APP-1

PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 24-1975

UNITED STATES OF AMERICA

v.

JOHN ADAMS,
Appellant

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. No. 2:21-cr-00144-001)
District Judge: Honorable Gerald A. McHugh

Submitted Under Third Circuit L.A.R. 34.1(a)
January 22, 2025

Before: HARDIMAN, McKEE, and AMBRO, *Circuit Judges*

(Filed: March 21, 2025)

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OPINION OF THE COURT

HARDIMAN, *Circuit Judge.*

John Adams appeals his judgment of conviction and sentence after pleading guilty to sex trafficking and related offenses. On appeal, he principally argues that the Trafficking Victims Protection Act, 18 U.S.C. § 1591 *et seq.* (the Trafficking Act), does not apply to his conduct and that Congress lacked the power to enact that statute. Adams also contends that the District Court abused its discretion by denying his motion to withdraw his guilty plea. We will affirm.

I

A

In early 2020, Adams picked up two girls who ran away from home, J.A. and S.H., and brought them to his home in Philadelphia. In exchange for giving them a place to stay, Adams required the girls, then aged 15 and 16, to have oral and vaginal sex with him several times and threatened to kick them out if they refused. Adams also directed the minors to engage in commercial sex. He used his cellphone to advertise the minors on the European website "megapersonals.eu" and collected a portion of the money paid to the minors for their sexual services. Adams instructed the minors to conceal their ages and activities, and he directed them to delete their text messages.

Several weeks later, J.A. and S.H. were found by law enforcement during a traffic stop. They told Federal Bureau of Investigation agents that they had been living with Adams and were forced to have sex with him and others. Authorities found inculpatory text messages between Adams and J.A. stored on J.A.'s cellphone that corroborated the minors' account. The officers did not recover S.H.'s phone until several weeks later. By that time, S.H. had deleted all sex-trafficking information from her phone at Adams's direction.

Hours after law enforcement found the juveniles, Adams went to the local police station to "clear his name." Supp. App. 48. He wrote a false exculpatory statement but admitted that he had taken J.A. and S.H. to his home. Days later, Adams solicited another minor, J.B., to help him cover up his sex-trafficking activities. With J.B.'s assistance, he recorded a conversation with J.B., S.H., and S.H.'s brother to exculpate himself and to blackmail S.H. if she cooperated with law enforcement. Adams paid J.B. for her participation in the

recording and paid S.H. and her brother to keep them quiet.

Adams later visited the FBI office in Philadelphia. He told the FBI agents that he was "Captain Save-a-Hoe" and that he knew J.A. and S.H. were minors. Supp. App. 50. Adams admitted that the girls had stayed with him and claimed they had paid him to do so. He denied "having a sexual conversation" with J.A. and S.H. or having a Megapersonals account, although he admitted emailing Megapersonals to ask about posting advertisements. Supp. App. 51. Contrary to Adams's story, the agents discovered that Adams had a Megapersonals account, visited its website many times, and posted online advertisements there at least twice.

B

A grand jury returned a six-count indictment, charging Adams with: sex trafficking of a minor and aiding and abetting the same in violation of 18 U.S.C. § 1591(a)(1), (b)(2), and (c) (Counts One and Two); tampering with evidence in violation of 18 U.S.C. § 1519 (Count Three); tampering with a witness in violation of 18 U.S.C. § 1512(b)(3) (Count Four); and making false statements in violation of 18 U.S.C. § 1001 (Counts Five and Six).

Adams's counsel moved to dismiss Counts One and Two for failure to state an offense, arguing that the Trafficking Act did not apply to Adams's conduct because Congress did not express its intent to federalize the prosecution of "local street crime prostitution." Dist. Ct. Dkt. No. 59 at 5. Adams also filed several pro se motions, including one entitled "Motion to Invalidate the Indictment as Being Unconstitutional As-Applied in Violation of the Treaty Clause, Tenth Amendment, Necessary and Proper Clause, and the United

States Constitution." Dist. Ct. Dkt. No. 55.

The District Court denied the pro se and counseled motions. The Court held that the Trafficking Act criminalized domestic sex trafficking and that Congress validly enacted the statute using its Commerce Clause power.

