

The district court properly ruled that the policy limits Bracher to \$25,000 in UIM coverage.<sup>3</sup> See *Naeger v. Farmers Ins. Co., Inc.*, 436 S.W.3d 654, 662 (Mo. App. 2014) (“[T]he contract between the insured and the insurer defines and limits coverage.”).

\* \* \* \* \*

The judgment is affirmed.



UNITED STATES of America,  
Plaintiff - Appellee

v.

Carney TURNER, also known as  
Tez, Defendant - Appellant

United States of America,  
Plaintiff - Appellee

v.

Sidney Marker, Defendant - Appellant

No. 22-3462, No. 22-3463

United States Court of Appeals,  
Eighth Circuit.

Submitted: November 14, 2023

Filed: February 29, 2024

**Background:** Defendants pled guilty in the United States District Court for the District of Nebraska, Robert F. Rossiter, Jr., J., to conspiracy to engage in sex trafficking of minor, sex trafficking of minor, and enticement of minor, and they appealed.

3. Because there was no breach of contract, Bracher cannot “show that the insurance company’s refusal to pay the loss was willful and without reasonable cause or excuse,” and

**Holdings:** The Court of Appeals, Wollman, Circuit Judge, held that:

- (1) base offense level of 30 applied in sentencing defendant for conspiracy;
- (2) two-level increase in defendant’s base offense level for offense involving commission of sex act or sexual contact applied;
- (3) four-level increase for being organizer or leader of criminal activity that involved five or more participants applied;
- (4) five-level increase for pattern of activity involving prohibited sexual conduct applied;
- (5) district court did not abuse its discretion in sentencing one defendant to 180 months’ imprisonment for conspiracy; and
- (6) district court did not abuse its discretion in sentencing other defendant to life imprisonment.

Affirmed.

#### 1. Criminal Law ⇨273.4(4)

Defendant waived his challenge to superseding indictment charging him with conspiracy and sex trafficking of minor for failing to state offense by pleading guilty. 18 U.S.C.A. § 1591.

#### 2. Criminal Law ⇨273.4(1)

Guilty plea waives all defects except those that are jurisdictional.

#### 3. Indictments and Charging Instruments ⇨323

Defective indictment does not deprive court of jurisdiction, even if indictment conflates two alternative offenses defined in statute.

thus her vexatious refusal claim need not be addressed. See *Watters v. Travel Guard Int’l*, 136 S.W.3d 100, 108 (Mo. App. 2004) (listing elements for vexatious refusal).

#### 4. Criminal Law ⇨1139

Court of Appeals reviews de novo district court's interpretation and application of Sentencing Guidelines. U.S.S.G. § 1B1.1 et seq.

#### 5. Sentencing and Punishment ⇨683

Base offense level of 30 applied in sentencing defendant for conspiracy to engage in sex trafficking of minor, despite defendant's contention that, because superseding indictment did not cite specific punishment subsection, appropriate base offense level was 24 under "otherwise" category set forth in guideline for substantive offense of sex trafficking of children; superseding indictment alleged acts punishable under subsection applicable if offense was not effected by means of force, threats of force, fraud, or coercion and victim was between ages of 14 and 18. 18 U.S.C.A. §§ 1591(b)(2), 1594(c); U.S.S.G. §§ 2G1.3(a)(2), 2X1.1(a).

#### 6. Sentencing and Punishment ⇨703

Two-level increase in defendant's base offense level under Sentencing Guideline for offense involving commission of sex act or sexual contact applied in sentencing defendant for sex trafficking of minor, despite defendant's contentions that he did not himself engage in sex act or sexual contact with victim, and that application of enhancement rendered as surplusage another enhancement applicable to non-coercive offense that involved commercial sex act by minor. 18 U.S.C.A. § 1591(b); U.S.S.G. § 2G1.3(b)(4)(A).

#### 7. Sentencing and Punishment ⇨752

Four-level increase in defendant's base offense level under Sentencing Guideline for being organizer or leader of criminal activity that involved five or more participants applied in sentencing defendant for conspiracy to engage in sex trafficking of minor, even though he only organized and led two co-defendants in scheme,

where two sex purchasers were convicted of state offenses related to conspiracy. 18 U.S.C.A. § 1591(b); U.S.S.G. § 3B1.1(a).

