

NO. _____

In the

Supreme Court of the United States

JOSEPH MICHAEL KING,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

APPENDIX A

**TO PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

Wesley P. Page
Federal Public Defender

Jonathan D. Byrne
Appellate Counsel
Counsel of Record

Lex A. Coleman
Senior Litigator, Assistant Federal Public Defender
OFFICE OF THE FEDERAL PUBLIC DEFENDER
Southern District of West Virginia
300 Virginia Street, East, Room 3400
Charleston, West Virginia 25301
304/347-3350
jonathan_byrne@fd.org

Counsel for Petitioner

2023 WL 5289370

Only the Westlaw citation is currently available.
United States Court of Appeals, Fourth Circuit.

UNITED STATES of America, Plaintiff - Appellee,

v.

Joseph Michael KING, a/k/a Joey King, Defendant - Appellant.

No. 21-4635

|

Submitted: May 1, 2023

|

Decided: August 17, 2023

Appeal from the United States District Court for the Southern District of West Virginia, at Charleston. [Joseph R. Goodwin](#), District Judge. (2:19-cr-00301-1)

Attorneys and Law Firms

ON BRIEF: [Wesley P. Page](#), Federal Public Defender, Jonathan D. Byrne, Appellate Counsel, [Lex A. Coleman](#), Assistant Federal Public Defender, OFFICE OF THE FEDERAL PUBLIC DEFENDER, Charleston, West Virginia, for Appellant. [William S. Thompson](#), United States Attorney, Kathleen E. Robeson, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Charleston, West Virginia, for Appellee.

Before [DIAZ](#), Chief Judge, [RUSHING](#), Circuit Judge, and [FLOYD](#), Senior Circuit Judge.

Opinion

Affirmed by unpublished per curiam opinion.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

*1 Joseph Michael King pled guilty to attempting to entice a minor to engage in sexual activity, in violation of [18 U.S.C. § 2422\(b\)](#). On appeal, King contends that the district court erred in imposing a \$5,000 special assessment under [18 U.S.C. § 3014\(a\)](#), and in imposing a discretionary condition of supervised release requiring that he submit to searches of his person and property based on reasonable suspicion. We affirm.

Beginning with the special assessment,  [§ 3014\(a\)](#) provides that, “in addition to the assessment imposed under [\[18 U.S.C. §\] 3013](#), the [district] court shall assess an amount of \$5,000 on any non-indigent person ... convicted of an [enumerated] offense,” including, as here, attempting to entice a minor to engage in sexual activity. The \$5,000 assessment “shall ... be collected in the manner that fines are collected in criminal cases.”  [§ 3014\(f\)](#); *see* [18 U.S.C. § 3572\(d\)\(1\)](#) (“A person sentenced to pay a fine or other monetary penalty ... shall make such payment immediately, unless, in the interest of justice, the court provides for payment on a date certain or in installments.”); [18 U.S.C. § 3613\(b\)](#) (“The liability to pay a fine shall terminate the later of 20 years from the entry of judgment or 20 years after the release from imprisonment of the person fined.”).

King argues that the district court improperly determined that he had the burden to prove his indigence.* As we have explained in the context of a fine, “[t]he defendant bears the burden of demonstrating his present and prospective inability to pay.”  [United States v. Aramony](#), [166 F.3d 655, 665 \(4th Cir. 1999\)](#). “[B]ecause the  [§ 3014](#) special assessment is akin to a fine, a defendant seeking to avoid the special assessment bears the burden of proving his indigence.” [United States v. Meek](#), [32 F.4th 576, 582 \(6th Cir. 2022\)](#) (internal quotation marks omitted); *see*  [United States v. McMiller](#), [954 F.3d 670, 675 \(4th Cir. 2020\)](#) (noting that assessments under  [§ 3014\(a\)](#) are “to be collected in the same manner as criminal fines”). Accordingly, the district court did not err in determining that King bore the burden to prove his indigence under  [§ 3014\(a\)](#).

* The parties disagree as to whether King sufficiently preserved for appellate review his challenge to the burden of proof. Because King's challenge fails under either plain error or de novo review, we do not decide which standard applies. *See* [United States v. Spirito](#), [36 F.4th 191, 202 n.8 \(4th Cir. 2022\)](#).

