UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

UNITED STATES OF AMERICA,

v. 20 CR 330 (AJN)
Sentencing

GHISLAINE MAXWELL,

Defendant.

----------x

New York, N.Y.
June 28, 2022
11:00 a.m.

Before:

HON. ALISON J. NATHAN,

United States Circuit Judge
Sitting by Designation

APPEARANCES

DAMIAN [redacted]
United States Attorney for the
Southern District of New York
BY: MAURENE COMEY
ALISON MOE
LARA POMERANTZ
ANDREW ROHRBACH
Assistant United States Attorneys

HADDON [redacted] AND [redacted]
Attorneys for Defendant
BY: CHRISTIAN R. EVERDELL
-and-
BOBBI C. STERNHEIM

Also Present: Amanda Young, FBI
Paul Byrne, NYPD
Sunny Drescher,
Paralegal, U.S. Attorney's Office

EFTA02839358

(In open court; case called)

DEPUTY CLERK: Counsel, please state your name for the record starting with the government.

MS. MOE: Good morning, your Honor. Alison Moe, Lara Pomerantz, Maurene Comey and Andrew Rohrbach for the government. We're joined at counsel table by paralegal specialist Sunny Drescher. Also as a member of our team in the gallery are our case agents, Special Agent Amanda Young and Detective and Paul Byrne.

THE COURT: Good morning to you all.

MS. STERNHEIM: Good morning. Bobbi C. Sternheim and Christian R. Everdell for Ghislaine Maxwell, who is present at counsel table.

THE COURT: Good morning, Counsel.

Good morning, Ms. Maxwell.

Please, be seated everyone.

We are here today for sentencing in United States v. Ghislaine Maxwell 20 CR 330.

In preparation for today's proceeding, I have reviewed the probation report, which is dated June 9, 2022 by revision date.

I have also received and reviewed the following additional submissions: I have the defense memorandum in support of PSR objections, which is dated June 15, 2022. I have the defendant's primary sentencing submission, which is

EFTA02839359

dated June 15, 2022. There are exhibits attached to that sentencing submission, Exhibits A through J. A through H -- I'm sorry -- A through I were a series of letters from friends and family members of Ms. Maxwell. J is a forensic psychiatric evaluation. And then I received by a later transmission date of June 26, 2022 a letter from an inmate at MDC related to Ms. Maxwell's assistance of other inmates with tutoring.

I have the government's sentencing submission, which is dated June 22, 2022.

With respect to victim impact statements, I have dated June 22, 2022 a victim impact statement from [redacted]. I have a victim impact statement from the witness who went by the name of Kate under my pseudonym order during trial. That I believe is undated. I have a statement dated June 22, 2022 from [redacted]. I have same date from [redacted], same date from [redacted], same date from [redacted]. I also have undated statements from [redacted] -- I apologize if I'm saying your name wrong -- and [redacted].

Counsel, is there anything else I should have in front of me for purposes of sentencing?

MS. MOE: No, your Honor. Thank you.

THE COURT: Ms. Sternheim.

MS. STERNHEIM: Other than the submissions that we made in connection with the CVRA, that is a complete record of

what we have received and reviewed.

THE COURT: Yes. Thank you. And that is part of the record including there was an ethics letter and other materials submitted in connection with your objection to that.

MS. STERNHEIM: Thank you very much.

THE COURT: Thank you.

All right. Counsel, would you just please confirm that you've received each other's submissions?

MS. MOE: Yes, your Honor.

MS. STERNHEIM: Yes.

THE COURT: Let's also confirm all submissions are filed on ECF.

MS. MOE: That's correct, your Honor.

MS. STERNHEIM: Yes.

THE COURT: Thank you.

Ms. Moe, I did have the government indicate this in a letter, but if you would confirm and articulate what the government has done to notify any crime victims of their rights under the Justice For All Act?

MS. MOE: Yes, your Honor.

With respect to the six individuals who were proved at trial to be directly impacted by the offense conduct, the government has notified those individuals through their counsel about the sentencing and about their right to be heard.

In addition to that notification, the government has

EFTA02839361

used the victim notification page on the U.S. Attorney's Office website regarding this case about the upcoming sentencing.

THE COURT: And you posted the Court's order there regarding a process for submission of statements.

MS. MOE: Yes, your Honor.

THE COURT: Thank you.

We'll turn to the presentence report.

Ms. Sternheim, I know that you have because you've objected to a lot which we will talk about, but for the record, have you read the presentence report and discussed it with your client?

MS. STERNHEIM: Yes, your Honor.

And, if I may, Mr. Everdell will handle the objections portion of our presentation.

THE COURT: Okay. We'll get to that in just a moment. Thank you.

Ms. Maxwell, can you please confirm that you've read the presentence report and had a full opportunity to discuss it with your counsel?

THE DEFENDANT: I did have an opportunity to read it.

THE COURT: And an opportunity to discuss it with your counsel?

THE DEFENDANT: I did.

THE COURT: Okay.

Ms. Moe, for the record, have you reviewed the

EFTA02839362

presentence report?

MS. MOE: Yes, your Honor.

THE COURT: Thank you.

So we will turn first -- we'll set aside first the guideline calculation. We'll turn to the factual accuracy of the report. And I did receive substantial factual objections to factual assertions in the report. I am prepared to go through those with respect to any continuing factual objections by the defense.

Let me confirm, Ms. Moe, does the government have any objections to the report regarding factual accuracy?

MS. MOE: None, aside from those which are already noted in the PSR.

THE COURT: No continuing objections.

MS. MOE: That's correct, your Honor.

THE COURT: Mr. Everdell, I know that you do have continuing objections. Tell me where you'd like to begin.

MR. EVERDELL: Well, your Honor, I don't know if the Court is planning on resolving each and every factual discrepancy or dispute or whether there are certain ones that the court will find are relevant to sentencing or whether we should go through each in detail.

THE COURT: I am prepared to -- what I typically do is go through each one so that if there is a correction to the report that is being requested to be made, whether it's

EFTA02839363

material to sentencing or not, I am prepared to address it.

So I believe the first -- what I see as your first continued objection is to paragraph 22.

MR. EVERDELL: I'm just getting my submissions.

Yes, that's correct, your Honor.

THE COURT: I overrule the objection. I do credit Juan Alessi's testimony that the defendant identified and targeted Virginia after seeing her in the Mar-a-Lago parking lot. The defendant also worked with Epstein to identify and target Jane.

Paragraph three I see three objections to this paragraph. Is that a continuing objection, Mr. Everdell?

MR. EVERDELL: Paragraph three, your Honor?

THE COURT: 23. I apologize.

MR. EVERDELL: Yes, your Honor.

THE COURT: I overrule the objection. The first objection is regarding the conclusion that Ms. Maxwell was the author of the essay in the paragraph. I overrule the objection because a reasonable inference supported by the trial evidence is that the defendant authored the essay. Metadata indicated that the computer was registered to "GMax" and the document was saved under the user name "Ghislaine."

The second objection is to the assertion that Epstein transferred Ms. Maxwell approximately $23 million during the conspiracy. I overrule that objection. Bank statements

EFTA02839364

admitted at trial showed that accounts under Epstein's name wired approximately $23 million over two occasions during the conspiracy to accounts of "Ghislaine Maxwell." The defendant's assertion that Epstein's accountant may have had access to and control over these accounts does not undermine the reasonable inference that the defendant controlled the funds in accounts bearing her name, so that is established by a preponderance.

As to the third objection that there's no evidence in the record that Epstein bought the defendant her New York City townhouse, I overrule that objection because I credit Kate's testimony that the defendant told her that Epstein bought the defendant her New York townhouse.

Paragraph 25 is an objection to the characterization of the Palm Beach residence being operated through a culture of silence.

You'll let me know if you're not maintaining an objection.

MR. EVERDELL: Yes. I think that the default is we are, your Honor.

THE COURT: Understood.

I overrule this objection. Evidence at trial indicates that this was the case. For example, the household manual instructed employees to "see nothing, hear nothing, say nothing." I credit Mr. Alessi's testimony that he understood this instruction to be a kind of warning that he was supposed

EFTA02839365

to be blind, deaf and dumb, and to say nothing of Epstein's and Ms. Maxwell's lives.

Paragraph 26, there's an objection to the characterization concerning the defendant's identification and isolation of minor girls as inconsistent with the trial evidence. I overrule this objection for the same reasons as articulated with respect to paragraph 22. In addition, the trial evidence established that the defendant and Epstein isolated girls by spending time with them alone away from their families. For example, Annie's testimony regarding the trip to New Mexico. Jane's testimony that she would spend time at the Palm Beach residence alone with Epstein and the defendant.

Paragraphs 27 and 28 the defendant makes two objections: First, to the assertion that the defendant and Epstein developed a scheme that created a "constant stream of girls who recruited each other." And, second, she objects to the assertion that she encouraged minor girls to bring other minor girls to provide Epstein with sexualized massages.

Again, based on the trial testimony and evidence, I overrule the objection. It supported the information in these paragraphs. The evidence indicated the scheme started with the defendant's recruitment of Virginia. Virginia then enlisted Carolyn in addition to at least two other girls. Carolyn in turn recruited at least three friends, and those friends then brought more girls.

EFTA02839366

Carolyn credibly testified that she was paid twice as much when she brought friends to the massages. Based on the defendant's control of household and Carolyn's testimony that the defendant on occasion paid her directly, I find it more probable than not by a preponderance of the evidence that Virginia was also paid more as encouragement to recruit additional girls.

Paragraph 9, there's an objection to the inclusion of Kate in this paragraph. It argues that her name should be deleted because Kate is not a victim of the crimes charged in the indictment.

MR. EVERDELL: Your Honor, I'm sorry to interrupt. I think you said paragraph 9.

THE COURT: I did. I'm sorry. I'm skipping the first number for some reason. 29. Thank you, Mr. Everdell.

I overrule this objection because the paragraph doesn't assert that Kate was a statutory victim as we've discussed throughout trial and the government didn't contend that Kate was a victim of the crimes charged in the indictment, and that paragraph doesn't assert that she was.

Paragraphs 30 to 38, there's objection throughout these to the characterization of the defendant having groomed Jane. I overrule these objections. I think the government is right here that the objection is conflating grooming with enticement to travel for purposes of sexual contact. Jane's

EFTA02839367

credible trial testimony established that the defendant took steps to make Jane comfortable and encouraged her to engage in illegal sex acts with Epstein.

Paragraphs 39 to 45 which describe specific conduct involving Kate, I think the specific request here -- well, first, was that it should be removed from the PSR because Kate was not a victim of the crimes charged in the indictment, and then, alternatively, that it be moved to a different paragraph with a heading offense behavior not part of relevant conduct. I don't see that this is necessary. I overrule the objection. Conduct involving Kate may be considered at sentencing her testimony revealed additional details of the defendant's method of identifying and introducing to Epstein young girls for sexualized massages. Her testimony also established the defendant's knowledge of the sexualized nature of massages with Epstein.

Paragraph 43, the defendant contends this paragraph should include a sentence that Kate was above the age of consent at all times. I think the paragraph says that Kate was age 17 or above at all relevant times, and I have no objection to including that she was above the age of consent at all times based on the trial evidence, so I will make that change to paragraph 43 of the PSR.

Paragraph 54, the defendant objects that there's no evidence that Epstein paid for Annie's trip to Thailand. That

EFTA02839368

objection is overruled. Annie testified to this fact at trial, and I credit this testimony.

Paragraph 5 -- sorry -- did it again. 55, defendant makes three objections to the paragraph. I overrule the objections. The record supports that the defendant personally recruited Virginia to provide Epstein with sexualized massages when she was a minor. Jane and Kate's testimony established that the defendant was aware that the massages were sexualized. I credit Mr. Alessi's testimony that the defendant approached Virginia, and that Virginia visited the residence -- approached Virginia for the first time, and that Virginia visited the residence later that day. Flight records and credible witness testimony established that this meeting occurred before Virginia was 18. In addition, when Virginia brought Carolyn to the residence, the defendant greeted them and instructed Virginia to show Carolyn -- quoting from the trial record -- "what to do." Carolyn then witnessed Virginia give Epstein a sexualized massage involving sexual intercourse. Finally, as I explained in my resolution to paragraphs 27 and 28, I do conclude that there is a sufficient basis to find by a preponderance of the evidence that the defendant used monetary incentives to encourage Virginia to recruit Carolyn.

