but satisfying pure
10 curiosity. Everybody admits what -- they were there and what
11 was done. Every witness has said so.

12 MS. TY: Your Honor, we would still like to move to
13 the photographs into evidence.

14 THE COURT: How many do you want to move in?

15 MS. TY: Your Honor, it's only a two-page document in
16 Government's Exhibit 113.

17 THE COURT: Do you object to 113?

18 MR. JENKINS: No, Your Honor.

19 THE COURT: All right. It's admitted.

20 (GOVERNMENT'S EXHIBIT 113 ADMITTED.)

21 BY MS. TY:

22 Q. So what happened next after you surveyed the room?

23 A. After we surveyed the room, going back outside, after
24 speaking with the officers and the victim, it was determined
25 that the situation had started in Fairfax County. So I

1 contacted Fairfax County and requested for a detective from
2 their special victims bureau to respond to investigate their
3 portion of the situation.

4 Q. While on the scene, did you notice anyone relevant to your
5 investigation?

6 A. Yes.

7 Q. Can you describe for the jury the two -- the people that
8 the saw?

9 A. While speaking to the victim outside, the officers on scene
10 had noticed two subjects, male subjects, walking towards the
11 room on the second floor of the hotel.

12 They pointed that out to me. And during my
13 conversation with the juvenile, it was determined that the
14 subjects were relevant to our case.

15 Q. And based on her answer, what did law enforcement then do?

16 A. We waited until the subjects walked around the corner and
17 out of sight from where we were. And then the two officers
18 rounded the corner and challenged both subjects. I then went
19 to the right from where -- facing the hotel, I went to the
20 right, went up to the stairs. And when I rounded the corner
21 going up the stairs, I noticed that one subject was still up on
22 the second floor. The other had jumped off the balcony, and
23 one of the officers was engaged in a foot pursuit of that
24 subject.

25 Q. Through your investigation, did you determine the identity

1 of the two males?

2 A. Yes.

3 Q. Who were they?

4 A. It was Justin Robinson and Mr. Cornell Rhymes.

5 Q. And was Robinson and the defendant eventually detained?

6 A. Yes.

7 Q. Then what happened after they were detained?

8 A. After the subjects were detained, we transported both
9 subjects and the juvenile to our Garfield police station, and
10 from there, we interviewed all parties.

11 Q. Was Monserrat also taken to the Garfield police station?

12 A. Yes.

13 Q. Did there come a time when Monserrat was interviewed that
14 night?

15 A. Yes.

16 Q. For -- to your knowledge, was that the first time she was
17 interviewed by law enforcement?

18 A. Extensively, yes, but preliminarily she spoke to the
19 officers that encountered her earlier.

20 Q. Okay. And at the Garfield police station, who had
21 interviewed her?

22 A. It was myself and Detective Lester Anderson from Fairfax
23 County.

24 Q. And why exactly was Fairfax County Police Department
25 involved?

1 A. Because, as I said earlier, the situation had started in
2 Fairfax. That's where -- based on my investigation, that's
3 where she -- she was initially held at another hotel in Fairfax
4 County.

5 Q. Did you also interview Mr. Robinson?

6 A. Yes.

7 Q. Through your investigation, what did you determine to be
8 Mr. Robinson's role with respect to Monserrat?

9 MR. JENKINS: Objection, Your Honor.

10 THE COURT: Objection sustained.

11 BY MS. TY:

12 Q. Did you have an opportunity to interview the defendant?

13 A. Yes.

14 Q. What did you do first during the course of your interview
15 with the defendant?

16 A. Prior to asking him any questions regarding the incident, I
17 read him his Miranda rights and I told him that he was free to
18 go at any point.

19 Q. At that time, was Prince William County holding the
20 defendant on any charges?

21 A. No, there were no charges.

22 Q. Did you ask him any statements with respect to
23 Mr. Robinson?

24 A. Yes.

25 Q. What statements did the defendant make?

1 A. Regarding Mr. Robinson, he stated he didn't know him, he
2 only -- he had just met him at the Waffle House, and he was in
3 the process of buying a half a J.

4 Q. Based on your investigation, what was your understanding of
5 the relationship between the defendant --

6 MR. JENKINS: Objection, Your Honor.

7 THE COURT: Objection sustained.

8 BY MS. TY:

9 Q. Did the defendant provide any reason for being at the motel
10 that night?

11 A. Yes.

12 Q. What reason was that?

13 A. His reason was he in the process of buying a half a J.

14 Q. And had you asked him whether or not he knew the juvenile,
15 Monserrat?

16 A. Yes.

17 Q. What observations, if any, did you make about the defendant
18 during your questioning in reference of Monserrat?

19 A. When I asked him about her, I asked him her -- her name and
20 I mentioned the names. And when I brought it up, I noticed
21 that his facial expression had changed and he had become
22 nervous.

23 MS. TY: The Court's indulgence.

24 No further questions, Your Honor.

25 THE COURT: All right.

1 Cross-examine.

2 MR. JENKINS: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MR. JENKINS:

5 Q. Detective, when you observed the two men on the second
6 floor who you have identified as Mr. Robinson and my client,
7 Mr. Rhymes, is it my understanding that Mr. Robinson attempted
8 to flee? Correct?

9 A. Yes.

10 Q. He was the one who jumped over the banister. Correct?

11 A. Yes.

12 Q. And Mr. Rhymes didn't run. Correct?

13 A. No.

14 Q. Mr. Rhymes didn't jump over the banister. Correct?

15 A. No.

16 Q. And you identified yourself to Mr. Rhymes. Correct?

17 A. Yes.

18 Q. And Mr. Rhymes stopped on your command. Correct?

19 A. He stopped on the command of the other officer.

20 Q. He complied with the instructions that were being provided
21 to him. Correct?

22 A. Yes.

23 Q. He was cooperative. Correct?

24 A. Yes.

25 Q. And then at some point in time he was taken into custody.

1 Correct?

2 A. Yes.

3 Q. And my understanding is that you read him his Miranda
4 rights. Correct?

5 A. Yes.

6 Q. And he agreed to speak with you. Correct?

7 A. Yes.

8 Q. And in reading him his Miranda rights, you explained to him
9 that he wasn't required to speak with you. Correct?

10 A. I don't remember explaining all that to him. I just read
11 him his rights.

12 Q. Well, when you say you read him his rights, what did you
13 tell him?

14 A. I read it from the card that I -- that I carry.

15 Q. You've been in law enforcement for eight years?

16 A. Yes.

17 Q. You've been a detective for two years?

18 A. Yes.

19 Q. This isn't the first time that you've had the occasion to
20 read someone their Miranda rights. Correct?

21 A. No.

22 Q. In fact, is it fair to say you know what they are off the
23 top of your head? Correct?

24 A. Fairly so.

25 Q. Well, tell the jury what you told him.

1 A. You have the right to remain silent. Anything you say can
2 and will be used against you in court. You have the right to
3 consult with an attorney before answering any questions. If
4 you cannot afford an attorney, one will be provided for you
5 free of cost.

6 Q. And after doing so, Mr. Rhymes agreed to speak with you.
7 Correct?

8 A. Yes.

9 Q. And he told you that he was at the hotel that night.
10 Correct?

11 A. Yes.

12 Q. And he was there to buy drugs. Correct?

13 A. Yes.

14 Q. And you testified that at some point in time you mentioned
15 Monserrat's name to him. Correct?

16 A. Yes.

17 Q. And you said that he then became nervous. Correct?

18 A. Yes.

19 Q. What -- other than you described his facial expression --
20 led you to conclude that he was being nervous?

21 A. Just his facial expression. And -- I mean, his demeanor
22 changed.

23 Q. Before that night, had you ever met Mr. Rhymes?

24 A. No.

25 Q. Had you ever had an occasion to speak with him?

1 A. No.

2 Q. Were you familiar with his demeanor?

3 A. No.

4 Q. Were you familiar with his speech pattern?

5 A. No.

6 Q. This was your first occasion speaking with him?

7 A. Yes.

8 Q. And you drew the conclusion that he had become nervous?

9 A. Yes.

10 Q. And your only reason to reach that conclusion is because of
11 some look you saw on his face. Correct?

12 A. Yes.

13 MR. JENKINS: No further questions.

14 THE COURT: All right. Thank you. You may step down.
15 You may be excused.

16 MS. TY: No redirect, Your Honor.

17 Your Honor, the Government would like to call
18 Special Agent Sean Clark.

19 (THE OATH WAS ADMINISTERED.)

20 SPECIAL AGENT SEAN CLARK,

21 having been first duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MS. TY:

24 Q. Good afternoon. Could you please state your name and spell
25 it for the record.

1 A. Good afternoon. My first name is Sean, S-E-A-N. Last name
2 is Clark, C-L-A-R-K.

3 Q. Where do you work?

4 A. I'm a special agent with the FBI in the Washington field
5 office.

6 Q. How long have you worked for the FBI?

7 A. This January it will be 23 years.

8 Q. What is your current unit or assignment?

9 A. I am assigned to the human trafficking/child exploitation
10 squad.

11 Q. Starting in August 2017, did you become involved in an
12 investigation involving the defendant?

13 A. Yes, I did.

14 Q. What is the nature of that investigation?

15 A. It involved juvenile prostitution and human trafficking of
16 an adult female.

17 Q. Have you reviewed the indictment that charged the defendant
18 in this case?

19 A. I have, yes.

20 Q. Did you become familiar with a young woman named McKenzie
21 during the course of your investigation?

22 A. Yes, I did.

23 Q. Is she the 18-year-old individual identified in the
24 indictment as M.M.?

25 A. That is correct.

1 Q. How did law enforcement first encounter McKenzie?

2 A. She walked into a Fairfax County police department to
3 report an incident of being trafficked.

4 Q. During the course of your investigation, did you determine
5 McKenzie's age at the time she reported the incident?

6 A. Yes, I did.

7 Q. How old was she?

8 A. She was 18 years old.

9 Q. Did you also personally interview McKenzie as part of your
10 investigation?

11 A. I did.

12 Q. When did this occur?

13 A. The initial investigation interview was in August 2017.

14 Q. During your interview, did you observe any unique markings
15 on McKenzie?

16 A. I did.

17 Q. What were they?

18 A. She had a star tattoo on her left arm.

19 Q. What, if any, online advertisements had law enforcement
20 obtained with respect to McKenzie?

21 A. Backpage.com advertisements.

22 Q. And generally speaking, what was Backpage.com?

23 A. Yeah. So Backpage.com is a classified advertising website,
24 kind of like a Craigslist, where people can post items for sale
25 or look for jobs, as well as they have a section for escorts

1 where people can post for prostitution, male and females.

2 Q. Is Backpage still functional?

3 A. It is not.

4 Q. At the time of the events alleged in the indictment, was
5 Backpage operational?

6 A. Yes, it was.

7 Q. I would like to show you what's been previously admitted as
8 Government's Exhibit 111 in the binder.

9 A. Okay.

10 Q. Is that the Backpage ad you reviewed in the course of your
11 investigation?

12 A. Yes, it is.

13 Q. Can you please read the title of the advertisement?

14 A. 100 sexy, eye candy, good girl gone bad, 18. Posted
15 Monday, June 5th, 2017, 1:54 a.m.

16 Q. Is there a phone number tied to that ad?

17 A. Yes, there is.

18 Q. What phone number is that?

19 A. It's 571-719-0030.

20 Q. And are there also photos of a female depicted?

21 A. Yes.

22 Q. Through your investigation, had you determined the identity
23 of the female in those photos?

24 A. Yes, I did.

25 Q. Who is it?

1 A. McKenzie M.

2 Q. And how do you know that?

3 A. There's a star tattoo on the left arm, same arm as
4 McKenzie, as well as these photos were shown to McKenzie.

5 Q. Now, did you obtain motel business records during the
6 course of your investigation of the defendant?

7 A. Yes, I did.

8 Q. Did some of those relate to the time McKenzie was being
9 trafficked?

10 A. Yes.

11 Q. From which motel did you obtain such business records?

12 A. Initially, the Motel 6 in Springfield, Virginia.

13 Q. Is that within the Eastern District of Virginia?

14 A. Yes, it is.

15 Q. What types of documents did you obtain from the Motel 6?

16 A. It was a customer folio, the invoice, the person who rented
17 the room.

18 Q. I would like you to take a look at what's been marked as
19 Government's Exhibit 106.

20 Do you recognize it?

21 A. Yes, I do.

22 Q. Is that a true and accurate record that you received from
23 the Motel 6 in Springfield?

24 A. Yes, it is.

25 Q. What is the address of that motel?

1 A. 6868 Springfield Boulevard, Springfield, Virginia.

2 Q. Between what dates what the room rented?

3 A. June 3rd, 2017 through June 6th, 2017.

4 Q. And who paid for that room?

5 A. Cornell Rhymes.

6 Q. Based on your investigation, is there any significance to
7 the dates during which the defendant rented the room in the
8 Motel 6 in Springfield?

9 A. Yes.

10 Q. What is that?

11 A. Those are the same dates determined in the investigation
12 that McKenzie was being prostituted out of the room.

13 MS. TY: Your Honor, the parties have a stipulation as
14 to Government's Exhibit 104, 105, and 106 that the Motel 6
15 records constitute regularly being conducted business records
16 pursuant to rule 803(6). If we could admit that stipulation at
17 this time.

18 THE COURT: It's admitted.

19 MS. TY: And we would like -- also like to move in the
20 Exhibit 106 into evidence.

21 THE COURT: Admitted.

22 (GOVERNMENT'S EXHIBIT 106 ADMITTED.)

23 BY MS. TY:

24 Q. During the course of your investigation, were you able to
25 determine the phone number used by the defendant during the

1 time McKenzie was trafficked?

2 A. I was, yes.

3 Q. Have you reviewed records related to the calls associated
4 with that phone number?

5 A. I did review them, yes.

6 Q. What's the last four digits of that telephone number
7 associated with the defendant?

8 A. Cornell Rhymes' phone number is associated with 1111 -- I'm
9 sorry, 1108.

10 Q. Was there anything about those call records that was
11 significant to your investigation?

12 A. Yes, there were.

13 Q. What was the significance?

14 A. During the June 4th -- June 3rd through June 5th, 2017,
15 there were 46 contacts between the 1108 Cornell Rhymes' number
16 with the phone number used by McKenzie in the course of
17 prostitution associated with her Backpage ad ending in 0030.
18 So there were 46 contacts.

19 Q. How do you know that?

20 A. Through call records received from Sprint.

21 Q. And how did you obtain these records?

22 A. Through legal means, through a subpoena that we issued on
23 Sprint.

24 Q. If you could take a look what's been marked as Government's
25 Exhibit 108.

1 THE COURT: Have you stipulated to these too?

2 MR. JENKINS: Yes, Your Honor.

3 THE COURT: So there's no reason to have this witness
4 identify them if you've stipulated to their admissibility.

5 MS. TY: Yes, Your Honor. We've stipulated to the
6 phone numbers that Cornell Devore Rhymes has a phone number
7 202-200-1108, as well as the 0300 number that's been associated
8 with McKenzie's Backpage ad and a phone number ending
9 in 9521 that has been stipulated that belongs to Mr. Robinson.

10 We've also stipulated that the Sprint call logs are
11 business records.

12 THE COURT: All right. Well, they're all admitted.
13 Why are we going over that with this officer if you've
14 stipulated to it?

15 MS. TY: If we could move those stipulations into
16 evidence, and also move in Exhibit 108.

17 THE COURT: Well, they're admitted.

18 (GOVERNMENT'S EXHIBIT 108 ADMITTED.)

19 THE COURT: What else do you have with this officer
20 that you haven't stipulated to.

21 MS. TY: Your Honor, we would like to review some
22 records associated with the juvenile and the Uber that she took
23 between the Springfield and Dumfries location.

24 THE COURT: Well, if you have a question about it, but
25 if you've stipulated to their admissibility, they're admitted.

1 So ask him what you want to about those exhibits, not their
2 authenticity.

3 MS. TY: If there's no objection, Your Honor, we can
4 move in the stipulation and -- as well as the exhibits. So in
5 addition to the phone numbers, we also stipulate that a law
6 enforcement officer had obtained a true and accurate domestic
7 public record related to the vital record of the juvenile,
8 Government's Exhibit 115, which we would also move into
9 evidence, as well as the stipulation.

10 THE COURT: It's admitted. If you've stipulated to
11 it, it's admitted.

12 (GOVERNMENT'S EXHIBIT 115 ADMITTED.)

13 MS. TY: We would also like to stipulate that the Uber
14 records contained at Government's Exhibit 107 constitute
15 regularly conducted business activity pursuant to 803(B)(6) --

16 THE COURT: They're admitted. They're admitted.

17 MS. TY: And also we would like to move in
18 Government's Exhibit 107 as well as stipulation.

19 THE COURT: It's admitted.

20 (GOVERNMENT'S EXHIBIT 107 ADMITTED.)

21 MS. TY: Your Honor, the -- Government's Exhibit 104
22 and 105 are also motel business records. We would like to move
23 those in. Those have been stipulated to.

24 THE COURT: They're admitted.

25 (GOVERNMENT'S EXHIBIT 104 AND 105 ADMITTED.)

1 MS. TY: Court's indulgence.

2 (BRIEF PAUSE.)

3 BY MS. TY:

4 Q. Sir, now I would like you to -- with respect to the call
5 records that's been previously admitted as Government's
6 Exhibit 108, had you reviewed any other calls that -- calls or
7 contacts that the defendant's phone number had made to other
8 individuals who are relevant to your investigation?

