

DOCKET NO:

IN THE
SUPREME COURT OF THE UNITED STATES

IN RE: MICHAEL KENNY CARTER

ON PETITION FOR A WRIT OF HABEAS CORPUS
TO THE SUPREME COURT OF THE UNITED STATES

APPENDIX

Submitted by and for:

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UNITED STATES OF AMERICA, v. MICHAEL CARTER a/k/a "Blaze," Defendant.
UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA, COLUMBIA
DIVISION
2020 U.S. Dist. LEXIS 1504
Criminal Action No. 3:17-cr-351-JMC-11
1
January 6, 2020, Decided
January 6, 2020, Filed

Editorial Information: Subsequent History

Post-conviction proceeding at, Petition denied by, As moot, Writ denied by, As moot In re Carter, 795 Fed. Appx. 213, 2020 U.S. App. LEXIS 6214, 2020 WL 917063 (4th Cir., Feb. 26, 2020)Appeal dismissed by In re Carter, 2020 U.S. App. LEXIS 18803 (4th Cir., June 15, 2020)Motion granted by United States v. Carter, 2021 U.S. Dist. LEXIS 142589 (D.S.C., July 30, 2021)Motion granted by, Petition denied by, Motion denied by, As moot In re Carter, 857 Fed. Appx. 120, 2021 U.S. App. LEXIS 25406, 2021 WL 3721432 (4th Cir., Aug. 23, 2021)Appeal dismissed by In re Carter, 2021 U.S. App. LEXIS 27978 (4th Cir., Sept. 16, 2021)Motion denied by United States v. Carter, 2021 U.S. Dist. LEXIS 221996 (D.S.C., Nov. 17, 2021)Appeal dismissed by, Dismissed by, Motion granted by United States v. Carter, 2021 U.S. App. LEXIS 38625 (4th Cir., Dec. 30, 2021)Post-conviction relief denied at, Motion denied by United States v. Carter, 2022 U.S. App. LEXIS 9303, 2022 WL 1024259 (4th Cir. S.C., Apr. 6, 2022)

Counsel {2020 U.S. Dist. LEXIS 1}For USA, Plaintiff: James Hunter May, John David Rowell, LEAD ATTORNEY, US Attorneys Office (Cola), Columbia, SC.

Judges: J. Michelle Childs, United States District Judge.

Opinion

Opinion by: J. Michelle Childs

Opinion

ORDER AND OPINION

Defendant Michael Carter, also known as "Blaze," is a prisoner currently serving a sentence of two hundred forty (240) months in the Bureau of Prisons. (See ECF No. 45.)

This matter is before the court on Carter's Motion to Vacate, Set Aside, or Correct a Sentence under 28 U.S.C. § 2255. (ECF No. 63.) The United States of America (the "Government") expressly opposes Carter's Motion to Vacate (ECF No. 93) and moves for summary judgment on the merits. (ECF No. 94.) For the reasons set forth below, the court **DENIES** Carter's Motion to Vacate and **GRANTS** the Government's Motion for Summary Judgment.²

I. RELEVANT BACKGROUND TO PENDING MOTIONS

After having been convicted of a state felony offense, Carter "was found with a firearm on December 22, 2012 . . . and again on June 11, 2013 . . ." (ECF No. 1-1 at 4 ¶ 10.) Thereafter, on April 18, 2017, the Grand Jury named Carter in an Indictment containing the following two (2) counts:

(1) That on or about December 22, 2012, in the District of South Carolina, the{2020 U.S. Dist. LEXIS 2} defendant, MICHAEL KENNY CARTER, having been convicted of a crime punishable by imprisonment for a term exceeding one year, knowingly did possess in and affecting commerce, a firearm, that is, a Bersa, .380 caliber semi-automatic pistol, which had been shipped and transported in interstate and foreign commerce; In violation of Title 18, United States Code, Sections 922(g)(1), 924(a)(2), and 924(e).

(2) That on or about June 11, 2013, in the District of South Carolina, the defendant, MICHAEL KENNY CARTER, having been convicted of a crime punishable by imprisonment for a term exceeding one year, knowingly did possess in and affecting commerce, a firearm, that is, a Taurus semi-automatic pistol, which had been shipped and transported in interstate and foreign commerce; In violation of Title 18, United States Code, Sections 922(g)(1), 924(a)(2), and 924(e). (ECF No. 4 at 1-2.)

During the pendency of the aforementioned Indictment, the Government was conducting an ongoing investigation regarding Carter's alleged involvement in child sex trafficking. (ECF No. 1-1 at 2 ¶ 6.) The Government communicated to Carter's appointed counsel, Assistant Federal Public Defender Allen Burnside, that it would seek to indict Carter under 18 U.S.C. § 15913 if he was unwilling to cooperate in the child sex trafficking investigation. (ECF{2020 U.S. Dist. LEXIS 3} No. 93-1 at 2.) On May 22, 2017, Carter signed a written Plea Agreement agreeing to "plead guilty to an Information charging, enticement of a minor, in violation of Title 18, United States Code, § 2422."4 (ECF No. 29 at 1 ¶ 1.) In the Plea Agreement, Carter and the Government stipulated pursuant to Rule 11(c)(1)(C) of the Federal Rules of Criminal Procedure "that the appropriate disposition of this case (irrespective of any fines and/or forfeitures) is a sentence of 240 months actual incarceration," (ECF No. 29 at 10 ¶ 14.)

Accordingly, on May 30, 2017, the United States Attorney filed an Information charging Carter with the following:

That on or about November 12, 2016, in the District of South Carolina, the defendant, MICH[A]L CA[R]TER, a/k/a "Blaze," and others who are known, as principals, aiders and abettors, and co-participants in jointly undertaken criminal activity, using a facility{2020 U.S. Dist. LEXIS 5} and means of interstate communication, that is, a computer connected to the internet and a cellphone, knowingly attempted to persuade, induce, and entice individuals who had not attained the age of 18 years to engage in a sexual activity for which any person can be charged with a criminal offense; In violation of Title 18, United States Code, Section 2422(b). (ECF No. 27.) On May 31, 2017, the court accepted Carter's change of plea (ECF Nos. 33, 34) and sentenced him to the parties' stipulated sentence of two hundred forty (240) months imprisonment on March 8, 2018. (ECF Nos. 44, 45, 46.) At Carter's sentencing, the Government provided the court with the following overview as to why the case against Carter resolved itself in a stipulated sentence:

Ultimately Mr. Carter pled to a one-count information charging a crime that is still a sex crime but has a cap of 20 years. As the court is aware under 2G1.3 of the Sentencing Guidelines, had Mr. Carter been charged and convicted of a 159[1] [sic] charge with juveniles, most likely his sentence would have been well over 20 years. And if he had gone to trial, it most likely [would have] been a life sentence. So through the advice of Mr. Burnside and Mr. Shealy, Mr. Carter entered{2020 U.S. Dist. LEXIS 6} into [a] cooperation plea agreement with the Government. We agreed to [an] 11(c)(1)(C) for his timely cooperation. Again, he received the benefit on the front end. (ECF No. 109 at 3:1-12.) The court entered the Judgment on March 8, 2018. (ECF No. 45.) Carter filed a Notice of Appeal on March 19, 2018 (ECF No. 49), but moved to voluntarily

dismiss that appeal pursuant to Rule 42(b) of the Federal Rules of Appellate Procedure on March 29, 2018. (See ECF Nos. 56, 93-2 at 1-2.)

On October 4, 2018, Carter filed the instant Motion to Vacate pursuant to 28 U.S.C. § 2255. (ECF No. 63.) The premise for Carter's Motion is that Burnside advised him to plead guilty and agree to a sentence of two hundred forty (240) months when Carter's Pre-Sentence Investigation Report ("PSR") stated a recommended guideline range of one hundred sixty-eight (168) months to two hundred ten (210) months imprisonment for the offense. (ECF No. 63-1 at 1-2 (referencing ECF No. 39-1 at 1).) In this regard, Carter complains that Burnside (1) negotiated with the Government without knowing Carter's guideline range, (2) coerced Carter into signing a plea agreement and stipulating to a sentence of two hundred forty (240) months, (3) informed Carter that he could not withdraw his plea or appeal{2020 U.S. Dist. LEXIS 7} it, (4) forced Carter to sign a document purporting to rescind his appeal, and (5) failed to challenge inaccuracies in the PSR. (*Id.* at 1-6.) Each of these complaints is construed as an attempt by Carter to demonstrate that he did not enter his plea agreement knowingly and voluntarily. Additionally, on May 28, 2019, Carter filed a Motion to Amend under Rule 15(a) in which he further argued that the court lacked subject matter jurisdiction over his federal sex offense case because the same sex offense was already being prosecuted by the state at that time.⁵ (ECF No. 92.) Subsequently, on June 3, 2019, the Government filed a Motion for Summary Judgment. (ECF No. 94.)

The court considers below the merits of the parties' respective Motions.

II. JURISDICTION

The court has jurisdiction over this matter pursuant to 28 U.S.C. § 2255, which states that a federal district court has jurisdiction to entertain a § 2255 petition when the petitioner is in custody under the sentence of a federal court.

III. LEGAL STANDARD

A. Motions to Vacate Generally

A prisoner in federal custody under sentence of a federal court may petition the court that imposed the sentence to vacate, set aside, or correct the sentence. See 28 U.S.C. § 2255. The prisoner may be{2020 U.S. Dist. LEXIS 8} entitled to relief upon a showing that: (1) "the sentence was imposed in violation of the Constitution or laws of the United States"; (2) "the court was without jurisdiction to impose such sentence"; (3) "the sentence was in excess of the maximum authorized by law"; or (4) the sentence "is otherwise subject to collateral attack." 28 U.S.C. § 2255(a). A petitioner collaterally attacking his sentence or conviction pursuant to § 2255 bears the burden of proving his grounds for collateral attack by a preponderance of the evidence. *White v. United States*, 352 F. Supp. 2d 684, 686 (E.D. Va. 2004) (citing *Miller v. United States*, 261 F.2d 546 (4th Cir. 1958)). In ruling on a § 2255 motion, the court may dismiss the motion without a hearing where it conclusively shows from the motion, any attached exhibits, and the record of prior proceedings that the moving party is not entitled to relief. 28 U.S.C. § 2255(b) (noting that a hearing is not required on a § 2255 motion if the record of the case conclusively shows that petitioner is entitled to no relief).

B. Ineffective Assistance of Counsel

Under the Sixth Amendment of the United States Constitution, a criminal defendant is guaranteed the assistance of counsel for his or her defense. U.S. Const. amend. VI. The purpose of the Sixth Amendment's guarantee of effective counsel is to ensure that a defendant has effective counsel at all critical stages of a criminal proceeding. See *Montejo v. Louisiana*, 556 U.S. 778, 786, 129 S. Ct. 2079, 173 L. Ed. 2d 955 (2009) (quoting *United States v. Wade*, 388 U.S. 218, 227-28, 87 S. Ct.

1926, 18 L. Ed. 2d 1149 (1967)). "To prevail^{2020 U.S. Dist. LEXIS 9} on an ineffective assistance of counsel claim under the Sixth Amendment, [Carter] must show both that (1) his counsel was professionally unreasonable and (2) his counsel's deficient performance prejudiced [Carter]'s defense." *United States v. Swaby*, 855 F.3d 233, 239 (4th Cir. 2017) (citing *Strickland v. Washington*, 466 U.S. 668, 691-92, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984)). "A court need not address both components of this inquiry if [a] defendant makes an insufficient showing on one." *Furnace v. United States*, No. 4:11-cr-00014-RBH, 2011 U.S. Dist. LEXIS 163285, 2011 WL 13177178, at *2 (D.S.C. Dec. 1, 2011) (citing *Strickland*, 466 U.S. at 697).

In regard to the performance prong, a defendant must identify specific acts or omissions of counsel that are not the result of reasonable, professional judgment. *Strickland*, 466 U.S. at 690. In light of all circumstances, keeping in mind that counsel's function is to advance the adversarial process, the court must determine whether the identified acts or omissions were outside the range of professional, competent assistance. *Id.* As such, "a [defendant] must show that 'counsel's representation fell below an objective standard of reasonableness.'" *Merzbacher v. Shearin*, 706 F.3d 356, 363 (4th Cir. 2013) (quoting *Strickland*, 466 U.S. at 688). "If a prisoner pleads guilty on the advice of counsel, he must demonstrate that the advice was not 'within the range of competence demanded of attorneys in criminal cases,'" *Tollett v. Henderson*, 411 U.S. 258, 266, 93 S. Ct. 1602, 36 L. Ed. 2d 235 (1973) (citing *McMann v. Richardson*, 397 U.S. 759, 771, 90 S. Ct. 1441, 25 L. Ed. 2d 763 (1970)). A court reviews "the reasonableness of counsel's challenged conduct on the^{2020 U.S. Dist. LEXIS 10} facts of the particular case, viewed as of the time of counsel's conduct." *Merzbacher*, 706 F.3d at 363 (quoting *Strickland*, 466 U.S. at 688).

Concerning the prejudice prong, a defendant must show that "counsel's errors were so serious as to deprive [him or her] of a fair trial, a trial whose result is reliable." *Strickland*, 466 U.S. at 687. "[T]he defendant must show that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Id.* at 694. "In order to satisfy the 'prejudice' requirement [in the context of a guilty plea], the defendant must show that there is a reasonable probability that, but for counsel's errors, he would not have pleaded guilty and would have insisted on going to trial." *Id.* "Courts should not upset a plea solely because of post hoc assertions from a defendant about how he would have pleaded but for his attorney's deficiencies." *Lee v. United States*, 137 S. Ct. 1958, 1967, 198 L. Ed. 2d 476 (2017). "Judges should instead look to contemporaneous evidence to substantiate a defendant's expressed preferences." *Id.*

IV. ANALYSIS

In this matter, Carter moves the court to vacate his sentence fundamentally complaining that his attorney, Burnside, violated Carter's constitutional rights by advising Carter to plead guilty and accept a stipulated sentence^{2020 U.S. Dist. LEXIS 11} of two hundred forty (240) months when the recommended guideline range stated in the PSR was one hundred sixty-eight (168) months to two hundred ten (210) months imprisonment for the offense. (ECF No. 63-1.) At the outset, the court considered Carter's claims in the context of the performance prong of the *Strickland v. Washington* test. In this regard, the court observes that Carter's allegations of deficient performance by Burnside are expressly contradicted by Carter's statements made under oath to the court during the change of plea hearing:

Q. Okay. Now, have you had an opportunity to discuss this case with your attorney?

A. Yes.

Q. And by that, I mean you understand the information that we just talked about that's been presented to you, as well as what the government's evidence would be against you if this case

were to go to trial?

A. Yes.

Q. Did you also discuss your constitutional rights, including you right to plead guilty or go to trial?

A. Yes.

Q. And are you satisfied with your attorney?

A. Yes.

Q. To the extent you had any questions or issues or concerns, were you able to relay that to him?

A. Yes.

Q. And has he answered your concerns or questions to your satisfaction?

A. Yes.

Q. Okay.{2020 U.S. Dist. LEXIS 12}

Burnside:

Judge Childs, could I put something on the record [sic] with regard to that, because there was a letter that was written to the Court by Mr. Carter early last week. Since that time he and I and his State attorney, Luke Sheal[], we've had two meetings with Mr. Carter. I think we've resolved the differences we were having then, so I think he would withdraw the complaints made in that letter.

Q. Okay. Sir, is that correct?

A. Yes.

Q. You are satisfied with your attorney now and have dealt with all of your issues?

A. Yes.(ECF No. 93-4 at 7:19-9:1.)

Q. Still want to plead guilty?

A. Yes.

Q. Have you and your attorney generally discussed the federal sentencing guidelines?

A. Yes.

Q. So you understand that what the government just presented you with is the statute, and that the guidelines could come out with a different recommended sentence based on what your prior record is and what your particular role is in the offense; do you understand that?

A. Yes, ma'am.(*Id.* at 12:17-13:2.)

Q. Okay. Anyone forcing or threatening you to plead here today?

A. No.

Q. Doing so voluntarily?

A. Yes.

Q. And this is, again, after knowing what the Information says that you did, that you've accepted and waived your{2020 U.S. Dist. LEXIS 13} indictment, as well as what the evidence is against

you?

A. Yes.

Q. And this is also knowing that you're giving up your other constitutional rights to plead here?

A. Yes.

Q. You satisfied with you Mr. Burnside has represented you?

A. Yes.

Q. Again, the prior disputes, you're waiving those, and that those are no longer applicable for you?

A. Yes.

Q. And so you are satisfied from now how he's representing you and feel like you have a good relationship with him now as you go forward with this particular plea?

A. Yes. (*Id.* at 13:23-14:8.)

Q. All right. Sir, do you understand through the plea agreement you've got the sentence of potentially the 20 years, the 240 months, but then there are several provisions in there about you cooperating to work to help yourself with a lower sentence.

A. Yes, ma'am. (*Id.* at 26:18-23.)

Q. You still wish to plead guilty?

A. Yes, ma'am. (*Id.* at 27:5-6.) Carter's sworn statements to the court on their own are generally enough to demonstrate that Burnside's representation did not fall below an objective standard of reasonableness for purposes of denying Carter's § 2255 Motion. See, e.g., *United States v. Lemaster*, 403 F.3d 216, 221-22 (4th Cir. 2005) ("[I]n the absence of extraordinary circumstances, the truth of sworn statements made during {2020 U.S. Dist. LEXIS 14} a Rule 11 colloquy is conclusively established, and a district court should, without holding an evidentiary hearing, dismiss any § 2255 motion that necessarily relies on allegations that contradict the sworn statements.).

However, in this case, the court has before it additional factual support provided by both the Government and Burnside showing that he provided objectively reasonable assistance. Specifically, in support of its Motion for Summary Judgment, the Government provided the following observations:

[T]he defendant's counsel greatly limited his liability through his negotiations with the Government. The defendant was convicted of enticement of a minor for the purposes of prostitution - a crime that carries up to life. Counsel secured plea agreements of 180 months - with no cooperation language and a plea agreement of 240 months with his ability to earn a sentence reduction through providing substantial assistance in the prosecution of another case and abiding by the terms and conditions of the plea agreement. The defendant chose the 240[-]month sentence. (ECF No. 93 at 6-7.)

