

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA, : No. 3:19-cr-00303(SRU)
Government, : 915 Lafayette Boulevard
: Bridgeport, Connecticut
v. :
: August 13, 2020
SIMON HESSLER, :
Defendant. :
:

SENTENCING

B E F O R E :

THE HONORABLE STEFAN R. UNDERHILL, U. S. D. J.

13 || A P P E A R A N C E S :

FOR THE GOVERNMENT:

FOR THE DEFENDANT:

20 BUTLER, NORRIS & GOLD
21 254 Prospect Avenue
22 Hartford, Connecticut 06106-2041
23 BY: BETHANY LYNNE PHILLIPS, ESO.

1 (Proceedings commenced at 10:15 a.m.)

2 THE COURT: Good morning.

3 MS. GIFFORD: Good morning, Your Honor.

4 MS. PHILLIPS: Good morning, Your Honor.

5 THE COURT: We're here for sentencing in the
6 matter of United States v. Simon Hessler. Could I have
7 appearances, please.

8 MS. GIFFORD: Nancy Gifford, Assistant United
9 States Attorney. With me at counsel table is Special
10 Agent Wendy Bowersox of the FBI.

11 THE COURT: Thank you.

12 MS. PHILLIPS: Good morning, Your Honor.

13 Bethany Phillips on behalf of Mr. Hessler, who is seated
14 next to me -- across from me at counsel table.

15 THE COURT: Very good. Thank you.

16 And present by video I believe is Lauren Harte
17 of the U.S. Probation Office.

18 MS. HARTE: Good morning, Your Honor.

19 THE COURT: Good morning. We are all masked,
20 obviously, pursuant to court order, so I'm just simply
21 going to ask everyone to keep their voices up. I know I'm
22 relatively soft-spoken. If anybody has trouble hearing
23 me, please let me know that. I will try to increase the
24 volume. And I urge all of you to use the mics and to
25 speak somewhat forcefully.

1 On December 11 of last year, Mr. Hessler
2 appeared before Judge Garfinkel and entered a guilty plea
3 to Count One of an information charging him with
4 production of child pornography, in violation of 18 U.S.C.
5 Section 2251(a). I approved and adopted Judge Garfinkel's
6 recommendation regarding that plea on January 10, 2020.

7 A presentence report was prepared for the Court
8 by the U.S. Probation Office. The initial report was
9 dated July 16, as was the first addendum. The second
10 addendum was dated July 27, 2020. I have reviewed the
11 presentence report, the addenda, and I've consulted with
12 Ms. Harte, who has been involved with the preparation of
13 the PSR.

14 In addition, in preparation for sentencing
15 today, I've reviewed both parties' memoranda, as well as
16 the letters and psychological reports that were attached
17 to the defense memorandum.

18 Ms. Phillips, let me make sure that you and
19 Mr. Hessler have had a chance to review the presentence
20 report and the addenda to that report.

21 MS. PHILLIPS: Yes, Your Honor, we have.

22 THE COURT: Do you have any objections to any of
23 the factual statements that are set forth there?

24 MS. PHILLIPS: No, Your Honor.

25 THE COURT: Very good.

1 Ms. Gifford, has the government had the same
2 opportunity?

3 MS. GIFFORD: Yes, Your Honor.

4 THE COURT: Any objections?

5 MS. GIFFORD: No, Your Honor.

6 THE COURT: All right, thank you.

7 I'm going to adopt the factual statements of the
8 presentence report as the findings of fact of the Court in
9 this case. I'm also going to accept the plea agreement,
10 signed and filed on December 11, being satisfied that it
11 adequately reflects the seriousness of the actual offense
12 behavior and that accepting it will not undermine the
13 purposes of sentencing.

14 Mr. Hessler today faces the following maximum
15 and minimum penalties:

16 A term of imprisonment of between 15 and 30
17 years; a term of supervised release of between five years
18 and life; a fine of -- I have \$250,000. Is that correct?

19 MS. GIFFORD: That's correct, Your Honor.

20 MS. PHILLIPS: Yes, Your Honor.

21 THE COURT: Very good. There's also a special
22 assessment of \$5,100. There is restitution potential, and
23 there's a forfeiture potential, but I understand the
24 government has moved to withdraw the forfeiture?

25 MS. GIFFORD: That's correct. The forfeiture

1 related to a cell phone and a thumb drive that are in
2 State custody and still part of the State case, so the
3 State is going to deal with the resolution of those items.

4 THE COURT: Very well. So I'll grant the motion
5 with respect to forfeiture.

6 Do we know whether there is any claim for
7 restitution?

8 MS. GIFFORD: So, Your Honor, we also could have
9 sought to forfeit the defendant's residence as the
10 location of where the production occurred. We worked out
11 a resolution that amounted to the defendant paying \$50,000
12 in restitution to the victim. We did not pursue the
13 forfeiture of the residence. And as a result of that
14 agreement, there is no further restitution being sought
15 and no further forfeiture.

16 THE COURT: Very good. Thank you.

17 MS. PHILLIPS: Your Honor, if I may, just as to
18 the \$5,000 special assessment. My client has paid the
19 \$100 special assessment, but I did provide probation and
20 the government, the Court with some further information in
21 support of his financial affidavit in terms of
22 establishing that he -- we are asserting that he does not
23 have the ability to afford to pay the \$5,000 special
24 assessment, and that's been provided to probation.

25 THE COURT: Okay. Is financial ability to pay a

1 factor in terms of deciding whether a special assessment
2 needs to be imposed? Certainly with a hundred dollars we
3 don't consider whether there's financial ability. The
4 5,000 "special" special assessment, if you will, comes up
5 rarely, and I've not faced a question of --

6 MS. GIFFORD: It does require a finding that the
7 defendant is not indigent, Your Honor. So a finding that
8 he is indigent means he does not have to pay the \$5,000,
9 but there is a discussion, there is need to find whether
10 or not he has the ability to pay it before deciding
11 whether or not to impose it.

12 THE COURT: All right. What information was
13 provided to probation?

14 MS. PHILLIPS: Your Honor, the standard -- the
15 standard forms, including the declaration of offender net
16 worth, a cash flow statement. And, additionally, there
17 was a documentation. Mr. Hessler wrote in that when his
18 hotel, the corporation sold the hotel, there was a
19 \$7 million transfer. I provided an affidavit from the
20 closing attorney who handled that, confirming that
21 Mr. Hessler received no money from that closing, as there
22 was many liens and everything.

23 So with that, the only thing he owes -- owns is
24 his house in Ellington, which is subject to a mortgage to
25 his father. And then with his future incarceration, that

1 consists of all the property he owns right now.

2 THE COURT: Is there any equity in the home?

3 MS. PHILLIPS: I believe --

4 THE DEFENDANT: No. It's about 75,000 owed on
5 top of the -- I'm sorry, sir. No, the house was -- is
6 worth about 250,000 and right now with -- without counting
7 interest and the late fees, I'm about 325,000 in arrears
8 to my father. I have only made mortgage payments for a
9 year and a half. I've been arrested for the past almost
10 two years.

11 I did pay the \$50,000 fee, and I did transfer
12 all my vehicles, all my property, everything that I owned
13 to my ex-wife. I have nothing left. If I'm looking at 30
14 years in prison, I -- there's no chance of me making money
15 there.