9 A. I did, yes.

10 Q. Who -- what number and which contact was that?

11 A. On August -- between August 10th and August 12th, 2017,
12 when the juvenile Monserrat was being trafficked, there
13 were 24 contacts between Cornell Rhymes and Justin Robinson,
14 alias Byrd. So...

15 Q. Now, I would like to direct your attention to October 26th,
16 2017. Did you participate in the execution of a residential
17 search warrant that day?

18 A. I did, yes.

19 Q. On whose residence?

20 A. On Cornell Rhymes.

21 Q. Were there any other law enforcement agencies present for
22 the search?

23 A. Yes.

24 Q. Which agencies?

25 A. U.S. Marshal Services, as well as Fairfax County Police

1 Department and Prince William County Police Department
2 participated with the FBI.

3 Q. What was the FBI's role in the search warrant?

4 A. We were assisting on the search warrant and arrest of
5 Cornell Rhymes, as we're a part of the task force on human
6 trafficking and juvenile prostitution.

7 Q. Were there any electronic items seized during the search?

8 A. There were, yes.

9 Q. Was the electronic items seized what's been admitted as
10 Government's Exhibit 300? It's a bulk exhibit.

11 A. Yes.

12 Q. Did you determine that phone to belong to the defendant?

13 A. Yes.

14 Q. Did you review the contents of the defendant's phone?

15 A. I did, yes.

16 Q. Was any of the contents that you reviewed relevant to your
17 investigation?

18 A. Yes, there were.

19 Q. And what content was that?

20 A. Previous video -- videos were found on his phone, and one
21 of the videos was played for the jury before with McKenzie and
22 the defendant Cornell Rhymes.

23 Q. And are you referring to Government's Exhibit 400, 401, and
24 402?

25 A. That is correct.

1 Q. Had you reviewed those -- the contents of those exhibits
2 prior to trial?

3 A. Yes, I did.

4 Q. Following the defendant's arrest on local charges in
5 October, was the defendant arrested on federal charges?

6 A. He was.

7 Q. When did that occur?

8 A. We arrested him on federal charges on December 18, 2017.

9 Q. Was he interviewed by you at this time?

10 A. Yes, he was.

11 Q. Did you advise him of anything?

12 A. I read him his Miranda.

13 Q. Did he decide to speak with you then?

14 A. He did, yes.

15 Q. Did he make any statements about his relationship with
16 Mr. Robinson?

17 A. Yes, he did. He said that he was friends with
18 Mr. Robinson, Justin Robinson, a/k/a Byrd, since about 2010.

19 Q. Did you ask the defendant questions about McKenzie?

20 A. Yes, I did.

21 Q. Did you show a photograph of McKenzie to him?

22 A. I did.

23 Q. What did he say?

24 A. He admitted -- he admitted that he recognized the female in
25 the photo, but wouldn't provide any details on how he knew her.

1 Q. Did the defendant make any statements as to who else was at
2 the Motel 6 in Springfield in June 2017 --

3 A. He did.

4 Q. -- when McKenzie was trafficked?

5 A. Yes.

6 Q. And what statements did he make?

7 A. He said that, in June -- early June 2017 at the Motel 6 in
8 Springfield, Tweez, who's known as Jaitone Summers, as well as
9 Justin Robinson, known as Byrd, were with him.

10 Q. Did you also ask the defendant questions about Monserrat?

11 A. I did.

12 Q. Did you show him a photograph of her?

13 A. Yes, I did.

14 Q. How did he respond?

15 A. At first he said that he met her face to face for the first
16 time in the patrol car on August 12th, 2017, when he was
17 taking -- taken into custody out in Prince William County. And
18 then later, when asked if he ever had sex with her, he refused
19 to answer that question.

20 Q. Did you ask him about the fact that she was under 18?

21 A. I did. And he also -- he also stated that he didn't want
22 to answer that question.

23 Q. At some point did he decide to end the interview?

24 A. He did, yes.

25 Q. I just have a few more questions of clarification. If you

1 could turn to what's been admitted as Government's Exhibit 104.

2 A. Okay.

3 Q. And can you please state who that room was registered to?

4 Who paid for that room?

5 A. This is the August 4th through the August 12th, 2017,

6 Springfield motel. It was registered to Samantha --

7 MR. JENKINS: Objection, Your Honor. This is

8 cumulative. We've already --

9 MS. TY: It's not, Your Honor. There is a name on the

10 document that has not yet been explained, and I would like to

11 elicit the testimony from the witness.

12 MR. JENKINS: It's in evidence, Your Honor.

13 THE COURT: Well, ask him what you want to have him

14 explain.

15 MS. TY: Yes, Your Honor.

16 BY MS. TY:

17 Q. Who is the name listed on that room?

18 A. Samantha Eugena Alexander.

19 Q. During your investigation, did you determine how that room

20 was being used?

21 A. Yes, I did.

22 Q. And based on your investigation, had you determined who

23 Samantha Alexander was?

24 A. Yes.

25 Q. And who was she?

1 A. She was a 7th grade classmate to Justin Robinson, a/k/a
2 Byrd, who was a close friend of Byrd's.

3 Q. Thank you.

4 MR. JENKINS: May counsel proceed, Your Honor?

5 THE COURT: Yes.

6 MR. JENKINS: Thank you.

7 CROSS-EXAMINATION

8 BY MR. JENKINS:

9 Q. Good afternoon, Special Agent Clark.

10 A. Good afternoon.

11 Q. Special Agent Clark, you've been with the FBI for 23 years?

12 A. This January, yes.

13 Q. And right now you are a part of what unit?

14 A. Part of the human trafficking/child exploitation task
15 force.

16 Q. How long have you been on that task force?

17 A. A little over eight years.

18 Q. During that eight-year period of time, have you had the
19 occasion to interview individuals who you believe are a victim
20 of human trafficking?

21 A. Yes.

22 Q. Have you had the opportunity to interview individuals who
23 you understand have been forced into prostitution?

24 A. Yes.

25 Q. And during your eight years in that role would you say

1 you've had the occasion to do so on more than ten occasions?

2 A. I don't want to give you a number -- I don't have a number.

3 Q. Okay. But you've been doing it routinely over the last
4 eight years?

5 A. Yes.

6 Q. And -- and when you -- from your experience of interviewing
7 individuals who claim to have been forced into prostitution, is
8 it fair to say that you find it useful to try to corroborate
9 things that they are sharing with you about their prostitution
10 experience?

11 A. I wouldn't use the word "useful." I would say that I
12 follow the facts and try to corroborate the facts.

13 Q. You try to corroborate the facts?

14 A. Correct.

15 Q. In other words, simply because someone says that they were
16 forced into prostitution, that's not something that you would
17 feel comfortable relying solely on that. Correct?

18 A. I take a statement and I try to follow the facts. I try to
19 corroborate what they stated to me, correct.

20 Q. For example, if someone tells you that they were physically
21 injured as a consequence of being forced into prostitution, you
22 would look for some physical evidence to support that.

23 Correct?

24 A. Generally speaking, yes.

25 Q. For example, if someone has bruising on their body, that's

1 something that you would find useful to your investigation to
2 either confirm or discount what they're saying. Correct?

3 A. Again, I don't want to -- you know, generally speaking,
4 yes.

5 Q. And also you would use other techniques -- law enforcement
6 techniques; for example, you might look for toll records.
7 Correct?

8 A. Toll records?

9 Q. Yeah, toll records. Phone records. Correct?

10 A. That's part of the investigative -- yes.

11 Q. In order to try to corroborate what the person is saying.
12 Correct?

13 A. That is one of the -- the things that we use, yes.

14 Q. And sometimes you might even use a technique where you have
15 the purported victim --

16 MS. TY: Objection, Your Honor, as to the general line
17 of inquiry.

18 THE COURT: Objection to what?

19 MS. TY: To the general line of inquiry.

20 THE COURT: Objection overruled.

21 BY MR. JENKINS:

22 Q. One of the techniques that you may try to employ is to use
23 what's called a consensual monitored phone call. Correct?

24 A. I've used that in the past, yes.

25 Q. And that's where you have the purported victim make a phone

1 call to a target suspect to see if you can learn anything of
2 value. Correct?

3 A. That's what a consensual phone call is, yes.

4 Q. And that's a useful -- you've found that to be a useful
5 technique. Correct?

6 A. In certain cases, yes. In certain cases, no. But yes, at
7 times, yes.

8 Q. Well, let's talk about in this case. Okay? In this case,
9 you had the opportunity to interview Ms. McKenzie?

10 A. Correct.

11 Q. And that's the individual who was identified in the
12 indictment in this case as M.M. Correct?

13 A. Correct.

14 Q. And this interview -- your first interview with her
15 occurred on August 17, 197 -- I'm sorry. Giving my birthday.
16 August 17th, 2017.

17 A. Yes.

18 Q. August 17th, 2017.

19 A. Happy birthday.

20 Q. And when you interviewed McKenzie, you asked her whether
21 or not she would make a consensual phone call to Mr. Rhymes.
22 Correct?

23 A. I don't -- I don't recall if it was the August 17th
24 interview. I don't have that 302 in front of me. If you want
25 to give it to me to refresh my recollection.

1 Q. Well, let me ask you this. Do you remember in any of your
2 interviews with McKenzie asking her whether or not she would be
3 willing to make a consensual phone call to Mr. Rhymes?

4 A. I believe what you're asking is -- it was Fairfax County
5 Police Department Detective John Spotta was there with me. And
6 he was asking McKenzie to make the phone call to -- to
7 Mr. Rhymes.

8 Q. And did you have any understanding as to why Detective
9 Spotta made that request of McKenzie?

10 A. Yes. It was regarding a rape allegation that McKenzie
11 provided to the Fairfax police regarding Cornell Rhymes.

12 Q. Do you know if the consensual monitored phone call was ever
13 made to Mr. Rhymes?

14 A. McKenzie really didn't want to deal with us. She was
15 scared of the defendant. And she --

16 Q. Well, my question --

17 A. I'm getting to the answer.

18 Q. I understand.

19 A. So can I finish, please?

20 Q. Absolutely.

21 A. So she -- she was very -- she didn't want to meet with us
22 even the first time. So she was very reluctant to disclose
23 anything, sit with us, and she was -- she wanted to think about
24 making the phone call. She actually stated that she didn't
25 want to hear the defendant's voice again.

1 Q. So the answer is no?

2 A. That is correct.

3 Q. Now, you just testified that she didn't really want to give
4 you information. Correct?

5 A. Because she was scared.

6 Q. But she did give you her cell phone number. Correct?

7 A. What date -- I interviewed her a few times. What date are
8 we talking about?

9 Q. On August 17th, 2017, she gave you her cell phone number.
10 Correct?

11 A. So, knowing McKenzie over the last year or so, she had a
12 cell phone number or she didn't have a cell phone number. So
13 I -- if it's on that 302, then -- if I wrote it down, then she
14 gave me her cell phone number.

15 Q. Well, would it refresh your recollection if I showed you
16 your 302?

17 A. Yes, please.

18 Thank you.

19 Q. Can you just take a look at the first two paragraphs --
20 just review them to yourself and tell me when you're done.

21 A. Okay. So --

22 Q. Having reviewed that -- let me pose the question.

23 Having reviewed that, does it refresh your
24 recollection as to whether or not she provided you her cell
25 number?

1 A. She provided me an old cell number, yes.

2 Q. The answer is yes, it does refresh your recollection?

3 A. An older cell number, yes.

4 Q. We have to take this one step at a time.

5 A. No, that's what it says here.

6 Q. I understand. The first question is, now that you've
7 reviewed it, does it refresh your recollection?

8 A. Yes. Because I read it, yes.

9 Q. Did she provide you a cell number on August 17th, 2017?

10 A. She provided me her previous cell number, yes.

11 Q. And one of your techniques that you've learned over the
12 course of your time with the FBI is that, if you have a cell
13 phone number for an individual, you may use that telephone
14 number to obtain toll records. Correct?

15 A. Yes, that's correct.

16 Q. In order to determine whether or not that cell phone number
17 has been in contact with other individuals that might be
18 relevant to your investigation. Correct?

19 A. That's correct.

20 Q. And you also have learned that once you are armed with that
21 cell number, you also can obtain cell site data. Correct?

22 A. On occasion, yes, if there is cell site data.

23 Q. And can you tell the ladies and gentlemen of the jury, what
24 is cell site data?

25 A. So, cell site data -- the telephone companies keep data

1 where -- it's not GPS or anything like that, but if you receive
2 or send a phone call or receive or send texts, it will have
3 site information related to three triangular cell towers.

4 Q. Which would help you to determine the location of where a
5 particular cell phone may have been at the time certain calls
6 are made. Correct?

7 A. If the cell service is activated, yes.

8 Q. And in this investigation here, at least as of August 17th,
9 2017, you had what you understood to be at one point in time a
10 cell phone number that was used by McKenzie. Correct?

11 A. Her previous -- yes. So it says previous cell number,
12 previous to my interview on August 17th.

13 Q. And can you tell the ladies and gentlemen of the jury, did
14 you obtain toll records for that cell number?

15 A. Toll records? I -- I can't recall if it was toll records
16 on that cell number, but I don't believe so.

17 Q. Can you tell the ladies and gentlemen of the jury, did you
18 attempt to obtain cell site data for that phone number?

19 A. We did not, believing that that phone was not activated
20 during the June time frame.

21 Q. Is the answer to my question, no, you did not?

22 A. That is the answer, yes.

23 Q. Now, you have -- throughout the course of your experience
24 as an FBI agent, you also are familiar with issuing search
25 warrants -- or subpoenas for documents. Correct?

1 A. Subpoenas, yes.

2 Q. And you know in this day and age a lot of times people use
3 social media to communicate with one another. Correct?

4 A. Yes.

5 Q. And you're familiar with how you can go about issuing a
6 legal process to a social media site, such as Facebook, in
7 order to obtain information. Correct?

8 A. Correct.

9 Q. You know how to do that. Correct?

10 A. Correct.

11 Q. And one of the pieces of information that you would need --
12 or can help you to do that would be a cell number that's
13 connected with a Facebook account. Correct?

14 A. A cell number or other identifying information.

15 Q. Other identifying information such as an e-mail address.
16 Correct?

17 A. Yes.

18 Q. And on August the 17th, 2017, McKenzie provided you with
19 an e-mail address. Correct?

20 A. That is correct.

21 Q. And when you -- once you received that e-mail address, did
22 you cause any subpoenas to be issued to Facebook in order to
23 obtain communications that McKenzie may have used on
24 Facebook?

25 A. A subpoena I don't believe would give you the

1 communications.

2 Q. I'm sorry?

3 A. A subpoena wouldn't give you the communications.

4 Q. Would a subpoena to Facebook using that e-mail address give
5 you access to her e-mail account -- excuse me -- her Facebook
6 account associated with that e-mail address?

7 A. Yes, it would -- it would -- it wouldn't give us access
8 necessarily; I would be careful about using the word "access."
9 It would give us potential information related to that account.

10 Q. Would it give you -- would that potential information
11 include instant messaging communication over the Facebook
12 Messenger?

13 A. Subpoenas? No, I don't believe so. It doesn't give
14 content.

15 Q. Would it -- what, if any -- do you have a means of
16 obtaining -- are you familiar with a means in which you can
17 obtain Facebook messaging?

18 MS. TY: Objection to the line of questioning, Your
19 Honor, as to the relevance.

20 MR. JENKINS: Your Honor, I believe the witness
21 testified that she did communicate through that means.
22 McKenzie testified that one of the ways she communicated was
23 through Facebook messaging.

24 THE COURT: I think her point is here all of these
25 questions are what wasn't done, which doesn't put us anywhere,

1 does it?

2 MR. JENKINS: Well, Your Honor, I think from a defense
3 standpoint, it does, because it shows lack of corroboration.

4 THE COURT: Lack of corroboration?

5 MR. JENKINS: Of what McKenzie says about how she
6 communicated and things that she did.

7 MS. TY: Your Honor, this line of questioning goes to
8 what the witness or -- the Special Agent did or did not do.

9 MR. JENKINS: To corroborate -- I think he testified
10 early on that in his role as an agent --

11 THE COURT: We're not here to gauge the performance of
12 him in his duties --

13 MR. JENKINS: Well, I understand.

14 THE COURT: -- on this. So you're just running down
15 the checklist of what he did and didn't do. But he doesn't
16 have to do everything that's on your checklist, or on mine or
17 whatever -- I don't know, but that isn't relevant to this case,
18 what he did. Only as to how he gets his evidence here.

19 MR. JENKINS: Understood, Your Honor. I'll try to
20 move on to another area.

21 BY MR. JENKINS:

22 Q. Special Agent, in this case, McKenzie explained to you
23 during your interview that she was forced to engage in
24 prostitution. Correct?

25 A. That's what I recall, yes.

1 Q. Other than what she told you about her being forced by
2 Mr. Rhymes to engage in prostitution, did your investigation
3 reveal any information that would corroborate the force?

4 A. In my opinion, yes.

5 Q. What items, in your opinion, did your investigation reveal
6 corroborated the force aspect of her claims?

7 A. I think one of those videos that was showed where he's
8 saying, you know, get back on my dick, things like that, where
9 he was commanding her and forcing her back --

10 Q. Is there anything other than --

11 A. -- for oral sex.

12 Q. I'm sorry. Are you done?

13 A. For the oral sex. Yes.

14 Q. Okay. Is there anything other than what is depicted in
15 what I believe you described as Government Exhibit 401, which
16 you found to be supportive of the force claims by Ms. Murfin?

