

# Appendix

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2022 WL 18005680

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United States Court of Appeals, Eleventh Circuit.

UNITED STATES of America, Plaintiff-Appellee,

v.

**Renzo** William ALEGRE, Defendant-Appellant.

No. 22-10260

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Non-Argument Calendar

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Filed: 12/30/2022

Appeal from the United States District Court for the Southern District of Florida, D.C. Docket No. 0:21-cr-60041-RKA-1

#### Attorneys and Law Firms

Brandy Brentari Galler, U.S. Attorney's Office, West Palm Beach, FL, Andrea G. Hoffman, Lisa Tobin Rubio, U.S. Attorney Service - SFL, Miami, FL, U.S. Attorney Service - Southern District of Florida, Miami, FL, Robert Craig Juman, U.S. Attorney's Office, Miami, FL, for Plaintiff-Appellee.

Brenda Greenberg Bryn, Michael Caruso, Federal Public Defender's Office, Fort Lauderdale, FL, Daryl Elliott Wilcox, Plantation, FL, for Defendant-Appellant.

Before Luck, Lagoa, and Anderson, Circuit Judges.

#### Opinion

PER CURIAM:

\*1 **Renzo** Alegre appeals his sentence of forty-eight months' imprisonment and twenty years' supervised release for possession of child pornography. He argues that his sentence is procedurally unreasonable because the district court failed to properly consider the 18 U.S.C. § 3553(a) factors, selected the sentence based on clearly erroneous facts, and failed to explain why it chose a twenty-year term of supervised release. He also argues that his sentence is substantively unreasonable because the court failed to afford consideration to relevant § 3553(a) factors due significant weight, improperly weighed its unfounded opinion on recidivism, and applied unreasonable supervised release conditions. Finally, he argues that his supervised release computer restriction is unconstitutional because it burdens

substantially more speech than is necessary. For the reasons explained below, we affirm.

#### I.

In July 2020, law enforcement officers working in an undercover capacity identified a computer on BitTorrent that was associated with a torrent file believed to contain files depicting the sexual exploitation of children. This investigation led to officers executing a search warrant at Alegre's residence, where the officers seized Alegre's desktop computer and cell phone after preliminary forensic examinations showed they contained more than 100 and 200 child pornography videos, respectively. Alegre waived his *Miranda* rights and agreed to speak with law enforcement, to which he admitted that he was using the seized desktop computer to receive and download child pornography for the previous year. Alegre, who was nineteen years old at the time, was subsequently arrested, and a federal grand jury indicted Alegre on one count of possession of child pornography in violation of 18 U.S.C. § 2252(a)(4)(B) and (b)(2).

Alegre, without a plea agreement, pled guilty to the indictment. At the change of plea hearing, the district court denied a motion Alegre filed to modify a bond condition that precluded him from maintaining an email account. In doing so, the court stated that “the statistical evidence that [it had] reviewed” showed “that child pornography offenders recidivate at a higher rate than the general criminal population” and that, in its own experience, it had seen many child-pornography offenders reoffend while on release.

A probation officer prepared a Presentencing Investigation Report (“PSI”) and calculated Alegre's guidelines sentence range based on the United States Sentencing Guidelines. The PSI set a base offense level of 18 pursuant to U.S.S.G. § 2G2.2(a)(1). Pursuant to U.S.S.G. § 2G2.2(b)(2), the PSI applied a two-level increase because the material Alegre possessed involved a prepubescent minor. The PSI applied a two-level increase for Alegre knowingly engaging in distribution pursuant to U.S.S.G. § 2G2.2(b)(3)(F). The PSI also applied a four-level increase pursuant to U.S.S.G. § 2G2.2(b)(4) because the offense involved material portraying “sadistic or masochistic conduct or other depictions of violence” or “sexual abuse or exploitation of an infant or toddler.” The PSI applied a two-level increase because the offense involved the use of a computer pursuant to U.S.S.G. § 2G2.2(b)(6). And because the offense involved

600 or more images, the PSI increased the offense level by 5 under U.S.S.G. § 2G2.2(b)(7)(D). The PSI decreased the offense level by 2 under U.S.S.G. § 3E1.1(a) because **Alegre** demonstrated acceptable of responsibility, and by an additional level pursuant to U.S.S.G. § 3E1.1(b) because he timely notified authorities of his intent to plead guilty. Overall, the resulting total adjusted offense level was 30.

\*2 The PSI assigned **Alegre** a criminal history category of I because he had zero criminal history points. The PSI calculated the imprisonment range for **Alegre** as 97 to 121 months, with a supervised release range of 5 years to life. As a special condition of supervised release, the PSI recommended that **Alegre** should not possess or use a computer except for authorized employment. And, in an addendum to the PSI, the probation office noted that the offense conduct “involved material that portrayed sadistic or masochistic conduct, as well as toddlers.”

**Alegre** filed a motion for a downward variance, requesting a sentence of five years of probation with a special condition of one year of home detention “and all the recommended conditions of supervision contained in the [PSI].” **Alegre** noted that the United States Sentencing Commission had recommended that § 2G2.2 be revised to eliminate outdated enhancements. He also noted that the Commission's 2021 Child Pornography Report found that the overall recidivism rate for non-production possession of child pornography was 27.6 percent. In support of a downward variance, **Alegre** presented four cases from the Southern District of Florida where the district courts sentenced the defendants to terms of imprisonment significantly below their advisory guideline ranges. He then argued that the facts of his case were virtually identical to those cases and his personal history and characteristics justified a downward variance. And, in requesting a non-incarceration sentence, **Alegre** argued that the PSI's recommended conditions of supervised release, including the computer restrictions, promoted respect for the law and provided just punishment for the offense. **Alegre** attached various documents in support of his motion, e.g., a speech impediment evaluation report, school transcripts, a psychological examination conducted by Dr. Michael Brannon, character letters, and a polygraph examination.

**Alegre** also objected to the two-level § 2G2.2(b)(3)(F) enhancement. The government acknowledged it would not seek that enhancement because it would be unable to meet its burden of proof at sentencing.

In response to the downward variance request, the government agreed that a downward variance was appropriate given **Alegre's** documented mitigating circumstances but argued that a sentence that did not include imprisonment would not align with the § 3553(a) sentencing factors. The government noted: that possession of child pornography was not a victimless crime; that **Alegre** had made concerning statements to the police regarding being “addicted” to child pornography; that, despite telling Dr. Brannon he was not sexually attracted to prepubescent children, **Alegre's** collection of pornography gave rise to almost every sentencing enhancement that applied to the charge; that Dr. Brannon found **Alegre's** “judgment, problem-solving skills, and insight were good,” suggesting he was aware of and understood his actions; and **Alegre** was knowledgeable about computers and software, given he was enrolled in college to pursue a degree in software engineering. Accordingly, the government requested a 48-month sentence of imprisonment followed by a “lengthy” term of supervised release.

At sentencing, **Alegre** called Dr. Brannon, who testified as follows. **Alegre** scored a 2 out of 7 on the Child Pornography Offender Risk Tool (“C-PORT”) because he had two recidivism-risk factors: his age—offenders under 35 reoffend at a much higher rate—and his hebephiliac interest—arousal by material depicting prepubescent children. Offenders with any type of sexual offense (either child pornography or a touch offense) with any two recidivism risk factors reoffend within the next five years at a rate of about ten percent. There are no research studies showing that the number of images or videos, the content of those videos, or the age of the children increase the risk that an individual will reoffend. The C-PORT does not account for individuals who say they are addicted to child pornography, and **Alegre's** belief that he was unable to stop made him more of a risk for reoffending. However, **Alegre** was in treatment and was candid and forthright about his presentation, which has a modest effect on reducing reoffending. But the younger an offender is, the more likely they are to reoffend.

\*3 In response to the district court's questioning, Dr. Brannon stated that the recidivism rates only account for those who are caught reoffending, and child pornography offenders are less likely to be caught because the offense is less likely to be detected than most other crimes. In response to the district court's question of whether extreme content would make a difference in whether a person is likely to commit antisocial crimes in the future, Dr. Brannon stated that “anyone who reaches to the extremes of behavior like sexual interactions

with an infant we can expect to have more antisocial type of traits” and the “more you have extremes from the norm, the more concerned you become.” But he stated there is no research showing that the age of the victim predicts any type of increase in reoffending, especially committing contact offenses.

Before determining **Alegre's** sentence, the district court stated it reviewed the PSI and its addenda, Dr. Brannon's report and testimony, **Alegre's** motion for a downward variance and his objections to the PSI, the government's response to **Alegre's** motion and objections, a letter on **Alegre's** treatment progress, and letters from his friends and family. The court sustained **Alegre's** objection to the two-level enhancement for distribution, resulting in an advisory guideline range of 78 to 97 months' imprisonment. Neither party objected further to the sentencing calculation.

The government recommended 48 months of incarceration, as a sentence of only probation and treatment would be wholly insufficient. The government argued that imprisonment was necessary to deter others, particularly for a defendant who had admitted to being addicted and unable to stop. **Alegre** responded that his statement to the police, “I think it is too late,” should not be interpreted as an admission he was unable to stop but, instead, as a reference to the fact he was caught. He also argued that he was unlikely to reoffend because he had not violated his bond conditions and because he would continue to be supervised during his period of supervised release. He also argued that the Guidelines were too stringent given his personal history and that Congress intended for some non-incarcerative sentences for possession of child pornography, given that there was no statutory minimum.

After statements from several of **Alegre's** family members, **Alegre** spoke to the court. He stated that he “made bad decisions because of [his] lack of maturity and curiosity at 19 years old,” but did not know that he was doing something illegal. He also stated that he was sorry and ashamed and promised to never do it again.

The district court then stated it had considered all the parties' statements and the § 3553(a) factors. First, it stated that it had considered the nature and severity of the offense and that the offense was extremely serious because of the continuous effect child pornography has on its victims and because **Alegre** had 244 videos and 4,000 photos, “the vast majority of which involved ... bestiality or sadomasochism or infants and penetration.”<sup>1</sup> The district court disagreed that **Alegre** did

not deserve a prison sentence because it was his first offense and argued that, even with prison time, he would still have a second chance to finish college.

Second, the district court considered **Alegre's** history and individual characteristics. The district court found that his youthful age supported an upward variance because Dr. Brannon testified that younger offenders are more likely to reoffend. The court also found that **Alegre's** “too late” statement, in context, implied that he could not stop his addiction. The district court noted that **Alegre's** lack of criminal history was already factored into the guideline range and was not “driving the penalties” that he was facing, and so, it did not support a downward variance. And the district court found that varying downward based on his lack of criminal history would create unwarranted sentencing disparities with similarly situated defendants. The district court found **Alegre's** compliance with bond conditions was an important factor that would “vary down” but explained it was not “an independent reason to vary down significantly in this case.” The district court stated that “the lower recidivism rate that the Guidelines and the C-PORT score ascribe to defendants like Mr. **Alegre**” is a “manifestation of the fact that this crime is committed alone” and unlikely to be brought to the attention of law enforcement. As to the cases **Alegre** presented as a comparison with his, the court stated that it would consider them for what they were “worth in that regard.” The district court stated that his family members' letters did not justify a downward variance and that the effort **Alegre** put into his treatment would vary the sentence downward “slightly.”

\*4 Third, the district court addressed the need to provide specific deterrence and to protect the community from further crimes of the defendant. The district court stated that it had concerns about recidivism rates for sex offenders as young as **Alegre**, his addiction, and his amassing of a huge collection of extremely disturbing material made it unsure that a non-incarcerative sentence, or even a below-range sentence, would protect the public.

The fourth and fifth factors that the district court considered were the need to provide general deterrence and the need to impose a sentence that provided just punishment and promoted respect for the law. Sixth, the district court considered the need to avoid unwarranted sentencing disparities, noting that “a non-incarcerative sentence especially would create unwarranted sentencing disparities” but that it was “not inclined” to impose a sentence

of imprisonment higher than the sentence the government sought, even though the court found the appropriate sentence in this case was “probably 78 months.”

As to **Alegre's** argument related to the Commission's comments on the current Guidelines, the district court noted that most federal judges continue to adhere to the Guidelines architecture, including the enhancements applied to **Alegre** and that it was not clear if the Commission would ultimately decide the enhancements were inappropriate. And the court explained that the number of images and videos was an excellent predictor of whether **Alegre** would reoffend “when it comes to looking, if not touching,” and that the “kinds of videos ... demonstrate[d] a radical departure from societal norms that, again, [was] a good predictor of future conduct even if not for touching and only for looking.”

The district court then imposed a sentence of 48 months' imprisonment to be followed by 20 years of supervised release, including the computer restriction recommended in the PSI. As to the computer restrictions, the sentence provided that **Alegre** could “not possess or use any computer; except that the defendant may, with the prior approval of the Court, use a computer in connection with authorized employment.” Neither party made any further objections. This appeal ensued.

## II.

We “review all sentences—whether inside, just outside, or significantly outside the Guidelines range—under a deferential abuse-of-discretion standard.” *Gall v. United States*, 552 U.S. 38, 41 (2007). But if a party does not raise a procedural sentencing argument before the district court, we review only for plain error. *United States v. McNair*, 605 F.3d 1152, 1222 (11th Cir. 2010). Under plain error review, we may exercise our discretion to correct an error when the defendant demonstrates: (1) an error occurred; (2) the error was plain, i.e., clear or obvious; and (3) the error affected the defendant's substantial rights. *Rosales-Mireles v. United States*, 138 S. Ct. 1897, 1904–05 (2018). To satisfy the third condition, a defendant ordinarily must “‘show a reasonable probability that, but for the error,’ the outcome of the proceeding would have been different.” *Id.* (quoting *Molina-Martinez v. United States*, 578 U.S. 189, 194 (2016)). If those three conditions are met, we will correct the error if it “seriously affects the fairness, integrity or public reputation of judicial proceedings.” *Id.* at 1905.

In reviewing the reasonableness of a sentence, we first consider whether the district court committed a procedural error, such as failing to consider the § 3553(a) factors, selecting a sentence based on clearly erroneous facts, or failing to adequately explain the sentence. *Gall*, 552 U.S. at 51. The district court must “make an individualized assessment based on the facts presented.” *Id.* at 50. It may base its factual findings on, among other things, facts admitted in the defendant's guilty plea, undisputed statements in the presentence investigation report, or evidence presented at the sentencing hearing. Fed. R. Crim. P. 32(i)(3)(A); see *United States v. Martinez*, 584 F.3d 1022, 1027 (11th Cir. 2009).

\*5 If the sentence is of the kind and within the range recommended by the Guidelines, and that range exceeds 24 months, the district court must state in open court the reasons for imposing that sentence at a particular point within the range. 18 U.S.C. § 3553(c)(1). When a defendant fails to properly object to a district court's failure to comply with 18 U.S.C. § 3553(c)(1), we still review that challenge *de novo*. *United States v. Bonilla*, 463 F.3d 1176, 1181 (11th Cir. 2006).

Pursuant to § 3553(a), the district court must impose a sentence that is “sufficient, but not greater than necessary” to reflect the seriousness of the offense, promote respect for the law, provide just punishment, afford adequate deterrence, protect the public, and provide the defendant with any needed correctional treatment or training. 18 U.S.C. § 3553(a) (2). The district court must also consider the nature and circumstances of the offense, the history and characteristics of the defendant, the kinds of sentences available, the kinds of sentence and sentencing range established by the applicable Sentencing Guidelines provision, any pertinent policy statement issued by the Sentencing Commission, and the need to avoid sentencing disparities between similarly situated defendants. *Id.* § 3553(a)(1), (3)–(7).

The district court also must “set forth enough to satisfy the appellate court that [it] has considered the parties' arguments and has a reasoned basis for exercising [its] own legal decisionmaking authority.” *Rita v. United States*, 551 U.S. 338, 356 (2007). However, it need not state on the record that it has explicitly considered each of the § 3553(a) factors or to discuss each factor. *United States v. Kuhlman*, 711 F.3d 1321, 1326 (11th Cir. 2013). Instead, an acknowledgment by the district court that it considered the § 3553(a) factors is



sufficient. *United States v. Turner*, 474 F.3d 1265, 1281 (11th Cir. 2007).