#### 8. Sentencing and Punishment ⇨703, 906

Five-level increase in defendant's base offense level under Sentencing Guideline for pattern of activity involving prohibited sexual conduct applied in sentencing defendant for conspiracy to engage in sex trafficking of minor, sex trafficking of minor, and enticement of minor, despite defendant's contention that other Guideline enhancements fully accounted for cases involving multiple victims; Guideline specifically envisioned double counting result by imposing increase of five levels "plus" offense level calculation arrived at from applying Chapters two and three of Guidelines. U.S.S.G. §§ 2G1.3, 3D1.4, 4B1.5(b)(1).

#### 9. Criminal Law ⇨1144.17, 1156.2

Court of Appeals reviews sentence's substantive reasonableness under deferential abuse-of-discretion standard and may apply presumption of reasonableness to sentence within advisory guidelines range.

#### 10. Conspiracy ⇨448

##### Sentencing and Punishment ⇨61

District court did not abuse its discretion in sentencing defendant to 180 months' imprisonment for conspiracy to engage in sex trafficking of minor, despite defendant's contention that district court failed to assign adequate weight to control her co-defendant boyfriend exerted over her, his emotional abuse toward her, and her resultant post-traumatic stress disorder (PTSD) diagnosis; district court acknowledged defendant's psychological and mental health issues, but was skeptical that her participation in conspiracy was result of her having been manipulated by co-defendant in light of her bachelor's de-

gree in child, youth, and family services and her experience as family support specialist and as foster care specialist. 18 U.S.C.A. § 3553(a).

#### 11. Sentencing and Punishment ¶60, 66, 645

District court did not abuse its discretion in imposing within-Guidelines life sentence after defendant pled guilty to conspiracy to engage in sex trafficking of minor, sex trafficking of minor, and enticement of minor; court considered defendant's arguments against guidelines sentence, including fact of his guilty plea, but concluded that egregiousness of defendant's conduct warranted life sentence. 18 U.S.C.A. § 3553(a).

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Appeals from United States District Court for the District of Nebraska - Omaha

Counsel who presented argument on behalf of the appellant, Carney Turner, and appeared on the brief was Richard Haile McWilliams, AAFP, of Omaha, NE. Counsel who presented argument on behalf of the appellant, Sidney Marker, and appeared on the brief was Adam J. Sipple of Omaha, NE.

Counsel who presented argument on behalf of the appellee was Kelli L. Ceraolo, AUSA, of Omaha, NE.

Before COLLOTON, WOLLMAN, and BENTON, Circuit Judges.

WOLLMAN, Circuit Judge.

Carney Turner pleaded guilty to one count of conspiracy to engage in sex trafficking of a minor, in violation of 18 U.S.C. § 1594(c), three counts of sex trafficking of

a minor, in violation of 18 U.S.C. § 1591(a), and two counts of enticement of a minor, in violation of 18 U.S.C. § 2422(b). He admitted that codefendant Julisha Biggs and three minor victims had engaged in prostitution under his direction and for his financial benefit. Turner used text and electronic messaging to recruit two of the minor victims to his prostitution ring. He posted online advertisements that included provocative photos of the girls, arranged commercial sex sales, and transported the girls to the hotels he booked for commercial sex acts. The district court<sup>1</sup> sentenced Turner to life imprisonment on each count.

Turner's former girlfriend, Sidney Marker, pleaded guilty to the conspiracy count. Marker admitted that she had allowed Turner to use her vehicles, that she had helped rent hotel rooms for commercial sex acts, and that she had permitted commercial sex acts to occur at the apartment she shared with Turner. She was sentenced to 180 months' imprisonment.

On appeal, Turner challenges his convictions for conspiracy and sex trafficking, arguing that the indictment failed to state these offenses. Both Turner and Marker argue that the district court miscalculated their offense levels under the U.S. Sentencing Guidelines and that their sentences are substantively unreasonable. We affirm.

