

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	CRIMINAL NO. 21-0653 JB
)	
vs.)	
)	
JOSHUA RICO,)	
)	
Defendant.)	

UNITED STATES’ SENTENCING MEMORANDUM

The United States, through its undersigned counsel, hereby files this sentencing memorandum in support of the parties’ plea agreement. For the reasons detailed in this filing, the United States respectfully requests that this Court sentence Defendant to 336 months’ incarceration. The requested sentence will serve to address the significant harm caused by Defendant’s crimes and is sufficient, but not greater than necessary, to comply with the sentencing purposes detailed in 18 U.S.C. § 3553(a)(2).

PROCEDURAL HISTORY

1. A federal grand jury in the District of New Mexico returned an indictment on May 12, 2021, charging Defendant with five counts of coercion and enticement of a minor, in violation of 18 U.S.C. § 2422(b). Doc. 2.
2. On December 22, 2022, Defendant entered a guilty plea to the five-count indictment that alleged crimes against four separate minor victims as follows:
 - a. Count 1: Coercion and Enticement of a Minor, in violation of 18 U.S.C. § 2422(b) (Jane Doe 1);
 - b. Count 2: Coercion and Enticement of a Minor, in violation of 18 U.S.C. § 2422(b) (Jane Doe 1);

- c. Count 3: Coercion and Enticement of a Minor, in violation of 18 U.S.C. § 2422(b) (Jane Doe 2);
- d. Count 4: Coercion and Enticement of a Minor, in violation of 18 U.S.C. § 2422(b) (Jane Doe 3); and
- e. Count 5: Coercion and Enticement of a Minor, in violation of 18 U.S.C. § 2422(b) (Jane Doe 4);

The victims identified in the counts of conviction ranged in age from 13 to 17 years old at the time of the offenses.

PRESENTENCE REPORTS

3. The United States Probation Office (“USPO”) released the Presentence Report (“PSR”) on March 14, 2023. Doc. 64. The USPO submitted an Addendum containing a victim impact statement from Jane Doe 2 on June 16, 2023, Doc. 69, and a Second Addendum containing an impact statement from Jane Doe 2’s mother on June 21, 2023, Doc. 70.

4. The United States has no objection to the PSR, which identifies the total offense level as 42. Doc. 64 at ¶ 101. The PSR identifies four groups/counts that account for each minor victim. Following enhancements for commission of a sexual act (U.S.S.G. § 2G2.1(b)(2)(A)), Defendant’s misrepresentation of his identity (U.S.S.G. § 2G2.1(b)(6)), and the use of a computer in the commission of an offense (U.S.S.G. § 2G1.3(b)(3)(B)), Defendant faces a guideline range of 360 months to lifetime incarceration. *Id.* at ¶ 145.

FACTUAL STATEMENT

Beginning as early as January 2018, Defendant began using a series of fictitious Snapchat profiles to coerce minor females in his community into sending him sexually explicit material and into participating in sexual acts, and threatening to expose the victims’ nude images and videos if

they did not meet his sexual demands. In perpetrating his sextortion¹ scheme, Defendant targeted female high school students he was familiar with by virtue of his employment as the assistant basketball coach at a local high school.

Defendant used his own Snapchat account, joshuarico2196, and accounts purportedly belonging to “Chris Lujan” and “Erik Romero”—both fictitious creations of Defendant—to threaten, coerce, and manipulate at least four minors in order to obtain sexually explicit material and sexual favors. The following summary of the conduct charged in the indictment reveals a disturbing pattern of coercive sexual exploitation of the impacted minors.

A. Victimization of Jane Doe 1 (Counts 1 and 2)

Defendant, using his real identity, engaged in text messages with Jane Doe 1 from approximately May 9, 2016, to approximately July 27, 2018, when she was 14 to 16 years old. Defendant knew Jane Doe personally. The text messages, obtained from both Jane Doe 1 and Defendant’s cellular phones, included thousands of sexually charged messages. Throughout the timeframe charged in Count 1, Defendant sent Jane Doe 1 numerous images and videos of his genitals and regularly requested that she engage in sexual acts with him. Additionally, Jane Doe 1 sent Defendant images and videos of herself. In the midst of these communications, beginning in April 2018 when Jane Doe 1 was 16 years old, Defendant “friended” her on Snapchat as “Chris Lujan” without advising her of his true identity. Using the material he previously obtained from Jane Doe 1, “Chris” exploited sexual favors and demanded more sexually explicit material. The threats from “Chris” escalated over time, causing Jane Doe 1 significant distress. For instance,

¹ “Sextortion” is the colloquial term used to refer to a form of sexual exploitation where the perpetrator extorts sexual favors or explicit material from the victim, often a minor, by threatening to expose private or sensitive material.