16 THE COURT: Ms. Gifford?

17 MS. GIFFORD: So in looking at paragraph 76 of
18 the PSR, it appeared that defendant had some debt that was
19 outstanding. I did look at the cash flow discussion
20 range, the hotel, and it didn't appear that he had any
21 assets.

22 Now, I have not talked to his ex-wife about the
23 value of the house. I just looked back; she's indicating
24 that the house has a higher value than the defendant is
25 indicating. I haven't had a chance to speak with her. If

1 I could have a moment, I could follow up --

2 THE COURT: Sure. Is that the house that's
3 being transferred to her as part --

4 MS. GIFFORD: So the house is not being
5 transferred to her. So the house, it's a little
6 complicated, but the house belongs to Mr. Hessler's
7 father. He holds the mortgage on it.

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15 THE COURT: Okay. You can confer with her.

16 MS. GIFFORD: Thank you, Your Honor.

17 (Pause.)

18 Thank you, Your Honor. According to the
19 ex-wife, the value -- the mortgage on the house is around
20 \$180,000. Again, that's held by the father, so I'm not
21 sure where late fees and other costs like that would come
22 in. The value of the house, according to a realtor who
23 recently came out and evaluated the house in case it were
24 to be put up for sale, is \$250,000. So there should be
25 some equity in that home.

1 MS. PHILLIPS: May I just have a moment, Your
2 Honor?

3 (Pause.)

4 THE DEFENDANT: Your Honor, if I may speak? On
5 regards to the house, I owe my father a fortune because of
6 the business and the failed ventures. When the divorce
7 happened, we worked very closely with attorneys on both
8 sides to ensure that my daughter, my ex-wife would have a
9 safe place to live. That comes at a great price. My
10 father pays for the taxes, the insurance on the house,
11 everything other than utilities. He's agreed to that for
12 his granddaughter to have a safe place.

13 At this point, because of me having been in
14 default for almost two years in mortgage, plus about a
15 year prior to that, he could technically quit claim the
16 property very quickly. I don't want it to get to that. I
17 don't want my daughter and my ex-wife to be homeless. He
18 has no legal obligation or financial obligation, I owe the
19 house to him --

20 MS. PHILLIPS: Let me just jump in there. I
21 have a document that shows the mortgage as \$176,880.
22 Quite honestly, I was not provided with a late appraisal.
23 I know market values have dropped, Your Honor, and he has
24 not made any payments on this mortgage. He doesn't have
25 the future ability to earn anything at this point, and his

1 limited equity in the house and what that may be, that's
2 all that there is, Your Honor. It's a house in Ellington,
3 Connecticut.

4 THE COURT: Do I have the ability under the
5 statute to impose any lesser amount than the \$5,000?

6 MS. GIFFORD: No. I'm sorry, Your Honor. I
7 believe it's \$5,000 is the only amount. It's just whether
8 or not he has the ability to pay.

9 THE COURT: All right.

10 MS. GIFFORD: But just know that the money for
11 that \$5,000 goes to a fund that's being established in
12 Congress to pay other victims of child pornography, and in
13 this particular case the defendant had hundreds and
14 hundreds of images of child pornography that are not part
15 of the count to which he pled. And I do think that it
16 would be important, if the Court finds he has the ability
17 to pay, to impose it here so that there's some money going
18 to those other victims who are not charged.

19 THE COURT: Can the 5,100 be paid off through
20 the inmate fiscal responsibility program?

21 MS. GIFFORD: I believe so, Your Honor. It does
22 not need to be paid today, if the Court were to order it
23 to be paid today, but then it would accumulate over time.

24 MS. PHILLIPS: May I just have a moment, Your
25 Honor?

1 (Pause.)

2 Your Honor, I asked Mr. Hessler what was the
3 purchase price of the house. He's not quite sure. I know
4 that it's a significant mortgage that is owed to his
5 father, and that, again, that limited equity is what
6 Mr. Hessler has. Of course, pursuant to the divorce
7 decree, that's to be divided too. So it's not even --
8 whatever that limited amount of equity is is to be divided
9 pursuant to the divorce decree. So that's even less. And
10 then with his inability to earn anything in the coming
11 years, he does not have the financial ability to pay that.

12 We're not disputing, he's -- you're going to
13 hear from him in a little bit. He's taken responsibility
14 for these offenses; and, again, he's here to -- you're
15 going to hear a lengthy statement from him. But in terms
16 of what the Court has to look at here and make the finding
17 that he has the financial ability to pay, that's the
18 limited issue, and he does not, Your Honor.

19 THE COURT: Well, from what I'm hearing about
20 the house, there is some limited equity in the house,
21 certainly ten thousand dollars, which would be the five
22 thousand we're talking about. So I don't think I can find
23 that he does not have the financial ability to pay. The
24 question is really how to access that because without a
25 home equity loan, who knows how he can get that money out.

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5 And to the extent that it's permissible to pay
6 it off through the inmate fiscal responsibility program,
7 I'm going to order that that be done, which may increase
8 Mr. Hessler's chances of getting a UNICOR position within
9 the B.O.P., which pays significantly more than most prison
10 jobs.

11 Ms. Phillips, are you in agreement that there is
12 \$50,000 of restitution payable by Mr. Hessler?

13 MS. PHILLIPS: Yes, Your Honor. That has
14 already been paid. That was paid at the change of plea.

15 THE COURT: Oh, very well. So I don't need to
16 include that in the judgment anywhere?

17 MS. GIFFORD: No, Your Honor. Thank you.

18 MS. PHILLIPS: No, Your Honor.

19 THE COURT: All right.

20 In my view, the Sentencing Guidelines have been
21 correctly calculated in the presentence report. We begin
22 with a base offense level of 32. Four levels are added
23 because of the age of the minors, that is, less than 12.
24 Four levels are added because the material involved
25 sadistic or masochistic conduct. Two levels are added

1 because there was sexual contact.

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4 That gives us a total -- an adjusted offense
5 level of 44.

6 Is the government making a motion under 3E1.1B?

7 MS. GIFFORD: Yes, Your Honor.

8 THE COURT: That motion is granted. Three
9 levels are subtracted for acceptance of responsibility,
10 which results in a total offense level of 41.

11 Mr. Hessler is in Criminal History Category I,
12 and the resulting Sentencing Guideline range is 324 to 360
13 months of imprisonment, five years to life of supervised
14 release, a fine of between \$50,000 and \$250,000, and the
15 mandatory special assessment of \$100.

16 Let me hear any objection to that calculation of
17 the Sentencing Guidelines or the statement of the
18 resulting Sentencing Guideline range.

19 MS. GIFFORD: No objection, Your Honor. I think
20 the Court said fifty thousand to two-fifty for the fine.
21 I don't believe there's a mandatory minimum for the fine.
22 It's just up to 250,000. The 50,000 is just the
23 restitution that he already paid.

24 THE COURT: Right. That's the Guideline range.

25 MS. GIFFORD: Oh, the Guideline. I'm sorry.

1 || Thank you. No, no objection then.

