

NO. _____

In the
Supreme Court of the United States

TERRY LEON BLANKENSHIP, *Petitioner*,

v.

UNITED STATES OF AMERICA, *Respondent*.

**APPENDIX A
TO PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

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2026 WL 2018756

Only the Westlaw citation is currently available.

United States Court of Appeals, Fourth Circuit.

UNITED STATES of America, Plaintiff – Appellee,

v.

Terry Leon BLANKENSHIP, Defendant – Appellant.

No. 25-4336

|

SUBMITTED: May 20, 2026

|

Decided: July 13, 2026

Appeal from the United States District Court for the Southern District of West Virginia, at Bluefield. [Thomas E. Johnston](#), District Judge. (1:23-cr-00097-1)

Attorneys and Law Firms

ON BRIEF: [Wesley P. Page](#), Federal Public Defender, Jonathan D. Byrne, OFFICE OF THE FEDERAL PUBLIC DEFENDER, Charleston, West Virginia, for Appellant. [Moore Capito](#), United States Attorney, [Jennifer Rada Herral](#), Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Charleston, West Virginia, for Appellee.

Before [KING](#), [THACKER](#), and [RUSHING](#), Circuit Judges.

Opinion

Affirmed by unpublished per curiam opinion.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

***1** In this appeal from the Southern District of West Virginia, defendant Terry Leon Blankenship challenges his June 2025 criminal judgment of conviction. *See United States v. Blankenship*, No. 1:23-cr-00097 (S.D. W. Va. June 12, 2025), ECF No. 182 (the “Criminal Judgment”). Following a one-day trial in Bluefield in January 2024, Blankenship was convicted by the jury of the following three offenses: one count of attempting to obstruct and, in any way, interfere with and prevent the enforcement of [18 U.S.C. § 1591](#), in violation of [18 U.S.C. § 1591\(d\)](#); one count of knowingly attempting to corruptly persuade another person with the intent to influence and prevent testimony

in an official proceeding, in contravention of [18 U.S.C. § 1512\(b\)\(1\)](#); and one count of knowingly conspiring to commit offenses against the United States in violation of [18 U.S.C. § 1512\(b\)\(1\)](#), by attempting to corruptly persuade another person with the intent to influence and prevent testimony in an official proceeding, in contravention of [18 U.S.C. § 1512\(k\)](#).¹ In May 2025, the district court resolved to impose on Blankenship a concurrent prison sentence of 144 months, followed by a term of supervised release for life.

On appeal, Blankenship maintains that the district court made four fatal errors that infect the Criminal Judgment. More specifically, Blankenship maintains: (1) that the court abused its discretion regarding an evidentiary ruling at trial related to the cross-examination of a government witness by Blankenship's lawyer; (2) that the government failed to prove beyond a reasonable doubt that Blankenship engaged in the “substantial step” necessary to be convicted of the above-described attempt and conspiracy offenses, such that the court should have granted his Rule 29 motion for judgment of acquittal; (3) that the court erred at the sentencing stage by imposing several enhancements pursuant to the Sentencing Guidelines; and (4) that his 144-month prison sentence — which varied upward from the court's calculated Guidelines range of 87 to 108 months — is substantively unreasonable.

Relevant to the issues raised by Blankenship on appeal, we review a district court's evidentiary rulings for an abuse of discretion. *See, e.g., United States v. Hudak*, 156 F.4th 405, 408-09 (4th Cir. 2025). To that end, a court abuses its discretion “if its decision is guided by erroneous legal principles or rests upon a clearly erroneous factual finding.” *Id.* (citation modified). Furthermore, we “review de novo a district court's denial of a motion for judgment of acquittal, made pursuant to Rule 29.” *See United States v. Davis*, 75 F.4th 428, 437 (4th Cir. 2023).² Meanwhile, as to Blankenship's sentence-related appellate challenges, we “review sentencing decisions for unreasonableness.” *See United States v. Booker*, 543 U.S. 220, 261 (2005). In so doing, we review a sentencing court's “legal conclusions *de novo* and its factual findings for clear error.” *See United States v. Thornton*, 554 F.3d 443, 445 (4th Cir. 2009) (citation modified). Ultimately, “the reasonableness of a sentence focuses on whether the sentencing court abused its discretion in imposing the chosen sentence,” *see United States v. Pauley*, 511 F.3d 468, 473 (4th Cir. 2007), “tak[ing] into account the totality of the circumstances, including the extent of any variance from the Guidelines range,” *see Gall v. United States*, 552 U.S. 38, 51 (2007).

