

No. \_\_\_\_\_

---

---

IN THE SUPREME COURT OF THE UNITED STATES

---

---

MATTHEW LEE PELTON,

*Petitioner,*

v.

UNITED STATES OF AMERICA,

*Respondent.*

\_\_\_\_\_  
On Petition for a Writ of Certiorari to the  
United States Court of Appeals for the Ninth Circuit  
\_\_\_\_\_

APPENDICES TO AMENDED PETITION FOR WRIT OF  
CERTIORARI

DARLENE BAGLEY COMSTEDT \*  
Law Office of Darlene Bagley Comstedt  
2358 Market Street  
San Francisco, California 94114  
(415) 840-7365  
[darlene@comstedtlaw.com](mailto:darlene@comstedtlaw.com)

*\* Counsel of Record for Petitioner*  
Appointed Pursuant to 18 U.S.C. §  
3006A

---

---

# Appendix A

*United States of America v. Matthew Lee Pelton*

Ninth Circuit Case No. 23-3242, Dkt. No. 46.1

(9th Cir. Sept. 19, 2025)

FILED

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

SEP 19 2025

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MATTHEW LEE PELTON,

Defendant - Appellant.

No. 23-3242

D.C. No.

4:21-cr-00351-JSW-2

MEMORANDUM\*

Appeal from the United States District Court  
for the Northern District of California  
Jeffrey S. White, District Judge, Presiding

Submitted September 17, 2025\*\*  
San Francisco, California

Before: HAMILTON, R. NELSON, and BUMATAY, Circuit Judges.\*\*\*

Matthew Pelton appeals the order of restitution imposed for his convictions for conspiracy to produce child pornography and for production of child

---

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

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

\*\*\* The Honorable David F. Hamilton, United States Circuit Judge for the Court of Appeals, 7th Circuit, sitting by designation.

pornography, in violation of 18 U.S.C. § 2251(a), (e). The district court had jurisdiction under 18 U.S.C. § 3231, and we have jurisdiction under 28 U.S.C. § 1291. We review the order of restitution for abuse of discretion. *United States v. Dadyan*, 76 F.4th 955, 958 (9th Cir. 2023). We affirm.

Pelton’s appellate waiver does not block this appeal of the restitution award. We will not enforce a defendant’s waiver of his right to appeal a restitution order unless the defendant received “a reasonably accurate estimate of the amount of the restitution order to which he is exposed.” *United States v. Lo*, 839 F.3d 777, 785 (9th Cir. 2016) (citing *United States v. Tsosie*, 639 F.3d 1213, 1217 (9th Cir. 2011)). A plea agreement must include “some precision” regarding the potential amount of restitution. *Tsosie*, 639 F.3d at 1219.

Pelton did not receive a reasonably accurate estimate. The plea agreement only stated that the restitution award would be “determined by the court,” and that Pelton would be required to pay the “amount to be set by the Court at the time of sentencing.” Because Pelton did not receive any estimate of the amount of restitution the court would order, his appellate waiver does not bar this appeal of his order of restitution.

On the merits, in cases involving child pornography, a court “shall” order restitution that “reflects the defendant’s relative role” in the “full amount of the victim’s losses.” 18 U.S.C. § 2259(a), (b)(2)(B). In determining those losses, courts

may consider, for instance, the costs of psychological care, rehabilitation, lost income, and “any other relevant losses incurred by the victim.” *Id.* § 2259(c). The statute’s “generous terms” give district courts broad discretion to “compensate the victims of sexual abuse for the care required to address the long term effects of their abuse.” *United States v. Laney*, 189 F.3d 954, 966 (9th Cir. 1999). Restitution in this context looks to “*all* [the victim’s] child-pornography losses.” *Paroline v. United States*, 572 U.S. 434, 459 (2014) (emphasis added).