A defendant's argument that he should be granted a downward variance based on a challenge to the Guidelines themselves is a “non-starter.” *United States v. Carpenter*, 803 F.3d 1224, 1235 (11th Cir. 2015). Although Sentencing Commission reports have concluded that the current Sentencing Guidelines for possession of child pornography warrant revision, they do not “render the non-production child pornography guidelines in § 2G2.2 invalid or illegitimate.” *United States v. Cubero*, 754 F.3d 888, 898, 900 (11th Cir. 2014). Those reports also do “not alter the district court's duties to calculate the advisory guidelines range” nor “require the district court to vary from the ... guidelines range.” *Id.* at 900.

Here, **Alegre** has failed to show that his sentence is procedurally unreasonable. Because **Alegre** did not object to the sentencing procedure below, we review for plain error. *See McNair*, 605 F.3d at 1222. And the district court did not plainly err in considering the § 3553(a) factors because it conducted an individualized assessment and walked through a detailed and exhaustive explanation of each factor. Nor do we find any error in the district court's consideration of **Alegre's** lack of criminal history or of sentencing disparities.

Additionally, **Alegre** has not shown plain error in the district court's fact-finding, as the findings of fact he challenges on appeal are supported by the record. Further, the district court's thorough discussion of the § 3553(a) factors was more than sufficient to explain the term of supervised release. Accordingly, we affirm as to this issue.

### III.

\*6 We review the substantive reasonableness of a sentence under a deferential abuse of discretion standard. *Gall*, 552 U.S. at 51. The district court abuses its discretion if it “(1) fails to afford consideration to relevant factors that were due significant weight; (2) gives significant weight to an improper or irrelevant factor; or (3) commits a clear error of judgment in considering the proper factors.” *United States v. Irey*, 612 F.3d 1160, 1189 (11th Cir. 2010) (quoting *United States v. Campa*, 459 F.3d 1121, 1174 (11th Cir. 2006) (en banc)). We will vacate a sentence “if, but only if, ‘we are left with the definite and firm conviction that the district court committed a clear error of judgment in weighing the § 3553(a) factors by arriving at a sentence that lies outside the range of reasonable

sentences dictated by the facts of the case.’ ” *Id.* at 1190 (quoting *United States v. Pugh*, 515 F.3d 1179, 1191 (11th Cir. 2008)).

A district court's careful consideration of the § 3553(a) factors is not unreasonable simply because the defendant disagrees with the court's assessment of those factors. *United States v. Valnor*, 451 F.3d 744, 752 (11th Cir. 2006). We do not apply a presumption of reasonableness to sentences within the guideline range, but we ordinarily expect such a sentence to be reasonable. *United States v. Stanley*, 739 F.3d 633, 656 (11th Cir. 2014). A sentence imposed well below the statutory maximum is an indicator of a reasonable sentence. *Id.*

**Alegre** has failed to show that his sentence is substantively unreasonable. Although the district court was not swayed by all of **Alegre's** mitigating arguments, it thoroughly considered them, along with the § 3553(a) factors. Additionally, the court's consideration of **Alegre's** recidivism risk was not improper because it was supported by Dr. Brannon's testimony. Further, the twenty-year term of supervised release was well below the lifetime statutory maximum, especially considering **Alegre's** young age, and thus indicates the term's reasonableness. *See Stanley*, 739 F.3d at 656. We therefore affirm as to this issue.

### IV.

We ordinarily review questions of constitutional law *de novo*. *United States v. Whatley*, 719 F.3d 1206, 1213 (11th Cir. 2013). However, objections or arguments that are not raised at the district court are reviewed for plain error. *United States v. Peters*, 403 F.3d 1263, 1270 (11th Cir. 2005) (reviewing a challenge to the constitutionality of a statute of conviction for plain error). But we will not review an argument, even for plain error, when the party invited the error that he complains of on appeal. *See Carpenter*, 803 F.3d at 1236–37 (holding that invited error precluded review of a defendant's challenge to a lifetime of supervised release because he affirmatively argued in favor of it in the district court proceedings).

“A district court does not commit plain error by imposing a computer restriction as a special condition of supervised release, even if the term of supervised release is life.” *United States v. Bobal*, 981 F.3d 971, 976 (11th Cir. 2020) (concluding that the condition of supervised release that prohibited the defendant from using a computer except for



work and with prior permission of the district court was not plainly unconstitutional), *cert. denied*, 141 S. Ct. 2742 (2021).

**V.**

Here, **Alegre** invited the district court's ruling when he affirmatively requested and argued for his computer restriction in requesting a sentence of non-imprisonment. But even reviewing for plain error, his claim fails, as it is precluded by our decision in *Bobal*. Accordingly, we affirm as to this issue.

For all these reasons, we affirm the district court's sentence.

**AFFIRMED.**

**All Citations**

Not Reported in Fed. Rptr., 2022 WL 18005680

### Footnotes

- 1 Although the PSI did not mention bestiality or infants, **Alegre** did not object to this characterization during sentencing nor on appeal.

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**A-2**

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF FLORIDA  
3 (FT. LAUDERDALE)  
4 CASE NO. 21-CR-60041  
5  
6 THE UNITED STATES OF AMERICA,  
7 Plaintiff,  
8 vs.  
9 Ft. Lauderdale, Florida  
10 January 13, 2022  
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12 RENZO WILLIAM ALEGRE,  
13 Defendant.  
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15 -----  
16 Sentencing Hearing  
17 BEFORE THE HONORABLE ROY K. ALTMAN  
18 UNITED STATES DISTRICT JUDGE  
19  
20 APPEARANCES:  
21 FOR THE PLAINTIFF: U.S. ATTORNEY'S OFFICE, by:  
22 Brooke Latta, Esq.  
23 99 NE 4th Street  
24 Miami, Florida 33132  
25  
26 FOR THE DEFENDANT: FEDERAL PUBLIC DEFENDER'S OFFICE, by:  
27 Daryl E. Wilcox, Esq.  
28 One East Broward Blvd., Suite 1100  
29 Ft. Lauderdale, Florida 33301  
30  
31 FOR U.S. PROBATION: Ms. Shannon Culberson  
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**THURSDAY AFTERNOON SESSION, JANUARY 13, 2022**

P-R-O-C-E-E-D-I-N-G-S

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(Call to the Order of the Court.)

THE COURT: Good afternoon. Please be seated.

THE COURTROOM DEPUTY: Calling case 21, criminal, 60041, United States of America versus Renzo William Alegre. Please state your appearances for the record.

MS. LATTA: Good afternoon, Your Honor. Brooke Latta on behalf of the United States.

THE COURT: Good afternoon.

MR. WILCOX: Good afternoon, Your Honor. Daryl Wilcox, Assistant Federal Public Defender on behalf of the defendant in this case, Renzo Alegre. He's present in court seated next to me at the defense table. In the gallery are several of his family members, including his parents and grandmother.

THE COURT: Good afternoon, Mr. Wilcox. Good afternoon, Mr. Alegre, and I want to welcome Mr. Alegre's family to the courtroom today. Is it on both sides? Do they not speak English, Mr. Wilcox?

MR. WILCOX: His mother and father do not speak English.

MS. LATTA: I'm hearing, Judge, they're saying I believe they're all family.

THE COURT: They're all family. Who's here from Probation?

MS. CULBERSON: Good afternoon, Your Honor. Shannon Culberson on behalf of Probation.

THE COURT: Good afternoon. You see I came up to Ft. Lauderdale just to see you in person.

MS. CULBERSON: Very happy to be here today.

THE COURT: We've got the echo problem, T.

THE COURTROOM DEPUTY: We lowered some of the volume earlier.

THE COURT: We had this issue in the morning. I apologize. It only happens with the Zoom, so it may make sense, Mr. Wilcox, to have Dr. Brannon testify at the beginning of the hearing.

So, what I was suggesting is that we could have Dr. Brannon testify first. That way, we can get this annoying part out of the way with the echo. Not that Dr. Brannon's testimony is annoying. We are talking with the echo while the Zoom is on is annoying. Then we can close out the Zoom and do the rest of the hearing hopefully without the echo.

Any objections to that, Ms. Latta?

MS. LATTA: Not at all, Judge.

THE COURT: Mr. Wilcox?

MR. WILCOX: No, I'm amenable to that.

THE COURT: Let's have Dr. Brannon testify then.

1 THE COURTROOM DEPUTY: Let me let him in.  
2 Dr. Brannon, hello. You're on mute.  
3 THE WITNESS: Hello, Your Honor. Sorry about that.  
4 Good afternoon.  
5 THE COURT: Not at all. How are you, sir? Good  
6 afternoon.  
7 THE WITNESS: Good, Your Honor. Thank you for  
8 letting me testify by Zoom today. I appreciate that.  
9 THE COURT: Not at all. I do like to see you in  
10 person though.  
11 THE WITNESS: I do like to be there in person, Your  
12 Honor.  
13 THE COURT: I don't know if you can hear, but there's  
14 an echo in the courtroom. Are you hearing that?  
15 THE WITNESS: I'm not hearing an echo, Your Honor.  
16 I'm hearing you very clearly.  
17 THE COURT: Okay. That's good. So, because the echo  
18 is here though in the courtroom, we're going to have Mr. Wilcox  
19 examine you now at the beginning of the hearing, and then we'll  
20 proceed with the hearing without you on Zoom so we can  
21 eliminate the echo because in my hearings this morning, the  
22 echo was only there while we were on Zoom.  
23 THE WITNESS: Okay. No problem at all.  
24 THE COURT: Go ahead, Mr. Wilcox.  
25 MR. WILCOX: Thank you, Your Honor. May I remain

1 seated?  
2 THE COURT: You may. Before we do, ToniAnn, let's  
3 swear in the witness.  
4 THE COURTROOM DEPUTY: Sure.  
5 THE WITNESS: I'm not hearing that.  
6 (Thereupon, the Witness was sworn.)  
7 THE WITNESS: I do.  
8 THE COURTROOM DEPUTY: Thank you. Please state your  
9 full name for the record.  
10 THE COURT: Dr. Brannon, tell us your full name,  
11 please.  
12 THE WITNESS: Michael Brannon, B-R-A-N-N-O-N.  
13 THE COURT: Go ahead, Mr. Wilcox.  
14 MR. WILCOX: Thank you, Your Honor.  
15 - - - -  
16 **DIRECT EXAMINATION OF MICHAEL BRANNON, PH.D.**  
17 **BY MR. WILCOX:**  
18 Q. Good afternoon, Dr. Brannon. How are you?  
19 A. Very good. Thank you, Mr. Wilcox.  
20 Q. Doctor Brannon, how are you employed?  
21 A. I'm a psychologist. I'm licensed in the state of Florida  
22 since 1990.  
23 Q. And do you have any specialization?  
24 A. Yes, sir. I specialize in clinical and forensic  
25 psychology.

1 Q. How long have you been a licensed psychologist?

2 A. So, I've been licensed as a psychologist since 1990. I've

3 been in the field of mental health since 1977.

4 Q. Okay. So, you've been a licensed psychologist for

5 approximately 31 years?

6 A. Yes, sir.

7 Q. Okay. How long have you been a co-director of the

8 Institute for the Behavioral Sciences and the Law?

9 A. Myself and my partner, Dr. Sherry Burke-Carter have been

10 at the Institute for Behavioral Sciences and the Law for about

11 20 years.

12 Q. You're kind of fading out. You may need to get closer

13 to your microphone. Can you tell us about your --

14 A. We've had the Institute for Behavioral Sciences and the

15 Law for about 23 years.

16 Q. Can you tell us about your educational background?

17 A. Sure. I have a bachelors degree in psychology in 1978

18 from Nova University. I have a masters degree in psychology

19 also from Nova University, 1980.

20 In 1988, I finished my degree requirements for a degree in

21 clinical psychology from Nova Southeastern University, and then

22 I did a one year residency at Northwest State Mental Health

23 Center working with people with severe mental health problems,

24 disturbances and then passed my licensing exam in 1990.

25 MR. WILCOX: And is the court reporter having any

1 problem hearing Dr. Brannon?

2 THE COURT: Are you, Mr. Wilcox?

3 MR. WILCOX: Just a little. I mean he's kind of

4 faint.

5 THE COURT: Just give us a second. Try it now,

6 Mr. Wilcox.

7 **BY MR. WILCOX:**

8 Q. Do you have any teaching experience in forensic

9 psychology?

10 A. Yes, I do.

11 Q. And what is that experience?

12 A. So, my experience is that I taught forensic psychology at

13 Nova Southeastern University for five years, a variety of

14 different forensic psychology courses. And I'm currently on

15 the forensic psychiatry staff for Florida Atlantic University

16 as an adjunct professor.

17 Q. Do you ever give any seminars or webinars for forensic

18 psychology and to what type of audiences?

19 A. Yes, sir. I frequently lecture in the areas of forensic

20 psychology to a variety of audiences, usually legal audiences,

21 but I've also spoken on numerous occasions to forensic

22 psychology -- other forensic psychologists on various issues of

23 psychology.

24 Q. And have you ever spoken at state judicial conferences on

25 issues of forensic psychology?

1 A. Yes, sir, I have. I've spoken there on six different  
 2 occasions.  
 3 Q. What exactly is forensic psychology?  
 4 A. It's how the science of psychology answers questions or  
 5 responds to questions of the law. Things like competency  
 6 evaluations to proceed, or competency waived Miranda, risk  
 7 assessments, sanity, dangerousness.  
 8 So, it's how psychology adds its weight, if you will, in  
 9 terms of an empirical science to those questions to formulate  
 10 opinions.  
 11 Q. And do you stay up to date with the -- with your knowledge  
 12 in forensic psychology by attending relevant continuing  
 13 education workshops each year?  
 14 A. Yes, sir, I do. As psychologists, we're required to take  
 15 40 continuing education credits every two years. I usually  
 16 take about double of that almost exclusively in the area of  
 17 forensic psychology.  
 18 For instance, I'm attending in March the Florida  
 19 Association on the Treatment of Sexual Abusers, I'm attending  
 20 that conference but also speaking at that same conference.  
 21 Q. Now, today, you're testifying for the defense. But have  
 22 you ever been hired by the Government or the prosecution on  
 23 forensic psychology matters?  
 24 A. I have, numerous times, for both the Government as well as  
 25 the state.

1 Q. Have you ever been qualified as an expert in forensic  
 2 psychology?  
 3 A. Yes, sir, I have.  
 4 Q. Approximately how many times?  
 5 A. So, I haven't counted an exact number, but I do know it's  
 6 over 1,500 times, probably closer to 2,000 times at this point  
 7 in both state and federal court.  
 8 Q. Have you conducted psychological examinations for  
 9 individuals accused of possessing child pornography offenses?  
 10 A. Yes, sir, I have.  
 11 Q. And in the instances where you have conducted  
 12 psychological examinations of individuals accused of possession  
 13 of child pornography offenses, what are you attempting to  
 14 discern?  
 15 A. We're trying to apply empirical principles that are based  
 16 usually on actuarial scales, the factors that are most highly  
 17 associated with potential reoffending behaviors and applying  
 18 that to the individual who we're evaluating to provide some  
 19 risk range or categories in terms of comparison of an  
 20 individual's likelihood to reoffend.  
 21 Q. And how many times have you testified in court as an  
 22 expert in forensic psychology cases involving an individual  
 23 accused of possession of child pornography?  
 24 A. So, it's one of the most -- outside of competency to  
 25 proceed, it's one of the most frequently requested evaluations.



1 I've testified approximately over 200 times in terms of child  
2 pornography and sex offender matters.

3 MR. WILCOX: I tender Dr. Brannon as an expert  
4 witness in forensic psychology.

5 THE COURT: Any objection?

6 MS. LATTA: Not at all, Judge.

7 THE COURT: He'll be so qualified. Dr. Brannon, I've  
8 probably qualified you 1,500 out of those 2,000 times. Nice  
9 to see you, sir.

10 THE WITNESS: It could be, Your Honor.

11 THE COURT: Go ahead, Mr. Wilcox.

12 **BY MR. WILCOX:**

13 Q. Dr. Brannon -- sorry. Dr. Brannon, did you conduct a  
14 forensic examination of the defendant in this case, Renzo  
15 Alegre?