***2** In these circumstances, having carefully assessed the record on appeal — as well as the various appellate submissions of the parties — we discern no reversible error. Rather, we are of opinion that the able district judge carefully and thoroughly analyzed the various contentions interposed by Blankenship in the underlying court proceedings, and that the judge properly assessed and disposed of each of them on sound and legally correct bases.

* * *

Pursuant to the foregoing, we are satisfied to reject each of Blankenship's appellate contentions and affirm the Criminal Judgment. Furthermore, we dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this Court, and because an argument would not aid the decisional process.

AFFIRMED

All Citations

Not Reported in Fed. Rptr., 2026 WL 2018756

Footnotes

- [1](#) The three offenses for which Blankenship was convicted by the jury stem from the grand jury's Second Superseding Indictment of October 2023. *See United States v. Blankenship*, No. 1:23-cr-00097 (S.D. W. Va. Oct. 17, 2023), ECF No. 45.
- [2](#) Our Court has emphasized that a defendant seeking to challenge the sufficiency of evidence under Rule 29 faces a “heavy burden.” *See Davis*, [75 F.4th at 437](#) (citation modified). That is, “[r]eversal for insufficient evidence is reserved for the *rare case* where the prosecution's failure is *clear*.” *Id.* (citation modified) (emphasis added).

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APPENDIX B
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Counsel for Petitioner

Lieutenant Steven Sommers - Cross (Lefler)

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1 last line -- well, of Mr. Blankenship's statement was, as
2 long as she admits the truth of everything, and Ms.
3 Blankenship says, yeah, I know, we'll be all right. And the
4 last line in that clip says, well, if she doesn't, it's
5 going to be -- it's going to get ugly. Let me put it that
6 way. Do you recall that?

7 **A.** I do.

8 **Q.** That -- that really wasn't the entirety of that fault,
9 was it?

10 MS. HERRALD: Objection, Your Honor.

11 THE COURT: Let's mic up at side-bar.

12 (Side-bar)

13 THE COURT: What's your objection?

14 MS. HERRALD: I believe that Mr. Lefler is about
15 to have him ask about what the next statement during that
16 recording is and for the same exact reason he can't bring in
17 all the other exhibits, he can't elicit this testimony. He
18 never has made -- in spite of litigating this he's never
19 made indication that he thinks this was misleading or that
20 her statement was untrue without this additional evidence.
21 He didn't submit it as a clip. It's -- it should be
22 excluded as hearsay. It's for the exact same reason as all
23 the other clips.

24 THE COURT: So, this was not proposed as a defense
25 exhibit?

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1 MS. HERRALD: I don't believe so.

2 MR. LEFLER: No, sir.

3 THE COURT: So, what's -- what is the substance of
4 it?

5 MR. LEFLER: Your Honor, the next statement is,
6 the next line in the statement -- this is cross examination
7 and the next line in that -- in that statement is that
8 because Lefler will leave no stone unturned, that it will
9 be, whatever the phrase was, it will be hell because,
10 basically, your lawyer is going to do a good job for you.

11 The statement, as it exists, it is -- it sounds
12 threatening and sounds ominous, like Ms. Blankenship is
13 going to do something when, in fact, it's just a comment.
14 And it's not hearsay because it -- I mean, it's just a --
15 it's a statement, a statement itself, not that I'm going to
16 leave no stone unturned, but this is why it's going to be
17 held or -- you know, again, I don't recall the exact
18 language, but it's cross examination to provide a complete
19 statement.

20 106 is a timing rule that I get to put it in
21 timing-wise with the Government's clip for completeness. It
22 doesn't -- and it's very specific. I think the comment to
23 the rule, as I recall, makes clear that it doesn't prohibit
24 you from using on cross examination or your case in chief.