Turning to the search condition, we review discretionary conditions of supervised release for abuse of discretion. [United States v. Boyd](#), [5 F.4th 550, 554 \(4th Cir. 2021\)](#). “District courts have broad latitude to impose discretionary conditions of supervised release.” *Id. at 557* (internal quotation marks omitted). A district court may impose any discretionary condition so long as it “is reasonably related to the statutory sentencing factors referenced in  [18 U.S.C. § 3583\(d\)\(1\)](#).” [United States v. Douglas](#), [850 F.3d 660, 663 \(4th Cir. 2017\)](#) (internal quotation marks omitted). The condition must “involve[] no greater deprivation of liberty than is reasonably necessary” to satisfy these factors,  [18 U.S.C. § 3583\(d\)\(2\)](#), and must be “consistent with any pertinent policy statements issued by the Sentencing Commission,”  [18 U.S.C. § 3583\(d\)\(3\)](#).

*2 A district court must explain why a discretionary condition is warranted under  [§ 3583\(d\)](#). [Boyd](#), [5 F.4th at 557](#). However, “[t]he degree of explanation required—the appropriateness of

brevity or length, conciseness or detail, when to write, what to say—varies with the complexity of a given case.” *Id.* (cleaned up). At bottom, the district court must provide “enough of an explanation to satisfy us that it has considered the parties’ arguments and has a reasoned basis for exercising its own legal decision-making authority.” *Id. at 559* (cleaned up). When “a defendant makes nonfrivolous objections” to a supervised release condition, “the district court must address them head-on.” *Id.*

King objected to the search condition, arguing that it failed to adequately protect his constitutional right against unlawful searches and that, if the condition was justified solely to assist probation in supervising him, then it would be justified in every case. The district court agreed that the condition should not be imposed in every case but found that it was appropriate given King’s history and characteristics—namely, his significant history of drug abuse, including several instances in which he nearly fatally overdosed on illegal drugs. Thus, the district court based the search condition on permissible statutory considerations.

Furthermore, although King reasserts on appeal that the search condition may impermissibly infringe on his constitutional rights, it is well-established “that the conditional liberty to which those under supervised release are subject entails the surrender of certain constitutional rights.” *United States v. Ward*, 770 F.3d 1090, 1099 (4th Cir. 2014). Notably, the Supreme Court has acknowledged that “a condition of release can so diminish or eliminate a released prisoner’s reasonable expectation of privacy that a suspicionless search by a law enforcement officer would not offend the Fourth Amendment.”  *Samson v. California*, 547 U.S. 843, 847 (2006). And King fails to demonstrate that this rule differs when the search is conducted by a probation officer, rather than a law enforcement officer. Therefore, the district court did not abuse its discretion in imposing the search condition.

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

AFFIRMED

All Citations

Not Reported in Fed. Rptr., 2023 WL 5289370

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APPENDIX B

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Southern District of West Virginia
300 Virginia Street, East, Room 3400
Charleston, West Virginia 25301
304/347-3350
jonathan_byrne@fd.org

Counsel for Petitioner

FILED: November 21, 2023

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-4635
(2:19-cr-00301-1)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

JOSEPH MICHAEL KING, a/k/a Joey King

Defendant - Appellant

O R D E R

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

Entered at the direction of the panel: Chief Judge Diaz, Judge Rushing, and Senior Judge Floyd.

For the Court

/s/ Nwamaka Anowi, Clerk

NO. _____

In the

Supreme Court of the United States

JOSEPH MICHAEL KING,

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UNITED STATES OF AMERICA,

Respondent.

APPENDIX C

**TO PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

Wesley P. Page
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300 Virginia Street, East, Room 3400
Charleston, West Virginia 25301
304/347-3350
jonathan_byrne@fd.org

Counsel for Petitioner

1 names that he failed to report to the Sex Offender Registry.
2 So that was also going on while he was engaged in this
3 behavior, Your Honor.

4 So his persistence is certainly something to be noted
5 here as well as his failure to report the platform and the
6 user names to the Sex Offender Registry, which is another
7 significant concern for the government, Your Honor.

8 Thank you.

9 THE COURT: All right.

10 Mr. Coleman, anything you or Mr. King would like to say
11 before I impose sentence?

12 I will right after -- well, let me go ahead and deal
13 with the \$5,000 special assessment.

14 Let me hear what you have to say on that.

15 MR. COLEMAN: Judge, I just had this before Judge
16 Berger in *U.S. v. Marvin Akers*. It's 2:20-174. He's
17 indigent and I objected to it. The Court did not impose it.
18 I -- particularly in my -- let's go by the government's
19 legal research saying you can consider future earning
20 capacity.

21 My client is 41. He's been a registered sex offender
22 since his 20s. He's got an almost 20-year documented drug
23 and criminal history based on his chronic addiction. With
24 this he's got now an attempted enticement conviction.