The defendant also ignores the fact that his state charges and his firearm charges were dismissed through the plea negotiations. {2020 U.S. Dist. LEXIS 15} The defendant was in state custody, had the state charges not been dismissed and he was convicted of the charges, he would have done his state sentence and federal sentence consecutively - thereby counsel provided him subjectively reasonable and beneficial representation. (*Id.* at 7 n.4.) Additionally,

Burnside offered the following specific responses to Carter's assertions of constitutionally deficient representation:

The government informed Affiant [Burnside] that if Carter did not cooperate, they intended to seek an indictment under 18 U.S.C. § 1591(b) (sex trafficking of children by force, fraud or coercion). Further, because of the "Session Memo,"⁶ once that indictment was returned, Carter would not be allowed to plead to a lesser offense.(ECF No. 93-1 at 2.)

In May of 2017, the government offered Carter the choice between two plea agreements. . . . The primary differences between Exhibit 2 (the plea agreement Carter signed) and Exhibit 3 (the other plea agreement that was offered), was that Exhibit 2 had a binding Rule 11(c)(1)(C) sentence of twenty years (with the opportunity to earn a downward departure), while Exhibit 3 had a Rule 11(c)(1)(C) sentence of fifteen years (with no opportunity to earn a downward departure). Carter eventually selected{2020 U.S. Dist. LEXIS 16} and signed Exhibit 2 because he believed he could earn more than five years off of his sentence through cooperation.(ECF No. 93-1 at 2-3.)

Carter is correct that Affiant did not predict that his guidelines would be 168-210 months. Affiant believed that Carter would be a criminal history III, rather than II, because of an Assault 3rd Degree conviction from New York that was listed in his pretrial services report that was not reported in his presentence report. This would have caused his guideline range to be 188-235 months. . . . Affiant explained that he could only provide an "estimate" or a "prediction" as to his guidelines, not a guarantee. Carter never asked for objections to be filed to his presentence report.(*Id.* at 3.)

Carter indicated that he wanted to withdraw his plea because he felt he was innocent on a federal level because his crime did not affect interstate commerce. Affiant explained that the minimal impact his conduct had on interstate commerce was not a viable defense. Carter was given a copy of *United States v. Kaye*, 451 F. Supp. 2d[]775 (2006), which holds that use of a telephone or internet is the use of a facility of interstate commerce.(ECF No. 93-1 at 4.)

Affiant was concerned that because of the appellate waiver in Carter's{2020 U.S. Dist. LEXIS 17} plea agreement, Carter's appeal could be considered a breach of the plea agreement. This could have a negative impact on Carter's ability to receive a Rule 35.(ECF No. 93-1 at 4-5.)

Upon the court's review of the foregoing, it is clear that Carter's complaints regarding his two hundred and forty (240) month sentence ignore the legal exposure he would have been subject to if (1) he had not pleaded guilty as a result of Burnside's representation, (2) was indicted for violating 18 U.S.C. § 1591(b), and (3) was convicted and sentenced for violation of § 1591 and the felon in possession statutes. *E.g., United States v. Trusse*, 961 F.2d 685, 690 (7th Cir. 1992) ("Even though Barker eventually received a 222-month sentence, his guilty plea was not a bad deal for him; the government significantly limited Barker's exposure at sentencing to a maximum of 20 years, see 21 U.S.C. § 841(b)(1)(C), by agreeing to drop four of the indictment's five counts against him and by agreeing not to file the information necessary under 21 U.S.C. § 851(a)(1) to expose Barker to § 841(b)(1)(C)'s possible 30-year sentence for second offenders."). Therefore, the court finds that Carter cannot demonstrate the requisite showing of substandard performance by Burnside under *Strickland*. Accordingly, Carter's claim of ineffective assistance of counsel fails.

V. CONCLUSION{2020 U.S. Dist. LEXIS 18}

Upon careful consideration of the entire record, the court hereby **DENIES** Defendant Michael Carter's Motion to Vacate, Set Aside, or Correct a Sentence under 28 U.S.C. § 2255 (ECF No. 63) and **GRANTS** the Government's Motion for Summary Judgment (ECF No. 94). The court further **DENIES**

Defendant's Motion to Dismiss (ECF No. 84), Motion Opposing Any Further Extensions (*id.*), Motion for Sanctions (ECF No. 89), Motion for Entry of Default (ECF No. 90), Motion to Amend (ECF No. 92), three (3) Motions to Expedite (ECF Nos. 104, 114, 115), Motion for Recusal (ECF No. 105), two (2) Motions for Writ of Mandamus (ECF Nos. 106, 111), and Motion to Withdraw His Plea Agreement (ECF No. 117).

CERTIFICATE OF APPEALABILITY

A certificate of appealability may issue only if the applicant has made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c). A prisoner satisfies this standard by demonstrating that reasonable jurists would find this court's assessment of his constitutional claims is debatable or wrong and that any dispositive procedural ruling by the district court is likewise debatable. See, e.g., *Miller-El v. Cockrell*, 537 U.S. 322, 336, 123 S. Ct. 1029, 154 L. Ed. 2d 931 (2003); *Slack v. McDaniel*, 529 U.S. 473, 484, 120 S. Ct. 1595, 146 L. Ed. 2d 542 (2000); *Rose v. Lee*, 252 F.3d 676, 683 (4th Cir. 2001). In this matter, the legal standard for the issuance of a certificate of appealability has not been met.¹ Therefore, the court **DENIES** Defendant Michael Carter a certificate of appealability.

IT IS SO ORDERED.

/s/ J. Michelle Childs

United States District Judge

January 6, 2020

Columbia, South Carolina

Footnotes

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The court observes that in addition to his Motion to Vacate, Carter also filed a Motion to Dismiss (ECF No. 84), a Motion Opposing Any Further Extensions (*id.*), a Motion for Sanctions (ECF No. 89), a Motion for Entry of Default (ECF No. 90), a Motion to Amend (ECF No. 92), three (3) Motions to Expedite (ECF Nos. 104, 114, 115), a Motion for Recusal (ECF No. 105), two (2) Motions for Writ of Mandamus (ECF Nos. 106, 111), and a Motion to Withdraw His Plea Agreement (ECF No. 117). These Motions generally attempt to substantively supplement the Motion to Vacate and/or provide a procedural basis for its expedient resolution. However, because the court denies Carter's Motion to Vacate, these remaining pending Motions are also **DENIED**.

3

18 U.S.C. 1591 provides as follows:

(a) Whoever knowingly-(1) in or affecting interstate or foreign commerce, . . . recruits, entices, harbors, transports, provides, obtains, advertises, maintains, patronizes, or solicits by any means a person; or (2) benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in violation of paragraph (1), knowing, or, except where the act constituting the violation of paragraph (1) is advertising, in reckless disregard of the fact, that means of force, threats of force, fraud, coercion . . . , or any combination of such means will be used to cause the person to engage in a commercial sex act, or that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act,

shall{2020 U.S. Dist. LEXIS 4} be punished as provided in subsection (b).

(b) The punishment for an offense under subsection (a) is-(1) if the offense was effected by means of force, threats of force, fraud, or coercion . . . , or by any combination of such means, or if the person recruited, enticed, harbored, transported, provided, obtained, advertised, patronized, or solicited had not attained the age of 14 years at the time of such offense, by a fine under this title and imprisonment for any term of years not less than 15 or for life; or (2) if the offense was not so effected, and the person recruited, enticed, harbored, transported, provided, obtained, advertised, patronized, or solicited had attained the age of 14 years but had not attained the age of 18 years at the time of such offense, by a fine under this title and imprisonment for not less than 10 years or for life.

4

18 U.S.C. § 2422(b) provides that "[w]hoever, using the mail or any facility or means of interstate or foreign commerce, . . . knowingly persuades, induces, entices, or coerces any individual who has not attained the age of 18 years, to engage in prostitution or any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title and imprisoned not less than 10 years or for life."

5

The court observes that Carter's argument that this court lacked jurisdiction to provide the forum for his prosecution by the Government is patently meritless. See, e.g., *Rinaldi v. United States*, 434 U.S. 22, 28, 98 S. Ct. 81, 54 L. Ed. 2d 207 (1977) ("[T]he Constitution does not deny the State and Federal Governments the power to prosecute for the same act." (citing *Bartkus v. Illinois*, 359 U.S. 121, 79 S. Ct. 676, 3 L. Ed. 2d 684 (1959); *Abbate v. United States*, 359 U.S. 187, 79 S. Ct. 666, 3 L. Ed. 2d 729 (1959)); *Al-Marri v. Hanft*, 378 F. Supp. 2d 673, 681 (D.S.C. 2005) ("It is unreasonable to think that federal charges cannot be brought against an individual simply because he is being held on pending state charges.").

6

The "Session Memo" appears to reference the May 10, 2017 Memorandum for All Federal Prosecutors authored by then United States Attorney General Jeff Sessions in which he announced that the policy of the United States Department of Justice from that date forward was to "charge and pursue the most serious, readily provable offense." Jeff Sessions's Criminal Charging Policy, <https://apps.washingtonpost.com/g/documents/national/jeff-sessions-criminal-charging-policy/2432/> (last visited Jan. 3, 2020).

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

United Stated of America,

CR No. 3:17-351-JFA-1

Plaintiff-Respondent.

v.

ORDER

Michael Kenny Carter,

Defendant-Petitioner.

I. INTRODUCTION

This matter is before the Court on Michael Kenny Carter's ("Petitioner" or "Carter") *pro se*¹ second Motion for Reconsideration (ECF No. 262). For the reasons stated below, the Court denies Carter's Motion.

II. FACTUAL AND PROCEDURAL HISTORY.

In 2017, Carter pleaded guilty to enticement of a minor, in violation of Title 18, United States Code, Section 2422. (ECF No. 34). Thereafter, this Court sentenced Carter to a term of imprisonment of 240 months followed by a supervised release term of life. (ECF No. 45).

On February 22, 2022, Carter filed a second or successive § 2255 motion, asserting claims of actual innocence, invalid guilty plea, and prosecutorial misconduct. (ECF No. 227). Despite already filing his second § 2255 Motion with this Court, Carter subsequently

¹ Because the Defendant/Petitioner is acting *pro se*, the documents he has filed in this case are held to a less stringent standard than if they were prepared by a lawyer and are thus construed liberally. See *Haines v. Kerner*, 404 U.S. 519, 520–21 (1972).

filed a motion pursuant to 28 U.S.C. § 2244 with the Fourth Circuit which sought permission to file his second § 2255 Motion. *United States v. Winestock*, 340 F.3d 200, 205 (4th Cir. 2003) (citing 28 U.S.C. § 2244(b)(3)) (“[A] prisoner seeking to file a successive application in the district court must first obtain authorization from the appropriate court of appeals.”). On September 21, 2022, the United States Court of Appeals issued an Order denying Carter’s Motion pursuant to § 2244 and declining to grant him authorization to file a second or successive § 2255 motion. (ECF No. 253). On September 23, 2022, this Court also entered an Order which denied his second motion for relief pursuant to § 2255 citing the Fourth Circuit’s decision for support. (ECF No. 254).

On September 27, 2022, Carter filed a Motion seeking reconsideration of this Court’s decision to deny his § 2255 motion (ECF No. 254) and relief from the subsequent judgment entered in this case which dismisses the instant action with prejudice. (ECF No. 255). On October 12, 2022, this Court entered an Order denying Carter’s Motions. (ECF No. 260).

Now, Carter comes before this Court again seeking reconsideration of this Court’s Order dated October 12, 2022. (ECF No. 262).

III. LEGAL STANDARD

The Fourth Circuit has recognized three limited grounds under which a district court may grant a motion for reconsideration under Rule 59(e): “(1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice.” *Hutchinson v. Staton*, 994 F.2d 1076, 1081 (4th Cir. 1993).

However, “mere disagreement with the court’s ruling does not warrant a Rule 59(e) motion.” *LaFleur v. Dollar Tree Stores, Inc.*, No. 2:12-cv-00363, 2014 WL 12659898, at *1, 2014 U.S. Dist. LEXIS 198160 at *4 (E.D. Va. Mar. 24, 2014) (citing *Hutchinson*, 994 F.2d at 1082). Finally, a district court’s decision on a motion for reconsideration is reviewed “for abuse of discretion[,]” and the Fourth Circuit has noted that granting such a motion under Rule 59(e) “is an extraordinary remedy which should be used sparingly.” *Pacific Ins. Co. v. Am. Nat’l Fire Ins. Co.*, 148 F.3d 396, 402–03 (4th Cir. 1998) (internal quotations omitted).

IV. DISCUSSION

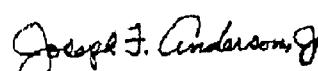
This is Carter’s second motion for reconsideration before this Court. Carter’s motion does not raise any new issues or arguments which were not raised in his previous motions which this Court has considered and dismissed. Most importantly, he does not assert newly discovered evidence sufficient to establish that no reasonable factfinder would have found him guilty or a new rule of constitutional law which was previously unavailable as required for a motion for reconsideration pursuant to Rule 59(e) of the FRCP. Accordingly, this Court denies Carter’s motion for reconsideration.

V. CONCLUSION

For the reasons stated above, Carter’s motion for reconsideration is denied. (ECF No. 262)

IT IS SO ORDERED.

November 8, 2022
Columbia, South Carolina



Joseph F. Anderson, Jr.
United States District Judge

Orders on Motions

3:17-cr-00351-JFA USA v. Carter
CASE CLOSED on 03/08/2018

APPEAL,CLOSED,LC 2

U.S. District Court

District of South Carolina

Notice of Electronic Filing

The following transaction was entered on 11/8/2022 at 10:18 AM EST and filed on 11/8/2022

Case Name: USA v. Carter
Case Number: 3:17-cr-00351-JFA
Filer:
Document Number: 268

Docket Text:

ORDER denying [262] MOTION for Reconsideration re [260] Order on Motion for Reconsideration, Order on Motion to Reopen, filed by Michael Kenny Carter (1). Signed by Honorable Joseph F Anderson, Jr on 11/8/22. (mflo,)

3:17-cr-00351-JFA-1 Notice has been electronically mailed to:

Benjamin Neale Garner benjamin.garner@usdoj.gov, CaseView.ECF@usdoj.gov, Karl.Labbe@usdoj.gov, USA-SC-ECF-AFU-Notice@usa.doj.gov, USA-SC-ECF-Docket-M@usdoj.gov, USA-SC-ECF-FLU@usdoj.gov, USA-SC-ECF-VW-COL@usdoj.gov, laura.edwards@usdoj.gov

3:17-cr-00351-JFA-1 Notice will not be electronically mailed to:

Michael Kenny Carter(Terminated)
32308-171
FCI Williamsburg
8301 Highway 521
Salters, SC 29590

The following document(s) are associated with this transaction:

Document description: Main Document

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[STAMP_dcecfStamp_ID=1091130295 [Date=11/8/2022] [FileNumber=10981039-0] [96b8de5a711d4b14500823936109395a57e9f217c000db5ca713185abc2ae37ff3f0021f677b9cd9b9da0a5798fa1ea1f7bdb454e2bd76487aa15e93ccb47f39]]

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF SOUTH CAROLINA
3 COLUMBIA DIVISION

4 UNITED STATES OF AMERICA,)
5)
6 PLAINTIFF,)
7)
8 -VERSUS-) 3:17-CR-00351
9 MICHAEL KENNY CARTER,) MARCH 7, 2018
10) COLUMBIA, SC
11 DEFENDANT.)
12)
13

14 BEFORE THE HONORABLE J. MICHELLE CHILDS
15 UNITED STATES DISTRICT JUDGE, PRESIDING
16 SENTENCING HEARING

17 A P P E A R A N C E S:

18 FOR THE GOVERNMENT: JIM MAY, AUSA
19 UNITED STATES ATTORNEY'S OFFICE
20 1441 MAIN STREET, SUITE 500
21 COLUMBIA, SC 29201

22 FOR THE DEFENDANT: ALLEN BURNSIDE, FPD
23 FEDERAL PUBLIC DEFENDER'S OFFICE
24 1901 ASSEMBLY STREET, SUITE 200
25 COLUMBIA, SC 29201

26 COURT REPORTER: KATHLEEN RICHARDSON, RMR, CRR
27 UNITED STATES COURT REPORTER
28 901 RICHLAND STREET
29 COLUMBIA, SC 29201

30 STENOTYPE/COMPUTER-AIDED TRANSCRIPTION

31 * * * * *

32 App-5

1 THE COURT: GOVERNMENT?

2 MR. MAY: YES, YOUR HONOR. THE CASE WE HAVE BEFORE
3 YOU THIS AFTERNOON IS UNITED STATES OF AMERICA VERSUS MICHAEL
4 CARTER. IT'S CRIMINAL NUMBER 3:17-351. WE ARE HERE FOR A
5 SENTENCING. A PRESENTENCE REPORT HAS BEEN PREPARED. THERE
6 ARE NO OBJECTIONS.

7 YOUR HONOR, THIS IS A UNIQUE CASE. IF THE COURT LIKE, I
8 CAN GIVE ABOUT A VERY BRIEF OVERVIEW OF HOW WE GOT HERE AND
9 WHAT WE BELIEVE IS -- BOTH SIDES -- IS THE CORRECT SENTENCE
10 AS WE DID ENTER INTO AN 11(c)(1)(C).

11 THE COURT: OKAY.

12 MR. MAY: YOUR HONOR, MR. CARTER WAS ARRESTED ON
13 STATE CHARGES AND CAME UPON THE FEDERAL INVESTIGATION IN
14 HUMAN TRAFFICKING. (THROUGH VARIOUS STEPS OF THE FBI AND THE
15 UNITED STATES ATTORNEY'S OFFICE WE DETERMINED IT WOULD BE
16 BENEFICIAL TO BOTH THE GOVERNMENT AS WELL AS MR. CARTER IF WE
17 APPROACHED HIM AND HE STARTED COOPERATING EARLY IF WE COULD
18 AGREE UPON A SENTENCE THAT IS SOMEWHAT LESS THAN THE
19 SIGNIFICANT SENTENCES THAT A HUMAN TRAFFICKING 18 USC 1951
20 CHARGE WOULD CARRY, SO WE APPROACHED HIM THROUGH HIS
21 ATTORNEY. AT THE TIME IT WAS LUKE SHEALY WHO IS A -- IN THE
22 PRIVATE PRACTICE. WE THEN BROUGHT AN ALLEN BURNSIDE AND WE
23 STARTED WORKING TOGETHER TO TRY TO DETERMINE WHETHER OR NOT
24 THIS IS SOMETHING MR. CARTER WOULD WANT TO DO BEFORE
25 INDICTMENT.