“Chris” demanded that Jane Doe 1 perform oral sex on someone and send a video as proof in order to avoid having her images disseminated.

Defendant was simultaneously communicating with Jane Doe 1 using his genuine Snapchat profile and offered to “help” her deal with the extortion perpetrated by “Chris”:

May 24, 2019²

joshuarico2196: Hey the guy that’s been harassing you is Chris Lujan right? I can only assume because he put that pic of you on his story

Jane Doe 1: Maybe why

joshuarico2196: Because I helped interview a guy with the same name today and I’m wondering if it’s him

Jane Doe 1: I don’t know

joshuarico2196: Well if it’s him it’s possible I could help stop him from harassing you

“Chris” continued his demands of Jane Doe 1 and, ultimately, she reached out to Defendant for help. Unsurprisingly, Defendant agreed to assist Jane Doe 1 by “allowing” her to perform oral sex on him and film the encounter for “Chris.” In July 2019, Defendant recorded a video of Jane Doe 1 performing oral sex on him to satisfy “Chris” demands. The FBI located this video on both Jane Doe 1 and Defendant’s cellular devices. Further, law enforcement located a Snapchat message from “Chris” describing what he wanted Jane Doe 1 to do in a future video: “Ok I want a pic of you smiling with it [a penis] next to your face and not fake smile then I want a video kissing it and licking it up and down then a few of you sucking it and cum on your face

²The messages included here and throughout represent only portions of voluminous records. All messages are repeated verbatim, including any typographical errors.

[August 30, 2019].”

Following the charged timeframe, “Chris” tried to use Jane Doe 1 to obtain nude images of other females and also demanded she work toward having another female—known to both of them—to “get with” Defendant.

September 9, 2019

chrislujan2: You get him [Defendant] and her [Female 1] together and you get nudes from [Female 2] you don’t have to do the bj [blow job] and you won’t have to send anymore nudes from now on

Jane Doe 1: I told you I cant get nudes from [Female 2]

chrislujan2: So that’s no deal ok

Jane Doe 1: I’m willing to do it, I just know that its never going to happen getting her nudes

chrislujan2: Then getting nudes from anyone else I may know

Jane Doe 1: I’ll see what I can do, but can we have an alternative deal that I do the bj then it’s over

chrislujan2: No the deal is you gotta get them together

Jane Doe 1: That’s a lot to ask from me yeah I’ve been trying and hes [Defendant] down to get back with her [Female 1] but shes the one that still needs convincing, they have a rocky past and I don’t know if I can change her mind

B. Victimization of Jane Doe 2 (Count 3)

Defendant communicated with Jane Doe 2 on Snapchat both as “Chris Lujan” and “Erik Romero” from approximately February 1, 2019, to approximately January 23, 2020, when she was just 13 and 14 years old. Jane Doe 2 reported that she previously sent nude photos to “Chris

Lujan” on Snapchat, before any extortion began. She further reported that another Snapchat user, “Erik Romero,” somehow obtained these photos and began threatening to expose the images if she did not send him additional nude images and masturbation videos. In January 2020, “Erik” directed Jane Doe 2 to add Defendant as a Snapchat friend and send him nude images and videos as well. Both “Erik” and Defendant sent Jane Doe 2 images of their genitals, which ultimately caused Jane Doe 2 to suspect they were the same person due to similarity in the image backgrounds. Around the same time, “Erik” gave Jane Doe 2 an “ultimatum,” requiring that she perform oral sex on Defendant in order to avoid distribution of her nude images, which she declined.