2 THE COURT: All right, thank you.

3 MS. PHILLIPS: No objection, Your Honor.

6 MS. GIFFORD: Yes, Your Honor.

7 THE COURT: All right.

8 MS. GIFFORD: Is this the right time? And would
9 you like her to come up and speak at the lecturn?

10 THE COURT: Either there or at your table,
11 somewhere where she has a microphone.

12 MS. GIFFORD: Okay.

13 THE VICTIM: What do you say when you only have
14 a moment in time to address the person who has done things
15 you never even dreamed were humanly possible? I've
16 written so many letters where I've poured out my heart and
17 soul, and they ended up in a crinkled ball on the floor as
18 I lamented having to write a victim's impact statement in
19 the first place.

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6 I can't even begin to tell you how destroyed I
7 was when I found out. My heart is shattered and my soul
8 is crumbled. I went from being a happy, proud,
9 self-confident wife and mother to a broken and defeated
10 shell of a woman. When I look at you, I no longer see my
11 best friend, the man I married, the person I thought I'd
12 grow old with. Instead, I see a scared, evil little man
13 who lost the battle against his own destructive thought
14 patterns, a man who has lost everything, a man who will
15 grow old alone. I see a man who kept feeding the demons
16 inside him, a man who disconnected from the real world and
17 spiraled out of control until he hit rock bottom and threw
18 away everything good that he ever had. I see a man who
19 tried to buy a child online for a weekend of limitless sex
20 and slave training. I don't know you Simon, and I guess I
21 never really did. I expected strength from a person who
22 didn't know the definition of the word. I expected
23 courage from someone who is nothing but a coward.

24 Listening to everything that has happened and
25 learning about most of it through police reports and media

1 articles has been a nightmare. It's been like watching a
2 horror movie where the anxiety keeps building and
3 building, and you never even know if you've gotten to the
4 scariest part. You keep on watching, listening and
5 learning about every betrayal and unspeakable act, while
6 doing everything in your power to hold back your rage,
7 while holding on to whatever dignity you have left.

8 I've learned new phrases, like guilt by
9 association, libel and slander. I've been judged because
10 of your actions. People assumed I knew what you were
11 doing, but you kept it well hidden and completely
12 blindsided me. I'm no longer the person that I once was.
13 I've lost part of my identity. I'm no longer a wife.

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20 The accusations against me have hurt me beyond
21 belief. Sadly, people believe everything they read and
22 jump to conclusions without hearing the whole story.
23 Thankfully, the people who truly know me know that I could
24 never have been involved with such heinous acts. Through
25 all of this, I've learned that you never really know how

1 strong you are until being strong is the only choice you
2 have. XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX. We
3 are strong. You have no power or control over us anymore.
4 We will move forward with our lives and do great things.
5 We will choose honesty over lies, good over evil, and love
6 over hate. We will begin to help others and see the good
7 in people. Your actions do not and will never define us.

8 You might think that I hate you, but I don't.
9 Hating you would mean that you still have a hold on my
10 heart and that I care. It would mean that I think about
11 you, and I don't. You are my past and that is where you
12 will stay. There is no room for you in my future.

13 So in answer to my own question, what do you say
14 when you have a moment in time to address the person who
15 has done things you never thought were humanly possible, I
16 say this: For the next thirty years I will be going to
17 bed every night knowing you will be in prison when you
18 can't hurt anyone else. I hope that every night, as you
19 lay there on your cot drenched in a cold sweat from the
20 nightmares that will surely haunt you, that you remember
21 all the damage you caused and the reason you're there.

22 Thank you.

23 THE COURT: Thank you.

24 Ms. Phillips, would you like to make whatever
25 comment you want to in support of the defendant?

1 Mr. Hessler, I'll hear from you if you wish to
2 make a statement. You're not required to say anything,
3 but I would, of course, be interested in hearing from you
4 at the appropriate time.

5 And when the two of you are done, I'll hear from
6 Ms. Gifford.

7 MS. PHILLIPS: Thank you, Your Honor.

8 Mr. Hessler wants to read his statement first,
9 and then I'll address the Court, Your Honor.

10 THE COURT: Thank you.

11 THE DEFENDANT: Your Honor, I apologize. This
12 is a fairly lengthy statement, but I do believe it's
13 needed at this point.

14 Your Honor, thank you for granting me this
15 opportunity to address the Court today. My attorney has
16 provided the Court with several psychiatric reports,
17 including diagnosis, and an outline of recommended
18 treatment completed since my arrest in 2018.

19 I have previously provided the Court with two
20 letters outlining my past mental psychiatric history and
21 present condition. These findings are the cornerstones of
22 my new foundation as a human -- diagnosing my conditions,
23 understanding the results, and obtaining proper ongoing
24 psychiatric and medical care, to ultimately be reborn into
25 the genuine, kind, religious person, free of all sins and

1 addictions, the whole person I always carried very deep
2 inside of me.

3 I have acknowledged my horrific actions, deeds
4 and decisions. I will not present any excuses. I have
5 none. Instead, I will share with you insight into how I
6 became detached from reality.

7 I was born with a brain injury wherein the bones
8 in my head did not fuse together properly. I was placed
9 in intensive care and given up for adoption, rejected at
10 only fours month old. My biological mother died as a
11 result of the birthing process. The remainder of my
12 biological family either were unable or unwilling to
13 provide me a home.

14 Growing up, I struggled. I was diagnosed with
15 learning disabilities and ADHD. However, my bipolar
16 disorder, multiple personality disorder, severe
17 depression, severe anxiety and other conditions remained
18 undiagnosed, untreated until prison. Although I always
19 struggled and experienced exhausting psychiatric issues,
20 countless failures and abuse, my legal problems only
21 started and occurred during the last two years prior to my
22 arrest, when all the elements of my house of cards came
23 crashing down at once, overwhelming me, my security, my
24 identity, my world, and leaving no safe refuge.

25 Due to several traumatic experiences, I lost my

1 childhood, carefree joy, and my innocence early. Around
2 age 7, I discovered my adoption by mistake. Around age
3 13, I was bullied and raped by a group of boys while
4 attending summer camp. These were only a few of my
5 traumatic experiences I've had in my life. I buried them
6 and their consequences deep inside of me, in an attempt to
7 ignore reality, pain, shame, and to protect my family. I
8 was different. I was slight, small and shy. I was overly
9 emotional and prone to random, extreme mood swings. I was
10 and I am an easy target. I felt ashamed and told no one
11 of this.

12 During this period of time, I also sustained the
13 worst of two -- the worst two head injuries of several and
14 a knife/gun robbery. Our apartment was burglarized. I
15 retreated into myself, to my room, to places I felt safe,
16 and played countless hours with my can of wheels, creating
17 a virtual world and situations where pain, hurt, shame,
18 bullying and abuse did not exist.

19 Until my arrest, I moved homes very
20 frequently -- towns and often countries -- until I arrived
21 in the United States of America and attended high school,
22 where I struggled until completion. I never was able to
23 build, maintain or grow long-lasting friendships.

24 I attended college here in Connecticut until I
25 dropped out. I was overwhelmed with my newfound freedom

1 and college experiences, as my family had returned
2 overseas. I was totally alone in this great country,
3 trying to live my American dream. When my world felt
4 ended, I tried to commit suicide by overdosing on pills.
5 When I knew my college life was over in shame, I was
6 rushed to the hospital, where I was promptly admitted and
7 treated. I did not tell my parents.

8 My parents have always been there for me, always
9 supportive, loving, caring and sheltering. I could not
10 admit to my failures to shame them and hurt them. So I
11 pretended I could manage all. But as my life proves, I
12 could not.