Adams eventually pleaded guilty to all six charges with a written plea agreement in which he reserved the right to challenge whether the Trafficking Act applied to his conduct. The Government agreed to recommend a within-Guidelines sentence and that Adams was eligible for a two-level reduction for acceptance of responsibility under U.S.S.G. § 3E1.1(a).

Before sentencing, Adams filed a pro se motion asking the District Court to reconsider its order denying his motion to dismiss in part because "[t]his [sex-trafficking] statute is being used the same way the crack laws were being used against black people." Dist. Ct. Dkt. No. 161. Defense counsel also moved to withdraw the guilty plea, arguing that Adams was legally innocent, the Government's witnesses were not credible, and the Government had breached the agreement. Counsel also contended that Adams did not voluntarily agree to plead guilty because his prior counsel rendered ineffective assistance of counsel by inaccurately telling him that the Government could not ask for a sentence greater than fifteen years.

After the District Court denied Adams's motion to withdraw his guilty plea, the Government filed an amended sentencing memorandum, arguing that Adams was no longer eligible for the acceptance-of-responsibility downward adjustment because he had frivolously alleged that he was prosecuted based on his race and denigrated the credibility of

witnesses. At sentencing, the District Court rejected the Government's argument, calculated the Guidelines range as 360 months' to life imprisonment, and imposed a sentence of 300 months' imprisonment followed by ten years' supervised release.

In this timely appeal, Adams challenges the denials of his motion to dismiss Counts One and Two and his motion to withdraw his guilty plea.

II

The District Court had jurisdiction under 18 U.S.C. § 3231. We have jurisdiction under 28 U.S.C. § 1291. We review Adams's statutory and constitutional arguments de novo. *United States v. Hodge*, 948 F.3d 160, 162 (3d Cir. 2020); *United States v. Singletary*, 268 F.3d 196, 198–99 (3d Cir. 2001).

III

Counts One and Two of the indictment charged Adams with violating 18 U.S.C. § 1591(a) of the Trafficking Act, which punishes anyone who "knowingly . . . in or affecting interstate or foreign commerce . . . recruits, entices, harbors, transports, provides, obtains, advertises, [or] maintains . . . by any means a person" while "knowing . . . that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act." 18 U.S.C. § 1591(a). Adams argues that the statute does not apply to his conduct. We disagree.

A

Relying on various references to the "international" or "transnational" sex trade in the congressional purposes and

findings underlying the Trafficking Act, Adams contends that Congress intended § 1591 to apply only to foreign sex trafficking. *See* 22 U.S.C. § 7101(b). As he sees it, his "wholly domestic" sexual exploitation of minors lies beyond the reach of the statute. Adams Br. 9.

Adams's argument flouts the text of § 1591, which punishes both foreign and domestic sex trafficking. "Because we presume that Congress' intent is most clearly expressed in the text of the statute, we begin our analysis with an examination of the plain language of the relevant provision." *Hagans v. Comm'r of Soc. Sec.*, 694 F.3d 287, 295 (3d Cir. 2012) (quotation omitted). Section 1591 criminalizes sex trafficking of minors "in or affecting interstate or foreign commerce." 18 U.S.C. § 1591(a). The statute does not define "interstate," but its ordinary meaning is "[b]etween two or more states or residents of different states." *Interstate*, Black's Law Dictionary 826 (7th ed. 1999); *see also Gibbons v. Ogden*, 22 U.S. (9 Wheat.) 1, 194 (1824) (noting that commerce is interstate when it "concerns more States than one"). So the statute applies domestically because it unambiguously punishes the sex trafficking of minors affecting commerce between two or more States.

Adams's conduct falls within the scope of § 1591. He created an account on a European website to advertise the minors' sexual services and coordinate with buyers. Adams also used a cellphone manufactured in a foreign country to direct the minors to engage in commercial sex acts. Those facts satisfy the jurisdictional foreign or interstate-commerce element of the offenses because Adams's commercial sex trafficking of minors contributed to the market that Congress's comprehensive statutory scheme seeks to eradicate. *See Gonzales v. Raich*, 545 U.S. 1, 17 (2005) (holding that

Congress has the power to regulate individual instances of "purely local activities" that in the aggregate frustrate the broader regulation of interstate and foreign commerce).

