

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

UNITED STATES OF AMERICA,	)	CASE NO.: 3:17CR158-001
	)	
Plaintiff,	)	JUDGE BERNARD A. FRIEDMAN
	)	
v.	)	
	)	
ANTHONY HAYNES,	)	<u>GOVERNMENT'S SENTENCING</u>
	)	<u>MEMORANDUM</u>
Defendant.	)	

Now comes the United States of America, by and through its attorneys, Justin E. Herdman, United States Attorney for the Northern District of Ohio, and Michael J. Freeman and Alissa M. Sterling, Assistant United States Attorneys, and files this Sentencing Memorandum. For the reasons detailed below, this Court should impose a term of Life imprisonment.

**I. INTRODUCTION**

There is no quote, analogy, or story that can truly capture the horror of the Defendant's actions. He opened a church, convinced his parishioners to let him care for their children when they were in a time of need, and then systemically ripped these children's innocence from them by repeatedly sexually abusing them day after day. It is so horrific that it hard to comprehend that it truly occurred; however, as the Court witnessed during the trial, the testimony of numerous witnesses, the analysis of tens of thousands of pages of documents, and the interview of the Defendant remove all doubt these things occurred here in our district. The victim's testimony was some of the most powerful words to reverberate throughout that courtroom as she confronted the man she called her dad. Tragically, her experience was not unique, as two other minor victims, including an eight year old boy, have come forward reporting that they too were

sexually abused by the Defendant when they lived with him. Even after conviction, the Defendant continues to deny the truth and attack the victim's reputation and character. He is a predator in every sense of the word, laid low in the public's eye but pounced on vulnerable victims in private the moment he had the opportunity. A term of Life imprisonment is needed.

## **II. RELEVANT LAW**

The Supreme Court has instructed that a sentencing court should first properly calculate the advisory Sentencing Guidelines range, then permit the parties "an opportunity to argue for whatever sentence they deem appropriate," consider all of the § 3553(a) factors, and finally pronounce a sentence taking into account all of the relevant factors. Gall v. United States, 552 U.S. 38, 49-50 (2007). At sentencing, "[n]o limitation shall be placed on the information concerning the background, character, and conduct of a person convicted of an offense which a court of the United States may receive and consider for the purpose of imposing an appropriate sentence." 18 U.S.C. § 3661. The court may consider as relevant conduct at sentencing evidence of conduct of offenses other than that of conviction. See United States v. Mayle, 334 F.3d 552, 563 (6th Cir. 2003); United States v. Mullett, 822 F.3d 842, 851 (6th Cir. 2016). The Federal Rules of Evidence do not apply at a sentencing. See United States v. Moncivais, 492 F.3d 652, 658 (6th Cir. 2007). "[E]videntiary inclusiveness is the order of the day at sentencing," and a sentencing court may consider any evidence it determines to be reliable, including hearsay. United States v. Graham-Wright, 715 F.3d 598, 601 (6th Cir. 2013). See also United States v. Silverman, 976 F.2d 1502, 1511-14 (6th Cir. 1992). Any factual disputes are to be settled by the court based on a preponderance of the evidence standard. United States v. Hurst, 228 F.3d 751, 761 (6th Cir. 2000); Mullett, 822 F.3d at 851.

### III. PSR OBJECTIONS

The Defendant denies committing any offense and thus objects to the entire guideline computation and relevant conduct, but fails to identify any legal error committed by the Presentence Report (“PSR”) writer. The Sixth Circuit has reiterated that a defendant must do more than make a bare denial of the facts set forth in the PSR. United States v. Cover, 800 F.3d 275, 278 (6th Cir. 2015). Instead, until an objecting party produces some evidence calling the correctness of the PSR into question, there is nothing for the court to resolve and the PSR can and should be adopted in its entirety. Id.