25 This is cross examination. The Government has offered

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1 a piece of evidence that I want the jury to understand was
2 not a complete piece of evidence and I think I can do that
3 on cross examination.

4 MS. HERRALD: Cross examination isn't an open door
5 to admit hearsay that would otherwise be inadmissible and
6 there was a reason that I cropped it there and that is
7 simply because there is some prior history between Mr.
8 Lefler and the 2-year-old victim and I felt that it crossed
9 too far into the risk of opening the door to that situation
10 coming into evidence because to explain why Mr. Lefler
11 leaving no stone unturned could be -- might have been said,
12 I think that opens the door to say is there any particular
13 reason that Minor Female 1 would have been unusually
14 influenced by anything from Mr. Lefler.

15 MR. LEFLER: Your Honor, if that were the case the
16 Government could have left out the -- let's put it this way
17 -- which has a very threatening tone about what's going to
18 happen to this young lady if she doesn't come across and
19 it's not hearsay. It's not offered for the truth of the
20 leaving no stone unturned. It is the sentiment of -- it
21 explains what that statement is, that she makes it about.

22 MS. HERRALD: Which is, in this case, self-serving
23 hearsay.

24 MR. LEFLER: It's not hearsay, Your Honor.

25 THE COURT: Well, I think in this instance, I --

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1 while it might otherwise be considered hearsay having
2 studied Rule 106 a bit, I think in this instance, I'm going
3 to allow it.

4 MS. HERRALD: And I guess, at this point, I might
5 as well ask this. Does the Court believe -- I would believe
6 that bringing in evidence that Mr. Lefler could, in doing
7 his job, make things ugly for the victim, would open the
8 door to testimony about their prior experience with one
9 another, which in a nutshell was this girl was a victim when
10 she was approximately six years old in another sexual
11 assault case in Mercer County. She testified at that
12 hearing. She was cross-examined by Mr. Lefler. That
13 individual was acquitted and, per information I have, which
14 I would not try to get into this much detail, but she was
15 left in tears following her testimony. The guardian ad
16 litem at the time advised me of that previously.

17 So, I --

18 THE COURT: How would you prove that up?

19 MS. HERRALD: Lieutenant Sommers was the case
20 agent on that case and he's intimately familiar with how
21 that case proceeded, including Mr. Lefler cross examining
22 the victim.

23 THE COURT: Mr. Lefler, I think you've got a
24 difficult choice here. I -- if I allow you to do this, I
25 think it's going to open a door to exactly what stones you

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1 would be leaving unturned.

2 MR. LEFLER: Your Honor, I'm -- I'm just not sure
3 how this -- that statement implicates a prior case. It's --
4 I mean, obviously, I would -- that prior trial doesn't come
5 in. If this case were tried and that child testified here,
6 I wouldn't get into that. I just -- I'm just not sure why
7 that implicates that at all.

8 THE COURT: I think that if you -- if you insist
9 on bringing that out, Mr. Lefler will leave no stone
10 unturned, it's going to get ugly, Mr. Lefler will leave no
11 stone unturned, I think that opens the door to, on redirect,
12 the Government explaining what that could mean. So, I -- I
13 don't see any way around that.

14 MR. LEFLER: Your Honor, I guess the only -- the
15 only comment I would make is that that is a statement that
16 could be made in any case where a lawyer is doing his job
17 and stones are applicable to the present case and, clearly,
18 that testimony and that prior experience wouldn't be part of
19 this case in any circumstances.

20 THE COURT: Unless it's brought out on -- unless
21 the door is opened by cross examination.

22 MR. LEFLER: Well, and when I say this case, I
23 meant the sex case, if it were tried.

24 THE COURT: And I --

25 MR. LEFLER: And I understand the Court's ruling.

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1 I obviously would ask to note my exception.

2 THE COURT: Does that mean you're not going to
3 pursue that line?

4 MR. LEFLER: Well, in light of that probability,
5 Your Honor, I think it would be foolish for me to make this
6 more complicated than it is.

7 THE COURT: Fair enough.

8 MR. LEFLER: Okay.

9 THE COURT: Your exception is noted.

10 MR. LEFLER: Thank you.

11 (Side-bar concludes)

12 BY MR. LEFLER:

13 Q. Detective, with reference to the recantation, you've
14 indicated it was a policy of the agency or the organization
15 that does your interviewing and they would not do that short
16 of an order?