1 ULTIMATELY MR. CARTER PLED TO A ONE-COUNT INFORMATION
2 CHARGING A CRIME THAT IS STILL A SEX CRIME BUT HAS A CAP OF
3 20 YEARS. AS THE COURT IS AWARE UNDER 2G1.3 OF THE
4 SENTENCING GUIDELINES, HAD MR. CARTER BEEN CHARGED AND
5 CONVICTED OF A 1591 [SIC] CHARGE WITH JUVENILES, MOST LIKELY
6 HIS SENTENCE WOULD HAVE BEEN WELL OVER 20 YEARS. AND IF HE
7 HAD GONE TO TRIAL, IT MOST LIKELY BEEN A LIFE SENTENCE.

8 SO THROUGH THE ADVICE OF MR. BURNSIDE AND MR. SHEALY,
9 MR. CARTER ENTERED INTO COOPERATION PLEA AGREEMENT WITH THE
10 GOVERNMENT. WE AGREED TO 11(C)(1)(C) FOR HIS TIMELY
11 COOPERATION. AGAIN, HE RECEIVED THE BENEFIT ON THE FRONT
12 END. AND THEN THE FBI HAS GONE AND DEBRIEFED HIM SEVERAL
13 TIMES. I BELIEVE THEY WERE TO GO BACK AND DEBRIEF HIM ONE
14 MORE TIME BEFORE HE'S DESIGNATED TO THE BUREAU OF PRISONS.

15 MR. CARTER DID SIGN A COOPERATION PLEA AGREEMENT WITH
16 BOTH -- WITH RULE 35 LANGUAGE. HIS COOPERATION IS ONGOING.
17 MR. SHEALY HAS PROVIDED ME AS OF TODAY A LIST OF SEVERAL
18 CASES THAT HE IS ASSISTING THE FIFTH CIRCUIT SOLICITOR'S
19 OFFICE IN OR ON. AND ONCE THOSE ARE COMPLETE, THE GOVERNMENT
20 IS ANTICIPATING THAT HIS COOPERATION CONTINUES, THAT WE WILL
21 FILE A SIGNIFICANT RULE 35 TO RECOGNIZE THE FACT THAT HE IS
22 ASSISTING IN CASES AND AT LEAST ONE MURDER CASE AND I KNOW
23 THAT MS. CAMPBELL HAS INDICATED TO MR. SHEALY THAT SHE WOULD
24 LIKE HIM TO COOPERATE ON POTENTIALLY TWO OTHER MURDER CASES.

25 THESE ARE SIGNIFICANT MATTERS AND THE GOVERNMENT

1 RECOGNIZES THAT, AND AT THE APPROPRIATE TIME INTENDS TO FILE
2 A RULE 35 FOR HIS BENEFIT. HOWEVER, HIS COOPERATION HAS NOT
3 COMPLETED. THAT'S THE REASON WHY THERE'S NO RULE 35 BEFORE
4 THE COURT.

5 YOUR HONOR, CONSIDERING THAT HE HAS RECEIVED A
6 SIGNIFICANT BREAK ON THE FRONT END OF 20 YEARS, EVEN THOUGH
7 THAT IS AN ONEROUS SENTENCE, IT IS STILL SIGNIFICANTLY LESS
8 THAN WHAT HE WAS FACING, BUT IT ALSO RECOGNIZES THE
9 HORRENDOUS NATURE OF THE CRIMES HE DID COMMIT.

10 YOUR HONOR, WE'D ASK THAT YOU SENTENCE HIM UNDER THE
11 11(C)(1)(C) AGREEMENT TO 240 MONTHS. AND I'M HAPPY TO ANSWER
12 ANY QUESTIONS THE COURT MAY HAVE.

13 THE COURT: GIVEN THAT YOU HAVE YOUNG VICTIMS IN
14 THIS CASE, HOW MUCH HAS THE GOVERNMENT BEEN IN TOUCH WITH THE
15 MOTHERS, YOU KNOW, JUST FOR ME TO KIND OF GET A SENSE OF THE
16 VICTIMS BECAUSE RIGHT NOW YOU'RE SUGGESTING 20 YEARS, BUT
17 THEN BY YOU STATING A RULE 35 AND HE'S, YOU KNOW, COOPERATING
18 ON SOME SIGNIFICANT CASES THAT INVOLVE MURDER, YOU STILL HAVE
19 UNDERAGE FEMALES.

20 MR. MAY: YES, YOUR HONOR. AND IN THE
21 INVESTIGATION -- AND WE ALWAYS -- EVERYTHING IS ON A
22 SPECTRUM; RIGHT? WHILE THERE ARE UNDERAGE -- WE DON'T SEE
23 THE LEVEL OF VIOLENCE THAT WE SEE IN OTHER CASES. IT DOES
24 APPEAR THAT HE DID TRAFFIC IN UNDERAGE GIRLS. ONE OF THE
25 VICTIM'S MOTHERS IS IN THE COURTROOM TODAY AND WE DID REVIEW

1 WITH WHAT WAS GOING TO HAPPEN IN FRONT OF YOUR HONOR AND SHE
2 SAID THAT SHE WAS OKAY WITH THAT.

3 IT IS ALWAYS THE BALANCE OF TAKING WHAT HE DID AND THE
4 BENEFIT THAT HE CAN NOW GO FORWARD DOING FOR SOCIETY. WE
5 HAVE WEIGHED THAT. WE HAVE DISCUSSED IT WITH THE VICTIMS
6 THAT WE CAN FIND. SOME OF THESE GIRLS WE WERE NOT ABLE TO
7 FIND LARGEMLY BECAUSE MR. CARTER CAME IN SO QUICKLY; RIGHT?
8 WE HAVE A LIST OF SIX GIRLS. WE FOUND THREE OR FOUR OF THEM.
9 THE OTHER TWO WE DON'T FIND BECAUSE MR. CARTER HAS STARTED
10 COOPERATING AND WE CAN NOW TURN THE INVESTIGATIVE NATURE OF
11 THE FBI ELSEWHERE BESIDES GOING TO LOCATING TWO GIRLS WHO
12 UNFORTUNATELY ARE FROM A TROUBLED PAST AND ARE NOT
13 NECESSARILY -- WE CAN'T JUST SAY, ALL RIGHT, WHERE DOES JANE
14 DOE LIVE, LET'S CALL HER MOM UP. IT'S TAKES AN ACTIVE EFFORT
15 TO GO TO FIND THESE YOUNG GIRLS.

16 THE COURT: AND IS THE COOPERATION NOT JUST THE
17 MURDERS BUT TO STOP THESE HUMAN TRAFFICKING RINGS?

18 MR. MAY: WELL, SO, HE HAS PROVIDED INFORMATION
19 THAT HE CAN. THAT HAS NOT COME TO FRUITION YET.

20 THE COURT: OKAY.

21 MR. MAY: AS THE COURT KNOWS THAT WHEN HE GOES
22 THROUGH AND HE'S THOROUGHLY DEBRIEFED, HE PROVIDES A LIST OF
23 INFORMATION TO SPECIAL AGENT HAMELRICK WITH THE FBI. SHE
24 THEN INPUTS THAT INTO THEIR SYSTEM. AND IF AT SOME POINT HE
25 CAN COOPERATE AGAINST JOHN DOE, HUMAN TRAFFICKER, THAT WILL

1 THEN POP UP, WE CAN THEN GO AND TALK TO MR. CARTER TO FIND
2 OUT THE EXACT NATURE OF THE INFORMATION HE HAS AND THEN CAN
3 POTENTIALLY USE THAT IN THE FUTURE.

4 THE COURT: OKAY. ALL RIGHT. ANYTHING ELSE FOR
5 YOU TO ADD AT THIS TIME?

6 MR. MAY: NO, YOUR HONOR.

7 THE COURT: OKAY. DID YOU WANT TO STATE ANYTHING,
8 MR. BURNSIDE?

9 MR. BURNSIDE: YOUR HONOR, I DON'T HAVE A LOT TO
10 SAY BECAUSE THERE'S AN AGREED-UPON SENTENCE IN THIS CASE OF
11 240 MONTHS. I WILL TELL YOU THAT MICHAEL CARTER IS 31 YEARS
12 OLD. HIS MOTHER, INGRID CARTER, IS IN THE COURTROOM SITTING
13 ON THE SECOND ROW HERE.

14 MR. CARTER HAS BEEN AT ALVIN S GLENN DETENTION CENTER ON
15 THE RELATED STATE CHARGE THAT HIS FEDERAL CASE GREW OUT OF
16 SINCE NOVEMBER THE 17TH OF 2016, SO ABOUT 16 MONTHS IN THE
17 LOCAL JAIL. HE WAS BORN IN MANHATTAN, NEW YORK. HE'S
18 SINGLE, NEVER BEEN MARRIED. HE DOES HAVE THREE YOUNG
19 CHILDREN. I BELIEVE THEY ARE FIVE AND FOUR AND TWO YEARS
20 OLD. HE'S ONE OF SIX CHILDREN.

21 JUDGE, HE DOES HAVE SOME HEALTH ISSUES. HE WAS SHOT IN
22 THE STOMACH WHEN HE WAS -- BACK IN 2012. HE DOES HAVE A GED
23 AND HAS TAKEN COURSES AT MIDLANDS TECH. ABOUT HIS
24 COOPERATION I WANTED THE COURT TO BE AWARE THAT HE DID START
25 COOPERATING EARLY. HE MET WITH THE FBI ON TWO OCCASIONS. I

1 WANT TO THANK DINO PANERAS AND LUKE SHEALY, WHO -- THE
2 LAWYERS THAT HAVE REPRESENTED HIM OVER THE -- OVER TIME IN
3 STATE COURT BECAUSE THEY KNOW THE STATE PROSECUTOR BETTER
4 THAN I DO AND THEY KNOW THE LOCAL INVESTIGATORS, AND THEY
5 HAVE BEEN VERY HELPFUL IN TRYING TO MAKE SURE THAT MICHAEL
6 WAS REPRESENTED WHEN THINGS WOULD HAPPEN OVER THERE WHEN HE
7 TRIED TO COOPERATE.

8 WE THINK HE'S PROVIDED SUBSTANTIAL ASSISTANCE ALREADY.
9 BUT WE DO WANT TO WAIT ON THE RULE 35 AS OPPOSED TO GETTING A
10 CUT NOW BECAUSE WE THINK IT MAY BE MORE SIGNIFICANT AFTER
11 THESE OTHER TWO TO THREE CASES ARE RESOLVED.

12 JUDGE, I KNOW THAT MR. CARTER IS VERY REMORSEFUL FOR
13 WHAT HE DID, FOR THE LIFESTYLE HE WAS LEADING, AND I THINK
14 HE'S TRYING TO MAKE CHANGES NOW. I DO THINK HE WANTS TO
15 ADDRESS THE COURT.

16 *THE COURT:* OKAY. AND MR. CARTER WILL BE SWORN IN
17 FIRST. MADAM CLERK?

18 MICHAEL CARTER, AFTER BEING DULY SWORN,
19 TESTIFIED AS FOLLOWS:

20 *THE COURT:* AND MR. CARTER, BEFORE YOU SPEAK I'M
21 JUST GOING TO APPRIZE YOU OF SOME OF THE FINDINGS IN THE
22 PRESENTENCE INVESTIGATION REPORT. YOU DID HAVE AN
23 OPPORTUNITY TO REVIEW IT; IS THAT CORRECT?

24 *THE DEFENDANT:* YES.

25 *THE COURT:* AND YOU UNDERSTAND THAT YOUR ATTORNEY

1 HAS NOT PRESENTED ANY OBJECTIONS TO THE REPORT, IN OTHER
2 WORDS HAS NOT CHALLENGED ANY OF THE FACTUAL AND LEGAL ISSUES
3 IN THE REPORT.

4 THE DEFENDANT: YEAH, I KNOW THAT..

5 THE COURT: YOU AGREE WITH THAT?

6 THE DEFENDANT: I DON'T AGREE WITH IT, BUT I..

7 THE COURT: WAS THERE ANYTHING THAT YOU WANTED TO
8 RAISE IN THE REPORT?

9 THE DEFENDANT: YES, BECAUSE THE FACT THAT I
10 CONTACTED THE GIRLS' PARENTS ONCE I FOUND OUT THEIR AGE AND I
11 TURNED THEM GIRLS INTO THEY PARENTS, AND IT WASN'T ON THE
12 PRESENTENCING REPORT.

13 THE COURT: SO YOU WISH TO ADD TWO FACTS. ONE IS
14 THAT YOU DID CONTACT THE GIRLS' PARENTS.

15 THE DEFENDANT: YES.

16 THE COURT: AND THAT -- WHAT DID YOU SAY WITH
17 RESPECT TO THEIR AGE?

18 THE DEFENDANT: THAT I DIDN'T KNOW AT FIRST. BUT
19 ONCE I DID FIND OUT, I DID CONTACT THEIR PARENTS.

20 THE COURT: OKAY. BUT DID YOU STILL ENGAGE IN
21 CERTAIN ACTS WITH THEM AFTER KNOWING THEIR AGE?

22 THE DEFENDANT: NO, NOT -- NO. IT HAPPENED ONE
23 DAY, AND WHEN I DID FIND OUT, I TURNED THEM RIGHT IN.

24 THE COURT: OKAY. NOW, THE GIRLS IN THIS REPORT
25 INDICATE THAT THEY INFORMED YOU OF THEIR AGE.

1 THE DEFENDANT: YEAH. THAT'S WHEN I WAS SPEAKING
2 TO THEM, WHEN I WAS SPEAKING OVER THE PHONE WITH THEM, AND
3 THAT'S WHEN -- RIGHT AFTER THAT I TURNED THEM IN, WHICH IS
4 THE NEXT DAY.

5 THE COURT: ARE YOU TRYING TO SAY YOU NEVER HAD SEX
6 WITH ONE OF THE GIRLS OR THAT YOU NEVER ASKED THEM TO HAVE
7 SEX WITH OTHER MEN?

8 THE DEFENDANT: NO. THAT

9 MR. BURNSIDE: JUDGE, COULD I STOP JUST A MINUTE?
10 I WANT TO CONSULT WITH HIM.

11 (MR. BURNSIDE CONFERRING WITH THE DEFENDANT.)

12 MR. BURNSIDE: JUDGE, THIS IS MY UNDERSTANDING OF
13 THE FACTUAL SCENARIO, AND MR. CARTER OR MRS. HAMLYRICK,
14 THEY -- I'LL ASK THEM TO CHIME IN IF I'M MISSTATING IT, BUT
15 I -- THE WAY I UNDERSTAND THIS EVENT HAPPENED, AFTER
16 MR. CARTER LEARNED THE AGE OF THE VICTIM, HE WAS CONTACTED BY
17 ONE OF THE CHILDREN'S MOTHER WHO FOUND HIS INFORMATION ON
18 THEIR FACEBOOK ACCOUNT.

19 THERE WAS A PHONE CONVERSATION AT THE -- AT SOME POINT
20 HE SPOKE TO THEM AND SAID THAT HE WOULD TRY TO ARRANGE A
21 MEETING. HE WAS NOT WITH THE GIRLS AT THAT TIME. HE HAD
22 THEIR CLOTHING. AND SO HE ARRANGED -- HE TOLD THE PERSON
23 THAT THEY WERE WITH, ANOTHER FEMALE, THAT IF THEY WANTED
24 THEIR CLOTHING, THEY COULD PICK IT UP AT A CERTAIN LOCATION,
25 AND HE TOLD THE GIRLS' MOM THAT HE WAS DROPPING IT AT A

never attach'd said to
was caught in the act

1 LOCATION AND THEY -- THAT IS HOW THE GIRLS WERE RECOVERED.
2 NOW --

3 THE DEFENDANT: YES.

4 MR. BURNSIDE: -- I THINK I HAVE STATED THAT
5 CORRECTLY.

6 THE DEFENDANT: YES.

7 THE COURT: OKAY. BUT WHAT HE'S STATING IS THAT HE
8 DID NOT KNOW THE AGE AND HE'S ALSO SAYING THAT ONCE HE
9 LEARNED THE AGE, HE HAD NO FURTHER CONTACT WITH THEM.

10 THE DEFENDANT: YES, THAT'S CORRECT. THAT'S
11 CORRECT.

12 MR. MAY: I--

13 MR. BURNSIDE: JUDGE, THE KNOWLEDGE OF THE AGE IS
14 NOT A PART OF THIS THIS STATUTE, AND IT -- THERE IS A
15 PRESUMPTION THAT A DEFENDANT KNOWS A PERSON'S AGE BASED -- IF
16 THEY HAVE I THINK IN THE STATUTE SAYS A SUFFICIENT
17 OPPORTUNITY TO OBSERVE THE MINOR. SO THAT--

18 MR. MAY: YOUR HONOR, NUMBER ONE, IF HE'S
19 MINIMIZING WHAT HE DID, WHICH IS HE BROUGHT TWO JUVENILES
20 ACROSS STATE LINES FOR THE PURPOSE OF PROSTITUTION, THE
21 GOVERNMENT'S HAPPY FOR HIM TO WITHDRAW HIS PLEA AND WE WILL
22 CHARGE HIM TO THE FULL EXTENT OF THE LAW BECAUSE RIGHT NOW IS
23 NOT THE TIME TO BE SECOND-GUESSING AND CHANGING THE FACTS
24 THAT WERE NOT OBJECTED TO.

25 WE ARE HAPPY TO PRESENT THIS BEYOND A REASONABLE DOUBT

1 THAT HE HAS HUMAN TRAFFICKED NUMEROUS PEOPLE. IF HE IS
2 MINIMIZING WHAT HE DID, THE GOVERNMENT IS HAPPY TO SAY RIGHT
3 NOW HE CAN WITHDRAW HIS PLEA AND WE WILL CHARGE HIM
4 ACCORDINGLY.