### IV. ADVISORY SENTENCING GUIDELINES

The advisory guideline range should be as follows:

#### **COUNTS 1, 2, AND 10**

<u>Violations of 18 U.S.C. §§ 1591 and 1594</u>	<u>Offense Level</u>	<u>Guidelines Provision</u>
Base Offense Level:	30	§ 2G1.3(a)(2)
Care, Custody, Control	+2	§ 2G1.3(b)(1)(B)
Undue Influence	+2	§ 2G1.3(b)(2)(B)
Use of Computer	+2	§ 2G1.3(b)(3)(B)
Commission of Sex Act	+2	§ 2G1.3(b)(4)(A)
Vulnerable Victim	+2	§ 3A1.1(b)(1)
Obstruction of Justice	+2	§ 3C1.1
<b>Subtotal</b>	<b>42</b>	

**COUNT 7**

<u>Violation of 18 U.S.C. § 2251</u>	<u>Offense Level</u>	<u>Guidelines Provision</u>
Base Offense Level:	32	§ 2G2.1(a)
Commission of Sex Contact	+2	§ 2G2.1(b)(2)(A)
Care, Custody, Control	+2	§ 2G2.1(b)(5)
Use of Computer	+2	§ 2G2.1(b)(6)(B)(ii)
Obstruction of Justice	+2	§ 3C1.1
<b>Subtotal</b>	<b>40</b>	

**MULTIPLE COUNT ADJUSTMENT**

<u>Group/Count</u>	<u>Adjusted Offense Level</u>	<u>Units</u>
Counts 1, 2, and 10	42	1
Count 7	40	1
<b>Total Units</b>		<b>2</b>

**FINAL ADJUSTED OFFENSE LEVEL**

Greatest Offense Level	42	
Grouping Units	+2	
Subtotal	44	
Repeat and Dangerous Sex Offender	+5	§ 4B1.5(b)(1)

**TOTAL OFFENSE LEVEL**

**49**

**43 (by operation of Chapter 5, Part A,  
N. 2)**

Accordingly, the advisory guideline range is Life of imprisonment.

**V. ANALYSIS OF THE SECTION 3553(a) FACTORS**

After calculating the advisory guideline range, the Court must consider the factors listed at 18 U.S.C. § 3553(a). Title 18, United States Code, Section 3553(a) states, in pertinent part:

(a) Factors to be Considered in Imposing a Sentence: The court shall impose a sentence that is sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection. The court, in determining the particular sentence to be imposed shall consider:

- (1) the nature and circumstances of the offense and the history and characteristics of the defendant;
- (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 training, medical care, or other correctional treatment in the most effective manner;
- (3) the kinds of sentences available;
- (4) the kinds of sentences and the sentencing range established [by the Sentencing Guidelines];
- (5) any pertinent policy statement [from the Sentencing Commission];
- (6) the need to avoid unwarranted sentencing disparities among defendants with similar conduct; and
- (7) the need to provide restitution to any victims of the offense.

18 U.S.C. § 3553(a).

Of these factors, most relevant to this case are the nature and circumstances of the offense, the history and characteristics of the defendant, the need for the sentence imposed, consideration of the applicable sentencing guideline range, and the need to avoid unwarranted sentencing disparities. These factors support the imposition of a Life of imprisonment sentence.

#### **A. NATURE AND CIRCUMSTANCE OF OFFENSE**

The Defendant's conduct caused irrevocable harm to a minor victim and instilled fear in every parent in this community who now question who they can trust. The Defendant was a pastor, took on the role of father, and exploited the public's trust by sexually abusing a child for years, and helped other men do the same. These facts are some of the most serious this Court encounters, and therefore, the sentence should reflect as such.

#### **B. HISTORY AND CHARACTERISTICS OF THE DEFENDANT**

If the instant conduct was not abhorrent enough, after this case became public two other minors (hereinafter JUVENILE #4 and JUVENILE #5), who are siblings, reported they were sexually abused by the Defendant when they lived in his home. Specifically, on April 18, 2017, a FBI child forensic interviewer spoke to both victims. (Ex. 1 and 2). Both victims disclosed repugnant conduct eerily similar to the conduct with the victim in this case.

JUVENILE #4 and #5 attended Greater Life Christian Center with their family. Lucas County Children Services received a referral about their family. In lieu of going into foster care, the Defendant and his wife agreed to take them into their home to provide care. Therefore, in July 2014, when JUVENILE #4 was seven years old and JUVENILE #5 was 12 years old, they moved into the home. The two of them stayed in the home until February 2015 when they were moved to a different foster care placement.

During the forensic interview, JUVENILE #4 disclosed in explicit detail how the Defendant, whom he referred to as “the pastor,” put his “ding-a-ling” in his “butt” in their home as JUVENILE #4 resisted. (Ex. 1). Similarly, JUVENILE #5 revealed that the Defendant engaged in oral and vaginal sex with her when she was 13 years old on three separate occasions and told her that if she ever told on him his family would kill her. (Ex. 2, Part 2).