17 A. I mean, just indicative -- that she went right to the
18 police station afterwards and corroborating that her -- there
19 were numerous contacts between them during that short period of
20 time that she left when she was able to.

21 Q. So it's the video that you found to be corroborative of the
22 force. Correct?

23 A. Yes.

24 Q. All right. And the fact that she went to the police to
25 report it, you found that to be corroborative of the forced

1 aspect. Correct?

2 A. Yes.

3 Q. And I believe you mentioned a third? Or did you?

4 A. No, just the control aspect of somebody being a pimp, the
5 numerous contacts that they had during a 36-hour period.

6 Q. And speaking of those contacts, there were -- you
7 identified them as 46 contacts. Right?

8 A. That is correct.

9 Q. And -- but from reviewing the records, you also were able
10 to determine that -- when you say contacts, what you mean is
11 that a call may have gone from one phone to the other.
12 Correct?

13 A. That's what a contact is, yes.

14 Q. Not necessarily that they spoke. Correct?

15 A. Well, it could be text messages.

16 Q. It could have been text messaging. Correct?

17 A. Correct.

18 Q. It could have been situations in which no conversation
19 occurred. Correct?

20 A. I would have to look at the duration of the call.

21 Q. In order to determine whether or not they actually spoke
22 during that period of time. Correct?

23 A. I believe the contacts were connections, but, exactly, I
24 wasn't on that phone.

25 Q. And other than what McKenzie tells you -- told you the

1 subject or the content of those communications were, you have
2 no way of verifying that. Correct?

3 A. That's correct.

4 Q. Now, at the time you interviewed Mr. Rhymes, I believe he
5 told you that Tweez -- someone named Tweez was there also.
6 Correct?

7 A. Jaitone Summers. Tweez, yes.

8 Q. And he told you someone that he knew as Byrd was there?

9 A. Justin Robinson, Byrd, yes.

10 Q. Now, at some point in time, did you ask him whether or not
11 he had engaged in prostitution activity?

12 A. Did I ask who?

13 Q. Mr. Rhymes.

14 A. In prostitution activities?

15 Q. Yes.

16 A. Post his arrest?

17 Q. Yes.

18 A. I believe I did, yes.

19 Q. And he told you he hadn't. Correct?

20 A. I wouldn't say that he said he hadn't. I would say that he
21 didn't answer my question. He wouldn't answer my question.

22 Q. When you first asked him whether or not he knew the
23 individual who you described as the juvenile victim in this
24 matter, he did acknowledge that he knew her. Correct?

25 A. Not at first.

1 Q. Was -- at some point in time, he did?

2 A. Eventually in the interview he got to that, yes.

3 Q. And that -- and then, subsequent to him doing that, do I
4 understand it correct that you advised him that this individual
5 was under the age of 18?

6 A. I think I asked him if he knew that the individual was
7 under the age 18, and I believe he said that he would rather
8 not answer that question.

9 Q. And that was after you suggested to him that she was under
10 the age of 18. Correct?

11 A. I don't know the chronological -- I mean, if -- I think I
12 probably would have asked him if he knew her age prior to
13 that -- prior to suggesting that.

14 Q. You -- you -- just finally, you testified that you reviewed
15 the toll records of phone numbers that you understood were
16 associated with Mr. Robinson, also known as Byrd, and
17 Mr. Rhymes.

18 A. Correct.

19 Q. Do you remember that testimony?

20 And you said between August 10 and August 12 there
21 were how many contacts between the two of them?

22 A. Well, I know Byrd had more than one phone. And on one of
23 his phones -- 9521 it ended in -- there were, I believe, 24
24 contacts between Byrd, Justin Robinson, and Cornell Rhymes
25 within a two days' period when Monserrat was with him.

1 Q. And your testimony is that Mr. Rhymes told you that he and
2 Byrd were friends for at least seven years prior to that point.
3 Correct?

4 A. He said they were friends since about 2010, that's correct.

5 Q. And the number of contacts that you looked at between
6 August the 10th and August the 12th -- did you look to see if
7 there were any other contacts between Mr. Rhymes and Mr. Byrd,
8 those two phone numbers?

9 A. For that phone number, 9521 for Robinson, I only saw those
10 24 contacts, but I'm aware that Robinson had other phones. He
11 just didn't provide those numbers to us.

12 MR. JENKINS: No further questions, Your Honor.

13 THE COURT: All right.

14 Do you have anything further?

15 MS. TY: No redirect, Your Honor.

16 THE COURT: All right.

17 Thank you. You may step down.

18 THE WITNESS: Thank you.

19 MS. RUSSELL: Your Honor, that concludes the
20 Government's case-in-chief.

21 THE COURT: All right.

22 All right. Ladies and gentlemen of the jury, I'll
23 allow you-all to retire to the jury room. I've got a matter I
24 have take up with counsel before we go further.

25 (JURY OUT AT 3:19 P.M.)

1 THE COURT: All right. Have we got the situation
2 worked out with the witness?

3 MR. JENKINS: Your Honor, I believe that he is here.
4 I don't know if the attorney appointed --

5 THE COURT: I saw him come in a little while ago.

6 I guess, then, we'll just have to take a brief
7 recess and we'll figure out what -- do you have other witnesses
8 other than the one?

9 MR. JENKINS: No, Your Honor.

10 THE COURT: All right. Okay. We'll take a brief
11 recess.

12 MR. JENKINS: Your Honor, do you want me to make my
13 Rule 29 motion now or when you reconvene?

14 THE COURT: It will be fine, if you're ready to do
15 it --

16 MR. JENKINS: I will, Your Honor.

17 May it please the Court. Your Honor, at this point
18 in time, on behalf of the defendant Mr. Rhymes, we would move
19 for a judgment of acquittal pursuant to Federal Rules of
20 Criminal Procedure 29(a) on the basis that the Government has
21 failed to make out a *prima facie* case on any of the three
22 counts charged in the superseding indictment.

23 With respect to the conspiracy charge in the first
24 count, Your Honor, we don't believe that the Government has
25 established that there was an agreement entered into by

1 Mr. Rhymes with anyone in order to forcibly traffic what has
2 been identified in the superseding indictment as the adult
3 victim 1. In the light most favorable to the Government, Your
4 Honor, I believe that the evidence has established that
5 Mr. Rhymes may have engaged in sexual activity with the adult
6 female, and Mr. Rhymes may have even, in a light most favorable
7 to the Government -- certainly not a concession on the part of
8 Mr. Rhymes -- that Mr. Rhymes himself may have even forced the
9 adult female into prostitution. But that's not what he's
10 charged with in count 1. What he's charged in count 1 is being
11 a part of a conspiracy, that he entered into an agreement with
12 someone other than adult victim 1 in order to accomplish that
13 goal.

14 And, Your Honor, there's been no testimony of any
15 alleged co-conspirators that there was an agreement between
16 Mr. Rhymes and anyone else. There certainly have been no
17 statements attributed to Mr. Rhymes that could be construed as
18 an admission on his part that he, in fact, conspired with
19 anyone in order to accomplish that goal.

20 Even if the Government -- again, in the light most
21 favorable -- could pass muster and establish that the elements
22 on a prima facie basis are satisfied that Mr. Rhymes entered
23 into some agreement in order to participate in prostitution,
24 again, that's not what he's charged with. He's charged with
25 forcible prostitution, Your Honor.

1 And the testimony that we have from Ms. Murfin is
2 that the only person who was ever around when these alleged
3 forced acts occurred was Mr. Rhymes, that the extent of Mr. --
4 the individual who she identified in the car as Tweez, his
5 involvement was that he was in the car when she was picked up.
6 Nothing more. That Mr. -- the person who she described as Byrd
7 forced her to perform oral sex on him, but again, no discussion
8 that would lead to the Court concluding that there was an
9 agreement between Mr. Rhymes and others to perpetrate that
10 offense.

11 With respect to the -- I believe it's count 3, Your
12 Honor, that relate to the juvenile -- count 2? -- count 2 as it
13 relates to the juvenile victim, Your Honor, I think that one is
14 a little bit more straightforward in that there certainly is no
15 evidence that Mr. Rhymes -- his conduct, his words or
16 anything -- would lead a jury -- a rational jury to conclude
17 that he had entered into an agreement to traffic the minor.
18 The testimony that you have before you, Your Honor -- and I
19 think it really came out on cross-examination of the juvenile
20 minor -- is that she didn't give any money to Mr. Rhymes,
21 Mr. Rhymes wasn't around when she first was picked up,
22 Mr. Rhymes didn't give her condoms, Mr. Rhymes didn't give her
23 instructions, that the only two people who she identified as
24 participating in her trafficking that one could conclude had an
25 agreement was the individual that she described as Byrd and the

1 individual she described as Rick. In fact, she quite clearly
2 said that Mr. Rhymes was not engaged in those activities.

3 She did testify, Your Honor, on direct
4 examination -- and it was confirmed again on
5 cross-examination -- that she had sex with him, that she had
6 sex with Mr. Rhymes, but I don't think that's enough, Your
7 Honor, to establish that Mr. Rhymes entered an agreement with
8 anyone in order to traffic the juvenile.

9 There may have been a conspiracy to traffic her --
10 there may very well -- between the individual Rick and the
11 individual identified as Byrd. And if they were seated at
12 defense counsel table, I think we would be in a different
13 posture in the court, evaluating the merits of the 29(a) motion
14 with -- with regards to that count.

15 But with respect to Mr. Rhymes, Your Honor, there
16 simply is no evidence that a rational jury could conclude that
17 he entered into a criminal conspiracy with anyone to traffic
18 her purely because he had sex with her. She described him as a
19 client. He was no different than a client. And if that makes
20 him a part of the criminal conspiracy to traffic her, Your
21 Honor, then the other 10 or 12 individuals per day that she
22 testified that she had sex with would equally be a part of the
23 that criminal conspiracy. And I certainly don't see those
24 other 10 or 12 men seated at defense counsel table.

25 So with respect to count 2, Your Honor, we

1 certainly believe that the Government has fallen woefully short
2 of its -- establishing a prima facie case.

3 And I won't argue the merits of the motion with
4 regards to count 3.

5 THE COURT: All right. Well, I find that there's
6 ample evidence for these -- all three of these counts to go
7 forward. Your motion will be denied.

8 MR. JENKINS: Thank you, Your Honor.

9 THE COURT: We'll take a brief recess to get this
10 witness situation straightened out.

11 THE LAW CLERK: All rise.

12 (3:26 P.M. RECESS TAKEN ~ OFF THE RECORD.)

13 MR. JENKINS: Good afternoon, Your Honor.

14 Your Honor, the -- I understand that the witness
15 that we intended to call first would invoke his Fifth Amendment
16 privilege and, therefore, I don't think it's necessary for us
17 to go through any voir dire of him. We just will not call him.

18 But, Your Honor, we do have a second witness
19 that -- if I can explain the circumstances, Your Honor, as to
20 why the defense would be asking the Court to recess the matter
21 for today and reconvene tomorrow morning for presentation of
22 that evidence.

23 This witness, a Ms. Christy Miller, if she were
24 called to testify, Your Honor, she would testify -- she's --
25 Ms. Miller is not in the courtroom right now -- that if she was

1 called to testify, Your Honor, she would testify -- I
2 anticipate that she would testify as follows:

3 That within the last 30 days, she was a resident at
4 a substance abuse center very nearby, within a mile or two of
5 here, of the courthouse here in Alexandria, along with
6 McKenzie who testified as the first Government
7 witness today. And she would testify that she had
8 conversations with McKenzie about her participation in this
9 trial.

10 She would testify that McKenzie told her that she
11 was being paid by the Government in order to provide testimony
12 against Mr. Rhymes, that Mr. Rhymes did not force her into
13 prostitution, that, instead, the story that she concocted about
14 Mr. Rhymes forcing her into prostitution was motivated by her
15 boyfriend who had her make such a report to the police; in
16 essence, the sum of her testimony were -- here today is just
17 simply not true.

18 Certainly, Your Honor, in order for me to be able
19 to elicit that testimony, I needed to confront McKenzie
20 with -- whether or not, in fact, she had such a conversation
21 and whether or not she had made such statements that we believe
22 would impeach her credibility. I did not do so at the time she
23 testified earlier here today, Your Honor, principally because I
24 was uncertain of whether or not Ms. Miller would be available
25 to me.

1 I was unable to get her under subpoena. I only
2 discovered within the last 45 minutes that she was available,
3 intended to appear here to provide testimony.

4 So for that reason, Your Honor, we would like to
5 recall McKenzie to give the defense an opportunity to get her
6 to admit or deny that she had these conversations with
7 Ms. Christy Miller.

8 Depending on her answers, then I believe
9 Ms. Miller's testimony would be highly probative and relevant
10 to a material issue in this matter.

11 MS. RUSSELL: Your Honor, we would, not surprisingly,
12 object to that proposed course of action. McKenzie was here.
13 She testified before. She was subject to cross-examination.
14 This information has been in the custody of defense counsel for
15 I'm not exactly sure how long, but certainly longer than the
16 amount of time that McKenzie was testifying on the stand.

17 McKenzie, you'll recall, was present and ready to
18 testify in July when this case was set for trial. She was
19 present and ready to testify in September when this case was
20 set for trial. And she has now come and testified today.

21 Those delays were due to defense requests for
22 continuances for evidence that the defense now is not putting
23 on. That cell site location data that defense proffered would
24 have created an alibi defense that they are not now offering.

25 Your Honor, for this witness to have to go through

1 another series of testifying about being forcibly trafficked
2 because defense counsel chose not to cross-examine her on this
3 information that he had at the time she was testifying earlier
4 today is both a misuse of judicial resources and unfair to this
5 witness who's a 19-year-old witness who was trafficked shortly
6 after her 18th birthday, and has testified here. I don't --
7 the Government strenuously objects, Your Honor.

8 THE COURT: All right. Well, I think -- I believe
9 that objection is well taken as far as the witness McKenzie is
10 concerned.

11 Now, I'm still not sure what you want to do about
12 this other witness. Do you want to put another witness on
13 tomorrow morning?

14 MR. JENKINS: Your Honor, I would like to put
15 Ms. Miller on to testify as I proffered here today. If the
16 Court is willing to permit that without McKenzie testifying,
17 the defense would have no objection with proceeding in that
18 manner. And then McKenzie will not have to come back.

19 THE COURT: Well, it doesn't cost anything to do that.
20 I mean, we're at a point today that we can't go to jury anyway,
21 so we're going to have to recess today. So would that ten
22 minutes worth of testimony --

23 MR. JENKINS: I think no more than ten minutes, Your
24 Honor, and I'll probably try to get it done in five minutes.

25 THE COURT: All right. Well, I'll allow you to call

1 her tomorrow morning, and then we'll do instructions. And I'll
2 tell you about the instructions, and we'll go right to closing
3 arguments.

4 MR. JENKINS: Yes, Your Honor.

5 And with respect to the instructions, Your Honor, I
6 do believe that we have an agreement. I don't know what the
7 Court's thoughts were, but the Government -- I don't object to
8 any of the Government's proposed instructions. And I believe
9 that the Government -- the only one that they oppose was the
10 missing witness instruction that I offered, which I don't
11 believe is applicable.

12 THE COURT: All right.

13 MR. JENKINS: I don't believe it's --

14 THE COURT: What I'll do -- I'll look through and pick
15 out the instructions that I want to give. Then I'll come out
16 and tell you the ones I'm going to -- sometimes you-all give
17 some instructions that I'd rather not do.

18 MR. JENKINS: I understand.

19 THE COURT: But I'll let you know beforehand as to
20 what I'll give.

21 MS. RUSSELL: I'll note for Your Honor that the
22 instructions that we submitted electronically are based on the
23 instructions that you gave in the -- I believe it was in
24 August -- trial in this --

25 THE COURT: Well, maybe I won't like my own

1 instructions.

2 MS. RUSSELL: Understood, Your Honor. We did make an
3 effort, though.

4 THE COURT: Thank you.

5 I'll take a look at them and then -- and I'll come
6 in and tell you -- we won't go over the instructions one by
7 one, but I'll come in and read off a list of the instructions
8 that I'll give. And you can tell me if you want something in
9 addition to that or you object to something that I'm doing. It
10 won't take us very long.

11 All right. Would you bring the jury back in and
12 I'll excuse them until tomorrow morning.

13 (JURY IN AT 4:16 P.M.)

14 THE COURT: I'm sorry to keep you-all back there for
15 so long. I've dealt with some motions with the lawyers, and we
16 have a little difficulty with having one witness here --
17 there's one witness yet we need to hear from that the defendant
18 wants to call. And the testimony I believe is going to be very
19 short.

20 But I'm going to excuse you-all until 10:00
21 tomorrow morning. We'll come and hear that witness, which I
22 say should be very short, and then we'll go into closing
23 arguments thereafter.

24 You-all may be excused until 10:00 a.m.

25 And we'll stand in recess until 10:00.

1 THE LAW CLERK: All rise.

2 (PROCEEDINGS CONCLUDED AT 4:18 P.M.)

3 -oOo-

4
5
6 UNITED STATES DISTRICT COURT)

7 EASTERN DISTRICT OF VIRGINIA)

8
9 I, JULIE A. GOODWIN, Official Court Reporter for
10 the United States District Court, Eastern District of Virginia,
11 do hereby certify that the foregoing is a correct transcript
12 from the record of proceedings in the above matter, to the best
13 of my ability.

14 I further certify that I am neither counsel for,
15 related to, nor employed by any of the parties to the action in
16 which this proceeding was taken, and further that I am not
17 financially nor otherwise interested in the outcome of the
18 action.

