

APPENDIX A

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUN 11 2026

FOR THE NINTH CIRCUIT

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

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MORONI JOHNSON,

Defendant - Appellant.

No. 25-3266

D.C. No.

3:24-cr-08016-SMB-1

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona

Susan M. Brnovich, District Judge, Presiding

Submitted June 10, 2026**

San Francisco, California

Before: GOULD, NGUYEN, and VANDYKE, Circuit Judges.

Defendant-Appellant Moroni Johnson (“Johnson”) was a founding member of a child sex abuse ring that victimized ten minor girls, including Johnson’s own daughters. After pleading guilty to one count of conspiracy to commit transportation of a minor for criminal sexual activity in violation of 18 U.S.C. § 2423(a), (e),

* 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).

Johnson was sentenced to twenty-five years in federal prison followed by a lifetime term of supervised release. Johnson appeals the district court's sentence, arguing (1) that the district court erred by imposing a supervised release condition that requires him to obtain permission before "directly or indirectly contact[ing] any victim(s) and victim(s) family," and (2) that his sentencing counsel provided ineffective assistance of counsel by failing to object to that condition. We have jurisdiction under 28 U.S.C. § 1291 and affirm.

1. Johnson's challenge to Special Condition 8 is not yet ripe. A claim is unripe if it involves "contingent future events that may not occur as anticipated, or indeed may not occur at all." *Thomas v. Union Carbide Agric. Prods. Co.*, 473 U.S. 568, 580–81 (1985) (citing 13A C. Wright, A. Miller, & E. Cooper, Federal Practice and Procedure § 3532 (1984)). To determine if a dispute is ripe, we are required to "evaluate both the fitness of the issues for judicial decision and the hardship to the parties of withholding court consideration." *Abbott Lab'ys v. Gardner*, 387 U.S. 136, 149 (1967), *abrogated on other grounds by Califano v. Sanders*, 430 U.S. 99 (1977).

When imposing a condition of supervised release that intrudes upon intimate relationships, a court "must consider the history and characteristics of the defendant and the history of his relationship with the affected intimate family members as well as the need for deterrence, protection of the public, and rehabilitation." *United States*

v. Wolf Child, 699 F.3d 1082, 1094 (9th Cir. 2012) (citing 18 U.S.C. § 3583(d)(1) (internal quotation marks omitted)). Because the nature of intimate relationships can change dramatically with time, a court must evaluate the “present circumstances and relationship” when the involved parties have the potential to interact. *United States v. Napulou*, 593 F.3d 1041, 1046 (9th Cir. 2010).

Here, Johnson’s intimate relationships before his conviction, or even his relationships as they exist now, will not necessarily resemble his intimate relationships as they may exist at the end of his decades-long prison sentence. “We thus affirm the sentence the district court imposed, but without prejudice as to the challenged condition of supervised release such that [Johnson] may raise the argument again by asking the district court to modify the condition when the issue is no longer speculative.” *United States v. Vinge*, 85 F.4th 1285, 1291 (9th Cir. 2023).

2. “Claims of ineffective assistance of counsel are generally inappropriate on direct appeal.” *United States v. McKenna*, 327 F.3d 830, 845 (9th Cir. 2003). “Such claims normally should be raised in habeas corpus proceedings, which permit counsel to develop a record as to what counsel did, why it was done, and what, if any, prejudice resulted.” *Id.* (quoting *United States v. Ross*, 206 F.3d 896, 900 (9th Cir. 2000)). Nevertheless, review on direct appeal may be appropriate “when the record on appeal is sufficiently developed to permit review and determination of the

issue” or “when the legal representation is so inadequate that it obviously denies a defendant his Sixth Amendment right to counsel.” *Id.* (quoting *Ross*, 206 F.3d at 900).

Here, direct review of Johnson’s counsel’s performance is unwarranted. The record is entirely silent regarding the reasons counsel did not challenge Special Condition 8 during sentencing. In light of Johnson’s guilty plea, his acceptance of responsibility, and the family-related nature of his offenses, counsel’s decision not to seek unmonitored familial contact could certainly have been a reasonable strategic choice. Nothing in the record rebuts the “strong presumption that counsel’s conduct fell within the wide range of reasonable representation,” *United States v. Ferreira-Alameda*, 815 F.2d 1251, 1253 (9th Cir. 1986), much less suggests that Johnson was “obviously denie[d] . . . his Sixth Amendment right to counsel.” *McKenna*, 327 F.3d at 845 (quoting *Ross*, 206 F.3d at 900).