Paragraph 58, the defendant objects to the assertion that Carolyn was 14 years old when Virginia brought her to Epstein's residence, claiming that Carolyn's recollection is

EFTA02839369

inconsistent and unreliable. I overrule this objection. Carolyn testified at trial that Virginia first brought her to Epstein's residence when she was 14 years old. I found Carolyn to be credible and credit her testimony. I'm not persuaded by the arguments to the contrary. Moreover, @Sean's credible testimony corroborated Carolyn's recollection.

Paragraph 59, the defendant makes two objections. Same objection to Carolyn being 14. For the reasons I've stated, that's overruled. She objects to Carolyn's assertion that she visited Epstein's residence more than a hundred times. I overrule that objection. Again, I credit Carolyn's testimony. She testified that she went to the house "over 100 times." I reject the suggestion that this is improbable based on Epstein's travel schedule.

Paragraphs 61 and 62 again object to Carolyn's age, and I overrule for the same reasons.

Paragraph 64, three objections. First, the defendant objects to Carolyn's assertion that she visited the Palm Beach residence over a hundred times and her assertion that she was 14. For the reasons I've given, I overrule those objections. She objects to the assertion that Carolyn stopped performing sexualized massages in 2001 when she was 18 years old and argues that the evidence indicates she was 17 years old. We're going to take up the issue of this timing question with respect to the issue of which Guidelines Manual controls. So I'll skip

EFTA02839370

that for now.

Paragraph 72, defendant objects to the assertion that Epstein briefly penetrated Carolyn's vagina with his penis because her trial testimony the defense claims is contradicted by a 2009 deposition testimony. I overrule this objection. Again, I credit Carolyn's testimony. Carolyn plainly testified to this at trial.

Paragraph 74, the defendant again objects to the assertion as to the age and timing. Again, we'll pick up on that issue when we discuss the appropriate guideline manual.

Paragraphs 75 and 76 the defendant objects to the inclusion of these paragraphs in the presentence report because the perjury counts have not been presented to a jury, and so she contends have no bearing on the sentence in this case. I do overrule this objection. A sentencing court's discretion is largely unlimited as to the kind of information it may consider. It's free to consider evidence of uncharged crimes, dropped counts of an indictment, criminal activity resulting in acquittal in determining sentence. *United States v. Bennett*, 839 F.3d 153 (2d Cir. 2016). I may consider the information as long as the information is reliable and accurate. For the following reasons, I do conclude the information underlying the severed perjury charges is reliable. The defendant testified under oath in 2016 that she was not aware of Epstein's scheme to recruit underage girls for sexual massages and other than

EFTA02839371

Virginia, was unaware if she had interacted with anyone under the age of 18 at Epstein's properties. She never gave [redacted] [redacted] a massage. She was unaware whether Epstein possessed sex toys. She was unaware that he was engaging in sexual activity with anyone other than her in the 1990s and 2000s. She never gave Epstein a massage. The credible testimony and evidence admitted at trial disproves these assertions which were made under oath.

Paragraph 79, the defendant objects to the characterization of the offense conduct as contrary to the trial record. Here, defense hasn't provided any reason specifying this, and I don't see one. So based on the written objection, it's overruled.

Paragraph 81, the defendant objects to the assertion that Ms. Maxwell had direct responsibility for any sexualized massages that several women or any other people that Carolyn may have brought to Epstein's residence may have performed, and she contends there's no record that she interfaced with these individuals. I am prepared to overrule that objection.

The paragraph makes clear that these individuals did not interact directly with Ms. Maxwell. Nevertheless, for the reasons explained a little while ago in overruling the objections to paragraphs 27 and 28, I do conclude that the evidence at trial established that the defendant's recruitment of Virginia set the recruitment scheme in motion that resulted

EFTA02839372

in the abuse of these individuals.

Paragraph 82, the objection is to the assertion that the records recovered from the Palm Beach residence during the 2005 search reveal that additional minors provided Epstein with sexualized massages between 2001 and 2004. Again, I overrule the objection. The trial record including message pads, phone book entries, and testimony of witnesses establishes by a preponderance that the information contained in this paragraph is accurate.

Paragraph 83, so there was a revision here. I'm not sure if there is a continuing objection, Mr. Everdell. The previous objection was to the assertion that the defendant is responsible for the victimization of untold number of other victims. The probation department adopted the government's suggestion, revised the paragraph to assert that the defendant is responsible for the victimization of additional minor victims. To the extent there is a continuing objection, I overrule it for the reasons stated regarding paragraphs 27 and 28.

Paragraph 85 is an objection to the inclusion of Kate's victim impact statement and her status under the CVRA. We have litigated the question of Kate's ability to make a statement here. I believe that defense's ultimate position was that with the requested redactions, there were no objections to her making a statement. Do I have that right?

EFTA02839373

MR. EVERDELL: That's correct, your Honor.

THE COURT: So I did reject the request for redactions for the reasons explained in my order. And as I explained in overruling the objection to paragraphs 39 to 45, Kate's testimony and her statement are relevant to sentencing which I've indicated she may give. And with that, there's objections pertaining to fine and assets and the like. I think we can turn to those when we get to the fine. Mr. Everdell, okay with that?

MR. EVERDELL: Yes, your Honor. So we'll delay the offense level calculation objections and the ones related to the financial penalties for now?

THE COURT: Yes, precisely, and we'll pick those up. I think otherwise that's it for what I understand to be continuing objections after probation responded to your requests and assertions. Agree with that, Mr. Everdell?

MR. EVERDELL: Your Honor, the only one that I would highlight is there was an objection, I believe it's framed according to paragraph 173, which deals with the financial penalties. The government made in their response some representations that we take issue with, but if you're planning on covering that later, we can reserve that till later because it does deal with the financial penalties.

THE COURT: Yes, I have objections to 172, 178, 192 and 193.

EFTA02839374

MR. EVERDELL: I guess in the final version, it probably pertains to 172.

THE COURT: Thank you.

And with that, no further factual objections that need resolution, Mr. Everdell?

MR. EVERDELL: Other than the ones we've just discussed, no, your Honor.

THE COURT: Ms. Moe?

MS. MOE: No, your Honor. Thank you.

THE COURT: So, with those rulings, hearing no further objections, with those rulings, I otherwise adopt the factual recitations set forth in the PSR. As in all cases, the PSR is sealed and made a part of the record in this matter. If an appeal is taken, counsel on appeal may have access to the PSR without further application to this court.

We'll turn now to the guideline calculation. As counsel is aware, I am no longer required to follow the United States Sentencing Guidelines, but I am still required to consider the applicable guidelines in imposing sentence and must therefore accurately calculate the Sentencing Guideline range. The parties dispute multiple aspects of the guideline calculation.

Just to outline the relevant overall calculations, the defense contends that the correct guideline calculation is 51 to 63 months' imprisonment. The government contends that the

EFTA02839375

correct calculation is 360 to 660 months' imprisonment and argues that a guideline sentence is warranted.

The probation department has calculated the range at 292 to 365 months' imprisonment, but recommends a downward variance to a term of 240 months' imprisonment.

Counsel, I have reviewed your written arguments carefully. I have a few questions I want to ask, but I don't need to hear repetition of your written arguments, but I would be happy to give you an opportunity to add anything beyond your submission if you'd like to make any additional arguments.

I'll hear from you now, Mr. Everdell.

MR. EVERDELL: Thank you, your Honor.

I will largely rely on my written submissions. I just would like to amplify one or two things.

Your Honor, our initial argument, of course, is that the Court must resolve who is to make the determination about which book like -- when the offense conduct ended, which determines guidelines book applies: the 2003 or 2004 guidelines. We argue that that is a jury determination because the issue implicates the *Ex Post Facto* Clause. So the 2003 guidelines must apply because the jury was never asked to make that factual determination.

I know your Honor is familiar with the arguments we raised. I would just point out that the government in their response really did not engage with our arguments about the

EFTA02839376

issue of the *Ex Post Facto Clause* being implicated. They want to cast this as purely a Sixth Amendment issue and cited cases along the *Apprendi* lines. But this is an ex post facto issue properly framed. This decision of when the offense conduct ended implicates whether or not an ex post facto violation will occur if the later guidelines is applied.

Under the cases that we've cited, your Honor, we think that that is an issue for the jury to decide, and it is not really in the *Apprendi* line of cases. It is focused on ex post facto law. I just, for example, highlight for your Honor the *Tykarsky* opinion that we cited for the Court. That is not an *Apprendi* decision. That is not a Sixth Amendment decision. In that case, there was an increase in the mandatory minimum that took effect potentially after the offense conduct ended. It's interesting that at the time the law was that you could do that, a judge could make a finding and increase it as long as it didn't increase beyond the statutory maximum, so there was no *Apprendi* issue there. That decision later got overruled by the Supreme Court, but at the time of *Tykarsky*, it clearly wasn't a Sixth Amendment *Apprendi* issue. They resolved that issue on an ex post facto basis. This decision about whether or not the offense conduct ended at a certain time, if it triggers an increase that implicates the ex post facto clause is a decision for the jury to make. The government has not responded to that argument, and we think that that is a

EFTA02839377

persuasive -- along with the other sources and opinions we've cited, it's persuasive authority for the fact this is a jury decision, not a Court determination.

THE COURT: Are you leaving that argument?

MR. EVERDELL: Yes, your Honor.

THE COURT: We'll do a little back-and-forth so I have everybody's arguments in mind. Thank you.

Go ahead, Ms. Moe.

MS. MOE: Thank you, your Honor.

The government is confident the 2004 Manual applies in this case. I believe we did engage with the ex post facto issue thoroughly in our brief. The question is whether the factual record at trial establishes that the offense continued throughout the duration of 2004, which it emphatically did. The testimony of a crime victim who testified at this trial establishes that the offense conduct went past November 1, 2004.

THE COURT: So I think the framing of the question here is very important and its technical -- this whole discussion is very technical. It seems to me the question is can the government point to a preponderance of the evidence that conspiratorial conduct took place in this very small time window, basically November and December 2004. That is what's in issue, and the question is what the trial record establishes with respect to that two-month window.

EFTA02839378

To some extent, the government points, I think, to post conspiracy conduct, and that concerns me. And so I would like to ask you to draw my attention to what in the trial record specifically speaks to November and December of 2004.

MS. MOE: Yes, your Honor.

As a threshold matter, the government's understanding that the case law is that the question is what is the end date of the conspiracy. In other words, if the conspirators are taking actions periodically over time, the question is what is the last date of the conspiracy? What does the trial evidence establish about the final date? And here the trial evidence was that the conspiracy was ongoing through all of 2004 and into 2005.

THE COURT: But to make that point, I think you're relying on post conspiracy evidence.

MS. MOE: No, your Honor. We're relying on evidence that exceeds the date in the indictment, but it --

THE COURT: It exceeds also the date of Carolyn's 18th birthday. And so it's not just what the indictment charges --

MS. MOE: Yes, your Honor.

THE COURT: -- but by a conspiracy that is dependent here on Carolyn being under 18 for its continuation. And so that's why I see what you're pointing to as post conspiracy, not only because it goes past what the indictment charged, but because I think legally you're pointing to non-conspiracy

evidence.

MS. MOE: No, your Honor. I think our point is that the conspiracy was still live at the end of 2004, and we know that because in fact the conspiracy was still ongoing beyond that, and I don't mean to be --

THE COURT: But, see, just in that sentence, the conspiracy was going on beyond that, what you point to, I think -- and tell me if I should look at something else, but what you point to to make that argument is definitionally non-conspiracy conduct.