B

Adams's second statutory argument fares no better. He contends that even if Congress intended to punish domestic sex trafficking, we must construe § 1591 narrowly to avoid federalizing "local crimes" that Pennsylvania law already punishes. Adams Br. 12 (citing *Bond v. United States*, 572 U.S. 844 (2014)).

In *Bond*, the Supreme Court considered whether a provision of the Chemical Weapons Convention Implementation Act, 18 U.S.C. § 229, reached the defendant's "purely local crime" of poisoning her husband's paramour. *Bond*, 572 U.S. at 848. The Court held it did not because there was no "clear indication that Congress meant to reach purely local crimes." *Id.* at 860. The Court required such a clear statement because reading an ambiguous statutory term as the government suggested would "intrude[] on the police power of the States" and "significantly change the federal-state balance." *Id.* at 859–60 (cleaned up).

Unlike the law challenged in *Bond*, the Trafficking Act reflects Congress's clear intent to exercise all its power to regulate child sex trafficking, including "purely local" conduct, so long as the minimal jurisdictional hook is satisfied. *See Raich*, 545 U.S. at 17; *see also Circuit City Stores, Inc. v. Adams*, 532 U.S 105, 115 (2001) (explaining that by using the phrase "affecting commerce," Congress indicates its "intent to regulate to the outer limits of its authority under the Commerce

Clause").[1] Moreover, "the congressional findings incorporated into the [Trafficking Act] clearly demonstrate Congress's intent to enact a criminal statute addressing sex trafficking at all levels of activity." *United States v. Walls*, 784 F.3d 543, 547 (9th Cir. 2015); *see also* 22 U.S.C. § 7101(b)(12) (finding that, in the aggregate, sex trafficking "substantially affects interstate and foreign commerce" and "has an impact on the nationwide employment network and labor market").

Section 1591 reaches Adams's conduct, even if purely local, so the District Court did not err when it denied Adams's motion to dismiss.

IV

Having rejected Adams's statutory challenges, we turn to his assertion that Congress lacked the constitutional authority to enact § 1591. Adams contends that applying the statute to interstate (rather than international) sex trafficking would violate the Tenth Amendment, the Treaty Power, and the Necessary and Proper Clause of the United States Constitution. Adams's arguments are misguided.

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[1] *Jones v. United States*, which Adams invokes in passing, is inapt. 529 U.S. 848 (2000). There, the Supreme Court interpreted a federal arson statute to exclude private owner-occupied residences because the government had not shown that the building was "currently used in commerce or in an activity affecting commerce." *Id.* at 859 (2000). But the Court's holding hinged on the statute's "qualifying words 'used in' a commerce-affecting activity." *Id.* at 854. That "key word" is absent from the relevant part of § 1591. *Id.*

First, the source of Congress's authority to enact § 1591 derives from the Commerce Clause, not the Treaty Power. The statute imposes criminal liability upon anyone who "knowingly . . . in or affecting interstate or foreign commerce" causes a minor to engage in commercial sex acts. 18 U.S.C. § 1591(a); *see Circuit City Stores*, 532 U.S. at 115 ("The phrase 'affecting commerce' indicates Congress' intent to regulate to the outer limits of its authority under the Commerce Clause."); *see also Walls*, 784 F.3d at 547 ("[W]hen Congress used the language 'in or affecting interstate or foreign commerce' in the [Trafficking Act], it intended to exercise its full powers under the Commerce Clause.").