16 A. Yes, I did.

17 Q. And what prompted you to conduct that examination?

18 A. He had a private attorney at that time named Jason Kreiss.  
19 Mr. Kreiss asked me to conduct a sex offender evaluation and  
20 give any type of risk reduction suggestions I might have.

21 Q. And when did that examination take place?

22 A. So, it occurred on January the 20th of 2021.

23 Q. And how was that examination conducted? What methods did  
24 you use?

25 A. Mr. Wilcox, I lost the last half of your question.

1 Q. Yeah, I was asking how did you conduct that examination  
2 and could you tell the Court what methods did you use.

3 A. So, I conducted that evaluation. He was at his attorney's  
4 office. I conducted that over Zoom, and I utilized a number of  
5 different sources in that evaluation.

6 I did a number of different psychological tests. I'm  
7 assuming the Court has a copy of my report, but under sources  
8 of information on the first page of my report, I list those  
9 multiple tests that I used. The Minnesota Multiphasic  
10 Personality Inventory, Second Edition, the Beck Depression  
11 Inventory, The Beck Anxiety Inventory, The Substance Abuse  
12 Subtle Screening Inventory, the Beck Hopelessness Scale and The  
13 Reliable Digit Span.

14 I also did a clinical interview, mental status  
15 examination. I did -- applied an instrument, an actuarial  
16 instrument, called the Child Pornography Offender Risk Tool, or  
17 the C-PORT, and then I later did other things, reviewed other  
18 documents and spoke to other sources of information.

19 Q. Is it important to use multiple sources of information in  
20 a forensic psychology evaluation?

21 A. Yes, sir, it is.

22 Q. And could you explain the purposes of each of those tests?

23 A. So, the tests essentially -- I can summarize. I can go  
24 more in depth if the Court would like me to, but in terms of  
25 the psychological tests, there were no indications of mental

1 health or standard mental health issues or problems.  
 2 Depression, anxiety, schizophrenia, bipolar disorder, anger  
 3 aggression problems, substance abuse issues. There were no  
 4 indications of standard mental health problems that would  
 5 generally be seen or evaluated by those type of tests that are  
 6 generally accepted tests by forensic psychologists.  
 7 So, again, no indications of specific mental health,  
 8 emotional, behavioral problems as indicated by the majority of  
 9 the testing that I use.  
 10 Q. Did -- did you assess for possible deception by the  
 11 defendant in the form of malingering or poor effort?  
 12 A. Yes, sir. As part of any forensic evaluation, it's  
 13 important to do multiple sources or multiple -- use multiple  
 14 sources to assess for malingering or poor effort.  
 15 In this particular case, the Minnesota -- I'll use the  
 16 MMPI-2 has a number of different scales on it to assess for  
 17 validity, underreporting, overreporting, random responding.  
 18 There were no indications of any type of malingering of  
 19 symptoms on that particular test. Also did another test called  
 20 the Reliable Digit Span which is an assessment for effort, how  
 21 much effort is a person putting in. Are they trying to appear  
 22 less cognitively intact than they are? And there were no  
 23 indications of poor effort. Based on the measures I used to  
 24 assess for effort and malingering, there was no indications of  
 25 any purposeful response distortion by Mr. Alegre.

1 Q. Now, you referenced a test, the Child Pornography Offender  
 2 Risk Tool, and you called that the C-PORT test? What exactly  
 3 is that?  
 4 A. So, the C-PORT is what's called an actuarial measure.  
 5 It's not a test. In other words, it's not something that you  
 6 give someone to fill out or ask them questions on.  
 7 It's really based on historical factors and factors  
 8 relevant to the offense behavior. And it's out of hundreds of  
 9 items used as standardization samples that were assessed  
 10 through empirical research, numerous empirical research by the  
 11 authors of this test and others who later peer-reviewed it.  
 12 The authors on this test being Michael Seto and Angela Eke,  
 13 they were able to derive the factors that had the highest  
 14 relevance or weight on reoffending for people who had been  
 15 charged with child pornography offenses.  
 16 That's the seven items that are listed on the CPORT are  
 17 those that had the greatest weight, great variance in terms of  
 18 predictability about who would reoffend and who would not.  
 19 So, it's an actuarial measure done much the same as the  
 20 weather is forecasted or insurance rates are formulated in  
 21 terms of what risk potential is, and those are the seven items  
 22 that are again found to be most heavily weighted with future  
 23 risk and developed into an instrument called the C-PORT.  
 24 Q. So, had the C-PORT been peer-reviewed for validity or  
 25 reliability or --

1 A. It has, yes, sir. I think I cut you off because I didn't  
2 hear you, Mr. Wilcox, so I apologize.

3 Q. Yeah, you answered the first part of the question. The  
4 next part was is this tool widely used among forensic  
5 psychologists who conduct sex offender risk assessments?

6 A. So, it's a generally accepted tool that's been  
7 peer-reviewed. There's error rates associated, although it's  
8 not a prediction instrument. We're just classifying  
9 individuals in terms of comparison to standardization groups,  
10 but it's been peer-reviewed many times now.

11 The first one was in 2019, but there's been several  
12 studies since that time on the C-PORT. It also is an  
13 instrument that has a manual, a scoring manual with specific  
14 guidelines how to go about utilizing that instrument. So, it's  
15 effective in terms of classifying individuals into risk ranges.  
16 High, low and medium risk ranges.

17 Q. And what were Mr. Alegre's C-PORT results?

18 A. The highest score you can get on the C-PORT, this  
19 actuarial scale, is a seven. He scored a two. So, he  
20 scored -- you can't score any more than one point on each item,  
21 so he scored two meaning he showed two risk factors in regard  
22 to reoffending. So, he scores a two out of a possible seven.  
23 The lowest score you could get would be a zero. The highest  
24 would be a seven.

25 Q. What were those two factors?

1 A. So his age, we know that people under the age of 35,  
2 different measures have different cutoffs but the C-PORT used  
3 35. They tried out of a variety of different cutoffs, 35 was  
4 the best indicator.

5 So, individuals under the age of 35 tend to reoffend in  
6 terms of child pornography offenses at a much higher rate than  
7 those over 35 so he scored one point for that.

8 And he scored one point for pedophilic or hebephilic  
9 interest. That really has to do with the content of his porn  
10 but also his comments about the content of the porn in terms of  
11 his arousal or excitement by that material. So that would  
12 classify him based upon the scoring rules as getting one point  
13 for pedophilic or hebephilic interest. Pedophilic is teenagers  
14 or postpubescent children. Hebephilic being prepubescent, of  
15 course.

16 Q. Now, did you assess the risk of reoffending or were you  
17 able to quantify that in any way?

18 A. So, the comparison group that he would be most similar to  
19 in terms of looking at C-PORT scores is he'd be in a lower risk  
20 range.

21 So, the high-risk range, of course, being seven, you can  
22 just look at that instrument, four or five would be around the  
23 moderate range. He's really in a lower range. We can actually  
24 put a number on it.

25 We know that individuals who also score a two who are in

1 the standardization example, we know what their reoffense rates  
2 are overall. And if you look in the final paragraph of my  
3 report, the conclusions, I list some of those offense rates.

4 So, he scores at a rate of about ten percent. Individuals  
5 who score a two reoffend with any kind of sexual reoffense at  
6 about a ten percent rate.

7 So, again, I'm not making a prediction. What we're saying  
8 is that individuals who score a two, the thousands of people  
9 who went through the standardization sample reoffended about  
10 ten percent of the time with any type of sexual offense, either  
11 child porn or a touch offense.

12 Q. Dr. Brannon, in your report, you state that the Court may  
13 wish to consider adolescent young adult brain development.  
14 Would you please elaborate on that part of your report?

15 A. Yes. We certainly know that in the state courts, a lot of  
16 attention has been given on resentencing to the research that's  
17 been out really in the last 15 years on the juvenile brain.

18 We know that individuals under the age of 24 where there's  
19 no hard and fast cut, it could be 25, it could be 23, but we  
20 know that the brain develops from the back to the front. The  
21 last area to develop of the brain is the prefrontal cortex.  
22 That's the area that really regulates things like impulse  
23 control and judgment and reasoning and anticipation of future  
24 consequences.

25 So, although we know that people under the age of 24, 25,

1 can still do those things, they're just not as good at doing  
2 those things as people who have a fully formed brain. So, we  
3 know that brain formation, again, isn't complete for most  
4 individuals at 24 and 25, so they're less skilled and less able  
5 to do those things than someone over the age of 24 and 25.

6 Q. Lastly, in your report, you say that Mr. Alegre has  
7 symptoms or characteristics that would suggest he may be on the  
8 autism spectrum. Could you elaborate on that part of your  
9 report?

10 A. Yes, sir. So, there were numerous indications that he  
11 falls within that diagnostic frame work of autism spectrum high  
12 functioning. I spoke to his therapist, Vanessa Fernandez from  
13 the REACH Program, who's seen him multiple times, many more  
14 times than I did.

15 And I also spoke to his mother and I spoke -- in doing  
16 that, I was trying to ascertain if they were seeing the same  
17 kinds of things that I did. And, indeed, he has many of the  
18 features of individuals who have that diagnosis.

19 He has social impairments and difficulties. He's never  
20 lived outside of his home, never been involved in a  
21 relationship or dated, has few friends, few social contacts,  
22 spends a lot of time in isolation; seems to misunderstand  
23 social cues, has some routines that he's involved in, has  
24 communication deficits, has been through and continues to go  
25 through speech therapy.

1 So, all of the things that are diagnostically listed in  
 2 the Diagnostic and Statistical Manual Fifth Edition for Autism  
 3 Spectrum Disorder are part of his symptom package.

4 I know he hasn't had a comprehensive evaluation for that  
 5 diagnostic entity, but he certainly meets all of the criteria  
 6 for Autism Spectrum Disorder.

7 Q. Do individuals diagnosed with Autism Spectrum Disorder  
 8 have more trouble adjusting to prison?

9 A. Yes, sir, they do.

10 Q. Now, could you explain or could you elaborate?

11 A. Sure. They have more trouble recognizing social cues so  
 12 especially those for potential danger. So they have problems  
 13 reading the nuances in social situations or things they may be  
 14 doing to put themselves in danger.

15 So, as a result, they have a higher rate of violence  
 16 towards them, a higher rate of bullying and abuse towards them,  
 17 higher rates of depression, too, because of changes and  
 18 alterations in their usual behavior and they also have a higher  
 19 rate of suicide when they're incarcerated.

20 So, we know individuals who have Autism Spectrum Disorder  
 21 just have more problems adapting. They've set up their world  
 22 in a way in which it's functional for them and not painful or  
 23 distressful. Forced contact with other adults is always more  
 24 difficult for someone who has Autism Spectrum Disorder.

25 So, yes, their adjustment is a lot more difficult in an

1 incarcerated setting, whether that be jail or prison.

2 MR. WILCOX: Thank you, Dr. Brannon. I don't have  
 3 any other questions --

4 THE WITNESS: Thank you.

5 MR. WILCOX: -- for you. And, again, I thank you for  
 6 your testimony and your evaluation.

7 THE COURT: Cross-examination?

8 THE WITNESS: Yes, sir.

9 MS. LATTA: Thank you, Judge.

10 - - - - -

11 **CROSS EXAMINATION OF MICHAEL BRANNON, PH.D.**

12 **BY MS. LATTA:**

13 Q. Dr. Brannon, this is Brooke Latta from the U.S. Attorney's  
 14 Office. How are you?

15 A. Hello, Ms. Latta. How are you?

16 Q. It's good to see you.

17 A. Nice to see you.

18 Q. Dr. Brannon, as always, you wrote a very thorough report.

19 I want to follow up a few things if you're okay with that?

20 A. Yes.

21 Q. Fair to say a majority of your interview or rather, the  
 22 majority of what you relied on is a lot of self-reporting by  
 23 the defendant himself in your analysis?

24 A. So, no, really the opposite. I spoke to his mother, I  
 25 spoke to his therapist. I had assessments that were done in

1 terms of speech and language assessments and school records on  
 2 him so I really had quite a bit of other information besides  
 3 his self-report, and the primary part of the evaluation, the  
 4 C-PORT, is not based upon information he provides at all.  
 5 Q. Well, let me ask you this though. But you spent a bit of  
 6 time speaking with him and interviewing him, right?  
 7 A. Sure. For diagnostic purposes, yes.  
 8 Q. And is it fair to say that in some portions of his  
 9 self-reporting interview, we did see some inconsistencies?  
 10 A. Sure. He certainly wasn't consistent with what his  
 11 collaterals reported on every single way, but for the most  
 12 part, he was.  
 13 Q. And let me give you an example. Obviously, you're  
 14 familiar that many of the videos involved -- well, all of the  
 15 videos involved of prepubescent children and he self-reports to  
 16 you that he's not sexually attracted to prepubescent children.  
 17 Do you recall that?  
 18 A. Yes, I do.  
 19 Q. Okay. And let me ask you this, Doctor. As part of your  
 20 analysis, do you also review the contraband yourself?  
 21 A. No, I do not.  
 22 Q. Are you familiar with the extent of the content in the  
 23 videos? And what I mean by that is this: Are you familiar  
 24 that some of the videos contained sadomasochistic behavior?  
 25 A. I am aware of that, and I'm also aware of the volume, the

1 number of videos, as well.  
 2 Q. What about toddlers and infants, as well?  
 3 A. Yes, I'm aware that that's also part of the materials.  
 4 Q. Okay. And does the C-PORT take into account the types of  
 5 videos, aside from a notation about boys versus girls and  
 6 prepubescent children about what -- about the content including  
 7 toddlers or infants? Is that a factor?  
 8 A. So, it was considered as part of one of the factors and  
 9 discarded. The research there is no single research study that  
 10 says that an individual's risk of reoffending is increased by  
 11 the number of videos or images they have, the content or the  
 12 age of those individuals.  
 13 So, there's not even a single research study that says  
 14 that. So, that was considered, all of those areas, matter of  
 15 fact were considered along with gender, age, other factors and  
 16 discarded in regards to them not being heavily weighted for  
 17 reoffending.  
 18 Q. Is it fair to say though that there's -- when we're  
 19 looking at an individual and the extent of them reoffending,  
 20 that there are varying levels of addiction, is that right?  
 21 A. Ms. Latta, what was the last thing you said? Addiction?  
 22 Was that the last word?  
 23 Q. Yes, sir.  
 24 A. Yes, that would be accurate.  
 25 Q. So, for example, there are some folks that have possession

1 of child pornography but may not be addicted to it, is that  
 2 right?  
 3 A. Yes.  
 4 Q. Okay.  
 5 A. Correct.  
 6 Q. And in this particular case, Doctor, you're aware that the  
 7 defendant admitted that he's addicted to child pornography?  
 8 A. Yes, ma'am.  
 9 Q. And you're also aware that he admitted that he does not  
 10 believe he can stop?  
 11 A. Yes.  
 12 Q. Okay. And fair to say that that is different and apart  
 13 than some other individuals that might score the same C-PORT --  
 14 it's essentially the same C-PORT level, correct?  
 15 A. So, yes. It would make him more of a risk for that  
 16 specific type of reoffending, meaning the reoffending of  
 17 looking at child porn again which is why he was in treatment,  
 18 which we know has a modest effect on reducing reoffending.  
 19 So, yes, it would make him a slightly higher risk but  
 20 that's not accounted for in C-PORT because it's not a factor.  
 21 Addiction is -- it's debated quite heavily within my field  
 22 whether addiction even exists to sexual materials.  
 23 MS. LATTA: Judge, I don't have anything further.  
 24 Doctor, thank you for your time.  
 25 THE COURT: Redirect?

1 THE WITNESS: Thank you, Ms. Latta. Thank you, Your  
 2 Honor.  
 3 MR. WILCOX: No.  
 4 THE COURT: Wait, do you have redirect?  
 5 - - - - -  
 6 **REDIRECT EXAMINATION OF MICHAEL BRANNON, PH.D.**  
 7 **BY MR. WILCOX:**  
 8 Q. Dr. Brannon, with respect to an individual that states  
 9 that they're addicted to child pornography, has it been your  
 10 experience that people that have admitted to addiction have  
 11 a -- have upon completing their sentence not reoffended?  
 12 A. It seems when they're candid and forthright in terms of  
 13 his presentation and leaves him a better candidate for  
 14 treatment, certainly.  
 15 So, the fact that he's talking about that being an  
 16 addiction, A, would make it probably less likely that he's  
 17 going to go out and try to do a touch offense which is, of  
 18 course, what we'd be the most concerned about. Not the only  
 19 thing but the thing we'd be most concerned about, but also make  
 20 him a better candidate for treatment. That he's openly  
 21 disclosing the level and depth of his obsession with those  
 22 materials.  
 23 So, that again, would make him a good candidate and he has  
 24 been a good candidate. He's maintained in treatment, been very  
 25 involved according to Ms. Fernandez.

