

ORIGINAL

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

APR 04 2024

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at 11 o'clock and 38 min. 4 M to
Lucy H. Carrillo, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	CR. NO. 1:22-CR-00046-LEK
)	
Plaintiff,)	MEMORANDUM OF PLEA
)	AGREEMENT
vs.)	
)	DATE:
MASON JORDAN,)	TIME:
)	JUDGE:
Defendant.)	
_____)	

MEMORANDUM OF PLEA AGREEMENT

Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, the
UNITED STATES OF AMERICA, by its attorney, the United States Attorney for

the District of Hawaii, and the defendant, MASON JORDAN, and his attorney, Caroline Elliot, Esq., have agreed upon the following:

THE CHARGES

1. The defendant acknowledges that he has been charged in the Indictment with violating 18 U.S.C. §§ 2251(a), 2251(e), 2422(b), 1591(a)(1), 1591(b)(2), 1592(c), 1594(a), and 2261A(2)(B).
2. The defendant has read the charges against him contained in the Indictment, and those charges have been fully explained to him by his attorney.
3. The defendant fully understands the nature and elements of the crimes with which he has been charged.

THE AGREEMENT

4. The Agreement between the parties includes the following provisions:
 - a. The defendant will enter voluntary pleas of guilty to Counts 1 (Sexual Exploitation of a Child), 4-5 (Coercion and Enticement), and 8 (Cyberstalking). In return, the government agrees to move to dismiss Counts 2-3 (Sexual Exploitation of a Child) and 6-7 (Sex Trafficking of a Child) after sentencing.
 - b. Pursuant to Federal Rule of Criminal Procedure 11(a)(2), with the consent of the Court, the defendant reserves the right to have an appellate court

review the determination adverse to the defendant on the following issue raised in the defendant's pretrial motion (Dkt. No. 33): whether the federal search warrant authorizing a search of the defendant's residence was supported by probable cause and sufficiently particular to comply with the Fourth Amendment. If the defendant prevails on that appeal, the defendant will be permitted to withdraw the guilty pleas without penalty.

5. The defendant agrees that this Memorandum of Plea Agreement shall be filed and become part of the record in this case.

6. The defendant enters these pleas because he is in fact guilty of Counts 1 (Sexual Exploitation of a Child), 4-5 (Coercion and Enticement), and 8 (Cyberstalking), and he agrees that these pleas are voluntary and not the result of force or threats.

PENALTIES

7. The defendant understands that the penalties for the offenses to which he is pleading guilty include:

a. As to Count 1 (Sexual Exploitation of a Child), a term of imprisonment of not less than 15 years and up to 30 years and a fine of up to \$250,000, plus a term of supervised release of not less than 5 years and up to life.

b. As to Counts 4-5 (Coercion and Enticement), a term of imprisonment of not less than 10 years and up to 20 years and a fine of up to \$250,000, plus a term of term of supervised release of up to 3 years.

c. As to Count 8 (Cyberstalking), a term of imprisonment of up to 5 years and a fine of up to \$250,000, plus a term of supervised release of up to 3 years.

d. In addition, the Court must impose a \$100 special assessment as to each count to which the defendant is pleading guilty. The defendant agrees to pay \$100 for each count to which he is pleading guilty to the District Court's Clerk's Office, to be credited to said special assessments, before the commencement of any portion of sentencing. The defendant acknowledges that failure to make such full advance payment in a form and manner acceptable to the prosecution will allow, though not require, the prosecution to withdraw from this Agreement at its option.

e. **Forfeiture.** Pursuant to 18 U.S.C. § 2253, forfeiture of any (1) visual depictions and books, magazines, periodicals, films, videotapes, and other matter containing visual depictions, as set forth in 18 U.S.C. § 2253(a)(1); (2) property, real or personal, constituting or traceable to gross profits or other proceeds obtained from certain offenses as described in 18 U.S.C. § 2253(a);

and/or (3) property, real or personal, used or intended to be used to commit or to promote the commission of such offense or any property traceable to such property.