MS. MOE: No, your Honor, in part because -- well, to step back and discuss the framing of the issue. The question is whether a conspiracy was still ongoing throughout 2004. And the key thought tells us it's the defendant's burden to show that she withdraw from the conspiracy if it was ongoing. The question is in framing it, when did this conspiracy end. We know that it was still live as of the end of 2004, in fact, because, among other reasons, Carolyn testified that she was continually going to Epstein's house through age 17 and through age 18, which would have been throughout the duration of 2004 and 2005.

The government is not required to show that any conspirator took an action in between those specific dates because the question is when did the conspiracy terminate? Was it still live at the end of 2004? And the evidence here shows

EFTA02839380

that it certainly was. The message pads show that Carolyn was still going to the house. Her testimony establishes that she was still going to the house throughout that time period. We do not agree that we're required to show that any conspirator took a specific act in that exact window but just that the conspiracy was still live, and the fact that there were additional acts ratifying membership of the conspiracy throughout 2004 and into 2005 satisfies that burden.

THE COURT: Again, just to make sure I'm not missing anything you want to point to, the into 2005 is pointing to post conspiracy conduct.

MS. MOE: Post indictment conduct, your Honor.

THE COURT: Post indictment. Is it in some way not post conspiracy?

MS. MOE: Well, your Honor, again, the question before the Court, according to the application is when the did offense end.

THE COURT: Ms. Moe, I do understand you're framing that question. I'm asking record evidence question. Is there something you're pointing to for your statement, the post 2005 which consists of conspiratorial conduct?

MS. MOE: I think separate from the 2005 evidence, we would point to in the fall of 2004, a message from Carolyn in November of 2004 showing that she was contacting the house to make a scheduled appointment.

EFTA02839381

THE COURT: It's not dated November 2004; am I right? It's on a page that has dates surrounding it of December, November.

MS. MOE: Yes, your Honor, all of the dates surrounding the message would be after November 1, 2004. The neighboring dates are November 13. There's a date in December. And I think looking at the message pads as a whole, it tells us they're dated essentially sequentially.

THE COURT: Is there any way to tell -- again, this is very technical -- if it's October and November?

MS. MOE: Your Honor, I'd be happy to take a look at physical book. I just have the sheet in front of me to see the page before and after, if the Court would like to examine it. Our view is the combination of the message itself and the neighboring dates tell us it's November of 2004. In addition, as we noted in our brief, the defendant was still traveling with Epstein during this exact same time period. Again, it's the defendant's burden to establish withdrawal from an ongoing conspiracy, which they've not attempted to do, nor could they. We think that the message pads, the flight records, the fact that the testimony of a crime victim Carolyn was that the conspiracy was ongoing more than meets this burden.

THE COURT: Okay.

MR. EVERDELL: Your Honor, if I could just respond to that. I do pick up on what the Court is saying, and we agree

EFTA02839382

with the point, which is we're focusing on the record evidence. The conspiracy as charged requires there be to be a minor involved. Carolyn is not a minor in 2005. Her birthday is January -- I don't know if I can say that, I'm sorry, but you understand it's at the beginning.

THE COURT: It's early.

MR. EVERDELL: It's early. So as of 2005, she is not a minor any more. So if we're looking to the end date of the conspiracy that's charged in the indictment, that does not exist in 2005, and Carolyn is not a minor in 2005, that evidence can't be used to support the end date of the conspiracy that is charged.

So what we're really talking about is one message pad that is undated, unverified, and not even in evidence. It's not even properly authenticated. I would also point out -- it's not reliable, your Honor. But I would also point out that I think we did have testimony that there were multiple message pads going on at any one time. The surrounding message pads are not a perfect indicator of when that message would have been taken if it's undated. It could have been weeks, months afterwards that someone decided to use that message pad to take that message instead of another of message pad that was ongoing at the same time. So there is no reliable credible evidence that's the date of that message pad.

And so, your Honor, we cited a number of cases in our

EFTA02839383

submission about the Court has to consider the weight and reliability of the evidence when determining a factor -- a sentencing factor that is going to increase the guidelines, especially by the amount that this is going to increase it by. And this one uncorroborated, unadmitted, unreliable message pad is not sufficient for that purpose. So if we're relying on a factual record argument, there is not enough of evidence in the record to support that the conspiracy ended in November or December of 2004. Therefore, the 2003 guidelines must apply.

THE COURT: Okay. I have a question about the leadership enhancement, as I said, but anything else you want to raise that you didn't have the opportunity to raise in your papers, Mr. Everdell?

MR. EVERDELL: Your Honor, just one point about that same book issue. I think there was a section of the government's brief where they were trying to show -- this was the point about the Court's discretion. We argued the Court has discretion to sentence as if it were the 2003 guidelines. I realize that might not be where the Court is headed, but I would point out --

THE COURT: You mean as a variance argument.

MR. EVERDELL: Exactly. In that section, the government made reference to an argument that the defendant was receiving money into the 2007 time period. I believe they pointed to $7 million. I think that is an extreme stretch,

EFTA02839384

your Honor. If the Court remembers the record evidence, there was some evidence of money moving, but it was to buy a helicopter that was not for her. We heard testimony from Larry Visoski that he often kept assets of cars in his name for Mr. Epstein. That doesn't make Larry Visoski a participant in the criminal endeavors. I think it's a stretch for the government to point to that as some sort of evidence of continued involvement or continued profit after the end date of the conspiracy. I just wanted to make that one point, your Honor.

THE COURT: Anything on that, Ms. Moe?

MS. MOE: Your Honor, with respect to the financial transaction, we offered that along with other evidence to refute the claim that the defendant had moved on, which, as we noted, is an expression that has no legal meaning. And so contrary to the assertion that the defendant had moved on and was no longer associated with Epstein, the trial evidence established that she remained a close associate for many years, and that is the purpose for which we offered that evidence.

THE COURT: Understood. Thank you.

I do want to address -- do you have other -- I want to ask about 3(b)(1).

MR. EVERDELL: Yes, your Honor.

THE COURT: I think it's for the government. So as I see the question here, the guidelines require me to find that

EFTA02839385

the defendant was an organizer or leader, and that the criminal activity either involved five or more participants or was otherwise extensive. The guidelines defines a participant as a person who is criminally responsible for the commission of the offense but need not have been convicted.

So I think my question for the government is, you're asking the Court to look to as a criminally responsible -- a person who is criminally responsible for the commission of the offense over whom Ms. Maxwell exercised supervisory or leadership role.

MS. MOE: Yes, your Honor. As we noted in our briefing, our view is that the trial evidence establishes that the defendant had a supervisory role over [redacted]. Here, we're not required to establish that there were five or more participants; that is, people who were criminally responsible for the charged conduct, but rather that it was extensive, and that the defendant supervised at least one other person. That's the text of the commentary, although as we noted, the Second Circuit in applying this factor hasn't really engaged with that from what we can tell, but on the factual question of the trial record and whether it establishes the defendant supervised another participant, it absolutely does.

THE COURT: And the government is pointing to [redacted] for that conclusion, which you agree, there has to be one criminally responsible participant who we can point to.

EFTA02839386

MS. MOE: Yes, your Honor. Looking at the text of the application note -- again, it's unclear from some case law on this, but under the text of the application note, if we're looking to one criminal participant, we would direct the Court's attention to [redacted].

THE COURT: And the leadership over her as opposed to Epstein being the leader over her or them being -- [redacted] sort of replacing the defendant's role, could you focus my mind on what specifically you point to to show supervision and leadership by Ms. Maxwell over [redacted]

[redacted]. MOE: Yes, your Honor.

The trial evidence was that [redacted] became an assistant, and that she worked for both Maxwell and Epstein. Essentially, when you look at defendant's role in earlier years, she was doing things like calling victims and arranging for massage appointments. As the scheme shifted, they brought in another member of the scheme beneath them in the structure and hierarchy of the scheme. The defendant remained a close associate. She was often traveling with them, often traveling with [redacted] together. So as [redacted] took on some of the tasks that were then delegated to a lower member of the conspiracy, the defendant was higher up in the leadership structure.

There wasn't direct evidence about, you know, the defendant directly instructing [redacted] to make a certain phone call, and we acknowledge that, but we think the inference is

EFTA02839387

very clear that when you have two knowing conspirators, Maxwell and Epstein, and they bring in a much younger woman as an assistant and have her take on some of those roles while the defendant remains a lady of the house in the hierarchy of the structure to whom a person like [redacted] would report, that she has leadership of that person; that she is directing that person; that she has control. Even the simple task of directing her to take on some of those responsibilities, which, of course, to transition parts of that role she would have to do would qualify for leadership.

THE COURT: And there's clear time overlap in the role?

MS. MOE: Yes, your Honor. As we noted in our brief, the flight records reflect that the defendant continued flying on Epstein's private jet at the same time that [redacted] was also traveling, and that there was an overlap in the years of the time period where they were all close associates of Jeffrey Epstein and the scheme was ongoing.

THE COURT: Go ahead.

MR. EVERDELL: Yes. Your Honor, before I address the [redacted] point, I would just make the point that the government seems to argue that there is some case law that is not clear that you don't have to necessarily show that they're supervising another criminal participant. That's just wrong. All those cases that the government cites, the issue has

already been decided or conceded by the defendant. The court found they were leader or the defendant didn't contest that, so the issue was only about whether the criminal activity was otherwise extensive. So that is not -- that is clear under Second Circuit law, that they have to supervise another criminal participant, and it's clear from the guidelines too, as the government concedes.

Let's just talk a bit about [redacted]. I don't think it is a fair inference to say from the trial record that Ms. Maxwell was supervising [redacted]. In fact, the inference is exactly the opposite. And you can rely on Carolyn's testimony alone for that; that she herself testified that there was a clear break between when she says that Ms. Maxwell was calling her to schedule for massage appointments versus when [redacted] took over and scheduled for massage appointments. They did not overlap. There was a break. That is corroborated by Juan Alessi no less, who said the same thing. He said [redacted] came at the end of my employment, to his recollection, and as soon as she got there, she took over the responsibility of scheduling the massage appointments. Again, a clear break.

What the record shows is that there was a replacement. [redacted]. Maxwell, at least according to the trial testimony; not that there was some sort of ongoing supervision by Ms. Maxwell over [redacted]. It couldn't be

EFTA02839389

clearer, your Honor, this notion that she was somehow -- [redacted] was an assistant of both Epstein and Maxwell is again belied by the trial record.

If you look at Larry Visoski's testimony, which I believe is what the government is relying on there, he originally testified, [redacted], I think she was an assistant for both. But on cross-examination, he conceded that he really didn't know what her role was, and his best recollection was that she was an assistant for Epstein.

And again, just look again at [redacted] testimony who was the actual assistant for Ms. Maxwell, and she says unequivocally, "I was her assistant. [redacted] was Epstein's assistant." So there is no fair inference that Ms. Maxwell was supervising [redacted]. The inference is exactly the opposite, and it can't provide a basis for that leadership enhancement.

THE COURT: All right. Anything further on the enhancements for the government's objection?

MS. MOE: Your Honor, just very briefly with respect to the leadership question, I just want to direct the Court's attention, we noted this on page 27 of our brief, but the testimony at trial was that Carolyn recalled that even after [redacted] took over calling to schedule massages, Maxwell was still present inside the Palm Beach residence when Carolyn arrived for massage appointments.

EFTA02839390

With respect to the testimony of the pilots who testified, whether they -- whether an employee was paid by Maxwell or Epstein or technically reported to one, according to their job descriptions, is not the question here. The fact that pilots based on their observation thought at one point that [redacted] reported to Maxwell proves the point that she had supervisory authority over [redacted] and exercised it, whether in the chain of command or on their formal employment paperwork, she was just an employee for one or the other, it makes no difference. There was an overlap here. They had different roles in the conspiracy, and the defendant had a supervisory roll over [redacted].