#### I. The Indictment

Turner challenges his convictions for conspiracy and sex trafficking of a minor, arguing that the superseding indictment failed to state any offense under 18 U.S.C. § 1591(a). See 18 U.S.C. § 1591 (sex trafficking of children); 1594(c) (conspiracy to violate § 1591). Specifically, Turner argues that § 1591(a)(1) and (a)(2) set forth at least two offenses and that § 1591(c) re-

1. The Honorable Robert F. Rossiter, Jr., Chief Judge, United States District Court for the

District of Nebraska.

lieves the government of proving knowledge in prosecutions under subsection (a)(1). Turner argues that because the superseding indictment alleged the standard set forth in subsection (c), as well as acts that are prohibited under subsections (a)(1) and (a)(2), it “alleged conduct not proscribed by either § 1591(a)(1) or § 1591(a)(2).” Turner Br. 13.

[1–3] We need not and do not decide the merits of Turner’s argument, however, because he waived his challenge to the superseding indictment by pleading guilty. “A guilty plea waives all defects except those that are ‘jurisdictional.’” United States v. Todd, 521 F.3d 891, 895 (8th Cir. 2008). “[A] defective indictment does not deprive a court of jurisdiction,” even if the indictment conflates two alternative offenses defined in a statute. *Id.* (citing United States v. Cotton, 535 U.S. 625, 632, 122 S.Ct. 1781, 152 L.Ed.2d 860 (2002)). Turner thus has not raised a jurisdictional defect, and his failure-to-state-an-offense claim is waived.

## II. Sentencing Guidelines

[4] Marker and Turner challenge the district court’s application of the sentencing guidelines. They do not challenge its factual findings. We review *de novo* the district court’s interpretation and application of the guidelines. United States v. Carter, 960 F.3d 1007, 1010 (8th Cir. 2020).

### A. Calculation of Marker’s Sentencing Range

In determining Marker’s base offense level for conspiracy, *see* U.S.S.G. § 2X1.1(a), the district court applied the base offense level of 30 for sex trafficking of a minor in violation of § 1591(b)(2), *see* U.S.S.G. § 2G1.3(a)(2), and the 2-level increase for an offense involving the commission of a sex act, *see* U.S.S.G. § 2G1.3(b)(4)(A). After applying multiple

offense-level adjustments not challenged in this appeal, Marker’s total offense level was 35. With a criminal history category of I, Marker’s advisory guidelines sentencing range was 168 to 210 months’ imprisonment.

Marker first argues that the district court erred in applying § 2G1.3(a)(2) for her conspiracy conviction under 18 U.S.C. § 1594(c). Section 1594(c) provides that “[w]hoever conspires with another to violate section 1591 shall be fined under this title, imprisoned for any term of years or for life, or both.” Section 1591(a) sets forth the offense of sex trafficking of children, and § 1591(b) provides “[t]he punishment for an offense under subsection (a).” Subsection (b)(1) applies if the offense was effected by means of force, threats of force, fraud, or coercion or if the victim was not yet fourteen when trafficked. Subsection (b)(2) applies if the offense was not so effected and the victim was between the ages of fourteen and eighteen. The superseding indictment alleged that the Marker violated § 1594(c) by conspiring to violate § 1591(a). Although the superseding indictment did not cite a specific punishment subsection, § 1591(b)(2) applied to the alleged § 1591(a) offense because there were no allegations of force, threats, fraud, coercion, or victims under the age of 14.

Guidelines § 2X1.1(a) provides the base offense level for conspiracies not covered by a specific offense guideline, including those under 18 U.S.C. § 1594(c). *See Carter*, 960 F.3d at 1013 (“Conspiracies punished under § 1594(c) are not covered by a specific offense Guideline, so we begin with the catch-all provision at U.S.S.G. § 2X1.1.”). It instructs that the base offense level for such a conspiracy is “[t]he base offense level from the guideline for the substantive offense,” plus certain adjustments for specific offense characteristics. U.S.S.G. § 2X1.1(a); *see* U.S.S.G.

§ 2X1.1(a) cmt. n.2 (defining “substantive offense” as “the offense that the defendant was convicted of . . . conspiring to commit.”). Section 2G1.3(a) is the guideline for the substantive offense of sex trafficking of children and provides the following base offense levels:

- (1) 34, if the defendant was convicted under 18 U.S.C. § 1591(b)(1);
- (2) 30, if the defendant was convicted under 18 U.S.C. § 1591(b)(2);
- (3) 28, if the defendant was convicted under 18 U.S.C. § 2422(b) or § 2423(a); or
- (4) 24, otherwise.