When awarding restitution to Minor Victim #1 and Minor Victim #2 in this case, the district court considered reports from mental health professionals who examined the victims. These evaluations concluded that each victim would require professional mental health treatment over the course of their lifetimes. The district court considered the market rates for these sessions, insurance premiums, and the rates that their therapists charged.

The court also awarded Minor Victim #2 \$346,242.76 in productivity and quality of life losses as “other relevant losses” under § 2259(c)(2)(F). In arriving at this award, the district court considered (i) reports from medical and mental health professionals, (ii) scholarship highlighting the long-term economic consequences of child sex abuse, (iii) other cases where courts awarded similar restitution amounts, and (iv) statistics on the economic consequences of child abuse from the Centers for Disease Control.

The district court had broad discretion to calculate a mandatory restitution award. In exercising that discretion, it considered expert medical advice, scholarly literature, and relevant statistics to arrive at its decision. That we may have awarded a different amount in the first instance does not justify reversal. *See United States v. Whitehead*, 532 F.3d 991, 993 (9th Cir. 2004) (citing *Gall v. United States*, 552 U.S. 38, 51 (2007)). Given § 2259's broad language and its reasoned decision, the district court did not abuse its discretion.

**AFFIRMED**

# Appendix B

*United States of America v. Matthew Lee Pelton*

N.D. Cal. Case No. 21-CR-00351-JSW, Dkt. No. 191

(N.D. Cal. Oct. 18, 2023)

United States District Court  
Northern District of California

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,  
Plaintiff,  
v.  
HEATHER GHARIBIAN, et al.,  
Defendants.

Case No. [21-cr-00351-JSW-1,2](#)

**AMENDED ORDER GRANTING  
REQUESTS FOR RESTITUTION**

Now before the Court for consideration are the requests for restitution submitted by the Government on behalf of the two minor victims in this case (hereinafter “Minor Victim 1” and “Minor Victim 2”). The Court has considered the parties’ briefs, relevant legal authority, the record in this case, and oral argument.<sup>1</sup> For the reasons that follows, the Court shall award restitution in the amount of \$329,200.00 to Minor Victim 1 and in the amount of \$ 574,573.30 to Minor Victim 2.<sup>2</sup>

**BACKGROUND**

On June 27, 2023, the Court sentenced Defendant Heather Gharibian to a term of 264 months imprisonment after she entered a guilty plea to one count of conspiracy to produce child pornography and one count of production of child pornography, in violation of 18 U.S.C. sections 2251(a) and (e). On the same day, the Court sentenced Defendant Matthew Pelton to 360 months imprisonment after he entered a guilty plea to the same charges.

---

<sup>1</sup> Defendants consented to participating in the hearing by telephone.

<sup>2</sup> The Court issues this amended order to make clear that liability for restitution is joint and several.

1 Restitution is mandatory in this case, and each Defendant agreed to pay “full restitution for  
 2 all losses caused by the schemes or offenses with which I was charged, and I understand that the  
 3 amount of restitution will not be limited to the loss attributable to the counts to which I am  
 4 pleading guilty, pursuant to 18 U.S.C. § 3663(a)(3).” (Dkt. No. 136 (Pelton Plea Agreement ¶ 8);  
 5 Dkt. No. 138 (Gharibian Plea Agreement, ¶ 8).)

#### 6 ANALYSIS

7 Under 18 U.S.C. section 2259 (“Section 2259”), a court must impose restitution for the  
 8 “the full amount of the victim’s losses,” which includes “any costs incurred, or that are reasonably  
 9 projected to be incurred in the future, by the victim, as a proximate result of the offenses involving  
 10 the victim.”<sup>3</sup> 18 U.S.C. §§ 2259(b)(1), (c)(2). Those losses may include: “medical services  
 11 relating to physical, psychiatric, or psychological care; physical and occupational therapy or  
 12 rehabilitation; necessary transportation, temporary housing, and child care expenses; lost income;  
 13 reasonable attorneys’ fees, as well as other costs incurred; and any other relevant losses incurred  
 14 by the victim.” *Id.* §§ 2259(c)(2)(A)-(F).