13 They provided me with my lifelong dream of
14 owning and operating a hotel. I was good at customer
15 service only. I did my best. However, the business lost
16 hundreds of thousands of dollars every year until my
17 arrest. I owe over 13 million. I had no mentor, no
18 confidence, no financial understanding or experience. I
19 was surrounded in my personal and professional life by
20 people who claimed good intentions, yet it always ended
21 one-sided, bullied, abused and used.

22 For the two years prior to my arrest, I fell
23 into a daze, an uncontrollable craving for oxycodone and
24 other drugs in an effort to ease my pains. I became
25 hooked when I was prescribed by our family doctor the

1 painkillers while attending -- while I was waiting
2 bilateral hernia surgery. It was extremely painful,
3 caused me physical and emotional issues, and to this day I
4 continue to suffer from the surgery, the mesh, and the
5 unexpected consequences.

6 During this time, I also sustained a severe
7 injury to my back while volunteering as a certified
8 emergency medical technician on an ambulance call with
9 Ellington volunteer ambulance. My perceived need for
10 relief from my physical and mental pains consumed me. I
11 spent countless hours each day in a drug-induced stupor,
12 surrounding myself by the disturbing and disgusting world
13 of graphic pornography. I failed my EMT recertification
14 exam. The real world was overtaken by my constant pursuit
15 of temporary pain relief, both mental and physical, as
16 well as my desperate search for happiness, joy, peace and
17 acceptance. I hurt the ones I loved. I hurt the ones
18 that loved me, people around me. I am sorry.

19 The virtual nightmare I was trapped inside of
20 became my daily reality to the level that I often failed
21 to work at the hotel with my staff, my dream, unable to
22 face and then function the last few years. Instead, I
23 retreated, hid and indulged in my horrific actions, deeds
24 and decisions, mostly alone for weeks on end in an office
25 building.

1 In prison, I was diagnosed with bipolar
2 disorder, multiple personality disorder, severe
3 depression, anxiety, panic disorders, and post-traumatic
4 stress disorder, which include nightmares and flashbacks
5 from my long EMT career, including times when people I
6 tried to save died in my arms and my care, as well as
7 reliving some of my family and life traumas and decisions
8 in vivid detail.

9 Since being arrested, I have been mistreated
10 constantly by the Connecticut correctional system. The
11 following are only a few brief examples. These were
12 excruciating, in part due to the effects of severe drug
13 withdrawal, identity loss, purpose loss, living a virtual
14 world:

15 (1) Depriving me of blanket and food;
16 (2) Depriving me of toiletries, including toilet
17 paper.

18 (3) Told by guards I should commit suicide, a
19 human monster. Suicide is my only option out of prison,
20 and the guards are my judge, jury and executioner, and
21 they found me guilty.

22 (4) Repeatedly being called Hessler the
23 Molester, Dungeonmaster Freak, Ripper, Pedophile, Rapist
24 over the public address system in the housing block,
25 comments on the two-way radios and in front of other

1 guards and inmates, guards reading information about me on
2 their cell phones, and constant bullying in the halls,
3 etc.

4 (5) Lights in my cell at HCC and Garner Prison
5 were either constantly left on or turned on and off
6 constantly, along with repeated banging on the cell door
7 and window in an effort to, quote unquote, break me and
8 cause sleep deprivation, same as in segregation in
9 Cheshire.

10 (6) Physically assaulted by big guard while
11 defenseless in handcuffs, repeatedly hit on my left side
12 near my hernia mesh. Event was caught on video and audio
13 recording, including several death threats and promises
14 from that guard.

15 (7) Told several times that the guard will
16 place a hit on me via lifers, and that the guards will
17 kill me, confirmed by many inmates.

18 (8) Evidence planted in cell by a guard during
19 shakedown, incident caught on tape and witnessed again by
20 many inmates.

21 (9) Psychiatric medication withheld several
22 times by specific guards, one crucial medication often not
23 given via the nurses, that is, it will not scan properly.
24 No efforts made in the past month to address this issue.

25 Telephone account often disabled for weeks, even

1 with money on the account. No reason ever given.

2 Books, incoming mail, outgoing mail often is
3 unreliable or just becomes lost or missing. Personal
4 items stolen, told to replace them at my cost, even when
5 items disappeared in a laundry bag. I have no funds.

6 I respectfully ask for this Court to order and
7 grant me single-cell status and bottom-bunk status
8 designation on my sentencing order for the entire time of
9 my incarceration due to my prison experiences, medical
10 condition, treatment, psychiatric condition, treatment,
11 and my concerns for a safe, healing and unthreatening
12 surrounding. Protected custody does not exist in the
13 federal prison. My story and charges are easily
14 accessible by inmates and absolutely horrific; I agree.

15 My first month ever in prison was found at
16 Hartford Jail and Garner Prison. I was in 24/7 solitary
17 confinement except for occasional showers, social/health
18 worker, psychiatric visits, and a visit of my attorney. I
19 had started to experience horrible extreme drug and life
20 withdrawal effects. This haze and erratic time would last
21 for an extremely long time. No books, music, shows,
22 contact or commissary to distract me, only an occasional
23 meal delivered through the metal trap door with comments;
24 four concrete cold walls, and a constant harassment by
25 guards and inmates. My mind and body felt as if I was on

1 a derailed roller coaster, plunging to certain death at
2 300 miles an hour. I was erratic, delusional and could
3 not grasp the current situation.

4 On my first night at Cheshire, the guard
5 switched my prearranged cell assignment. I could hear all
6 their comments and laughter, while I was terrified and
7 shaking in the bullpen cage. I had been unable to see
8 much, including people, surroundings, and potential
9 threats because my prescription eyeglasses were destroyed
10 at Hartford jail during the booking process. I am
11 extremely nearsighted. After almost two years in jail
12 asking regularly for eyeglasses, the Connecticut
13 correction system has yet to replace them. Thankfully, I
14 was able to receive a pair from the outside, from my
15 ex-wife, without need of prescriptions, at my cost. Until
16 then, I lived in constant fear, unable to identify people,
17 places or threats around me, nor able to follow commands
18 from the guards because I was unable to even see my cell
19 number, etc.

20 My experiences at Cheshire prison started
21 horribly. After a month of solitary confinement and zero
22 social interaction, unable to see well, and still facing
23 the effects of withdrawal, bullying and harassment, this
24 is what happened:

25 My first ever, quote unquote, cell mate, a very

1 big, strong firefighter, with alleged organized crime
2 ties, per him, refusing to give me a few sheets of his
3 toilet paper. Being ridiculed by the guards in our unit
4 for asking for toilet paper and being unable to see my
5 cell and surroundings, the guard said, quote unquote, Go
6 back to your dungeon. You don't deserve any, and you
7 don't deserve to live. And my first cell mate threatening
8 to kill me because he did not want to share his cell, did
9 not like my charges and the media stories. I don't blame
10 him.

11 This threat was on the very first night of me
12 sharing a confined space with another man, a man I didn't
13 know. In fact, he said as soon as the solid metal door
14 closed for the night, he would kill me. I remained awake
15 for the full night, terrified, confused. In the morning I
16 requested to voluntarily go to the perceived safety of
17 segregation, as I was not allowed to change cells, and
18 this was my only option available.