[5] Marker argues that because she was convicted under 18 U.S.C. § 1594(c), her base offense level is 24 under the “otherwise” category set forth in § 2G1.3(a)(4). We must, however, consider § 2G1.3(a) in light of § 2X1.1(a)’s directive that the conspiracy’s base offense level is the base offense level for the underlying substantive offense. See Carter, 960 F.3d at 1014; United States v. Sims, 957 F.3d 362, 363 (3d Cir. 2020). Marker pleaded guilty to conspiring to commit sex trafficking of children in violation of § 1591(a), and the superseding indictment alleged acts punishable under § 1591(b)(2). See Sims, 957 F.3d at 365 (explaining that § 1591(b) “is not a standalone offense; rather, it’s the punishment for violating § 1591(a)”). Because the base offense level for the underlying substantive offense is thus 30, the base offense level for Marker’s conspiracy conviction is 30, plus the adjustment discussed below. We thus conclude that the district court did not err in applying § 2G1.3(a)(2).

Despite Marker’s contention to the contrary, the commentary to § 1B1.3 supports this conclusion. Application note 7 explains that when a guideline directs that a particular factor apply only if the defendant is convicted of a certain statute, that di-

rection “includes the determination of the offense level where the defendant was convicted of conspiracy . . . in respect to that particular statute.” Marker was convicted of conspiracy in respect to § 1591(b)(2). See Carter, 960 F.3d at 1014.

Marker also argues that “the district court erred by applying the two-point enhancement based upon the offense involving a ‘commercial sex act.’” Marker’s Br. 17. At the time of Marker’s sentencing, § 2G1.3(b)(4) provided that “[i]f (A) the offense involved the commission of a sex act or sexual contact; or (B) subsection (a)(3) or (a)(4) applies and the offense involved a commercial sex act, increase by 2 levels.” Marker’s argument fails, however, because the district court applied subsection (b)(4)(A) for an offense involving commission of a sex act. As explained above, Marker’s base offense level was set forth in subsection (a)(2). She did not satisfy subsection (b)(4)(B)’s requirement that subsection (a)(3) or (a)(4) apply. The district court simply did not apply the subsection (b)(4)(B) enhancement for an offense involving a commercial sex act. See Marker Sentencing Tr. 72–73.

We have previously rejected the argument that § 2G1.3(b)(4)(A) should not apply when the offense is under § 1591(b) and involved the commission of a sex act. Carter, 960 F.3d at 1011. Accordingly, to the extent Marker advances that argument, it is foreclosed by our precedent.

#### B. Calculation of Turner’s Guidelines Sentence

The district court grouped Turner’s conspiracy count with the substantive counts of sex trafficking related to each minor victim, see U.S.S.G. § 3D1.2(b), and applied § 2G1.3 to determine the base offense level for each group, see U.S.S.G. § 2X1.1(a).

Applying the guideline for sex trafficking of children, the district court determined that Turner's base offense level was 30 and increased by 2 for each of the following specific offense characteristics: unduly influencing a minor; using a computer to entice, encourage, offer, or solicit a person to engage in sexual conduct with the minor; and because the offense involved the commission of a sex act or sexual conduct. See U.S.S.G. § 2G1.3(a)(2), (b)(2)(B), (b)(3)(B), and (b)(4)(A). The district court also applied upward adjustments because Turner knew or should have known that the victim was vulnerable (2 levels), because he was an organizer of five or more participants (4 levels), and because he obstructed justice (2 levels). See U.S.S.G. §§ 3A1.1(b)(1), 3B1.1(a), and 3C1.1.

The adjusted offense level for each group was 44, which was increased by 3 when the groups were combined and by 5 based on a pattern of activity or prohibited sexual conduct. U.S.S.G. §§ 3D1.4, 4B1.5(b)(1). After decreasing by 2 levels for acceptance of responsibility, Turner's total offense level was 50, which was treated as an offense level of 43. See U.S.S.G. § 3E1.1(a); Sentencing Table n.2. With a criminal history category of IV, Turner's guidelines sentence was life imprisonment.