5 THE COURT: SO YOU UNDERSTAND MY CONCERN.

6 MR. MAY: I DO. I DO. AND I THINK THAT THIS IS
7 THE FIRST TIME THAT -- THAT HE HAS COME IN HERE AND SAID
8 THIS, WHICH IS FUNDAMENTALLY INACCURATE. BEST THING THAT HE
9 HAS GOING FOR HIM RIGHT NOW IS HE CAN'T LOSE ACCEPTANCE OF
10 RESPONSIBILITY. THE WORST THING IS HE CAN VOID HIS PLEA
11 AGREEMENT. AND IF HE DOES THAT, AGAIN, WE WILL CHARGE HIM TO
12 THE FULL EXTENT OF THE LAW.

13 THE COURT: OKAY, SIR. BUT WHAT YOU ULTIMATELY
14 NEED TO UNDERSTAND IS THAT YOU ALWAYS HAD A RIGHT TO GO TO
15 TRIAL, TO CHALLENGE ANY OF THE FINDINGS OF THE INVESTIGATION
16 OF THE DEFENDANT -- OF THE GOVERNMENT.

17 THE DEFENDANT: YES.

18 THE COURT: YOU UNDERSTAND THAT?

19 THE DEFENDANT: YES.

20 THE COURT: AND SO EARLIER WE HAD A PLEA AND THESE
21 FACTS TO WHICH YOU WOULD HAVE PLED GUILTY TO ARE THE FACT
22 THAT YOU WOULD HAVE KNOWN ABOUT THESE GIRLS BEING UNDERAGE
23 AND THAT YOU EITHER HAD SEX WITH THEM OR YOU HAD THEM ENGAGE
24 WITH SEX WITH OTHER MEN FOR PROFIT.

25 THE DEFENDANT: YES, MA'AM.

1 THE COURT: OKAY. SO WHAT ARE YOU INDICATING THAT
2 YOU DID OR DID NOT DO?

3 THE DEFENDANT: NO, I'M SAYING I DID DO THAT.

4 THE COURT: DID DO WHAT?

5 THE DEFENDANT: WHAT THE PRESENTENCE INVESTIGATION
6 IS SAYING.

7 THE COURT: OKAY.

8 MR. BURNSIDE: JUDGE, I THINK HE WAS JUST MAKING
9 SORT OF A PLEA IN -- MORE IN MITIGATION.

10 THE DEFENDANT: YEAH.

11 MR. BURNSIDE: NONE OF WHAT HE SAID --

12 THE DEFENDANT: I'M SAYING I'M GUILTY.

13 MR. BURNSIDE: -- IS A DEFENSE TO THE CHARGES.

14 THE DEFENDANT: YEAH.

15 MR. BURNSIDE: AND THE -- THE AGE -- HIS KNOWLEDGE
16 OF THE AGE IS NOT AN ELEMENT OF THE OFFENSE OR WAS PRESUMED
17 THAT HE WOULD KNOW THOSE -- THE AGE --

18 THE DEFENDANT: YEAH.

19 MR. BURNSIDE: SO...

20 THE DEFENDANT: THAT'S WHAT I'M SAYING.

21 THE COURT: OKAY. BUT YOU KNOW, I LIKE TO BE VERY
22 COMFORTABLE IN HIM UNDERSTANDING THIS IN HIS WORDS BECAUSE IF
23 THERE ARE NOT OBJECTIONS TO THE PRESENTENCE REPORT, YOU KNOW,
24 HERE ARE A COUPLE OF FACTS, YOU KNOW, THAT STAND OUT. YOU'RE
25 BEING ESSENTIALLY CHARGED WITH BEING INVOLVED IN OPERATING A

1 PROSTITUTION RING WHICH MEANS THAT THERE ARE SEVERAL GIRLS
2 WHO ARE INVOLVED AS MINORS UNDER THE AGE OF 18 BEING REQUIRED
3 TO HAVE SEX WITH MEN FOR PROFIT.

4 SO, ARE YOU INVOLVED IN THE OPERATION OF A PROSTITUTION
5 RING?

6 THE DEFENDANT: YES.

7 THE COURT: OKAY. TELL ME ABOUT THE RING.

8 THE DEFENDANT: IT WAS A -- IT WAS TWO GIRLS, THEY
9 FROM GEORGIA, AND THEY WANT TO MAKE MONEY, AND WE GONE - I
10 WAS SPLITTING HALF AND HALF WITH THEM.

11 THE COURT: AND WHEN YOU SAY THEY WANTED TO MAKE
12 MONEY, DID YOU OFFER THIS OPPORTUNITY TO MAKE MONEY TO THEM?

13 THE DEFENDANT: YES, MA'AM.

14 THE COURT: OKAY. AND THEN IT INDICATES THAT THESE
15 GIRLS WERE UNDER AGE 18. SO TELL ME ABOUT YOUR KNOWLEDGE OF
16 THEM BEING UNDER AGE 18.

17 THE DEFENDANT: YES. I DIDN'T KNOW AT FIRST, BUT
18 THEN I -- BEING AROUND THEM I FOUND OUT THAT THEY WERE
19 UNDERAGE.

20 THE COURT: OKAY. SO YOU FOUND OUT ABOUT THE AGE
21 LATER.

22 THE DEFENDANT: YES.

23 THE COURT: AFTER YOU FOUND OUT ABOUT THE AGE, DID
24 YOU HAVE THEM ENGAGE IN THESE ACTS?

25 THE DEFENDANT: NO.

Both never
said that
make money

14
1 THE COURT: OKAY. AND HOW LONG WERE YOU WITH THEM
2 BEFORE YOU FOUND OUT ABOUT THE AGE?

3 THE DEFENDANT: I WOULD SAY A DAY.

4 THE COURT: ONE DAY?

5 THE DEFENDANT: YEAH.

6 THE COURT: SO BASICALLY YOU PICK THEM UP FOR ONE
7 DAY AND THEY IMMEDIATELY ENGAGE IN THESE ACTS?

8 THE DEFENDANT: YES, MA'AM.

9 THE COURT: AND THEN THE DAY AFTER, YOU FIND OUT
10 THAT THEY ARE YOUNGER.

11 THE DEFENDANT: YES, MA'AM.

12 THE COURT: OKAY. HOW DID YOU EVEN COME INTO
13 CONTACT WITH THE GIRLS?

14 THE DEFENDANT: I KNEW -- WE -- I KNOW A MUTUAL
15 PARTNER, MUTUAL FRIEND THAT KNOWN THEM THAT KNOWN ME AND HAD
16 LINKED US TOGETHER.

17 THE COURT: OKAY. NOW WHEN YOU'RE ENGAGING IN A
18 PROSTITUTION RING, HOW -- WHAT'S THE AGE GENERALLY OF THE
19 GIRLS --

20 THE DEFENDANT: USUALLY.

21 THE COURT: -- OR THE WOMEN?

22 THE DEFENDANT: YEAH, USUALLY 20, 21, 22, 23 IS
23 USUALLY --

24 THE COURT: OKAY.

25 THE DEFENDANT: -- THE AGE.

1 THE COURT: NOW, THERE'S AT LEAST ONE IF NOT TWO
2 GIRLS WHO ARE INDICATING THAT BEFORE YOU PICKED THEM UP, THEY
3 MADE YOU AWARE OF THE AGE AND THEN THEY MADE YOU AWARE OF THE
4 AGE DURING THE CAR RIDE BECAUSE THEY WERE RUN-AWAYS. DID YOU
5 KNOW THAT ANY GIRL WAS A RUN-AWAY?

6 THE DEFENDANT: NOT AT FIRST I DIDN'T KNOW.

7 THE COURT: WHAT DO YOU MEAN NOT AT FIRST?

8 THE DEFENDANT: NOT AT FIRST I DIDN'T KNOW THAT SHE
9 WAS A RUN-AWAY. SHE--

10 THE COURT: WHERE DID YOU PICK HER UP FROM?

11 THE DEFENDANT: ACTUALLY THEY CAME -- WAS DROPPED--

12 MR. BURNSIDE: A THIRD PARTY PICKED THEM UP.

13 THE DEFENDANT: YEAH, THIRD PARTY PICKED THEM UP.

14 THE COURT: PICKED THEM UP.

15 THE DEFENDANT: YEAH.

16 MR. BURNSIDE: AND BROUGHT THEM TO COLUMBIA.

17 THE DEFENDANT: AND BROUGHT ME -- ONE TO COLUMBIA
18 TO ME WHERE I WAS.

19 THE COURT: OKAY. WAS THERE ANYTHING ABOUT JUST
20 HOW THEY PRESENT THEMSELVES, YOU KNOW, WHAT CLOTHING THEY ARE
21 WEARING, HOW THEY SPEAK, YOU KNOW, ANYTHING OF THAT NATURE
22 THAT WOULD GIVE YOU REASON TO BELIEVE THAT THEY WERE UNDER
23 18?

24 THE DEFENDANT: NO. WAS MY NEGLIGENCE BECAUSE THAT
25 DAY WAS MY BIRTHDAY AND I WAS ACTUALLY DRINKING AND I DIDN'T

No where
is the P.S.P

1 ACTUALLY -- BUT I SHOULD HAVE BEEN AWARE OF THAT, BUT I
2 WASN'T.

3 THE COURT: YOU SHOULD HAVE?

4 THE DEFENDANT: YES, I SHOULD HAVE.

5 THE COURT: WHY SHOULD YOU HAVE BEEN AWARE OF IT?

6 THE DEFENDANT: BECAUSE THE WAY THEY TALK AND
7 EVERYTHING AND THE WAY THEY STYLE SHOULD HAVE LET ME KNOWN
8 THAT THEY WAS YOUNG.

9 THE COURT: OKAY. YOU HAD FACEBOOK CONTACT WITH,
10 YOU KNOW, ONE IF NOT MORE THAN THE GIRLS. WAS THERE ANYTHING
11 ON THEIR FACEBOOK PAGES OR ANY INFORMATION IN THERE THAT
12 WOULD HAVE MADE YOU BELIEVE THAT THEY WERE YOUNGER?

13 THE DEFENDANT: HUH-UH, NO, BECAUSE I DIDN'T -- I
14 DIDN'T GO THROUGH WITH THEM. I JUST TEXT THEM BACK AND
15 FORTH, BUT I DIDN'T GO THROUGH IT.

16 THE COURT: DID ANYBODY TELL YOU, WHETHER IT BE
17 THEMSELVES OR THIS THIRD PARTY OR ANYTHING ON THE FACEBOOK,
18 TO SUGGEST THAT THEY WERE RUNNING AWAY FROM HOME?

19 THE DEFENDANT: NO. NO, MA'AM.

20 THE COURT: AND SO YOU'RE SAYING THAT A THIRD PARTY
21 JUST BRINGS YOU YOUNG GIRLS AND THEN YOU PUT THEM TO WORK.

22 THE DEFENDANT: BASICALLY, YES, MA'AM.

23 THE COURT: OKAY.

24 MR. MAY: YOUR HONOR, IT WAS HIS BOTTOM. THE
25 TECHNICAL TERM BOTTOM-BITCH WAS THE GIRL WHO WENT AND GOT

1 THEM. HE IS DISAGREEING, HE IS MINIMIZING WHAT HE DID. WE
2 CAN GO THROUGH A WHOLE LIST OF OTHER GIRLS WHO ARE UNDER 18
3 THAT -- WHEN HE TRAFFICKED THEM. HAPPY TO LET HIM
4 WITHDRAWAL. I THINK HE PROBABLY NEEDS TO TALK TO COUNSEL FOR
5 TWO OR THREE MINUTES TO MAKE SURE THAT HE WANTS TO CONTINUE
6 GOING DOWN THE ROAD HE'S GOING DOWN.

7 *THE DEFENDANT:* I'M SAYING I'M GUILTY. I'M SAYING
8 I'M GUILTY.

9 *MR. MAY:* BUT AT THE END OF THE DAY--

10 *THE COURT:* IT'S NOT ENOUGH TO JUST SAY YOU'RE
11 GUILTY. I NEED TO KIND OF KNOW THE FACTS BECAUSE WHATEVER
12 THE FACTS ARE HAS TO SUPPORT THE SENTENCE, AND SO --

13 *MR. MAY:* YOUR HONOR, IN ALL--

14 *THE COURT:* -- YOU'RE AGREEING TO A 20-YEAR
15 SENTENCE WITH HOPE THAT IT WILL GET BETTER LATER. SO IN
16 OTHER WORDS, YOU STAY IN JAIL MAYBE A YEAR OR TWO AND THEN
17 YOU THINK I'M GOING TO REDUCE THIS DOWN TO MAYBE 10 YEARS OR
18 FIVE YEARS OR SOMETHING, BUT THE FACTS NEED TO JUSTIFY THE
19 SENTENCE.

20 *THE DEFENDANT:* YES, MA'AM.

21 *MR. MAY:* YOUR HONOR, HIS BOTTOM-BITCH WENT TO GO
22 PICK UP TWO CHILDREN. THEY WERE 15 AND 16. HE'S IN HIS 30S.
23 HE HAS A HISTORY OF PRAYING UPON PEOPLE WHO ARE UNDER THE AGE
24 OF 18. I BELIEVE THAT IT WOULD BE BENEFICIAL FOR HIM TO TALK
25 TO MR. BURNSIDE AND MR. SHEALY FOR TWO MINUTES. BUT RIGHT

1 NOW I AGREE WITH THE COURT THAT THE CONCERN AS HE, NUMBER
2 ONE, THE GOVERNMENT BELIEVES -- WELL, I'M NOT GOING TO PUT ON
3 THE RECORD WHAT I BELIEVE, BUT THIS IS -- I BELIEVE THAT
4 HE'S...

5 MR. BURNSIDE: JUDGE, IF WE CAN HAVE--

6 THE COURT: I MEAN, TWENTY YEARS IS A LOT OF TIME,
7 SO I NEED NOT HIM TO -- UNDERSTAND LIKE IF YOU DON'T DO THIS,
8 THEN THIS IS WHAT'S GOING TO HAPPEN. I MEAN, IT'S NO
9 DIFFERENT TO ME THAN IF I HAD A SEX OFFENDER IN FRONT OF ME.
10 IF THEY CAN'T ADMIT THEIR CONDUCT, THEN THEY ARE NOT HELPFUL
11 FOR THEIR TREATMENT LATER. AND SO, THOSE ARE SOME OF THE
12 CONCERNs.

13 MR. BURNSIDE: JUDGE, CAN I HAVE JUST A MOMENT?

14 THE COURT: THANK YOU. PLEASE STEP ASIDE. WE WILL
15 JUST BE IN RECESS VERY SHORTLY.

16 (WHEREUPON A BRIEF RECESS WAS HAD.)

17 MR. BURNSIDE: JUDGE, WE'VE HAD AN OPPORTUNITY TO
18 CONSULT. MR. CARTER IS NOT TRYING TO SAY HE'S NOT GUILTY OF
19 THIS OFFENSE. HE IS NOT TRYING TO MINIMIZE --

20 THE DEFENDANT: YES.

21 MR. BURNSIDE: -- IF THE COURT WANTS TO CONTINUE
22 ASKING QUESTIONS. BUT WE ARE -- HE IS NOT TRYING TO WITHDRAW
23 HIS PLEA. I THINK HE UNDERSTANDS THAT 240 MONTHS IS A FAIR
24 SENTENCE FOR WHAT HE'S DONE IN THIS CASE, AND SO I WILL LET
25 YOU CARRY ON WITH THE COLLOQUY.

1 THE COURT: OKAY. AS I LOOK AT 18 USC SECTION
2 2422(B), WHICH IS WHAT HE HAS BEEN CHARGED WITH FOR
3 ENTHICEMENT OF MINORS TO ENGAGE IN PROSTITUTION UNDER COUNT
4 ONE OF THE INDICTMENT IT INDICATES WHOEVER USING THE MAIL OR
5 ANY FACILITY OR MEANS OF INTERSTATE OR FOREIGN COMMERCE OR
6 WITHIN THE SPECIAL MARITIME AND TERRITORIAL JURISDICTION OF
7 THE UNITED STATES KNOWINGLY PERSUADES, INDUCES, ENTHICES, OR
8 COERCES ANY INDIVIDUAL WHO HAS NOT ATTAINED THE AGE OF 18
9 YEARS TO ENGAGE IN PROSTITUTION OR ANY SEXUAL ACTIVITY COULD
10 BE CHARGED WITH THIS OFFENSE.

11 AND SO, UNLESS YOU WANT TO POINT ME TO ANOTHER CASE
12 ABOUT DEFENSE AND EVERYTHING, I WOULD READ KNOWINGLY
13 PERSUADING SOMEONE WHO HAS NOT ATTAINED THE AGE OF 18
14 SUGGESTS THAT YOU ALSO CAN ASSUME OR PRESUME THAT THE PERSON
15 WAS UNDER THAT AGE, AND THAT'S THE PART THAT HE'S DISPUTING.

16 HE'S NOT NECESSARILY DISPUTING THAT HE WORKED WITH OR
17 ENGAGED WITH THESE PERSONS TO HAVE "SEX," BUT HE'S REALLY
18 DISPUTING THEIR AGE, WHICH THE STATUTE HAS THE PERIODS OF
19 INCARCERATION THAT ARE RECOMMENDED BASED ON I'M SURE THE FACT
20 THAT THIS IS ENGAGEMENT WITH MINORS WHO ARE THAT LOWER AGE.

21 AND THEN THE OTHER PIECE OF THIS IS HE'S TURNING THEM
22 INTO THEIR PARENTS. IF THEY ARE ADULTS, YOU DON'T HAVE TO
23 TURN THEM INTO THEIR PARENTS.