19 Segregation in Cheshire is similar to being
20 struck in a sinking submarine, with constant bullying and
21 banging on the metal walls to the point that the bunks
22 shake all night and the walls feel as if they are being
23 broken, the sound instantly flashing to the horrific
24 sounds of the guns used in Vernon's 2016 IMPACT drill.
25 They were blank and fake, yet this was very real, and I

1 had no way of escaping. I was scared, confused,
2 overwhelmed, withdrawn from my drugs, sins, and needed to
3 feel safe. This was the beginning of several horrific
4 prison experiences in the only safe protected custody
5 space Connecticut offers at-risk inmates.

6 My PTSD and the history set forth makes me
7 incapable of serving my sentence safely, positively and
8 productively while forced to live in a small cell with
9 other random, often changing, and mentally unstable
10 inmates.

11 I am a model inmate with no infraction or issues
12 since my arrest. I am fine in a social setting, as I have
13 been there in Cheshire; however, I need the fears to
14 lessen when the door is locked to my safe space. I am
15 unable to choose my environment or people around me,
16 compared to my past. Please, allow my future prison cell
17 to be a calm, safe and positive setting. Please consider
18 this request, the attached written statement, and my
19 desire to spend all or as much of my prison time in
20 Massachusetts Federal Medical Center, FMC Devens, as it
21 will allow my 77-year-old father the possibility to visit
22 from France, keeping me in the New England area, and also
23 it seems best suited for my emotional, psychiatric and
24 medical issues.

25 I would like an opportunity to continue my path

1 to becoming a whole person, a person capable of managing
2 illness and conditions with proper support and care. I
3 lost my mom to cancer this year in March. I have not yet
4 been able to grieve. My father has cancer.

5 I am sorry for everything I have done. It was
6 never my intention, desire, conscious decision to
7 disappoint, hurt or cause shame and failure to anyone,
8 especially those I loved and loved me. I cannot change
9 the past. If I could, I immediately would.

10 Ms. Maya Angelou once said, quote unquote: I
11 did then what I knew what to do. Now that I know better,
12 I do better.

13 Prison and my decisions, deeds and actions have
14 cost me and those around me everything. I, for the first
15 time ever, have no life, no secrets, no addictions and no
16 sins. I am not ashamed, nor hiding or running any longer.
17 God has rescued me and opened my eyes and ears. I accept
18 full responsibility for my past actions. I ask only to be
19 safe, receiving the proper ongoing medical and psychiatric
20 care that I never once had before, so that I can grow from
21 being a small, scared man to a valuable man.

22 With my eternal regrets and sorrows, thank you.
23 Simon Hessler.

24 THE COURT: Thank you. Ms. Phillips?

25 MS. PHILLIPS: Thank you, Your Honor.

1 It's been a long road from that first day when I
2 met Simon in 2018. I can tell you that the man you see
3 here today is a different person.

4 When I first met him, it was at the Garner
5 Correctional Institution in Newtown, and although I've
6 been practicing 20 years, I can't say that I've ever had a
7 situation where they bring me into a room, and my client
8 is in the room but in a cage. I had to have him sign
9 things, and we passed a pen that was bendable. It was an
10 environment I've never seen before in my life.

11 Over time, he was able to meet with Dr.
12 Lothstein, and I know that was extremely helpful for
13 Simon. For the first time he was receiving some
14 psychiatric care. He then, when he was transferred up to
15 Cheshire, went at my behest to see Medical, and once he
16 was placed on his current medications and I came back the
17 next time, it was a different person. He was clear,
18 thoughtful, he was understanding things, and we were able
19 to have fruitful discussions.

20 What Simon told the Court today about his
21 treatment at Cheshire and through the Connecticut DOC
22 system is no lie. I've personally observed things. And,
23 in fact, my sentencing memorandum to the Court was filed
24 on July 27. I was awaiting a letter that Simon wanted to
25 write so I could attach it to my sentencing memorandum,

1 which I did. However, I did not receive it. And I set up
2 a legal call. I said, "Simon, did you send it?"

3 "I did."

4 "I didn't get it." I said, "I have a duty."

5 I asked the guard to go into his cell because he
6 saves everything, and he got a copy and faxed it to me,
7 and that's what I provided to the Court. I can tell the
8 Court two days ago I got his letter, August 10th, and the
9 postmark was in Westchester, New York, yet Simon is at
10 Cheshire Correctional in Connecticut. They take his mail.
11 I've started sending him overnight mail. He doesn't get
12 it until ten days later.

13 I sent him a copy of the briefs. Ten days later
14 he hadn't received it. He asked his CO to go get it, and
15 it was in the mail room.

16 And then that's the beginning of it, Your Honor.
17 The day Simon came here, entered his plea before Judge
18 Garfinkel, and a few days later we were in Superior Court,
19 as Your Honor knows he has charges pending in Part A in
20 Hartford, we wanted to transfer, as part of the plea
21 agreement, him to federal custody. And that's one of the
22 benefits that took -- there was a lot of negotiations that
23 went into Mr. Hessler's cases. And one of the benefits
24 afforded to Mr. Hessler is that he will be a federal
25 prisoner.

1 So when he -- after he entered the plea here in
2 Bridgeport, we went up to Hartford and entered a plea
3 there. In the morning I made a motion to reduce his bond,
4 with the understanding we would go back that afternoon and
5 his bond would be raised again in Hartford. But by doing
6 that, he then transferred to officially a federal inmate.
7 When he got back to Cheshire that afternoon, I think I met
8 with him about a week later, and he said that the threats
9 had significantly gone down because the unit correctional
10 officers had told each other that the unit was hot. And
11 what "hot" means is that he's now a federal inmate, so
12 they can't go after him as much.

13 Now, with time, that subsided. He's still
14 threatened. When I go to visit, they call him as a --
15 he's in protected custody. They say -- they announce his
16 legal visit over the loudspeaker, as he tells me, and say
17 horrific things. He's been beaten. And I raised this
18 with the State as well, and Judge Baldini ordered special
19 transport for him because one of the most terrifying
20 experiences was on his transport to and from court. But,
21 again, I discuss this because here we have a plea
22 agreement where we're asking the Court to impose the 30
23 years, and his case, again, is not that simple because of
24 the co-occurring charges in Hartford. And, again, one of
25 the benefits to Mr. Hessler and why we're asking for a

1 sentence of -- and I said 347 months because the
2 government does not dispute and has agreed that I could
3 ask for a reduction to include the time he's been
4 incarcerated. So that's -- that's where we are.

5 As the Court can see from his statement here
6 today, Your Honor, I don't have to relive the charges.
7 They're egregious, they're horrific, and he has accepted
8 responsibility. You heard that multiple times here today.
9 He has no excuses for that.

10 In his statement to the Court, he described
11 himself as a monster; that person was me. When I traveled
12 down to Cheshire to review his presentence report with
13 him, he was visibly upset. It was hard for him to read
14 and go over the conduct that's described in the PSR.

15 So I think now that he is on the correct
16 medication and he's clear, he has a good understanding.
17 And, Your Honor, he does have plans but -- for the future,
18 but he wants to be safe. And part of that is informing
19 the Court of what's happened to him so the Court knows, in
20 support of what we're going to be asking the Court for, a
21 recommendation for confinement at FMC Devens. I've
22 explained to Mr. Hessler it's just a recommendation. The
23 Bureau of Prisons can place you where they want to place
24 you. However, we do ask the Court to place a
25 recommendation for Fort Devens.