MR. EVERDELL: Your Honor, just to that point. Being present does not mean that you're a supervisor. That's way too far a stretch. So the fact that there was testimony she was present still in the house while [redacted] was making the calls and scheduling the massage appointments means nothing in terms of supervisory authority.

THE COURT: Thank you. Other enhancements before the government's objection is to be addressed.

MS. MOE: No, your Honor. Thank you.

MR. EVERDELL: Your Honor, I assume you don't want to hear or have any questions about the five-point enhancement for repeated and dangerous sex offenders.

THE COURT: I believe I have what I need, but as I

EFTA02839391

said, I don't need repetition of the arguments in the papers, but if there is any additional points you want to make, you're welcome to.

MR. EVERDELL: Your Honor, just one point. I will be brief. The government in its papers makes the argument that the background commentary can't be relied upon as authoritative because it is not explanatory or interpretative of what the guideline is. I think that is incorrect.

It is not simply a recitation of what Congress was considering. That first sentence or two which talks about how this guideline can only be applied to offenders who represent a continuing danger to the community is interpretative of what the guideline is. The title of the guideline is repeat and dangerous sex offenders. That explanatory commentary explains how to interpret what dangerous means. It means someone who is continuously dangerous to the community, not someone who's never been accused of a crime in the 18 plus years since the crime in this case, and has never been accused of re-offending. So I don't agree with that point. This is authoritative guidance from the Sentencing Commission, and the Court should consider it as such. Thank you.

THE COURT: Ms. Moe, do you want to respond?

MS. MOE: No, your Honor. We rest on our briefing on this issue, but thank you.

THE COURT: Thank you. Anything else?

EFTA02839392

MR. EVERDELL: No, your Honor. We rest on the papers.

THE COURT: I thank you counsel for your thorough briefing. I am prepared to rule.

The defendant raises four objections to the calculation of the guideline range contained in the PSR. As we discussed, first, she argues I must apply the 2003 guidelines rather than the 2004 guidelines. Beyond that, she objects to the application of three sentencing enhancements. The government's sole objection to the calculation of the guidelines is that [redacted] and Melissa should be considered victims. So I will address the defense objections and then the government's objections.

I begin by determining which of the Guideline manuals apply. Generally, a sentencing court applies the version of the guidelines in effect on the date that the defendant is sentenced. 18 U.S.C. Section 3553(a)(4)(A)(ii). But the *Ex Post Facto* Clause is violated if a defendant is sentenced under Guidelines issued after she's committed her offense and the new Guidelines provide a higher sentencing range than the version in place at the time of the offense. That's the principle of a case called *Peugh v. United States*, 569 U.S. 530 (2013). In that case, a sentencing court must -- in the case of a higher range at the time of sentencing than in place at the time of the offense, in that case the sentencing court must apply the guidelines in effect when the offense was committed.

EFTA02839393

United States v. Guerrero, 910 F.3d 72 (2d Cir. 2018). Here, the parties and the probation department agree that applying the current Guidelines would result in a significantly longer sentence than the application of the guidelines in place when the defendant committed her offense, whether that is the 2003 or 2004 guidelines.

The controlling date for ex post facto purposes is the last date of the offense of conviction. The 2004 Guidelines became effective on November 1, 2004. So I must determine if the last date of the offense was after November 1, 2004.

Because it seeks an increased punishment, the government bears the burden of persuasion. The government charged a decade-long conspiracy of sexual abuse that the indictment alleged ended in 2004. It's proof at trial that the conspiracy continued in 2004 related to Carolyn. And the charged conspiracy had to end no later than very early 2005 because that's when Carolyn turned 18 and can no longer be deemed a victim of the federal sex-trafficking offense charged which proscribes conduct with respect to individuals under the age of 18. So the government purports to carry its burden on this issue based on portions of Carolyn's testimony and some message pads regarding what occurred in 2004 and 2005.

Let me state clearly, I found, as I said repeatedly in my factual conclusions on the PSR objections, I found Carolyn to be a credible witness, as did the jury. The question before

EFTA02839394

me is specific and highly technical. Does the preponderance of the evidence demonstrate that the offense to sex traffic Carolyn continued after November 1, 2004 before she turned 18 in early 2005? In other words, does a preponderance of the evidence establish that acts in furtherance of the conspiracy to traffic Carolyn occurred in either November or December 2004? Although Carolyn testified regarding contact earlier in 2004 and after she turned 18 in 2005, there is no evidence, either in the form of testimony or documentary evidence, including the message pads, that demonstrates by a preponderance of the evidence conspiratorial conduct during those last two months of 2004 before Carolyn turned 18 in 2005.

In those portions of Carolyn's testimony cited by the government, Carolyn stated that she was 18 years old the last time she went to Epstein's house, which would have been in 2005. As Carolyn further explained, she returned more than four or five times to Epstein after she gave birth to her son in March of 2004, and that testimony is supported by message pads entered at trial that show Carolyn called Epstein several times in the summer of 2004: Once in late April or early May again on July 6, and again on July 30. When she did return to Epstein, Carolyn testified Epstein asked if she had younger friends, and she explained during her testimony that at 18 years old, she was too old for him. Carolyn wasn't asked, and her testimony doesn't specifically address, whether she went to

EFTA02839395

Epstein's house after November 2004 before she turned 18. Message pads entered at trial show contact only before November 1.

The government's reliance on two additional pads that were not entered into evidence doesn't change my analysis. The first message GX-4B, it's undated, and the context does not give sufficient confidence that it came after November 1. The other message pad is dated March 1, 2005, which falls outside the scope of the conspiracy alleged in the indictment, and after Carolyn turned 18. Because I cannot on this record find by a preponderance of the evidence that the offense continued during that two-month window after November 1, 2004, and before early 2005, I must apply the 2003 guidelines. Because I find that the date of the offense was not after November 1, 2004, I do not address the defendant's alternative argument that a jury must decide if the 2004 Guidelines apply.

Within the Guidelines themselves, the defendant objects to the application of three enhancements in the PSR. She takes issue first with 4B1.5(b). The enhancement statements that the offense level is increased by five if: One, the offense of conviction is a covered sex crime; two, 4B1.5(a) for prior convictions does not apply; three, the defendant engaged in a pattern of activity involving prohibited sexual conduct. All three requirements are met: The defendant was convicted of a covered sex crime; she was not previously

EFTA02839396

convicted of a sex crime; and I readily find she engaged in a pattern of activity involving prohibited sexual conduct. Specifically, the Guidelines define a pattern of such activity as the defendant engaging in prohibited sexual conduct with a minor on at least two separate occasions.

The defendant doesn't contest any of these enumerated requirements. Rather, she argues that I may apply this enhancement only if I further find that the defendant poses a continuing danger to the public. Here, the defense draws this requirement from background commentary by the Sentencing Commission and a few statements made by members of the Congress who of emphasized high recidivism rates in enhancing sentences for sex offenders.

I overrule this objection because it lacks any basis in the Guidelines. As with all interpretive matters, I start with the text of the Guidelines. If the text is unambiguous, I apply it as written and do not resort to background commentary. *United States v. Sash*, 396 F.3d 515 (2d Cir. 2005). Commentary cited by the defendant simply provides policy rationale for a particular enhancement. It does not purport to interpret the Guidelines and so is not binding. Nor can scattered legislative history override the clear text of the Guidelines, especially when that history amounts to only a few short floor statements which are "among the least illuminating forms of legislative history." *NLRB v. SW General, Inc.* 137, S. Ct. 929

EFTA02839397

(2017).

Moreover, the defendant fails to prove that 4B1.5(b) was enacted only to prevent future danger to the public. Background commentary explains that aside from recidivism, Congress "directed the Commission to ensure lengthy incarceration for offenders who engage in a pattern of activity involving the sexual abuse or exploitation of minors." That's 4B1.5 comment background.

Further, the legislative history quoted by the defendant says that Congress increased Guidelines sentences for sexual abuse of minors "to address the egregiousness of these crimes." And, in fact, the defendant's brief cites that I believe at 12. Thus, I find no basis for a requirement that I must first find the defendant to be a public danger before applying the enhancement. The defendant's remaining argument that applying this enhancement would result in an excessive sentence is appropriately considered as part of the defendant's request for a downward variance.

Next the defendant objects to the application 3B1.1(a), which we've discussed, which adds four offense levels for her leadership role in a criminal activity. "a court must make two specific factual findings before it can properly enhance a defendant's offense level under 3B1.1(a): (i) that the defendant was an organizer or leader; and (ii) that the criminal activity involved five or more participants or was

EFTA02839398

otherwise extensive." Quoting from *United States v. Patasnik*, 89 F.3d 63 (2d Cir. 1996). The Guidelines define a participant as a person who is criminally responsible for the commission of the offense, but need not have been convicted. That's Section 3B1.1, comment note 1. And in assessing whether criminal activity is extensive, all persons involved during the course of the entire offense are to be considered, including persons who provided services unknowingly. Comment note 3.

The defendant argues that she did not lead another criminal participant. I overrule this objection because I do conclude that the government has proved by a preponderance that the defendant supervised [redacted], who was a knowing participant in the criminal conspiracy.

Larry Visoski and David Rodgers both testified for that at least part of the time period at issue [redacted] acted as a personal assistant to the defendant. I credit that testimony which is corroborated by further testimony that the defendant was Epstein's number two and the lady of the house. At some point, [redacted] took over some of the defendants duties. But even after that time, the defendant retained her leadership position, as evidenced by Carolyn's testimony, by flight records in evidence, and the household manual in evidence. I do conclude by a preponderance of the evidence that the defendant led a criminally responsible participant.

I further find that the defendant's criminal activity

EFTA02839399

was extensive. Whether criminal activity is extensive is based primarily on the number of people involved, criminally and noncriminally, rather than on other possible indicators of the extensiveness of the activity. District courts must determine the number of knowing participants in the criminal activity, the number of unknowing participants whose activities were organized or led by the defendant with specific criminal intent, and the extent to which the services of the unknowing participants were peculiar and necessary to the criminal scheme. For example, a taxi driver that drives a defendant to a crime scene would not count. That is an example from a case called *Carrozzella*, 105 F.3d at 804.

At all relevant times, the conspiracy proved at trial included at least two knowing participants: Epstein and the defendant. Beginning in 2002, [redacted] joined, and beginning in approximately 2001, additional minor victims were recruited through Virginia and Carolyn. Additionally, trial evidence established that services were unknowingly provided by various Epstein employees. For example, I credit Juan Alessi's testimony that following the defendant's instructions, he scheduled massage appointments, set up the massage table for appointments, cleaned up after sexualized massages, and on at least one occasion drove Virginia to an appointment.

Additionally, both Visoski and Rodgers were employed as Epstein's pilots over the same time period as the counts of

EFTA02839400

conviction. Visoski testified that Maxwell partially owned the jet, and both pilots testified that she would tell them when to fly Epstein or schedule flights for herself. The evidence at trial demonstrates that Epstein and the defendant had the pilots fly victims of the conspiracy. Across the timeframe of all counts of conviction, Alessi, Visoski and Rodgers provided personalized services that were peculiarly tailored to the defendant's offenses and were not fungible services generally available to the public. Again, I'm citing from the *Carrozzella* case, 105 F.3d at 804.

In addition to these unknowing participants that testified at trial, I find by a preponderance of the evidence that there were other unknowing persons led by Maxwell. As Epstein's number one, Ms. Maxwell managed Epstein's numerous households and interviewed, hired and oversaw the household staff. The defendant had her own personal assistants, like [redacted] and another individual. From the record, I can't determine the precise number of these other individuals that unknowingly assisted Epstein and the defendant in their criminal activity, but I find an adequate basis in the record that the number is sufficient to make the activity extensive within the meaning of 3B1.1(a) from 1994 to 2004. See *United States v. Archer*, 671 F.3d 149 (2d Cir. 2011).