Section 1591 is a valid exercise of that power. Article I of the Constitution gives Congress the power to "make all Laws which shall be necessary and proper" to "regulate Commerce with foreign Nations, and among the several States." U.S. Const. art. I, § 8 cl. 3, 18. Congress's commerce power, supplemented by the Necessary and Proper Clause, includes the authority "to regulate purely local activities that are part of an economic 'class of activities' that have a substantial effect on interstate commerce."[2] *Raich*, 545 U.S. at 17. Section 1591 is "part of a comprehensive regulatory scheme that criminalizes and attempts to prevent slavery, involuntary servitude, and human trafficking for commercial

[2] For that reason, the Trafficking Act does not offend the Tenth Amendment by punishing conduct that occurs "wholly within a state." Adams Br. 10. It is "well within" Congress's power to regulate "purely intrastate" activities that "undercut the regulation of the interstate market," especially here, where Adams's sexual exploitation of minors was commercial in nature. *Raich*, 545 U.S. at 18.

gain." Wells, 784 F.3d at 548; see Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (codified as amended in scattered titles of U.S.C.). In enacting the Trafficking Act, Congress recognized that human trafficking "is the largest manifestation of slavery today." 22 U.S.C. § 7101(b)(1). Congress also found that human trafficking substantially affects interstate and foreign commerce. See id. § 7101(b)(12). And several of our sister courts have concluded that there is a rational basis for that finding. See, e.g., Wells, 784 F.3d at 548–49; United States v. Evans, 476 F.3d 1176, 1179 (11th Cir. 2007). Today we conclude likewise.

For the reasons stated, we hold that Congress validly enacted the Trafficking Act consistent with its authority under the Commerce Clause. Accordingly, the District Court did not err in denying Adams's motion to dismiss.

V

We last consider Adams's challenge to the District Court's denial of his motion to withdraw his guilty plea. Adams contends that the Government breached the plea agreement by seeking an undue influence two-level enhancement and by reneging on its stipulation that Adams had accepted responsibility for his offense. He also claims he is innocent. We are unpersuaded.

The Government reserved the right to "[m]ake whatever sentencing recommendation" it "deem[ed] appropriate provided its recommendation is within the applicable Sentencing Guidelines range," and the parties were "free to argue . . . the applicability of any other provision of the Sentencing Guidelines, including offense conduct, offense

characteristics, criminal history, adjustments, and departures." Supp. App. 29, 35. The Government therefore did not breach the plea agreement by seeking the undue-influence enhancement, U.S.S.G. § 2G1.3(b)(2)(B).

Nor did the Government breach the plea agreement by arguing against a downward adjustment for acceptance of responsibility in its sentencing memorandum. The parties agreed that Adams demonstrated his acceptance of responsibility "as of the date of th[e] agreement." Supp. App. 36. Because Adams later attempted to withdraw his plea based on the unsupported allegations that his victims lacked credibility and that he was prosecuted because of his race, the Government had a reasonable basis to change its sentencing recommendation. *See United States v. King*, 604 F.3d 125, 141–42 (3d Cir. 2010).

Finally, Adams contends he has a right to withdraw his plea because he "made a claim of innocence." Adams Br. 14. But that "[b]ald assertion[] of innocence" is unsupported and falls well short of Adams's burden. *United States v. Brown*, 250 F.3d 811, 818 (3d Cir. 2001). His claim of innocence before the District Court rested on his argument that § 1591 "does not reach the charged conduct in this case." App. 29. But we have rejected that argument. So the District Court was within its discretion to deny Adams's motion to withdraw the guilty plea.[3] *Brown*, 250 F.3d at 815.

* * *

For the reasons stated, we will affirm the District

[3] Adams also argues that he has a right to withdraw his plea because of ineffective assistance of counsel. We decline to

Court's judgment of conviction and sentence.

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reach the merits of that claim because the record is insufficient to determine the issue. *See United States v. Jones*, 336 F.3d 245, 254 (3d Cir. 2003). We do so without prejudice to Adams's ability to make this argument again on a collateral attack under 28 U.S.C. § 2255. *See United States v. Thornton*, 327 F.3d 268, 271 (3d Cir. 2003).

APP-3

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	
v.	:	CRIMINAL NO. 21-144-1
JOHN ADAMS	:	

GUILTY PLEA AGREEMENT

Under Rule 11 of the Federal Rules of Criminal Procedure, the government, the defendant, and the defendant's counsel enter into the following guilty plea agreement. Any reference to the United States or the government in this agreement shall mean the Office of the United States Attorney for the Eastern District of Pennsylvania.