f. **Restitution.** The Court must also award restitution pursuant to 18 U.S.C. § 3663A, to the persons and entities victimized by the defendant's offenses. The defendant understands that the Court will determine the amounts of restitution to be ordered, as well as the persons and entities entitled to such restitution, with the assistance of the United States Probation Office. The defendant agrees to pay restitution for all losses caused by the defendant's conduct, regardless of whether the counts of the Indictment associated with such losses will be dismissed as part of this Agreement.

g. **Mandatory Registration for Sex Offenders.** The defendant understands that, as a consequence of his guilty pleas, under the Sex Offender Registration and Notification Act, he must register as a sex offender in the jurisdiction(s) where he resides, is employed, or is a student. The defendant further understands that he will be required to keep his registration current, and inform such jurisdiction(s) not later than three business days after any change of his name, residence, employment or student status. The defendant understands that a failure to comply with these obligations will subject him to prosecution for

failure to register under federal law, specifically, 18 U.S.C. § 2250, as well as under any applicable state statutes.

FACTUAL STIPULATIONS

8. The defendant admits the following facts and agrees that they are not a detailed recitation, but merely an outline of what happened in relation to the charges to which the defendant is pleading guilty:

a. Between approximately July 2016 and July 2017, the defendant used a child, Minor Victim 1, to produce visual depictions of Minor Victim 1 engaged in sexually explicit conduct. As charged in Count 1, in July 2017, when Minor Victim 1 was sixteen years old, the defendant used a cellular telephone to take digital photographs of Minor Victim 1's genitalia while Minor Victim 1 was asleep in the defendant's residence in Kapolei, Hawaii. The digital photographs show Minor Victim 1's genitalia exposed to the cellular telephone's camera in a lascivious manner. The resulting digital photographs depict the lascivious exhibition of the genitals and pubic area of Minor Victim 1 so as to constitute "sexually explicit conduct" as defined by 18 U.S.C. § 2256(2)(A)(v). The cellular telephone the defendant used to create the depictions was manufactured outside the State of Hawaii, and therefore the defendant produced the depictions using

materials that had been mailed, shipped, or transported across state lines or in foreign commerce.

b. As charged in Count 4, in January 2020, while in the District of Hawaii, the defendant used a cellular telephone, an internet-based social media account, and an internet-based text messaging application to communicate with Minor Victim 2. The defendant knew, at that time, Minor Victim 2 was seventeen years old. Over the course of their communications, the defendant encouraged Minor Victim 2 to engage in prostitution and persuaded Minor Victim 2 to meet him in person to continue their discussions about engaging in prostitution. Pursuant to those communications, the defendant then met Minor Victim 2 in a park in the District of Hawaii for that purpose. During the encounter, the defendant gave money to Minor Victim 2 and attempted to persuade Minor Victim 2 to engage in prostitution. The cellular telephone the defendant used to communicate with Minor Victim 2 was manufactured outside the State of Hawaii, and the communications exchanged with Minor Victim 2 via the internet-based social media account and internet-based text messaging application traveled across state lines, via the internet, to servers located on the mainland; therefore, the defendant used a means or facility of interstate and foreign commerce to communicate with Minor Victim 2 about engaging in prostitution.

c. As charged in Count 5, in January 2020, while in the District of Hawaii, the defendant used a cellular telephone, an internet-based social media account, and an internet-based text messaging application to communicate with Minor Victim 3. The defendant knew, at that time, Minor Victim 3 was fourteen years old. Over the course of their communications, the defendant encouraged Minor Victim 3 to engage in prostitution and persuaded Minor Victim 3 to meet him in person to continue their discussions about engaging in prostitution. Pursuant to those communications, the defendant then met Minor Victim 3 at a shopping mall in the District of Hawaii for that purpose. During the resulting in-person encounter, the defendant gave money to Minor Victim ~~2~~³ and attempted to persuade Minor Victim ~~2~~³ to engage in prostitution. The cellular telephone the defendant used to communicate with Minor Victim 3 was manufactured outside the State of Hawaii, and the communications exchanged with Minor Victim 3 via the internet-based social media account and internet-based text messaging application traveled across state lines, via the internet, to servers located on the mainland; therefore, the defendant used a means or facility of interstate and foreign commerce to communicate with Minor Victim 3 about engaging in prostitution.