24 THE DEFENDANT: WANT ME TALK?

25 THE COURT: GO AHEAD, SIR.

1 THE DEFENDANT: YEAH. I JUST WANT TO SAY THAT I AM
2 GUILTY OF IT. I'M NOT TRYING TO PERSUADE, YOU KNOW.

3 THE COURT: BUT WHAT I -- BUT THIS IS WHAT YOU NEED
4 TO KNOW ABOUT ME. I DON'T FORCE ANYBODY TO STATE ANYTHING
5 THAT THEY DON'T BELIEVE IS TRUE. YOU HAVE EVERY RIGHT TO
6 CHALLENGE IT. YOU HAVE EVERY RIGHT AND I UNDERSTAND THAT
7 WITH THOSE RIGHTS COME RISK, NATURALLY, BUT YOU DON'T JUST
8 PLEAD JUST TO KIND OF GET BY OR JUST TO BE HOPEFUL FOR WHAT
9 COMES LATER BECAUSE I HAVE TO BE CONVINCED THAT YOU HAVE DONE
10 SOMETHING THAT WILL MAKE ME FEEL LIKE YOU NEED 20 YEARS FOR
11 IT, TOO. DOESN'T MATTER WHAT THE NUMBERS THAT ARE AGREED
12 UPON WITH THEM. BUT THERE THERE NEEDS TO BE SOMETHING THAT
13 WARRANTS THAT NUMBER FOR ME.

14 THE DEFENDANT: YES, MA'AM.

15 THE COURT: AND SO, WHAT IS IT THAT YOU'RE SAYING
16 YOU DID?

17 THE DEFENDANT: I DID IT. I'M GUILTY.

18 THE COURT: I KNOW, BUT YOU JUST TOLD ME YOU
19 DIDN'T.

20 THE DEFENDANT: NO, I WAS BASICALLY TRYING TO
21 MINIMIZE MY ROLE AND...

22 THE COURT: OKAY. BUT YOU SAID THEY ENGAGED IN SEX
23 ONE DAY ONCE YOU RECEIVED THE WOMEN OR THE GIRLS AND THEN YOU
24 FOUND OUT, YOU KNOW, THAT NIGHT OR THE NEXT DAY, AND THEN YOU
25 FOUND OUT ABOUT THE AGE AND THEN YOU'RE IN TOUCH WITH THEIR

1 PARENTS TO MAKE ARRANGEMENTS TO GIVE THEM BACK OR THEIR
2 CLOTHING BACK OR WHAT HAVE YOU, THAT -- ALL WITHIN 24 HOURS
3 YOU ALL OF A SUDDEN FIND OUT THAT THEY ARE MINORS.

4 THE DEFENDANT: BUT YEAH -- I WAS IN -- I WAS IN
5 RECKLESS DISREGARD OF THE FACT.

6 THE COURT: YOU WHAT?

7 THE DEFENDANT: I WAS IN RECKLESS DISREGARD OF THE
8 FACT THAT THEY WAS UNDERAGE.

9 THE COURT: BUT I MEAN, WHAT ABOUT THEM MAKES YOU
10 NOT KNOW THAT THIS WAS THEIR AGE AND WHY WOULD YOU BE
11 INVOLVED WITH PARENTS IF THEY WEREN'T UNDERAGE?

12 THE DEFENDANT: WAIT. SAY THAT AGAIN.

13 THE COURT: WHY WERE YOU INVOLVED WITH THEIR
14 PARENTS? LIKE, WHY WAS THE NEED TO HAVE A PARENT OF AN
15 ADULT -- WHY WOULD YOU NEED CONTACT WITH A PARENT IF THEY ARE
16 OVER 18?

17 THE DEFENDANT:
18 MR. BURNSIDE: I THINK IF I UNDERSTOOD IT RIGHT,
19 THAT THE MOM CALLED HIM AFTER SHE SAW HIS INFORMATION ON THE
20 FACEBOOK MESSAGES, SO THAT'S WHY. AND AT THAT POINT HE KNEW
21 FOR SURE -- I GUESS THERE WAS A SHOULD-HAVE-KNOWN PERIOD OF
22 TIME AND THEN THERE WAS WHEN IT WAS KNOWN --

23 THE COURT: OKAY.

24 MR. BURNSIDE: -- UNDER 18.

25 THE DEFENDANT: YES, MA'AM.

1 THE COURT: THE GOVERNMENT IS SUGGESTING THAT
2 YOU'RE MAJORLY INVOLVED WITH A BIG RING, LIKE THIS IS NOT
3 JUST THESE THREE VICTIMS OR FOUR VICTIMS OR SO HERE BUT THAT
4 THIS IS A CONTINUAL RING. SO HOW LONG HAVE YOU BEEN
5 INVOLVED?

6 THE DEFENDANT: SINCE 2012.

7 THE COURT: OKAY. AND WHAT HAVE YOU BEEN INVOLVED
8 WITH?

9 THE DEFENDANT: PROSTITUTION RINGS.

10 THE COURT: OKAY. I KNOW THAT THAT'S THE TERM THAT
11 I GAVE YOU, BUT TELL ME SPECIFICALLY WHAT IS A PROSTITUTION
12 RING AND WHO DOES IT INVOLVE AND WHAT ARE THEY DOING AND WHAT
13 ARE THEIR AGES?

14 THE DEFENDANT: OH, BASICALLY IT INVOLVED HAVING
15 SEX WITH MONEY AND DIFFERENT CLIENTS AND -- AND WHATNOT, AND
16 THE AGES IS 16, 17, 18, 19, 20, 21.

17 MR. BURNSIDE: AND IT INVOLVED ADVERTISEMENTS ON
18 BACKPAGE.

19 THE DEFENDANT: OH YEAH, ADVERTISEMENTS ON
20 BACKPAGE.

21 THE COURT: OKAY. SO WHY ARE YOU NOW TELLING ME
22 THAT IT INVOLVED THE AGES OF 16 THROUGH 19?

23 THE DEFENDANT: BECAUSE THAT'S THE TRUTH.

24 THE COURT: BUT A WHILE AGO YOU WERE UNDER OATH AND
25 YOU SAID THAT THEY WERE OVERAGE. SO WHAT'S MAKING YOU CHANGE

1 YOUR STATEMENT?

2 THE DEFENDANT: BESIDE THAT I TRY TO MINIMIZE MY
3 ROLE AND I HAD THIS -- THIS IS NOT THE TIME TO BE MINIMIZING
4 MY ROLE.

5 THE COURT: MINIMIZING YOUR ROLE HOW?

6 THE DEFENDANT: MINIMIZING MY ROLE AS IN SAYING
7 THAT THE GIRLS IS OVERAGE WHEN THEY WAS UNDER.

8 THE COURT: YOU DO AGREE THAT PROSTITUTION IS
9 ILLEGAL WHETHER THEY'RE UNDERAGE OR OVERAGE.

10 THE DEFENDANT: YES, MA'AM.

11 THE COURT: BUT YOU UNDERSTAND THAT YOU'RE PLEADING
12 NOT TO JUST PROSTITUTION BUT SPECIFICALLY OF ENTICEMENT OF
13 MINORS TO ENGAGE IN PROSTITUTION.

14 THE DEFENDANT: YES, MA'AM.

15 THE COURT: SO WHAT WAS THAT DISTINCTION IN YOUR
16 MIND ABOUT WHY THEY -- YOU ORIGINALLY STATED THEY WERE
17 OVERAGE IN PROSTITUTION -- LIKE OF AGE OR OF A MATURE AGE
18 LEAST IN A PROSTITUTION RING VERSUS SAYING THEY WERE MINORS?

19 THE DEFENDANT: YOU KIND OF LOST ME ON THAT ONE.

20 THE COURT: IN OTHER WORDS, THEY WERE -- IF THEY
21 WERE 18 AND OVER, YOU SEEM TO AGREE THAT YOU WERE IN A
22 PROSTITUTION RING BUT THAT THEY WERE 18 AND OVER. BUT BEFORE
23 YOU SAID YOU DENIED THAT THEY WERE UNDERAGE. SO WHAT'S THAT
24 DISTINCTION IN YOUR MIND? WHY WERE YOU MINIMIZING THAT THEY
25 WERE MINORS VERSUS THEY WERE OF AGE?

1 MR. BURNSIDE: JUDGE, I THINK HE WAS SAYING HE
2 DIDN'T KNOW THEIR AGE AT -- INITIALLY AND THEN HE LEARNED
3 THEIR AGES --

4 THE DEFENDANT: YES, MA'AM.

5 MR. BURNSIDE: -- OR WAS WITH THEM FOR A PERIOD.

6 THE COURT: OKAY. BUT THE GOVERNMENT IS
7 CHALLENGING THAT STATEMENT TO YOU ABOUT KNOWING THAT THIS IS
8 THEIR AGE AND THAT'S YOUR RING OF ENTICEMENT, THAT'S WHAT YOU
9 DO, LIKE THAT'S HOW YOU RUN YOUR RING IS TO HAVE MINORS
10 BECAUSE THAT'S WHAT YOU'RE PLEADING TO. AND THIS SAYS
11 KNOWINGLY THAT THEY -- YOU ENGAGED THOSE PERSONS.

12 THE DEFENDANT: YES, MA'AM.

13 THE COURT: IT DIDN'T SAY RECKLESS DISREGARD OR
14 SHOULD HAVE KNOWN OR COULD HAVE KNOWN. IT SAID KNOWINGLY,
15 LIKE YOU WOULD HAVE HAD TO KNOW THAT THEY WERE UNDERAGE TO
16 HAVE THIS PARTICULAR STATUTE.

17 THE DEFENDANT: YES, MA'AM.

18 THE COURT: BECAUSE UNDER 18 USC 2422(A) IT DOESN'T
19 HAVE A REFERENCE TO AGE. BUT UNDER B IT HAS THE REFERENCE TO
20 AGE.

21 MR. MAY: YOUR HONOR, IF I MAY --

22 THE COURT: OKAY.

23 MR. MAY: -- MAY MAKE A POINT BOTH THE COURT AND
24 MR. CARTER SOMETHING I THINK THAT THE COURT ACCURATELY
25 POINTED TO EARLIER. LOOKING AT MY NOTES GOING BACK AND

1 LOOKING AT THE VARIOUS GIRLS THAT WE COULD IDENTIFY THAT WERE
2 UNDER THE AGE OF 18, IT APPEARED THAT THEY WERE RUN-AWAYS,
3 THEY HAD PROBLEMS AT HOME. THINK THAT THAT, AS THE COURT
4 POINTED OUT, WHY WOULD YOU GO CALL THE PARENTS, WERE THESE
5 GIRLS RUN-AWAYS...

6 WELL, THE REASON WHY YOU KNOW THEY WERE RUN AWAYS IS
7 BECAUSE HE SENDS HIS BOTTOM-BITCH TO GO PICK UP THE GIRLS
8 FROM AUGUSTA AND BRING THEM TO COLUMBIA, RIGHT? THEY CAME
9 WITH CLOTHES. THEY WERE 15 AND 16. SIMILARLY WE SEE THAT
10 SAME PATTERN THAT THESE -- HE WAS -- HE WAS PRAYING UPON THE
11 PEOPLE WHO WERE VULNERABLE. AND THE WAY THAT HE KNOWS -- NOT
12 ONLY HE'S 30 AND THEY ARE 15 AND 16, BUT ALSO I THINK THE --
13 AND I THINK WHAT MR. BURNSIDE WAS TRYING TO SAY IS THAT HE
14 WAS ON NOTICE BECAUSE OF THE OTHER SURROUNDING CIRCUMSTANCES.

15 AS THE COURT REMEMBERS FROM YOUR DAYS IN THE STATE
16 BENCH, THEY NEED NOT SHOW A DRIVER'S LICENSE AND SAY THAT,
17 ~~HEY, I'M UNDER THE AGE OF 16 FOR CSC SECOND-METHOD-OF~~
18 THE STATE OF SOUTH CAROLINA. THINK IT'S SIMILAR TO HERE;
19 YOU CAN TAKE INTO CONSIDERATION THE SURROUNDING CIRCUMSTANCES
20 AS HE FORESAW -- AS HE SAW THEM AS THEY ARE COMING.

21 BUT I THINK THE COURT WAS CORRECT ON THE INITIAL
22 QUESTIONING OF THE DEFENDANT AND POINTING TOWARDS THE
23 RUN-AWAY STATUS. THAT'S JUST SOMETHING I NOTICE, AND I CAN
24 POINT -- AND I LOOKED BACK IN THE NOTES FROM THE FBI AND
25 THAT'S SOMETHING THAT WE SEE ON NUMEROUS OF THESE GIRLS.

*Right here
Bro*

1 THEY WERE RUN-AWAYS. HE PROVIDED THEM A PLACE TO STAY, HE
2 PROVIDE THEM FOOD, AND HE PROVIDED THEM SUSTINENCE. AND SO I
3 THINK THAT PUT THEM ON -- THAT WOULD BE -- THAT COULD PUT HIM
4 ON NOTICE BETWEEN THAT, THEIR APPEARANCE AND, YOU KNOW, THE
5 MATURITY OF THE GIRLS AS TO THE AGE.

6 *the Gov. taking*
a conspiracy
7 *and trying to*
Amend it to
the substantive
offense 8 *MR. MAY: YES, YOUR HONOR. I DON'T THINK IT'S A --*
9 *I DON'T THINK IT'S A WILLFUL STANDARD THAT WE SOMETIMES SEE*
10 *OF, I WILLFULLY DID X BECAUSE I KNEW IT WAS WRONG. IT'S A*
11 *KNOWING -- HE KNOWINGLY ENGAGED IN PROSTITUTION WITH PEOPLE*
12 *THAT HE EITHER THROUGH WILLFUL BLINDNESS, RECKLESS DISREGARD,*
13 *I GUESS WILLFUL BLINDNESS OR IN FACT HE HAD KNOWLEDGE AT SOME*
14 *POINT BUT THAT HE WAS ON NOTICE THAT THESE CHILDREN WERE*
15 *UNDER THE AGE OF 18 WHEN HE TOOK THESE ACTIONS.*

16 I THINK WHAT MR. BURNSIDE WAS POINTING TO EARLIER IS
17 THAT 1591 HAS ITS OWN UNIQUE CLAUSE OF BEING -- A PERSON HAS
18 A REASONABLE OPPORTUNITY TO OBSERVE, THAT'S ENOUGH. BUT YOUR
19 HONOR'S CORRECT, THAT'S NOT WHERE WE ARE. HE HAS A
20 KNOWING -- BUT I THINK KNOWING -- HE CAN -- KNOWING CAN BE
21 CIRCUMSTANTIAL IS I GUESS ULTIMATELY WHAT I'M TRYING TO SAY.

22 *THE COURT: YEAH.*

23 *MR. MAY: AND I THINK THAT THE CIRCUMSTANCES THAT*
24 *SURROUND THE PATTERN OF ACTIVITIES. AND THERE WERE GIRLS WHO*
25 *WERE OVER 18 THAT HE ALSO TRAFFICKED --*

1 THE COURT: OKAY.

2 MR. MAY: -- BUT THEY ARE A HANDFUL OF GIRLS THAT
3 WE CAN SHOW WERE UNDER 18 AND HE KNEW THAT EITHER EXPRESSLY
4 OR THROUGH THE CIRCUMSTANTIAL EVIDENCE SURROUNDING THEM.

5 THE COURT: WELL, AND THE CIRCUMSTANTIAL EVIDENCE
6 HELPS BECAUSE RIGHT NOW THE WAY THIS IS PRESENTING ITSELF IS
7 AS IF WE ARE FOCUSING ON JUST THEM --

8 MR. MAY: CORRECT.

9 THE COURT: -- BUT IN THE TOTALITY OF THE RING YOU
10 WOULD AGREE THAT YOU PROVIDED THEM FOOD, POTENTIALLY
11 CLOTHING. I THINK --

12 THE DEFENDANT: YES, MA'AM.

13 THE COURT: -- PART OF THE REPORT SAYS YOU WERE
14 TELLING ONE OF THEM YOU'D GO GET THEIR HAIR AND -- DONE AND
15 NAILS DONE AND PERHAPS SOME CLOTHES TO KIND OF SUIT THEM UP
16 FOR --

17 THE DEFENDANT: YES, MA'AM.

18 THE COURT: -- THE EVENTS?

19 THE DEFENDANT: YES, MA'AM.

20 THE COURT: OKAY. SO, AND THEN AT THE PLEA AS I
21 LOOK BACK TO MY NOTES IT INDICATES THAT YOU AND AT LEAST TWO
22 FEMALES WHO WERE 15 AND 16 YEAR-OLDS FROM AUGUSTA, GEORGIA,
23 AND THEN YOU USED FACEBOOK AND CELLPHONES AND YOU BROUGHT
24 THEM TO COLUMBIA AND YOU ASSISTED THE 15 YEAR-OLD AND
25 ACTUALLY ADVERTISED HER IN YOUR -- IN THE COMMERCIALS.

Can't agree to crimes I didn't commit

1 THE DEFENDANT: YES, MA'AM.

2 THE COURT: OKAY. AND THEN I ASKED YOU DID YOU
3 DISAGREE WITH ANY OF THOSE FACTS, AND YOU STATED, NO. AND
4 THEN THERE WAS ISSUES WITH RESPECT TO YOU BEING IN TOUCH WITH
5 AT LEAST ONE OF THE MOTHERS. AND WERE ASSISTING GETTING THE
6 GIRLS BACK TO HOME AS WELL AS SOME CLOTHES. YOU AGREE WITH
7 THAT?

8 THE DEFENDANT: YES, MA'AM.

9 THE COURT: OKAY. ALL RIGHT. AND SO YOU
10 UNDERSTAND THAT BY NATURE OF THE AGREEMENT BETWEEN THE
11 GOVERNMENT, YOURSELF, AND DEFENSE COUNSEL, THE AGREEMENT IS
12 THAT YOU WOULD HAVE A SENTENCE OF THE 240 MONTHS OR THE 20
13 YEARS.

14 THE DEFENDANT: YES, MA'AM.

15 THE COURT: AND PART OF THE REASON YOU'RE ENTERING
16 INTO THIS AGREEMENT IS THE HOPE THAT AS YOU COOPERATE ALONG
17 THE WAY, THAT THE GOVERNMENT WOULD COME BACK AND CONSIDER
18 POTENTIALLY SOME DOWNWARD DEPARTURE FROM THAT SENTENCE.