AFFIRMED.²

² Appellee’s motion for judicial notice (Dkt. 24) is **GRANTED**.

APPENDIX B

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

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

UNITED STATES OF AMERICA,

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v.

MORONI JOHNSON,

Defendant - Appellant.

No. 25-3266

D.C. No.

3:24-cr-08016-SMB-1

District of Arizona,

Prescott

ORDER

Before: GOULD, NGUYEN, and VANDYKE, Circuit Judges.

The memorandum disposition filed on June 11, 2026, is hereby amended. The superseding amended memorandum disposition will be filed concurrently with this order.

The panel has unanimously voted to deny the petition for rehearing en banc. The full court has been advised of the petition for rehearing en banc (**Dkt. No. 37**), and no judge has requested a vote on whether to rehear the matter en banc. Fed. R. App. P. 40.

The petition for rehearing en banc is **DENIED**. No further petitions for panel rehearing or petitions for rehearing en banc will be entertained.

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UNITED STATES COURT OF APPEALS

JUL 9 2026

FOR THE NINTH CIRCUIT

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

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MORONI JOHNSON,

Defendant - Appellant.

No. 25-3266

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AMENDED MEMORANDUM*

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for the District of Arizona

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Submitted June 10, 2026**

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Johnson was sentenced to twenty-five years in federal prison followed by a lifetime term of supervised release. Johnson appeals the district court's sentence, arguing (1) that the district court erred by imposing a supervised release condition that requires him to obtain permission before "directly or indirectly contact[ing] any victim(s) and victim(s) family," and (2) that his sentencing counsel provided ineffective assistance of counsel by failing to object to that condition. We have jurisdiction under 28 U.S.C. § 1291 and affirm.

1. Johnson's challenge to Special Condition 8 is not yet ripe. A claim is unripe if it involves "contingent future events that may not occur as anticipated, or indeed may not occur at all." *Thomas v. Union Carbide Agric. Prods. Co.*, 473 U.S. 568, 580–81 (1985) (citing 13A C. Wright, A. Miller, & E. Cooper, Federal Practice and Procedure § 3532 (1984)). To determine if a dispute is ripe, we are required to "evaluate both the fitness of the issues for judicial decision and the hardship to the parties of withholding court consideration." *Abbott Lab'ys v. Gardner*, 387 U.S. 136, 149 (1967), *abrogated on other grounds by Califano v. Sanders*, 430 U.S. 99 (1977).

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Here, Johnson’s intimate relationships before his conviction, or even his relationships as they exist now, will not necessarily resemble his intimate relationships as they may exist at the end of his decades-long prison sentence. “We thus affirm the sentence the district court imposed, but without prejudice as to the challenged condition of supervised release such that [Johnson] may raise the argument again by asking the district court to modify the condition when the issue is no longer speculative.” *United States v. Vinge*, 85 F.4th 1285, 1291 (9th Cir. 2023).¹

2. “Claims of ineffective assistance of counsel are generally inappropriate on direct appeal.” *United States v. McKenna*, 327 F.3d 830, 845 (9th Cir. 2003). “Such claims normally should be raised in habeas corpus proceedings, which permit

¹ Because we affirm without prejudice, the district court in reviewing any future modification request may construe that request as part of Johnson’s direct appeal because that claim was not yet ripe when asserted on direct appeal. *See United States v. Gross*, 307 F.3d 1043, 1044 (9th Cir. 2002) (identifying (1) direct appeal, (2) § 2255 habeas corpus, and (3) Rule 35(c) motions as three ways for defendants to challenge the legality of supervised release conditions).

counsel to develop a record as to what counsel did, why it was done, and what, if any, prejudice resulted.” *Id.* (quoting *United States v. Ross*, 206 F.3d 896, 900 (9th Cir. 2000)). Nevertheless, review on direct appeal may be appropriate “when the record on appeal is sufficiently developed to permit review and determination of the issue” or “when the legal representation is so inadequate that it obviously denies a defendant his Sixth Amendment right to counsel.” *Id.* (quoting *Ross*, 206 F.3d at 900).