[6] Like Marker, Turner argues that the district court erred by applying the 2-level increase under § 2G1.3(b)(4)(A). He does not dispute that "the offense involved the commission of a sex act or sexual contact," as subsection (b)(4)(A) requires, but contends that the enhancement applies only when the defendant himself engaged in the sex act or sexual contact with a victim. He contends that, if not so limited, subsection (b)(4)(B) is rendered "wholly redundant." Turner's Br. 17. The plain language of subsection (b)(4)(A) does not limit its application to a defendant's conduct,

however, and we have rejected the argument that this reading "render[s] § 2G1.3(b)(4)(B) 'mere surplusage.'" Carter, 960 F.3d at 1011. The district court thus properly applied subsection (b)(4)(A).

[7] Turner also challenges the enhancement under § 3B1.1(a), which provides a 4-level increase if the defendant was an organizer or leader of a criminal activity that involved five or more participants. It is undisputed that Turner, Biggs, and Marker were participants or that he organized or led his co-defendants. Turner also does not challenge the district court's conclusion that two sex purchasers—both of whom were convicted of state offenses related to this conspiracy—were participants in the criminal activity. See United States v. Jungers, 702 F.3d 1066, 1069–75 (8th Cir. 2013) (holding that 18 U.S.C. § 1591 applies to consumers of commercial sex acts); U.S.S.G. § 3B1.1 cmt. n.1. (defining "participant" as "a person who is criminally responsible for the commission of the offense, but need not have been convicted"). He argues that he did not organize or lead these purchasers, but the guideline requires only that he organize or lead at least one other participant, which Turner indisputably did. See U.S.S.G. § 3B1.1 cmt. n.2 ("To qualify for an adjustment under this section, the defendant must have been the organizer, leader, manager, or supervisor of one or more other participants."). The district court thus did not err in applying this 4-level increase.

[8] We likewise reject Turner's challenge to the application of § 4B1.5(b)(1), which provides a 5-level increase when "the defendant's instant offense of conviction is a covered sex crime, neither § 4B1.1 nor subsection (a) of this guideline applies, and the defendant engaged in a pattern of activity involving prohibited sexual conduct." Turner contends that the district court gave too broad a definition to "pro-

hibited sexual conduct,” but the guideline defines the phrase to include offenses under 18 U.S.C. § 1591. See U.S.S.G. § 4B1.5 cmt. n.4(A)(i). Moreover, although Turner argues that § 2G1.3 and § 3D1.4 fully account for cases involving multiple victims, § 4B1.5 “specifically envisions a double counting result by imposing an increase of five levels ‘plus’ the offense level calculation arrived at from applying chapters two and three of the guidelines.” United States v. West, 2022 WL 321136, at \*1 (8th Cir. Feb. 3, 2022) (per curiam).

### III. Substantive Reasonableness

[9] We review the substantive reasonableness of a sentence under a deferential abuse-of-discretion standard and may apply a presumption of reasonableness to a sentence within the advisory guidelines range. Gall v. United States, 552 U.S. 38, 51, 128 S.Ct. 586, 169 L.Ed.2d 445 (2007).

#### A. Marker’s Sentence

Marker holds a bachelor’s degree in child, youth, and family services. She met Turner when she was a caseworker for the department of corrections and he was an inmate serving a lengthy prison sentence for manslaughter. After leaving the department of corrections, Marker was employed as a family support specialist and as a foster care specialist. She had no criminal history prior to being convicted of conspiracy to commit sex trafficking.

At sentencing, the government presented evidence of Marker’s knowing involvement in the conspiracy, as well as evidence of the training she had received during her employment as a foster care specialist, which included training on domestic violence, conflict resolution, and recognizing the signs of sex trafficking. Two victims spoke at Marker’s sentencing, explaining how being sex trafficked destroyed their lives. They asked how Marker could fail to

intervene in what one victim described as “a mess where vulnerable teenage girls are being deprived of their lives.” Marker Sentencing Tr. 9. Marker presented evidence of her psychological evaluation and her therapy records, as well as several letters of support. After considering the evidence and the sentencing factors under 18 U.S.C. § 3553(a), the district court imposed the 180-month sentence.