19 Certified to by me this 31ST day of MAY, 2019.
20
21

22 /s/
23 JULIE A. GOODWIN, RPR
24 CSR #5221
25 Official U.S. Court Reporter
401 Courthouse Square
Eighth Floor
Alexandria, Virginia 22314

—Julie A. Goodwin, CSR, RPR—

11.14.18

Pet. App. 156a

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1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

3 UNITED STATES OF AMERICA)
4)

5 VS.)

1:18-CR-22 CMH

6 ALEXANDRIA, VIRGINIA)
7 NOVEMBER 15, 2018)

8 CORNELL DEVORE RHYMES)
9)
10)
11)
12)
13)

14 TRANSCRIPT OF TRIAL
15 BEFORE THE HONORABLE CLAUDE M. HILTON
16 UNITED STATES DISTRICT JUDGE
AND A JURY

17 VOLUME 2, DAY 2
18)
19)
20)
21)
22)
23)

24 Proceedings reported by stenotype, transcript produced by
25 Julie A. Goodwin.

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1 (NOVEMBER 15, 2018, DAY 2, 10:11 A.M., OPEN COURT ~ ALL PERSONS
2 PRESENT, EXCLUDING THE JURY.)

3 MR. JENKINS: Good morning, Your Honor. May it please
4 the Court. Robert Jenkins on behalf of Mr. Cornell Rhymes, the
5 defendant in this matter.

6 Your Honor, at the -- yesterday, when the Court
7 recessed, it was at my request so that I could confer and have
8 available today a potential witness. Based on some
9 developments last night and my communication with that witness,
10 the defense does not plan to call that witness. That was the
11 one that I referred to yesterday, Ms. Christy Miller.

12 There is a second witness that is under subpoena
13 who I understand is in the courtroom today represented by
14 counsel. I've been advised that, if she were called to testify
15 in this matter, that she would assert her right against
16 self-incrimination. And therefore, for that reason, I don't
17 intend to call that witness either.

18 So with that being said, Your Honor, the defense
19 would rest.

20 THE COURT: All right. Do you have anything further?

21 MS. RUSSELL: Your Honor, we would just request that
22 the witness be released from her subpoena so that she could be
23 permitted to depart, given that she is not going to be called.
24 She is present in the courtroom.

25 MR. JENKINS: And Your Honor, for the record, that is

1 Ms. Jada Morales.

2 THE COURT: All right. So she can be released and
3 excused.

4 MS. RUSSELL: Thank you.

5 Your Honor, may I inquire? Does the Court instruct
6 before or after closing argument?

7 THE COURT: After.

8 MS. RUSSELL: Would you like to us to present any
9 requests about the instructions or have you determined your
10 instructions at this point?

11 THE COURT: Well, let me run through what I'm going to
12 give, and you can tell me if you object to anything I'm doing
13 or anything else that you want.

14 JURY INSTRUCTION CONFERENCE

15 THE COURT: I'll tell the jury about the nature of the
16 offense in count 1, the statute involved in count 1, the
17 essential elements of the offense.

18 Tell them about the existence of an agreement,
19 membership in the conspiracy.

20 Tell them about acts and statements or declarations
21 of co-conspirators.

22 Tell them the nature of the offense in count 2, the
23 statute involved, the essential elements of the offense.

24 Tell them about the nature of the offense charged
25 in count 3, the statute involved, essential elements of the

1 offense.

2 You've got an aiding an abetting instruction here.
3 Do you want that aiding and abetting instruction?

4 MS. RUSSELL: Yes, Your Honor, we would request it.

5 MR. JENKINS: Your Honor, for the record, we would
6 object to it. I don't think there's any evidence where the
7 jury could conclude that Mr. Rhymes aided or abetted anyone who
8 may have perpetrated any of the offenses.

9 THE COURT: Well, there was some testimony that he was
10 present. I -- there's some question about it, but there is
11 some evidence that he was there and was assisting what was
12 going on. I think they're entitled to it.

13 I'll define commercial sex act, define recruit,
14 entice, harbor, transport, provide, obtain -- all of those
15 things.

16 I'll give the reckless disregard instruction. I'll
17 define coercion. A little uncertain about defining venture.
18 This is not an approved instruction. I don't believe that
19 venture needs any explanation.

20 MS. RUSSELL: That's fine, Your Honor. I would,
21 however, request that our instruction -- proposed instruction
22 number 46, defining a reasonable opportunity to observe, be
23 read because that is an element of the statute, it is an
24 alternate means of culpability, and it's not necessarily clear
25 to a layperson what that would be. So we would request our

1 proposed instruction 46 be --

2 THE COURT: Well, don't I tell them that when I read
3 the statute to them?

4 MR. JENKINS: Yes.

5 MS. RUSSELL: You will -- you'll read the words
6 "reasonable opportunity to observe."

7 THE COURT: I think that's sufficient.

8 MS. RUSSELL: That's fine, Your Honor.

9 THE COURT: They'll be sufficiently instructed.

10 MS. RUSSELL: Okay.

11 THE COURT: I'll instruct them on interstate commerce.

12 Knowingly -- define knowingly. Proof of knowledge
13 and intent. Proof of the disjunctive. And explain on or
14 about.

15 Then, when we -- specific instructions in regard to
16 credibility of witnesses, I'll give my general instruction and
17 I'll tell them what the law enforcement officer gets --
18 deserves no more or less than that of an ordinary witness.

19 I'll tell them that a substance abuser should be
20 viewed with greater care and caution.

21 Now, we didn't have an accomplice testify, did we?

22 MS. RUSSELL: No --

23 MR. JENKINS: No.

24 MS. RUSSELL: -- we did not, Your Honor.

25 THE COURT: Did we have anybody who was convicted of a

1 felony? I don't --

2 MS. RUSSELL: No, Your Honor.

3 MR. JENKINS: No, Your Honor.

4 THE COURT: Okay. And the defendants put on no
5 evidence of representation.

6 Do you want this inconsistent statement?

7 MS. RUSSELL: No, Your Honor. There have been no
8 inconsistent statements. There was a prior consistent
9 statement that was admitted as 505, but it's not inconsistent.
10 It's consistent.

11 MR. JENKINS: Certainly, Your Honor, we would take the
12 opposite view. We think that there has been some testimony
13 concerning McKenzie not always being consistent. I certainly
14 understand the Government's view that --

15 THE COURT: I believe that's right. I believe the
16 defense is entitled to that.

17 We don't have any missing witnesses, do we?

18 MS. RUSSELL: No, Your Honor.

19 THE COURT: Okay. Now, that's what I plan to give.
20 Is there something else that you want other than what we've
21 already mentioned?

22 MS. RUSSELL: I think that's fine, Your Honor.

23 MR. JENKINS: Your Honor, we -- on behalf of the
24 defense, Your Honor, we had also proffered two additional
25 instructions: One, the mere presence instruction out of

1 O'Malley.

2 THE COURT: I'm giving that. That's a part of my
3 general conspiracy instructions.

4 MR. JENKINS: And then -- very well, Your Honor.

5 The second one, Your Honor, is -- which is closely
6 related, the impermissible to infer participation from
7 association. I think -- a large part of the Government's
8 evidence is that Mr. Rhymes, at the very least, associated
9 himself with Byrd and others who did more substantive direct,
10 overt acts. And our concern, Your Honor, is that without this
11 instruction, the jury may be inclined to believe, merely
12 because Mr. Rhymes voluntarily associated himself with these
13 individuals --

14 THE COURT: I believe my instruction covers that, too,
15 merely associating with others, but not -- I believe that's
16 covered. If you listen to it as I give it, and you think I
17 didn't cover that, why, you can object at the end and I'll --

18 MR. JENKINS: Thank you, Your Honor.

19 THE COURT: -- straighten it out. But I believe all
20 of that is covered in my conspiracy instruction.

21 MR. JENKINS: And then, Your Honor, for the record,
22 the defense would object to the reckless disregard instruction
23 as proposed by the Government. And it's because, Your Honor,
24 we don't think that the evidence comports to the jury inferring
25 that Mr. Rhymes, you know, acted in a reckless manner and

1 disregarded anything. There hasn't been any testimony with
2 respect to the adult victim where I think that would be
3 applicable.

4 The Government's evidence is that Mr. Rhymes
5 directly was involved in her recruiting and her -- forcing her
6 to engage in prostitution. I don't know what evidence that
7 would apply -- that would suggest that he recklessly
8 disregarded anything with respect to the adult victim.

9 Now, with respect to the juvenile victim, Your
10 Honor, there's -- the only evidence is that he had sex with
11 her. There's nothing about that in and of itself that would
12 suggest that he was recklessly disregarding something that he
13 otherwise should have known.

14 Her testimony, Your Honor, was that he was never
15 there other than the times in which she engaged in sexual
16 activities with him, and that he wasn't the one who took money
17 from her or did any of those things that she attributed to the
18 individuals she identified as Byrd and Rick.

19 So I just don't see what -- evidence that the
20 Government would suggest that would support that instruction
21 that Mr. Rhymes just recklessly disregarded any facts that he
22 should have known that may have led him to act differently.

23 THE COURT: All right. I believe there's -- there's
24 ample evidence for that instruction. I believe it should be
25 given.

1 All right. How long do y'all want to argue? Ten
2 minutes a side?

3 MS. RUSSELL: Ten minutes, Your Honor, with rebuttal.

4 THE COURT: Ten and five?

5 MR. JENKINS: Thank you, Your Honor.

6 THE COURT: And 15?

7 MR. JENKINS: Yes, Your Honor.

8 THE COURT: All right.

9 All right. Would you bring in the jury.

10 (JURY IN AT 10:22 A.M.)

11 THE COURT: All right. Ladies and gentlemen, I told
12 you yesterday that we were going to hear the testimony of one
13 other witness this morning, but as often happens in cases,
14 calling witnesses change from time to time. There will be no
15 further testimony. The defendant has rested his case, and we
16 are ready to hear final argument.

17 The Government may go ahead, if you would move the
18 podium around.

19 CLOSING ARGUMENT ON BEHALF OF THE GOVERNMENT

20 MS. RUSSELL: May it please the Court.

21 This is a case about a man who used and controlled
22 and benefitted from young women's bodies. At the beginning of
23 this trial, you took an oath to listen to the evidence and
24 determine whether that evidence proved that the defendant was
25 guilty of sex trafficking young women and girls. You've now

1 heard all of the evidence. You've been instructed -- or you
2 will be instructed shortly on the elements of each offense.
3 And soon you'll retire to deliberate and apply the facts as
4 you've heard them to the law. And you will see that, for each
5 of the three counts before you, the defendant is guilty of sex
6 trafficking young women and girls.

7 In the jury room you will have a verdict sheet --
8 it looks like this -- for each of the counts charged in the
9 indictment. I'll walk you through the evidence on each count.

10 First, for count 1, the indictment charges that
11 during the summer of 2017 this defendant was a member of a
12 conspiracy that forcibly and coercively trafficked young women
13 and girls. What is a conspiracy? As the judge will tell you
14 shortly, a conspiracy is an informal agreement or a mutual
15 understanding by at least two people to commit a crime
16 together. It is literally a partnership in crime. It may not
17 be formal. It may not be written. It can simply be a mutual
18 understanding between a group of people to commit a crime.

19 This conspiracy, as you've heard, involved more
20 than two people. There were a number of pimps in the
21 conspiracy: This defendant; Byrd, who was also referred to as
22 Justin Robinson; Rick, also referred to as Marcus Plumber; and
23 Tweez, also referred to as Jaitone Summers.

24 This conspiracy involved multiple victims as well.
25 You heard from Monserrat -- that's the 16-year-old who

1 testified to you by video. She is identified in the indictment
2 as M.B.

3 You heard from McKenzie. That's the 18-year-old
4 who testified to you live. She's identified in the indictment
5 as M.M.

6 You've also heard about other women who worked for
7 or with the conspiracy; for example, McKenzie's friend, Jada,
8 who lured her to the motel, as well as the other prostitutes
9 that Monserrat, the juvenile, met at the motel, as well as the
10 other juvenile prostitute that Monserrat escaped from the youth
11 facility with, Tanisha.

12 A group of pimps working together to prostitute
13 women and girls is the definition of a conspiracy. And this
14 defendant was clearly a part of it.

15 These pimps, including this defendant, discussed
16 their prostitution venture in front of their victims, including
17 McKenzie. She talked about how they talked about it in the car
18 in front of her. And these pimps, including this defendant,
19 used the same motels to traffic their victims. You heard they
20 used Motel 6s in both Dumfries and in Springfield. These
21 pimps, including this defendant, traded sexual access to their
22 prostitutes amongst each other. You heard that Justin
23 Robinson, or Byrd, was given access to McKenzie when she
24 performed oral sex on him by force in the car. McKenzie was
25 this pimp's prostitute. And you heard that this pimp got

1 access to the juvenile Monserrat when she was being trafficked
2 by Byrd in the motel.

3 These pimps, including this defendant, forced their
4 own prostitutes to have repeated and unprotected sex with them.
5 These pimps, including this defendant, took all of the money
6 earned by the young women and girls under their control.

7 These pimps, including this defendant, gave their
8 prostitutes cocaine and refused to give them marijuana so that
9 they would stay awake and working. And these pimps, including
10 this defendant, used fear and coercion and control to keep
11 these young women prostituting for them and making money.

12 What is sex trafficking? The law defines sex
13 trafficking in a somewhat complicated manner. It defines it as
14 recruiting or enticing or harboring or transporting or
15 providing or obtaining or maintaining any person who is engaged
16 in commercial sex, which is to say prostitution, if force or
17 threats of force or coercion or fraud is used, or if the
18 prostitute is a juvenile. Essentially, sex trafficking is
19 forced or involuntary prostitution. Involuntary prostitution.

20 You've heard from the two victims charged in the
21 indictment, the juvenile Monserrat who testified by video.
22 You'll have that video with you in the jury room if you want to
23 review it. You'll also have a transcript of the video. You
24 heard Monserrat testify that she was threatened, that she was
25 raped, that she was choked, and that she was forced to see

1 commercial sex customers at approximately 15 per night for more
2 than a week.

3 You saw texts and photographs documenting the
4 physical abuse that she sustained, and you'll have those in the
5 jury room if you want to review them. You heard that, as part
6 of this conspiracy, Monserrat, that juvenile, was forced to
7 have sex with this defendant on multiple occasions.

8 You also heard from McKenzie, the 18-year-old, who
9 testified here live in court. She's the one who was forced to
10 testify -- I'm sorry, also forced to testify -- forced to
11 prostitute for 36 hours before she escaped. You've heard she
12 was forced to perform oral sex in the car. You've heard that
13 that man forced her so hard that she actually threw up in his
14 lap.

15 You heard her talk about how she was forced to have
16 sex with this defendant repeatedly. You saw -- and I
17 apologize -- the video of him making her practice her oral sex
18 techniques on him. You will have that jury -- that video in
19 the jury room. I would encourage you to watch it -- watch her
20 at the end of the video. Watch her tell him that she is
21 exhausted and that she needs to sleep for just two minutes.
22 She just needs to sleep for two minutes. Look at her face when
23 she says that. You heard her [sic] say that she was not
24 allowed to sleep. That is what forced and coerced prostitution
25 looks like in real life, in real time.

1 You heard that, when McKenzie escaped, she went to
2 the police. You heard from Officer Fortner, who responded to
3 her that day, that she was terrified; she was so terrified that
4 she decided she could not prosecute. And why? Because she did
5 not want to have to sit in a witness stand and testify in front
6 of this defendant.

7 You heard her say that she did not come here
8 voluntarily, that she was under subpoena to come, that she was
9 forced to come.

10 The defendant is guilty of count 1, of forcibly --
11 of conspiring to forcibly and coercively sex traffic young
12 women.

13 Separately, the defendant is guilty of count 2.
14 Count 2 charges him with benefitting from a sex trafficking
15 venture. It's slightly different. And count 2 charges him
16 with benefitting from a sex trafficking venture with respect to
17 the 16-year-old. And how did he benefit? He benefitted by
18 receiving sexual gratification. He repeatedly had
19 nonconsensual sex with a juvenile who was being forcibly
20 trafficked. She couldn't remember how many times exactly. You
21 heard on the video that it was more than two, but less than
22 ten. And in the video you heard me ask her, Did you want to
23 have sex with him?

24 And in the video, which you'll have, you heard her
25 answer: No.

1 For this count, for count 2, if you find the
2 defendant guilty, and the evidence shows that he is, you'll
3 need to specify on your verdict sheet whether you found that
4 the defendant knew or recklessly disregarded her age, on the
5 one hand, that she was a juvenile, or the fact that she was
6 being forcibly trafficked on the other, or both. So make sure
7 you follow the instructions on the verdict sheet.

8 And finally, in count 3, the defendant is charged
9 with forcibly, coercively and fraudulently trafficking
10 McKenzie, the 18-year-old. McKenzie did not want to be a
11 prostitute. The defendant took advantage of her homelessness,
12 her need to find somewhere safe to go. He took advantage of
13 her cocaine addiction, and he kept her high and making money
14 for him. He raped her multiple times. He forced her to
15 repeatedly perform oral sex on him. And he took all of the
16 money that commercial sex traffickers -- commercial sex
17 customers paid her.

18 For 36 hours, this defendant forcibly and
19 coercively and fraudulently sex trafficked McKenzie.

20 Soon, very soon, my job is here and done and yours
21 will begin. Your duty is to judge the evidence and the facts
22 that are before you, to examine each count in the indictment
23 and to determine what the evidence shows. I am confident that
24 you will find that for each count that we have charged we have
25 proven beyond any doubt, beyond a reasonable doubt, beyond any

1 doubt, that this defendant is guilty, and I therefore ask that
2 you return a verdict, consistent with the evidence in this
3 case, of guilty on all three charges.