25 I don't care if he's the best chemist walking the face

1 of the earth. Who's going to hire him? And manual labor at
2 minimum wage is not going to deal with a \$5,000 special
3 assessment. It's not just under the Criminal Justice Act.
4 He is indigent. He has had injuries where he really should
5 be getting some disability on. And while he wants to work
6 and do things, physically he's not really capable of doing
7 it. And as far as behind as he's going to be and denied
8 access to technology, he's not going to have any future
9 earning capacity to pay this. I mean, this is really blood
10 from a turnip. This is a pound of flesh that should not be
11 cut.

12 And I would ask the Court -- you know, they can say the
13 burden's on us. Look in the PSR. The PSR even concludes he
14 does not have the resources to pay a fine, much less this
15 assessment. So I would ask that the Court please not impose
16 it.

17 MS. SCOTT: Your Honor, I actually have a case
18 very recently with a different judge in this district, the
19 *United States v. David Hunt* and there Judge Volk actually
20 did impose the special assessment finding that the defendant
21 could pay \$25 per quarter while he was incarcerated, and
22 then any outstanding balance could be addressed by the Court
23 when the defendant got out and probation and the Court had a
24 better understanding of what his situation would be.

25 We ask that the Court determine the special assessment

1 apply in this case, order him on a payment schedule similar
2 to the one in David Hunt and then perhaps reassess it when
3 the defendant gets out and everyone has a better
4 understanding, but at this point it's simply too speculative
5 to make a decision as to what his earning capacity will be
6 when he's out of prison at this point, Your Honor

7 THE COURT: Any reply to that?

8 MR. COLEMAN: I'm trying to be professional.

9 How broke do you have to be, Your Honor?

10 I understand why it's here. I understand the
11 assessment was renewed with the spending package through
12 December. It's 5,000 to support another fund that the
13 government's spending money on. We've got indigent
14 defendants that -- in addition to the CP cases that get some
15 of the mandatory restitution and now we want to add on
16 another five. It's not having a deterrent effect and it's
17 only going to make it that much more difficult for him to be
18 a productive member of society whenever he's finally
19 released. The biggest thing is he is indigent. That's not
20 in dispute.

21 THE COURT: I'll just gratuitously offer up what
22 you know and that is that I often find the ways of Congress
23 mysterious and obscure, but I am obligated to follow the law
24 as it's written.

25 18 United States Code Section 3014 provides for a

1 mandatory special assessment of \$5,000 if the Court
2 determines the defendant is not indigent.

3 The Fourth Circuit has held the defendant bears the
4 burden of proving indigence and merely qualifying for a
5 public defender is not enough. And they point out future
6 earning potential may also be considered.

7 Here the defendant's made no argument before today that
8 the \$5,000 special assessment shouldn't apply. The
9 obligation to pay the special assessment persists for
10 20 years after release from prison.

11 Considering this the Fifth Circuit, though not
12 binding, has held that a District Court should impose the
13 special assessment unless it finds the defendant could not
14 pay it today or at any point in the 20 years following his
15 release.

16 The defendant can apply prison earnings to the special
17 assessment, which would lower the amount outstanding at the
18 end of his prison term, but even if the entire \$5,000
19 remained at his release over 20 years, the monthly payment
20 would be less than \$21 a month.

21 I find the defendant has not made a showing that he
22 will be unable to satisfy this payment obligation.

23 I impose the \$5,000 special assessment.

24 The defendant is ordered to participate in the Bureau
25 of Prisons' Inmate Financial Responsibility Program, as he's

1 already agreed to do, with regard to the \$100 special
2 assessment and make payments of not less than \$25 a month --
3 or per quarter. Any balance remaining shall be due
4 immediately, but payable through monthly payments.

5 Now, anything, Mr. Coleman, you or Mr. King would like
6 to say before I impose sentence?

7 MR. COLEMAN: Your Honor, at what point do you
8 want to address the search provision of supervised release?

9 THE COURT: At the point that I impose the
10 conditions of supervised release.

11 MR. COLEMAN: Very well. Then, no, Your Honor.

12 Thank you.

13 Well, do you want to say anything?

14 THE COURT: Mr. King, anything you'd like to say?

15 THE DEFENDANT: No, Your Honor.

16 THE COURT: Also one other thing I wanted to point
17 out in response to an earlier argument that there was talk
18 about the delay in the regional jail before hearing this,
19 but as I recall Mr. King didn't want to be sentenced because
20 he'd have to wear a mask for his sentencing. For over a
21 year he persisted in that position; is that right?