Last, the defendant objects to enhancement 2G1.1(b)(4)(B). That provision increases the offense level by

EFTA02839401

two if a participant unduly influenced a minor to engage in a commercial sex act. In defining the enhancement, the Commission instructs courts to closely consider the facts of the case to determine whether a participant's influence over the minor compromised the voluntariness of the minor's behavior. 2G1.1, comment note 7. And if the participant is at least ten years older than the minor, there is a rebuttable presumption that the participant unduly influenced the minor to engage in a commercial sex act. I overrule the defendant's objection.

The defendant first says the undue influence enhancement would punish her for the same harm already counted in her base offense level. Impermissible double counting occurs when a guideline enhancement is applied to reflect the kind of harm that's already fully accounted for elsewhere in the Guidelines but does not occur if the enhancement aims at differing harms emanating from the same conduct or reflects different facets of the defendant's conduct. *United States v. Watkins*, 667 F.3d 254 (2d Cir. 2012). There isn't double counting here. The 2G1.1(a) base offense level reflects the aggregating factor that the victim of the defendant's sex offense was a minor. The enhancement, by contrast, reflects the use of undue influence to engage in a commercial sex act. I'll cite a few cases that stand for that proposition, including *United States v. Kohlmeier*, 858 F. App'x, 444 (2d

EFTA02839402

Cir. 2021) (summary order). Similar conclusion, *United States v.* [redacted], a Ninth Circuit case from 2013, 719 F.3d 1120. That case explains 2G1.3(a) base offense level and the undue influence enhancement "serve unique purposes under the Guidelines."

The defense argues that because the enhancement applies only if undue influence was exerted with the aim of a commercial sex act, it does not apply here. But the jury in Count Six did convict the defendant of sex trafficking Carolyn to participate in commercial sex acts. The Court finds that [redacted], who brought Carolyn and Melissa who was brought by Carolyn similarly were paid. The remaining victims, including Jane and Annie, also testified that they received money and gifts during their abuse which satisfies the enhancement.

The defendant argues Carolyn was not unduly influenced to sexually massage Epstein. I find this argument meritless. The age gap between Carolyn and Epstein and the defendant far exceeded ten years, and the defendant does not rebut the resulting presumption of undue influence. 2G1.1, comment note 7. Carolyn testified she was paid to give Epstein sexualized massages, and she needed the money for her drug addiction. Later, Carolyn returned to Epstein because she needed the money for herself and her newborn son. Plainly, taking advantage of a victim's financial need is a form of undue influence. I'll

EFTA02839403

cite some cases for that proposition. *Watkins* 667 F.3d at 265; *United States v. Streb*, 36 F.4th 782. That's and Eighth Circuit case from 2022. Courts have repeatedly concluded that a minor can be the victim of undue influence even if the minor initiates a sexual meeting. See, for example, *United States v. Lay*, 583 F.3d 436 (6h Cir. 2009). I therefore overrule the defendant's objection.

I next turn to the government's only objection to the PSR Guideline calculation. I do find that [redacted] and Melissa were minor victims of sex offenses -- they were trafficked and abused by the defendant and Epstein during the charged period. The Guidelines require that each minor victim be considered a separate count of conviction. 2G1.1.(d)1. Probation department excluded Virginia and Melissa from this provision only because they were not named in the indictment. This is an incorrect basis for excluding them from the calculation. Relying on commentary by the Commission, the Second Circuit has instructed "that conduct against victims other than those charged in the indictment may constitute relevant conduct, and, if such conduct qualifies, should be treated for sentencing purposes as though it occurred in a separate count of conviction." I United States V. Wernick, 691, F.3d 108 (2d Cir. 2012) (citing 2G1.1 comment note 4). I therefore consider Virginia and Melissa as two additional groups of victims and assign each a unit under Section 3D1.4.

EFTA02839404

Having resolved the parties' objections, I will calculate the Guideline range. As explained, I will use the 2003 Guidelines manual. Following Section 2G1.1(d)(1), each victim is considered a separate count of conviction. In addition to the three victims for which an offense level was calculated in the PSR -- Jane, Annie, and Carolyn -- I calculate offense levels, for Virginia and Melissa, coming to a total of 5 groups.

For all groups, the base offense level is 19. That's Sections 2G1.1(a) and 2X1.1(a).

For Jane and Carolyn, because they were older than 12 but were not yet 16 when abuse began, the offense level is enhanced by 2. 2G1.1(b)(2)(B).

The offense level for Jane and Carolyn is further enhanced by 2 because they were unduly influenced into a commercial sex act. 2G1.1(b)(4)(B).

For Annie, Virginia, and Melissa, who were at least 16, the offense level is increased by 2 because they were unduly influenced into a commercial act. 2G1.1.(b)(4)(B).

The offense level for all groups are also enhanced by 4 points because of the supervisory role in an extensive criminal activity. 3B1.1(a).

This brings the total offense level for Jane's and Carolyn's groups to 27. And Annie's, Virginia's and Melissa's groups each to 25.

EFTA02839405

Because there are multiple counts, all within at least four offense levels of each other, I determine 5 units under 3D1.4(a). And under 3D1.4, 5 units increases the total offense level of the group with the highest total offense level by 5 from 27 to 32.

Last, because the defendant engaged in a pattern of activity involving prohibited sexual conduct, the total offense level is increased by 5 from 32 to 37. 4B1.5(b)(1).

In conclusion, I find the correct total offense level under the 2003 Guidelines is 37.

No party disputes the defendant's Criminal History Category of I.

Under the 2003 Guidelines, a Criminal History Category of I and total offense level of 37, produces a guideline range of 210 to 262 months' imprisonment.

The range for the fine, again, under the 2003 manual is $20,000 to $200,000 for each count. That's 5E1.2(c)(3).

The range for supervised release is three years to life. 5D1.2(a)(1) and (c) and 18 U.S.C. 3583(k), although I believe there is a -- yeah, I think that's supervised release.

I don't want to hear repeated objections, but any objections based on anything I said that is new?

MS. MOE: Yes, your Honor. With respect to the unit analysis, we wanted to note that under 3D1.4, a total of 5 units adds 4 levels, not 5 levels. I think the next layer on

EFTA02839406

the table is more than 5, as 5 levels. And, thus, the total number would be 36.

THE COURT: I presume you agree with that, Mr. Everdell?

MR. EVERDELL: Yes, your Honor.

THE COURT: Under the 2003 manual -- I see. The highest total offense level, increase by 4 from 32 to 36.

MS. MOE: Yes, your Honor. Thank you.

THE COURT: Thank you, Ms. Moe. And that produces a guideline range 188 to 235.

MS. MOE: Yes, your Honor.

MR. EVERDELL: We agree with that, your Honor.

THE COURT: Thank you. Same question to you, Mr. Everdell. Preserving your objections, of course, but anything new based on what I said?

MR. EVERDELL: Yes, your Honor. I don't think because the government's response was the one added their request to add Virginia and Melissa as separate groups, so we do object to that. I know the Court has already ruled on that. We don't think the record is adequate to make them separate offense groups. I understand the Court has already ruled on that, but we would like to preserve that objection.

THE COURT: Understood. Thank you.

Do you want to respond, Ms. Moe?

MS. MOE: Your Honor, I think the Court's rulings

EFTA02839407

addressing the factual objections speak directly to this issue. The record at trial amply established that Melissa and Virginia were victims of this conspiracy, and that the defendant had been involved with recruiting Virginia, who in turn recruited Carolyn, who in turn recruited Melissa.

With respect to Melissa in particular, we would not that, like Virginia, her name appears in the defendant's little black book, noting that she's a friend of Carolyn's. For all those reasons, and the reasons in our brief, we think the trial record amply establishes that they were both victims of the conspiracy.

THE COURT: I agree with that, and for the reasons indicated, do -- I agree with the government's objection to the probation calculation for that reason.

I think that means we don't need to resolve the factual objections that pertain to Carolyn's age. As I said, I credit Carolyn's testimony. The objections I would overrule because I think she accurately testified regarding her age both in 2004 and 2005, but it doesn't answer the question, as I see it, the legal question as to establishment of acts conspiratorial conduct in the relevant two-month period.

With respect to fines, Mr. Everdell, what is now paragraph 172 of the revised report, the defendant objects to the inclusion a $10 million bequest from Epstein being included in her assets for purposes of determining her ability to pay a

EFTA02839408

fine. I can't quite tell from the papers whether -- I know you say the bequest is likely to be contested. What is the current status of the bequest?

MR. EVERDELL: Your Honor, my understanding is that the document says what it says, and the estate is undergoing bankruptcy proceedings. I don't believe there is any -- this issue has been addressed because I think the estate is still dealing with victims' claims and other claims against the estate. But because it's in bankruptcy, I assume that this will be contested, and we don't know if there will be any money left at the end of that proceeding to honor the bequest. So that's one of the many reasons why I think this is such a tenuous asset that it shouldn't be considered for purposes of fines.

THE COURT: It's listed as an asset in the financial affidavit, is it not?

MR. EVERDELL: It is, your Honor, because we felt we wanted to fully disclose everything we know about, and we do know about simply because we were produced that document. We didn't know about it before. We knew about it because we got it in discovery, and we saw it was there, so we felt in good faith, we had to list it or at least disclose it, but I don't think it should be considered for purposes of fine.

THE COURT: Ms. Moe, do you want to respond to that?

MS. MOE: Your Honor, I don't have additional

EFTA02839409

information about the status of the estate. With respect to whether this information should be in the PSR, I think the Court is exactly right. This is listed on an asset on her balance sheet. Whether she ultimately recovers that amount or not, it's listed in the same way that liabilities are listed even though it may be uncertain as to how those are resolved. So I don't think the objection is founded.

THE COURT: Yes, I'm going to overrule this objection to the PSR paragraph. It is included as an asset in Ms. Maxwell's financial aid affidavit. The uncertain assertion that she may lose the asset is not a basis to exclude it from a considered asset for purposes of determining a fine.

Paragraph 178, the assertion here is that she is unable to pay a fine.

Do I have that right, Mr. Everdell?

MR. EVERDELL: Yes, your Honor.

THE COURT: I overrule the objection. Section 5E1.2(a) of the Guidelines requires the Court to impose a fine in all cases except where the defendant establishes that she is unable to pay and is not likely to become able to pay any fine. The defendant has failed to establish this. As I just noted, there is a $10 million bequest from Epstein this is in addition to other assets noted in the PSR.

I will say the assets and finances have been a moving target. In July 2020, Ms. Maxwell reported $3.8 million in

EFTA02839410

assets, and then reported $22 million in assets in support of the December 2020 bail application. The claim now of an inability to pay the fine, as I understand it, at the same time in which the defense has not provided documentation of her marriage or the purported pending divorce settlement. So I am unpersuaded based on the balance of facts that the defendant is indigent, and I do intend to impose a fine.

I will address restitution at the end. I understand the government is not seeking restitution. So we will pick that up at the end.

All right. With that, I'm going to take a break, and then I will come back and hear from -- just fill a few formalities. Neither of the papers make an argument for formal downward departures, as I understood them. In any event, I've considered whether there's an appropriate basis for departure from the advisory range within the Guideline system and do not find any grounds warranting departure under the Guidelines.

When we return with the Guideline calculation complete, I will hear from the parties as to what they contend a reasonable sentence is for Ms. Maxwell, taking into account the 3553(a) factors.

It's 12:30, which is a shocking fact to me. I suppose we should take a 30-minute break so that everyone can get lunch, as I imagine we still have a fair amount of matters to discuss and time to get through. So we'll take a 30-minute

EFTA02839411

break.

Ms. Moe

MS. MOE: With respect to the sequence of events, just so victims are aware, would the Court prefer to hear from victims before the Court hears from the parties or after? We defer to the Court, but it would be helpful to know for the victims.

THE COURT: I was anticipating government, victim statements, defense counsel and then Ms. Maxwell if she wishes to make a statement. My staff did provide counsel for the victims making statements an order in which they're speaking.

MS. MOE: Thank you, your Honor.

THE COURT: Any objection to that ordering, Ms. Moe?

MS. MOE: No, your Honor. Thank you.

THE COURT: Ms. Sternheim?

MS. STERNHEIM: I'm on now. No. Thank you.