4 MR. JENKINS: May counsel proceed, Your Honor? Thank
5 you.

6 CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT

7 MR. JENKINS: May it please the Court, counsel,
8 Mr. Rhymes.

9 Good morning, ladies and gentlemen. This is my
10 final opportunity to address you on behalf of Mr. Rhymes, and I
11 want to take this final few minutes to explain to you why I
12 believe that the evidence clearly demonstrates that Mr. Rhymes
13 is not guilty of these charged offenses and why the Government
14 has fallen short of proving beyond a reasonable doubt that he
15 committed any of the offenses charged in the indictment.

16 Now, I know you've heard a lot of evidence, you've
17 paid very close attention to the testimony as it has come in.
18 And Government counsel has given you their summation as to what
19 they believe that the Government has proven to you at this
20 point. But I want to caution you that arguments of counsel are
21 not evidence. It is the testimony that you heard from the
22 witness stand and the exhibits that were received into
23 evidence. And I'm going to ask you to pay very close attention
24 as you review the evidence that actually came in and what it
25 actually establishes beyond a reasonable doubt.

1 I do want to also start, as Government counsel did,
2 in reminding you as to what a conspiracy is. Judge Hilton very
3 shortly will give you the formal legal definition of it. But
4 it is very important that you keep it in mind, because I think
5 it should govern your decision as you arrive at your verdicts.

6 The Government must prove in count 1 as well as in
7 count 3 that Mr. Rhymes knowingly joined an agreement with at
8 least one other person to commit the acts charged in both
9 count 1 and count 3.

10 And I would submit to you, ladies and gentlemen,
11 there simply is no evidence -- no evidence that would rise to
12 the level of beyond a reasonable doubt to lead you to conclude
13 that he did so. And in walking through the evidence, I want to
14 start in reverse chronicle [sic] order.

15 You heard the testimony from two admitted young
16 ladies who got themselves involved in prostitution. One,
17 McKenzie, who discussed her conduct and her actions
18 in June of 2017. And then you also heard the video deposition
19 testimony of the juvenile who testified about acts that
20 occurred in August of 2017.

21 I want to start with the charges -- excuse me --
22 the charge that relates to the juvenile. Count 2. In count 2,
23 ladies and gentlemen, there certainly is no evidence at all
24 that Mr. Rhymes was ever told by anyone that the juvenile, in
25 fact, was a prostitute. If you review her deposition very

1 closely, you will see that, on cross-examination, she admitted
2 that Mr. Rhymes was not the person who originally recruited
3 her, that that was the individual she knew as Byrd, that it was
4 not Mr. Rhymes that she gave any money to, that Mr. Rhymes did
5 not provide any condoms to her, Mr. Rhymes did not provide
6 anything that was necessary for her to commit a commercial sex
7 act. She was very clear about that.

8 She was also very clear that there were only two
9 individuals who were ever around when she was
10 physically assaulted or forced to do anything. And she
11 described one as being Byrd and the other being an individual
12 she called Rick.

13 She said those were the only two individuals
14 around.

15 She said that there were two individuals that
16 watched her to make sure that she didn't leave the motel, and
17 again, she excluded Mr. Rhymes as being either of those two
18 individuals.

19 What evidence do you have at all that anyone told
20 Mr. Rhymes that she was, in fact, a prostitute? She didn't
21 tell you that when she testified. You didn't hear the
22 testimony from the individual named Byrd. You didn't hear the
23 testimony from the individual named Rick.

24 What evidence can you rely on at all that
25 Mr. Rhymes, in fact, knew that she was a prostitute?

1 I have no doubt that, when I take my seat, that
2 Government counsel will get up and they will point out that,
3 yes, all of what Mr. Jenkins just said is true, but he's
4 omitting one critical fact, and that is that the juvenile did
5 testify that, prior to engaging in sexual contact with
6 Mr. Rhymes, that she was told by Byrd not to charge Mr. Rhymes
7 because Mr. Rhymes had already paid. And if you believe that,
8 then I would concede that Mr. Rhymes must have known that she
9 was a prostitute. But what evidence do you have that that
10 actually occurred?

11 When you review the video deposition, the witness
12 herself testified she was not present when this alleged
13 statement was made to Mr. Rhymes by Byrd, and that she herself
14 does not know whether or not it was actually made and whether
15 or not it was true. She can only tell you what Byrd supposedly
16 told her.

17 Now, Judge Hilton is going to give you an
18 instruction about this, about how you should view such
19 testimony with caution, because Mr. Rhymes was not present when
20 this alleged statement by Byrd was made to the juvenile, that
21 no one testified that they heard Mr. Rhymes make that
22 statement. And therefore, it is fair for you to question
23 whether or not, in fact, it was made.

24 There's no evidence that she, the victim, informed
25 Mr. Rhymes that she was under the age of 18. There's no

1 evidence that Byrd told Mr. Rhymes that she was under the age
2 of 18. There simply is not.

3 What she clearly testified to is that he was a
4 client just like everyone else. Just like all the other sex
5 acts that she performed. She didn't describe him as her pimp.
6 She didn't describe him as working with her pimp. In fact, she
7 testified repeatedly that everything you would have expected a
8 pimp to do he didn't do with respect to the juvenile.

9 And that's why, ladies and gentlemen, despite all
10 the evidence that you heard, some of which I trust was quite
11 offensive for you to review, the facts are that there is no
12 evidence to support a conviction on count 2. There simply is
13 none.

14 Counts 1 and count 3 both revolve around
15 McKenzie. Now, McKenzie was the young
16 lady who testified about certain things that occurred in June
17 of 2017. And I submit to you, ladies and gentlemen, that her
18 testimony alone -- her unsupported testimony in any meaningful
19 way that force was used should lead you to find Mr. Rhymes not
20 guilty on both count 1 and count 3. And I will explain to you
21 why.

22 McKenzie will have you believe that knowing very
23 well that her friend, Jada Morales, was a prostitute, in June
24 of 2017, she either left her boyfriend because he was being
25 abusive, she didn't have a job, she needed a place to stay and

1 she needed money. And who does she call? She calls her
2 friend, the prostitute.

3 Where does she want to go? Where does she want to
4 stay? With her friend in a motel where she knows that friend
5 is engaging in prostitution.

6 She tells you that at the time she makes that call,
7 she's never met Mr. Rhymes, she doesn't know Mr. Rhymes. She
8 doesn't know any of the men who come to pick her up. What is
9 her motivation when she calls Jada Morales? I would suggest to
10 you, ladies and gentlemen, that common sense would suggest that
11 a young lady in that situation, addicted to drugs, without a
12 place to stay, without a job, trying to escape an abusive
13 boyfriend reaches out to a young lady who's a friend of hers
14 who's a known prostitute, who is making what she describes as a
15 lot of cash -- do you think that just was a coincidence? Or is
16 it possible that McKenzie, contrary to what she told you,
17 reached out to Ms. Morales because she had decided that that
18 was an opportunity for her to provide support for, one, her
19 drug habit, number two, to give her a place to live, and for
20 her to support herself?

21 She tells you that once she gets into the vehicle,
22 she's forced to perform oral sex on the individual she
23 described as Byrd.

24 Other than what McKenzie told you, what evidence
25 do you have that to support that? Did you hear the testimony

1 of Tweez? Perhaps the testimony of Byrd, who could have
2 corroborated what she said? You heard none. She says she
3 vomited on his lap. Did you hear any testimony that
4 corroborates that? You only have what she says happened in
5 that car.

6 She admits, however, that prior to performing oral
7 sex on Byrd, that he asked her about her skills at performing
8 oral sex, and she admitted that she responded that she was okay
9 at it.

10 There's no evidence that you can point to other
11 than what she says happened in that car.

12 Next, she says she arrives at the hotel, she
13 doesn't know that she's going to engage in prostitution, but
14 yet she's given an outfit that fits her perfectly. She poses
15 for photographs that goes up on a Backpage ad. She tells you
16 that these things were done by Mr. Rhymes and others. But what
17 evidence do you have to support that?

18 Did you hear from Jada Morales to tell you that,
19 yes, I posted those ads at the request of Mr. Rhymes? She
20 tells you, McKenzie, about who paid for the Face -- for the
21 Backpage ad. But do you have any evidence at all to support
22 what she said?

23 There is none. You only have her word.

24 She tells you she then begins to engage in
25 commercial sex acts and she's raped by Mr. Rhymes and she's

1 abused by Mr. Rhymes and Mr. Rhymes is making her do things
2 that she doesn't want to do.

3 Does she act consistent with someone who was
4 physically raped? I would submit to you, ladies and gentlemen,
5 she did not.

6 After she departed the Motel 6, she tells you that
7 the last phone call she received -- and this is into
8 evidence -- I believe Government Exhibit 104 is the call logs
9 that purport to be Mr. Rhymes to McKenzie. The last phone call
10 she gets from him is about 11:30 in the morning on the day that
11 she departs the motel. She tells you that, after she departs,
12 who does she contact? Who does she return back to? The one
13 who she described as her abusive boyfriend that she was trying
14 to escape.

15 Does that make any sense to you that that's the
16 person that you reach out to?

17 Approximately eight hours later, after conferring
18 with her boyfriend, the supposedly abusive boyfriend who she
19 admits she loves, she finds herself at the Fairfax County
20 Police Department, and she provides certain information and she
21 gives the story about how she's been forced to engage in these
22 sex acts and forced into prostitution.

23 But when law enforcement says, okay, if all of that
24 is true, let us take you to be examined by a SANE nurse, the
25 Fairfax police officer says, he didn't take her to be examined,

1 that she refused. What did she tell you? She said, no, I did
2 go to the doctor; I went to the hospital that day. I can tell
3 you the name of the doctor and the whole nine. Is that
4 believable? Why would the Fairfax officer not come in and tell
5 you that, that, yes, I took her to the SANE nurse, I had her
6 examined?

7 Do you think, if the prosecution was armed with a
8 medical report showing that she had been examined on June 5th,
9 that they would not have presented that to you?

10 When you go back in that jury room, you won't have
11 any medical exam of her. The reason why you don't is because
12 McKenzie knew that if she had been examined by a SANE nurse,
13 she knew that her story would come apart, that there would be
14 no evidence that would support her claim that this man forced
15 her to have unprotected sex with him. She knew that.

16 She also tells you that she had injuries when she
17 showed up to the Fairfax Police Department. And she told you
18 from that witness stand that the law enforcement officers took
19 pictures of her injuries. When you go back in the jury room,
20 ladies and gentlemen, look for those pictures. Look to see
21 if -- if any of them have been introduced into evidence.

22 Again, the officer from Fairfax Police Department testified he
23 didn't take any pictures of her.

24 Do you think -- if he had observed injuries on her
25 at that time, do you think he would have taken photographs of

1 her? Do you think they would have been admitted into evidence?
2 Do you think that would have been the corroboration that you
3 needed that physical force was used to make her do something
4 against her will?

5 Do you think a SANE nurse exam showing that his
6 pubic hairs, his semen was found on her body, do you think that
7 would have been the corroboration that would lead you to
8 believe beyond a reasonable doubt that her story was true? I
9 think it would have.

10 She threw away the flip phone that she claimed was
11 given to her by Mr. Rhymes. Let's talk about the phone. She
12 admits that, well, he took my personal phone and then he gave
13 me this flip phone. But sometimes he gave me my personal cell
14 phone back. Does that make any sense?

15 If his goal is to cut her off from the outside
16 world, to hold her hostage, to prevent her from being able to
17 reach out to anyone -- he's given her a phone to communicate
18 with the clients, with the customers that are there are to buy
19 her services. What purpose does he have to ever give her back
20 her personal cell phone? It doesn't make any sense.

21 But you know what it does explain? In the event
22 law enforcement checks her cell phone toll records, that
23 Special Agent Clark told you that he would have the ability to
24 discover, that if they found that during that 36-hour period of
25 time she actually was using that phone to make communications,

1 then she'd have some explaining to do. She'd have to explain,
2 how did I have my personal phone when I said that he didn't
3 want me to call anybody else?

4 That's what it explains, ladies and gentlemen. It
5 doesn't make any sense that if he's forcing her -- why does she
6 need two phones? For his purposes, according to her, he only
7 needs her to use the flip phone. There's no reason for her to
8 have the other phone.

9 She's on her way to the cops, but yet she throws
10 away the phone that could prove that this man has been forcing
11 her.

12 Ladies and gentlemen, I'll just conclude with this.
13 I've already mentioned some of the evidence that I believe that
14 you deserved to have before you convict this man of these
15 offenses. But I just want to go over a few others.

16 Of course, if you had the toll records from the
17 flip phone, that might show the trafficking content. That
18 might show all of the calls she received, the text messages she
19 received from Johns. It might actually prove what she's
20 saying. But unfortunately, you don't have those.

21 McKenzie told you that this all started when she
22 contacted her friend, Jada Morales, asking for help by either
23 over Facebook Messenger or text messages. When you go back in
24 the jury room, ladies and gentlemen, look for the Facebook
25 messaging to evidence what she says. It won't be there. Look

1 for the text messages that supports what she says. It won't be
2 there.

3 She wants you to believe that Mr. Rhymes and others
4 were always hovering over her, preventing her from leaving the
5 Motel 6. Well, Special Agent Clark says, well, with phone
6 numbers, he could obtain cell site data to show where people
7 are. When you go in the jury room, ladies and gentlemen, look
8 for the cell site data that would support McKenzie's story.
9 You won't find it because it's not there.

10 THE COURT: Mr. Jenkins, it's getting time to finish.

11 MR. JENKINS: Thank you. Yes, Your Honor, I'll wrap
12 it up.

13 Ladies and gentlemen, even if you conclude -- even
14 if you believe that Mr. Rhymes knowingly engaged in
15 prostitution activities with McKenzie, that's not enough.
16 He's not here for what you saw depicted on the video. What you
17 have to ask yourself is, what evidence other than McKenzie,
18 other than McKenzie's naked testimony, that any force was
19 used?

20 If you conclude that she came to that motel or --
21 as just as possible, that she came to that hotel voluntarily to
22 engage in prostitution, then you've got to find him not guilty
23 for what he's charged with. You've got to find him not guilty
24 for what he's charged with.

25 Thank you, ladies and gentlemen.

1 Thank you, Your Honor.

2 FINAL CLOSING ARGUMENT ON BEHALF OF THE GOVERNMENT

3 MS. RUSSELL: Before I address what he actually said
4 in his closing, I want to make one thing clear. You'll have a
5 verdict sheet. Count 1 charges the defendant with conspiracy
6 to traffic both the adult and the juvenile. That charges him
7 in connection with the other pimps, that all of those pimps
8 were acting in some informal agreement to traffic these women
9 and girls.

10 Count 2 charges the defendant with benefitting from
11 the fact that the juvenile was being prostituted.

12 And count 3 charges the defendant with himself
13 trafficking the adult. Okay?

14 So the only conspiracy charge is count 1. Count 1
15 is a conspiracy as to all the women who were prostituted that
16 summer, including the juvenile, and the adult. Count 2 is that
17 the defendant benefitted by receiving sex from the fact that
18 the juvenile was being prostituted. And count 3 is that this
19 defendant individually trafficked the adult.

20 All right?

21 It's an interesting case because there are almost
22 no facts in dispute. The only thing that's in dispute is your
23 interpretation of some of these facts. What do they mean?
24 There is no dispute that this defendant pimped McKenzie
25 for 36 hours. There is no dispute that she didn't know him

1 before he picked her up at the supermarket. There is no
2 dispute that, until she testified here today, she had never
3 seen him since she escaped from that motel. There is no
4 dispute that he knew she was homeless, that she [sic] knew
5 he -- she was desperate, that she had lost her job, that she
6 had no money, and that she desperately needed a place to stay.

7 There is no dispute that he had unprotected sex
8 with her on multiple occasions over those 36 hours. There is
9 no dispute that he repeatedly made her perform oral sex on him.
10 There is no dispute that he made an advertisement for
11 commercial sex for her. There is no dispute he had her perform
12 commercial sex acts on many, many, many men.

13 There is no dispute ladies and gentlemen, that he
14 took all of the money that she made.

15 There is no dispute that as soon as she escaped
16 from that motel on the Monday morning when she woke up, that
17 she went to the police and she reported it. And there is no
18 dispute that her testimony at trial yesterday was exactly
19 consistent with what she told the police that day.

20 You have that at Exhibit 505, her handwritten
21 statement of what she told the police that day, a year and a
22 half ago. Look at it.

23 There is also no dispute that this defendant had
24 commercial sex with Monserrat, the juvenile, during the time
25 she was being violently trafficked. No dispute that on at

1 least three occasions he went into that motel room where a
2 person he knew to be a prostitute was being held and he had sex
3 with her against her wishes.

4 Now, defense counsel has argued that his client
5 didn't know that Monserrat was a prostitute, didn't know that a
6 16-year-old in a motel room in underwear was a prostitute.

7 Now, defense counsel admonished you to use your
8 common sense. I would agree with that. You come to this jury
9 with your experiences. The judge will instruct you on the law.
10 We have provided you the facts through the witnesses and the
11 evidence that you've seen. But you should use your common
12 sense. And I would ask you, if you walked into a motel room
13 and happened to find a 16-year-old naked on the bed and you
14 just happened to have sex with her on multiple occasions, would
15 that be normal? No.