22 MR. COLEMAN: He wanted to be present in the
23 courtroom, Your Honor, and not appear by Zoom.

24 THE COURT: And in order to be present in the
25 courtroom he's required to wear a mask and he refused; is

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APPENDIX D

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Jonathan D. Byrne
Appellate Counsel
Counsel of Record

Lex A. Coleman
Senior Litigator, Assistant Federal Public Defender
OFFICE OF THE FEDERAL PUBLIC DEFENDER
Southern District of West Virginia
300 Virginia Street, East, Room 3400
Charleston, West Virginia 25301
304/347-3350
jonathan_byrne@fd.org

Counsel for Petitioner

UNITED STATES DISTRICT COURT

Southern District of West Virginia

UNITED STATES OF AMERICA

v.

Joseph Michael King

JUDGMENT IN A CRIMINAL CASE

Case Number: 2:19-cr-00301

USM Number: 15524-088

Lex Coleman

Defendant's Attorney

THE DEFENDANT:

pleaded guilty to count(s) one

pleaded nolo contendere to count(s) _____ which was accepted by the court.

was found guilty on count(s) _____ after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 USC § 2422 (b)	Attempted Enticement	2/7/2019	One

The defendant is sentenced as provided in pages 2 through 9 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

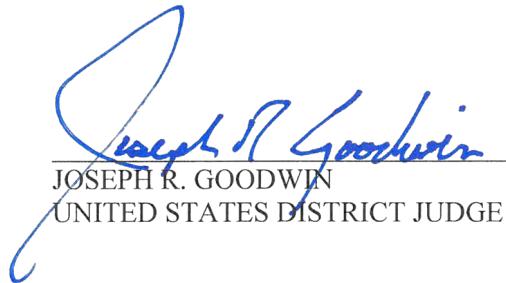
The defendant has been found not guilty on count(s) _____

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.

11/1/2021

Date of Imposition of Judgment



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE

11/2/2021

Date

DEFENDANT: Joseph Michael King
CASE NUMBER: 2:19-cr-00301**IMPRISONMENT**

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of:
204 months

The court makes the following recommendations to the Bureau of Prisons:
that the defendant be housed at FMC Lexington

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 MARSHALBy _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Joseph Michael King

CASE NUMBER: 2:19-cr-00301

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of:

Life

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 the location where 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 other conditions on the attached page.

DEFENDANT: Joseph Michael King
CASE NUMBER: 2:19-cr-00301**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. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature _____

Date _____

DEFENDANT: Joseph Michael King
CASE NUMBER: 2:19-cr-00301

ADDITIONAL SUPERVISED RELEASE TERMS

The defendant shall submit to an evaluation by a qualified mental health professional, approved by the probation officer, who is experienced in treatment of sexual offenders. The defendant shall take all medications reasonably related to treatment of his or her condition, complete all treatment recommendations and abide by all rules, requirements and conditions imposed by the professional. The defendant must do so until discharged from treatment by the professional. Prior to being required to submit any proposed course of treatment, the defendant or the United States may seek review by the presiding district judge of any facet of the prescribed course of treatment. The United States and the defendant shall also have the right to seek review by the presiding district judge of any continuation or discontinuation of such treatment.

The defendant shall submit to risk assessments, psychological and physiological testing, which may include, but is not limited to, a polygraph examination or other specific tests to monitor the defendant's compliance with probation or supervised release treatment conditions, at the direction of the probation officer.

The defendant's residence and employment shall be approved by the probation officer. Any proposed change in residence or employment must be provided to the probation officer at least 10 days prior to the change and pre-approved before the change may take place. If such notification is not possible due to unanticipated circumstances, the defendant must notify the probation officer within 72 hours of becoming aware of the change or expected change.

The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, et seq.) and/or register as directed by the probation officer. The defendant shall register with any local and/or State Sex Offender Registration agency in any state or federal territory where the defendant resides, is employed, carries on a vocation, or is a student, or was convicted of a qualifying offense, pursuant to state law.

The term "minor" with respect to any condition of supervised release refers to one who is under the age of eighteen (18) years.

The defendant shall not associate or have verbal, written, telephonic or electronic communications with any minor except: 1) in the presence of the parent or legal guardian of said minor; 2) on the condition that the defendant notifies the parent or legal guardian of the defendant's sex offender conviction(s); and 3) with written approval from the probation officer, which shall not be unreasonably withheld. This provision does not encompass associating or communicating with minors working as waiters, cashiers, ticket vendors, and similar service personnel with whom the defendant must associate or communicate in order to obtain ordinary and usual commercial services, so long as such associations or communications are limited exclusively to those which are necessary and proper for obtaining the aforementioned services.

The defendant must not view or possess any "visual depiction" (as defined in 18 U.S.C. § 2256) including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of "sexually explicit conduct" (as defined in 18 U.S.C. § 2256), for the purpose of sexual gratification.