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d. As charged in Count 8, in April 2020, while in the District of Hawaii, the defendant used a cellular telephone, an internet-based social media

account, and an internet-based text messaging application to harass and intimidate Adult Female 1. Using those facilities, the defendant engaged in a course of conduct that caused, and the defendant knew would cause, substantial emotional distress to Adult Female 1. For example, the defendant sent portions of naked photographs of Adult Female 1 he obtained from a third party—taken when Adult Female 1 was a child—to Adult Female 1. The defendant then told Adult Female 1 that if she did not send the defendant new naked photographs immediately, he would disseminate the naked photographs he already possessed to her friends and family. The defendant did, in fact, disseminate portions of those naked photographs to two of Adult Female 1’s associates as part of his effort to obtain new naked photographs from Adult Female 1. The internet-based social media account and internet-based text messaging application the defendant used to communicate with Adult Female 1 and her associates as part of this course of conduct are an “electronic communication service . . . or system of interstate commerce” pursuant to 18 U.S.C. § 2261A(2)(B).

9. Pursuant to CrimLR 32.1(a) of the Local Rules of the United States District Court for the District of Hawaii, the parties agree that the charge to which the defendant is pleading guilty adequately reflects the seriousness of the actual

offense behavior and that accepting this Agreement will not undermine the statutory purposes of sentencing.

SENTENCING STIPULATIONS

10. Pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure:

- a. The government agrees to recommend a term of imprisonment within the guideline range.
- b. The government and defendant agree to recommend a term of supervised release of life.

11. Pursuant to CrimLR 32.1(a) of the Local Rules of the United States District Court for the District of Hawaii and Section 6B1.4 of the Sentencing Guidelines, the parties stipulate to the following for the purpose of the sentencing of the defendant in connection with this matter:

Count 1 (Sexual Exploitation of a Child)

- a. The base offense level is 32 pursuant to U.S.S.G. § 2G2.1(a).
- b. The offense involved the defendant having sexual contact with Minor Victim 1, resulting in a 2-level increase pursuant to U.S.S.G. § 2G2.1(b)(2)(A).

c. The offense involved the defendant distributing the depictions he produced of Minor Victim 1, resulting in a 2-level increase pursuant to U.S.S.G. § 2G2.1(b)(3).

d. Minor Victim 1 was a vulnerable victim because, *inter alia*, she was asleep at the time of the offense, resulting in a 2-level increase pursuant to U.S.S.G. § 3A.1.1(b)(1).

e. It is the position of the government that Minor Victim 1 was in the custody, care, or supervisory control of the defendant at the time of the offense, resulting in a 2-level increase pursuant to U.S.S.G. § 2G2.1(b)(5). The defendant disagrees. The parties will ask the Court to decide this issue at sentencing.

Counts 4-5 (Coercion and Enticement)

f. The base offense level is 24 pursuant to U.S.S.G. § 2G1.3(a)(4).

g. The offense involved misrepresentation of the defendant's identity, resulting in a 2-level increase pursuant to U.S.S.G. § 2G1.3(b)(2).

h. The offense involved use of a computer service, resulting in a 2-level increase pursuant to U.S.S.G. § 2G1.3(b)(3).

i. The offense involved commission of a sex act, resulting in a 2-level increase pursuant to U.S.S.G. § 2G1.3(b)(4)(a).

j. Minor Victims 2 and 3 were vulnerable victims because of, *inter alia*, their status as runaways, resulting in a 2-level increase pursuant to U.S.S.G. § 3A.1.1(b)(1).