1 Q. Let me ask you a little more bluntly. The fact that he  
 2 admitted to being addicted does not mean that he won't ever be  
 3 able to stop watching child pornography, is that right? I  
 4 mean, what do you say about that?

5 A. It does not. I mean, hopefully, treatment teaches him  
 6 ways of reassessing, you know, his choices in those areas and  
 7 getting better impulse control. So, that's the hope. That's  
 8 what sex offender treatment is supposed to do. So, whatever  
 9 point he gets it, and whatever the Court's determination is,  
 10 that's hopefully the goals of treatment is to teach someone not  
 11 to be addicted, if you want to use that term, or be obsessed  
 12 with child pornography.

13 Q. One other thing. Among the information that you used to  
 14 conduct your examination or evaluation of Mr. Alegre, was a  
 15 polygraph test, is that correct?

16 A. Yes, sir.

17 Q. And in that polygraph test, what role did that play in  
 18 your assessment of Mr. Alegre's condition?

19 A. So, very quickly. So, I belong to an organization called  
 20 The Association for Treatment of Sexual Abusers. It's the  
 21 largest group of people who do sex offender evaluations.  
 22 And part of their By-Laws is they recommend or strongly  
 23 encourage the use of a psychophysiology measure such as a  
 24 polygraph with all examinations.

25 We all know there's an error rate with all testing,

1 psychological, medical or polygraph testing, but it's a level  
 2 of further assurance to make sure there's not contact or touch  
 3 offenses or attempts to touch. If that was there, then we'd be  
 4 scoring him much higher in terms of his C-PORT score.

5 So, it's another way of letting us know exactly what the  
 6 risk factors are, and if they are higher based upon the  
 7 potential for a touch offense.

8 MR. WILCOX: Thank you, Dr. Brannon. I have no  
 9 further questions.

10 THE COURT: Dr. Brannon, I have a couple of questions  
 11 for you, sir.

12 THE WITNESS: Yes, Your Honor.

13 THE COURT: You mentioned during your direct  
 14 testimony -- you see how mine has got the echo? You mentioned  
 15 during your direct testimony, that offenders under the age of  
 16 35, quote, have a much higher recidivism rate than offenders  
 17 over the age of 35. What is the recidivism rate for offenders  
 18 under the age of 35?

19 THE WITNESS: So, it would really vary on the age,  
 20 Your Honor. The research tells us the younger -- I mean, it's  
 21 a curve. It's almost a perfect curve with age, so you get into  
 22 16 and 17 and 18 for all crimes, not just sex offenses, but you  
 23 see much higher rates.

24 The criminological studies tell us the younger you  
 25 are, the more likely you are to reoffend. So, we don't have an



1 exact number for that unless you tell us the age and then the  
2 manual will tell you how many reoffended in the standardization  
3 sample. The younger you are --

4 THE COURT: What is the defendant's age? Is it 20 --

5 MS. LATTA: He was 19 at the time.

6 THE WITNESS: He was 20 when I saw him.

7 THE COURT: He was 19 at the time.

8 MR. WILCOX: He's 21 now.

9 THE COURT: I thought so. So, one of the objections  
10 was the age gap between when he offended and when he was  
11 interviewed for the PSR. The point is he was 19 at the time.  
12 Do you know offhand about where that recidivism rate falls?

13 THE WITNESS: I don't, Your Honor. I would have to  
14 check the manual because you really are referencing the  
15 standardization groups and where that fell, so I would need to  
16 really check the manual to know that. I wouldn't even want to  
17 venture a guess.

18 THE COURT: Let me ask it this way: Is it fair to  
19 say that it is lower or higher than the ten percent figure that  
20 was given in your report?

21 THE WITNESS: It's not broken down that way, Your  
22 Honor. It's incorporated into that figure. So, the fact that  
23 he's a one there would be what was loading into the ten  
24 percent.

25 So, individuals under the age of 35, plus those who

1 have hebephilic or pedophilic interests would be at the ten  
2 percentile. It wouldn't change that ten percent.

3 THE COURT: Understood. And that ten percent, by the  
4 way, is that as a result of there being two found or positive  
5 factors out of the seven irrespective of which two those  
6 factors are, or is that because of these two particular  
7 factors, age and pedophilic interest?

8 THE WITNESS: No, Your Honor, it's just the number.  
9 So, it wouldn't have mattered which two he scored on. It would  
10 have been the same risk range, all the way up to seven. So,  
11 no, it's the number of factors, not the specific factors.  
12 They're not unevenly distributed in terms of weight.

13 THE COURT: Understood. So, if it had been some  
14 other two factors but not under 35, for example, it would still  
15 have fallen into a ten percent range?

16 THE WITNESS: Yes, Your Honor, meaning, again, that  
17 in the standardization sample, ten percent of those individuals  
18 with a two reoffend. It's all collapsed into one database.  
19 So, those people with a two reoffended at a rate of ten with  
20 some type of sexual offense in five years.

21 THE COURT: Understood. And these rates obviously  
22 are based on people who are caught, right?

23 THE WITNESS: Yes, Your Honor. That's correct. So  
24 we don't have a reason to believe they're different than the  
25 population that's not. And all criminological figures are, of

1 course, based on -- rearrest rates are based upon reoffending  
 2 because we don't know. We assume there's a lot of people who  
 3 we don't get that reoffend. We don't get the entire  
 4 population, but there's no research that suggests that they're  
 5 different from the population that's not caught.

6 THE COURT: That's interesting. I thought there was  
 7 because it's categorically different than most other offenses.

8 Isn't it because, for example, let's say you're a  
 9 robber or a rapist or a murder, or a fraudster. Those are four  
 10 other examples that I just came up with.

11 In each of those instances, there would be another  
 12 person on the other side who could and presumably would in most  
 13 cases, bring the reoffense to the attention of law enforcement.

14 So, while you're right, that a robber might get away  
 15 with it one time or two times, most robbers will ultimately get  
 16 caught because there's an incentive, a very powerful incentive  
 17 on the part of the person who's being targeted, be it a rape, a  
 18 robbery, a Ponzi scheme, a fraud of some kind and, of course,  
 19 the estate of a dead murdered victim, to bring the issue  
 20 immediately to the attention of law enforcement.

21 That just categorically isn't true of child  
 22 pornography offenses because as you pointed out, we have a  
 23 person whose offense is committed in the basement of his  
 24 parents' home on his own computer with very little supervision.  
 25 And obviously, while there's an amorphous victim, and I don't

1 mean to minimize the victimization --

2 THE WITNESS: Yes, Your Honor.

3 THE COURT: -- of children. I only mean to say those  
 4 children aren't incentivized to bring Renzo Alegre's reoffense  
 5 to the attention of law enforcement, because they don't know  
 6 about it. By the time they're being displayed on those videos,  
 7 they might be adults by now for all we know.

8 So, it's categorically different than these other  
 9 crimes in terms of how likely we are to discover the reoffense,  
 10 isn't that true?

11 THE WITNESS: In that way, it is. Yes, Your Honor.  
 12 You're really relying upon law enforcement's ability to be able  
 13 to detect that electronically.

14 THE COURT: I wanted to ask you questions about the  
 15 autism. Are you saying that he has autism or that he displays  
 16 some of the criteria of autism?

17 THE WITNESS: So, Your Honor, I didn't use specific  
 18 tools that I could have utilized because that's not what I was  
 19 looking for. I was looking for risk assessment to assess that  
 20 and that's why I put in the last part of my report that a more  
 21 comprehensive evaluation of that should be done.

22 However, based on the information that I have,  
 23 comparing that to the DSM-5 criteria and speaking to his mother  
 24 and his therapist, I would be willing to say that's his  
 25 diagnosis, but I still would want more confirmatory exploration

1 of that using different tools.

2 THE COURT: Fair enough. What is the relevancy -- I  
3 heard Mr. Wilcox at the end tie it into danger in the  
4 incarceration setting which makes sense to me.

5 Is there any other relevance of his being autistic in  
6 terms of culpability for the offense to your mind or really  
7 it's just limited to the point that Mr. Wilcox made?

8 THE WITNESS: Just the points that Mr. Wilcox made.  
9 No other points beyond that, Your Honor.

10 THE COURT: Understood. And what about on the other  
11 side of the ledger? Would you think that someone who was  
12 autistic would be more likely to recidivate than someone who  
13 was not?

14 THE WITNESS: So, without treatment interventions,  
15 the answer would be yes, Your Honor. So, without some form of  
16 corrective action for them, because that's what they're drawn  
17 to and they have discomfort with adults in this setting -- even  
18 in a video, they have discomfort with adults.

19 So, certainly without intervention, that individual  
20 would have a higher likelihood, and we know they are. We know  
21 that from the research that people with Autism Spectrum are  
22 overrepresented among individuals who have committed sex  
23 pornography offenses that have to do with child pornography.

24 THE COURT: Is that right? I did not know that. Is  
25 that right?

1 THE WITNESS: Yes, sir, yes, there are. There's  
2 actually experts who are specializing in that area alone.  
3 That's how many people are involved in that Autism Spectrum  
4 Disorder in sexual pornography offenses with children.

5 THE COURT: I didn't know that. Thank you for  
6 elucidating that.

7 Speaking of treatment, you said -- and I quote -- that  
8 the treatment of child sex offenders results in a modest effect  
9 in reducing the recidivism rate. What is that -- when you say  
10 modest, what do we mean by that?

11 THE WITNESS: So, as opposed to robust treatment that  
12 we do for things like depression or anxiety which we're  
13 excellent at, we know that there's a higher reoffending or  
14 relapse rate in terms of using treatment language for  
15 individuals with sex offenses.

16 So, we know that we're better than a control group.  
17 Meaning, if you take -- do experiments in which people are  
18 waiting for treatment, sex offender treatment as opposed to  
19 those who get it, those who get it do better in terms of not  
20 reoffending.

21 That's the way that most medical as well as  
22 psychological studies are done. So, we know they do better  
23 than chance, better than a waiting group in terms of not  
24 reoffending, but we do know they don't do as well with others  
25 possibly with other diagnoses like depression, anxiety, bipolar

1 disorder, et cetera.

2 THE COURT: I see. Ms. Latta asked you a couple of  
3 interesting questions that I also had in mind, and I was  
4 somewhat surprised by your answer. And it's really not your  
5 answer, I suppose. It's really the committee of human beings  
6 who decide such things.

7 What seven factors go into the C-PORT analysis and  
8 which ones were left out and like anything else, I suppose that  
9 we couldn't have a 100 factor test, so it made sense to draw a  
10 line somewhere.

11 But it doesn't make sense to me the quantity or age  
12 wouldn't be predictive of future conduct. Maybe Ms. Latta  
13 touched on the subject. I just want to ask you a couple  
14 questions about it.

15 THE WITNESS: Yes, Your Honor.

16 THE COURT: With respect to quantity, if someone has  
17 one video, two videos -- I'm not saying it's right, I'm just  
18 saying isn't there a qualitative distinction between that  
19 person's likelihood of reoffending and a person who downloads  
20 ten videos every day of their life?

21 THE WITNESS: So, it really depends on what type of  
22 reoffending, Your Honor. There's even some research that says  
23 that those individuals who have the most child porn, meaning  
24 thousands and thousands of images which I know the Court has  
25 seen, have less of a likelihood for something like a contact

1 offense because they're basically telling you they're satiated  
2 by the video.

3 If you're talking about a reoffense rate for actual  
4 child pornography itself, it's likely that individuals,  
5 although this hasn't played out routinely in the research, but  
6 it's likely that individuals who have more porn might be more  
7 at risk for reoffending in terms of child porn. But not in  
8 terms of the touch offense which is what most of the research  
9 is designed to evaluate.

10 THE COURT: I see. That does make sense to me. And  
11 then same question as to age. You know, again, one has to be  
12 so careful these days, but I'm not suggesting that looking at  
13 naked pictures of 17-year old girls is appropriate, or 16 or  
14 15.

15 I'm just suggesting that we probably can all agree  
16 that there's a difference between that and an infant who's  
17 being raped by an adult. And I wonder whether, A, you would  
18 agree that there's that difference, and that B, that that  
19 difference is salient in determining whether a person is likely  
20 to commit, let's call them antisocial crimes in the future?  
21 What do you think about that?

22 THE WITNESS: So, the last part of your question is  
23 interesting, Your Honor, in terms of making it more general in  
24 terms of antisocial crimes.

25 So, certainly anyone who reaches to the extremes of

1 behavior like sexual interactions with an infant we can expect  
 2 to have more antisocial type of traits, although there weren't  
 3 any psychological testing here with Mr. Alegre. But certainly  
 4 it's an extreme behavior. The more you have extremes from the  
 5 norm, the more concerned you become.

6 But there is no research that says that the age of the  
 7 victim predicts any type of increase in reoffending with  
 8 contact offenses especially. A diagnosis like pedophilia which  
 9 would be a phobia here, a diagnosis does not determine  
 10 behavior.

11 So, a person may have sexual interest in forbidden  
 12 object, taboo objects, as well they should, it doesn't mean  
 13 they're going to act on that.

14 Now, does it mean it may increase their risk for  
 15 looking at those type of things again without treatment? Yes,  
 16 it likely means that, but not their risk of a contact offense.

17 THE COURT: Understood. So, your answer is in other  
 18 words just to clarify with Ms. Latta on these two issues was  
 19 really limited to contact offenses versus reoffending by  
 20 looking?

21 THE WITNESS: So, the research is really broken down  
 22 in two different ways. Most of it is what the courts are  
 23 concerned about the most. Not that viewing child pornography  
 24 is more concerning as the Court has said, but the contact  
 25 offenses tend to take up most of the research.

1 But in addition, they're really looking at what  
 2 happens without intervention, so without intervention,  
 3 individuals who look at child porn are more likely to look at  
 4 it again.

5 With intervention, sex offender intervention, they're  
 6 less likely to look at child porn again. That's the rates that  
 7 the C-PORT is really based on.

8 THE COURT: Dr. Brannon, as always, I'm grateful to  
 9 you for your testimony and for illuminating an area of the  
 10 world that sometimes I don't understand. I appreciate that.  
 11 Thank you for indulging me.

12 THE WITNESS: Thank you, Your Honor. Thank you for  
 13 allowing me to testify by Zoom.

14 MR. WILCOX: Your Honor, if I may just follow up on  
 15 one --

16 THE COURT: Absolutely. I was going to say if either  
 17 sides wishes to follow up, you may.

18 Mr. Wilcox, you can go first.

19 - - - - -

20 **FURTHER REDIRECT EXAMINATION OF MICHAEL BRANNON, PH.D.**

21 **BY MR. WILCOX:**

22 Q. With respect to the autism now, Dr. Brannon, these are  
 23 just observations that you kind of made. There's no diagnosis  
 24 of him being autistic, is that correct?