Marker argues that her sentence is substantively unreasonable. She contends that the district court failed to assign adequate weight to the mitigating circumstances in her personal history—specifically, the control Turner exerted over her, his emotional abuse toward her, and her resultant post-traumatic stress disorder diagnosis. She also argues that district court should have given greater consideration to her vulnerable state at the time of the offense that resulted from her recently suffered miscarriage and her discovery of Turner’s affair. Marker also argues that the district court committed a clear error in judgment by basing the sentence, in part, on Marker’s education, employment, and training in family services and foster care.

[10] We conclude that the district court did not abuse its discretion in sentencing Marker. It acknowledged Marker’s psychological and mental health issues, but was skeptical that her participation in the conspiracy was a result of her having been manipulated by Turner.

[Y]ou are an educated woman. Your background in corrections and foster care, along with the training . . . that you’ve received, really works against you here. . . . [Y]ou talk about the -- the wish to protect kids, but you did know better. And if you didn’t know better, you should have known better.

Marker Sentencing Tr. 106. The record makes clear that the district court consid-

ered Marker's history and characteristics "on both sides of the ledger" and that it did not err in its consideration of Marker's education and training. *Id.* at 108. We conclude that the court did not exceed the substantial latitude it is accorded in weighing the sentencing factors and that Marker's sentence is not substantively unreasonable.

#### B. Turner's Sentence

Turner argues that the district court failed to adequately explain why his case merited life imprisonment. He contends that post-guilty plea discretionary life sentences are so rare that they warrant special scrutiny on appeal. Moreover, although the district court stated that it had considered the § 3553(a) factors, Turner contends that the record reveals that the court did not, in fact, consider those factors, particularly the need to avoid unwarranted sentencing disparities.

[11] We conclude that the district court did not abuse its discretion in sentencing Turner to life imprisonment. The court considered the ably-presented arguments against a guidelines sentence, including the fact of Turner's guilty plea and the guidelines' failure "to address the nuance of Carney Turner as a human being, to address or recompense his victims who are human beings, or provide anything approaching justice in this case." Turner Sentencing Tr. 90–91. The court concluded, however, that "these guidelines are . . . appropriately factored." *Id.* at 107. The court considered defense counsel's account of defendants who had received life imprisonment for mass murder, terrorism, or more horrific sex trafficking, but nonetheless found that the egregiousness of Turner's conduct warranted a life sentence. The record makes clear that the district court "considered the parties' arguments and ha[d] a reasoned basis for exercising

his own legal decisionmaking authority." *Rita v. United States*, 551 U.S. 338, 356, 127 S.Ct. 2456, 168 L.Ed.2d 203 (2007). Turner's life sentence is thus not substantively unreasonable.

#### Conclusion

The judgments are affirmed.



#### REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS, Petitioner - Appellant

v.

#### UNITED STATES of America, Respondent - Appellee

**Media Organizations; Electronic Frontier Foundation; American Civil Liberties Union, Amici on Behalf of Appellant(s)**

**No. 22-3326**

United States Court of Appeals,  
Eighth Circuit.

Submitted: October 17, 2023

Filed: March 1, 2024

**Background:** Nonprofit organization representing journalists filed application in the United States District Court for the District of Minnesota seeking an order directing the clerk of court to unseal, under certain conditions, electronic-surveillance filings made by the United States and to docket all applications for electronic surveillance, even those that were not granted. The United States District Court for the District of Minnesota, Patrick J. Schiltz, Chief Judge, 2022 WL 6701785, denied the application and dismissed the



## UNITED STATES DISTRICT COURT

for the  
District of Nebraska

UNITED STATES OF AMERICA

v.