THE COURT: I'll see you at 1:00. Thank you.

(Luncheon recess taken)

(Continued on next page)

EFTA02839412

AFTERNOON SESSION

1:10 p.m.

THE COURT: As I indicated, I'll hear first from the government as to what a reasonable sentence is under the 3553(a) factors.

Ms. Moe, when you're ready.

MS. MOE: Thank you, your Honor. May I take the podium?

THE COURT: You [redacted]

[redacted]. MOE: Your Honor, Ghislaine first met Jane at summer camp in August of 1994. Jane was 14 years old. What Maxwell did in the years that followed to Jane and Kate and Annie and Virginia and Carolyn and Melissa, was almost unspeakable, but the truth came out in this case; and while many years have past, their pain is palpable, it's real, and it matters.

Today we ask the Court to impose an above-guideline sentence of multiple decades in prison, a sentence that holds Maxwell accountable for the essential role she played in an extensive and disturbing child exploitation scheme.

Maxwell trapped young girls in a horrifying nightmare. Her victims were vulnerable kids who found themselves alone in giant mansions where they were sexually exploited by adults they thought would help them. These girls were just kids. They were just finding their way in the world, trying to figure

out who they were and who they might be some day when they grew up. These kids had hopes and dreams for their future and the defendant used those dreams as her tool to abuse them.

We ask the Court to take an unflinching look at the defendant's actions and consider what that tells you about who she really is. What kind of person persuades young girls to massage the feet of a middle-aged man? What kind of person gets a 16-year-old girl all alone at a ranch in the middle of nowhere and tells her to take off her clothes and get on a massage table so that she can grope that girl's chest? What kind of person teaches a 14-year-old girl how a middle-aged man likes his penis to be touched? What kind of person sees a 17-year-old girl on the street and pulls over so that she can persuade that girl to come to a house of horrors where that young girl will be trafficked for sex? What kind of person flies around on a plane with underage girls so that when her boyfriend travels, he always has a young girl to touch? What kind of person would use their privilege, their power in this world to intentionally prey on the vulnerable, young girls from struggling families: Girls without fathers, girls who needed help. These are the actions of a person who was indifferent to the suffering of other human beings.

The defendant's actions were not a one-time mistake; not at all. Maxwell was an adult woman, and she made the choice, week in, week out for years to commit crimes with

EFTA02839414

Jeffrey Epstein, to be his right hand, to make his crimes possible. Those choices were hers, and they have to have serious consequences.

What's more, her actions portrayed a disturbing view of the world we live in. To Maxwell there were two kinds of people in this world: The people who really mattered and the people who were disposable. Maxwell wanted to make sure that she stayed among the people who she thought mattered. She wanted to live a luxurious lifestyle jet-setting around the world. She took millions of dollars from Epstein over the years and that's because they were predators together, they were partners in crime together, and they molested kids together.

The defendant's actions had serious consequences for her victims. These girls, now women, are strong. They have shown the world what true bravery really is. But when the defendant preyed on them, they were just kids, and they'll carry with them for their entire lives the trauma of what they've experienced. What is truly remarkable about this case, your Honor, is that we don't have to speculate about the lasting irreparable harm that the defendant's actions have had. You have seen for yourself the devastating effects of the defendant's crimes and how much her actions have affected her victims even years later.

The defendant has shown absolutely no remorse for her

crimes. She has not owned up to the truth. She has lied repeatedly. She has been dishonest with the Court, and she has made misrepresentations when it suits her. Your Honor, we recognize that the Court has calculated the guidelines to be 188 to 235 months. That is far below the sentence that the government believes is appropriate in this case. We recognize that there are a small number of cases where the Court imposes an above-guideline sentence. This is that case, your Honor.

In the almost 20 years since the 2003 manual was enacted, our Sentencing Commission, our Congress, and our country have all recognized just how serious sex crimes against children are. Our country now recognizes how woefully inadequate the 2003 guidelines were, and the Supreme Court has expressly held that sentencing courts can vary upwards for exactly that reason. Again, this is that case. This is exactly that case. This is the time to impose an above-guideline sentence. A guideline sentence in this case would create unwarranted sentencing disparities with individuals being sentenced today for sex-trafficking offenses. This case calls out for an above-guideline sentence because of the breathtaking scope of the defendant's conduct, the length of her crimes, the number of victims, the vulnerability of her victims, the sophistication of the defendant's predatory conduct and the degree to which she psychologically manipulated her victims. Her conduct was shockingly predatory, and it

EFTA02839416

calls out for an above-guideline sentence.

We ask the Court to impose an above-guideline sentence, a sentence that sends a message that those who would conspire with sexual predators would be held responsible for their significant role in these crimes. We ask the Court to send a message that nobody is above the law, and nobody is too rich or powerful to be held accountable. We ask the Court to send a message that it is never too late for justice.

Your Honor, you should not hesitate to hold the defendant accountable for the full measure of her crimes. She deserves to spend decades in prison for her crimes. Thank you.

THE COURT: Thank you, Ms. Moe.

And I will ask that the individuals who are making statements come to the podium.

[redacted] is first. You're welcome to remove the mask when you get there, [redacted], if you'd like.

[redacted]: Judge Nathan: For a long time I wanted to erase from my mind the crimes that Ghislaine Maxwell and Jeffrey Epstein committed against me and pretend they hadn't happened. It was the type of dark memory that feels safest to keep locked away. But I've had to acknowledge the long-lasting effects. One of the most painful and ongoing impacts of Maxwell's and Epstein's abuse was a loss of trust in myself, my perceptions and my instincts. When predators groom and then abuse or exploit you, they are in a sense training you to

EFTA02839417

distrust yourself. When a boundary is crossed or an expectation violated, you tell yourself, "Someone who cares about me to do all these nice things surely wouldn't also be trying to harm me." This pattern of thinking is insidious, so these seeds of self-doubt took root even as I learned my sister had also been harmed by them and came to find out years later that many others had been exploited.

THE COURT: Just a request to slow down.

[redacted]: For years these memories triggered significant self-recrimination, minimization and guilt. I blame myself for believing these predators actually wanted to help me. I felt tremendous survivor guilt when I heard about what other girls and young women had experienced at hands of Maxwell and Epstein. I saw about how my sister's concern about me weighed on her and felt guilty about this as well.

This toxic combination of being sexually exposed and exploited, feeling confused and naïve and blaming myself all resulted in significant shame; that sickening feeling that makes you want to disappear. It was not constant but would come in waves, similar to the waves that anxiety would also show up. When I think back, I see a slide-show of moments when these feelings would surface and overwhelm me. There are too many of these moments to name and though I have come a long way in my path of healing, I know that these feelings will continue to be triggered at times.

EFTA02839418

The ripple effects of trauma are undeniable. When one person is abused, many others are also harmed. In addition to the way I was impacted as an individual, there was the pain I experienced as a sister due to how Maria was abused by Maxwell and Epstein and the harm caused to the rest of my family due to these events. My sister Maria's abuse, the sexual assault, Maxwell's threats that stole her sense of safety and her career, the way they used her to get to me had devastating effects on her. As my family watched her grow more isolated and more physically ill from the stress of all of it, we all felt powerless. It was heartbreaking and infuriating, and we later learned how often this pattern was repeated. A young person on the path of pursuing her dreams was pulled in by Maxwell, was abused and exploited, and then had to try and piece together a life in the aftermath of this trauma that left them feeling distrustful and fearful. Most of these individuals had families who also were negatively impacted as they witnessed and felt the systemic effects of their loved one's losses and struggles. The number of people harmed is impossible to measure. Maxwell had many opportunities to come clean but instead continued to make choices that caused more harm.

When my sister and I first spoke out to the media about what happened to us, Maxwell lied about us and threatened Maria, thus helping shut down investigations into their

EFTA02839419

behavior so they could together continue to harm children and young women. After this attempt to alert people to Epstein and Maxwell's abusive behavior, I avoided being public about it for two decades. My shame told me I should hide this fact because it was embarrassing. Later as I pursued my profession as a psychologist, I feared it could potentially ruin my career. I worried clients would not want to work with me if I was associated with this story, wrongly labeled as one of child prostitution. I feared being on Epstein's and Maxwell's radar as a problem because of their previous lies and threats.

Once arrested, Maxwell faced another choice. She could admit her participation in this scheme, acknowledge the harm caused or even provide information that could have helped hold others accountable. Instead, she chose again to lie about her behavior, causing additional harm to all of those she victimized.

Judge Nathan, I hope when you consider the appropriate prison sentence for the role Maxwell played in this sex-trafficking operation, you take into account the ongoing suffering of the many women whom she abused and exploited as we will continue to live with the memories of the way she harmed us. I hope you weigh the systemic effects of the crimes she perpetrated, the ways that our family members, romantic partners and friends have been hurt through our suffering. I ask you to bear in mind how Maxwell's unwillingness to

acknowledge her crimes, her lack of remorse and her repeated lies about her victims created the need for many of us to engage in a long fight for justice that has felt like a black hole sucking in our precious time, energy and well-being for much too long now, things that cannot be replaced. Thank you.

THE COURT: Thank you, [redacted] [redacted] make a statement now.

MS. MOE: Your Honor, before Kate speaks, I just wanted to confirm that the Court's anonymity order, in particular with respect to sketch artists, is in effect.

THE COURT: Yes. Consistent with the Court's prior anonymity and pseudonym order, we will refer to this witness as Kate only, and the sketch artists shall not draw an exact image of Kate so that she can remain anonymous.

Thank you, Ms. Moe.

Kate, you may proceed.

KATE: Good afternoon, your Honor. Thank you for hearing me. I believe you've already seen my victim impact statement, so I have something else to say.

At a time when women's rights have so callously been discarded, as the mother a young daughter, I fear for the safety and freedom of my child. Today offers hope that change is possible. Our voices may not have been heard before, but we united to bring justice to a common enemy. If we cannot stop women who have been raped from being forced to bear the

EFTA02839421

children of their rapists, then we must take a stand on zero tolerance to those who abuse their power to groom and traffic and rape the vulnerable.

How you do anything is how you do everything. Every single person should have equal value. Every single person should have an equal right to be protected. Every single child must have their innocence defended. No person should be shielded from the consequences of their actions no matter their status or class. Ghislaine's lack of remorse and her blatant refusal to take responsibility for her crimes towards us is the final insult.

Having a difficult childhood is irrelevant to the choices she made to traffic and supply women/children to Jeffrey Epstein and other powerful men. Despite the atrocities perpetrated on me, I have never recruited a child or any person to be sexually abused. Someone being a hard worker does not excuse sex trafficking of minors. Someone starting a non-profit does not excuse sex trafficking of minors. Someone who had it difficult or even an abusive father does not excuse sex trafficking of minors. Losing money and prestige does not excuse sex trafficking of minors. The lack of remorse or responsibility taken by Ghislaine for how she ruined the lives of countless women and children is exactly how we can tell that she doesn't think what she did is wrong. She is not sorry, and she would do it again.

EFTA02839422

I have known Ghislaine for many years now, and I have seen her be kind and generous to me and many others until she doesn't get what she wants from that person, and then I have seen her stop at nothing to enforce her will -- a manipulative cruel and merciless person who only uses kindness to manipulate and generosity to seek recognition.

Today for the first time I stand with my sisters, bonded by a trauma that I wish on no one, to draw a line and to set a precedent to say enough is enough; to say no with a chorus of voices that you cannot ignore. May that chorus ring through the ears of people still being victimized and give them strength. May it echo in the ears of perpetrators to remind them that there are those of us who will never stop until we stop them.

Today is not a happy day. I take no pleasure in being part of a world where this is necessary, but I am proud to stand shoulder to shoulder with these brave women and do what is necessary to stop Ghislaine, to hold her accountable, and for the first time in my life not to feel afraid. I could not have done this alone, and I thank those who walked alongside me and those who carried me. Today I can look at Ghislaine and tell her that I became what I am today in spite of her and her efforts to make me feel powerless and insignificant, and I will pass that empowerment on to my daughter that she may never consider being silent when faced with injustice because she

EFTA02839423

will feel all of us standing behind her. Thank you.