16 The defendant clearly knew she was a prostitute.
17 How did he know she was a prostitute? Because this defendant
18 is a pimp. Whether he is a sex trafficker is a question that
19 you will have to answer, but he is clearly a pimp. He pimps
20 women and girls. He pimped McKenzie three months before this
21 juvenile that he interacted with. He knows why women are in
22 motel rooms. He knows why girls are in motel rooms. And he
23 knows that when he goes in and has sex in a motel room with
24 someone with whom he has no relationship -- this is not a
25 girlfriend -- that that is a commercial sex interaction.

1 So the questions that are in dispute that you will
2 have to answer are two: Was McKenzie forced or coerced or
3 defrauded into being prostituted by the defendant? If you
4 believe her, if you believe that she was forced or coerced or
5 defrauded, then the defendant is guilty of sex trafficking.

6 If you choose to believe that McKenzie instead made
7 a voluntary choice to prostitute and that her choice remained
8 voluntary for the entire of the 36 hours that she was being
9 held at that motel, then defense counsel is correct, you should
10 acquit the defendant of that.

11 Defense counsel argues that McKenzie is entirely
12 uncorroborated, that all you have is her testimony. As a
13 matter of law, if you believe her testimony, that is
14 sufficient. It does not need to be corroborated. But, in
15 fact, it is corroborated.

16 You have the motel records as Exhibit 106 showing
17 that this man rented the room that McKenzie was prostituted
18 from. Defense counsel made much of call records. You have the
19 call records. They're at Government Exhibit 108. Look at
20 them. They show 46 calls between this man's phone and
21 McKenzie's phone during that 36-hour period, and they show
22 exactly zero calls before that and exactly zero calls after it.
23 The only time that this man was ever in communication with
24 McKenzie was during the time that he was trafficking her.

25 He talked about her other phone, the phone she said

1 didn't have service at the time. And you heard from Special
2 Agent Clark that that's correct, that phone did not have
3 service -- cell service. It was not in service at the time
4 that she was being trafficked.

5 So the only phone she was using was the flip phone,
6 and you have those calls records. They're at Government
7 Exhibit 108. We have given them to you.

8 You have the Backpage ad corroborating that, in
9 fact, she was prostituted. Defense counsel commented on the
10 fit of the clothes. She's naked. It's Government Exhibit 111.

11 You have the video which we've talked about,
12 Government Exhibit 402. That is probably the best
13 corroborating evidence that we could ever provide you, a
14 realtime look into what was happening in the room between the
15 two individuals in question. And you have her statement at
16 Government Exhibit 505.

17 Defense counsel talked about the fact that McKenzie
18 testified she was examined by a nurse, and the officer
19 testified that he did not bring her to a nurse. Defense
20 counsel said that she said she went that day. She did not say
21 that she went that day. She said that she went to get
22 examined. And you heard from the officer that if the
23 examination does not occur within a certain period of time,
24 then physical evidence is destroyed by the body.

25 The only other issue in dispute is did the

1 defendant receive some benefit from having sex with that
2 juvenile prostitute in that room? And ladies and gentlemen,
3 sexual gratification, even from a child, is a benefit under the
4 law. If this man did not think it was a benefit, he would not
5 have gone back again and again and again.

6 Watch Exhibit 402. Watch the video. You don't
7 have to watch the first half; watch the second half of the
8 video, the part where there are words. Watch the defendant
9 when McKenzie stops performing oral sex. Watch when she says
10 that she needs a break.

11 THE COURT: All right, Ms. Russell. It's time.
12 Finish up.

13 MS. RUSSELL: He says, get back on that dick.

14 Evaluate whether that seems voluntary to you. He
15 says to you exactly what you need to know. He says, you are a
16 money-getting ass bitch; I'm going to teach you how to suck a
17 dick right, and when you got to throw up on a dick a hundred
18 times, you're going to earn it.

19 That defendant is guilty of sex trafficking.

20 Thank you for your service.

21 THE COURT: All right. Ladies and gentlemen, when
22 we -- the jury was selected yesterday, two of you were selected
23 as alternate jurors in case we had some difficulty or something
24 that would necessitate the need for an alternate. Since there
25 hasn't, there are two of you that can now be excused, '///',

1 // and //. And I thank you very much for your
2 service. You've been as important as any of the other jurors
3 in this case, but you cannot be involved in the decision that's
4 being made. You're welcome to stay here in the courtroom.
5 You're welcome to leave.

6 Thank you very much for your service.

7 (ALTERNATE JURORS RELEASED.)

8 JURY INSTRUCTIONS

9 THE COURT: And for the rest of you:

10 You've heard the evidence and argument of counsel,
11 and it becomes my duty to give you instructions as to the law
12 that's applicable in this case. And I hope you'll bear with me
13 for a few more minutes because I will instruct you orally. I
14 will not give you instructions in writing.

15 Now, it's your duty as jurors to follow the law as
16 stated by the Court and to apply the rules of law so given as
17 to the facts as you find them from the evidence in the case.
18 You are not to single out any one instruction alone as stating
19 the law, but must consider the instructions as a whole.

20 You are not to be concerned with the wisdom of any
21 rule of law as stated by the Court. Regardless of any opinion
22 you have as to what you think the law ought to be, it would be
23 a violation of your sworn duty if you ignore the law as I give
24 it to you and apply some other law.

25 It would also be a violation of your sworn duty as

1 judges of the facts to base your verdict on anything but the
2 evidence in this case.

3 Now, count 1, as you have heard many times, charges
4 this defendant with sex trafficking, a conspiracy to commit sex
5 trafficking. Now, section 1594 of Title 18 United States Code
6 provides in part that whoever conspires with another to violate
7 section 1591, which prohibits sex trafficking of a person,
8 shall be guilty of a crime. Section 1591 of Title 18 United
9 States Code provides in part that whoever knowingly, in or
10 affecting interstate commerce, recruits, entices, harbors,
11 transports, provides, obtains, or maintains by any means a
12 person knowing or in reckless disregard of the fact that means
13 of force, threats of force, fraud, coercion, or any combination
14 of such means will be used to cause the person to engage in a
15 commercial sex act, or that the person has not attained the age
16 of 18 years and will be cause to engaged in a commercial sex
17 act, shall be guilty of the crime.

18 Now, if the defendant had a reasonable opportunity
19 to observe the person so recruited, enticed, harbored,
20 transported, provided, obtained or maintained, the Government
21 need not prove that the defendant knew or recklessly
22 disregarded the fact that the person had not attained the age
23 of 18.

24 Now, there are three essential elements which the
25 Government must prove beyond a reasonable doubt:

1 One, that the conspiracy, agreement or
2 understanding to commit the object of the conspiracy -- that
3 is, sex trafficking as described in the indictment -- was
4 formed, reached or entered into by two or more persons;

5 Two, that at the time -- at some time during the
6 existence or life of the conspiracy, agreement or
7 understanding, the defendant knew the purpose of the agreement;

8 And three, with knowledge of the purpose of the
9 conspiracy, agreement or understanding, the defendant then
10 deliberately joined the conspiracy, agreement or understanding.

11 Now, a criminal conspiracy is an agreement or
12 mutual understanding knowingly made or knowingly entered into
13 by at least two people to violate the law by some joint or
14 common plan or course of action. A conspiracy is, in a very
15 true sense, a partnership in crime.

16 A conspiracy or agreement to violate the law, like
17 any other kind of an agreement or understanding, need not be
18 formal, written, or even expressed directly in every detail.
19 The Government must prove that the defendant and at least one
20 other person knowingly and deliberately arrived at some type of
21 agreement or understanding that they and perhaps others would
22 commit an offense against the United States by means of some
23 common plan or course of action as alleged in count 1.

24 It is proof of this conscious understanding and
25 deliberate agreement by the alleged members that should be

1 central to your consideration of the charge of conspiracy.

2 Now, before the jury may find the defendant or any
3 other person became a member of the conspiracy as charged in
4 count 1, the evidence in the case must show beyond a reasonable
5 doubt that the defendant knew the purpose or goal of the
6 agreement or understanding and then deliberately entered into
7 the agreement, intending in some way to accomplish the goal or
8 purpose by this common plan or joint action.

9 If the evidence establishes beyond a reasonable
10 doubt that the defendant knowingly and deliberately entered
11 into an agreement to commit sex trafficking as charged in
12 count 1, the fact that the defendant did not join the agreement
13 at its beginning or did not know all of the details of the
14 agreement or did not participate in each act of the agreement,
15 or did not play a major role in accomplishing the unlawful
16 goal, is not important to your decision regarding membership in
17 the conspiracy.

18 Similarly, the agreement need not have been so
19 particular that the conspirators had in mind a particular time,
20 place and victim that the agreement must have related to a
21 particular type of criminal activity.

22 Now, merely associating with others or discussing
23 common goals, mere similarity or conduct between or among such
24 persons, merely being present at the place where a crime takes
25 place or is discussed, or even knowing about criminal activity

1 does not, of itself, make someone a member of the conspiracy or
2 a conspirator.

3 Now, evidence has been received in the case that
4 certain persons who are alleged to be co-conspirators of the
5 defendant have said or done things during the existence or life
6 of the alleged conspiracy charged in count 1 in order to
7 further or advance its goals.

8 Such statements -- acts or statements of others may
9 be considered by you in determining whether or not the
10 Government has proven the charged conspiracies in -- alleged in
11 count 1. Since these acts may have been performed and these
12 statements made outside the presence of the defendant, and even
13 done or said without the defendant's knowledge, these acts or
14 statements should be examined with particular care by you
15 before considering them against a defendant who did not do the
16 particular act or make the particular statement.

17 Now, count 2 charges the defendant with benefitting
18 from participation in a sex trafficking venture. Now,
19 section 1591 of Title 18 United States Code provides whoever
20 knowingly in or affecting interstate commerce recruits,
21 entices, harbors, transports, provides, obtains or maintains by
22 any means a person or, two, benefits financially or by
23 receiving anything of value from participating in a venture
24 which has engaged in an act described in violation of
25 paragraph 1 knowingly or in reckless disregard of that fact --

1 that means with force, fraud, coercion or any combination of
2 such will be used to cause the person to engage in a commercial
3 sex act, or that the person has not attained the age of 18
4 years and will be caused to engage in a commercial sex act --
5 shall be guilty of an offense against the United States.

6 Now, there are four essential elements that the
7 Government must prove beyond a reasonable doubt as to count 2:

8 One, that the defendant knowingly benefitted
9 financially or by receiving anything of value from
10 participating in a venture;

11 Two, that that venture recruited, enticed,
12 harbored, transported, provided, obtained or maintained by any
13 means a girl whose initials are M.B.;

14 Three, that this conduct of the venture was in or
15 affecting interstate commerce;

16 And four, that the defendant knew or recklessly
17 disregarded the fact that M.B. was under the age of 18 years
18 and, B, knew or recklessly disregarded that force, threats of
19 force, fraud and coercion in any combination of such means
20 would be used to cause M.B. to engage in a commercial sex act.

21 Now, count 3 charges sex trafficking by force,
22 fraud, and coercion.

23 Now, again, Title [sic] 1591 of Title 18 United
24 States Code provides in part that, A, whoever knowingly in or
25 affecting interstate commerce recruits, entices, harbors,

1 transports, provides, obtains or maintains by any means a
2 person knowingly or in reckless disregard of the fact that
3 means of force, threats of force, fraud, coercion, or any
4 combination of such means will be used to cause the person to
5 engage in a commercial sex act or that the person has not
6 attained the age of 18 years and will be caused to engage in a
7 commercial sex act, shall be guilty of an offense against the
8 United States.

9 Now, there are three essential elements as to
10 count 3 that the Government must prove beyond a reasonable
11 doubt:

12 One, that the defendant knowingly recruited,
13 enticed, harbored, transported, provided, obtained or
14 maintained by any means M.M., an adult female;

15 Second, that the defendant did so in or affecting
16 interstate commerce;

17 Three, that the defendant knew or recklessly
18 disregarded the fact that means of force, threats of force,
19 fraud, coercion or any combination of these would be used to
20 cause M.M. to engage in a commercial sex act;

21 Now, a person may violate the law even though he or
22 she does not personally do each and every act constituting the
23 offense if that person aided and abetted the commission of the
24 offense.

25 Section 2(a) of Title 18 United States Code

1 provides that whoever commits an offense against the United
2 States or aids, abets, counsels, commands, induces or procures
3 its commission is punishable as a principal.

4 Now, before the defendant may be held responsible
5 for aiding and abetting others in the commission of a crime, it
6 is necessary that the Government prove beyond a reasonable
7 doubt that the defendant knowingly and deliberately associated
8 themselves in some way with the crime charged and participated
9 in it with the intent to commit the crime.

10 In order to be found guilty of aiding and abetting,
11 the commission of the crimes charged in counts 2 and 3 of the
12 indictment, the Government must prove beyond a reasonable doubt
13 that:

14 One, the defendant knew the crime charged was to be
15 committed or was being committed;

16 Two, knowingly did some act for the purpose of
17 aiding, commanding, encouraging the commission of that crime;

18 And three, acting with the intention of causing the
19 crime to be committed.

20 Now, before the defendant may be found guilty as an
21 aider and abetter to the crime, the Government must also prove
22 beyond a reasonable doubt that some person or persons committed
23 each of the essential elements of the offense charged as
24 detailed for you in these instructions. It is not necessary,
25 however, that the Government prove the actual identity of the

1 perpetrator of the crime or that the person was charged or
2 convicted of that crime.

3 Now, merely being present at the scene of a crime
4 or merely knowing that a crime is being committed or is about
5 to be committed is not sufficient conduct for the jury to find
6 the defendant aided and abetted the commission of that crime.
7 The Government must prove that the defendant knowingly
8 associated himself with the crime in some way as a participant,
9 someone who wanted the crime to be committed, not as a mere
10 spectator.

11 The Government need not prove, however, that the
12 defendant knew the precise date, means or victim of the crime
13 the accomplice planned to commit. Moreover, to -- the extent
14 or the importance of the aid that the defendant provided does
15 not matter as long as the Government has provided -- proved
16 beyond a reasonable doubt that the defendant knowingly did some
17 act for the purpose of aiding, commanding or encouraging the
18 commission of the crime.

19 It is not necessary for the Government to have
20 specifically charged the defendant with aiding and abetting in
21 the indictment. The defendant can be convicted as an aider and
22 abetter even though he was indicted as a principal for the
23 commission of the underlying offense and not as an aider and
24 abetter. Therefore, you may consider whether, pursuant to this
25 instruction, the Government has proved beyond a reasonable

1 doubt that the defendant aided and abetted the commission of
2 any crime charged in counts 2 and 3 of the indictment.

3 Now, the term "commercial sex" means any sex act on
4 account of which anything of value is given or received by any
5 person. A commercial sex act includes a sex act for which
6 money was paid or was supposed to be paid or for which
7 something of value was traded or given.

8 Now, the term "recruit" means to persuade someone
9 to join or to work. "Entice" means to attract, induce or lure
10 using hope or desire. "Harbor" means to give or afford shelter
11 to, such as in a house or other place.

12 "Transportation" means to take or convey from one
13 place to another. "Provides" means to furnish, supply or make
14 available. "Obtain" means to give possession of or acquire.
15 "Maintain" means to keep or to hold.

16 Now, the term reckless disregard of the fact that
17 M.M. and M.B. would be cause -- would be caused to engage in a
18 commercial sex act and reckless disregard of the fact that M.B.
19 was under the age of 18 years, as used in these instructions,
20 means that the defendant deliberately closed his eyes to what
21 otherwise would have been obvious to him.

22 No one can avoid responsibility for a crime by
23 deliberately ignoring what is obvious. A finding beyond a
24 reasonable doubt of an intent of the defendant to avoid
25 knowledge or enlightened of the age of M.B., or that M.B. would

1 be caused to engage in a commercial sex act, would permit the
2 jury to infer knowledge.

3 Stated another way, the defendant's knowledge of
4 M.B.'s age or knowledge that M.B. would be caused to engage in
5 a commercial sex act may be inferred from a deliberate or
6 intelligent ignorance or deliberate or intentional blindness to
7 the existence of that fact.

8 It is, of course, entirely up to you as to whether
9 you find any reckless disregard or deliberately closing of the
10 eyes to the age of M.B. in the commission of commercial sex
11 acts and inferences to be drawn from any such evidence.

12 You may not infer that the defendant had knowledge
13 of the age of M.B. or that M.B. was caused to engage in
14 commercial sex acts, however, for proof of a mistake,
15 negligence, carelessness or a belief in an inaccurate
16 proposition.

17 Now, the term "coercion" means threats of serious
18 harm to or physical restraint against any person, any scheme,
19 plan or pattern intended to cause a person to believe that
20 failure to perform an act would result in serious harm or
21 physical restraint against any person or the abuse or
22 threatened abuse of law or the legal process.

23 Now, the term "interstate commerce" means to move
24 property from one state to another. The term "state" includes
25 a state of the United States and the District of Columbia.

1 Interstate commerce simply means the movements of
2 goods, services, money and individuals between two or more
3 states or between one state and the District of Columbia.

4 To satisfy this evidence [sic], the Government must
5 prove that the defendant's conduct affected interstate commerce
6 in any way, no matter how minimal. The Government is not
7 required to prove that the defendant knew that this conduct was
8 in or affecting interstate commerce.

9 In determining whether the defendant's conduct
10 affected interstate commerce, you may consider whether the
11 defendant used means, instrumentalities or facilities of
12 interstate commerce. A facility of interstate commerce is some
13 thing, tool or device that is involved in interstate commerce.
14 Cell phones and the Internet are both means, facilities or
15 instruments of interstate commerce.