1. The defendant agrees to plead guilty to Counts One through Six of the Superseding Indictment charging him with sex trafficking of a minor, in violation of 18 U.S.C. § 1591(a)(1), (b)(2), (c) (Counts One and Two), tampering with evidence, in violation of 18 U.S.C. § 1519 (Count Three), tampering with a witness, in violation of 18 U.S.C. § 1512(b)(3) (Count Four), and false statements, in violation of 18 U.S.C. § 1001 (Counts Five and Six) , and not to contest forfeiture as set forth in the notice of forfeiture charging criminal forfeiture under 18 U.S.C. § 1594(d) and (e), all arising from the defendant's sex trafficking of two minor victims in January 2020, his attempts to pay off and intimidate one of those victims into not cooperating with law enforcement, and his false statements to the FBI in February 2020. The defendant further acknowledges his waiver of rights, as set forth in the attachment to this agreement.

2. At the time of sentencing, the government will:

a. Make whatever sentencing recommendation the government deems appropriate provided its recommendation is within the applicable Sentencing Guidelines range.

b. Comment on the evidence and circumstances of the case; bring to the Court's attention all facts relevant to sentencing including evidence relating to dismissed counts, if any, and to the character and any criminal conduct of the defendant; address the Court regarding the nature and seriousness of the offense; respond factually to questions raised by the Court; correct factual inaccuracies in the presentence report or sentencing record; and rebut any statement of facts made by or on behalf of the defendant at sentencing.

c. Nothing in this agreement shall limit the government in its comments in, and responses to, any post-sentencing matters.

3. The defendant understands, agrees, and has had explained to him by counsel that the Court may impose the following statutory maximum and mandatory minimum sentences: Counts One and Two (sex trafficking of a minor) (each), Life imprisonment, a 10-year mandatory minimum term of imprisonment, a mandatory minimum 5 years of supervised release up to a lifetime of supervised release, a $250,000 fine, a $100 special assessment, mandatory restitution pursuant to 18 U.S.C. § 1593, and, if the defendant is found not to be indigent, an additional $5,000 special assessment shall be imposed pursuant to 18 U.S.C. § 3014 on each count; Count Three (tampering with evidence), 5 years' imprisonment, 3 years of supervised release, a $250,000 fine, and a $100 special assessment; Count Four (tampering with a witness), 5 years' imprisonment, 3 years of supervised release, a $250,000 fine, and a $100 special assessment; Counts Five and Six (false statements), 5 years' imprisonment, 3 years of supervised release, a $250,000 fine, and a $100 special assessment on each count;

Total Maximum and Mandatory Minimum Sentence is: Life imprisonment, 10 years' mandatory minimum imprisonment, a mandatory minimum 5 years of supervised release up to a lifetime of supervised release, a $1,500,000 fine, and a $10,400 special assessment. Full restitution shall be ordered. Forfeiture of all proceeds traceable to and all property involved in the violations of 18 U.S.C. § 1591 also may be ordered.

4. The defendant further understands that supervised release may be revoked if its terms and conditions are violated. When supervised release is revoked, the original term of imprisonment may be increased by up to 5 years on each of Counts One and Two; and up to 2 years on each of Counts Three through Six. Thus, a violation of supervised release increases the possible period of incarceration and makes it possible that the defendant will have to serve the original sentence, plus a substantial additional period, without credit for time already spent on supervised release.

5. The defendant has been advised and understands that under the Sex Offender Registration and Notification Act (SORNA), a federal law, the defendant must register and keep the registration current in each of the following jurisdictions: the location of the defendant's residence, the location of the defendant's employment, and, if the defendant is a student, the location of the defendant's school. Registration will require that the defendant provide information that includes name, residence address, and the names and addresses of any places at which the defendant is or will be an employee or a student. The defendant understands that he must update his registrations not later than three business days after any change of name, residence, employment, or student status. The defendant understands that failure to comply with these obligations subjects the defendant to prosecution for failure to register under federal law, 18 U.S.C. § 2250, which is punishable by a fine or imprisonment, or both. This registration will

also be a condition of any supervised release. The defendant also understands that independent of supervised release and the federal law requirements, he will be subject to state sex offender registration requirements, and that these federal law and state requirements may apply throughout his life.