19 THE DEFENDANT: YES, MA'AM.

20 THE COURT: OKAY. BUT YOU UNDERSTAND THAT THAT
21 WILL ULTIMATELY STILL BE UP TO ME.

22 THE DEFENDANT: YES, MA'AM.

23 THE COURT: OKAY. AND THEN ALSO UP TO THE
24 GOVERNMENT WITH RESPECT TO WHETHER OR NOT THEY BELIEVE THE
25 ASSISTANCE IS FRUITFUL. IN OTHER WORDS, WHATEVER INFORMATION

1 YOU GIVE THEM IS VERIFIABLE AND USEFUL, HELPFUL.

2 THE DEFENDANT: YES, MA'AM.

3 THE COURT: OKAY. ALL RIGHT. BUT YOU DO

4 ULTIMATELY ADMIT THAT YOU WERE INVOLVED IN A PROSTITUTION
5 RING.

6 THE DEFENDANT: YES, MA'AM.

7 THE COURT: AND THAT IT WAS ENOUGH INFORMATION THAT
8 WAS EITHER TOLD TO YOU OR THAT YOU COULD OBSERVE ABOUT THE
9 GIRLS ON YOUR OWN THAT WOULD SUGGEST THAT THEY WERE LESS THAN
10 18 YEARS OLD.

11 THE DEFENDANT: YES, MA'AM.

12 THE COURT: OKAY. AND THAT THAT COULD INCLUDE, YOU
13 KNOW, THE NEED TO ASSIST THEM WITH FOOD OR A PLACE TO STAY OR
14 EVEN THAT YOU MIGHT HAVE LEARNED SOME INFORMATION ABOUT THEM
15 BEING A RUN-AWAY OR ANYTHING OF THAT NATURE.

16 THE DEFENDANT: YES, MA'AM.

17 THE COURT: OKAY. ALL RIGHT. SO UNDER THE PSR TO
18 WHICH YOU HAD NO OBJECTIONS IT INDICATES THAT YOUR BASE
19 OFFENSE LEVEL IS A 28, TWO ADDITIONAL CHARACTERISTICS WERE
20 GIVEN TO YOU BECAUSE YOU OTHERWISE UNDULY INFLUENCED A MINOR
21 TO ENGAGE IN PROHIBITED SEXUAL CONDUCT. ANOTHER TWO LEVELS
22 WERE ADDED TO YOU BECAUSE OF YOUR USE OF THE COMPUTER TO
23 ENTICE, ENCOURAGE, OFFER, OR SOLICIT THE PERSON TO ENGAGE IN
24 PROHIBITED SEXUAL CONDUCT AND THEN IT ALSO INVOLVED
25 COMMERCIAL SEX.

You assisted
them a place
to stay
also got
them a room

1 SO YOU HAD AN ADJUSTED OFFENSE LEVEL ADDING UP ALL OF
2 YOUR ENHANCEMENTS TO 34. AND THEN THIS SAME UNDER -- THAT
3 WAS FOR MINOR VICTIM ONE. AND THEN FOR MINOR VICTIM TWO
4 AGAIN BASED OFFENSE LEVEL 28. AND UNDER THAT VICTIM AGAIN
5 YOU UNDULY INFLUENCED HER, SO TWO LEVELS ADDED TO YOU AND
6 THEN ANOTHER TWO LEVELS ADDED TO YOU ENGAGING IN SPECIFIC --
7 EXCUSE ME -- COMMERCIAL SEX ACTS WITH THAT ONE.

8 AS TO MINOR VICTIM FOUR YOU HAD THE BASE OFFENSE LEVEL
9 OF 28. TWO LEVELS ADDED FOR UNDULY INFLUENCING THE MINOR TO
10 ENGAGE IN THE PROHIBITED SEXUAL CONDUCT. THEN ANOTHER TWO
11 LEVELS ADDED BECAUSE OF USE OF THE COMPUTER. ANOTHER TWO
12 LEVELS ADDED BECAUSE IN THIS PARTICULAR MINOR, THE OFFENSE
13 INVOLVED THE COMMISSION OF A SEX ACT OR SEXUAL CONDUCT AS
14 WELL AS COULD APPLY TO COMMERCIAL SEX ACTS.

15 SO YOU HAVE AN ADJUSTED OFFENSE LEVEL OF 34. AND THEN
16 WITH THE COMBINED ADJUSTED LEVELS WE TAKE THE HIGHER OF THAT
17 34. SO YOU HAVE AN ADJUSTED OFFENSE LEVEL OF 34. AND THEN
18 COMBINED OFFENSE LEVEL. AND YOU GOT CREDIT THEN FOR
19 ACCEPTING RESPONSIBILITY, YOU GOT CREDIT FOR ENTERING A
20 TIMELY GUILTY PLEA. SO WE ARE STILL AT A 34.

21 DO YOU UNDERSTAND?

22 THE DEFENDANT: YES, MA'AM.

23 THE COURT: THEN WITH RESPECT TO THE PLEA
24 AGREEMENT, AS I INDICATED YOU ARE AGREEING TO A SENTENCE OF
25 THE 240 MONTHS.

1 THE DEFENDANT: YES, MA'AM.

2 THE COURT: IS THAT CORRECT? OKAY. ALL RIGHT. SO
3 YOU COULD HAVE BEEN FACING A MINIMUM CUSTODY OF 10 YEARS UP
4 TO LIFE IMPRISONMENT FOLLOWED BY FIVE YEARS OF SUPERVISED
5 RELEASE UP TO LIFE SUPERVISED RELEASE, NOT ELIGIBLE FOR
6 PROBATION. BUT NOW UNDER THE GUIDELINES IT WOULD HAVE
7 RECOMMENDED A SENTENCE OF 168 TO 210 MONTHS FOLLOWED BY FIVE
8 YEARS OF SUPERVISED RELEASE UP TO LIFETIME SUPERVISED
9 RELEASE.

10 DO YOU UNDERSTAND THAT?

11 THE DEFENDANT: YES, MA'AM.

12 THE COURT: OKAY. ALL RIGHT. SO AGAIN YOU PLED
13 GUILTY TO ENTICEMENT OF MINORS TO ENGAGE IN PROSTITUTION.
14 AND THEN I ASKED YOU A LOT OF QUESTIONS, BUT I WANT TO HAVE
15 YOU MAKE ANY STATEMENTS THAT YOU WISH TO MAKE BEFORE I
16 PROCEED AND PRONOUNCE SENTENCE.

17 THE DEFENDANT: THAT'S ALL I HAVE TO SAY, YOUR HONOR.
18 AND, YOU KNOW, I KNOW I NEED TO DO BETTER AND I APOLOGIZE TO
19 THE PARENTS AND MY OWN MOM, TOO, FOR EVEN THIS TYPE OF
20 BEHAVIOR. AND I JUST WANT TO MAKE IT -- PLEASE THE COURT,
21 YOU JUST GRANT ME SOME LENIENCY. I DON'T HAVE A BAD RECORD.
22 AND I APOLOGIZE.

23 THE COURT: OKAY. ANYTHING ELSE FROM THE
24 GOVERNMENT OR COUNSEL?

25 MR. MAY: YOUR HONOR, BECAUSE OF THE

1 REPRESENTATIONS THAT MR. CARTER MADE, MRS. BARNES, WHO IS THE
2 MOTHER OF ONE OF THE VICTIMS, WOULD LIKE TO ADDRESS THE
3 COURT.

4 THE COURT: OKAY. STATE YOUR NAME FOR THE RECORD,
5 PLEASE.

6 MRS. BARNES: BOBBY BARNES.

7 THE COURT: OKAY. THANK YOU.

8 MRS. BARNES: I WOULD LIKE TO ADDRESS THAT WHEN IT
9 ALL FIRST WENT DOWN, MY CHILD WAS A RUN-AWAY. SHE WAS 15
10 YEARS OLD. SHE IS DIAGNOSED WITH PTSD, ODD, AND MDD, SO SHE
11 GOT A LOT OF MENTAL ISSUES GOING ON. AND ONCE I FOUND OUT
12 THAT, YOU KNOW, SHE WAS WITH MR. CARTER, I GOT ON FACEBOOK, I
13 TRACKED HER THE WHOLE WAY. I PUT MY LIFE IN DANGER BECAUSE I
14 CAME THAT SAME NIGHT THAT I HEARD SHE WAS WITH HIM. *K I thought you seen face book messages*

15 HE TOLD US TO MEET HIM AT THIS DARK PLACE ON A ROAD TO
16 GIVE HER. THEY -- US THEY CLOTHES. HE NEVER SHOWED. AND THEN
17 WE TRIED TO CALL HIM BACK, HE WAS PLAYING TUNES GAMES WITH
18 US. ME AND THE 16-YEAR-OLD GIRL MOTHER, ERICA STOKES, EBONY
19 JONES' MOTHER. THEN HE GAVE US THIS ADDRESS TO MEET HIM AT
20 WALMART. WE NEVER SAW HIM.

21 SO THEN I PROCEEDED TO GET IN WITH THE FBI AND THE
22 POLICE UP HERE IN COLUMBIA AND DFAX [PH] OR WHATEVER, AND
23 THAT'S HOW I END UP CATCHING THEM. THE FIRST TIME I CAUGHT
24 THEM WAS HE HAD DROPPED THE CLOTHES -- I SUPPOSE TO BEEN MEET
25 HIM AT THE GAS STATION, BUT HE SEEN THAT I HAD ALL THE

1 POLICES WITH ME. HE KNEW THE POLICE CARS WHEN WE PULLED UP
2 AT THE GAS STATION. SO THEN HE CALLED COLD ME -- I SAID
3 WHERE YOU AT? HE SAID, WELL, YOU GOT A LOT OF POLICES WITH
4 YOU? I WAS LIKE, NAH, WHAT YOU TALKING ABOUT? HE WAS LIKE,
5 WELL, I'M GOING DOWN THE STREET TO BILO AND I'M GOING TO PUT
6 THEIR CLOTHES OUT ON THE SIDE OF THE ROAD ON THE SIDEWALK BY
7 BILO AND YOU CAN JUST GET THEM FROM THERE.

8 WELL, HE'S TOLD ME THAT THEY WAS ON THE WAY TO THE
9 PARKING LOT TO PICK UP THE CLOTHES. SO I GUESS HE HAD A
10 DRIVER DRIVING HIM THEM WHILE HE WAS IN A SEPARATE CAR FROM
11 THE GIRLS. SO WHEN I WENT TO BILO, HE SAID GIVE ME A MINUTE,
12 I'M GOING TO COME BILO AND PUT -- GIVE YOU THE CLOTHES. SO
13 GOT TO BILO, I CALLED HIM, I -- WHEN I GOT TO BILO I SAID,
14 I'M AT BILO, WHERE ARE YOU? HE SAID, OH, I ALREADY PUT THE
15 CLOTHES OUT ON THE SIDE. SO I LOOK BACK ON THE SIDEWALK. I
16 SEEN BAG OF CLOTHES. AND THEN HE'S LIKE, THEY PULLING UP IN

17 A BLUEGUMMI VAN
18 SO AS I PARK AND I LEAN MY SEAT BACK, AND I SEEN THE VAN
19 COMING FORWARDS TO PICK UP THE CLOTHES AND THOSE WERE THE
20 GIRLS, MY DAUGHTER AND EBONY. SO WE JUMPED OUT AND THE
21 POLICES GOT THE GIRLS, WENT AND THEY TOOK ME AND -- TO THE
22 HOSPITAL, DID THE LITTLE THING AND DID THEY STATEMENTS OR
23 WHATEVER.

24 THEY KEPT PUTTING MY DAUGHTER IN A FOSTER CARE HOME,
25 WHICH SHE KEPT RUNNING AWAY TO GO BACK TO THE GIRL HE HAD ON

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1 FACEBOOK RECRUITING GIRLS. SHE WAS -- WELL, SHE SAID, SHE WAS
2 14 AT THE TIME WHEN SHE MET MR. CARTER. SO I'M LIKE, SO THIS
3 IS A BUSINESS HE'S RUNNING. HE'S NOT JUST RECRUITING YOUNG
4 GIRLS, HE RECRUITING ANYBODY HE CAN GET TO MAKE MONEY.

5 AND HE WAS NOT FEEDING THOSE GIRLS. HE WAS NOT PAYING
6 THOSE GIRLS. AND THE IMPACT IT HAD ON ME -- MY DAUGHTER
7 STILL HAVE NIGHTMARES AT NIGHT. SHE DON'T WANT TO DATE BOYS.
8 ME, I DEPRESSED, SCARED, YOU KNOW, BECAUSE WHEN IT ALL GONE
9 DOWN, I DON'T KNOW WHO IS WATCHING ME, I DON'T KNOW IF
10 SOMEBODY GOING TO FOLLOW ME BACK TO AUGUSTA, YOU KNOW! I
11 DON'T KNOW WHO -- WHAT PEOPLE HE GOT WORKING FOR HIM.

12 YOU KNOW, I WAS JUST -- AND I WAS JUST CALLING THE
13 INVESTIGATOR WHEN I'M SCARED I MIGHT DRIVE ANOTHER CAR UP
14 THERE WHEN I COME TO COURT AND, YOU KNOW, DEAL WITH DFAX AND
15 STUFF, IT'S JUST -- I JUST HATE THIS EVEN HAPPENED. AND FOR
16 YOU TO BE A 34-YEAR-OLD MAN TO RECRUIT GIRLS AND PROSTITUTE
17 THEM, YOU DON'T HAVE ANY MORALS FOR, YOU SPLIT, YOU SPLIT.

18 I HAD TO TAKE TIME OFF FROM MY JOB. I DO HOME HEALTH,
19 AND RUN UP AND DOWN THIS ROAD FOR ALMOST TWO, THREE MONTHS TO
20 CATCH MY DAUGHTER. SHE FINALLY CALLED ME IN 2018 -- 16 IN
21 FEBRUARY AT A MOTEL. SHE WAS TIRED OF GETTING BEAT BECAUSE
22 SHE COULDN'T MAKE ENOUGH MONEY, TO COME GET HER. AND THAT'S
23 ALL I HAVE TO SAY.

24 THE COURT: OKAY. THANK YOU. LET ME ASK YOU,
25 MRS. BROWN, YOU'VE HEARD THE GOVERNMENT WITH RESPECT TO THE

1 NEGOTIATIONS IN THIS CASE. YOU HAVE BEEN MADE AWARE OF THOSE
2 NEGOTIATIONS?

3 MRS. BARNES: MA'AM?

4 THE COURT: I'M SORRY. MRS. BARNES, YOU HAVE BEEN
5 MADE AWARE OF THE NEGOTIATIONS IN THIS CASE --

6 MRS. BARNES: YES, MA'AM.

7 THE COURT: -- ABOUT THEM OFFERING THE DEFENDANT 20
8 YEARS?

9 MRS. BARNES: YES, MA'AM.

10 THE COURT: AND WHAT'S YOUR POSITION ON THAT?

11 MRS. BARNES: IT NEEDS TO BE MORE.

12 THE COURT: OKAY. ARE YOU IN TOUCH WITH THE OTHER
13 GIRL'S MOTHER?

14 MRS. BARNES: YES. SHE COULDN'T COME TODAY BECAUSE
15 OF WORK.

16 THE COURT: OKAY.

17 ~~THE COURT: YOU JUST TOOK OFF TODAY TO COME.~~

18 THE COURT: ARE YOU AWARE OF HER BEING AWARE OF THE
19 NEGOTIATIONS?

20 MRS. BARNES: NO, SHE DON'T KNOW ABOUT THE
21 NEGOTIATION AND I HAVE TO CALL HER WHEN I LEAVE HERE AND LET
22 HER KNOW WHAT WENT ON.

23 THE COURT: OKAY. NOW YOU ALSO MENTIONED -- I
24 MEAN, HE SAID ONE DAY WITH THE GIRLS. SO YOU JUST MENTIONED
25 IT TOOK YOU MONTHS TO FIND YOUR DAUGHTER?

1 MRS. BARNES: YES. AFTER--

2 THE COURT: DO YOU KNOW -- I MEAN, YOU MENTIONED
3 SHE RAN AWAY FROM HOME. DO YOU KNOW IF SHE WAS RIGHT WITH
4 MR. CARTER INITIALLY OR...

5 MRS. BARNES: HE HAD HIS -- WHICH HIS GIRLFRIEND,
6 BABY MAMA, WIFE, OR WHATEVER BECAUSE SHE START CALLING THE
7 PHONE TELLING US TO -- TELLING US PARENTS TO, YOU KNOW,
8 FORGIVE HIM, DON'T TESTIFY AGAINST HIM AND STUFF LIKE THAT.
9 BUT SHE THE ONE CAME AND GOT THEM.

10 THE COURT: CAME TO GET THEM FROM...

11 MRS. BARNES: FROM AUGUSTA.

12 THE COURT: WHEN -- THE INITIAL RUN-AWAY.

13 MRS. BARNES: UH-HUH.

14 THE COURT: OKAY. SO YOUR DAUGHTER WASN'T JUST IN
15 THE STREETS SOMEWHERE, SHE WAS...

16 MRS. BARNES: SHE RAN AWAY FROM HER DAD'S HOUSE.

17 THE COURT: OKAY. TO MR. CARTER'S OPERATION.

18 MRS. BARNES: AND WHOEVER --

19 THE COURT: OKAY.

20 MRS. BARNES: -- THEY CALL AND SHE -- SHE PICKED
21 THEM UP IN THEY CLOTHES AND BROUGHT THEM ACROSS THE COUNTY
22 LINE, STATE LINE.