17 A. That's correct.

18 Q. Did you seek an order?

19 A. No.

20 Q. Did you talk to the prosecutor, local prosecutor, or
21 the United States Attorney about the fact that there was
22 this recantation and you can't get an interview to confirm
23 this or disprove it without an order?

24 A. There was discussion of the order, yes.

25 Q. Before July?

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1 we do that now or if we do it at the end of my analysis of
2 the enhancements, but I'm going to do it now for the sake of
3 convenience. So, that brings us to an 18.

4 Now, I want to move to the enhancements.

5 By the way, I'm going to -- when I get done making all
6 of these findings, I'm going to take a break and let you all
7 digest them before we proceed with the sentencing hearing
8 because this is a lot and the possible calculations that the
9 parties were working with were all over the place. So, I'm
10 going to give you an opportunity to sort of soak in these
11 findings and then tailor your arguments for -- your final
12 arguments for sentencing accordingly.

13 All right. All right. Before I get into the
14 enhancements, I think at this juncture I need to pause and
15 make some credibility findings.

16 So, the defendant took the stand at the hearing on the
17 objections and basically denied that any of this stuff with
18 the girl occurred. There was -- I had had occasion to go
19 back and watch the full two hours of the girl's first
20 interview with -- I forget the agency. I don't know that it
21 was CPS, but it was a child protection agency of some kind
22 in Mercer County; and also the second one, which is about
23 45 minutes. So, I spent about three hours this morning
24 watching those videos.

25 I -- I have also considered the defendant's testimony

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1 and the testimony of the other witnesses that we had at the
2 hearing. I carefully observed the -- these interviews were
3 video and audio recorded. The video was very good quality.
4 I had the opportunity to observe the interaction between the
5 interviewer and girl at length.

6 I find that the -- I find the girl to be credible and
7 believable and I find her recantation to not be credible and
8 -- for two reasons. One is the social workers and others
9 that testified at the hearing indicated that it is often the
10 case that children who find themselves in a home where they
11 want to be will do anything to avoid being removed from that
12 home by Child Protective Services and, in fact, she said she
13 likes being in that home, that it's the first -- I am
14 paraphrasing for her. She wasn't -- you know, she's 12,
15 13 years old, so she's not as articulate as one might hope,
16 but I think she has found in that home for the first time
17 stability and -- and a -- and parental figures that are not
18 involved in drugs and are not somehow abusing her, which is
19 what she found in the other situations that she was in. So,
20 she confirms that motivation.

21 And, secondly, her explanation as to why she lied about
22 Mr. Blankenship is -- the witnesses said didn't make much
23 sense. That's absolutely true. That explanation that she
24 gives makes no sense whatsoever. So, I find her to be
25 credible.

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1 On the other hand, I think -- I think that the
2 defendant's testimony at the hearing -- first of all, he has
3 an incentive given the state of the proceedings to not be
4 truthful. I find that his denials of the sexual conduct
5 with the girl not to be credible given the credibility
6 findings I made with regard to her.

7 He -- I don't find it credible that he didn't stay
8 there when the kids were there and, yet, he described in
9 some detail where the kids slept when they did stay in his
10 home.

11 He testified that he wasn't sure that the text messages
12 were from AT; thought maybe they were from Janet,
13 notwithstanding the fact that Janet, as I understand it, is
14 the girl's great grandmother and the texts were written very
15 much in the text lingo of kids.

16 He has indicated -- he testified that he is not
17 physically capable of sexual conduct because of medical
18 issues. However, the -- while the medical documentation
19 submitted by his counsel does corroborate some of his
20 testimony regarding his medical condition, it does not
21 corroborate that part. So, the -- the -- in those and other
22 particulars I found the defendant's testimony to not be
23 credible.

24 Therefore, I find by a preponderance of the evidence
25 that the allegations made by AT, in fact, happened for

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TERRY LEON BLANKENSHIP

Defendant's Attorney

D-1

DEFENDANT: TERRY LEON BLANKENSHIP
CASE NUMBER: 1:23-cr-00097

IMPRISONMENT

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

144 months on all three counts to run concurrently. The defendant shall be given credit for time served as appropriately calculated by the Bureau of Prisons. This sentence shall run consecutive to Defendant's sentence of 12 months and 1 day in Criminal Action Number 1:08-cr-00073.