C. Victimization of Jane Doe 3 (Count 4)

Defendant communicated with Jane Doe 3 on Snapchat under his true account, as well as while posing as “Chris Lujan” from approximately September 1, 2019, to approximately December 16, 2019, when Jane Doe 3 was 16 years old. Early on, “Chris” attempted to extort nude images from Jane Doe 3:

September 1, 2019

chrislujan2:	You’re not gonna do it ?
	Then I just might post nudes that I have all over social media and say they are you
	I’m not kidding watch I’ll do it now and I know a lot of people you know Facebook Instagram
Jane Doe 3:	Because I won’t send you a picture
chrislujan2:	Because you’re not giving me

what I want but I'll take them
down if you do

[posts a nude image depicting a
close-up of a female's vagina]
image depicting a close-up
vaginal image to his story]

Jane Doe 3: Bro that's literally so childish

chrislujan2: Not really because you're
basically being exposed right
now

chrislujan2: Alright then imma do it now
[posts two nude images to his
"story"]

Following additional communications and extortion, Jane Doe 3 ultimately sent Defendant several images and videos depicting sexually explicit conduct at his request.

D. Victimization of Jane Doe 4 (Count 5)

Defendant communicated with Jane Doe 4 as "Chris Lujan" on Snapchat when she was 16 years old, from approximately August 9, 2018, to approximately December 19, 2018. Jane Doe 4 reported receiving a friend request on Snapchat from an individual named "Chris," who began sending her unsolicited images of his penis. She reported that "Chris" then repeatedly asked for nude images and videos, threatening to hurt her family if she refused. "Chris" told Jane Doe 4 he knew where she lived and correctly identified her town of residence, causing Jane Doe 4 to send the requested material rather than risk her safety or the safety of her family. Jane Doe 4 reported that she once ignored "Chris" for awhile and he sent a topless photo of her to one of her friends. "Chris" ultimately proposed a "deal" where he would meet Jane Doe 4 for sex or oral sex, and in exchange she would not have to continue to make videos. Jane Doe 4 declined this "deal."

E. Sextortion Scheme

Defendant’s scheme continued unchecked for nearly three years, until Jane Doe 2 pieced together that Defendant and “Erik” were the same person, and subsequently reported the conduct to her school and the New Mexico State Police. Through diligent investigation, law enforcement was able to confirm that Defendant was, in fact, also “Chris Lujan” and “Erik Romero.” More specifically, cross-referencing the Internet Protocol (“IP”) address logs obtained by Snapchat revealed numerous instances where the accounts were connecting to the same IP address. At times, law enforcement discovered all four accounts connected to the same IP address, providing evidence that the accounts were being accessed by the same device. Further, through geolocation data provided by Snapchat, law enforcement determined that not only were these accounts connecting to the same IP address, there were numerous instances where the accounts were geolocating in the immediate vicinity of Defendant’s Pecos residence. In addition to this incriminating evidence from Snapchat, Defendant’s devices also contained user account information for at least two of the fictitious accounts.

SENTENCING ARGUMENT

The United States requests that the Court accept the parties’ plea agreement and sentence Defendant to 336 months’ incarceration, which represents a concurrent sentence that is slightly below the low-end of Defendant’s anticipated guideline range. Analysis of the sentencing factors detailed at 18 U.S.C. § 3553(a) indicate that the requested sentencing is reasonable and appropriate in light of Defendant’s conduct.

I. A 28-Year Sentence is Necessary Due to the Serious Nature of the Offenses and the Significant Harm to the Victims.

Pursuant to 18 U.S.C. § 3553(a), “the court shall impose a sentence sufficient, but not greater than necessary” to comply with the sentencing purposes detailed in 18 U.S.C. §

3553(a)(2). As an initial matter, the Court shall consider the “nature and circumstances of the offense and the history and characteristics of the defendant.” 18 U.S.C. § 3553(a)(1). In the Tenth Circuit, “[d]istrict courts have broad discretion to consider particular facts in fashioning a sentence under 18 U.S.C. § 3553(a), even when those facts are already accounted for in the advisory guidelines range.” *United States v. Yanez-Rodriguez*, 555 F.3d 931, 946 (10th Cir. 2009).