6. In order to facilitate the collection of the criminal monetary penalties to be imposed in connection with this prosecution, the defendant agrees fully to disclose all income, assets, liabilities, and financial interests, held directly or indirectly, whether held in his own name or in the name of a relative, spouse, associate, another person, or entity, and whether held in this country or outside this country. Accordingly:

a. The defendant will submit a completed Financial Statement of Debtor to the U.S. Attorney's Office, in a form it provides and as it directs, within 14 days of execution of this plea agreement. The defendant promises that his financial statement and disclosures will be complete, accurate, and truthful.

b. The defendant expressly authorizes the U.S. Attorney's Office to obtain a credit report on him in order to evaluate the defendant's ability to satisfy any monetary penalty imposed by the Court.

c. Upon request by the United States, the defendant also agrees to submit to a financial deposition or interview prior to sentencing, and provide all documents within the defendant's possession or control as requested by the U.S. Attorney's Office regarding the defendant's financial resources and that of the defendant's household.

d. The defendant agrees not to transfer, assign, dispose, remove, conceal, pledge as collateral, waste, or destroy property with the effect of hindering, delaying, or

defrauding the United States or victims. The defendant otherwise shall not devalue any property worth more than $1,000 before sentencing, without the prior approval of the United States.

e. The defendant also agrees to execute any documents necessary to release any funds held in any repository, bank, investment, other financial institution, or any other location in order to make partial or total payment toward any monetary penalty that the Court may impose.

f. If the defendant fails to comply with this paragraph of the plea agreement or if any of the defendant's representations pursuant to the requirements set forth in this paragraph are false or inaccurate, the government may elect to: void this agreement; and/or argue that the defendant is not entitled to a downward adjustment for acceptance of responsibility under Guideline Section 3E1.1.

7. The defendant agrees to pay a fine as determined by the Court and mandatory restitution. The defendant agrees that any restitution or fine imposed by the Court shall be due and payable immediately and on such terms and conditions that the Court may impose. In the event the Court imposes a schedule for the payment of restitution or fine, the defendant understands and agrees that such a schedule represents a minimum payment obligation and does not preclude the United States Attorney's Office from pursuing any other means by which to satisfy the defendant's full and immediately enforceable financial obligation under applicable federal and/or state law.

8. The defendant agrees that forfeiture, restitution, fine, assessment, tax, interest, or other payments in this case do not constitute extraordinary acceptance of responsibility or provide any basis to seek a downward departure or variance from the applicable Sentencing Guideline range.

9. The defendant agrees to pay the special victims/witness assessment in the amount of $600 at such time as directed by the Court. The defendant further understands that if he is found not to be indigent, an additional $5,000 special assessment shall be imposed pursuant to 18 U.S.C. § 3014 on each of Counts One and Two.

10. The parties agree to the following with respect to forfeiture of assets:

a. The defendant agrees that, based on the defendant's conviction for his offenses of sex trafficking of minors, as charged in Counts One and Two of the superseding indictment, he forfeits his right, title, and interest in the following asset, that such asset was involved in, used, or intended to be used to commit or to facilitate the commission of the offenses and is subject to forfeiture under 18 U.S.C. § 1594(d) and (e), and that such asset is forfeitable to the United States in any judicial (criminal and civil) and administrative proceeding(s) at the government's exclusive discretion: a Samsung Galaxy S10 cellular telephone, bearing telephone number 267-588-7779.

b. The defendant agrees to the entry of a preliminary order of forfeiture pursuant to Federal Rule of Criminal Procedure 32.2(b) as soon as possible after the guilty plea and before sentencing. Pursuant to Rule 32.2(b)(4), the defendant further agrees that, upon the request of the government, the preliminary order of forfeiture may be made final before his sentencing. The defendant waives all statutory deadlines, including but not limited to deadlines set forth in 18 U.S.C. § 983.