Here, direct review of Johnson’s counsel’s performance is unwarranted. The record is entirely silent regarding the reasons counsel did not challenge Special Condition 8 during sentencing. In light of Johnson’s guilty plea, his acceptance of responsibility, and the family-related nature of his offenses, counsel’s decision not to seek unmonitored familial contact could certainly have been a reasonable strategic choice. Nothing in the record rebuts the “strong presumption that counsel’s conduct fell within the wide range of reasonable representation,” *United States v. Ferreira-Alameda*, 815 F.2d 1251, 1253 (9th Cir. 1986), much less suggests that Johnson was “obviously denie[d] . . . his Sixth Amendment right to counsel.” *McKenna*, 327 F.3d at 845 (quoting *Ross*, 206 F.3d at 900).

AFFIRMED.²

² Appellee’s motion for judicial notice (Dkt. 24) is **GRANTED**.

APPENDIX C

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

United States of America

v.

Moroni Johnson

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

No. CR-24-08016-001-PCT-SMB

William Michael Atkins (CJA)

Attorney for Defendant

USM#: 05436-511

THE DEFENDANT ENTERED A PLEA OF guilty on March 19, 2024 to Count 1 of the Information.

ACCORDINGLY, THE COURT HAS ADJUDICATED THAT THE DEFENDANT IS GUILTY OF THE FOLLOWING OFFENSE(S): violating Title 18, U.S.C. §2423(a) and (e), Conspiracy to Commit Transportation of a Minor for Criminal Sexual Activity, a Class A Felony offense, as charged in Count 1 of the Information.

IT IS THE JUDGMENT OF THIS COURT THAT the defendant is committed to the custody of the Bureau of Prisons for a term of **TWENTY-FIVE (25) YEARS**. Upon release from imprisonment, the defendant shall be placed on supervised release for a term of **LIFE**.

CRIMINAL MONETARY PENALTIES

The defendant shall pay to the Clerk the following total criminal monetary penalties:

SPECIAL ASSESSMENT: \$100.00 FINE: WAIVED RESTITUTION: N/A

The Court finds the defendant does not have the ability to pay a fine and orders the fine and the assessment pursuant to 18 U.S.C. 3014(a) waived.

The defendant shall pay a special assessment of \$100.00 which shall be due immediately.

If incarcerated, payment of criminal monetary penalties are due during imprisonment at a rate of not less than \$25 per quarter and payment shall be made through the Bureau of Prisons' Inmate Financial Responsibility Program. Criminal monetary payments shall be made to the Clerk of U.S. District Court, Attention: Finance, Suite 130, 401 West Washington Street, SPC 1, Phoenix, Arizona 85003-2118. Payments should be credited to the various monetary penalties imposed by the Court in the priority established under 18 U.S.C. § 3612(c). The total special assessment of \$100.00 shall be paid pursuant to Title 18, United States Code, Section 3013 for Count 1 of the Information.

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) JVTa assessment, (9) penalties, (10) costs, including cost of prosecution and court costs.

Any unpaid balance shall become a condition of supervision and shall be paid within 90 days prior to the expiration of supervision. Until all restitutions, fines, special assessments and costs are fully paid, the defendant shall immediately notify the Clerk, U.S.

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District Court, of any change in name and address. The Court hereby waives the imposition of interest and penalties on any unpaid balances.

SUPERVISED RELEASE

It is ordered that while on supervised release, the defendant must comply with the mandatory and standard conditions of supervision as adopted by this court, in General Order 17-18, which incorporates the requirements of USSG §§ 5B1.3 and 5D1.2. Of particular importance, the defendant must not commit another federal, state, or local crime during the term of supervision. Within 72 hours of sentencing or release from the custody of the Bureau of Prisons the defendant must report in person to the Probation Office in the district to which the defendant is released. The defendant must comply with the following conditions:

MANDATORY CONDITIONS

- 1) You must not commit another federal, state or local crime.
- 2) You must not unlawfully possess a controlled substance. The use or possession of marijuana, even with a physician's certification, is not permitted.
- 3) You must refrain from any unlawful use of a controlled substance. The use or possession of marijuana, even with a physician's certification, is not permitted. Unless suspended by the Court, you must submit to one drug test within 15 days of release and at least two periodic drug tests thereafter, as determined by the court. (Suspended by the Court)

STANDARD CONDITIONS

- 1) You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of sentencing or your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
- 2) After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
- 3) You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
- 4) You must answer truthfully the questions asked by your probation officer.
- 5) You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
- 6) You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
- 7) You must work full time (at least 30 hours per week) at a lawful type of employment, unless the

probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.

