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APPENDIX A

NOT FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

[DATE STAMP]
FILED
DEC 8 2025
MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,
Plaintiff - Appellee,

v.

CHARLES BARRETT,
Defendant - Appellant.

No. 24-3546
D.C. No. 1:22-cr-00213-JAM-BAM-1

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
John A. Mendez, District Judge, Presiding

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

Argued and Submitted November 20, 2025
San Jose, California

Before: SCHROEDER and FRIEDLAND, Circuit Judges, and SCHREIER, District Judge.**

Charles Barrett appeals his jury conviction and sentence for two counts of aggravated sexual abuse in violation of 18 U.S.C. § 2241(a)(1) and one count of abusive sexual contact in violation of 18 U.S.C. § 2244(b). He was sentenced to life imprisonment. We affirm.

1. Barrett's challenges are principally evidentiary. He first contends that the district court abused its discretion in admitting evidence from three different witnesses of uncharged sexual assaults. Specifically, Barrett argues there was a lack of similarity between the prior acts and the charged conduct with respect to the victim, K.G. Subject to the limitations of Federal Rule of Evidence 403, a party may admit evidence of sexual assault under Rule 413 to prove that the defendant has the propensity to commit another sexual assault. *See United States v. Redlightning*, 624 F.3d 1090, 1119-20 (9th Cir. 2010).

The district court carefully considered the applicable factors outlined in our decision in *United States v. LeMay*, 260 F.3d 1018, 1028 (9th Cir. 2001).

** The Honorable Karen E. Schreier, United States District Judge for the District of South Dakota, sitting by designation.

The record supports the district court's determination that the prior uncharged allegations were sufficiently similar to K.G.'s testimony as to the charged conduct. Because the remaining *LeMay* factors also weigh in favor of admissibility, the district court did not abuse its discretion and appropriately admitted the evidence under Rules 413 and 403.

2. Barrett also contends that the district court abused its discretion in admitting evidence of uncharged witness intimidation and threats, asserting that such evidence was unduly prejudicial. However, Barrett failed to demonstrate that admission of this evidence was substantially more prejudicial than probative. There was no abuse of discretion under Rule 403.

3. Barrett next argues that because three of his prior convictions were sustained after the instant offense, the district court erred when it assigned criminal history points for them. At sentencing, the district court included in Barrett's criminal history calculation several convictions that occurred after the commission of the charged offenses, but before he was sentenced in this case. Because Barrett was already sentenced for all three prior convictions, all three fall squarely within the meaning of "prior sentence" as defined by the Guidelines. See U.S.S.G. § 4A1.2 cmt. n.1 ("A sentence imposed after the defendant's commencement of the instant offense, but prior to sentencing on the instant offense, is a prior sentence if it was for conduct other than conduct that was part of the instant offense.").

4. Barrett objects to the district court's imposition of a sentencing enhancement for obstruction of justice, stressing that he merely discussed fabricating evidence. But the fabrication need not have actually occurred for the conduct to constitute a direct or indirect attempt to obstruct justice. *See United States v. Hong*, 938 F.3d 1040, 1052 (9th Cir. 2019); see also U.S.S.G. § 3C1.1 cmt. n.4(A).

5. Barrett's final contention is that the evidence was insufficient to support a conviction on count two because he was intoxicated that day, so he lacked capacity to form the requisite intent to commit the offense. Barrett brought no motion under Federal Rule of Criminal Procedure 29, but even if he had, the evidence was sufficient to convict him of abusive sexual contact. K.G. testified that Barrett engaged in several actions requiring thought and awareness. Ultimately, whether K.G.'s testimony was believable was a question for the jury to determine, and "[i]t is well established that the uncorroborated testimony of a single witness may be sufficient to sustain a conviction." *United States v. Katakis*, 800 F.3d 1017, 1028 (9th Cir. 2015) (quoting *United States v. Dodge*, 538 F.2d 70, 783 (8th Cir. 1976)).

AFFIRMED.

APPENDIX B

**UNITED STATES DISTRICT COURT
Eastern District of California**

UNITED STATES OF AMERICA

v.

CHARLES BARRETT

JUDGMENT IN A CRIMINAL CASE

Case Number: 1:22CR00213-1

Defendant's Attorney: Timothy P. Hennessy and David
A. Torres, Appointed

THE DEFENDANT:

pleaded guilty to count(s) ____.