c. The defendant acknowledges that forfeiture is part of the sentence that may be imposed in this case and waives any failure by the Court to advise defendant of this, pursuant to Federal Rule of Criminal Procedure 11(b)(1)(J), at the time the Court accepts defendant's guilty plea. The defendant further waives the requirements of Rules 32.2 and 43(a)

of the Federal Rules of Criminal Procedure regarding notice of the forfeiture in the charging instrument, announcement of the forfeiture at sentencing, and incorporation of the forfeiture in the judgment.

d. The defendant agrees to waive any and all constitutional, statutory, and other challenges to the forfeiture on any and all grounds, including any claims, defenses, or challenges arising under the Double Jeopardy or Excessive Fines Clauses of the Eighth Amendment, resulting from any forfeiture imposed in this case and/or any pending or completed administrative or civil forfeiture actions, and stipulates that such forfeiture is not grossly disproportionate to his criminal conduct.

e. The defendant agrees to take all necessary action to pass clear title of the assets listed in this paragraph to the United States, including, but not limited to, completing any documents required to transfer title of these assets to the United States. The defendant also agrees to take all necessary action to ensure that the assets listed in this paragraph are not sold, disbursed, wasted, hidden, or otherwise made unavailable for forfeiture.

f. The defendant consents to the interlocutory sale of any or all of the assets upon motion of the government, following the entry of a preliminary order of forfeiture.

g. The defendant agrees that he will not file, or assist any other party in filing, a claim or petition asserting an interest in or otherwise contesting the forfeiture of any of the assets listed in this paragraph.

h. In the event that any claim is made by third parties to any of the assets listed in this paragraph, the defendant agrees to forfeit substitute assets equal in value to those assets claimed by third parties.

11. The defendant may not withdraw his plea because the Court declines to follow any recommendation, motion, or stipulation by the parties to this agreement. No one has promised or guaranteed to the defendant what sentence the Court will impose.

12. Pursuant to USSG § 6B1.4, the parties enter into the following stipulations under the Sentencing Guidelines Manual. It is understood and agreed that: (1) the parties are free to argue (except as stated below) the applicability of any other provision of the Sentencing Guidelines, including offense conduct, offense characteristics, criminal history, adjustments, and departures; (2) these stipulations are not binding upon either the Probation Office or the Court; and (3) the Court may make factual and legal determinations that differ from these stipulations and that may result in an increase or decrease in the Sentencing Guidelines range and the sentence that may be imposed:

a. The parties agree and stipulate that the defendant's base offense level for Counts One and Two under USSG § 2G1.3(a)(2) is 30.

b. The parties agree and stipulate that the base offense level for Counts One and Two should be increased by two levels by application of USSG § 2G1.3(b)(3) because the offense involved the use of a computer or interactive computer service.

c. The parties agree and stipulate that the base offense level for Counts One and Two should be increased by two levels by application of USSG § 2G1.3(b)(4)(A) because the offense involved the commission of a sex act.

d. The parties agree and stipulate that the base offense level for Counts One and Two should be increased by two levels by application of USSG § 3C1.1 because the offense involved the obstruction or attempts to obstruct or impede the administration of justice with respect to the investigation of this offense.

e. The parties agree and stipulate that, as of the date of this agreement, the defendant has demonstrated acceptance of responsibility for his offense, making the defendant eligible for a 2-level downward adjustment under USSG § 3E1.1(a).

f. The parties agree and stipulate that, as of the date of this agreement, the defendant has assisted authorities in the investigation or prosecution of his own misconduct by timely notifying the government of his intent to plead guilty, thereby permitting the government to avoid preparing for trial and permitting the government and the court to allocate their resources efficiently, resulting in a 1-level downward adjustment under USSG § 3E1.1(b).