1 THE COURT: On that point, let me inquire of
2 both counsel. Is Devens a SOMP facility, Sex Offender
3 Management Program facility?

4 MS. GIFFORD: I'm not sure. If I could have a
5 moment, I could get the answer for the Court.

6 MS. PHILLIPS: I do -- if you want to check, I
7 know that it's actually -- it's not, but they do have --
8 it's not a designated SOMP, but they do have various
9 therapeutic treatment. And I provided -- I have a book on
10 the federal prisons, which I set various places to Simon
11 so he could determine where he wants to -- it does provide
12 self-help programs, residential drug abuse treatment and
13 individual counseling.

14 THE COURT: Because, frankly, the concerns about
15 treatment I think are going to follow Mr. Hessler into the
16 federal system unless he is at a SOMP facility where
17 typically 60 or 65 percent of the inmates are sex offender
18 inmates; and, therefore, they not only have the treatment,
19 the programs, but people leave each other alone.

20 MS. PHILLIPS: If I may, Your Honor, Fort Devens
21 does have an intensive residential Sex Offender Treatment
22 Program. It's called SOTP-R, and that is offered at Fort
23 Devens, which is one of the reasons why he wants the
24 recommendation.

25 MS. GIFFORD: That's correct. I just confirmed,

1 too.

2 THE COURT: All right.

3 MS. GIFFORD: They do offer a sex offender
4 treatment program at Devens.

5 THE COURT: Okay, thank you.

6 MS. PHILLIPS: I would also be remiss, Your
7 Honor, I appreciate the Court -- I wanted to put this on
8 the record. As Your Honor knows, Mr. Hessler was
9 scheduled to be sentenced last Wednesday. On August 3,
10 the Seventh Circuit decided a case, *United States v.*
11 *Howard*, which had a differing opinion concerning the
12 charges compared to the Eighth Circuit and other circuits
13 concerning what constitutes production of child
14 pornography. For the record, Your Honor, I can tell you
15 that I had a lengthy legal call with Mr. Hessler the night
16 before the sentencing was postponed. I then traveled to
17 the Cheshire correctional facility to explain the case, go
18 over the ramifications and his options at that point.
19 Knowing the decision of the case, Mr. Hessler wanted to
20 move forward. Again, he's prepared to, he wants to place
21 this behind him, and he was advised of the case. I wanted
22 to place that on the record.

23 THE COURT: What's the case?

24 MS. PHILLIPS: Your Honor, it's *U.S. v. Howard*,
25 2020, U.S. at LEXIS 24360. And what it stood for was the

1 proposition that certain conduct did not arise to
2 production of child pornography, which are similar to the
3 facts here. However, there's a split in the circuits.
4 There's a similar case on point in the Eighth Circuit
5 which says, yes, this is production of child pornography.
6 But, nevertheless, the fact that it was decided so close
7 in time, I wanted to make sure Mr. Hessler was explained
8 about the opinion in that case.

9 So for all those reasons, Your Honor -- and I,
10 of course, I'd ask for, in addition to the recommendation
11 at Fort Devens, I'd ask that his sentence certainly
12 include mental health treatment and substance abuse
13 treatment, and I'd ask the Court to impose a sentence of
14 347 months. Unless the Court has further questions.

15 THE COURT: No. Thank you.

16 MS. GIFFORD: Thank you, Your Honor.

17 Given the serious nature of the charges here,
18 the offense that he's admitted to committing, I'm loathe
19 to spend much more time talking about Mr. Hessler, but I
20 am concerned about two things. I want the Court to know
21 we take allegations of misconduct towards a prisoner very
22 seriously, and I did, upon receiving Dr. Lothstein's
23 report from Attorney Phillips, communicate with the
24 assistant state's attorney who has the companion case and
25 discussed what the best avenue would be to share the

1 allegations that are set in there about how he's been
2 treated. She reached out to the Attorney General. It's
3 our information that there is someone at the Attorney
4 General's Office that's looking into those allegations.

5 Second, I don't want the Court left with the
6 consideration that the defendant, because he may have been
7 treated poorly, was coerced into taking the plea, was
8 coerced into coming -- you know, to say, Oh, I'd rather be
9 in federal custody.

10 He's getting a significant benefit by the plea
11 agreement. By working on a global resolution with the
12 federal charges and the state charges, he is saving time.
13 He was facing at least 30 years with the State. He was
14 facing at least 15 years with us. By working together and
15 pursuing a global resolution, he's getting a benefit, and
16 I don't think there's any doubt about that. So I just
17 wanted the record to be clear on that.

18 Those two points aside, I wanted to express my
19 frustration right now hearing Mr. Hessler's lengthy
20 statement. It reflects precious little about what he did.
21 Sterile statements about it was heinous or horrific does
22 little to really reflect the harm he caused the minor
23 victim here and what he intended to do if that little
24 child had been a twelve-year-old that he thought he was
25 buying.

1 "Now that I know better I do better" is the
2 quote that he gave. He knew better. Everybody knows
3 better. You don't buy a 12-year-old child for two days of
4 limitless sex, defining the types of sex acts he wanted to
5 do. You don't say that child is going to be delivered to
6 me, bound and gagged, and I'm going to leave you the
7 implements to do it in my trailer. XXXXXXXXXXXXXXXXXXXXXXX
8 XXX He
9 knew better.

10 It's a solemn day today. There's not a day
11 every day that I stand up in court and ask for the
12 statutory maximum. But the offense the defendant pled
13 guilty to is among the most serious, production of child
14 pornography. XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
15 XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX. The facts
16 supporting his guilty plea and his relevant conduct I
17 would submit are among some of the most egregious facts
18 that we've seen involving true depravity and predatory
19 behavior. XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
20 XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
21 XXXXXXXXXXXXXXX The predatory actions on what he thought was
22 a 12-year-old DCF child are just unspeakable.

23 I spoke today with the trooper who was involved
24 in the undercover. She's here in court. I also spoke
25 with a sergeant in the Connecticut State Police to talk

1 about their investigation. They're both 16-year veterans,
2 and they said this was among the worst case of someone
3 trying to brutalize a child they had ever seen. And if
4 there's ever any question about the value of an undercover
5 operation, this case stands as a shining example. XXXX
6 XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

7 XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
8 XXXXXXXXXX They should stand in recognition of the work
9 they did here saving, protecting the community, XXXXXXXXXX
10 XXXXXXXXXX

11 And I know the Court is being, again, asked to
12 impose a sentence at the statutory max, and I'm familiar
13 with the Court's recent sitting by designation on the
14 Second Circuit and the number of factors the Court
15 expressed in the *Muzio* decision when deciding these
16 significant penalties for sex offenders. And I am
17 prepared to go through each of the factors that the Court
18 listed in the *Muzio* decision and why and how they apply in
19 this case, but I guess I don't want to also take the time
20 from the Court if the Court is satisfied that, based on
21 the record they have, and the PSR, and the sentencing
22 memorandums, it's prepared to go forward with the agreed-
23 upon sentence between the parties. But I'm happy to go
24 through those if the Court would like.

25 THE COURT: I've done it already.

1 MS. GIFFORD: Thank you.

2 THE COURT: I don't think I need you to do it.
3 I do have a question for you. Are you in agreement that
4 the 347 is the actual statutory maximum? You're talking
5 about the statutory maximum of 360, but you recognize that
6 credit should be given for time otherwise not creditable?