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

was found guilty on counts 1, 2, and 3 after a plea
of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18 U.S.C. § 2241(a)(1)	Aggravated Sexual Abuse (Class A Felony)	8/13/2016	1
18 U.S.C. § 2244(b)	Abusive Sexual Contact (Class E Felony)	8/14/2016	2
18 U.S.C. § 2241(a)(1)	Aggravated Sexual Abuse (Class A Felony)	8/14/2016	3

The defendant is sentenced as provided in pages 2 through ___ 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) ___ dismissed on the motion of the United States.
- Indictment is to be dismissed by District Court on motion of the United States.
- Appeal rights given. Appeal rights waived.

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 or fine, the defendant must notify the court and United States attorney of material changes in economic circumstances.

6/4/2024

Date of Imposition of Judgment

/s/ John A. Mendez

Signature of Judicial Officer

John A. Mendez, Senior U. S. District Judge

Name & Title of Judicial Officer

6/7/2024

Date

IMPRISONMENT

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

LIFE on each of Counts 1 and 3 and a term of 24 months on Count 2, all to be served CONCURRENTLY for a total term of imprisonment of LIFE.

[] No TSR: Defendant shall cooperate in the collection of DNA.

- The court makes the following recommendations to the Bureau of Prisons:

The court recommends that the defendant be incarcerated in a California facility, but only insofar as this accords with security classification and space availability. The court recommends the defendant participate in the 500-Hour Bureau of Prisons Substance Abuse Treatment Program.

- 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 ___ 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 ___ on ___.

as notified by the United States Marshal.

as notified by the Probation or Pretrial Services Officer.

If no such institution has been designated, to the United States Marshal for this district.

[] Other, Please Specify:

RETURN

I have executed this judgment as follows:

Defendant delivered on ___ to ___ at ___, with a certified copy of this judgment.

United States Marshal

By Deputy United States Marshal

SUPERVISED RELEASE

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

60 months on Counts 1 and 3 and a term of 12 months on Count 2, all to be served CONCURRENTLY for a total term of 60 months.

MANDATORY CONDITIONS

You must not commit another federal, state or local crime.

You must not unlawfully possess a controlled

substance.

You must refrain from any unlawful use of controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two (2) periodic drug tests thereafter, not to exceed four (4) drug tests per month.

- The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse.
- You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution.
- You must cooperate in the collection of DNA as directed by the probation officer.
- 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.
- You must participate in an approved program for domestic violence.

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 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 the 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 _____

SPECIAL CONDITIONS OF SUPERVISION

1. You must submit your person, property, house, residence, vehicle, papers, computer, other electronic communications or data storage devices or media, or office, to a search conducted by a United States probation officer or any law enforcement officer at any time, based upon reasonable suspicion of unlawful conduct or a violation of a condition of supervision, without a search warrant. Failure to submit to a search may be grounds for revocation. You must warn any other occupants that the premises may be subject to searches pursuant to this condition.
2. You must participate in an outpatient substance abuse/alcohol abuse treatment program and follow the rules and regulations of that program. The probation officer, in consultation with the treatment provider, will supervise your participation in the program.
3. You must submit to substance abuse/alcohol abuse testing to determine if you have used a prohibited substance. You must not attempt to

obstruct or tamper with the testing methods.

4. You must abstain from the use of alcoholic beverages and shall not enter, visit, or be present at those places where alcohol is the chief item of sale.
5. You must participate in an outpatient mental health treatment program and follow the rules and regulations of that program. The probation officer, in consultation with the treatment provider, will supervise your participation in the program.
6. You must not dispose of or otherwise dissipate any of your assets until the fine and/or restitution ordered by this Judgment is paid in full, unless you obtain approval of the Court.
7. You must apply all monies received from income tax refunds, lottery winnings, inheritance, judgments, and any anticipated or unexpected financial gains to any unpaid fine and/or restitution ordered by this Judgment.
8. You must provide the probation officer with access to any requested financial information and authorize the release of any financial information. The probation office may share financial information with the U.S. Attorney's Office.
9. You must not incur new credit charges or open additional lines of credit without the approval of the probation officer.

10. You must consent to third-party disclosure to any employer or potential employer, concerning any computer-related restrictions that are imposed upon you. This includes any activities in which you are acting as a technician, advisor, or consultant with or without any monetary gain or other compensation.
11. You must not communicate or otherwise interact with K.G., S.F., G.A., J.V., E.B., and M.F. either directly or through someone else, without first obtaining the permission of the probation officer.
12. Your residence must be pre-approved by the probation officer. You must not reside in direct view of places such as school yards, parks, public swimming pools, or recreational centers, playgrounds, youth centers, video arcade facilities, or other places primarily used by children under the age of 18.
13. You will be monitored for a period of 60 months, with location monitoring technology, which may include the use of Radio Frequency (RF), Global Positioning System (GPS) devices, Voice Recognition or Virtual Monitoring Technology, at the discretion of the probation officer, and comply with its requirements.