- 8) You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
- 9) If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
- 10) You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
- 11) You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
- 12) If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
- 13) You must follow the instructions of the probation officer related to the conditions of supervision.

SPECIAL CONDITIONS

The following special conditions are in addition to the conditions of supervised release or supersede any related standard condition:

- 1) You must cooperate in the collection of DNA as directed by the probation officer.
- 2) You must register as a sex offender in compliance with all federal, state, tribal or other local laws or as ordered by the Court. Failure to comply with registration laws may result in new criminal charges.
- 3) You must attend and participate in a sex offender treatment program and sex offense specific evaluations as approved by the probation officer. You must abide by the policies and procedures of all the treatment and evaluation providers. You must contribute to the cost of such treatment and assessment not to exceed an amount determined to be reasonable by the probation officer based on ability to pay.
- 4) You must attend and participate in periodic polygraph examinations as a means to determine compliance with conditions of supervision and the requirements of your therapeutic program, as

directed by the probation officer. No violation proceeding will arise solely on the result of the polygraph test. A valid Fifth Amendment refusal to answer a question during a polygraph examination will not be used as a basis for a violation proceeding. You must contribute to the cost of such polygraph examination not to exceed an amount determined to be reasonable by the probation officer based on ability to pay.

- 5) You must reside in a residence approved, in advance, 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 to allow the probation officer sufficient time to evaluate the proposed change. Any changes in the residence must then be preapproved by the probation officer. If, however, notifying the probation officer in advance, or obtaining preapproval, is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of the change or expected change.
- 6) You must submit your person, property, house, residence, vehicle, papers, or office to a search conducted by a probation officer. Failure to submit to a search may be grounds for revocation of release. You must warn any other occupants that the premises may be subject to searches pursuant to this condition.
- 7) You must not knowingly have contact with children who you know are under the age of 18, including your own children, without prior written permission from the probation officer. Contact includes but is not limited to direct physical or verbal contact, letters, communications devices, audio or visual devices, visits, or communication through a third party.
- 8) You must not directly or indirectly contact any victim(s) and victim(s) family of the instant offense(s) without prior written permission. This also includes victim(s) disclosed in treatment, assessment and/or any other victim identified by the probation officer. Indirect contact includes, but is not limited to letters, communication devices, audio or visual devices, communication through a third party and /or your presence at any location the victim(s) may be known to frequent. You must immediately report any contact to the probation officer.
- 9) You are restricted from engaging in any occupation, business, volunteer activity or profession where it is reasonably foreseeable that you will be alone with children under the age of 18 without prior written permission of the probation officer. Acceptable employment shall include a verifiable work location and the probation officer must be granted access to your work site.

THE COURT FINDS that you have been sentenced in accordance with the terms of the plea agreement and that you have waived your right to appeal and to collaterally attack this matter. The waiver has been knowingly and voluntarily made with a factual basis and with an understanding of the consequences of the waiver.

The Court may change the conditions of probation or supervised release or extend the term of supervision, if less than the authorized maximum, at any time during the period of probation or supervised release. The Court may issue a warrant and revoke the original or any subsequent sentence for a violation occurring during the period of probation or supervised release.

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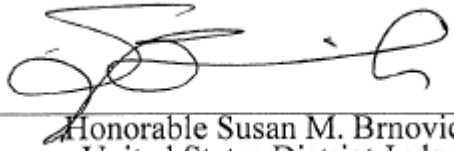
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The Court orders commitment to the custody of the Bureau of Prisons.

The defendant is remanded to the custody of the United States Marshal.

Date of Imposition of Sentence: **Monday, May 12, 2025.**

Dated this 13th day of May, 2025.



Honorable Susan M. Brnovich
United States District Judge

RETURN

I have executed this Judgment as follows:

_____, the institution
defendant delivered on _____ to _____ at _____
designated by the Bureau of Prisons with a certified copy of this judgment in a Criminal case.

United States Marshal

By:

Deputy Marshal