16 Now, the term "knowingly" as used in these
17 instructions to describe the alleged state of mind of the
18 defendant means that he was conscious and aware of his actions,
19 realized that -- what he was doing or what was happening around
20 him, and did not act because of ignorance, mistake, or
21 accident.

22 Now, the intent of a person or the knowledge that a
23 person possesses at any given time may not ordinarily be proven
24 directly because there is no way of directly scrutinizing the
25 workings of the human mind. In determining the issue of what a

1 person knew or what a person intended at a particular time, you
2 may consider any statements made or acts done or omitted by
3 that person and all other facts and circumstances received in
4 evidence which may aid you in your determination of that
5 person's knowledge or intent.

6 You may infer, but you're certainly not required to
7 infer, that a person intends the natural and probable
8 consequences of acts knowingly done or knowingly omitted. It
9 is entirely up to you, however, to decide what facts to find
10 from the evidence received during this trial.

11 Now, although the indictment may have charged a
12 defendant with committing an offense in several way -- that is,
13 using the conjunctive language -- I instruct you that it is not
14 necessary for the Government to prove that the defendant did
15 each of those things. It is sufficient if the Government
16 proves beyond a reasonable doubt that the defendant did any one
17 of these alternative acts as charged.

18 Now, the indictment charges that certain offenses
19 here were committed on or about a certain date. Although it's
20 necessary for the Government to prove beyond a reasonable doubt
21 that the offenses were committed on or between dates reasonably
22 near the dates alleged in the indictment, it is not necessary
23 for the Government to prove that the offenses were committed
24 precisely on or between the dates charged.

25 Now, there are two types of evidence from which you

1 may find the truth as to the facts of this case: Direct and
2 circumstantial. Direct evidence is the testimony of one who
3 asserts actual knowledge of the facts, such as eyewitness.
4 Circumstantial evidence is the proof of a chain of facts or
5 circumstances indicating the guilt or innocence of a defendant.
6 The law makes no distinction between the weight to be given to
7 either direct or circumstantial evidence, nor is a greater
8 degree of certainty required of circumstantial than of direct.
9 You should weigh all the evidence in this case.

10 Now, the burden is always on the prosecution to
11 prove guilt beyond a reasonable doubt. This burden never
12 shifts to the defendant, for the law never imposes upon a
13 defendant in a criminal case the burden of -- or duty of
14 calling any witnesses or producing any evidence.

15 A defendant has the right to remain silent. And
16 since he has that right to remain silent, the law prohibits
17 you, in arriving at your verdict, from considering that a
18 defendant may not have testified.

19 The law presumes a defendant to be innocent of a
20 crime. Thus, a defendant, although accused, begins the trial
21 with a clean slate, with no evidence against him, and the law
22 permits nothing but legal evidence presented before the jury to
23 be considered in support of any charge against the accused. So
24 the presumption of innocence alone is sufficient to acquit a
25 defendant unless you are satisfied beyond a reasonable doubt of

1 the defendant's guilt after a careful and impartial
2 consideration of all the evidence in the case.

3 It's not required that the Government prove beyond
4 all possible doubt, but the test is one of reasonable doubt.

5 Now, the punishment provided for the offenses or
6 the charge is a matter exclusively within the province of the
7 Court and should never be considered by the jury in any way in
8 arriving at a fair and impartial verdict as to the guilt or
9 innocence of the accused.

10 The indictment returned by the grand jury in this
11 case is not to be considered by you as any evidence of guilt.
12 An indictment is simply the formal means by which a case is
13 processed initially to bring about a trial.

14 Now, arguments and statements -- arguments and
15 statements of counsel are not evidence in the case. The
16 attorneys have entered into stipulations, and those
17 stipulations become proper evidence.

18 Now, from time to time in their arguments the
19 lawyers may have stated what law was applicable to this case.
20 If they made a reference, as they had a right to do, that is
21 contrary to what I state the law to be, you must disregard what
22 the lawyers said and abide by what the Court states the law to
23 be.

24 The lawyers from time to time have referred to
25 certain facts that came out in evidence. If your recollection

1 of those facts is different from the lawyers, your recollection
2 prevails because you are the sole judges of the facts.

3 Now, from time to time during the course of the
4 trial, the lawyers made objections to the introduction of
5 certain evidence or to the form of questions. If I sustained
6 those objections, you cannot consider any evidence that I
7 sustained an objection to or facts contained in the question to
8 which an objection was sustained.

9 Now, you as jurors are the sole judges of the
10 credibility of the witnesses and the weight their testimony
11 deserves. You may be guided by the appearance and conduct of
12 the witness or by the manner in which the witness testifies or
13 by the character of the testimony given. You should carefully
14 scrutinize all the testimony given, the circumstances under
15 which each witness has testified, and every matter in evidence
16 which tends to show whether a witness is worthy of belief.

17 Consider each witness' intelligence, motive and
18 state of mind and demeanor and manner while on the stand.
19 Consider the witness' ability to observe the matter to which he
20 has testified and whether he impresses you as having an
21 accurate recollection of these matters. Consider also any
22 relation each witness may have to either side in the case, the
23 manner in which each witness might be affected by the verdict
24 and the extent to which, if at all, each witness is either
25 supported or contradicted by other evidence in the case.

1 Now, you've heard from -- the testimony of law
2 enforcement officers, and I would instruct you that the
3 testimony of a law enforcement officer is not deserving of any
4 more or less consideration or weight than that to be given to
5 other witnesses.

6 You've heard the testimony of a person who has been
7 a substance abuser. You should view that testimony with
8 greater care and caution than you would the testimony of other
9 witnesses.

10 After making out your own judgment, you will give
11 the testimony of each witness such weight, if any, as you may
12 think it deserves.

13 Now, as you all retire to begin your deliberations,
14 your first duty will be that of selecting a foreperson. Then
15 proceed with a rational discussion of the evidence by all of
16 you for the purpose of reaching a unanimous verdict.

17 Each of you should decide for yourself in the
18 context of the evidence and the law and give proper
19 consideration to the views of other jurors. Reconsider your
20 views if persuaded by rational discussion, but don't do so
21 solely for the sake of reaching a unanimous verdict. Your
22 verdict must be unanimous on each of these counts.

23 Now, I'm going to send to the jury room a verdict
24 form which has the style and number of the case, and the three
25 counts are listed here with a blank in front of them for you to

1 write "guilty" or "not guilty."

2 Now, the prosecutor asked you to set out certain
3 questions in regard to which of these conjunctive things you
4 might have decided. I don't believe that's necessary. To
5 reach a verdict, you have to unanimously agree on which
6 disjunctive or conjunctive phrases you're finding the guilt on.
7 Once you've done that, just simply write "guilty" or "not
8 guilty" on this form. It should be signed and dated by your
9 foreperson at the bottom here.

10 Remember, once you retire, if you should need to
11 contact the Court for any reason, it must be in writing and
12 signed by your foreperson.

13 I'll allow you now to retire to the jury room to
14 begin your deliberations. The marshal will get the exhibits
15 together and the verdict form and will bring it in just very
16 shortly --

17 MR. JENKINS: Your Honor, before you excuse the jury,
18 can we approach?

19 THE COURT: Yes, you may.

20 (ON-THE-RECORD BENCH CONFERENCE, TO WIT:

21 MR. JENKINS: Your Honor, my notes reflect that you
22 indicated that you were going to charge the jury on
23 inconsistent statement, and I didn't hear you give that one.
24 It was right after -- you had indicated after the drug addict
25 one that you were going to give the inconsistent.

1 THE COURT: All right. Do you want to me to give
2 that?

3 MR. JENKINS: Yes, Your Honor.

4 THE COURT: All right.

5 MR. JENKINS: Thank you.

6 (END OF BENCH CONFERENCE.)

7 THE COURT: Now, ladies and gentlemen, counsel has
8 requested that I add to my discussion with you on the
9 credibility of the witness to the extent of dealing with
10 inconsistent statements. And I will tell you that the
11 testimony of a witness may be discredited, or sometimes we may
12 say impeached, by showing that he or she previously made
13 statements which are different than or inconsistent with his or
14 her testimony here in court.

15 The earlier inconsistent or contradictory
16 statements are admissible only to discredit or to impeach the
17 credibility of the witness and not to establish the truth of
18 those earlier statements somewhere other than made during this
19 trial. It is your province, the province of jury, to determine
20 the credibility of a witness who has made prior inconsistent
21 statements.

22 And with that, you all may retire and begin your
23 deliberations.

24 (JURY OUT TO DELIBERATE AT 11:36 A.M.)

25 THE COURT: All right. We'll recess until the jury

1 returns a verdict.

2 THE LAW CLERK: All rise.

3 (11:37 A.M. OFF THE RECORD.)

4 (1:26 P.M. ON THE RECORD.)

5 THE COURT: I've got a question -- well, two questions
6 from the jury.

7 The first is: What are the elements the Government
8 has to prove in order to find the defendant guilty on count 1?
9 Is it possible to review the transcript of the judge's
10 instructions?

11 No, but I can give them the instructions again as
12 to the elements.

13 And then the second part of this is: On count 1,
14 is it sufficient if we think there is a conspiracy to engage in
15 sex trafficking involving just one of the two named women or
16 does it have to be both?

17 MS. RUSSELL: The Government is fine with the Court's
18 proposal to read the instructions again, count 1. And as to
19 count -- as to the second question as to count 2, that would be
20 a permissible variance within the indictment. The indictment
21 charges both in the conjunctive. Obviously, the Government can
22 prove in the disjunctive. And so, in accordance with the
23 Court's instructions and Fourth Circuit law, that would be
24 acceptable. They do have to find a unanimous decision, though.
25 They can't -- six of them can't decide on one victim and six on

1 the other.

2 THE COURT: Right.

3 MR. JENKINS: Your Honor, I think I concur with
4 Government counsel, but I thought I understood that you were
5 going to give them the instructions, not read it to them again.
6 Correct?

7 THE COURT: No, I'm going to read it to them. I'm not
8 going to give --

9 MR. JENKINS: Okay. Read it to them. That's very --
10 fine, Your Honor.

11 And then with respect to the substantive question,
12 does the verdict form the Court gave allow them to determine
13 which victim? Because I think that is important with respect
14 to a potential sentence. It's not? Okay. Then fine. If
15 there's no difference between which one they find, in terms of
16 what he would be exposed to by way of mandatory minimum or
17 sentence otherwise, then I would agree they can find either/or.

18 MS. RUSSELL: Your Honor, count 1 doesn't carry a
19 mandatory minimum, so it would have a difference for the
20 guidelines, but it wouldn't have a difference for the mandatory
21 minimum. Count 2 and count 3 carry mandatory minimums, so...

22 MR. JENKINS: Then that's my point, Your Honor,
23 because then we're -- we may get at sentencing -- and there may
24 be a dispute between the parties as to what guidelines apply,
25 because the verdict hasn't -- the jury hasn't given us some

1 direction as to whether or not they believe he participated in
2 the conspiracy with respect to the minor, which I suspect under
3 the guidelines would be significantly higher than an adult
4 female.

5 So I would, you know, respectfully suggest that a
6 new verdict form may be in order so that they can educate us as
7 to which of the two victims they believe he is guilty of
8 participating in the conspiracy with.

9 THE COURT: Yeah, maybe you ought to do that. I
10 didn't think there was any reason to do it at the start, but I
11 wasn't thinking about the mandatory minimum being involved.

12 MS. RUSSELL: Your Honor, the Government is -- if it's
13 acceptable to defense counsel, the Government would be happy to
14 go downstairs and submit a verdict form that tracks this for
15 both counts 1 and count 2 so that the jury, if they convict --
16 if they deliberate to -- if they come to a verdict of guilty on
17 either count 1 or 2, they would then specify what the basis of
18 their verdict was.

19 THE COURT: All right. Well, if you prepare that,
20 we'll send that in to them.

21 MS. RUSSELL: Thank you.

22 THE COURT: And I will tell them that that's coming.

23 MS. RUSSELL: Thank you, Your Honor.

24 THE COURT: The other thing is, do you have any
25 problem with me just telling them that they -- as the

1 prosecutor suggested, to tell them that they can find either
2 one or both?

3 MR. JENKINS: I wish I could say something different,
4 but I think that's the law.

5 THE COURT: Well, that's what I'm supposed to tell
6 them, what the law is.

7 All right. Would you bring the jury in?

8 (JURY IN AT 1:39 P.M.)

9 THE COURT: Okay. Ladies and gentlemen, with regard
10 to your first question about the elements of the offense that
11 the Government has to prove beyond a reasonable doubt, as to
12 count 1:

13 First, the conspiracy agreement or understanding to
14 commit the object of conspiracy -- that is, sex trafficking as
15 described in the indictment -- was formed, reached, or entered
16 into by two or more persons;

17 Secondly, that at some time during the existence of
18 or life of the conspiracy, agreement or understanding, the
19 defendant knew the purpose or purposes of the agreement;

20 And three, that the defendant, with knowledge of
21 the purpose of the conspiracy of [sic] the agreement or
22 understanding, the defendant then deliberately joined the
23 conspiracy, agreement or understanding.

24 Now, as to your second question, remember I talked
25 about conjunctive and disjunctive in the instruction -- one

1 instruction that I gave you. So you may find the defendant
2 guilty of one or the other or both. That's up to you. Or not
3 guilty or one or the other or -- or both. You can -- the
4 statute is in the conjunctive and it lists a number of things.
5 As long as you unanimously agree on one, then you may find the
6 defendant guilty of that offense.

7 Now, also, I believe I was in error when I told you
8 that the -- I gave you just a general verdict form as to these
9 counts. I'm going to revise that verdict form and send it in
10 to you so you can tell me, if you would so find as to one, tell
11 us who it is, and there will be a provision on the form for you
12 to do that.

13 So you-all may retire to continue your
14 deliberations. The marshal will bring in that new verdict form
15 as soon as I get it here.

16 (JURY OUT AT 1:42 P.M.)

17 THE COURT: The court stands in recess until the jury
18 returns a verdict.

19 THE LAW CLERK: All rise.

20 (1:42 P.M. OFF THE RECORD.)

21 (3:40 P.M. ON THE RECORD.)

22 THE COURT: I have another question from the jury.

23 Count 2: What constitutes benefitting from
24 participation in a sex trafficking venture? If having sex is a
25 benefit, does it matter if it was paid or unpaid?

1 MS. RUSSELL: The Government's theory of the case,
2 Your Honor, is that the benefit that he received was sexual
3 gratification from sex with a juvenile. As a matter of law, it
4 doesn't matter that the sex was unpaid. I imagine defense
5 counsel's argument is different.

6 MR. JENKINS: You are correct. My understanding of
7 the law, Your Honor, is that sexual gratification would not
8 qualify under the statute as a benefit. And then, secondly, it
9 is to be a commercial transaction, and the Court gave a
10 definition of a commercial transaction. And I think that is
11 what should guide their decision.

12 I certainly am aware that, in the indictment, the
13 Government included in the language in count 2, which does not
14 track the statute, sexual gratification as being a benefit.
15 But that's not included in the statute, Your Honor.

16 MS. RUSSELL: If I may reply very briefly.

17 I agree with defense counsel that in order for the
18 sex trafficking predicate to occur in count 2 that a commercial
19 sex act needs to occur. However, the way that the statute --
20 that the charge is in the indictment in count 2 is actually
21 1591(a)(2), which means that the defendant simply needs to
22 benefit from the sex trafficking venture. The defendant does
23 not need to engage in, quote, commercial sex with a juvenile.
24 We would separately argue that he did, but 1591(a)(2), as
25 charged in the indictment in count 2, is that the defendant

1 received anything of value, any benefit from the sex
2 trafficking venture.

3 So we would argue, as a predicate, Monserrat was
4 being trafficked, she was engaged in commercial sex activities,
5 and that the defendant benefited from her being trafficked by
6 receiving, on at least three occasions, sexual gratification
7 from having sex with her.

8 So we don't need this Court to answer whether those
9 acts of the defendant having sex with Monserrat were themselves
10 commercial sex acts. I would argue that they were, but we
11 don't need to address that. The sex question is, does the
12 sexual gratification that the defendant received from
13 Monserrat, does that constitute a thing of value under the
14 statute; that is, that the defendant received a benefit from?

15 MR. JENKINS: And, Your Honor, I at least would agree
16 with counsel that that is the first question, is the most
17 significant of the two that the Court posed, and that is, is
18 sexual gratification a benefit under the statute? Our position
19 is that it is not.

20 There are cases that talk about whether it be
21 money, whether it be material items, but sexual gratification,
22 Your Honor -- I haven't seen any case law that supports that as
23 being defined. It certainly wasn't included in the Court's
24 instruction about sexual gratification being --

25 THE COURT: You know, we're arguing here, but I don't

1 know that we're getting right to the point of what do I tell
2 the jury. And what I'm wondering is -- the only thing that I
3 can really tell the jury is these two questions are for you to
4 answer.

5 MR. JENKINS: I would agree, Your Honor. I think
6 another way is to simply tell the jury that the answer to your
7 question is found in the instructions that the Court has
8 already given you. I think that's what it is.

9 THE COURT: Yeah. And -- yeah. They -- everybody
10 knows what "benefitting from" -- they've got to determine
11 whether he received the benefit or not.

12 MR. JENKINS: I would agree, Your Honor.

13 MS. RUSSELL: And, Your Honor, I would argue that your
14 instructions to them, which I would agree makes sense to refer
15 them to, were that, in order to convict on count 2, they would
16 need to find the defendant benefits financially or by receiving
17 anything of value. And so I would refer -- if you want to just
18 give them that instruction again, benefits financially or by
19 receiving anything of value -- if they found that that element
20 is met, along with the other elements, then they should
21 convict. And if they don't find that element is met, then they
22 should acquit.