25 A. Mr. Wilcox, I can't hear you. I mean --

1 Q. You are unaware of any psychological or psychiatric  
2 diagnosis of Mr. Alegre being on the autism spectrum?  
3 THE WITNESS: Your Honor, I'm sorry?  
4 THE COURT: I think he's just clarifying that you are  
5 unaware of any diagnosis of Mr. Alegre actually as a matter of  
6 fact being on the autism scale? You're just saying you've seen  
7 the factors, you think he should get tested, he probably has  
8 autism in your view but he's never been diagnosed and that's  
9 not as a matter of fact as of today, correct?  
10 THE WITNESS: The Court summarized exactly my  
11 position. Yes, sir.  
12 MR. WILCOX: Thank you, Your Honor.  
13 THE COURT: Ms. Latta, any questions?  
14 MS. LATTA: None, Judge, in addition to what both you  
15 and Mr. Wilcox clarified, as well.  
16 THE COURT: All right. Dr. Brannon, now I will send  
17 you off with the Court's good wishes. Thank you, sir.  
18 THE WITNESS: Thank you again, Your Honor. Stay  
19 safe.  
20 THE COURT: All right. Same to you.  
21 (Thereupon, Dr. Brannon exited the proceedings.)  
22 MR. WILCOX: Your Honor, before we move forward, I  
23 need to ask you something about Mr. --  
24 THE COURT: Can I ask you a question, Mr. Wilcox,  
25 first? Would you mind if I -- now that Dr. Brannon has

1 testified, I "x" out of the Zoom so we don't have the echo  
2 anymore?  
3 MR. WILCOX: Just a minute.  
4 THE COURT: Because you want to call another witness?  
5 MR. WILCOX: The thing is is that I believe that  
6 Mr. Alegre's parents are going to want to speak toward the end  
7 of the hearing and they speak Spanish --  
8 THE COURT: That's okay. I can translate it for the  
9 court reporter.  
10 MR. WILCOX: What I was going to tell you is that I  
11 have an interpreter that's available to sign in via the Zoom  
12 link, if you prefer that.  
13 THE COURT: I'd prefer to do it myself so we don't  
14 have this echo, if you don't mind.  
15 MR. WILCOX: I don't mind, Judge.  
16 THE COURT: There's going to be no way for you to  
17 decide whether I'm just making things up though, Mr. Wilcox.  
18 MR. WILCOX: I trust you, Judge.  
19 THE COURT: I'm going to "x" out.  
20 THE COURTROOM DEPUTY: Should I shut it off?  
21 THE COURT: We can turn it off.  
22 All right. I think that should do it. Let me just  
23 test it. How does this sound? Much better, right? Thank you,  
24 Andre. All right.  
25 Mr. Alegre, good afternoon, sir.

1 THE DEFENDANT: Good afternoon.

2 THE COURT: Pull the microphone close to you, please.

3 THE DEFENDANT: Good afternoon, Your Honor.

4 THE COURT: Good afternoon, sir. I'd like to start

5 this portion of the hearing, Mr. Alegre, by telling you about

6 the documents that I have reviewed in order to prepare myself

7 for today's hearing and then I'm going to ask you whether

8 you've had a chance to review each of those documents together

9 with your attorney. Okay?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: All right. First of all, I've reviewed

12 the indictment, that's the written charge the United States has

13 brought against you in this case. I've also reviewed the

14 factual proffer that was submitted at the time that you changed

15 your plea from not guilty to guilty, if you'll recall.

16 I've also reviewed the presentence investigation

17 report that was prepared by your probation officer together

18 with the addenda to that report. I've reviewed your lawyer's

19 motion for a downward variance, for a downward sentence under

20 Booker and under the 3553(a) factors.

21 I've reviewed the report submitted by Dr. Brannon to

22 the Court. We heard from Dr. Brannon today. I've reviewed

23 your lawyer's objections to the probation officer's presentence

24 report.

25 I've reviewed the Government's objections to the

1 presentence report -- or excuse me, the Government's response

2 to the objections that your lawyer filed and to the motion for

3 a downward variance. The easy part there is that the

4 Government agrees with the central objections that your lawyer

5 has made.

6 I've also reviewed a number of notices that are filed

7 to the Court since the PSI -- first PSI came out. The first is

8 a notice of filing additional exhibit and that actually is

9 docket entry 51 and it contains a report from Slattery,

10 S-L-A-T-T-E-R-Y, Associates, and it's a polygraph report that

11 was conducted and we just heard a little bit about that.

12 The next one is a second notice of filing additional

13 exhibit, and this one actually is a letter from Vanessa

14 Fernandez at the Clinical and Forensic Institute at REACH, who

15 updates me about your progress at REACH which as I understand

16 it, has been good.

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: The next one is at ECF number 54, and

19 that includes several letters from friends and family members

20 about your character. And then the last one is what's called

21 third notice of filing letters which is at document 56 which

22 includes four letters from Ivan and Maria Casillas, from Paola

23 Rojas, from Jose Casillas and from Catalina Casillas.

24 Let me ask you, sir, have you had a chance to review

25 each of these documents together with your lawyer prior to

1 today's hearing?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: As you'll recall from the day that you

4 changed your plea, it's my job at the beginning of today's

5 hearing to properly compute your advisory guideline range and

6 I will do that now.

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: If you take a look at paragraph 18 of the

9 presentence investigation report, it says that the base offense

10 level for the crime to which you pled guilty is an 18.

11 Paragraph 19 says that because the offense involved

12 prepubescent minors, we add two points. Paragraph 20 says that

13 because the offense involved distribution of child pornography,

14 we add two points, although your lawyer has objected to that

15 two point enhancement. The Government has agreed to that

16 objection, and I will go along with the parties' joint

17 recommendation and sustain your lawyer's objection so I will

18 take those two points off.

19 Paragraph 21 says that because the material involved

20 is sadomasochistic exploitation of an infant or toddler, we add

21 four points.

22 Paragraph 22 says that because the offense involved a

23 computer or other interactive device, we add two points.

24 Paragraph 23 says that because the offense involved more than

25 600 images, we add five points.

1 Paragraph 29 and 30 say that because you've timely

2 accepted responsibility for your crimes, we take off three

3 points which yields in paragraph 31 a total offense level of

4 28.

5 Paragraph 34 says that you fall into criminal history

6 category of I, and paragraph 63 says that given a total offense

7 level of 28 and criminal history of I, your advisory guideline

8 range is 78 to 97 months.

9 Did I properly compute the advisory guideline range,

10 Ms. Latta?

11 MS. LATTA: You did, Judge.

12 THE COURT: Did I properly compute the advisory

13 guideline range, Mr. Wilcox?

14 MR. WILCOX: Yes, Your Honor.

15 THE COURT: All right. Any objections to the

16 guideline range as I've computed it, Ms. Latta?

17 MS. LATTA: No, sir.

18 THE COURT: Mr. Wilcox?

19 MR. WILCOX: No, Your Honor.

20 THE COURT: What's the Government's position on the

21 appropriate sentence in the case?

22 MS. LATTA: Well, Judge, so, I'm going to preface

23 this by saying that I don't normally agree to a downward

24 variance on a case such as this. And to be very candid, I've

25 had a lot of trouble finding the best sentence that I think is



1 appropriate.

2 What I can tell the Court, and I relayed there in my  
3 responses, the Government would be recommending a 48 month  
4 sentence. That's a large deviation from the guidelines and it  
5 would be conceding a downward variance to some extent.

6 What I can tell the Court, and again this is also  
7 mentioned in my response, I think a sentence that involves  
8 probation and treatment, I do believe is wholly, wholly  
9 insufficient.

10 THE COURT: How did you come up with 48?

11 MS. LATTA: So, what we tried to do, Judge, is factor  
12 in a certain amount of prison time that would be appropriate to  
13 serve some general and specific deterrence. That's what we  
14 did.

15 We believe prison time is appropriate. We believe  
16 that there has to be some type of punitive damages in a case  
17 like this given the circumstances. I think anything more than  
18 48 months -- and while the Court can certainly, you know,  
19 oppose such a sentence, I don't necessarily know if it  
20 necessarily satisfies the means of what we're trying to do.

21 And what I'm trying to do with the sentence, Judge, is  
22 create some deterrence, create some punishment, create some  
23 opportunity where the defendant's not spending a large portion  
24 of his life in prison where he can't get treatment.

25 Clearly Dr. Brannon supported the fact that he should

1 receive treatment. He otherwise would receive treatment anyway  
2 following a prison sentence, so in just thinking about it, we  
3 thought 48 months would be appropriate.

4 THE COURT: All right. Thank you, ma'am.

5 MS. LATTA: Can I make further argument though?

6 THE COURT: Sure.

7 MS. LATTA: Here's what I'd like to do, Judge.

8 I do have a victim impact statement from one of the  
9 victims. It's pretty lengthy. It's about four pages long. In  
10 lieu of reading it into the record, Judge --

11 THE COURT: Why don't I just read it?

12 MS. LATTA: You read my mind. May I approach?

13 THE COURT: Come on up. Any objection to my reading  
14 this instead of publishing it, Mr. Wilcox?

15 MR. WILCOX: No, Your Honor.

16 (Pause in proceedings.)

17 THE COURT: I've read the statement and just for the  
18 record, it is the Vicky Series' statement from December of  
19 2011.

20 MS. LATTA: My argument is going to be twofold. It's  
21 going to be why a certain amount of prison time would be  
22 appropriate and why probation would be wholly insufficient.

23 So, when we look at the 3553 factors, and we look at a  
24 crime like this, it's a problem, right? And I know the Court  
25 is well versed in these types of crimes so I'm not going to

1 belabor it.

2 But what it is, Judge, it's the memorialization of the  
3 rape of a child, right? That's what it is. These are the most  
4 vulnerable victims that we have in today's society. Some of  
5 them don't have a voice for themselves and think about all the  
6 kids that haven't yet used their voice to report what has  
7 happened.

8 And this Court well knows there's supply and demand  
9 and that's why these cases are concerning. So, while there's  
10 been a lot of talk about the defendant not buying hands on,  
11 when the defendant's behind his computer and he's constantly  
12 looking at videos and he's constantly trying to find the videos  
13 and retrieve them and store them and share them and download  
14 them.

15 What it does is it creates a flood in the business to  
16 continue the rape of children, and the recording of children  
17 and the production of the rape of children.

18 What's concerning is the defendant's collection  
19 itself. So, if the Court recalls from the PSR, he has hit  
20 every single enhancement, essentially every single enhancement  
21 there is as it applies to this particular crime. Bestiality,  
22 sadomasochism, there are videos that are of infants and  
23 toddlers being brutally raped.

24 He had 244 videos, and to put that into context,  
25 Judge, just to get the 600 images or more, it's eight videos,

1 75 images per video. He has 244 videos, 4,000 images, Judge,  
2 and he collected this in a span of a year, right?

3 When we look at his statements, this is I think where  
4 the problem lies. When we look at his statements, he has used  
5 words such as "I'm addicted". He's admitted to masturbating  
6 every time he watches the videos, which is -- which is normal  
7 with cases such as this. What takes it and elevates it a step  
8 further is what he tells officers, that he wishes he could stop  
9 but it's too late. That's a problem. That's scary.

10 That's scary when you're looking at a 19-year old who  
11 has amassed a collection of 244 videos, who watches it on a  
12 regular basis, who masturbates each time to it, and has been  
13 telling federal agents when he has been caught that he doesn't  
14 know if he can stop and it might be too late.

15 What -- when I talk about specific versus general  
16 deterrence, I think this is why certainly prison time is  
17 justified. General deterrence alone, Judge, right now we're  
18 having such a problem with these types of crimes. This Court  
19 well knows that.

20 It is hard enough -- especially during COVID, it's  
21 hard enough to get individuals that are like minded such as  
22 this defendant to stop watching and downloading child  
23 pornography when they're facing prison time, let alone, Judge,  
24 if we were to provide or rather to sentence an individual to  
25 probation for the same offense.

1 Other individuals, other AUSAs, other defense  
 2 attorneys will be using this case on a case if this Court were  
 3 to award probation as precedent and as a case that they would  
 4 cite to to talk about what would happen if a defendant who has  
 5 admitted to being addicted, who has admitted that he cannot  
 6 stop, who has amassed a large collection, and they would point  
 7 to it and say that he was awarded probation.

8 When we look at specific deterrence, again, I won't  
 9 belabor it. The defendant's words, the statements that he made  
 10 to officers, he, himself, doesn't know if he can stop, there  
 11 has to be some punitive damage. There has to be an appropriate  
 12 sentence which deters others that are like minded, which  
 13 promotes justice, which promotes respect for the law and I  
 14 think taken into account all of everything that the Court has  
 15 heard, I think a 48 month prison sentence would be appropriate.  
 16 Thank you.

17 THE COURT: Thank you. Mr. Wilcox?

18 MR. WILCOX: Thank you, Your Honor. I kind of wanted  
 19 to start where she left off, where Ms. Latta left off.

20 She said it was too late. I guess you have to kind of  
 21 take that into context, Your Honor. He said it was too late.  
 22 That could have been very well him saying that, you know, it's  
 23 too late now because he's been arrested. I mean, like I  
 24 can't -- would not interpret that as "I can't stop."

25 The other thing is, Your Honor, as he has been, he's

1 been supervised quite stringently since the commission -- since  
 2 his arrest, and there's no reason to believe he has access to  
 3 child pornography or permitting any -- or viewing any child  
 4 pornography or any sex offenses during this time that -- this  
 5 is a span of time, Your Honor, I believe he's been -- I had the  
 6 case, then it went to a private attorney so it's been over a  
 7 year. I want to say it's been over a year, or just about a  
 8 year that he's been supervised by probation.

9 So, to say that, oh, I mean, and if he was sentenced  
 10 to probation with a year of house arrest, you still have the  
 11 same condition that they're recommending that he get after he  
 12 gets out of prison. I mean, he's going to be supervised. I  
 13 mean, he's going to be supervised stringently. So, this fear  
 14 that he's going to somehow commit another offense, I don't see  
 15 how that's justified.

16 Mr. Alegre, he just turned 21 years old, as we said.

17 This instant offense was committed May the 19th. Yes, he has  
 18 no drug or alcohol abuse, became a naturalized citizen at 18,  
 19 no criminal history whatsoever, no previous contact with the  
 20 criminal justice system.

21 But even though as a young man who has never committed  
 22 one crime, never been stopped by a police officer, never been  
 23 questioned by a police officer, other than this offense, about  
 24 doing anything wrong, never done anything wrong with his life,  
 25 this first time offense because of the guidelines, say that

1 he's supposed to go to jail for six and a half years.  
 2 Intuitively, something is wrong with that. At basic gut level,  
 3 something is wrong with that. And I don't mean to diminish the  
 4 seriousness of this offense.

5 I mean, because I'll say it. If you kill somebody,  
 6 your first murder, you're going to go to jail. I understand  
 7 that, but this isn't murder.

8 The simple fact is is that these guidelines are -- is  
 9 too stringent. It's not me saying it. The sentencing  
 10 commission has said it and there's a report that said, look,  
 11 these guidelines, they're the problem. They don't distinguish  
 12 between the most severe people, offenders, and offenders that  
 13 are less severe.

14 All of the enhancements are applied in almost every  
 15 case. They should not call it a specific offense enhancement  
 16 in these cases. They should call it a generic offense  
 17 characteristic. They shouldn't call them specific offense  
 18 characteristics. They apply in nearly every case.

19 That same sentencing commission has said that the  
 20 recidivism rate for individuals, and probably didn't do an  
 21 analysis like Dr. Brannon relied on, the report that he relied  
 22 on, but they have general statistics that say that these people  
 23 are -- have a recidivism rate of 4.3 percent.

24 And I have to say, Your Honor, the way these  
 25 guidelines are written, every person that committed this

1 offense qualifies for prison time.

2 Now Congress has intended that they could have  
 3 achieved that by just setting a mandatory minimum but there's  
 4 not. There's no mandatory minimum.

5 So, Congress must have implicitly authorized courts to  
 6 impose non-incarcerative sentences in certain instances. And I  
 7 believe this to be one of those, this case is one of those  
 8 instances.

9 Again, Your Honor, while possession of child  
 10 pornography is a serious offense, the harm that Mr. Alegre  
 11 caused is residual, they're remote, and they're indirect.

12 In Florida, if this was in state court, they have a  
 13 sentencing scheme that's called a Youthful Offender Act for  
 14 cases such as this.

15 The Court has discretion. The same individual who was  
 16 under 21 years old and they committed a serious offense,  
 17 offenses that are excluded from the Florida Youthful Offender  
 18 Act are capital felonies and life felonies. Every other  
 19 offense qualifies under the Florida Youthful Offender Act.

20 I also want to say I did not move for a downward  
 21 departure on the guidelines. That was an oversight on my part.  
 22 I could have moved for a downward departure under the  
 23 guidelines under 5H1.1 which states age, including youth,  
 24 may be relevant to determine whether a departure is warranted.