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

The Court recommends that the defendant receive a full medical evaluation and treatment upon entry into the Bureau of Prisons. The Court recommends that the defendant be placed in a facility as near as possible to his home Mercer County, WV.

☒ 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 _____ ☐ a.m. ☐ p.m. 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 2 p.m. on _____.

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

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

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: TERRY LEON BLANKENSHIP
CASE NUMBER: 1:23-cr-00097**SUPERVISED RELEASE**

Upon release from imprisonment, you will be on supervised release for a term of:
Life on all three counts to run concurrently.

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
☒ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. ☐ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. ☒ You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. ☐ You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

DEFENDANT: TERRY LEON BLANKENSHIP
CASE NUMBER: 1:23-cr-00097**STANDARD CONDITIONS OF SUPERVISION**

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer, but may decline to do so if you believe it will incriminate you. See *United States v. Meeks-Little*, 5:21-cr-129 (3/1/23), Dkt. 72, Judgment at 4, item 4.
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 _____

DEFENDANT: TERRY LEON BLANKENSHIP
CASE NUMBER: 1:23-cr-00097

ADDITIONAL SUPERVISED RELEASE TERMS

SPECIAL CONDITIONS OF SUPERVISION

In addition, the defendant shall comply with the following special conditions of supervised release:

The Defendant shall comply with the Standard Conditions of Supervision adopted by the Southern District of West Virginia in Local Rule of Criminal Procedure 32.3, as follows:

- 1) If the defendant is unemployed, the probation officer may direct the offender to register and remain active with Workforce West Virginia.
- 2) Defendants shall submit to random urinalysis or any drug screening method whenever the same is deemed appropriate by the probation officer and shall participate in a substance abuse program as directed by the probation officer. Defendants shall not use any method or device to evade a drug screen.
- 3) As directed by the probation officer, the defendant will make copayments for drug testing and drug treatment services at rates determined by the probation officer in accordance with a court-approved schedule based on ability to pay and availability of third-party payments.
- 4) A term of community service is imposed on every offender on supervised release or probation. Fifty hours of community service is imposed on every offender for each year the offender is on supervised release or probation. The obligation for community service is waived if the offender remains fully employed or actively seeks such employment throughout the year.
- 5) The defendant shall not possess a firearm, ammunition, destructive device, or any other 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), and shall reside in a residence free from such items.
- 6) The defendant shall not purchase, possess, or consume any organic or synthetic intoxicants, including bath salts, synthetic cannabinoids, or other designer stimulants.

The defendant shall have no direct or indirect contact, at any time, for any reason, with the victim(s) identified in the presentence report or the victim's family.

The defendant shall submit to an evaluation by a qualified mental health professional, approved by the probation officer, who is experienced in treatment of sexual offenders. The defendant shall take all medications reasonably related to treatment of his or her condition, complete all treatment recommendations and abide by all rules, requirements and conditions imposed by the professional. The defendant must do so until discharged from treatment by the professional. Prior to being required to submit any proposed course of treatment, the defendant or the United States may seek review by the presiding district judge of any facet of the prescribed course of treatment. The United States and the defendant shall also have the right to seek review by the presiding district judge of any continuation or discontinuation of such treatment.

The defendant shall submit to risk assessments, psychological and physiological testing, which may include, but is not limited to, a polygraph examination or other specific tests to monitor the defendant's compliance with probation or supervised release treatment conditions, at the direction of the probation officer.

The defendant's residence and employment shall be approved by the probation officer. Such approval shall not be unreasonably withheld. Any proposed change in residence or employment must be provided to the probation officer at least 10 days prior to the change and pre-approved before the change may take place. If such notification is not possible due to unanticipated circumstances, the defendant must notify the probation officer within 72 hours of becoming aware of the change or expected change.

The term "minor" with respect to any condition of supervised release refers to one who is under the age of eighteen (18) years.