23 THE COURT: OKAY. BECAUSE YOU SAID SHE RAN AWAY.
24 I JUST WANT TO MAKE SURE SHE DIDN'T JUST RUN AWAY SOMEWHERE
25 RANDOM AND THEN THEY FOUND HER. YOU'RE SUGGESTING THAT SHE

1 RAN AWAY AND WAS PICKED UP DIRECTLY.

2 MRS. BARNES: REPORTED HER A RUN-AWAY --

3 THE COURT: OKAY.

4 MRS. BARNES: -- AND WHEN I -- SHE WAS LOGGED IN ON
5 FACEBOOK ON MY BOYFRIEND'S PHONE AND THAT'S HOW I KEPT TRACK
6 OF HER MESSAGES AND WHO SHE WAS IN CONTACT TO AND MR. CARTER,
7 WHICH IS HIS NAME, BLAZE, ON FACEBOOK. *as not*

8 THE COURT: SO YOU'RE SUGGESTING DIFFERENT FROM
9 WHAT HE SAID ABOUT HE HAD HER ONE DAY AND --

10 MRS. BARNES: THAT'S --

11 THE COURT: CALLED YOU ALL THE NEXT DAY. HOW LONG
12 WOULD YOU SAY HE HAD YOUR DAUGHTER?

13 MRS. BARNES: I'M SAY ABOUT TWO OR THREE DAYS
14 BEFORE INVESTIGATION AND FBI WENT INTO THE MOTEL BECAUSE THEY
15 WENT ON FACEBOOK, MADE AN APPOINTMENT OFF BACKPAGE TO GO IN
16 TO GET THE KID, AND JUST SO HAPPENED I GUESS HE WAS IN THE
17 MOTEL AT THAT TIME. *TRANSACTION*.

18 THE COURT: OKAY. BUT EARLIER YOU MENTIONED IT
19 TOOK MONTHS. WHAT DO YOU MEAN BY THAT?

20 MRS. BARNES: THAT'S AFTER THEY CAUGHT HER AND PUT
21 HER IN FOSTER CARE UP HERE IN --

22 THE COURT: OKAY.

23 MRS. BARNES: -- COLUMBIA. SHE JUST KEPT RUNNING
24 AWAY BACK TO THE SAME GIRL HE HAD ON FACEBOOK RECRUITING HER.

25 THE COURT: OH, SO INITIALLY IT WAS TWO TO THREE

What the Hell
↳ She talking about

1 DAYS THAT THE FBI HAD HER, THEN SHE GOES TO FOSTER CARE, THEN
2 SHE GETS BACK TO MR. CARTER SOMEHOW.

3 MRS. BARNES: SHE GET BACK WITH THE GIRL THAT--

4 THE COURT: RECRUITED. RECRUITS FOR HIM.

5 MRS. BARNES: YES. YES, MA'AM.

6 THE COURT: OKAY. BUT WHEN YOU FINALLY GOT HER,
7 WHEN YOU'RE SAYING THAT HE HAD CONTACT WITH YOU AND PUTTING
8 CLOTHES ON THE SIDE OF THE ROAD, IS THAT WITHIN THAT INITIAL
9 TWO TO THREE DAYS?

10 MRS. BARNES: THAT SAME NIGHT I FOUND OUT THAT THEY
11 HAD CROSS COUNTY LINE -- I MEAN STATE LINES.

12 THE COURT: OKAY. SO THAT'S NOT THE THREE MONTHS
13 LATER WHEN SHE WENT BACK TO --

14 MRS. BARNES: NO.

15 THE COURT: -- TIME AFTER THAT.

16 MR. MAY: YOUR HONOR, HE'S BEEN INCARCERATED SINCE
17 THAT INITIAL ARREST. HE WAS INITIALLY ARRESTED ON CHARGES BY
18 RICHLAND COUNTY, THEIR HUMAN TRAFFIC TASK FORCE. THEY ARE
19 THE ONES WHO INITIALLY BROUGHT THE CHARGES. SPECIAL AGENT
20 HAMELRYCK AND FBI, THEN US ATTORNEY'S OFFICE GOT TOGETHER TO
21 DETERMINE WHETHER OR NOT HE'D BE A PERSON WHO WE SHOULD
22 ACTIVELY GO AFTER QUICK. AND IN THE EFFORT TO SEE IF WE
23 COULD GET HIM TO COOPERATE QUICKLY AGAINST OTHER HUMAN
24 TRAFFICKERS, OFTEN TIMES THAT'S WHEN WE CAN GO AND ACTIVELY
25 RESCUE OTHER GIRLS. THAT WAS THE REASON WHY THAT THERE IS --

1 AND I DON'T WANT TO -- I DON'T WANT TO MISCHARACTERIZE WHAT
2 YOU'RE SAYING, BUT HE WAS THERE FIRST -- THE TWO -- THE
3 PERIOD OF BETWEEN 24 AND 48 HOURS THE INITIAL RUN-AWAY. THAT
4 WAS MR. CARTER. MR. CARTER THEN HAD SINCE BEEN ARRESTED
5 NONSTOP.

6 SO THAT WAS WHEN THE BUSINESS KIND OF SPINS IN A
7 DIFFERENT DIRECTION. BUT IT'S ONE OF HIS FORMER ASSOCIATES
8 THAT THEY CONTINUE TO CALL AND GO BACK TO THE GIRL OR THE
9 WOMAN BOTTOM-BITCH WHO WENT AND PICKED THEM -- PICKED UP THE
10 TWO GIRLS FROM AUGUSTA THE INITIAL TIME THAT RELATES TO
11 MR. CARTER.

12 THE COURT: OKAY. AND WHAT'S THE STATUS OF THIS
13 ASSOCIATE OF HIS?

14 MR. MAY: YOUR HONOR, WE -- IT'S AN ONGOING
15 INVESTIGATION INTO HER. WE DO NOT HAVE A QUANTUM OF EVIDENCE
16 AT THE TIME, AT THE CURRENT TIME, THAT WE HAD ON HIM. AS THE
17 COURT KNOWS, IT'S ALMOST SEVENTY-TWO HOURS EXCLUDING THE
18 ELECTRONIC INFORMATION AND WE JUST DON'T HAVE THE QUANTUM OF
19 EVIDENCE THAT WE DID UPON HIM IN NOR THE PATTERN OF NUMEROUS
20 UNDERAGE GIRLS.

21 I BELIEVE HE DID PROVIDE INFORMATION ON HER IN THE
22 INVESTIGATION. HOWEVER, WE'RE NOT TO THE POINT WHERE WE CAN
23 ACTUALLY GO FORTH ON CHARGES.

24 THE COURT: WHO IS THE ONE THAT YOU SAID AGREES
25 WITH THE NEGOTIATION?

1 MR. MAY: WELL, SHE DID BEFORE MR. CARTER STARTED
2 TALKING.

3 THE COURT: OKAY.

4 MRS. BARNES: YES, MA'AM.

5 MR. MAY: BEFORE MR. CARTER STARTED TALKING SHE
6 DID.

7 THE COURT: BECAUSE SHE'S OBVIOUSLY INCENSED ABOUT
8 HIS--

9 MR. MAY: RIGHT. SO BEFORE HE STARTED TALKING, SHE
10 DIDN'T WANT TO -- SHE DIDN'T WANT TO TALK. SO HE STARTS
11 PROVIDING INFORMATION THAT SHE BELIEVES AND KNOWS TO BE
12 FALSE, SO SHE WANTED TO ADDRESS THE COURT AND MAKE SURE THAT
13 YOU KNOW THAT HER POSITION HAS CHANGED SINCE SHE'S BEEN IN
14 THIS COURTROOM. BUT SHE IS HERE TO SUPPORT HER DAUGHTER AND
15 HER DAUGHTER'S FRIEND AND PROVIDE THE COURT WITH ANY OTHER
16 INFORMATION THAT YOU MAY NEED.

17 MR. MAY: YOUR HONOR, SO, IT'S UP TO YOUR HONOR,
18 WHETHER I WOULD ACCEPT THIS NEGOTIATION ESSENTIALLY. AND
19 THEN IF I FAIL TO DO SO, THEN WHAT IS YOUR PLAN?

20 MR. MAY: WELL, YOUR HONOR, IF YOU FAIL TO ACCEPT
21 IT, THEN WE WOULD GO FORWARD AND WE WOULD CHARGE HIM. THE
22 ONE THING I WOULD ASK THE COURT TO CONSIDER -- AND TAKING
23 INTO CONSIDERATION THAT I WAS -- SPECIAL AGENT HAMELRYCK,
24 WE'LL HAVE TO GET A COPY OF THIS TRANSCRIPT AND PROVIDE IT TO
25 ANY PROSECUTING AGENCIES THAT GO FORWARD BECAUSE I BELIEVE

1 THAT HE'S PUT STUFF ON THE RECORD THAT IS INCONGRUENT WITH
2 ONE ANOTHER TO BE -- TO SAY IT MILDLY.

3 SO I DON'T KNOW HOW MUCH HE CAN HELP HIMSELF GOING FORTH
4 BECAUSE HE'S GIVEN THE COURT INCORRECT STATEMENTS. THAT'S
5 NOT UP TO ME. THAT'S UP TO DIFFERENT PROSECUTING AGENCIES AS
6 THEY GO FORWARD. BUT WHAT HE DID DO AND WHAT I THINK THAT
7 THE FBI AND THE UNITED STATES ATTORNEY'S OFFICE WOULD
8 HIGHLIGHT IS THAT WHEN THESE HUMAN TRAFFICKERS COME IN EARLY,
9 IT ASSISTS US A LOT.

10 THE TIMELINESS, EVEN THOUGH HE'S GONE AND HURT HIMSELF
11 MATERIALLY TODAY, IS STILL SOMETHING THAT IS IMPORTANT. IT'S
12 IMPORTANT NOT ONLY TO HAVE OTHER PEOPLE WHO ARE IN HIS REALM
13 OF BUSINESS SEE THAT THERE ARE REAL SENTENCES BEING HANDED
14 OUT, BUT IT ALSO SAYS THAT, HEY, HE QUICKLY ACCEPTED THAT
15 HE -- WHAT HE DID WAS WRONG.

16 YOU HAVE BEEN -- YOU'VE PROBABLY HAD -- I KNOW IN THE
17 FEDERAL COURT, YOU KNOW, IN THE PLEA BARGAINING, SENTENCINGS
18 WHERE PEOPLE WOULD OFTEN TIMES MINIMIZE. THINK IT'S HARD
19 THING TO DO TO ADMIT THAT YOU SOLD PEOPLE WHEN YOUR MOM IS IN
20 THE COURTROOM. NOT MAKING EXCUSE FOR HIM, BUT WHAT HE DID BY
21 COMING IN EARLY, WE WERE REWARDED. IT'S GOING TO BE -- IT'S
22 GOING TO PUT THE GOVERNMENT IN A DIFFICULT POSITION TO KNOW
23 HOW TO PROCEED IF THE COURT DOESN'T ACCEPT IT WITH HIM NOT
24 WITHDRAWING FROM THE PLEA.

25 IT'S ONE THING FOR HIM TO WITHDRAW FROM THE PLEA. IT'S

1 ANOTHER THING FOR THE GOVERNMENT TO SIT HERE AND SAY, WELL,
2 YOU CAME IN EARLY, WE WILL WORK WITH YOU BECAUSE YOU CAME IN
3 SO EARLY. HE'S GOING TO HAVE TO LIVE WITH THE CONSEQUENCES
4 OF WHATEVER SENTENCE THE COURT DOES IN THAT FOR HIM, BUT HE'S
5 ALSO GOING TO HAVE TO LIVE WITH THE CONSEQUENCES OF THAT NOW
6 THERE'S GOING TO BE A TRANSCRIPT THAT IS GOING TO HAVE TO BE
7 PROVIDED BEFORE ANY COOPERATION THAT HE DOES GOING FORWARD
8 THAT'S GOING TO HAVE TO BE WEIGHED BY THE PROSECUTOR TO
9 DETERMINE WHETHER OR NOT HE OR SHE WILL PUT HIM ON THE STAND.

10 I THINK THAT UNDER, YOU KNOW, THE VARIOUS LAWS OF -
11 ESPECIALLY GIGLIO, THEN THAT IS A REQUIREMENT THAT WE'RE
12 GOING TO HAVE TO DO FROM GOING FORWARD. SO YOUR HONOR, I'D
13 ASK YOU TO ACCEPT THE PLEA. IT IS STILL A HUGELY SIGNIFICANT
14 SENTENCE. TWENTY YEARS IS 20 YEARS.

15 IF HE -- IF HIS INFORMATION IS USED IN THE FURTHERANCE
16 OF PROSECUTIONS OF OTHER PEOPLE, HE'S GOING TO GET A BREAK
17 FOR THIS AND FURTHERMORE, I DON'T THINK HE'S GOING TO BE MORE DILIGENT
18 BELIEVE FOR THE PROSECUTOR TO DO IT NOW.

19 THE COURT: MR. BURNSIDE?

20 MR. BURNSIDE: JUDGE, I WOULD SAY FIRST OF ALL I
21 DON'T THINK HE LIED UNDER OATH TO THIS COURT. I DON'T THINK
22 THAT THERE SHOULD BE ANY IMPEACHMENT MATERIAL THAN WHAT HE
23 SAID TODAY. I THINK AS I UNDERSTOOD WHAT HE SAID, HE DID NOT
24 HAVE ACTUAL KNOWLEDGE OF THE CHILDREN'S AGES INITIALLY. HE
25 LEARNED. HE ADMITTED THAT HE SHOULD HAVE KNOWN VERY QUICKLY.

1 HE ADMITTED THAT HE BECAME AWARE OF THEIR ACTUAL AGES DURING
2 THE EVENTS OF THOSE 24 TO 48 HOURS.

3 SO YOU KNOW, I DON'T THINK THAT THAT'S A REASON EITHER
4 TO THROW OUT THE PLEA OR NOT ACCEPT THE PLEA. 240 MONTHS IS
5 A VERY SIGNIFICANT SENTENCE. - YOU KNOW, I THINK THAT, YOU
6 KNOW, EVENTS WOULD HAVE TO PLAY OUT TO DETERMINE WHETHER THE
7 GOVERNMENT MAKES A MOTION FOR DOWNWARD DEPARTURE AND THE
8 EXTENT OF THE MOTION FOR DOWNWARD DEPARTURE, BUT HE'S
9 COOPERATING IN VERY SIGNIFICANT CASES; MURDER CASES. I MEAN,
10 SO THAT -- I MEAN, THAT IS A FACTOR THAT I THINK THE COURT
11 SHOULD CONSIDER TODAY AND SHOULD CONSIDER IN SOME FUTURE TIME
12 IF AN APPROPRIATE MOTION IS MADE.

13 THE OTHER THING FACTUALLY THAT I DON'T THINK HAS COME
14 OUT THAT I THINK IS IMPORTANT, THE PERSON THAT HE WAS WORKING
15 WITH THAT IS A FEMALE, THE ONE THAT WENT TO AUGUSTA AND GOT
16 THESE GIRLS, SHE KNEW THEM FROM AN EARLIER TIME WHEN THEY
17 - - - - -
18 RELATIONSHIP WHERE HE SENT HER OUT INTO THE WORLD TO FIND
19 SOMEBODY. SHE ALREADY KNEW THEM AND WAS IN CONVERSATION WITH
20 THEM. THAT'S HOW IT ENDED UP THAT SHE BROUGHT THEM.

21 BUT ANY WAY, JUDGE, THAT'S ALL THAT I HAVE TO SAY. I
22 WOULD ASK YOU TO ACCEPT THE PLEA AND IMPOSE THE SENTENCE AND
23 THEN HOPEFULLY A MOTION WILL BE MADE THAT WORKS OUT WELL FOR
24 EVERYONE.

25 THE COURT: OKAY. ALL RIGHT. MR. CARTER, YOU

1 ANYTHING ELSE TO STATE?

2 THE DEFENDANT: NO, MA'AM.

3 THE COURT: OKAY. OKAY. MR. CARTER, AS I HAVE
4 INDICATED, YOU HAVE PLED GUILTY TO ENTRICEMENT OF MINORS TO
5 ENGAGE IN PROSTITUTION. I DID GO OVER DURING THIS PARTICULAR
6 PROCEEDING WHAT I HAD IN MY FACTUAL NOTES AS TO WHAT YOU HAD
7 ADMITTED PREVIOUSLY DESPITE, YOU KNOW, SOME OF YOUR
8 HESITATION AND STATEMENTS THAT YOU MADE TODAY.

9 THE DEFENDANT: YES, MA'AM.

10 THE COURT: THERE IS ENOUGH INFORMATION IN THE
11 PRESENTENCE REPORT AND THAT HAS BEEN REVEALED BY THE
12 GOVERNMENT TO SHOW THAT AT LEAST IF -- THAT YOU WOULD HAVE
13 HAD CIRCUMSTANTIAL EVIDENCE TO BACK UP THE INFORMATION YOU
14 WOULD HAVE KNOWN. IN OTHER WORDS, THERE WAS ENOUGH
15 INFORMATION THAT YOU COULD HAVE GLEAMED FROM THE SITUATION
16 THAT SOME OF THE GIRLS YOU WERE DEALING WITH WERE MINORS
17 PLACED ON THEIR RUN. THEY ARE OBLIGED TO GO OUT AND WORKING
18 FEMALE GO PICK THEM UP, SO THEY ARE NOT SELF-SUPPORTING TO
19 DRIVE THEMSELVES, BASED ON YOU AGREEING THAT YOU FED THEM,
20 CLOTHED THEM. THE REPORT INDICATING YOU WERE HELPING THEM
21 GET THEIR HAIR AND NAILS DONE, YOU KNOW, SUGGESTING THEY
22 DIDN'T HAVE THEIR MEANS AND THAT THIS WAS A PART OF A BIGGER
23 PROSTITUTION RING.

24 AS I LISTENED TO THE MOTHER, SHE HAS NATURALLY SHOULD BE
25 INCENSED BECAUSE OF THE RAMIFICATIONS THAT THIS WOULD HAPPEN

1 TO A DAUGHTER WHO IS GOING THROUGH PUBERTY AND ALL OF THE
2 AFFECTS THAT IT HAS ONLY HER. THE MOTHER DOES ADMIT THAT AT
3 LEAST IN YOUR INVOLVEMENT AS TO HER DAUGHTER, THIS DOES SEEM
4 TO BE ABOUT A 48-HOUR OR SO PERIOD, AND SHE RIGHTFULLY
5 NOTIFIED AUTHORITIES IMMEDIATELY AND TRIED TO RESCUE HER
6 DAUGHTER AND THEN AUTHORITIES DID OBTAIN YOU.