CARNEY TURNER

**JUDGMENT IN A CRIMINAL CASE**Case Number: 8:21CR78-001  
USM Number: 31101-509Richard H. McWilliams  
Defendant's Attorney**THE DEFENDANT:**

- ☒ pleaded guilty to counts I through VI of the Superseding Indictment.
- ☐ 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 &amp; Section &amp; Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18:1594(c) CONSPIRACY TO ENGAGE IN SEX TRAFFICKING OF A MINOR	April 1, 2021	1s
18:1591(a) SEX TRAFFICKING OF A MINOR	February 2021	2s
18:1591(a) SEX TRAFFICKING OF A MINOR	October 31, 2020	3s
18:1591(a) SEX TRAFFICKING OF A MINOR	September 25, 2020	4s
18:2422(b) COERCION AND ENTICEMENT OF A MINOR	October 31, 2020	5s
18:2422(b) COERCION AND ENTICEMENT OF A MINOR	September 25, 2020	6s

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)
- ☒ The Indictment is dismissed.

**IT IS ORDERED** that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States attorney of any material change in the defendant's economic circumstances.

November 8, 2022

Date of Imposition of Sentence:

s/ Robert F. Rossiter, Jr.

Chief United States District Judge

November 14, 2022

Date

DEFENDANT: CARNEY TURNER

CASE NUMBER: 8:21CR78-001

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of **Life on Count I, Life on Count II, Life on Count III, Life on Count IV, Life on Count V and Life on Count VI of the Superseding Indictment. All counts are to be served concurrently.**

☒ The Court makes the following recommendations to the Bureau of Prisons:

1. That the defendant be allowed to participate in the Residential Drug Treatment Program or any similar drug treatment program available.
2. That the defendant be incarcerated in a federal facility as close as possible to FCI Sandstone.
3. Defendant should be given credit for time served.

☒ 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

☐ 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 was delivered on \_\_\_\_\_ to \_\_\_\_\_  
at \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

BY: \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

DEFENDANT: CARNEY TURNER

CASE NUMBER: 8:21CR78-001

**SUPERVISED RELEASE**

Upon release from imprisonment, the defendant shall be on supervised release for a term of **Life on Count I, Life on Count II, Life on Count III, Life on Count IV, Life on Count V and Life on Count VI of the Superseding Indictment. All counts to run concurrently.**

**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.

**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,

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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](http://www.uscourts.gov).

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

Date \_\_\_\_\_

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**SPECIAL CONDITIONS OF SUPERVISION**

- a. You must not purchase or possess, use, distribute, or administer any alcohol, just the same as any other narcotic or controlled substance.
- c. You must attend, pay for and successfully complete any diagnostic evaluations, treatment or counseling programs, or approved support groups (e.g., AA/NA) for alcohol and/or controlled substance abuse, as directed by the probation officer.
- d. You must participate in a victim awareness program as directed by the probation officer. Based on your ability to pay, you must pay for the costs of the program in an amount determined by the probation officer.
- f. You must attend, successfully complete, and pay for any mental health diagnostic evaluations and treatment or counseling programs as directed by the probation officer.
- i. If you are unable to secure lawful employment, you may be required to perform up to 20 hours of community service per week until employed. You may also participate in training, counseling, daily job search, or other employment-related activities, as directed by the probation officer.
- k. You must pay restitution in the amount of \$5,000.00 to the Clerk of the U.S. District Court, 111 S. 18th Plaza, Suite 1152, Omaha, Nebraska 68102-1322. Restitution shall be paid in accordance with the schedule set forth in the "Schedule of Payments" set forth in this judgment. You are responsible for providing proof of payment to the probation officer as directed.

<b>Victim's Name</b>	<b>Amount</b>
Victim No. 1	\$5,000.00

Without limiting the foregoing, and following release from prison, you must make payments to satisfy the criminal monetary penalty in the following manner: (a) monthly installments of \$100 or 3% of your gross income, whichever is greater; (b) the first payment shall commence 30 days following your discharge from incarceration, and continue until the criminal monetary penalty is paid in full; and (c) you are responsible for providing proof of payment to the probation officer as directed.

- n. You must provide the probation officer with access to any requested financial information.
- p. You must attend, successfully complete, and pay for an approved cognitive-behavioral based program, as directed by the probation officer.
- bb. You must cooperate with the U.S. Probation Office's Computer Monitoring Program, as directed by the probation officer. Cooperation shall include, but not be limited to, identifying computer systems, Internet capable devices, and/or similar electronic devices you have access to, and allowing the installation of monitoring software/hardware on said devices. You and/or the probation officer must inform all parties that access a monitored computer, or similar electronic device, that the device is subject to monitoring. You may be limited to possessing only one personal Internet capable device, to facilitate the probation officer's ability to effectively monitor your Internet related activities, including, but not limited to, email correspondence, Internet usage history, and chat conversations. You must not remove, tamper with, reverse engineer, or in any way circumvent installed software. You must also permit random examinations of said computer systems, Internet capable devices, and similar electronic devices, and related computer peripherals, such as CD's and other media, under your control. You must pay the costs of monitoring.