Acceptance of Responsibility

k. As of the date of this agreement, it is expected that the defendant will enter pleas of guilty prior to the commencement of trial, will truthfully admit his involvement in the offense and related conduct, and will not engage in conduct that is inconsistent with such acceptance of responsibility. If all of these events occur, and the defendant's acceptance of responsibility continues through the date of sentencing, a downward adjustment of 2 levels for acceptance of responsibility will be appropriate. *See* U.S.S.G. § 3E1.1(a) and Application Note 3.

l. The United States Attorney agrees that the defendant's agreement herein to enter into a guilty plea constitutes notice of intent to plead guilty in a timely manner, so as to permit the government to avoid preparing for trial as to the defendant. Accordingly, the United States Attorney anticipates moving in the Government's Sentencing Statement for a one-level reduction in sentencing offense level pursuant to Guideline § 3E1.1(b), if the defendant is otherwise eligible. The defendant understands that notwithstanding its present

intentions, and still within the Agreement, the prosecution reserves the rights (1) to argue to the contrary in the event of receipt of new information relating to those issues, and (2) to call and examine witnesses on those issues in the event that either the United States Probation Office finds to the contrary of the prosecution's intentions or the Court requests that evidence be presented on those issues.

12. The parties agree that notwithstanding the parties' Agreement herein, the Court is not bound by any stipulation entered into by the parties but may, with the aid of the presentence report, determine the facts relevant to sentencing. The parties understand that the Court's rejection of any stipulation between the parties does not constitute a refusal to accept this Agreement since the Court is expressly not bound by stipulations between the parties.

13. The parties represent that as of the date of this agreement there are no material facts in dispute.

APPEAL/COLLATERAL REVIEW

14. The defendant is aware that he has the right to appeal his conviction and the sentence imposed. The defendant knowingly and voluntarily waives the right to appeal, except as indicated in subparagraph "b" below, his conviction and any sentence within the Guidelines range as determined by the Court at the time of sentencing, and any lawful restitution or forfeiture order imposed, or the manner in

which the sentence, restitution, or forfeiture order was determined, on any ground whatsoever, in exchange for the concessions made by the prosecution in this Agreement. The defendant understands that this waiver includes the right to assert any and all legally waivable claims.

a. The defendant also waives the right to challenge his conviction or sentence or the manner in which it was determined in any collateral attack, including, but not limited to, a motion brought under 28 U.S.C. § 2255, except that the defendant may make such a challenge (1) as indicated in subparagraph “b” below, or (2) based on a claim of ineffective assistance of counsel.

b. If the Court imposes a sentence greater than specified in the guideline range determined by the Court to be applicable to the defendant, the defendant retains the right to appeal the portion of his sentence greater than specified in that guideline range and the manner in which that portion was determined and to challenge that portion of his sentence in a collateral attack. Additionally, pursuant to Federal Rule of Criminal Procedure 11(a)(2), the defendant reserves the right to have an appellate court review the determination adverse to the defendant on the issue set forth above in paragraph 4.b; if the defendant prevails on that appeal, the defendant will be permitted to withdraw the guilty pleas without penalty.

c. The prosecution retains its right to appeal the sentence and the manner in which it was determined on any of the grounds stated in 18 U.S.C. § 3742(b).

FINANCIAL DISCLOSURE

15. In connection with the collection of restitution or other financial obligations that may be imposed upon him, the defendant agrees as follows:

a. The defendant agrees to fully disclose all assets in which he has any interest or over which he exercises control, directly or indirectly, including any assets held by a spouse, nominee, or third party. The defendant understands that the United States Probation Office (USPO) will conduct a presentence investigation that will require the defendant to complete a comprehensive financial statement. To avoid the requirement of the defendant completing financial statements for both the USPO and the government, the defendant agrees to truthfully complete a financial statement provided to the defendant by the United States Attorney's Office. The defendant agrees to complete the disclosure statement and provide it to the USPO within the time frame required by the United States Probation officer assigned to the defendant's case. The defendant understands that the USPO will in turn provide a copy of the completed financial statement to the United States Attorney's Office. The defendant agrees to provide

written updates to both the USPO and the United States Attorney's Office regarding any material changes in circumstances, which occur prior to sentencing, within seven days of the event giving rise to the changed circumstances. The defendant's failure to timely and accurately complete and sign the financial statement, and any written update thereto, may, in addition to any other penalty or remedy, constitute the defendant's failure to accept responsibility under U.S.S.G § 3E1.1.

b. The defendant expressly authorizes the United States Attorney's Office to obtain his credit report. The defendant agrees to provide waivers, consents, or releases requested by the United States Attorney's Office to access records to verify the financial information, such releases to be valid for a period extending 90 days after the date of sentencing. The defendant also authorizes the United States Attorney's Office to inspect and copy all financial documents and information held by the USPO.

c. Prior to sentencing, the defendant agrees to notify the Financial Litigation Unit of the United States Attorney's Office before making any transfer of an interest in property with a value exceeding \$1,000 owned directly or indirectly, individually or jointly, by the defendant, including any interest held or owned under any name, including trusts, partnerships, and corporations.