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The defendant shall not associate or have verbal, written, telephonic or electronic communications with any minor except: 1) in the presence of the parent or legal guardian of said minor; 2) on the condition that the defendant notifies the parent or legal guardian of the defendant's sex offender conviction(s); and 3) with written approval from the probation officer, which shall not be unreasonably withheld. This provision does not encompass associating or communicating with minors working as waiters, cashiers, ticket vendors, and similar service personnel with whom the defendant must associate or communicate in order to obtain ordinary and usual commercial services, so long as such associations or communications are limited exclusively to those which are necessary and proper for obtaining the aforementioned services.

The defendant must not possess or use a computer or other device (as defined in 18 U.S.C. § 1030(e)(1)) capable of Internet access until a Computer Use Agreement is developed and approved by the sex offender treatment provider and/or probation officer. Such approval will not be unreasonably withheld. Such computers, computer hardware or software possessed solely by the defendant is subject to searches and/or seizures by the probation office.

The defendant shall not engage in any forms of exhibitionism, voyeurism, obscene phone calls or other lewd or lascivious behavior toward a minor, nor engage in "grooming" behavior that is apt to attract, seduce reduce sexual resistance or inhibitions of a minor.

The defendant shall not be employed in any position or participate as a volunteer in any activity that involves contact with minors or engage in an activity that involves being in a position of trust or authority over any minor.

The defendant shall allow the U.S. Probation Officer, or other designee, to install software designed to monitor computer activities on any computer the defendant is authorized to use. This may include, but is not limited to, software that may record any and all activity on computers (as defined in 18 U.S.C. § 1030(e)(1)) the defendant may use, including the capture of keystrokes, application information, internet use history, email correspondence, and chat conversations.

The defendant shall submit his or her person, property, house, residence, vehicle, papers, or office to a search conducted by a United States probation officer when there is reasonable suspicion that the defendant has violated a condition of supervision. Prior to the search, the Probation Officer must obtain approval for the search from the Court. The search must be conducted at a reasonable time and in a reasonable manner. Failure to submit to a search may be grounds for revocation of release. The defendant shall inform other occupants that the premises may be subject to searches pursuant to this condition.

The defendant 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.

The defendant must not incur new credit charges or open additional lines of credit without the approval of the probation officer.

The defendant shall apply all monies received from income tax refunds, lottery winnings, judgments, and any other anticipated or unanticipated financial gains to any outstanding Court imposed monetary obligations.

As part of the sentence, the defendant has been ordered to pay the special assessment. Monthly payment toward this obligation as set forth herein shall be a special condition of the defendant's supervised release.

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CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
TOTALS	\$ 300	\$ 0.00	\$ 0.00	\$ 0.00	\$ 5,000

- ☐ The determination of restitution is deferred until _____. 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.

<u>Name of Payee</u>	<u>Total Loss***</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
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TOTALS	\$ 0.00	\$ 0.00
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- ☐ Restitution amount ordered pursuant to plea agreement \$ _____
- ☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- ☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:
- ☐ the interest requirement is waived for the ☐ fine ☐ restitution.
- ☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.
** Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.
*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

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SCHEDULE OF PAYMENTS

Having assessed the defendant’s ability to pay, payment of the total criminal monetary penalties is due as follows:

- A ☒ Lump sum payment of \$ 5,300 due immediately, balance due
- ☐ not later than _____, or
- ☒ in accordance with ☐ C, ☐ D, ☐ E, or ☒ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant’s ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:

If not paid immediately, the defendant shall pay the special assessment while incarcerated through participation in the Bureau of Prisons Inmate Financial Responsibility Program by paying quarterly installments of \$25 each. If not paid in full during incarceration, the defendant shall pay any remaining special assessment balance in monthly installments of \$50 each, with the first payment becoming due 30 days after the defendant’s release from custody. The defendant shall make the payments to the Clerk, United States District Court, P. O. Box 2546, Charleston, WV 25329.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons’ Inmate Financial Responsibility Program, are made to the clerk of the court.

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

☐ Joint and Several

Case Number Defendant and Co-Defendant Names (including defendant number)	Total Amount	Joint and Several Amount	Corresponding Payee, if appropriate
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- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant’s interest in the following property to the United States:

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