15 “The government must provide the court with enough evidence to allow the court to  
 16 estimate the ‘full amount of the victim’s losses’ with ‘some reasonable certainty.’” *United States*  
 17 *v. Kennedy*, 643 F.3d 1251, 1261 (9th Cir. 2011) (quoting *United States v. Doe*, 488 F.3d 1154,  
 18 1159-60 (9th Cir. 2007)). The government is not required to prove this amount with  
 19 “mathematical precision,” but if a court is required to “‘engage in ... arbitrary calculations’ to  
 20 determine the amount of the” victim’s losses, an award of restitution would be improper. *Id.*  
 21 (quoting *United States v. Laney*, 189 F.3d 954, 967 n.14 (9th Cir. 1999)).

22 A court cannot deny restitution based on “the economic circumstances of the defendant” or  
 23 based on “the fact that a victim has, or is entitled to, receive compensation for his or her injuries  
 24

---

25 <sup>3</sup> As used in Section 2259, “victim” means: “the individual harmed as a result of a  
 26 commission of a crime under this chapter. In the case of a victim who is under 18 years of age,  
 27 ..., the legal guardian of the victim or representative of the victim’s estate, another family  
 28 member, or any other person appointed as suitable by the court, may assume the crime victim’s  
 rights under this section, but in no event shall the defendant be named as such representative or  
 guardian.” *Id.* § 2259(c)(4). Defendants have not challenged Minor Victim 2’s guardian status as  
 a “victim.”

1 from the proceeds of insurance or any other source.” 18 U.S.C. § 2259(b)(4)(B)(i)(ii).

2 **A. The Court Grants Minor Victim 1’s Request in Full.**

3 **1. Future Mental Healthcare.**

4 Minor Victim 1 asks for restitution to cover future costs of mental healthcare. “[A] district  
5 court can order restitution in a definite amount for future therapy costs.” *United States v. Follett*,  
6 269 F.3d 996, 1001 (9th Cir. 2001) (citing *Laney*, 189 F.3d at 967). Defendants do not dispute  
7 that the Court should award Minor Victim 1 some amount of restitution to cover mental health  
8 treatment in the future. They argue that the request is speculative and unreasonable.<sup>4</sup> The Court  
9 disagrees.

10 Minor Victim 1 submitted an evaluation prepared by Dr. Lynn Ponton (“Ponton Report”).  
11 Dr. Ponton opines that Minor Victim 1 will need therapy over the course of her lifetime to address  
12 mental health issues including, but not limited to, severe anxiety, depression, and Post-Traumatic  
13 Stress Disorder. (*See* Dkt. No. 181-3, Ex. 1, Ponton Report at 1-2.) At the hearing, Minor Victim  
14 1 presented a letter from her current therapist, which states that her sessions cost \$90 and states the  
15 self-pay market rate in California for therapists runs between \$120-\$225 per hour. (*See* Dkt. No.  
16 188-3.)

17 Minor Victim 1’s counsel also made a persuasive argument that although Dr. Ponton’s  
18 estimates are higher, the Ponton Report takes into account that rates will increase over time. The  
19 Court concludes that the Ponton report provides adequate support for the duration of future mental  
20 healthcare. *See, e.g., Laney*, 189 F.3d at 966-67 (relying on information provided by victim’s  
21 psychiatrist to calculate amount due for future therapy and noting that “Congress was well aware  
22 that children victimized by sexual abuse often do not recover quickly from their injuries.”) (citing,  
23 *e.g., S.Rep. No. 104-358*, at 14 (1996) (describing long term effects of sexual exploitation on its  
24 victims)); *see also United States v. Singh*, No. 21-cr-123-HSG, Docket No. 88 (Restitution Order

25 \_\_\_\_\_  
26 <sup>4</sup> Defendants also argue that “an award of restitution is an award that will reasonably be used  
27 for the purpose for which it was granted.” (Pelton Response at 3:26-27; Gharibian Response at  
28 3:2-3 (joining Pelton’s response)). The Ninth Circuit, however, has “affirmed restitution in  
similar cases without requiring actual use of the award for its specified purpose.” *United States v.*  
*Rockett*, 752 Fed. Appx. 448, 450 (9th Cir. 2018) (citing *Doe*, 448 F.3d at 1160-61 and *Laney*, 189  
F.3d at 967).