25 THE COURT: I will allow you to make that motion now,

1 Mr. Wilcox.

2 MR. WILCOX: I will move for a downward departure

3 under 5H1.1. However, I mean, I think it's more formally

4 accepted because I made it for age in my motion for variance.

5 I do want to direct the Court's attention to the

6 directive from the REACH program that shows that he has

7 really -- he's really participated in the program. He's

8 participated actively in the program and he's making progress

9 according to Ms. Fernandez.

10 And I'd like the Court to realize that there's a lie

11 detector taken here. He does have the social problems. I've

12 never had a girlfriend, no physical intimacy at his age. But,

13 Your Honor, I have to say that I can't see where putting a

14 person, as I said earlier, a 21-year old person who never had

15 any contact with the law, who never has been arrested, who's

16 truly remorseful for what he's done, but we have -- when he can

17 be supervised extensively to prevent this kind of conduct and

18 there's no reason to believe that based on his time out on

19 bond, that he's going to continue this again. That he's going

20 to do that.

21 I mean, based on the statistics, based on the

22 statistics, there's a highly un -- it's highly unlikely that

23 he's going to reoffend, and along with the conditions that the

24 Court would be bound to impose, I just don't see where a prison

25 sentence is necessary.

1 I believe that a year of home detention, in addition

2 to five years probation is sufficient to satisfy the goals of

3 sentencing.

4 We do have some of his -- I'm sure his parents want to

5 speak, and I'm not sure if there's any other family members

6 that wish to speak, Your Honor.

7 THE COURT: Is there any member of Mr. Alegre's

8 family who wishes to come up to speak?

9 (Thereupon, the Court started translation

10 from Spanish to English for record purposes.)

11 THE COURT: I said to come up, please, and to speak

12 into the microphone. I said good afternoon. They said good

13 afternoon. Okay. I asked are you both going to speak or just

14 one and the husband has said he will speak.

15 Okay. I said please speak slowly and clearly so that

16 I can translate everything that you're saying. Please give me

17 your name.

18 William Alegre. He says good afternoon, everyone.

19 Honorable Judge Roy Altman, thank you for letting me speak

20 today. My son, Renzo, is our only son in the house. We always

21 taught him that to have a profession was very important in

22 life. I told him to bring the microphone closer to his mouth.

23 That he should not get into any trouble with any person. My

24 son is a sensible healthy young man, doesn't smoke, doesn't

25 consume drugs.

1 He's a young man of the house. I never thought that  
2 protecting him from bad things that might happen to him on the  
3 street would result in this happening in my home.

4 I've protected him throughout all of his life, but I  
5 couldn't protect him from the evil he found on the Internet.  
6 Because of his immaturity and curiosity, he fell into  
7 temptation. For having had access to those public pages of  
8 Google, he's very contrite.

9 I promise you that Renzo, my son, will never do again  
10 what he has done. He won't ever harm anyone else. Judge, I  
11 beg you that you take pity on his son. My only son. We've  
12 been a family that has never had problems with the law. I  
13 would like for all of this to finish, this nightmare that we  
14 are all living.

15 Because of the stress, suffering and pain, we've had  
16 to seek psychological help to be able to deal with this  
17 problem.

18 We would be very grateful forever with you, Your  
19 Honor, that in -- so that in our home, peace and tranquility  
20 may return. Thank you very much.

21 And I said thank you very much, sir.

22 I asked if there was anyone else who would like to  
23 speak.

24 Good afternoon, everyone. Good afternoon. My name is  
25 Jose Casillas, C-A-S-I-L-L-A-S. I'm Renzo's uncle. I told him

1 to raise the microphone, please so he -- I told him I couldn't  
2 hear him, and he said I saw Renzo at his birth. I was always  
3 at his side and he's always shown me that good things always go  
4 with him. Even in these circumstances, he keeps showing all of  
5 the family that nothing prevents him and he continues his  
6 studies.

7 He's always been a man of good. I understand that he  
8 made a mistake. Like many, we have made mistakes. And I think  
9 all of us deserve a second chance in life.

10 P-A-O-L-A, Rojas. R-O-J-A-S. I'm Renzo's aunt. I  
11 know him as a good healthy young man. He's a young man who  
12 doesn't get himself in trouble, doesn't have many friends. And  
13 he's a young man who's always there for his family, has good  
14 feelings. And always, always is nice and helpful and studious.

15 But he's young, and he makes mistakes the way we all  
16 have in a different way and make in a different grade or level,  
17 but I know that all of this time has helped him understand his  
18 error. And that in his heart, he is remorseful.

19 He wants to retake his life anew. He wants to be an  
20 engineer and accomplish all of his goals. And that's why we  
21 ask for an opportunity for him. Thank you very much. Thank  
22 you very much, Your Honor. Thank you very much to you all.

23 Anyone else, I said. I told them not to feel they had  
24 to speak, it's not mandatory.

25 I'm the grandmother. Catalina Casillas,

1 C-A-T-A-L-I-N-A. Go on, ma'am.

2 Please, I ask you, my grandson is a good healthy young

3 man. I can't hear you, ma'am.

4 What we want is another opportunity. He's a good kid.

5 We're suffering a great deal because of this. Since I saw him

6 born -- I can't hear her. We never thought that this would

7 happen. We've seen all the good that he can do. We thought

8 that he wouldn't go out in the street, that he wouldn't have

9 friends but we never imagined this. Please, another

10 opportunity. Thank you.

11 Mr. Alegre, is there anything you would like to say on

12 your own behalf before I impose sentence?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: You can stay seated, sir. You can stay

15 seated.

16 THE DEFENDANT: Good afternoon, Honorable Judge

17 Altman. I am Renzo Alegre. I'm asking you for your pardon and

18 mercy on me. I made mistakes. I made a bad decision because

19 of lack of maturity and it went a long ways.

20 THE COURT: Mr. Alegre, she's typing everything

21 you're saying so when you look down -- look at me. When you

22 look down, you're no longer speaking into the microphone. So

23 pull the microphone close to you, and when we read, we tend to

24 read much faster than we would normally talk in conversation.

25 So, try to read every word more slowly than you think is

1 appropriate.

2 THE DEFENDANT: Good afternoon, everybody. Good

3 afternoon, Honorable Judge Altman. I am Renzo Alegre. I'm

4 asking you for your pardon and mercy on me for my mistake. I

5 made bad decisions because of my lack of maturity and curiosity

6 at 19 years old, and went the wrong way.

7 I'm truly sorry and ashamed about how I acted. In the

8 past, I never hurt anybody and also when I made this terrible

9 mistake, I didn't want to hurt anybody.

10 I'm fully aware of the pain that I have caused to my

11 parents and family. I have unintentionally disappointed

12 everyone. I didn't know the laws of this country and didn't

13 think I was committing a crime.

14 Neither my parents or at my school ever talked about

15 child pornography on the Internet. I never thought that my

16 curiosity was going to bring these consequences, and I

17 completely regret my bad decisions.

18 I keep asking myself why do these websites exist? Why

19 do I have access to them? I really don't want somebody else to

20 have to live with what I'm living now.

21 I honestly promise you, Your Honor, from the bottom of

22 my heart never to do it again. And I beg you to give me a

23 second chance in my life to be able to show that I'm a good

24 person, to be able to finish with college, and fulfill my dream

25 to go to university and become an excellent professional.

1 Thank you very much.

2 THE COURT: All right. Thank you, Mr. Alegre.

3 Anything else from the United States?

4 MS. LATTA: Just very briefly. Just very briefly. I

5 would be remiss if I didn't acknowledge just two or three

6 things that he said. He's very blessed to have a whole family

7 that is very emotional, that is very concerned. He's blessed

8 to have that.

9 But when he still sits here now, it's a problem when

10 he says things like he wasn't aware that this was a crime in

11 the United States because he denied everything to law

12 enforcement when they went knocking on his door and they asked

13 him about it.

14 He denied having anything on his computer because he

15 understood that the reason that they were there was because he

16 had illegal items on his computer. And when he also says

17 things like free access to websites, Judge, the dark web, this

18 Court knows better than anybody, it's not just something

19 illegal.

20 You've got to really have the wherewithal to use the

21 peer to peer share programs. You've got to have the

22 wherewithal to look up certain search terms which he was doing.

23 I find myself looking at a man that is asking this

24 Court for mercy, and that the Government is agreeing it should

25 receive some. The Government is conceding that he should get a

1 break based on some other mitigation, but when he still sits

2 here and denies certain things like that, it is troubling,

3 Judge.

4 So, I would be remiss if I didn't say that and then

5 the other thing that I'll say, again, which is why this crime

6 is such a problem. His father said it. The evil on the

7 Internet. The evil on the Internet.

8 The reason that evil exists is because of scenarios

9 like this. Because of individuals who continue to watch and

10 seek out and find and download and share these types of videos.

11 That's why these crimes are important. That's why sentences

12 with respect to these crimes are important. And that's why

13 Judge, again, I think the Court should fashion a sentence that

14 satisfies all of those concerns. Thank you.

15 THE COURT: Thank you. Mr. Wilcox?

16 MR. WILCOX: I just want to have a moment with him.

17 THE COURT: Sure, take your time.

18 (Pause in proceedings.)

19 MR. WILCOX: I don't have -- you can proceed, Your

20 Honor.

21 THE COURT: The Court has considered the statements

22 of all parties, the presentence report which contains the

23 advisory guideline range and the statutory factors set out in

24 18 United States Code Section 3553(a).

25 It's the finding of the Court that the defendant is



1 not able to pay a fine and so no fine will be imposed. And  
 2 that he cannot pay the special assessments under 18 United  
 3 States Code Section 2559(a). However, restitution is mandatory  
 4 and shall be ordered.

5 Have the parties reached an agreement on restitution?  
 6 MS. LATTA: No, Your Honor. If the Court would --  
 7 would the Court set this out 90 days or less? I'll get with  
 8 opposing counsel, we'll probably come up with what I would probably  
 9 assume would be a resolution.

10 THE COURT: T, what do we have for that?

11 THE COURTROOM DEPUTY: Judge, we can do April 7th at  
 12 2:00.

13 THE COURT: Does that work for the United States?

14 MS. LATTA: It does, Judge.

15 THE COURT: Does that work for the defense?

16 MR. WILCOX: It does.

17 THE COURT: Sorry, say again.

18 MR. WILCOX: Your Honor, I just want to put on the  
 19 record that I don't plan to be employed by the Federal Public  
 20 Defender's. I'm out as of the 31st, so some other --

21 THE COURT: You're going to go play for the Miami  
 22 Heat?

23 MR. WILCOX: No, Judge. I'm probably just going to  
 24 play golf and go fishing for a while. I won't be playing for  
 25 the Heat, no.

1 THE COURT: When is your date?

2 MR. WILCOX: March 31.

3 THE COURT: I didn't know that, Daryl. I'm sad to  
 4 hear it.

5 THE COURTROOM DEPUTY: Do you want to set it then?

6 THE COURT: Let's set it earlier then. Well  
 7 deserved, Mr. Wilcox.

8 THE COURTROOM DEPUTY: In Ft. Lauderdale, Judge?

9 THE COURT: In Ft. Lauderdale, is that what you  
 10 prefer?

11 MR. WILCOX: Yes, Your Honor.

12 THE COURT: Yes.

13 THE COURTROOM DEPUTY: Let's do it on March 28th. We  
 14 might have a trial that day here anyways.

15 THE COURT: Does that work, March 28?

16 MS. LATTA: It does, Judge.

17 THE COURT: What time?

18 THE COURTROOM DEPUTY: Morning or afternoon?

19 THE COURT: Are we going to be in trial?

20 THE COURTROOM DEPUTY: We probably will be.

21 THE COURT: Let's do it at 1:45.

22 MS. LATTA: Understood.

23 THE COURT: 1:45, Mr. Wilcox.

24 MR. WILCOX: Hopefully, we'll resolve it without the  
 25 need for a hearing.

1 THE COURT: Let me order then that pursuant to 18  
 2 United States Codes Section 3464(d) (5), because the victims'  
 3 losses are not yet ascertainable, the Court shall set a date  
 4 for the final determination of the victims' losses on March the  
 5 28th, 2022 at 1:45 p.m.

6 In considering the 3553(a) factors, I've considered  
 7 first the nature and severity of the offense. And here,  
 8 there's no question that the offense is an extremely serious  
 9 one. I believe that these offenses have a deleterious effect  
 10 on the lives of the children who have been victimized. I think  
 11 there's no question about that.

12 I think that these offenses propagate the distribution  
 13 of the videos and images that are the most horrific events of  
 14 these children's lives, that they continue to plague them for  
 15 the rest of their lives. That they prevent the children really  
 16 from reaching any kind of catharsis later in life for the very  
 17 obvious reason that Vicky and others like her have made clear  
 18 in their letters, like the letter I read here today, which is a  
 19 person gets raped, or a person gets robbed, it's a horrible  
 20 crime. And I'm not minimizing it at all.

21 But that crime has a beginning and an end. And the  
 22 person can seek therapy to try to move on. But a person is  
 23 raped and the rape is videotaped and the videotapes are sold  
 24 and propagated and disseminated for the rest of their lives  
 25 like a cataclysmic explosion and it goes on and it goes on and

1 it's unstoppable. That rape is perpetuated ad infinitum  
 2 forever. And so I'm not suggesting that this crime is as bad  
 3 as a hands on offense, but it is what feeds many of the  
 4 propagation of hands on offenses on the Internet.

5 And the evil that we're talking about with respect to  
 6 what we find on the Internet, the evil is defendants like this  
 7 one who create a market for these horrible videos.

8 I'll also note that the videos in this case are of a  
 9 different kind than they typically are in many cases. I'm not  
 10 suggesting that I've never seen cases with 244 videos and 4,000  
 11 images, many of which involve sadomasochistic conduct or  
 12 infants or toddlers or bestiality.

13 I'm suggesting though that it's the very rare case  
 14 actually with 244 videos, 4,000 photos, the vast majority of  
 15 which involve all of those, bestiality or sadomasochism or  
 16 infants and penetration.

17 And I think that the conduct in this case is bad. I  
 18 think it's worthy of punishment, and I disagree that just  
 19 because it's your first offense, it's so inconsequential a  
 20 crime, that it's the kind of crime we shouldn't think merits a  
 21 prison sentence.

22 It's not murder. Mr. Wilcox is right. I'm not  
 23 sentencing you to life. I'm not saying you're not going to  
 24 have a second chance. You're 21 years old. People in this  
 25 courtroom get sentenced to, as lawyers know, 20, 30, 40 years

1 all the time. That's unfortunate. That's the way it is in  
2 federal court.

3 You're not getting anywhere near that. So, you're  
4 going to have a second chance. You're going to be able to  
5 finish college, if you can do it. You're going to be able to  
6 pursue a profession, but you have to face punishment for what  
7 you've done.

8 The second factor I've considered are the history and  
9 characteristics of the defendant. And here, there are so many  
10 things that were described in the sentencing memo. Very, very  
11 well done sentencing memorandum filed by Mr. Wilcox.

12 And I want to go through some of those now.

13 Mr. Wilcox points out twelve things about the history and  
14 characteristics of the defendant.

15 First, he says he was only 19 at the time of the  
16 offense. I don't think that's a reason to vary down. In fact,  
17 for two reasons. I think that is a reason to give him higher  
18 than a guideline sentence.

19 One, Dr. Brannon himself testified that the younger  
20 you are, in particular at 19 years of age, you're much more  
21 likely -- his words -- much more likely to recidivate if you're  
22 a sex offender.

23 Second, Mr. Alegre told the agents that despite his  
24 young age, it may have been too late. I disagree with  
25 Mr. Wilcox's characterization of the statement as read and

1 written in the PSI which is objected to. The statement was in  
2 the context of the rest of the sentence which was that he  
3 cannot stop. So, the "cannot stop" was not invented by the  
4 agents as an interpretation of what "it's already too late"  
5 means. It is, rather, context for what it's too late means.  
6 It's too late may mean in Mr. Alegre's mind that there is no  
7 going back to a pre child pornography mental state.

8 So, I reject the defendant's age either as a grounds  
9 for a 3553 variance or as a grounds for a 5H1.1 departure, even  
10 though I allowed Mr. Wilcox to make that motion.