FORFEITURE

16. As part of his acceptance of responsibility and pursuant to 18 U.S.C. § 2253, the defendant agrees as follows:

a. The defendant agrees to forfeit to the United States all of his right, title, and interest in the following property (the “Specific Property”):

i. all electronic devices seized from defendant’s residence or workplace on or about May 20, 2020; and

ii. all social media or other online accounts used by the defendant to facilitate the offenses of conviction.

b. The defendant acknowledges that the Specific Property is subject to forfeiture pursuant to 18 U.S.C. § 2253 as (1) visual depictions and books, magazines, periodicals, films, videotapes, and other matter containing visual depictions, as set forth in 18 U.S.C. § 2253(a)(1); (2) property, real or personal, constituting or traceable to gross profits or other proceeds obtained from certain offenses as described in 18 U.S.C. § 2253(a); and/or (3) property, real or personal, used or intended to be used to commit or to promote the commission of such offense or any property traceable to such property.

c. The defendant knowingly and voluntarily waives and agrees to waive any and all constitutional, statutory, and other challenges to the forfeiture on

any and all grounds, including that the forfeiture constitutes an excessive fine or punishment under the Eighth Amendment. The defendant knowingly and voluntarily waives any right to a jury trial on the forfeiture of property.

d. The defendant agrees to consent promptly upon request to the entry of any orders deemed necessary by the government or the Court to complete the forfeiture and disposition of the property. The defendant waives the requirements of Rules 32.2 and 43(a) of the Federal Rules of Criminal Procedure regarding notice of forfeiture in the charging instrument, announcement of forfeiture at sentencing, and incorporation of the forfeiture in the judgment. The defendant acknowledges that he understands that the forfeiture of the property, if the government elects to conduct the forfeiture criminally, will be part of the sentence imposed upon the defendant in this case and waives any failure by the Court to advise the defendant of this, pursuant to Rule 11(b)(1)(J) of the Federal Rules of Criminal Procedure, during the change of plea hearing. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, the defendant consents to the preliminary order of forfeiture for the Specific Property becoming final as to the defendant when entered.

e. The defendant agrees to waive all interest in the Specific Property in any administrative or judicial forfeiture proceeding, whether criminal

or civil, state or federal, and to withdraw any claim that the defendant may have filed in such a proceeding. The defendant further waives any other notice requirement that may apply to the administrative and/or civil forfeiture of the Specific Property.

f. The defendant understands that the forfeiture of the forfeitable property does not constitute and will not be treated as satisfaction, in whole or in part, of any fine, restitution, reimbursement of cost of imprisonment, or any other monetary penalty this Court may impose upon the defendant in addition to the forfeiture.

IMPOSITION OF SENTENCE

17. The defendant understands that the District Court in imposing sentence will consider the provisions of the Sentencing Guidelines. The defendant agrees that there is no promise or guarantee of the applicability or non-applicability of any Guideline or any portion thereof, notwithstanding any representations or predictions from any source.

18. The defendant understands that this Agreement will not be accepted or rejected by the Court until there has been an opportunity by the Court to consider a presentence report, unless the Court decides that a presentence report is unnecessary. The defendant understands that the Court will not accept an

agreement unless the Court determines that the remaining charge adequately reflects the seriousness of the actual offense behavior and accepting the Agreement will not undermine the statutory purposes of sentencing.