1 at 4:3-5:24) (relying on similar record to conclude the government substantiated restitution to  
 2 cover future mental health and rehabilitation costs).<sup>5</sup> Moreover, in addition to the actual abuse,  
 3 the circumstances of these offenses readily support a conclusion that the Defendants' conduct  
 4 inflicted long-lasting trauma. (See, e.g., Ponton Report at 2, 4.) The Court concludes the  
 5 Government has met its burden to show the request is reasonable and that there is a causal  
 6 connection to the Defendants' conduct.

7 **2. Tutoring.**

8 Dr. Ponton also opines that Minor Victim 1 would benefit from tutoring three days each  
 9 week for four years because the abuse interfered with her schooling. (Ponton Report at 3.) In  
 10 *Rockett*, the Ninth Circuit upheld a similar award based on testimony from a psychologist that the  
 11 "victims faced difficulty in school because of Rockett's conduct, and the victims needed  
 12 educational assistance because the rehabilitation of these children does not end with their  
 13 psychology issues." 752 Fed. Appx. at 450 (cleaned up). Neither Defendant raised a specific  
 14 objection to this request, and the Court concludes the Government has met its burden to show the  
 15 request is reasonable and that there is a causal connection to the Defendants' conduct.

16 **3. Attorneys' Fees and Costs.**

17 Section 2259(c)(2)(E) permits the Court to include reasonable attorneys' fees and costs in a  
 18 restitution award. Neither Defendant has objected to the amount of attorneys' fees and costs  
 19 included in Minor Victim 1's request for restitution. The fees and costs were incurred in  
 20 connection with the preparation of Minor Victim 1's restitution request and to obtain Dr. Ponton's  
 21 evaluation. (Dkt. No. 181-3 at ECF pp. 60-63, Declaration of Vanessa Baehr-Jones, ¶¶ 5-7.) The  
 22 Court has independently reviewed those requests, and it finds that they are reasonable and that  
 23 there is a causal connection to the Defendants' conduct.

24 **4. Conclusion.**

25 For the reasons set forth above, the Court awards Minor Victim 1 restitution in the amount  
 26 of \$329,200: (1) \$302,500 for future mental health and tutoring costs; and (2) \$17,700 in

27 \_\_\_\_\_  
 28 <sup>5</sup> Minor Victim 1's counsel represented the victim in *Singh* and cited the case to support her hourly rate.

1 attorneys' fees; and (3) \$9,000 in costs.

2 **B. The Court Grants Minor Victim 2's Request in Full.**

3 **1. Future Mental Healthcare.**

4 Minor Victim 2 seeks restitution in the amount of \$110,880.00 to cover the cost of future  
5 mental healthcare, and she has submitted reports from medical and mental health professionals  
6 that document the need for such treatment over the course of her lifetime. (Dkt. No. 181-3, Ex. B,  
7 Minor Victim 2 Request, Ex. A (Report of David Corwin, M.D. ("Corwin Rep."), § 2 & Appendix  
8 A (Report of Tristyn Wilkerson, Psy.D ("Wilkerson Rep.") at 11-14), Ex. N (letter regarding  
9 treatment).) Minor Victim 2 based the cost of future mental health treatment using an estimated  
10 co-pay of \$35.00 per session over the course of her lifetime. The Court concludes that figure is  
11 reasonable and concludes the Government has met its burden to substantiate these costs and to  
12 show a causal connection between Defendants' conduct and the losses.