11 The second factor Mr. Wilcox notes relating to the  
12 history and characteristics is that the defendant has no  
13 criminal history. That's true, but that is also already  
14 factored into the guideline range.

15 If he had had a criminal history, he would be facing  
16 much more time in prison. So, the fact that he has no criminal  
17 history isn't driving the penalties he's facing and isn't a  
18 reason to vary downwards.

19 To the contrary, to vary downwards as a result of his  
20 criminal history category of I would be I think to create a  
21 sentencing disparity with a lot of similarly situated criminal  
22 defendants who do not get downward variances despite falling  
23 into criminal history category I and sentencing disparity, of  
24 course, is something both the Supreme Court and Congress have  
25 admonished us to avoid.

1 The third factor that Mr. Wilcox cites is Mr. Alegre's  
 2 compliance with bond conditions. I think that is an important  
 3 factor, and I'm going to vary down in that case. And that's  
 4 partially why, although I will say that so many of the  
 5 defendants who come before me comply with their bond  
 6 conditions. Fortunately, it's actually the rare defendant as I  
 7 think both Ms. Latta and Mr. Wilcox knows who violates the  
 8 conditions of his bond.

9 I mean, it's no small thing to say to a federal judge  
 10 who's put you on release and has told you to be on your best  
 11 behavior to turn around and then do drugs, commit crimes,  
 12 download child pornography. The vast majority of defendants  
 13 don't do it. And so the fact that this defendant didn't do it  
 14 doesn't really absolve him of responsibility for what he did,  
 15 or take him out of the heartland of cases of most similarly  
 16 situated defendants. So, I don't think that is an independent  
 17 reason to vary down significantly in this case.

18 The fourth factor is that he's a good student. But I  
 19 don't think that's a reason to vary down either because he's  
 20 going to get to go back to school if he wants to.  
 21 And in any event, the fact that he was a good student  
 22 suggests that he's smart as everyone has attested which means  
 23 he should have known better.

24 The fifth factor Mr. Wilcox has cited is Dr. Brannon's  
 25 recitation of C-PORT score and in particular, the lower

1 recidivism rate that the guidelines and the C-PORT score  
 2 ascribe to defendants like Mr. Alegre.

3 But as I've said in many sentencing hearings on this  
 4 issue and as I think Dr. Brannon very candidly testified to  
 5 today, that low recidivism rate is a function of the kind of  
 6 crime that we're talking about.

7 The low recidivism rate is a manifestation of the fact  
 8 that this crime is committed alone by definition likely on a  
 9 computer, often in a dark basement or room or closet somewhere  
 10 where there is no one who's properly incentivized to bring the  
 11 offense or reoffenses as the case may be to the attention of  
 12 law enforcement.

13 It's, thus, categorically different from the vast  
 14 majority of other crimes for which we have recidivism rates.  
 15 Robbery, murder, rape, fraud. Even drug dealing is done for  
 16 the most part, in places and with people that are going to  
 17 cooperate against you using phones that are going to be  
 18 wiretapped, selling drugs to cooperating informants who are  
 19 going to tell on you.

20 Those aren't the facts with respect to child  
 21 pornography offenses. I think everyone understands that the  
 22 recidivism rate for child pornography offenders is woefully low  
 23 compared to what is actually going on in the world for that  
 24 obvious reason. So, I reject that as a reason to vary down in  
 25 the case.

1           The sixth factor Mr. Wilcox has cited is the  
 2      possibility that Mr. Alegre suffers from autism and is thus,  
 3      less able to resist his impulses. There was an interesting  
 4      back and forth on that with Dr. Brannon. Dr. Brannon actually  
 5      saw that it's cutting the other way and suggesting that  
 6      Mr. Alegre may be more likely to reoffend as a result of the  
 7      possible autism which led Mr. Wilcox in redirect to suggest  
 8      that maybe we should ignore the whole subject because there  
 9      hasn't been a diagnosis. I'll do that, and ignore the subject  
 10     on Mr. Alegre's behalf and Mr. Wilcox and not assume despite  
 11     Dr. Brannon's clear testimony, that Mr. Alegre is more likely  
 12     to recidivate than the average child pornographer by virtue of  
 13     the fact that he may have many of the qualities of an autistic  
 14     person.

15           I'll agree with Mr. Wilcox here in the courtroom, that  
 16     there has been no diagnosis. That's what Dr. Brannon said.  
 17     And that I, therefore, shouldn't presume that Mr. Alegre is  
 18     autistic.

19           I will note that there was an argument made that maybe  
 20     Mr. Alegre should receive a lesser prison sentence or really no  
 21     prison sentence because he's autistic, but that doesn't seem  
 22     fair. Doesn't seem fair to say that because you're autistic,  
 23     you should get no prison no matter what you do and no matter  
 24     how serious your crimes are. That you have a free pass, as it  
 25     were, from the Government to commit any crimes that you want

1      without having to serve prison because in prison, you may be  
 2      less likely to visually or otherwise perceive physical threats.  
 3      I don't think that that's an appropriate metric for the Court  
 4      to consider in deciding what the appropriate sentence is in  
 5      this case, and I won't use it as a reason to vary down.

6           The eighth factor that Mr. Wilcox cites is a number of  
 7      cases. U.S. versus Lau, L-A-U, from Judge Scola where the  
 8      defendant in a child pornography offense was facing 92 to 121  
 9      month guideline range, and Judge Scola gave him 60 months. I  
 10     never agree with Judge Scola, by the way. I want to send him a  
 11     copy of this transcript.

12           U.S. versus Rodriguez, a Judge Dimitrouleas case where  
 13     the defendant was facing a guideline range of 78 to 97 months,  
 14     and Judge Dimitrouleas gave him 36 months for a child  
 15     pornography offense.

16           U.S. versus Hylander, H-Y-L-A-N-D-E-R, a Judge Bloom  
 17     case. Very similar, 78 to 97 month guideline. 36 month  
 18     sentence. And U.S. versus Sosna, S-O-S-N-A, a Judge Zloch case  
 19     where the guideline range was 97 to 121, and Judge Zloch gave  
 20     54 months.

21           All of those offenses involved significant terms of  
 22     incarceration. In fact, of the four, two of them involve more  
 23     prison time than even Ms. Latta is asking for in this case.  
 24     So, I don't find that those cases support the argument that  
 25     there should be no incarceration.

1 And as to the point that they showed that a  
 2 guideline -- a variance from the guidelines is appropriate, as  
 3 I said, I am going to vary from the guidelines and so I'll  
 4 consider them for what they're worth in that regard.

5 The eighth factor that Mr. Wilcox has cited is that  
 6 the defendant has never touched drugs or alcohol. I commend  
 7 him for that, but despite never having touched drugs or  
 8 alcohol, he still committed these crimes. So, the fact that  
 9 he's never done drugs or alcohol hasn't prevented him from  
 10 committing serious crimes. And so I don't think that they  
 11 absolve him of his criminal conduct.

12 In any event, the opposite may be said. I get  
 13 defendants all the time who say to me you should give a  
 14 downward variance. The defendant was high on MDMA, Fentanyl,  
 15 heroin, and had an addiction problem his whole life and these  
 16 crimes really are of low culpability because he was out of his  
 17 mind.

18 And so I don't know that it's fair to say if you agree  
 19 with that, that a defendant who was perfectly in his mind and  
 20 had never done drugs or alcohol, likewise, should receive a  
 21 variance. Then we're just agreeing that anybody deserves a  
 22 variance no matter what, which of course, is not the sentencing  
 23 regime we've contemplated.

24 The ninth factor that Mr. Wilcox has cited is the  
 25 support of Mr. Alegre's family, and I do think that's

1 important, by the way. Mr. Alegre, I don't know how many times  
 2 I sentence folks in this courtroom or in my Miami courtroom  
 3 where there's nobody here to support the defendant. And I  
 4 think it is important that you have family members who are here  
 5 for you, who are willing to accept what you've done and help  
 6 you move on from it.

7 But I can't deny that those family members loved you  
 8 and were there for you even while you were committing these  
 9 serious crimes. Because I think it's an undeniable reality  
 10 that there are two sides to every person. The side that they  
 11 show the world and the side that they keep to themselves.

12 And, unfortunately, the side that one keeps to one's  
 13 self is oftentimes a side they don't want other people to know  
 14 about, and that other people often don't know about and so I'm  
 15 certainly grateful for the family's presence here today.

16 I take very seriously the parents, and aunt and uncle  
 17 and grandmother's words here today and the letters that I've  
 18 received but I don't think that that justifies a downward  
 19 variance.

20 The tenth factor is the REACH program and the letter  
 21 that I received along with the polygraph examination showing  
 22 that according to Mr. Alegre, and according to the polygraph  
 23 he's never had a hands on approach, and I don't find that to be  
 24 a justification for a downward variance because, of course,  
 25 that's already factored into the guidelines.

1           If he had been a hands on offender, he'd be facing  
 2       mandatory minimums, and much more time in prison. As for  
 3       REACH, I am going to vary down slightly from the guideline  
 4       range because you, I think, have put in the effort, Mr. Alegre  
 5       and I think it shows in the letter that I received from the  
 6       REACH program and that does distinguish you I think from many  
 7       of the offenders that I see here, but I certainly don't believe  
 8       that it justifies no incarceration which is what your lawyer is  
 9       asking for.

10           The eleventh factor that Mr. Wilcox cites is that in  
 11       state court, there's a youthful offender program, and that for  
 12       a crime like this for someone who's under 21, it's possible --  
 13       though Mr. Wilcox never suggests that it's likely or  
 14       definitely -- that a defendant like you would receive a  
 15       non-incarcerative sentence, a supervisory term. That may be,  
 16       but these are two totally different sentencing regimes.

17           I think it's almost always the case -- I was never in  
 18       state court in my life so I don't know, but I gather that in  
 19       state court, almost every crime is punished much less severely  
 20       than every federal crime, and its federal counterparts and the  
 21       reason I know that is because I see PSIs every day with 10, 20,  
 22       30, 50 different crimes listed, state punishments. Most of  
 23       them, they get probation. They get 364 days in jail. They get  
 24       time served.

25           And then here in federal court, we punish those same

1       offenders with significant terms of incarceration. That's just  
 2       the nature of it. The state courts have too much volume, and  
 3       they have too little resources. They don't have the ability to  
 4       focus in on cases the way we do in federal court, and their  
 5       punishment regime is, in my view, woefully inadequate and does  
 6       our society a tremendous disservice by teaching people over and  
 7       over again they can just get by and do whatever they want and  
 8       get a slap on the wrist.

9           And then one day, one of those defendants shows up  
 10       here in front of a federal judge and they're facing 20 or 30  
 11       years or life and they're shocked to discover that there's true  
 12       consequences to their conduct. I don't believe that I should  
 13       be guided by what the state court judges or state system does  
 14       and I never really have been.

15           So, those are the eleven arguments that were made  
 16       about the criminal history and characteristics of the  
 17       defendant, and I reject most of them for all the reasons I've  
 18       stated.

19           The third factor I've considered is the need to  
 20       provide specific deterrence and to protect the community from  
 21       further crimes the defendant might commit. And I take the  
 22       defendant at his word that he wants to change, but I have  
 23       concerns because of the recidivism rate for offenders, sex  
 24       offenders as young as Mr. Alegre because of his addiction from  
 25       what I can tell to the sex offense crimes in question. Because

1 of his amassing of a huge collection of extremely disturbing  
 2 material, and because of his comments to law enforcement to the  
 3 effect that he was addicted, that he couldn't stop and that it  
 4 may be too late, that I'm not sure that a non-incarcerative  
 5 sentence or even a lower than guideline sentence would protect  
 6 the public from future crimes of the defendant.

7 Because without understanding his -- that there were  
 8 consequences to what he's done, without paying with some real  
 9 repercussions, the defendant may not be able to stop himself  
 10 from reoffending this way in the future and that's not a risk  
 11 that I'm willing to take.

12 The fourth and fifth factors I've considered are the  
 13 need to provide general deterrence, and to impose a sentence  
 14 that provides just punishment and promotes respect for the law.  
 15 And I think that it is important in our community and around  
 16 the country for federal judges especially to make a statement  
 17 that these crimes are not victimless crimes.

18 That there are little children on the other end of  
 19 these videos and these pictures. That they are the most  
 20 vulnerable members of our society, and that their voiceless  
 21 cries for help have been heard by at least one person and that  
 22 person is me. And that if you are caught and punished for and  
 23 convicted for these horrible crimes, you will be severely  
 24 punished.

25 The sixth factor I've considered is the need to avoid

1 unwarranted sentencing disparities. I'll be candid. I would  
 2 never have considered a downward variance under most of the  
 3 circumstances that have been presented to me in this case and  
 4 in the vast majority of these cases, I do not vary down from  
 5 the guideline range for all of the reasons I've just stated.

6 And so I think that a non-incarcerative sentence  
 7 especially would create unwarranted sentencing disparities  
 8 between all of the other similarly situated defendants I have  
 9 sentenced.

10 And I'll be even more candid. I'm not sure on balance  
 11 that a lower than guideline sentence is appropriate even in  
 12 this case. But I'm not inclined to give -- impose a sentence  
 13 of imprisonment that's higher than the sentence even the  
 14 Government is asking for. I don't see that necessarily as my  
 15 role. I've done that one time in three years as a federal  
 16 judge. Today is not that day.

17 So, although I find that the appropriate sentence in  
 18 this case is probably 78 months, I'm not going to impose a 78  
 19 month sentence because the Government has asked me in good  
 20 faith to lower that sentence, and I'm not going to give a  
 21 sentence that is higher than what the Government is asking for.

22 In that regard, let me talk about the one argument  
 23 that Mr. Wilcox made that doesn't deal with history and  
 24 characteristics and this is the guideline architecture argument  
 25 that Mr. Wilcox and a lot of lawyers make, and I understand the



1 argument. It's a fair argument.

2 What I'm suggesting though is that despite all the  
3 clamor about the enhancements, the Commission has actually  
4 never seen fit to alter the guidelines architecture that we  
5 have for child pornography offenses.

6 I'll point out secondly that most federal judges  
7 around the country so far as the statistics that I have seen  
8 revealed continue to adhere to the guidelines architecture as  
9 it's currently constituted including all of the enhancements  
10 that we're talking about.

11 And third, that it isn't clear to me when the  
12 Commission is properly and fully constituted -- hopefully, it  
13 will be soon -- that when it is fully constituted and  
14 complemented with full membership, that the Commission will  
15 ultimately decide that these enhancements are totally  
16 inappropriate.

17 In fact, what may occur is that the Commission may  
18 decide that these enhancements will just be baked into a much  
19 higher base offense level, and that they'll allow for  
20 reductions from the offense level in situations where those  
21 enhancements now baked into the offense level don't exist. And  
22 there's good reason to think so.

23 The number of images, as Dr. Brannon said, the number  
24 of videos I think is an excellent predictor of whether you're  
25 going to be a future offender when it comes to looking, if not

1 touching. Dr. Brannon admitted that. The kinds of videos that  
2 you have, whether you have infants and toddlers as opposed to  
3 16 and 17-year old girls, likewise, demonstrates a radical  
4 departure from societal norms that, again, is a good predictor  
5 of future conduct even if not for touching and only for  
6 looking. Still, for reoffending in a serious way.

7 And third, use of a computer. Simply allows, again,  
8 the most horrific events in these young people's lives to be  
9 disseminated all over the world forever in a way that  
10 perpetuates their victimization and prevents them from getting  
11 past the darkest moments of their early childhoods.

12 There are good reasons to think that those  
13 enhancements, the ones that we're complaining about, are still  
14 and will continue to be super important to any determination of  
15 culpability in these kinds of cases.

16 And so I reject the argument that just because most  
17 offenders nowadays fall into those categories, that we should  
18 just ignore all of those categories all together.

19 And with respect to the fourth factor that Mr. Wilcox  
20 cites on that score, the four factors being the number of  
21 images, the toddler or infants, the use of a computer, and of  
22 course, the fourth factor being sadomasochism, I just find that  
23 again it's such a radical departure from a normal societal  
24 behavior to look at bestiality against infants, and to  
25 masturbate on a daily basis to the rape of infants and

1 toddlers, that I think it is a good predictor, a good proxy for  
 2 future conduct, future antisocial criminal conduct. And for  
 3 that reason, I reject Mr. Wilcox's argument as a reason to vary  
 4 down from the guideline range.