WAIVER OF TRIAL RIGHTS

19. The defendant understands that by pleading guilty he surrenders certain rights, including the following:

a. If the defendant persisted in a plea of not guilty to the charges against him, then he would have the right to a public and speedy trial. The trial could be either a jury trial or a trial by a judge sitting without a jury. The defendant has a right to a jury trial. However, in order that the trial be conducted by the judge sitting without a jury, the defendant, the prosecution, and the judge all must agree that the trial be conducted by the judge without a jury.

b. If the trial is a jury trial, the jury would be composed of twelve laypersons selected at random. The defendant and his attorney would have a say in who the jurors would be by removing prospective jurors for cause where actual bias or other disqualification is shown, or without cause by exercising peremptory challenges. The jury would have to agree unanimously before it could return a verdict of either guilty or not guilty. The jury would be instructed that the

defendant is presumed innocent, and that it could not convict him unless, after hearing all the evidence, it was persuaded of his guilt beyond a reasonable doubt.

c. If the trial is held by a judge without a jury, the judge would find the facts and determine, after hearing all the evidence, whether or not he or she was persuaded of the defendant's guilt beyond a reasonable doubt.

d. At a trial, whether by a jury or a judge, the prosecution would be required to present its witnesses and other evidence against the defendant. The defendant would be able to confront those prosecution witnesses and his attorney would be able to cross-examine them. In turn, the defendant could present witnesses and other evidence on his own behalf. If the witnesses for the defendant would not appear voluntarily, the defendant could require their attendance through the subpoena power of the Court.

e. At a trial, the defendant would have a privilege against self-incrimination so that he could decline to testify, and no inference of guilt could be drawn from his refusal to testify.

20. The defendant understands that by pleading guilty, he is waiving all of the rights set forth in the preceding paragraph. The defendant's attorney has explained those rights to him, and the consequences of the waiver of those rights.

USE OF PLEA STATEMENTS

21. If, after signing this Agreement, the defendant decides not to plead guilty as provided herein, or if the defendant pleads guilty but subsequently makes a motion before the Court to withdraw his guilty plea and the Court grants that motion, the defendant agrees that any admission of guilt that he makes by signing this Agreement or that he makes while pleading guilty as set forth in this Agreement may be used against him in a subsequent trial if the defendant later proceeds to trial. The defendant voluntarily, knowingly, and intelligently waives any protection afforded by Rule 11(f) of the Federal Rules of Criminal Procedure and Rule 410 of the Federal Rules of Evidence regarding the use of statements made in this Agreement or during the course of pleading guilty when the guilty plea is later withdrawn. The only exception to this paragraph is where the defendant fully complies with this Agreement but the Court nonetheless rejects it or an appellate court finds in favor of the defendant on the issue set forth above in paragraph 4(b). Under those circumstances, the United States may not use those statements of the defendant for any purpose.

22. The defendant understands that the prosecution will apprise the Court and the United States Probation Office of the nature, scope, and extent of the

defendant's conduct regarding the charges against him, related matters, and any matters in aggravation or mitigation relevant to the issues involved in sentencing.

23. The defendant and his attorney acknowledge that, apart from any written proffer agreements, if applicable, no threats, promises, agreements or conditions have been entered into by the parties other than those set forth in this Agreement, to induce the defendant to plead guilty. Apart from any written proffer agreements, if applicable, this Agreement supersedes all prior promises, agreements or conditions between the parties.

24. To become effective, this Agreement must be signed by all signatories listed below.

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25. Should the Court refuse to accept this Agreement, it is null and void and neither party shall be bound thereto.

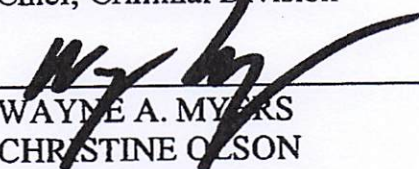
AGREED:

CLARE E. CONNORS
United States Attorney
District of Hawaii



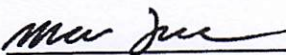
KENNETH M. SORENSON
Chief, Criminal Division

Dated: 3/26/24




WAYNE A. MYERS
CHRISTINE OLSON
Assistant U.S. Attorneys

Dated: 3/26/24



MASON JORDAN
Defendant

Dated: 3-25-24



CAROLINE ELLIOT, ESQ.
Attorney for Defendant

Dated: 3/25/24