7 MS. GIFFORD: That's correct. He would not
8 otherwise receive credit for the first 13 months
9 incarcerated, and I do think fairness requires that you
10 get credit for those first 13 months, and the effective
11 sentence of 347 months would result in the statutory max
12 being served.

13 THE COURT: All right.

14 MS. GIFFORD: Thank you, Your Honor.

15 THE COURT: Thank you.

16 Mr. Hessler, I'm required to consider quite a
17 number of factors when deciding how to sentence you.
18 They're all set forth in a statute called 18 U.S.C.
19 Section 3553(a). I have considered all of those factors,
20 and I'm not going to run through them one by one for you,
21 but I want to talk to you about the factors that are most
22 significant in my decision today.

23 It's a tragedy that people create child
24 pornography. It's just unspeakably harmful to victims who
25 are on the Internet forever and have to relive the horror

1 of what they went through. These are the most distasteful
2 crimes that we ever see in federal court. We see murders.
3 Those are violent, they're different, they're often crimes
4 of passion or greed, and they're horrific too. But these
5 in many ways, these child pornography production cases,
6 really are the worst that we see.

7 Ms. Gifford is correct. I think that the
8 horrific nature of these crimes has allowed some judges
9 and prompted some judges to -- and some prosecutors,
10 frankly -- to overpunish through consecutive sentences,
11 multiple counts and, in effect, have hundreds and hundreds
12 of months or even years of incarceration as the
13 punishment. I believe that we have an obligation to look
14 carefully at the crime and look carefully at the defendant
15 and to try as best we can to objectively evaluate each
16 sentence. So I'm not a fan of super long sentences. I'm
17 not a fan of statutory maximum sentences. But in this
18 case I think that a statutory maximum sentence is
19 appropriate.

20 I do think, from your point of view, that you
21 have received a benefit. I think you almost certainly
22 could have been charged with other crimes than those that
23 you were charged with, certainly possession, and then we'd
24 have a possibility of a consecutive sentence as well. So
25 the potential federal sentence, had there not been some

1 negotiation and discretion at the start, you could have
2 been facing a much, much longer sentence than you are. So
3 this is going to be a long sentence, a very long sentence,
4 in my view, but I think an appropriate one in part because
5 you did receive the benefit of very useful negotiations.

6 You know, I'm sorry that you were treated badly
7 in prison and that you've had some problems in your life,
8 and so forth, and I don't mean to make little of those
9 issues, but they don't excuse what you did. What you did
10 prompts the type of abuse that you've received. I'm not
11 going to justify it, I'm not going to say it's the right
12 thing for anybody to do, but it's understandable. Anyone
13 who is a parent, this is their worst nightmare. XXXXXXXX
14 XXX
15 XXX What we call
16 relevant conduct here, the uncharged related conduct is
17 equally bad. The idea that you were trying to, quote
18 unquote, buy a sixth grader for a weekend of unlimited
19 sex -- and I'm not going to go into the details, but
20 they're bad -- it is horrific. There are not words that
21 can characterize the wrongfulness of that conduct in so
22 many different ways. And that weighs heavily in my
23 decision today.

24 The sentence is one that's going to punish you
25 for what you did because it is extremely wrongful conduct.

1 It's obviously going to deter you because you're going to
2 be in prison. You're going to be unable to create these
3 types of products or view these types of videos ever
4 again. You're going to be unable to put other children at
5 risk. And, frankly, that's going to protect the public.

6 I appreciate that you've made strides since you
7 were arrested. I hope you continue to make strides. I
8 hope you are able somehow to come to terms with what
9 you've done and to show remorse and to put that remorse
10 into action by helping other people within the prison
11 system somehow. That's going to take some work on your
12 part, frankly, because this is among the most serious
13 child pornography production offenses that I've come
14 across as a judge.

15 And I do think the federal system is going to be
16 a better place for you. There are programs that will help
17 you help yourself. I'm going to recommend to the Bureau
18 of Prisons that you be engaged in sex offender treatment,
19 that you be engaged in mental health treatment, that you
20 be evaluated for your mental health, and that you receive
21 appropriate medications to assist in controlling your
22 mental health, and that you receive substance abuse
23 treatment.

24 As I said in comments earlier, there are
25 facilities within the federal system that are sex offender

1 facilities. I hope that Fort Devens has an extensive
2 program. I am going to recommend that you be designated
3 there or to another facility in New England with Sex
4 Offender Management Program capabilities.

5 And somehow you need to come to terms with what
6 you did. I don't know how you do that, but somehow, with
7 the help of folks and a long term of imprisonment, you're
8 going to have plenty of time to kind of sort this out and
9 try to get yourself to a place where you're healthy,
10 frankly, because anybody who would commit these acts is
11 obviously sick.

12 I need to comment briefly on why I'm imposing
13 within the Guideline range the sentence that I am. I
14 think that I have already essentially done that. It's the
15 seriousness of the crime, it's the seriousness of the
16 relevant conduct, and it's the fact that you have an
17 agreement with state authorities to run what is a 30-year
18 state sentence concurrent with the federal sentence. And
19 for those reasons I'm going to impose a sentence as
20 follows.

21 Before I do that, I should just briefly thank
22 the victim for coming in and for sharing your statement.
23 These are difficult things to live through, and the
24 comments that I've made about healing XXXXXXXXXXXXXXXXX
25 XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX I hope that you are

1 able to put this into your past soon and move forward,
2 have meaningful, happy lives. XXXXXXXXXXXXXXXXXXXXXXXXX
3 XXXXXXXXXXXXXXXXXXXXXXXXX.

4 THE VICTIM: Thank you, Your Honor.

5 THE COURT: With those thoughts in mind, it's my
6 intention, Mr. Hessler, to sentence you as follows:

7 To a period of 347 months of imprisonment. I'm
8 going to make the recommendation that I mentioned before
9 regarding programming and designation.

10 Following your release from incarceration,
11 you're going to be on supervised release for a period of
12 ten years. I think that is plenty long in light of your
13 age upon release. Ten years, you're going to be quite an
14 old man by that point and presumably beyond any ability to
15 harm anyone.

16 During the term of supervised release, the
17 mandatory conditions of supervised release set forth at
18 Guideline section 5D1.3(a) (1) that you not commit another
19 federal, state or local offense; (2) that you not
20 unlawfully possess controlled substances; (4) that you
21 refrain from unlawful use of controlled substances and
22 submit to drug testing; (6) that you make restitution and
23 pay the special assessment imposed -- I recognize
24 restitution has already been paid -- and (8), that you
25 cooperate in the collection of a DNA sample for use by law

1 enforcement will all apply, as will the standard
2 conditions of supervised release set forth at Guideline
3 section 5D1.3(c).

4 As special conditions of supervised release, I'm
5 going to order the following:

6 First, you must submit your residence, person,
7 office or vehicle to a search conducted by a U.S.
8 probation officer at a reasonable time and in a reasonable
9 manner, based upon a reasonable suspicion of contraband or
10 evidence of a violation of a condition of release. Your
11 failure to submit to a search may be grounds for
12 revocation, and you must inform any other residents of the
13 premises where you live that they may be subject to
14 searches pursuant to this condition.