The location monitoring technology will be used to monitor the following restriction on your movement in the community:

You have no residential curfew, home detention,

or home incarceration restrictions. However, you must comply with the location or travel restrictions as imposed by the court (Stand Alone Monitoring). Note: Stand Alone Monitoring should be used in conjunction with global positioning system (GPS) technology.

You must follow the rules and regulations of the location monitoring program. Your co-payment will be determined utilizing a Sliding Fee Scale based on your disposable income.

14. You must attend, cooperate with, and actively participate in a sex offender treatment and therapy program [which may include, but is not limited to, risk assessment, polygraph examination, and/or Visual Reaction Treatment]. The probation officer, in consultation with the treatment provider, will supervise your participation in the program.
15. You must submit to periodic polygraph testing at the discretion of the probation officer as a means to ensure that you are in compliance with the requirements of your supervision or treatment program.
16. You must consent to the probation officer and/or probation service representative conducting periodic unannounced examinations of (a) any computer, or (b) computer-related device, or (c) equipment that has an internal or external modem that is connected to the internet which is in your possession or control. You must consent to

retrieval and copying of all data from any such computer, computer-related device, or equipment as well as any internal or external peripherals to ensure compliance with this condition. You consent to removal of such computer, computer-related device, and equipment for purposes of conducting a more thorough inspection, and analysis.

17. You must possess and use only those cellular phones and phone numbers (including Voice over Internet Protocol [VoIP] services) that have been disclosed to the probation officer upon commencement of supervision. Any changes or additions are to be disclosed to the probation officer prior to the first use.
18. You must participate in a co-payment plan for treatment, testing and/or medication and shall make payment directly to the vendor under contract with the United States Probation Office. Your co-payment will be determined utilizing a Sliding Fee Scale based upon your disposable income.

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the Schedule of Payments on Sheet 6.

TOTALS

Processing Fee	Assessment	AVAA Assessment*
	\$300.00	\$0.00
JVTA Assessment**	Fine	Restitution
\$15,000.00	\$0.00	TBD

The determination of restitution is deferred until 08/06/2024. 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.

Restitution amount ordered pursuant to plea agreement \$____

The defendant must pay interest on restitution

* 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.

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:

If incarcerated, payment of any unpaid criminal monetary penalties in this case is due during imprisonment at the rate of 10% of the defendant's gross income per month or \$25 per quarter, whichever is greater. Payment shall be made through the Bureau of Prisons Inmate Financial Responsibility Program.

Other:

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 \$ ___ due immediately, balance due
- Not later than ___, or
- in accordance 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/probation 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:

Payments must be made by Check or Money Order, payable to: Clerk, U.S.D.C. and mailed to:

CLERK U.S.D.C.
501 "I" Street, #4-200
Sacramento, CA 95814

Your check or money order must indicate **your name and citation/case number** shown above to ensure your account is credited for payment received.

If incarcerated, payment of any unpaid criminal monetary penalties in this case is due during imprisonment at the rate of 10% of the defendant's gross income per month or \$25 per quarter, whichever is greater. Payment shall be made through the Bureau of Prisons Inmate Financial Responsibility Program.

The defendant shall make payments toward any unpaid criminal monetary penalties in this case during supervision at the rate of at least 10% of your gross monthly income. Payments are to commence no later than 60 days from placement on supervision. This payment schedule does not prohibit the United States from collecting through all available means any unpaid criminal monetary penalties at any time, as prescribed

by law.

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

- [] 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: The Preliminary Order of Forfeiture is hereby made final as to this defendant and shall be incorporated into the Judgment.
- [] Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTAs assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

APPENDIX C

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

[DATE STAMP]
FILED
JAN 7 2026
MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,
Plaintiff - Appellee,

v.

CHARLES BARRETT, ORDER
Defendant - Appellant.

No. 24-3546
D.C.No. 1:22-cr-00213-JAM-BAM-1

Eastern District of California,
Fresno

ORDER

Before: SCHROEDER and FRIEDLAND, Circuit
Judges, and SCHREIER, District Judge.*

* The Honorable Karen E. Schreier, United States
District Judge for the District of South Dakota, sitting by

The panel has voted to deny Appellant's Petition for Panel Rehearing.

Appellant's Petition for Panel Rehearing, Docket No. 50, is **DENIED**.

designation.