A. The Nature and Circumstances of the Offense

Defendant engaged in targeted, sexually exploitive conduct toward a number of minor victims for his own perverse sexual gratification. He used coercion, lies, and sometimes direct threats to obtain images and videos. What’s more, he took advantage of his existing relationship with Jane Doe 1 to extort sexual acts from her. In her victim impact statement, Jane Doe 2 aptly describes walking “right into a trap.”

The minors impacted by Defendant’s egregious conduct have suffered profoundly as a result. Jane Doe 2 describes the following:

I hated every night from that day forward. I would cry myself to sleep because of the disgust I felt towards myself.

...

Most days I didn’t come out of my room because I felt my parents would see right through me and would be disappointed. The longer time went on, the more scared I got.

...

This sick relationship affected every area of my life. I used to like to participate in class, but stopped doing it, and I lost my passion for being involved. I would zone out in class and would think about how awful it would be when I got home. I stopped hanging out with my friends and I distanced myself from friends and family because I didn’t want people to find out what was going on.

In addition to the threats and coerced sexual acts, there is another layer of victimization because Defendant obtained, non-consensually, sexual images and videos of the minors. Studies

have consistently shown that online sexual exploitation may profoundly impact a child's development, increasing the risk for additional consequences. A 2018 study found the following:

The fact that pictures could be circulating and could always resurface or be accessed not only planted fear and discomfort among the survivors but also made them feel as if they were re-victimized. Some survivors distinguished between unfilmed child sexual abuse, and child pornography. According to them, every abuse eventually ends, yet with child pornography, when images circulate, it feels as if the abuse is constant and continuing.

Ateret Gewirtz-Meydan et. al., *The Complex Experience of Child Pornography Survivors*, 80 *Child Abuse & Neglect* 238, 244 (2018); see also *United States v. Norris*, 159 F.3d 926, 929 (5th Cir. 1998) (“The victimization of the children involved [in child pornography] does not end when the camera is put away.”).

The minors subjected to Defendant's conduct must not only contend with the exploitation perpetrated by Defendant, but also with the added victimization of knowing that their images may be circulating. That it was someone from their own small community further compounds this trauma.

B. Defendant's History and Characteristics

Although this represents Defendant's first brush with law enforcement, his conduct spanned years before it was discovered. As such, the Court should not give Defendant's lack of criminal history much weight when imposing sentence. The Court should, however, give significant weight to the fact that Defendant's position at the school provided him with knowledge of and access to the minor victims—trust afforded him that he abused to perpetrate his scheme. It is extremely concerning that Defendant was able to conceal the exploitation of numerous victims for upwards of three years. The fact that the first victim to come forward did not do so until January 2020 evinces the fear Defendant instilled in the victims, causing them to attempt to address the extortion on their own rather than seek assistance from law enforcement.

The pervasive and coercive nature of his offenses demonstrates a complete disregard for the care and wellbeing of others. That he would go to such great lengths to victimize so many minors should give the Court great concern as to his risk for recidivism.

C. Additional Sentencing Factors

In addition to considering the nature and circumstances of the offense, and the history and characteristics of Defendant, the Court shall also consider:

- (2) the need for the sentence imposed—
 - (A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;
 - (B) to afford adequate deterrence to criminal conduct;
 - (C) to protect the public from further crimes of the defendant; and
 - (D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.
- ...
- (6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct.

18 U.S.C. §§3553(a)(2) and (6).

The facts of this case indicate that a 28-year sentence is necessary to afford specific deterrence to prevent future criminal conduct by Defendant, particularly in light of his manipulative and organized scheme. A 28-year sentence is also necessary to protect the community—specifically, minor females—from future victimization.

CONCLUSION

The United States advocates for this Court to accept Defendant's plea and impose a sentence of 28 years' incarceration.

Respectfully submitted,

ALEXANDER M.M. UBALLEZ
United States Attorney

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SARAH J. MEASE
JAYMIE L. ROYBAL
Assistant United States Attorneys
Albuquerque, New Mexico
(505) 346-7274

I HEREBY CERTIFY that the foregoing pleading was electronically filed through the CM/ECF system, which caused counsel of record for defendant to be served by electronic means.

/s/

SARAH J. MEASE