THE COURT: Thank you.

I will hear the statement from counsel for [redacted]

[redacted] COUNSEL: Good afternoon, your Honor.

May it please the Court, this statement I am reading on behalf of my client, [redacted], is written to Ghislaine Maxwell.

Ghislaine: 22 years ago in the summer of 2000, you spotted me at Mar-a-Lago in Florida, and you made a choice: You chose to follow me and procure me for Epstein. Just hours later, you and he abused me together for the first time. Together you damaged me physically, mentally, sexually and emotionally. Together you did unthinkable things that still have a corrosive impact on me to this day.

I want to be clear about one thing: Without question, Jeffrey Epstein was a terrible pedophile, but I never would have met Jeffrey Epstein if not for you. For me, and for so many others, you opened the door to hell, and then, Ghislaine, like a [redacted] in sheep's clothing, you used your femininity to betray us and you led us all through it. When you did that, you changed the course of our lives forever. You joked that you were like a new mother to us. As a woman, I think you understood the damage that you were causing, the price you were making us victims pay. You could have put an end to the rapes,

the molestation, the sickening manipulation that you arranged, witnessed and even took part in. You could have called the authorities, and reported that you were part of something awful.

I was young and naïve when we met, but you knew that. In fact, you were counting on it. My life as a young person was just beginning. You robbed me of that by exploiting my hopes and ambitions. Ghislaine, the pain you have caused me is almost indescribable. Because of your choices and the world you brought me into, I don't sleep. Nightmares wake me at all hours. In those dreams, I relive the awful things that you and others did to me and the things that you forced me to do. Those memories will never go away.

I have trouble meeting new people without questioning if somehow they're going to hurt me too. There is not a day that doesn't go by that I don't ask why. Why did you enjoy hurting us so much? I worry every single day and night that you will get away with it and evade being punished. I will worry about that until you're brought to justice. And what should that justice look like? Ghislaine, you deserve to spend the rest of your life in prison in a jail cell. You deserve to be trapped in a cage forever just like you trapped your victims. But I want you to know that while you tried to break me, you did not succeed. Despite you, I've grown into a woman who tries to do good in the world; a woman who on her best days

EFTA02839425

feels like she's making a difference.

My promise to you is as follows: As long as you and perpetrators like you continue to prey on the vulnerable, I will not stop standing up and speaking out. Together with so many others you abused, we will do all we can to keep predators from stealing the innocence of children. I will never give up. I will never go away. If you ever get out of prison, I will be here watching you and making sure you never hurt anyone else again. Thank you.

THE COURT: Thank you, counsel.

And I do have the written submissions submitted in accordance with the Court's order from [redacted], who I understand was not able to be present. And so I'll hear from [redacted]. Please tell me how tell me how to say your name correctly.

[redacted]: [redacted].

THE COURT: Thank you.

[redacted]: Your Honor, it's been a long journey to bring Maxwell to justice. Although I have physically escaped the hideous trap set by Epstein, Maxwell and other co-conspirators, I continue now, 17 years later, to suffer from the horrific trauma it has caused.

I came to New York at the age of 22 hoping to attend New York's FIT and work in the fashion industry. Soon after arriving, I made met an Epstein-Maxwell recruiter named Natalya

EFTA02839426

[redacted]. She described him as a kind philanthropist who could help me get into FIT and provide much needed support.

Over the next seven to eight months, I became against my will nothing more than a sex toy for the entertainment of Epstein, Maxwell and others. I was subjected to sexual predation multiple times per day, both in his New York mansion and on his private island in the U.S. Virgin Islands. On one of the visits to the island, the sexual demands, degradation and humiliation became so horrific that I tried to escape by attempting to jump off a cliff into shark-infested waters.

Epstein and Maxwell were masters at finding young, vulnerable girls and young women to exploit. Upon targeting a vulnerable girl/young woman, they would ingratiate themselves to her, giving her compliments and small gifts, telling her how special she was. Soon after lulling me and others into a false sense of security and comfort, they pounced, ensnaring us in the upside-down, twisted world of rape, rape, rape. Like Hotel California, you can check into the Epstein-Maxwell dungeon of sexual hell, but you could never leave.

The manipulation, intimidation and emotional abuse used to control the victims took many forms. In my case, Epstein and Maxwell used my dysfunctional family history, naivete, visa status, lack of education and desire to go to FIT to manipulate, scare and ensnare me. They told me that I was exceptionally intelligent and that I had real potential to be

EFTA02839427

someone and something in life one day.

Epstein's and Maxwell's strong ties to FIT could make this happen. With their help, my admission was almost assured, but there was always a but. First I had to write my application, which I did. But Maxwell had to review it and conveniently always found fault. Then another but, I needed to lose 30 pounds because I was a piglet. Maxwell's numerous degrading descriptions of me. Epstein and Maxwell put me on a strict Atkins diet while simultaneously sending me to a psychiatrist who prescribed antidepressants that caused weight gain. It was a classic no-win situation, and they knew it: Precisely what human traffickers seek. I never lost the weight, my application was never good enough, and it never got submitted.

I thank the almighty God that in 2007, I managed to escape the horror by fleeing to the U.K. Since then, I have been coping as best as I can and frequently experience flashbacks and wake up in a cold sweat from nightmares from reliving the awful experience. I'm hypervigilant. I do not trust people easily. I experience dramatic mood changes. I will sometimes start crying uncontrollably for reasons I cannot always comprehend. I worked hard with several mental health professionals. They have diagnosed me with extreme symptoms of anxiety, depression, low self-esteem, PTSD and tendency to self-harm.

EFTA02839428

Despite my earnest effort I have not realized life's true potential professionally, nor entered any healthy personal relationships. I have never married, and I do not have children, something I always wished for when I was a little girl. I shy away from meeting new people and have difficulty making new friends because I fear they too could be associated with Epstein and Maxwell and their enablers and co-conspirators.

To this day I attend meetings to treat alcoholism, but I have had numerous relapses, and I cannot always control that. I know that only by the [redacted] of God do I continue to live. I have attempted suicide twice since the abuse -- both near fatal.

Last year, I traveled to New York to attend Maxwell's trial. It was therapeutic to hear the testimony of the four brave victim-witnesses, whose experience paralleled my own, to know that I was not alone, and that our story was finally being told for the world to hear.

I am grateful the jury believed the victims and returned a guilty verdict, but a question still tears at my soul. After all of this, how can this five-star general of this enormous sex-trafficking conspiracy involving hundreds, if not thousands, of vulnerable girls and young women over three decades continue to maintain her innocence? Reflecting on it, I know the answer to my questions.

Maxwell is today the same woman I met almost 20 years ago, incapable of compassion and human common decency. Because of her wealth, her social status and connections, she believes herself beyond reproach and above the law. Sentencing her to the rest of her life in prison will not change her, but it will give the other survivors and I a slight sense of justice and help us as we continue to work to recover from the sex-trafficking hell she perpetrated.

She will never ever hurt another young woman or child again in this lifetime, and for that I am sure.

To Ghislaine, I say, you broke me in unfathomable ways, but you did not break my spirit, nor did you dampen my eternal flame that now [redacted] brighter than ever before.

Thank you, your Honor.

THE COURT: Thank you, [redacted]. I will hear the statement from [redacted]

[redacted]: Good afternoon, your Honor.

THE COURT: Good afternoon.

[redacted]: I came to New York in 1991 at the age of 18 to attend FIT and immediately began to excel academically. In my sophomore year, I accepted a Christmastime internship at Henri Bendel New York. I performed well and was asked to stay on as a part-time employee.

In the fall semester of my senior year at FIT, Ghislaine Maxwell came into the store where she was a frequent

EFTA02839430

customer. Her usual salesperson wasn't there, so I helped her. Ghislaine was electrifying. We hit it off immediately. In this first meeting we spoke of our mutual love of fashion, of difficult fathers and formal upbringing, of boyfriends and of how we both saw New York as a chance to start over. She told me that her boss, who I later came to understand was Jeffrey Epstein, was close friends with Lex Wexner, the CEO and founder of The Limited, which owned Henri Bendel at the time.

When she completed her purchases, I offered to deliver them to her so she didn't have to carry them around all day. This was a courtesy I frequently extended to my high-end clients. Later that day, I called her office for delivery instructions and was told to bring them to a hotel close by to the store. When I arrived, the hotel concierge told me Ms. Maxwell was in the bar and wanted me to meet someone. It was Jeffrey Epstein. That night in the hotel was the first of many times they sexually assaulted me.

Afterwards I tried to pretend everything was normal. I returned to my classes at FIT and continued to work at Henri Bendel, but I started to crack. I failed a course that was necessary for my degree and had to retake it to get my diploma. Shortly after my first meeting with Epstein and Maxwell, I was offered a full-time position at Henri Bendel. It was a newly created position at the store, and it would have required me to leave FIT a semester short of completing my degree. I had

EFTA02839431

aspirations of going to law school, and I knew I could not do so without my undergraduate degree, so I declined it.

When Ghislaine found out, she flew into a rage. I didn't understand why until she told me that she and Epstein were responsible for giving me that opportunity and that in turning it down I was being ungrateful. I now know that this was their standard operating procedure. Give a gift or a favor and then demand sex in return. Nevertheless, I completed my course work, got my degree from FIT, at which point I left Henri Bendel and took a position at Bloomingdales. I wanted to leave Epstein and Maxwell and the abuse they perpetrated against me behind as I started my professional life. I never wanted to or expected to see them again.

One day in the fall of 1995, Maxwell showed up at Bloomingdales looking for me. When I asked her how she knew where I was, she said she asked my colleagues at Henri Bendel. She immediately began befriending me once again, asking me to go out socially. I tried to resist but eventually she wore me down, and I began spending time with them again. They made me feel like they were friends, contemporaries.

In one instance, they took me to Florida and insisted that I stay longer than planned which caused me to miss work and led to me being fired. Seizing on this new vulnerability they began trafficking me to their friends. By that time I was trapped. I was assaulted, raped and trafficked countless times

EFTA02839432

in New York and Florida during a three-year period. Things happened that were so traumatizing that to this day I am unable to speak about them. I don't even have the vocabulary to describe them. In the most literal sense of the word, Epstein and Maxwell terrified me. They told me that if I told anyone, no one would believe me; and if they did, they would kill me and the people closest to me. I believed them.

I was once bright, fun, outgoing and kind. I loved life and people genuinely enjoyed being around me. After meeting Jeffrey Epstein and Ghislaine Maxwell, it felt like someone shut off the lights to my soul. My secrets became too much for me to handle, and I began doing whatever I could to try to get away from Maxwell and Epstein. I changed jobs, apartments, cities and even states to try to get away. Everywhere I went, they found me.

In 1997 I moved to Philadelphia with the hopes of finally starting law school. They found me again, and it was more than I could take. I was hospitalized with a nervous breakdown. It would be the first of over two dozen hospitalizations in a decade following my involvement with Epstein and Maxwell.

In addition to my escalating mental health problems, I began to experience physical symptoms that doctors could never quite put their fingers on. I could no longer even pretend to be able to hold down a job or take care of myself in any

meaningful way, and I had to move back home once again. Emotionally, I had cracked and nobody thought I would ever get better, but I didn't give up. I was determined to do whatever I had to to prove everyone wrong. I wasn't crazy. I was hurt.

For over a decade and a half, I went to all kinds of medical specialists and was in and out of medical and psychiatric hospitals, having tests and procedures, even submitting to clinical trials and an experimental implantable medical device. Nothing helped.

Just as I began to repair the emotional damage, I was diagnosed with complex regional pain syndrome. CRPS is a rare neuro-inflammatory disorder characterized raised by intense relentless physical pain. Both CRPS and PTSD are psychophysical states in which the sympathetic nervous system is engaged and remains inappropriately hyperaroused. There is no cure. The mind and body are interconnected. Despite of this, I immersed myself this trauma therapy and repaired my emotional health. I began physical therapy and regained my physical mobility. I started to rebuild my life.