The defendant must not possess or use a computer or other device (as defined in 18 U.S.C. § 1030(e)(1)) capable of Internet access until a Computer Use Agreement is developed and approved by the treatment provider and/or probation officer. Such approval will not be unreasonably withheld. Such computers, computer hardware or software possessed solely by the defendant is subject to searches and/or seizures by the probation office.

DEFENDANT: Joseph Michael King

CASE NUMBER: 2:19-cr-00301

ADDITIONAL STANDARD CONDITIONS OF SUPERVISION

The defendant shall not purchase, possess or control cameras, camcorders, or movie cameras without prior approval of the probation officer, which shall not be unreasonably withheld.

The defendant shall not engage in any forms of exhibitionism, voyeurism, obscene phone calls or other lewd or lascivious behavior toward a minor, nor engage in "grooming" behavior that is apt to attract, seduce or reduce sexual resistance or inhibitions of a minor.

The defendant shall not possess sadomasochistic or similar bindings or handcuffs, or like forms of restraint.

The defendant shall not possess minor's clothing, toys, games, or the like without permission of the probation officer, which shall not be unreasonably withheld.

The defendant shall not be employed in any position or participate as a volunteer in any activity that involves contact with minors without written permission from the probation officer, which shall not be unreasonably withheld. The defendant may not engage in an activity that involves being in a position of trust or authority over any minor.

The defendant shall allow the U.S. Probation Officer, or other designee, to install software designed to monitor computer activities on any computer the defendant is authorized to use. This may include, but is not limited to, software that may record any and all activity on computers (as defined in 18 U.S.C. § 1030(e)(1)) the defendant may use, including the capture of keystrokes, application information, internet use history, email correspondence, and chat conversations. The defendant shall pay any costs related to the monitoring of computer usage at the direction of the probation officer.

The defendant shall not possess pictures of minors for the purpose of sexual gratification.

The defendant shall submit his or her person, property, house, residence, vehicle, papers, or office to a search conducted by a United States probation officer when there is reasonable suspicion that the defendant has violated a condition of supervision. The search must be conducted at a reasonable time and in a reasonable manner. Failure to submit to a search may be grounds for revocation of release. The defendant shall inform other occupants that the premises may be subject to searches pursuant to this condition.

DEFENDANT: Joseph Michael King

CASE NUMBER: 2:19-cr-00301

SPECIAL CONDITIONS OF SUPERVISION

The defendant will participate in a program of testing, counseling and treatment for drug and alcohol abuse as directed by the probation officer. An intensive drug treatment program is recommended.

The defendant shall comply with the Standard Conditions of Supervision adopted by the Southern District of West Virginia in Local Rule of Criminal Procedure 32.3, as follows:

- 1) If the offender is unemployed, the probation officer may direct the offender to register and remain active with Workforce West Virginia.
- 2) Offenders shall submit to random urinalysis or any drug screening method whenever the same is deemed appropriate by the probation officer and shall participate in a substance abuse program as directed by the probation officer. Offenders shall not use any method or device to evade a drug screen.
- 3) As directed by the probation officer, the defendant will make copayments for drug testing and drug treatment services at rates determined by the probation officer in accordance with a court-approved schedule based on ability to pay and availability of third-party payments.
- 4) A term of community service is imposed on every offender on supervised release or probation. Fifty hours of community service is imposed on every offender for each year the offender is on supervised release or probation. The obligation for community service is waived if the offender remains fully employed or actively seeks such employment throughout the year.
- 5) The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.

DEFENDANT: Joseph Michael King

CASE NUMBER: 2:19-cr-00301

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

TOTALS	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
	\$ 100.00	\$	\$	\$	\$ 5,000.00

The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) 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, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss***</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
TOTALS	\$ 0.00	\$ 0.00	

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 Sheet 6 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:

the interest requirement is waived for the fine restitution.

the interest requirement for the fine restitution is modified as follows:

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.

** Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

*** 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: Joseph Michael King

CASE NUMBER: 2:19-cr-00301

ADDITIONAL TERMS FOR CRIMINAL MONETARY PENALTIES

The \$100 special assessment will be paid through participation in the Inmate Financial Responsibility Program. The defendant shall pay the assessment in payments of not less than \$25 per quarter through participation in the Bureau of Prisons' Inmate Financial Responsibility Program. Any remaining balance shall be paid during the term of supervised release.

The \$5,000 JVTA assessment will be paid through participation in the Inmate Financial Responsibility Program. The defendant shall pay the assessment in payments of not less than \$25 per quarter through participation in the Bureau of Prisons' Inmate Financial Responsibility Program. Any remaining balance shall be paid during the term of supervised release.