13 **2. Productivity and Quality of Life Losses.**

14 Minor Victim 2 asks for \$341,242.76 in productivity and quality of life losses. To support  
15 this request, Minor Victim 2 relies on reports submitted by Drs. Wilkerson and Corwin. Dr.  
16 Corwin, in turn, relied on a study by Elizabeth L. Letourneau, et al., *The Economic Burden of*  
17 *Child Sex Abuse in the United States*, 79 *Child Abuse & Neglect* 413, 418 (2018) ("Letourneau  
18 Study"). (Corwin Rep. at ¶ 4, Appx. C.)

19 Defendants argue that these costs appear to be outside the scope of Section 2259, but  
20 Section 2259(c)(2)(F) allows restitution for "any other relevant losses incurred by the victim." It  
21 appears that there are few cases that have included these types of losses in restitution awards. For  
22 example, in *United States v. Whitley*, the court cited findings by the Center for Disease Control  
23 that "for all forms of child maltreatment," the lifetime burden was \$212,012 per victim. 354 F.  
24 Supp. 3d 930, 937 (N.D. Ill. 2019). It also noted "steep future costs" for victims of child sexual  
25 abuse, that can include "loss of productivity and increased healthcare costs in adulthood." *Id.*; see  
26 also *United States v. Tilton*, No. 20-cr-00242-JAM, Dkt. Nos. 35-1, 50.<sup>6</sup>

27 \_\_\_\_\_  
28 <sup>6</sup> The Government provided a copy of the restitution award with its notice of supplemental  
authority. The minor victim's request in *Tilton* was filed under seal at Docket No. 35-1 in that

1 The Letourneau Study provides a basis for the Court to reasonably calculate these costs. The  
 2 Court also is not required to engage in the apportionment analysis required by *Paroline v. United*  
 3 *States*, 572 U.S. 434 (2014) because Minor Victim 2 was a direct victim of Defendants’ conduct.  
 4 *Cf. United States v. Blackburn*, No. CR 14-0129 WJ, 2017 WL 3225482, at \*3 (D.N.M. July 28,  
 5 2017) (“Defendant’s actions of sexually abusing both children on a nearly daily basis for nine  
 6 months, and documenting and disseminating that abuse over the internet, caused significant and  
 7 enduring harms that will last these children’s lifetime. In other words, but-for Defendant’s abuse,  
 8 M.M. and A.M. would not be where they are today.”). The Court concludes the Government has  
 9 met its burden to substantiate these costs and to show a causal connection between Defendants’  
 10 conduct and the losses.

### 11 3. Lost Income.

12 Section 2259(c)(2)(D) allows for lost income as part of a restitution award. Here, Minor  
 13 Victim 2 seeks \$31,096 in past lost income and \$67,965 in future lost income on behalf of her  
 14 guardian. Pelton did not specifically object to the request for past lost income. Gharibian argued  
 15 the Court should closely scrutinize this request and asserted that it is her understanding that Minor  
 16 Victim 2’s guardian reduced her work schedule for health reasons unrelated to Minor Victim 2.  
 17 Through Minor Victim 2’s counsel, the Government submitted paystubs that document her  
 18 guardian’s salary and provides a means to reasonably calculate her guardian’s lost wages incurred  
 19 up to sentencing. Although she does not bear the burden of proof, Gharibian has not supported her  
 20 understanding about Minor Victim 2’s guardian’s health with evidence. Therefore, there is  
 21 nothing in the record to demonstrate that this amount should be reduced based on an unrelated,  
 22 “intervening cause” between Defendants’ conduct and these losses. *Kennedy*, 643 F.3d at 1262.

23 For the same reasons the Court concludes the cost of future therapy is warranted, the Court  
 24 also concludes that the Government has met its burden to show the request for future lost wages is  
 25 appropriate. The Court also finds it reasonable, and not speculative, to conclude that Minor  
 26 Victim 2 would require more care than a teenager on whom such trauma was not inflicted. *Cf.*

27  
 28 \_\_\_\_\_  
 case.

