

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION

UNITED STATES OF AMERICA,

Case No.: 5:17CR00025

v.

JAMES DANIEL ARBAUGH

UNITED STATES' FACTUAL PROFFER

The offense(s) described below occurred within the Western District of Virginia and Haiti. This Statement of Facts briefly summarizes the facts and circumstances surrounding the defendant's criminal conduct. It does not necessarily contain all the information obtained during this investigation and applicable to an accurate Presentence Report and Sentencing Guidelines calculation.

In 2017 an individual (identified herein as Witness #2) caught Arbaugh engaging in inappropriate sexual contact with a child in Haiti. After being caught, Arbaugh was confronted about his behavior. This confrontation ultimately led to Arbaugh returning to the United States and at the behest of others meeting with a counselor.

On September 11, 2017, Arbaugh disclosed to his counselor that he had engaged in illicit sexual conduct with children in Haiti. The following day, Arbaugh's counselor filed a report with the Virginia Department of Social Services, Child Protective Services (DSS/CPS), disclosing that Arbaugh had revealed that he had engaged in illicit sexual conduct with children in Haiti.

On November 14, 2017, the defendant was arrested in the Western District of Virginia pursuant to a criminal complaint charging that he violated 18 § U.S.C. 2423(c).¹

¹ The elements of a violation of 18 U.S.C. § 2423(c) are: (1) the defendant is a United States citizen or alien admitted for permanent residence, (2) the defendant traveled in foreign commerce or resides temporarily or permanently in a foreign country; and (3) the defendant engaged in "illicit sexual conduct" with another person.

Pursuant to 18 U.S.C. § 2423(f), "illicit sexual conduct" is defined as: (1) "A sexual act" with a person under 18 years of age; that would be in violation of Chapter 109A if the sexual act occurred in the special maritime and territorial jurisdiction of the United States.

Pursuant to 18 U.S.C. § 2246A, a "sexual act" is defined as: (1) contact between the penis and the vulva or the penis and the anus, (2) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus; (3) the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or (4) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

Title 18 U.S.C. § 2241(c), which is found in Chapter 109A, makes it a crime to engage in a sexual act with a person who has not attained the age of 12 years.

On December 13, 2017, a grand jury sitting in the Western District of Virginia returned a one-count indictment, charging that in 2016 the defendant traveled in foreign commerce from the United States to Haiti and engaged in illicit sexual conduct with Minor Victim #1 (MV1), in violation of 18 U.S.C. § 2423(c).

During the commission of his criminal conduct, the defendant, James Daniel Arbaugh, was, and is, a citizen of the United States and possessed a United States passport. Arbaugh's passport contains foreign country entry stamps for various countries, including Haiti, confirming that Arbaugh regularly traveled to Haiti from at least 2008 to 2017. Certified records from United States Customs and Border Protection (CBP) also confirm that Arbaugh regularly traveled to Haiti from the United States from 2008 to 2017.

For the last 10 or more years the defendant has regularly traveled from the United States to Haiti, where he engaged in missionary activities throughout that country. The defendant regularly traveled to communities and villages throughout Haiti, including many remote villages, where he evangelized and showed Christian themed movies. While engaging in these missionary activities, the defendant befriended, groomed, and ultimately engaged in illicit sexual conduct with minor male children.²

During various interviews with law enforcement officers, Arbaugh described how he "groomed" his victims by engaging in limited sexual contact with them so that one day his victims would be open to more significant sexual contact. Arbaugh also described the sexual acts that took place between himself and minors in Haiti, which included, Arbaugh fondling the genitals and penises of minors and the minors touching the genital area and penis of Arbaugh as well as Arbaugh performing oral sex on the minors and the minors performing oral sex on Arbaugh. Arbaugh stated that he received sexual gratification from the sexual acts he committed against minors in Haiti. Arbaugh admitted to having sexual contact with at least 15 minors in Haiti.

Specifically in regards to Minor Victim #1 (MV1), Arbaugh showed law enforcement a photograph on his laptop of MV1 and his family. Arbaugh disclosed that MV1's father is a pastor of a church in Haiti and that Arbaugh has been friends with MV1's family since 2013 or 2014. Witness #2 is familiar with MV1 and his family, having interacted with them in Arbaugh's presence. In 2016, having traveled to Haiti, Arbaugh engaged in sexual conduct with MV1, namely that he fondled MV1's genitals under his clothing with his fingers and maybe his mouth for his own sexual gratification while in MV1's house. Arbaugh engaged in these sexual acts with MV1 in 2016, when MV1 was approximately five years of age.

² The ages of Arbaugh's victims ranged from approximately 5 to 17 years.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was filed with the Court's CM/ECF System this day, February 2, 2018, which provides electronic notice to all parties.

s/Jeb T. Terrien
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