5 So, to be clear, I would find that the appropriate  
 6 sentence on balance in this case is 78 months, but because the  
 7 Government has asked for a 48-month sentence, I'm prepared to  
 8 go along with that sentence and give the lower sentence.

9 Mr. Alegre, please stand with your lawyer. It is the  
 10 judgment of the Court in this case that the defendant, Renzo  
 11 William Alegre, is committed to the Bureau of Prisons to be  
 12 imprisoned for a term of 48 months.

13 Upon release from imprisonment, the defendant shall be  
 14 placed on supervised release for a term of 20 years. Within 72  
 15 hours of release, the defendant shall report in person to the  
 16 probation office in the district while he is -- where he is  
 17 released.

18 While on supervised release, the defendant shall  
 19 comply with the mandatory and standard conditions of release,  
 20 which include not committing any crimes, being prohibited from  
 21 possessing a firearm or other dangerous device, not unlawfully  
 22 possess a controlled substance and cooperating in the  
 23 collection of DNA.

24 The defendant shall also comply with the following  
 25 special conditions. Data encryption, computer possession,

1 employer computer restriction disclosure, mental health  
 2 treatment, financial disclosure, no new debt, permissible  
 3 search, no contact with minors, no contact with minors in  
 4 employment, no involvement in youth organizations, sex offender  
 5 treatment, the restriction from the possession of sexual  
 6 materials, all Adam Walsh Act search conditions, sex offender  
 7 registration and the requirement that he pay any unpaid  
 8 restitution, fines or special assessments all as noted in Part  
 9 F of the PSI.

10 It's further ordered that the defendant shall pay  
 11 immediately to the United States a special assessment of \$100.  
 12 Therefore, the total sentence imposed is 48 months  
 13 imprisonment, no fine, 20 years of supervised release, and a  
 14 \$100 special assessment.

15 Is the Government seeking forfeiture in the case?

16 MS. LATTA: Yes, Your Honor.

17 THE COURT: I'll ask that the Government submit a  
 18 proposed final order of forfeiture within three days of this  
 19 hearing and I'll incorporate the preliminary and final orders  
 20 of forfeiture into the judgment.

21 MS. LATTA: Will do.

22 THE COURT: Now that the sentence has been imposed,  
 23 does the defendant or his counsel object to the Court's  
 24 findings of fact or to the manner in which sentence was  
 25 pronounced?

1 MR. WILCOX: No, Your Honor.

2 THE COURT: Mr. Alegre, you have the right to appeal

3 the sentence that I imposed, but I must warn you that any

4 notice of appeal must be filed within 14 days after the entry

5 of the judgment in this case.

6 If you cannot afford the costs of the appeal, you may

7 apply for leave to appeal in forma pauperis which just means

8 without the payment of that cost. Do you understand all that?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Is that a yes?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: What are we doing about the defendant's

13 bond?

14 MS. LATTA: Well, Judge, at this time, I mean given

15 the fact that he just was found guilty and he should start his

16 sentence now, I'd ask that the Court remand him.

17 THE COURT: Mr. Wilcox?

18 MR. WILCOX: Your Honor, I'd ask for a 45-day

19 surrender date.

20 THE COURT: Isn't there a presumption in this case

21 against bond now that the defendant has been convicted and

22 sentenced?

23 MS. LATTA: You know, Judge, in good faith I'm

24 looking that up myself. I figured that's where the Court was

25 going. I don't believe that there is, but I don't want to

1 definitively say that and mislead the Court. I'm looking as we

2 speak.

3 THE COURT: 18 U.S.C. Section 3143?

4 MR. WILCOX: Yeah, I believe that you're correct.

5 But this is the practice. I mean, I forgot what they call,

6 custom and practice here that judges often allow.

7 THE COURT: I do know that I allow it all the time.

8 But I don't know that I allow it in child pornography cases.

9 MR. WILCOX: Well, I mean, that's up to you. That's

10 up to the Court. But I mean, if he's been compliant with the

11 conditions of his bond, he's in school, I mean.

12 THE COURT: It's different now though, right? He had

13 a good lawyer who made a passionate case for him to get a

14 probationary sentence and he may well have believed that that's

15 what was going to happen and now, that hasn't happened.

16 MR. WILCOX: I told him to be prepared. I'm just

17 being candid. I told him to be prepared if he's remanded, but

18 I'm asking you to consider allowing him to surrender in 45

19 days.

20 THE COURT: What did you find, Ms. Latta?

21 MS. LATTA: Judge, I was more so just listening to

22 the dialogue. Let me just say this. I won't speak to that. I

23 do think the Court's correct, there's a difference now. He's

24 been sentenced to a lengthy term of imprisonment, albeit 48

25 months, is still a lengthy term of imprisonment. He's had

1 about a year to get his affairs in order. The Court has made a  
 2 finding. The Court has sentenced him to prison. I think it's  
 3 time.

4 THE COURT: Well, let me say also that the lawyers  
 5 can correct me if I'm wrong. I have a lot of child pornography  
 6 cases, I don't know that I have many of them that are on bond  
 7 at all. So, Mr. Alegre to be honest, has had a year with his  
 8 family that most defendants who are similarly situated just did  
 9 not have.

10 And given the presumption in 18 U.S.C. Section 3143,  
 11 and the fact that the lawyer asked for a non-incarcerative  
 12 sentence, the fact that Mr. Alegre may well have believed he  
 13 was going free today and the fact that the world is just  
 14 different now, he now has a judgment with a four year sentence  
 15 over his head, I'm going to remand you, Mr. Alegre, into the  
 16 custody of the Bureau of Prisons.

17 I'll give you some time to have your affairs in order,  
 18 Mr. Alegre, with your family before the Marshals come up. Did  
 19 you hear what I said?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Anything else from the United States?

22 MS. LATTA: No, Your Honor. Thank you.

23 THE COURT: Anything else from the defense?

24 MR. WILCOX: No, Your Honor. Thank you.

25 THE COURT: Good luck to you, Mr. Alegre.

1 THE DEFENDANT: Thank you, Your Honor.

2 THE COURT: Marshals, give him five minutes with his  
 3 family, please.

4  
 5 C-E-R-T-I-F-I-C-A-T-E

6  
 7 I hereby certify that the foregoing is an accurate  
 8 transcription of the proceedings in the above-entitled matter.  
 9

10  
 11 FEBRUARY 10, 2022

12 /s:/Ellen A. Rassie  
 13 ELLEN A. RASSIE, RMR-CRR  
 14 Official Court Reporter  
 15 To the Honorable Rodney Smith  
 16 299 East Broward Blvd., Room 202B  
 17 Ft. Lauderdale, Florida 33301  
 18 (954)769-5448

**A-3**

**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF FLORIDA**  
**FORT LAUDERDALE DIVISION**

UNITED STATES OF AMERICA

v.

**RENZO WILLIAM ALEGRE**§ **JUDGMENT IN A CRIMINAL CASE**

§

§

§ Case Number: **0:21-CR-60041-RKA(1)**§ USM Number: **26571-104**

§

§ Counsel for Defendant: **Daryl Elliott Wilcox**

§

Counsel for United States: **Brooke Latta****THE DEFENDANT:**

|                                     |                                                                                             |  |
|-------------------------------------|---------------------------------------------------------------------------------------------|--|
| <input checked="" type="checkbox"/> | pleaded guilty to count 1                                                                   |  |
| <input type="checkbox"/>            | pleaded guilty to count(s) before a U.S. Magistrate Judge, which was accepted by the court. |  |
| <input type="checkbox"/>            | pleaded nolo contendere to count(s) which was accepted by the court                         |  |
| <input type="checkbox"/>            | was found guilty on count(s) after a plea of not guilty                                     |  |

The defendant is adjudicated guilty of these offenses:

**Title & Section / Nature of Offense**

18:U.S.C. § 2252(A)(4)(B)&amp;(B)(2) Possession Of Child Pornography

**Offense Ended**

09/16/2020

**Count**

1

The defendant is sentenced as provided in pages 2 through 8 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

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

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

**January 13, 2022**

Date of Imposition of Judgment

Signature of Judge

**ROY K. ALTMAN**  
**UNITED STATES DISTRICT JUDGE**

Name and Title of Judge

**January 19, 2022**

Date

DEFENDANT: RENZO WILLIAM ALEGRE  
CASE NUMBER: 0:21-CR-60041-RKA(1)

## IMPRISONMENT

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

**48 months as to count 1.**

☒ The court makes the following recommendations to the Bureau of Prisons: The defendant be designated to a facility in South Florida.

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

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

☐ at ☐ a.m. ☐ p.m. on

☐ as notified by the United States Marshal.

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

☐ before 2 p.m. on

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

## RETURN

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to

at \_\_\_\_\_, with a certified copy of this judgment.

UNITED STATES MARSHAL

By  
DEPUTY UNITED STATES MARSHAL

DEFENDANT: RENZO WILLIAM ALEGRE  
CASE NUMBER: 0:21-CR-60041-RKA(1)

## **SUPERVISED RELEASE**

Upon release from imprisonment, the defendant shall be on supervised release for a term of: **twenty (20) years.**

## **MANDATORY CONDITIONS**

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

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



DEFENDANT: RENZO WILLIAM ALEGRE  
CASE NUMBER: 0:21-CR-60041-RKA(1)

## STANDARD CONDITIONS OF SUPERVISION

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

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

## U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. I understand additional information regarding these conditions is available at [www.flsp.uscourts.gov](http://www.flsp.uscourts.gov).

Defendant's Signature \_\_\_\_\_

Date \_\_\_\_\_

DEFENDANT: RENZO WILLIAM ALEGRE  
CASE NUMBER: 0:21-CR-60041-RKA(1)

## **SPECIAL CONDITIONS OF SUPERVISION**

**Adam Walsh Act Search Condition:** The defendant shall submit to the U.S. Probation Officer conducting periodic unannounced searches of the defendant's person, property, house, residence, vehicles, papers, computer(s), other electronic communication or data storage devices or media, include retrieval and copying of all data from the computer(s) and any internal or external peripherals and effects at any time, with or without warrant by any law enforcement or probation officer with reasonable suspicion concerning unlawful conduct or a violation of a condition of probation or supervised release. The search may include the retrieval and copying of all data from the computer(s) and any internal or external peripherals to ensure compliance with other supervision conditions and/or removal of such equipment for the purpose of conducting a more thorough inspection; and to have installed on the defendant's computer(s), at the defendant's expense, any hardware or software systems to monitor the defendant's computer use.

**Computer Possession Restriction:** The defendant shall not possess or use any computer; except that the defendant may, with the prior approval of the Court, use a computer in connection with authorized employment.

**Data Encryption Restriction:** The defendant shall not possess or use any data encryption technique or program.

**Employer Computer Restriction Disclosure:** The defendant shall permit third party disclosure to any employer or potential employer, concerning any computer-related restrictions that are imposed upon the defendant.

**Financial Disclosure Requirement:** The defendant shall provide complete access to financial information, including disclosure of all business and personal finances, to the U.S. Probation Officer.

**Mental Health Treatment:** The defendant shall participate in an approved inpatient/outpatient mental health treatment program. The defendant will contribute to the costs of services rendered (co-payment) based on ability to pay or availability of third-party payment.

**No Contact with Minors:** The defendant shall have no personal, mail, telephone, or computer contact with children/minors under the age of 18 or with the victim.

**No Contact with Minors in Employment:** The defendant shall not be employed in a job requiring contact with children under the age of 18 or with the victim.

**No Involvement in Youth Organizations:** The defendant shall not be involved in any children's or youth organization.

**No New Debt Restriction:** The defendant shall not apply for, solicit or incur any further debt, included but not limited to loans, lines of credit or credit card charges, either as a principal or cosigner, as an individual or through any corporate entity, without first obtaining permission from the United States Probation Officer.

**Permissible Search:** The defendant shall submit to a search of his/her person or property conducted in a reasonable manner and at a reasonable time by the U.S. Probation Officer.

DEFENDANT: RENZO WILLIAM ALEGRE  
CASE NUMBER: 0:21-CR-60041-RKA(1)

**Restricted from Possession of Sexual Materials:** The defendant shall not buy, sell, exchange, possess, trade, or produce visual depictions of minors or adults engaged in sexually explicit conduct. The defendant shall not correspond or communicate in person, by mail, telephone, or computer, with individuals or companies offering to buy, sell, trade, exchange, or produce visual depictions of minors or adults engaged in sexually explicit conduct.

**Sex Offender Registration:** The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which he or she resides, works, is a student, or was convicted of a qualifying offense.

**Sex Offender Treatment:** The defendant shall participate in a sex offender treatment program to include psychological testing and polygraph examination. Participation may include inpatient/outpatient treatment, if deemed necessary by the treatment provider. The defendant will contribute to the costs of services rendered (co-payment) based on ability to pay or availability of third-party payment.

**Unpaid Restitution, Fines, or Special Assessments:** If the defendant has any unpaid amount of restitution, fines, or special assessments, the defendant shall notify the probation officer of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay.

DEFENDANT: RENZO WILLIAM ALEGRE  
CASE NUMBER: 0:21-CR-60041-RKA(1)

## CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments page.

|               | <u>Assessment</u> | <u>Restitution</u> | <u>Fine</u> | <u>AVAA Assessment*</u> | <u>JVTA Assessment**</u> |
|---------------|-------------------|--------------------|-------------|-------------------------|--------------------------|
| <b>TOTALS</b> | \$100.00          | \$ .00             | \$ .00      |                         |                          |

- ☒ The determination of restitution is deferred until 3/28/22 @ 1:45 P.M. An *Amended Judgment in a Criminal Case (AO245C)* will be entered after such determination.
- ☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

- ☐ Restitution amount ordered pursuant to plea agreement \$
- ☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the schedule of payments page may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- ☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:
- |                                                                                |                               |                                                              |
|--------------------------------------------------------------------------------|-------------------------------|--------------------------------------------------------------|
| <input checked="" type="checkbox"/> the interest requirement is waived for the | <input type="checkbox"/> fine | <input checked="" type="checkbox"/> restitution              |
| <input type="checkbox"/> the interest requirement for the                      | <input type="checkbox"/> fine | <input type="checkbox"/> restitution is modified as follows: |

Restitution with Imprisonment - It is further ordered that the defendant shall pay restitution in the amount of **\$ .00**. During the period of incarceration, payment shall be made as follows: (1) if the defendant earns wages in a Federal Prison Industries (UNICOR) job, then the defendant must pay 50% of wages earned toward the financial obligations imposed by this Judgment in a Criminal Case; (2) if the defendant does not work in a UNICOR job, then the defendant must pay a minimum of \$25.00 per quarter toward the financial obligations imposed in this order. Upon release of incarceration, the defendant shall pay restitution at the rate of 10% of monthly gross earnings, until such time as the court may alter that payment schedule in the interests of justice. The U.S. Bureau of Prisons, U.S. Probation Office and U.S. Attorney's Office shall monitor the payment of restitution and report to the court any material change in the defendant's ability to pay. These payments do not preclude the government from using other assets or income of the defendant to satisfy the restitution obligations.

\* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, 18 U.S.C. §2259.

\*\* Justice for Victims of Trafficking Act of 2015, 18 U.S.C. §3014.

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

DEFENDANT: RENZO WILLIAM ALEGRE  
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## SCHEDULE OF PAYMENTS

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

A ☒ Lump sum payments of \$100.00 due immediately, balance due

**It is ordered that the Defendant shall pay to the United States a special assessment of \$100.00 for Count 1, which shall be due immediately. Said special assessment shall be paid to the Clerk, U.S. District Court. Payment is to be addressed to:**

**U.S. CLERK'S OFFICE  
ATTN: FINANCIAL SECTION  
400 NORTH MIAMI AVENUE, ROOM 8N09  
MIAMI, FLORIDA 33128-7716**

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

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

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

☒ The defendant shall forfeit the defendant's interest in the following property to the United States:  
**FORFEITURE of the defendant's right, title and interest in certain property is hereby ordered consistent with the plea agreement. The United States shall submit a proposed Order of Forfeiture within three days of this proceeding.**

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVT A assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.