15 You must comply with the requirements of the Sex
16 Offender Registration and Notification Act as directed by
17 the probation office, the Bureau of Prisons, or any state
18 sex offender registration agency in which you reside -- in
19 any state in which you reside, work, are a student, or
20 were convicted of a qualifying offense.

21 You must participate in mental health treatment
22 with an emphasis on sex offender treatment as approved by
23 the U.S. Probation Office and must abide by the policies
24 and procedures of that program, which may include
25 polygraph testing. You must pay all or a portion of the

1 costs associated with that treatment based on your ability
2 to pay as determined by the probation office.

3 You must submit to periodic polygraph testing at
4 the discretion of the probation office as a means to
5 ensure that you are in compliance with the requirements of
6 your supervision following the completion of the sex
7 offender treatment program. You must pay all or a portion
8 of the costs associated with that testing based on your
9 ability to pay as determined by the probation office.

10 And, actually, for each of these when I say
11 "determined by the probation office," I should say "as
12 recommended by the probation office and approved by the
13 Court."

14 You must not possess any materials, including
15 pictures, photographs, books, writings, drawings, videos
16 or video games depicting what are described as child
17 pornography as defined in 18 U.S.C. Section 2256(A) or
18 otherwise contrary to anti-pornography laws of the United
19 States.

20 You must not associate with children under the
21 age of 18 except in the presence of a responsible adult
22 who is aware of the nature of your background and current
23 offense, and who has been approved by the probation
24 office.

25 You must provide the probation office with

1 access to any requested financial records, including but
2 not limited to telephone and cellular phone bills and
3 credit card statements.

4 You must not loiter around playgrounds, schools,
5 youth-oriented organizations or clubs, or in any other
6 place where children under the 18 -- age of 18 are known
7 to congregate.

8 You must not associate with or have contact with
9 convicted sex offenders or those considered inappropriate
10 by the probation office because of a connection to sexual
11 abuse of minors or sexually explicit materials involving
12 minors unless it's part of an approved counseling program.

13 You must not be employed in any position or
14 participate as a volunteer in any activity that involves
15 contact with children under the age of 18, except as
16 recommended by the probation officer and approved by the
17 Court.

18 You must also permit the probation office to
19 install and use monitoring programs on any computer
20 equipment. You must bear the costs of said monitoring
21 programs.

22 You must submit all photographic equipment,
23 personal computers and other Internet-capable devices and
24 related equipment owned, controlled or used by you to a
25 review conducted by the U.S. Probation Office or its

1 designee at a reasonable time and in a reasonable manner,
2 without prior notice or search warrant, in order to verify
3 that the monitoring software has not been disabled.

4 And you must participate in a program
5 recommended by the probation officer and approved by the
6 Court for inpatient or outpatient substance abuse
7 treatment and testing. You shall pay all or a portion of
8 the costs associated with that treatment based on your
9 ability to pay as recommended by the probation officer and
10 approved by the Court.

11 The reason for each of these special conditions
12 should be obvious. They are all related to your current
13 problems, either sex-offender-type treatment, to make sure
14 that you're not pursuing children or viewing or producing
15 child pornography of any type, and they're intended to
16 help you gain control of your addictions, which I consider
17 both sexual and substance abuse addictions. So each of
18 these is intended to permit the probation officers to
19 successfully and safely supervise you during that period
20 and are intended to help you rehabilitate to become a
21 useful member of society.

22 I'm going to waive a fine in this case based
23 upon a determination that Mr. Hessler cannot afford to pay
24 a fine within the Guideline range, especially in light of
25 the restitution and special assessments imposed.

1 I'm going to formally note that restitution in
2 the amount of \$50,000 is payable. I will acknowledge that
3 it has been paid. I think I'm going to include that in
4 the judgment, both that it's payable and that it has been
5 paid. And as I determined earlier, I'm going to impose a
6 special assessment of \$5,100.

7 Mr. Hessler, should you violate any term or
8 condition of your supervised release, I want to make sure
9 you understand that you face another prison sentence for
10 any such violations. You need to understand and comply
11 with each of the conditions of your supervised release
12 once you are out of prison.

13 Let me hear from either counsel if the sentence
14 that I just described cannot lawfully be imposed as the
15 sentence of the Court in this case.

16 MS. GIFFORD: No objection, Your Honor.

17 MS. PHILLIPS: No objection, Your Honor.

18 THE COURT: Mr. Hessler, the sentence I just
19 described is imposed as the sentence in your case. The
20 judgment will be prepared soon, and that's going to start
21 the clock running on your time within which to file a
22 notice of appeal. You have 14 days from the entry of the
23 judgment within which to file a notice of appeal. Do you
24 understand that time limit?

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: All right.

2 MS. GIFFORD: Let me note that he does have an
3 appellate waiver in his plea agreement.

4 THE COURT: Yes. I want to remind you that in
5 your written plea agreement you agreed to waive your right
6 to appeal your sentence under certain circumstances. It
7 appears to me that those circumstances have been met; and,
8 accordingly, I think you've waived your right to appeal.
9 You should consult with your lawyer to determine whether
10 there are any fundamental defects in these proceedings
11 that you believe are not waived by your written plea
12 agreement. Do you understand?

15 THE COURT: Well, whatever. I need to --

16 THE DEFENDANT: I fully take responsibility.

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: This was a one-count information, so
25 there's no further matters to take up, is that right?

1 MS. GIFFORD: That's correct, Your Honor.

2 THE COURT: Well, in closing, let me --

3 MS. GIFFORD: Your Honor, I'm sorry. I do have
4 one matter. Do you mind?

5 Throughout the proceedings, I've referred to the
6 identity of the victim. XXXXXXXXXXXXXXXXXXXXXXXX And I
7 was just wondering if we could strike in the record any
8 identifying information about the minor victim.

9 And then to the extent that we have people
10 participating by ZOOM, just a reminder that the minor
11 victim's identity, which not just her name but other ways
12 that you could identify her, are not part of public
13 consumption.

14 THE COURT: That's correct. I'm going to order
15 that anyone who has come across that information through
16 ZOOM or otherwise is prohibited from disseminating it.

17 I will ask the court reporter to, in the
18 official record, to either redact or use initials or some
19 other form of protection.

20 And I'm going to grant the motion to seal the
21 sentencing memorandum, which is pending and has other
22 issues regarding the sealing.

23 MS. PHILLIPS: Thank you, Your Honor.

24 THE COURT: Ms. Gifford, did I cover what you
25 wanted?

1 MS. GIFFORD: Yes. Thank you, Your Honor.

2 THE COURT: All right.

3 Well, again, thank you to the victim for coming.

4 And, Mr. Hessler, you have a very long sentence
5 ahead of you, and it's up to you how you use it. You've
6 been discipline-free and apparently dealing with some of
7 your issues during your present incarceration, and I
8 encourage you to do the same for the remainder. And I
9 hope that everyone can find a way to put this behind them.

10 We will stand in recess.

11 (Proceedings adjourned at 11:39 a.m.)

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C E R T I F I C A T E

No. 3:19-cr-00303-SRU
United States of America v. Simon Hessler

I, Sharon L. Masse, RMR, CRR, Official Court Reporter for the United States District Court for the District of Connecticut, do hereby certify that the foregoing pages are a true and accurate transcription of my shorthand notes taken in the aforementioned matter to the best of my skill and ability.

December 22, 2020

/S/ Sharon L. Masse
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