1 *Blackburn*, 2017 WL 3225482 at \*6-7.

2 The Court concludes the Government has met its burden to substantiate these losses and to  
3 show the requisite causal connection to Defendants' conduct.

4 **4. Travel Costs.**

5 Minor Victim 2 also requests restitution for past and future travel expenses. Section 2259  
6 permits recovery for losses related to "necessary transportation" and for any other relevant costs.  
7 18 U.S.C. §§ 2259(c)(2)(C), (F). Pelton did not specifically object to the request for past travel  
8 expenses. Gharibian argues that some of the travel costs were incurred for her benefit – to help  
9 pack up her house - and argues that a week of travel for the sentencing hearing was unreasonable.  
10 Gharibian may have benefited from having help to pack her house, but Minor Victim 2 and her  
11 family still incurred those travel costs because of Gharibian's conduct, rather than an unrelated  
12 "intervening cause." *Kennedy*, 643 F.3d at 1262.

13 Minor Victim 2 also explains that some of the travel time for the sentencing hearing was  
14 incurred to enable her to spend time with Minor Victim 1. Under the factual circumstances of this  
15 case, the Court concludes that request is reasonable and has the requisite causal connection to  
16 Defendants' conduct. The Court also concludes the rest of the past travel expenses are reasonable  
17 and have the requisite causal connection to Defendants' conduct.

18 Finally, Minor Victim 2 also asks the Court to award her over \$10,000 to cover the costs  
19 she will incur to travel future therapy sessions, which she has calculated based on the current  
20 distance between her home and her therapist's office (five miles) and the mileage reimbursement  
21 rate established by the Internal Revenue Service for 2023 (65.5 cents per mile). Minor Victim 2  
22 provides a formula that the Court can use to calculate those losses with "some reasonable  
23 certainty." In light of the Court's ruling regarding the award for future therapy, the Court also  
24 concludes the Government has met its burden to show the requisite causal connection between  
25 Defendants' conduct and these losses.

26 **5. Conclusion.**

27 For the reasons set forth above, the Court awards Minor Victim 2 restitution in the amount  
28 of \$574,573.70: (1) \$99,061 in lost income; (2) \$23,389.94 in travel expenses; (3) \$110,880 for

1 future mental healthcare; and (4) \$341,242.76 in productivity and quality of life losses.

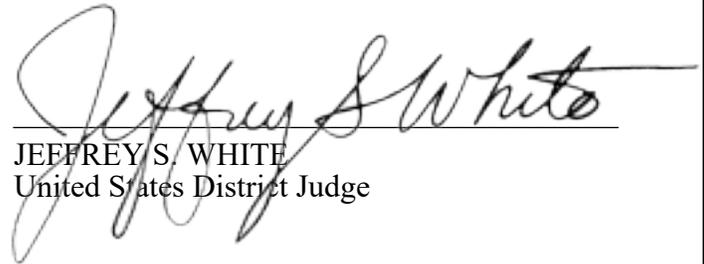
2 **CONCLUSION**

3 For the foregoing reasons, the Court GRANTS IN FULL the restitution requested by  
4 Minor Victim 1, c/o Advocates for Survivors of Abuse, Attn: [Minor Victim 1], 4200 Park  
5 Boulevard No. 413, Oakland, CA 94602, and Minor Victim 2, c/o Allison L. McQueen and Jordan  
6 M. Matthews, Jones Day, 110 North Wacker Drive, Suite 4800, Chicago, IL, 60606.

7 The Court shall issue an amended judgment to reflect the amount of the award. All other  
8 terms and conditions set forth in the judgments imposed on June 27, 2023 remain in effect,  
9 **including the requirement that the Defendants’ restitution obligations shall be paid jointly**  
10 **and severally with other defendants in this case until full restitution is paid.**

11 **IT IS SO ORDERED.**

12 Dated: October 18, 2023

13   
14 JEFFREY S. WHITE  
15 United States District Judge

United States District Court  
Northern District of California

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28