23 THE COURT: I'll tell you, I think that -- I think
24 that I'll leave -- I better leave that alone unless they ask to
25 have a certain legal principle read to them. I don't want to

1 read too much into what they're asking here.

2 The first part of this question is, what
3 constitutes benefitting from participation in a sex trafficking
4 venture?

5 Everybody knows what benefitting from something is.
6 It's a self-defining term. And that should be for them to
7 determine.

8 And I'm thinking the same way here on the second
9 part of it: If having sex is a benefit, does it matter if it
10 was paid or unpaid?

11 Well, they've got to decide what the benefit is
12 that comes from here. You're arguing it's -- that sexual favor
13 is the benefit. The other side argued that it's to the jury to
14 decide whether he received a benefit or not.

15 I think we would be better off just telling them
16 that they've got to decide that question, rather than trying to
17 direct them to a certain -- certain way. I'll direct the
18 verdict to one side or another if I start doing that.

19 MS. RUSSELL: That's fine, Your Honor. I would simply
20 say that the answer to the second question under the law needs
21 to be "no," it does not -- if the commercial -- if the sexual
22 act that they are looking at as a benefit -- the question that
23 they asked, the second part of their question, if that is the
24 thing of benefit, does it need to be paid or unpaid? The
25 answer to that question, as a matter of law, needs to be "no."

1 Because if they're looking at it as a benefit,
2 that's a separate question as to whether it's a commercial sex
3 act. And so I would argue that your answer on the first
4 portion of the question, to simply refer them to the
5 instructions they've already received is appropriate. But the
6 question for the second, as a matter of law in the Fourth
7 Circuit, and every circuit, would need to be
8 "no."

9 THE COURT: I think that's right. Isn't it?

10 MR. JENKINS: Your Honor, I think that counsel is
11 correct that that could be the case. But as the Court
12 instructed the jury, they are the judges of the facts. So I
13 think the Court was right, they have to determine whether or
14 not it qualifies as a benefit. And they have to --

15 THE COURT: But either paid or unpaid sex can be a
16 benefit. They have to make the decision --

17 MS. RUSSELL: That's correct, Your Honor.

18 THE COURT: -- what it is. It can be either. But
19 they have to determine whether or not he received a benefit,
20 either paid or unpaid.

21 MR. JENKINS: Correct.

22 MS. RUSSELL: Yes, that's correct.

23 THE COURT: Yeah. Okay. Well, let me tell them
24 something like that.

25 MR. JENKINS: Yes, Your Honor.

1 THE COURT: I think that works it out.

2 I hate to instruct them and make matters worse.

3 (JURY IN AT 3:48 P.M.)

4 THE COURT: Okay. Ladies and gentlemen, with regard
5 to the question you asked, what constitutes benefitting from
6 participation in a sex trafficking venture, you all -- that's
7 for you to determine. You know when you're benefitting from
8 something. You know what benefitting from something is.
9 Self-defining term. It's up to you to decide whether there was
10 any benefit from participation in this -- or if there was
11 participating in a trafficking venture.

12 And your second question, if having sex is a
13 benefit, does it matter if it was unpaid or unpaid. It doesn't
14 matter whether it's paid or unpaid, but then again, you've got
15 to determine whether or not there was any benefit that came
16 from the participation in a sex trafficking venture. All
17 right?

18 You may retire and continue your deliberations.

19 (JURY OUT AT 3:49 P.M. TO CONTINUE DELIBERATIONS.)

20 THE COURT: Again, we'll stand in recess until they
21 return.

22 THE LAW CLERK: All rise.

23 (3:50 P.M. OFF THE RECORD.)

24 (5:06 P.M. ON THE RECORD.)

25 THE COURT: I'm going to call these people out and see

1 if they're just about ready to reach a verdict.

2 (JURY IN AT 5:06 P.M.)

3 THE COURT: Ladies and gentlemen, it's time for us to
4 recess for the day, unless you-all are just about ready to
5 render -- or finish up on your verdict. If it's another ten
6 minutes, we can stay, but, otherwise, maybe we ought to come
7 back tomorrow.

8 THE FOREPERSON: Judge, we have reached a verdict on
9 two of the counts. And on the other one, we appear to be at an
10 impasse, and we don't actually know how we're going to get to a
11 resolution on it.

12 THE COURT: All right. Why don't we take the two
13 verdicts that are here and see -- you haven't prepared the
14 form, I assume.

15 THE FOREPERSON: Oh, I did.

16 THE COURT: Oh, did you? We'll get that checked and
17 see that you've signed it and all, and we'll take the verdict
18 on these two and then...

19 (BRIEF PAUSE.)

20 THE COURT: All right. Maybe the thing that I
21 ought -- well, you'll return the verdict.

22 VERDICT

23 COURTROOM DEPUTY: Criminal Number 2018-22, *United*
24 *States of America versus Cornell Devore Rhymes.*

25 Count 1 of the Indictment.

1 As to the offense of conspiracy to engage in sex
2 trafficking of a minor or by fraud, force or coercion, we, the
3 jury, find the defendant, Cornell Devore Rhymes, guilty.

4 If you find the defendant guilty, did you
5 unanimously find the defendant acted knowingly or in reckless
6 disregard of the fact that -- it's checked -- means of force,
7 threats of force, fraud, coercion, or any combination of such
8 means would be used to cause either M.B. or M.M. to engage in
9 commercial sex act.

10 Count 3 of the Indictment.

11 As to the offense of sex trafficking by force,
12 fraud or coercion, we, the jury, find the defendant, Cornell
13 Devore Rhymes, guilty.

14 Signed by the foreperson and dated November 15th,
15 2018.

16 Ladies and gentlemen of the jury, is this your
17 unanimous verdict?

18 THE JURORS: Yes.

19 THE COURT: And do I understand, from what you're
20 saying, that you don't believe you can reach a verdict on
21 the -- or agree upon a verdict as to count 2?

22 THE FOREPERSON: Correct. We tried for hours and
23 hours. And I don't -- I mean, at this point, it doesn't appear
24 that we're on a path to resolution.

25 THE COURT: All right. Can I ask you just to return

1 to the jury room and give me a couple of minutes to confer with
2 the lawyers? I'll be right back with you.

3 (JURY OUT AT 5:09 P.M.)

4 MR. JENKINS: Your Honor, on behalf of the
5 defendant -- may it please the Court, Your Honor. On behalf of
6 the defendant, we would move the Court for a mistrial with
7 respect to count 2 of the indictment.

8 Your Honor, it's obvious that this jury has paid
9 close attention to the facts. They've wrestled with this
10 matter now for almost six hours, Your Honor, nearly as long as
11 the amount of the testimony that they heard in the case. And
12 it appears, from their responses, that it is not likely that
13 further deliberations will produce a unanimous verdict.

14 MS. RUSSELL: Your Honor, under the circumstances as
15 they are apparent to the Government, the Government does not
16 disagree with the defense request for a mistrial on count 2.
17 And the United States would accept -- urge the Court to accept
18 the verdicts on counts 1 and 3.

19 THE COURT: All right. Motion for mistrial is
20 granted.

21 Call the jury back and I'll explain that to them,
22 as to count 2.

23 (JURY IN AT 5:11 P.M.)

24 THE COURT: Ladies and gentlemen, I have accepted the
25 verdicts here and counts 1 and 3. I've granted the defendant's

1 motion for a mistrial on count 2.

2 I thank you all very much for your service in this
3 case, and you're excused until you are next scheduled to appear
4 here.

5 Thank you.

6 (JURY EXCUSED AT 5:12 P.M.)

7 THE COURT: What about February 15th for sentencing?

8 MR. JENKINS: That's agreeable, Your Honor.

9 MS. RUSSELL: That's fine, Your Honor. I would just
10 note for the Court that -- would that also incorporate count 4
11 that the defendant pleaded guilty to in July? All the counts
12 would be --

13 THE COURT: We did not set a date on count 4?

14 MR. JENKINS: No.

15 MS. RUSSELL: We have not yet, Your Honor.

16 THE COURT: Then it will include count 4.

17 MS. RUSSELL: Thank you.

18 THE COURT: 9:00 a.m. for sentencing on that date, and
19 it's referred to the probation office for preparation of a
20 presentence report.

21 All right. Here is the verdict form.

22 And we'll adjourn until tomorrow morning at 9:00.

23 THE LAW CLERK: All rise.

24 (PROCEEDINGS CONCLUDED AT 5:13 P.M.)

25 -o0o-

1 UNITED STATES DISTRICT COURT)
2 EASTERN DISTRICT OF VIRGINIA)
3

4 I, JULIE A. GOODWIN, Official Court Reporter for
5 the United States District Court, Eastern District of Virginia,
6 do hereby certify that the foregoing is a correct transcript
7 from the record of proceedings in the above matter, to the best
8 of my ability.

9 I further certify that I am neither counsel for,
10 related to, nor employed by any of the parties to the action in
11 which this proceeding was taken, and further that I am not
12 financially nor otherwise interested in the outcome of the
13 action.

14 Certified to by me this 27TH day of MAY, 2019.
15
16
17

18 /s/

JULIE A. GOODWIN, RPR
19 CSR #5221
20 Official U.S. Court Reporter
21 401 Courthouse Square
22 Eighth Floor
23 Alexandria, Virginia 22314
24
25

Julie A. Goodwin, CSR, RPR

11.15.18

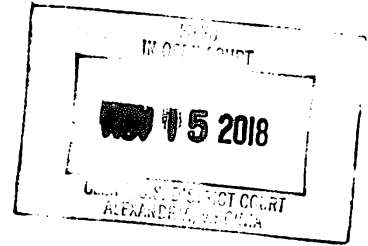
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IN THE UNITED STATES DISTRICT COURT
FOR EASTERN DISTRICT OF VIRGINIA
Alexandria Division



UNITED STATES OF AMERICA

v.

CORNELL DEVORE RHYMES

Case No. 1:18-CR-22-CMH

The Honorable Claude M. Hilton

Trial: November 14, 2018 at 10:00 a.m.

VERDICT

1. Count One of the Indictment

As to the offense of conspiracy to engage in sex trafficking of a minor or by fraud, force or coercion, in violation of Title 18 U.S.C. § 1594(c) and 1591(a), (b)(1), (b)(2), and (c),

We, the Jury, find the defendant, CORNELL DEVORE RHYMES:

Guilty X Not Guilty _____

If you find the defendant not guilty of the offense charged in Count One, you need not consider the following question.

If you find the defendant guilty, did you unanimously find that the defendant acted knowingly or in reckless disregard of the fact that:

(Check only one box):

_____ M.B. had not attained the age of 18 and would be caused to engage in a commercial sex act; or

X means of force, threats of force, fraud, coercion, or any combination of such means would be used to cause either M.B. or M.M. to engage in a commercial sex act;

or

_____ both.

2. Count Two of the Indictment

As to the offense of benefitting from participation in a sex trafficking venture, in violation of Title 18 U.S.C. § 1591(a)(2) and Section 2,

We, the Jury, find the defendant, CORNELL DEVORE RHYMES:

Guilty _____ Not Guilty _____

If you find the defendant not guilty of the offense charged in Count Two, you need not consider the following question.

If you find the defendant guilty, did you unanimously find that the defendant acted knowingly or in reckless disregard of the fact that:

(Check only one box):

_____ M.B. had not attained the age of 18 and would be caused to engage in a commercial sex act; or

_____ means of force, threats of force, fraud, coercion, or any combination of such means would be used to cause M.B. to engage in a commercial sex act; or

_____ both.

3. Count Three of the Indictment

As to the offense of sex trafficking by force, fraud, or coercion, in violation of Title 18

U.S.C. § 1591(a)(1) and Section 2,

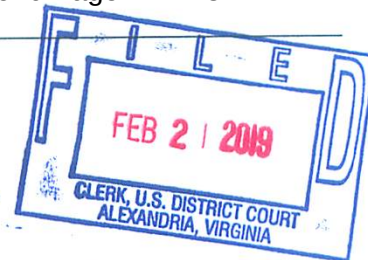
We, the Jury, find the defendant, CORNELL DEVORE RHYMES:

Guilty X Not Guilty

SO SAY WE ALL, this 15 day of November 2018.

REDACTED

UNITED STATES DISTRICT COURT
Eastern District of Virginia
Alexandria Division



UNITED STATES OF AMERICA
v.

Case Number: 1:18CR00022-001

CORNELL DEVORE RHYMES
a/k/a "Fats"

USM Number: 91767-083
Defendant's Attorney: Robert Jenkins, Esquire

Defendant.

JUDGMENT IN A CRIMINAL CASE

The defendant pleaded guilty to Count 4 of the Superseding Indictment. The defendant was found guilty on Counts 1 and 3 of the Superseding Indictment after a plea of not guilty.

Accordingly, the defendant is adjudicated guilty of the following counts involving the indicated offenses.

<u>Title and Section</u>	<u>Nature of Offense</u>	<u>Offense Class</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. §§ 1594(c) and 1591(a), (b)(1), (b)(2), and (c)	Conspiracy to Commit Sex Trafficking of a Minor by Fraud, Force or Coercion	Felony	08/2017	1
18 U.S.C. §§ 1591(a)(1) and (b)(1); and 2	Sex Trafficking by Force, Fraud, and Coercion	Felony	06/05/2017	3
18 U.S.C. §§ 922(g)(1) and 924(a)(2)	Possession of a Firearm by a Prohibited Person	Felony	10/27/2017	4

On motion of the Defendant, the Court has dismissed Count 2 of the Superseding Indictment.

As pronounced on February 15, 2019, the defendant is sentenced as provided in pages 2 through 6 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

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

Signed this 21st day of Feb, 2019.

Claude M. Hilton
United States District Judge

Defendant's Name: RHYMES, CORNELL DEVORE
Case Number: 1:18CR00022-001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of ONE HUNDRED EIGHTY (180) MONTHS.

This term of imprisonment consists of terms of ONE HUNDRED EIGHTY (180) MONTHS on each of Counts 1 and 3, and SIXTY (60) MONTHS on Count 4 to run concurrently with each other.

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

RETURN

I have executed this judgment as follows: _____

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

UNITED STATES MARSHAL

By

DEPUTY UNITED STATES MARSHAL

Defendant's Name: RHYMES, CORNELL DEVORE
Case Number: 1:18CR00022-001

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of TEN (10) YEARS.

This term consists of terms of TEN (10) YEARS on each of Counts 1 and 3, and THREE (3) YEARS on Count 4 to run concurrently with each other.

The Probation Office shall provide the defendant with a copy of the standard conditions and any special conditions of Supervised Release.

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and periodic drug tests thereafter, as determined by the court.

The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.

If this judgment imposes a fine or restitution obligation, it is a condition of Supervised Release that the defendant pay any such fine or restitution in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

STANDARD CONDITIONS OF SUPERVISION

The defendant shall comply with the standard conditions that have been adopted by this court set forth below:

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance or any paraphernalia related to such substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer for a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

Defendant's Name: RHYMES, CORNELL DEVORE
Case Number: 1:18CR00022-001

SPECIAL CONDITIONS OF SUPERVISION

While on Supervised Release pursuant to this Judgment, the defendant shall also comply with the following additional special conditions:

- 1) The defendant shall participate in a program approved by the United States Probation Office for substance abuse, which program may include residential treatment and testing to determine whether the defendant has reverted to the use of drugs or alcohol, with partial costs to be paid by the defendant, all as directed by the probation officer.
- 2) The defendant shall undergo any sex offender testing and treatment as directed by the probation officer.
- 3) The defendant shall submit to polygraph testing as directed by the probation officer.
- 4) The defendant shall participate in a program for mental health treatment and evaluation, as directed by the probation officer.
- 5) The defendant shall not utilize any sex-related adult telephone services, websites, or electronic bulletin boards.
- 6) The defendant shall not purchase, possess or view any sexually explicit material or images using young juvenile models under the age of 18.
- 7) The defendant shall have no contact with minors unless supervised by a competent, informed adult, approved in advance by the probation officer.
- 8) The defendant shall not engage in employment or volunteer services that allow him access to computers or minors, unless approved by the probation officer.
- 9) Pursuant to the Adam Walsh Child Protection and Safety Act of 2006, the defendant shall register with the state sex offender registration agency, as required by law, as directed by the probation officer.
- 10) Pursuant to the Adam Walsh Child Protection and Safety Act of 2006, the defendant shall submit to a search of his person and property as required by the probation officer.
- 11) The defendant shall comply with any computer monitoring requirements, as directed by the probation officer.

Defendant's Name: **RHYMES, CORNELL DEVORE**
Case Number: **1:18CR00022-001**

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the Schedule of Payments on Sheet 6.

<u>Count</u>	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
1	\$100.00	\$0.00	TBD
3	\$100.00	\$0.00	
4	\$100.00	\$0.00	
TOTALS:	\$300.00	\$0.00	

FINES

No fines have been imposed in this case.

Defendant's Name: RHYMES, CORNELL DEVORE
Case Number: 1:18CR00022-001

SCHEDULE OF PAYMENTS

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

The special assessment shall be due in full immediately.

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

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed. Payments shall be applied in the following order: (1) assessment (2) restitution principal (3) restitution interest (4) fine principal (5) fine interest (6) community restitution (7) penalties and (8) costs, including cost of prosecution and court costs.

Nothing in the court's order shall prohibit the collection of any judgment, fine, or special assessment by the United States.