7 I'M NOW BEING TOLD TODAY THAT YOU HAVE BEEN INCARCERATED
8 SINCE THAT POINT. SO, ONCE YOU GOT INCARCERATED, THIS
9 FEMALE, WHO WAS YOUR ASSISTANT, SOMEHOW RE-ENGAGED THESE
10 GIRLS, AND SO THAT CONDUCT, YOU KNOW, GOES TOWARD HER AND THE
11 GOVERNMENT AT SOME POINT HOPEFULLY WILL HAVE WHAT THEY NEED
12 TO BRING HER BEFORE THIS BODY.

13 THROUGH THE USE OF THE INFORMATION PROVIDED BY THE
14 COOPERATING WITNESSES IT WAS DETERMINED THAT IT WAS A
15 PROSTITUTION RING AND IT INVOLVED AT LEAST THREE MINOR
16 FEMALES, SOME OF WHICH WERE TRANSPORTED FROM AUGUSTA,
17 INFORMATION OR OBSERVATION BY YOU THAT YOU COULD HAVE KNOWN
18 THAT SOME OF THEM WERE UNDER THE AGE OF 18.

19 YOU REQUIRED THEM TO ENGAGE IN SEX AND ENGAGE IN SEX FOR
20 PROFIT. YOU DID HAVE A LIMITED CRIMINAL HISTORY. YOU HAD A
21 PRIOR FELONY CONVICTION FOR ACCESSORY AFTER THE FACT OF ARMED
22 ROBBERY AND A MISDEMEANOR CONVICTION FOR PUBLIC DISORDERLY
23 CONDUCT. YOU ARE OVER THE AGE OF 80 [SIC] SINGLE, AND REPORT
24 INDICATES THAT YOU ACTUALLY HAVE FOUR CHILDREN. YOU HAVE

1 LIVED IN COLUMBIA SINCE 2006.

2 OTHER THAN THE SHOT TO YOUR ABDOMEN IT APPEARS YOU HAVE
3 BEEN IN REASONABLY GOOD HEALTH. YOU HAVE RECEIVED SOME
4 MENTAL HEALTH TREATMENT WHICH THE COURT WOULD SUGGEST THAT
5 THAT CONTINUE, YOU KNOW, AS PRESENTLY GIVEN THE CIRCUMSTANCES
6 OF THIS CASE. YOU EARNED A GED IN 2003. YOU ATTENDED
7 MIDLANDS TECHNICAL COLLEGE. YOU HAVE HAD A ASSOCIATES DEGREE
8 IN BUSINESS MANAGEMENT AND YOU HAVE BEEN EMPLOYED AT LEAST AS
9 A POOL OPERATOR.

10 IN THIS PLEA YOU HAVE PLED GUILTY PURSUANT TO A PLEA
11 AGREEMENT AND THERE WAS A STIPULATION PURSUANT TO 11(C)(1)(C)
12 OF THE FEDERAL RULES OF CRIMINAL PROCEDURE THAT YOU AGREE
13 THAT THE APPROPRIATE SENTENCE IN THIS CASE WOULD BE THE 240
14 MONTHS FOLLOWED BY THE APPROPRIATE TERM OF SUPERVISED
15 RELEASE.

16 I'M INCLINED, BASED ON WHAT HAS BEEN PRESENTED HERE
17 TODAY AND HIS IMMEDIATE, YOU KNOW, WRITING AND WHETHER OR NOT
18 INCARCERATION TO GO AHEAD AND ACCEPT THIS PLEA. OBVIOUSLY TO
19 THE EXTENT THAT HE COOPERATES OR WHAT THE GOVERNMENT PRESENTS
20 AT ANOTHER TIME, THAT WILL BE INFORMATION I'LL HAVE THEN.
21 BUT OF COURSE, THIS TRANSCRIPT WILL BE AVAILABLE TO ME FOR
22 THAT TIME TO GET THE TOTALITY OF THE CIRCUMSTANCE ABOUT HIS
23 INVOLVEMENT. ONE THING THAT WILL ALWAYS CONCERN ME IN
24 SITUATIONS LIKE THIS IS THAT HE WOULD BE ON SEX OFFENDER
25 REGISTRY AND ALSO HAVE TO DO THE COUNSELING AND TREATMENT IN

1 THAT REGARD.

2 SO HAVING CALCULATED AND CONSIDERED THE ADVISORY
3 SENTENCING GUIDELINES AND HAVING ALSO CONSIDERED THE RELEVANT
4 STATUTORY FACTORS, SENTENCING FACTORS, CONTAINED 18 USC
5 SECTION 3553(A), MR. CARTER, YOU'RE COMMITTED TO THE BUREAU
6 OF PRISONS FOR 240 MONTHS.

7 AND IF FURTHER -- IT APPEARS YOU DON'T HAVE THE ABILITY
8 TO PAY A FINE, THEREFORE THE FINE WILL BE WAIVED, BUT YOU
9 WILL PAY THE MANDATORY \$100 SPECIAL ASSESSMENT FEE AND THE
10 5,000 JBTA SPECIAL ASSESSMENT FEE, BOTH OF WHICH ARE DUE
11 IMMEDIATELY.

12 UPON YOUR RELEASE FROM IMPRISONMENT I'M GOING TO PLACE
13 YOU ON SUPERVISED RELEASE FOR A TERM OF LIFE. WITHIN 72
14 HOURS OF YOUR RELEASE FROM THE BUREAU OF PRISONS YOU WILL
15 HAVE TO REPORT IN PERSON TO THE PROBATION OFFICE TO THE
16 DISTRICT IN WHICH YOU ARE RELEASED.

17 WHILE ON SUPERVISED RELEASE YOU WILL HAVE MENTAL
18 TREATMENT AND THAT WILL INCLUDE YOUR NEED FOR SEX OFFENDER
19 TREATMENT AS APPROVED BY THE PROBATION OFFICE. YOU WILL
20 SUBMIT TO RANDOM POLYGRAPH EXAMINATIONS WHICH ARE OBVIOUSLY
21 APPROPRIATE, TOO, WITH ANY SEX OFFENDER TREATMENT PROGRAM
22 BECAUSE YOU HAVE TO ADMIT YOUR CONDUCT AND YOU HAVE TO --
23 THEY WILL BE ABLE TO DETECT, YOU KNOW, YOUR PROPENSITIES, YOU
24 KNOW, TOWARD THAT TYPE OF CONDUCT.

25 YOU WILL CONTRIBUTE TO SUCH CONDUCT AS APPROVED BY THE

1 PROBATION OFFICE ON THE US PROBATION OFFICER'S SLIDING SCALE
2 FOR SERVICE. AND YOU WILL COOPERATE IN ANY THIRD-PARTY
3 PAYMENT SUCH AS INSURANCE OR MEDICAID TO THE EXTENT THAT YOU
4 HAVE THOSE AVAILABLE TO YOU.

5 AGAIN, YOU WILL REGISTER WITH THE STATE SEX OFFENDER
6 REGISTRATION AGENCY IN THE STATE WHERE YOU WILL RESIDE, WORK,
7 OR YOU'RE A STUDENT AS DIRECTED BY US PROBATION OFFICE. YOU
8 WILL PARTICIPATE IN THE COMPUTER INTERNET MONITORING PROGRAM
9 THAT BASICALLY PROHIBITS YOU FROM USING, PURCHASING, OR
10 OBTAINING ACCESS TO ANY FORM OF COMPUTER NETWORK, BULLETIN
11 BOARD, INTERNET, OR EXCHANGE FORMAT INVOLVING COMPUTERS
12 WITHOUT THE MONITORING PROGRAM THAT IS APPROVED BY THE
13 PROBATION OFFICE. AND AGAIN, YOU WILL CONTRIBUTE TO THOSE
14 COSTS AS APPROVED BY THE PROBATION OFFICE.

15 IN THE EVENT WITH RESPECT TO YOUR RESTITUTION, YOU WILL
16 PAY THE MINIMUM BALANCE IN MONTHLY INSTALLMENTS OF A HUNDRED
17 DOLLARS AND THAT WILL BEGIN 30 DAYS AFTER YOU ARE
18 IMPRISONMENT. WITH RESPECT TO THE PLEA AGREEMENT, THEN I
19 HAVE ADOPTED THAT.

20 IS THERE ANY OBJECTION TO THE FORM OF THE SENTENCE?

21 MR. MAY: NOT FROM THE GOVERNMENT, YOUR HONOR.

22 MR. BURNSIDE: NO, YOUR HONOR.

23 THE COURT: OKAY. AND SIR, YOU SIGNED A PLEA
24 AGREEMENT, SO YOU'LL HAVE LIMITED APPELLATE RIGHTS. AND WITH
25 RESPECT TO THOSE APPELLATE RIGHTS YOU WILL NEED TO, IF YOU

1 DESIRE TO APPEAL, TIMELY APPEAL THROUGH YOUR LAWYER, OR IF
2 YOU'RE NOT REPRESENTED BY A LAWYER DO SO THROUGH YOURSELF.
3 DO YOU UNDERSTAND?

4 THE DEFENDANT: YES, MA'AM.

5 THE COURT: AND YOU'LL HAVE TO DO SO IN ACCORDANCE
6 WITH THE FEDERAL RULES OF CRIMINAL PROCEDURE OR ANY RELEVANT
7 CRIMINAL STATUTE. DO YOU UNDERSTAND THAT?

8 THE DEFENDANT: YES, MA'AM.

9 THE COURT: OKAY. I FIND THAT THIS SENTENCE IS
10 SUFFICIENT BUT NOT GREATER THAN NECESSARY TO ACHIEVE THE
11 SENTENCING FACTORS. PROBATION?

12 PROBATION AGENT: YOUR HONOR, I JUST WANT TO
13 CLARIFY. WE DID NOT MAKE A RECOMMENDATION FOR RESTITUTION
14 BECAUSE WE HAD NOT -- DID NOT RECEIVE ANY INFORMATION FROM
15 THE GOVERNMENT TO GUIDE US IN THAT EFFORT.

16 THE COURT: OKAY.

17 PROBATION AGENT: SO I'M NOT SURE IF THAT RESTITUTION
18 IS NECESSARY.

19 THE COURT: MEANING THE \$5,000?

20 PROBATION AGENT: I'M SORRY, THE RECOMMENDATION FOR
21 THE RESTITUTION TO BE PAID AT A HUNDRED DOLLAR MONTHLY
22 INSTALLMENTS.

23 THE COURT: OKAY.

24 PROBATION AGENT: I DON'T THINK THAT THAT SHOULD BE
25 PUT ON THE RECORD BECAUSE WE DID...

1 THE COURT: OKAY.

2 MR. MAY: YOUR HONOR, WE WERE NOT--

3 PROBATION AGENT: -- ADVISED FOR RESTITUTION
4 PURPOSES.

5 MR. MAY: FOR THE RECORD WE WERE NOT ABLE TO
6 QUANTIFY RESTITUTION NEEDS PURSUANT TO VARIOUS VICTIMS. WE
7 JUST WEREN'T ABLE TO DO THAT IN THIS CASE.

8 THE COURT: OKAY.

9 MR. MAY: WHAT WE HAD WAS DIMINIMUS \$40 TWO OR
10 THREE TIMES. THAT IS NOT FOR RESTITUTION ORDER. BUT I DO
11 BELIEVE THAT THE JUSTICE FOR THE VICTIMS OF HUMAN TRAFFICKING
12 ACT IS AN APPROPRIATE \$5,000, SO I DON'T BELIEVE
13 MRS. CARPENTER WAS DISCUSSING THAT.

14 THE COURT: OKAY.

15 PROBATION AGENT: I AM SORRY. I WAS JUST
16 ADDRESSING THE RESTITUTION PURPOSES.

17 THE COURT: OKAY. YES, AND THAT'S WHAT I THOUGHT.
18 SO THAT'S -- YEAH, FOR RESTITUTION. NOW, UNDER THIS ACT ARE
19 THERE SERVICES AVAILABLE FOR THE VICTIM IN TERMS OF THE
20 MENTAL HEALTH ISSUES THAT MRS. BARNES WAS SPEAKING ABOUT FOR
21 HER DAUGHTER?

22 MR. MAY: YOUR HONOR, THAT WOULD BE THROUGH MY
23 OFFICE.

24 THE COURT: OKAY.

25 MR. MAY: AND IT'S ONE OF THOSE THINGS THAT IF THEY

1 ASK, WE WILL BE HAPPY TO PROVIDE. HOWEVER, IT'S JUST
2 SOMETHING THEY HAVE TO COME AND ASK US FOR.

3 THE COURT: OKAY. MRS. BARNES, YOU HEARD THAT?

4 MRS. BARNES: YES.

5 THE COURT: SO PLEASE DO ASK, OKAY, FOR YOURSELF
6 AND YOUR DAUGHTER.

7 MRS. BARNES: OKAY.

8 THE COURT: OKAY. THAT'S BEING MADE AVAILABLE BY
9 THE GOVERNMENT AS IT SHOULD BE. OKAY. SO ANY OTHER ISSUES?

10 MR. MAY: YOUR HONOR, JUST THE INFORMATION, THERE
11 ARE NO OTHER COUNTS.

12 THE COURT: OKAY. AND IS THERE ANY FORFEITURE
13 ORDER FILED? NO? OKAY. ALL RIGHT. SO YOU WILL BE
14 CONTINUALLY DETAINED HERE AND THEN WE'LL HAVE TO ADDRESS ANY
15 OTHER ISSUES WITH RESPECT TO ANY STATE COURT INDICTMENT.

16 MR. BURNSIDE: JUDGE, THINK THERE MIGHT BE ONE
17 GIVE ME ONE MOMENT. ~~THERE WAS ONE OTHER THING~~

18 THE COURT: OKAY.

19 MR. MAY: YOUR HONOR, THERE IS A TWO-COUNT
20 INDICTMENT THAT IS NOT IN THIS NUMBER THAT WE'D MOVE TO
21 DISMISS AT THIS TIME.

22 THE COURT: OKAY.

23 MR. MAY: AND I'D ASSUME THAT HE WILL FORFEIT - HE
24 WILL ABANDON ANY RIGHT TO THOSE GUNS.

25 MR. BURNSIDE: THAT'S CORRECT.

1 THE COURT: OKAY. THANK YOU. AND I WOULD NOTE FOR
2 THE RECORD THAT I DID GET A LETTER IN THE FILE FROM
3 MR. CARTER, AND THAT'S BEEN REVIEWED AS WELL. OKAY.

4 MR. BURNSIDE: YES, YOUR HONOR.

5 MR. MAY: THANK YOU, YOUR HONOR.

6 THE COURT: OKAY. THANK YOU ALL.

7 (HEARING CONCLUDED.)

8 ***

9 I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT
10 FROM THE RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

11

12 S/KATHLEEN RICHARDSON

13 -----

APRIL 2, 2018

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KATHLEEN RICHARDSON, RMR, CRR

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UNITED STATES DISTRICT COURT
for the
District of South Carolina

United States of America _____
Government/Respondent _____
v. _____
Michael Kenny Carter _____
Defendant/Petitioner _____
)

) Criminal Action No. 3:17-351-001-JFA
)
)
Civil Action No. 3:22-635-JFA
)

AMENDED JUDGMENT IN A CIVIL ACTION

The court has ordered that (check one):

the plaintiff (name) _____ recover from the defendant (name) _____ the amount of _____ dollars (\$__), which includes prejudgment interest at the rate of ____ %, plus postjudgment interest at the rate of ____ %, along with costs.

the plaintiff recover nothing, the action be dismissed on the merits, and the defendant (name) _____ recover costs from the plaintiff (name) _____.

other: **IT IS ORDERED AND ADJUDGED** that petitioner, Michael Kenny Carter, shall take nothing on the petition filed pursuant to 28 USC § 2255 and this action is dismissed with prejudice.

This action was (check one):

tried by a jury, the Honorable _____ presiding, and the jury has rendered a verdict.

tried by the Honorable _____ presiding, without a jury and the above decision was reached.

This action came before the Court on the record, Honorable Joseph F. Anderson, Jr., United States District Judge, presiding on the Petitioner's Petition under 28 USC § 2255. The court having granted the Respondent's motion to dismiss and denies a certificate of appealability.

Date: September 28, 2022

ROBIN L. BLUME, CLERK OF COURT

s/Mary L. Floyd, Deputy Clerk

Signature of Clerk or Deputy Clerk

Other Documents3:17-cr-00351-JFA USA v. Carter**CASE CLOSED on 03/08/2018**

CLOSED,LC 2

U.S. District Court**District of South Carolina****Notice of Electronic Filing**

The following transaction was entered on 9/28/2022 at 10:59 AM EDT and filed on 9/28/2022

Case Name: USA v. Carter**Case Number:** 3:17-cr-00351-JFA**Filer:****Document Number:** 255**Docket Text:**

JUDGMENT IT IS ORDERED AND ADJUDGED that petitioner, Michael Kenny Carter, shall take nothing on the petition filed pursuant to 28 USC § 2255 and this action is dismissed with prejudice on [227] MOTION to Vacate under 28 U.S.C. § 2255 filed by Michael Kenny Carter. (mflo,)

3:17-cr-00351-JFA-1 Notice has been electronically mailed to:

Allen B Burnside (Terminated) allen_burnside@fd.org, ashley_haworth@fd.org, kristin_burt@fd.org, marla_watkins@fd.org, stella_i_kasten@fd.org

Benjamin Neale Garner benjamin.garner@usdoj.gov, CaseView.ECF@usdoj.gov, Karl.Labbe@usdoj.gov, USA-SC-ECF-AFU-Notice@usa.doj.gov, USA-SC-ECF-Docket-M@usdoj.gov, USA-SC-ECF-FLU@usdoj.gov, USA-SC-ECF-VW-COL@usdoj.gov, laura.edwards@usdoj.gov

3:17-cr-00351-JFA-1 Notice will not be electronically mailed to:

Michael Kenny Carter(Terminated)

32308-171

FCI Williamsburg

8301 Highway 521

Salters, SC 29590

The following document(s) are associated with this transaction:

Document description: Main Document**Original filename:** n/a**Electronic document Stamp:**

[STAMP dcecfStamp_ID=1091130295 [Date=9/28/2022] [FileNumber=10923676-0] [61715c1d6b4ea14e4b82e21224413eb7138ae4eaee4909c258ee2e26469caefc4f9bfce2ff3018e8a2a391f0e9efcf0ffb33f81cfdaed98312184d421faf1d9]]