13. If the defendant commits any federal, state, or local crime between the date of this agreement and his sentencing, or otherwise violates any other provision of this agreement, the government may declare a breach of the agreement, and may at its option: (a) prosecute the defendant for any federal crime including, but not limited to, perjury, obstruction of justice, and the substantive offenses arising from this investigation, based on and using any information provided by the defendant during the investigation and prosecution of the criminal case; (b) upon government motion, reinstate and try the defendant on any counts which were to be, or which had been, dismissed on the basis of this agreement; (c) be relieved of any obligations under this agreement regarding recommendations as to sentence; and (d) be relieved of any stipulations under the Sentencing Guidelines. Moreover, the defendant's previously entered guilty plea will stand and cannot be withdrawn by him. The decision shall be in the sole discretion of the government both whether to declare a breach, and regarding the remedy or remedies to seek. The defendant understands and agrees that the fact that the government has not asserted a breach of this agreement or enforced a remedy under this agreement will not bar the government from raising that breach or enforcing a remedy at a later time.

14. In exchange for the promises made by the government in entering this plea agreement, the defendant voluntarily and expressly waives all rights to file any appeal, any collateral attack, or any other writ or motion that challenges the defendant's conviction, sentence, or any other matter relating to this prosecution, whether such an appeal, collateral attack, or other writ or motion arises under 18 U.S.C. § 3742, 28 U.S.C. § 1291, 28 U.S.C. § 2255, or any other provision of law. As part of this knowing and voluntary waiver of the right to challenge the conviction and sentence, the defendant expressly waives the right to raise on appeal or on collateral review any argument that (1) the statutes to which the defendant is pleading guilty are unconstitutional and (2) the admitted conduct does not fall within the scope of the statutes.

a. Notwithstanding the waiver provision above, if the government appeals from the sentence, then the defendant may file a direct appeal of his sentence.

b. If the government does not appeal, then notwithstanding the waiver provision set forth in this paragraph, the defendant may file a direct appeal or petition for collateral relief but may raise only a claim, if otherwise permitted by law in such a proceeding:

i. that the defendant's sentence on any count of conviction exceeds the statutory maximum for that count as set forth in paragraph 3 above;

ii. challenging a decision by the sentencing judge to impose an "upward departure" pursuant to the Sentencing Guidelines;

iii. challenging a decision by the sentencing judge to impose an "upward variance" above the final Sentencing Guideline range determined by the Court; and

iv. that an attorney who represented the defendant during the course of this criminal case provided constitutionally ineffective assistance of counsel; and

v. that the district court incorrectly decided that the Trafficking Victims Protection Act (TVPA), 18 U.S.C. §§ 1591 *et seq.*, applies to the sex trafficking of minors as charged in Counts One and Two of the superseding indictment.

If the defendant does appeal or seek collateral relief pursuant to this subparagraph, no issue may be presented by the defendant in such a proceeding other than those described in this subparagraph.

15. The defendant acknowledges that pursuing an appeal or any collateral attack waived in the preceding paragraph may constitute a breach of this plea agreement. The government recognizes that the mere filing of a notice of appeal is not a breach of the plea agreement. The government may declare a breach only after the defendant or his counsel thereafter states, either orally or in writing, a determination to proceed with an appeal or collateral attack raising an issue the government deems barred by the waiver. The parties acknowledge that the pursuit of an appeal constitutes a breach only if a court determines that the appeal does not present an issue that a judge may reasonably conclude is permitted by an exception to the waiver stated in the preceding paragraph or constitutes a "miscarriage of justice" as that term is defined in applicable law.

16. The defendant waives all rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including without limitation any records that may be sought under the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act, 5 U.S.C. § 552a.

17. The defendant is satisfied with the legal representation provided by the defendant's lawyer; the defendant and this lawyer have fully discussed this plea agreement; and the defendant is agreeing to plead guilty because the defendant admits that he is guilty.

18. It is agreed that the parties' guilty plea agreement contains no additional promises, agreements, or understandings other than those set forth in this written guilty plea agreement, and that no additional promises, agreements, or understandings will be entered into unless in writing and signed by all parties.

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United States Attorney

JOHN ADAMS
Defendant

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Chief, Criminal Division
Assistant United States Attorney

NATASHA TAYLOR-SMITH
Counsel for the Defendant

/s/ Erica Kivitz
ERICA KIVITZ
KELLY HARRELL
Assistant United States Attorneys

Date: 11.22.2022

Additional material from this filing is available in the Clerk's Office.