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- ii. You must submit your person, residence, property, office, vehicle, papers, computer, other electronic communication or data storage devices or media, and effects to a search conducted by a probation officer at any time; failure to submit to a search may be grounds for revocation; You must warn any other residents that the premises and any shared devices may be subject to searches pursuant to this condition.
- kk. You must have no contact with your victim(s), including correspondence, telephone, or communication through third parties, except under circumstances approved in advance and in writing by the probation officer. You must not enter onto the premises, travel past, or loiter near the victim's residence, school, or place of employment, or other places frequented by the victim.
- ll. You must have no contact, nor reside with children under the age of 18, including your own children, unless approved in advance by the probation officer in consultation with the treatment providers. You must report all contact with children to the probation officer and the treatment provider. Should you have contact with a child, you are required to immediately remove yourself from the situation and notify your probation officer within 24 hours of this contact.
- oo. You are restricted from engaging in any occupation, business, or profession, including volunteer work, where you have access to children under the age of 18, without prior approval of the probation officer. Acceptable employment shall include a stable verifiable work location and the probation officer must be granted access to the work site.
- zz. You must report to the Supervision Unit of the U.S. Probation Office for the District of Nebraska between the hours of 8:00 a.m. and 4:30 p.m., 111 South 18th Plaza, Suite C79, Omaha, Nebraska, (402) 661-7555, within seventy-two (72) hours of being placed on probation or release from confinement and, thereafter, as directed by the probation officer.

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**CRIMINAL MONETARY PENALTIES**

The defendant must pay the total criminal monetary penalties in accordance with the schedule of payments set forth in this judgment.

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
<b>TOTALS</b>	\$600.00	\$5,000.00			Court finds indigency and declines to apply the additional JVTA assessment

☐ The determination of restitution is deferred until . 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, 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>
Victim No. 1	\$5,000.00	\$5,000.00	
<b>Totals</b>	\$5,000.00	\$5,000.00	

☐ 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.

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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 payment of \$600.00 due immediately, balance due  
☐ not later than \_\_\_\_\_, or  
☒ in accordance with ☐ C, ☐ D, ☐ E, or ☒ F below; or
- B** ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C** ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D** ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E** ☐ Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F** ☒ Special instructions regarding the payment of criminal monetary penalties:  
 Without limiting the foregoing, and following release from prison, the defendant shall make payments to satisfy the criminal monetary penalty in the following manner: (a) monthly installments of \$100 or 3% of the defendant's gross income, whichever is greater; (b) the first payment shall commence 30 days following the defendant's discharge from incarceration, and continue until the criminal monetary penalty is paid in full; and (c) the defendant shall be responsible for providing proof of payment to the probation officer as directed.

The criminal monetary penalty is due in full on the date of the judgment. The defendant is obligated to pay said sum immediately if he or she has the capacity to do so. The United States may institute civil collection proceedings at any time to satisfy all or any portion of the criminal monetary penalty.

All financial penalty payments are to be made to the Clerk of the U. S. District Court, 111 S. 18th Plaza, Suite 1152, Omaha, NE 68102-1322.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of 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**

Case Number Defendant and Co-Defendant Names (including defendant number)	Total Amount	Joint and Several Amount	Corresponding Payee, if appropriate
8:21CR78 USA v. Julisha Biggs and Sidney Marker	\$5,000.00	\$5,000.00	

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s): \_\_\_\_\_
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

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



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CLERK'S OFFICE USE ONLY:

ECF DOCUMENT

I hereby attest and certify this is a printed copy of a document which was electronically filed with the United States District Court for the District of Nebraska.

Date Filed: \_\_\_\_\_

DENISE M. LUCKS, CLERK

By \_\_\_\_\_ Deputy Clerk