This conduct is completely consistent with the Defendant’s wife’s words right before this case went public. She sent a series of text messages to the Defendant, stating you all “have something in common. Sex, lies, and someone young. None yaw can get it right because yaw are pedophiles. You like them young. . . .” (Ex. 3, also Gov. Trial Ex. 91-92). The Defendant replied, “I understand I can’t even argue at all.” (Ex. 4, also Gov. Trial Ex. 94).

The Defendant engaged in predatory conduct for years with numerous victims as young as eight years old. His character alone justifies a term of Life imprisonment.

### **C. THE NEED FOR THE SENTENCE IMPOSED**

The Defendant is a predator in every sense of the word. He used his position of trust to prey on victims who had lost their family or home. His actions make him a true threat and danger to society, and thus the public must be protected from him. Additionally, the sentence must attempt to deter others from engaging in such conduct and make clear to the public that if they do similar acts there are enormous consequences.

### **D. THE APPLICABLE SENTENCING GUIDELINE RANGE**

The advisory guideline range is Life imprisonment. Often, courts around the country find the advisory guideline to be disproportionate to the conduct underlying the conviction in sex cases. In those times, courts lament that the guideline range would be appropriate for those “hands-on” offenders or producers of the child pornography, not receipt and distributors of such

material. In this case, the Defendant is both a “hands-on” offender and a producer of child pornography. Accordingly, this case and this Defendant is not the “ordinary” child pornography case, and thus, the guidelines are appropriate.

#### **E. UNWARRANTED SENTENCING DISPARITIES**

Another factor the Court should consider is “the need to avoid unwarranted sentencing disparities among defendants with similar conduct.” 18 U.S.C. § 3553(a)(6). The Court sentenced co-defendant Cordell Jenkins to a term of Life imprisonment. During the sentencing hearing the Court openly stated that it looked for a reason to downward depart from the guidelines, but found none even after recognizing this Defendant’s conduct was more heinous than Jenkins’s.

Here, the Defendant started his conduct about three years earlier than Jenkins, when JUVENILE #1 was 14 years old. He introduced her to other adult men for sex, including Jenkins, and coached her on what to say to these men to get the most money. The Defendant’s sexual abuse lasted for three years and included photographing or videotaping it. And now, it is known that she was not the only victim. Accordingly, a term of Life imprisonment would be consistent with other defendants convicted of similar conduct.



## **VI. CONCLUSION**

Due to the breach of trust in the community, his predatory conduct with multiple victims, repeated lies and denials, the Court should impose a term of Life imprisonment.

Respectfully submitted,

JUSTIN E. HERDMAN  
United States Attorney

By: /s/ Michael J. Freeman  
/s/ Alissa M. Sterling

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Michael J. Freeman (OH: 0086797)  
Alissa M. Sterling (OH: 0070056)  
Assistant United States Attorneys  
Four Seagate, Suite 308  
Toledo, OH 43604  
(419) 259-6376

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of June 2019 a copy of the foregoing document was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's system.

/s/ Michael J. Freeman

Michael J. Freeman  
Assistant U.S. Attorney

325

Inbox

From

419260

Wife\*

4/5/2017

4:33:19 PM

(UTC-4)

Read

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GOVERNMENT  
EXHIBIT

3

323	Inbox	<div> <div>From</div> <div>419260 [REDACTED]</div> <div>Wife*</div> </div>	<div> <div>4/5/2017</div> <div>4:33:23 PM</div> <div>(UTC-4)</div> </div>			<div> <div>Read</div> <div>(2/3)</div> </div> <p> yaw can get it  right because yaw  are pedophiles. You  like them young.  The people in yaw  corner that have  your back are the  ones your hurting  the most beca </p>	
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319	Sent	To 419260 [REDACTED] Wife*	4/5/2017 4:47:49 PM (UTC-4)			Sent	I'm sorry	
320	Inbox	From 419260 [REDACTED] Wife*	4/5/2017 4:47:28 PM (UTC-4)			Read	No argument at all	
321	Sent	To 419260 [REDACTED] Wife*	4/5/2017 4:40:04 PM (UTC-4)			Sent	I understand I can't even argue at all	