The arrest of Epstein in 2019 and Maxwell in 2020 helped me immensely. For the first time, I was finally able to disclose their abuse to friends and medical providers. 25 years after meeting them my experience was validated. I could finally see the possibility of closure. This past November and December I commuted almost every day from my home in

EFTA02839434

Philadelphia to attend Ghislaine Maxwell's trial in Manhattan. For weeks I sat in this courtroom anonymously, only revealing my identity the day before the verdict. I had to see justice myself.

At the age of 48, I feel as if I'm just starting my life. All those things I assumed I would have in life, the things that my siblings and my friends have achieved: A career, success, partner, family, a home, a legacy to be proud of leaving behind were jeopardized for more than two and a half decades. The only pronounced difference between my life experience and theirs is that one day when I was doing my job, I met Ghislaine Maxwell who fed me to Jeffrey Epstein.

(Continued on next page)

EFTA02839435

[redacted]: In more ways than one, they almost killed me, but I wasn't going to let them. Overcoming what happened to me became my decades-long, full-time career. In that, I have been successful.

For the past 25 years, Ghislaine Maxwell has been free to live a life of wealth and privilege that is almost incomprehensible. Meanwhile, I have had virtually none of the life experiences I might have had we never met. For over two and a half decades, I felt like I was in prison. She has had her life. It's time to have mine. She needs to be imprisoned so all of her victims can finally be free.

Thank you, your Honor

THE COURT: Thank you, [redacted]

[redacted]. Sternheim?

MS. STERNHEIM: Thank you, Judge. Judge, I would like to stand at the podium.

THE COURT: Please.

Let me just note again that I did have the statements of the victims in the record. I thank them for making statements today and thank their counsel for working with them in conformity with my order.

MS. STERNHEIM: Your Honor, I would like to address the victims. I am going to try to turn around if the Court permits me.

THE COURT: As long as I can hear you and the court

EFTA02839436

reporters can hear you.

MS. STERNHEIM: I am going to speak as best as I can.

I want to acknowledge the courage that all of you have exhibited in coming forward at the trial and again today. Your statements are immensely powerful. We feel the pain. We can only hope that the end of this case and the sentence to be imposed will give you some solace and the sanctity that you have the ability to move forward and beyond all of this.

Judge Nathan, can you hear me? I didn't pull it out, I hope.

THE COURT: I can.

MS. STERNHEIM: Okay.

You have heard all of the trial testimony and you are fully familiar with the record. We will refrain from pointing out many statements that we disagree with by the government that we believe stretches the elasticity of the record well beyond what we believe is fair inference. But the purpose of today is not to take issue with the record; that will be addressed to the Court of Appeals.

The government asks the Court to sentence Ms. Maxwell above the more reasonable guideline range that the Court determined is applicable in this case and seeks a sentence of multiple decades in prison for a woman who is almost 61 years old and for almost the last 20 years has not engaged in any conduct similar to that which was the subject of the trial and

EFTA02839437

the conviction.

The government has asked for an immense sentence. We recognize that any sentence in this case is going to be significant and is going to be immensely punishing. The probation department, based on the original guidelines in the presentence report, recommended a downward variance to 20 years. That recommendation is now higher than the guideline range that is applicable in this case. But we ask the Court to consider the justification that probation articulated in the presentence report in fashioning a sentence that takes into consideration that a sentence lower than the guideline range is appropriate in this case.

The government's sentence asks for the outer limits, and although we still believe that even the recommendation is too high, a sentence within the guideline range now may be more reasonable, but it still does not take into consideration some of the various factors that we have brought to the Court's attention in our submission. Simply stated, based upon the conduct of conviction, the government's request is out of proportion. Jeffrey Epstein would have faced the same sentence, and he is clearly far more culpable than Ghislaine Maxwell.

THE COURT: You mean he would have faced the same guidelines.

MS. STERNHEIM: Yes, that is correct, Judge.

EFTA02839438

The sentencing submissions, which I know the Court has read—and I know the Court reads everything very critically and carefully—outlines and details our position, and I am not going to take the time to repeat those things unless the Court requests me to answer certain questions.

But in fashioning the appropriate sentence for this case and this defendant, the Court needs to take into consideration the various 3553(a) factors that the Court must take into consideration in every case regardless of what the crime of conviction is.

I know that what we heard today does not beg sympathy for Ms. Maxwell, but there are circumstances in her life that bear attention by the Court in imposing a reasonable sentence in this case. She has lived the entirety of her life under giant clouds that have cast very dark shadows. The tragic accident of her eldest brother within 72 hours of her birth on Christmas Day left him in a coma for seven years, until he died, an event that impacted her family to this day and overshadowed infant Ghislaine's entry into the world and her early childhood. Her narcissistic, brutish, and punitive father overwhelmed her adolescence and early adulthood. And the controlling, demanding, manipulative Jeffrey Epstein cast a deceptive shadow over Ghislaine's adulthood, the repercussions of which will plague her until her last breath. And like the past two years of intense presentence incarceration, which was

unusually harsh and punishing, she will remain in the shadow of prison bars until she can return to the sunlight of liberty.

As I said before, she is over 60 years old. She has no history of violence. She had no criminal history before or after the crimes of conviction, which ended some 20 years ago, and the Court needs to consider that there is an extensive period that has elapsed from the end of the charged conduct. She poses no danger to society or of recidivism. Her personal circumstances include many accomplishments and good deeds.

As I said, she has been subjected to extensive punishing conditions of presentence incarceration in solitary confinement. When she was moved within the last two months to general population, she began interacting with the inmates and assisting them in many, many ways. She began conducting English classes and GED tutoring, programs that were no longer being offered in the MDC and certainly had been suspended as a result of the ongoing pandemic. Her asset to the unit in general population is recited in the unsolicited letter submitted to the Court from one of her fellow unit inmates. But I have also been contacted personally by counsel for other inmates in Ms. Maxwell's unit, reporting to me that she is providing needed educational assistance that has not been ongoing for at least two years.

Ms. Maxwell is being sentenced for terrible conduct. There is no denying that. But she has the ability and the

EFTA02839440

desire to be law-abiding, which she has exhibited, and to do good. Before the charged offense and for the better part of the past 20 years, she has demonstrated that she is not a danger to anyone. A sentence below the applicable guidelines is sufficient, but not greater than necessary, punishment for Ghislaine Maxwell. The Court should not send her away for the rest of her life.

Thank you.

THE COURT: Thank you, Ms. Sternheim.

Ms. Maxwell, you have the right to make a statement. You are not obligated to do so, but if you would like to, you may do so now.

THE DEFENDANT: I would, your Honor.

MS. STERNHEIM: She would. Where would you like her to -- I'm sorry, Judge. Where would you like her to address the Court?

THE COURT: Are the marshals comfortable with the podium?

THE MARSHAL: Yes, your Honor.

THE COURT: You can go to the podium, Ms. Maxwell.

MS. STERNHEIM: Thank you very much.

And she may remove her mask?

THE COURT: Once you are at the podium, yes, you may remove your mask.

THE DEFENDANT: Thank you, your Honor.

EFTA02839441

Your Honor, it is hard for me to address the Court after listening to the pain and anguish expressed in the statements made here today. The terrible impact on the lives of so many women is difficult to hear and even more difficult to absorb, both in its scale and in its extent. I want to acknowledge their suffering and empathize. I empathize deeply with all of the victims in this case.

I also acknowledge that I have been convicted of helping Jeffrey Epstein commit these crimes. And despite the many helpful and positive things I have done in my life, and will continue to do, to assist others during my sentence, I know that my association with Epstein and this case will forever and permanently stain me.

It is the greatest regret of my life that I ever met Jeffrey Epstein. I have had plenty of time to think, having spent two years in solitary confinement. I believe that Jeffrey Epstein was a manipulative, cunning, and controlling man who lived a profoundly compartmentalized life and fooled all of those in his orbit.

Variously, his victims considered him as a godfather, a mentor, benefactor, friend, lover. It is absolutely unfathomable today to think that that is how he was viewed contemporaneously.

His impact on all those who were close to him has been devastating, and today those who knew him even briefly, or

EFTA02839442

never met him but were associated with someone who did, have lost relationships, have lost jobs, and have had their lives completely derailed.

Jeffrey Epstein should have been here before all of you. He should have stood before you all those years ago. He should have stood before you in 2005, again in 2009, and again in 2019, all of the many times he was accused, charged, and prosecuted.

But today it is not about Epstein ultimately. It is for me to be sentenced and for the victims to address me, and me alone, in this court.

To you, all the victims, those who came in court and to those outside, I am sorry for the pain that you experienced. I hope that my conviction, along with my harsh and unusual incarceration, brings you closure. I hope this brings the women who have suffered some measure -- I hope that this brings the women who have suffered some measure of peace and finality to help you put the experiences of those many years ago in a place that allows you to look forward and not back.

I also acknowledge the pain this case has brought to those that I love, the many I held and still hold close, which tortures me every single day, and the relationships that I have lost and will never be able to regain.

It is my sincerest wish to all those in this courtroom and to all those outside this courtroom that this day brings a

EFTA02839443

terrible chapter to the end, to an end. And to those of you who spoke here today and to those of you who did not, may this day help you travel from darkness into the light.

Thank you, your Honor.

THE COURT: Thank you, Ms. Maxwell.

Counsel, is there anything else -- I'm sorry, let me -- I do want to ask defense counsel, before I get there, if there are any objections to any of the conditions recommended by the Probation Department with respect to supervised release.

MS. STERNHEIM: No, Judge.

THE COURT: Okay. And I understand the government is not -- I just want to talk about restitution before I get to the statement of judgment.

Count Six is mandatory restitution, but the government's position is that no restitution should be ordered because all victims have been compensated.

MS. MOE: That is correct, your Honor.

THE COURT: Counsel, is there anything else I should consider or any reason why sentence should not be imposed at this time?

MS. MOE: No, your Honor. Thank you.

MS. STERNHEIM: No.

THE COURT: All right. Let me gather my thoughts for one moment.

(Pause)

THE COURT: Thank you for your patience.

As I have stated, the guideline range applicable to this case is 188 to 235 months' imprisonment.

Under the Supreme Court's decision in a case called *Booker* and related cases, the guideline range is only one factor that the Court must consider in deciding the appropriate sentence. I am also required to consider the other factors set forth in a provision called 18 U.S.C. 3553(a). These include the nature and circumstances of the offense, and the history and characteristics of the defendant; the need for the sentence imposed to reflect the seriousness of the offense, to promote respect for the law, to provide just punishment for the offense, to afford adequate deterrence to criminal conduct, to protect the public from further crimes of the defendant, to provide needed educational, vocational training, medical care, or other treatment. I am to take into account the kinds of sentences available, as I have said, the guideline range, any pertinent policy statement, the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct, the need to provide restitution as appropriate under the law to any victims of the offense.

I am required to impose a sentence sufficient, but no greater than necessary, to comply with the purposes I have just described. I have given substantial thought and attention to

EFTA02839445

the appropriate sentence in this case in light of the 3553(a) factors and the appropriate purposes of sentencing as reflected in that statute.

The crimes for which I sentence Ms. Maxwell today are the crimes for which a jury convicted her of committing following trial. I do want to emphasize that today the sentence is based entirely on those crimes and the harm done to the victims of those charged and proved crimes. The evidence at trial established that Ms. Maxwell directly and repeatedly and over the course of many years participated in a horrific scheme to entice, transport, and traffic underage girls, some as young as 14, for sexual abuse by and with Jeffrey Epstein.

I will pause on those words for a moment, "by and with Epstein." It is important at the outset to emphasize that although Epstein was, of course, central to this criminal scheme, Ms. Maxwell is not being punished in place of Epstein or as a proxy for Epstein. Like every other participant in a multi-defendant case, Ms. Maxwell is being punished for the role that she played in the criminal conduct. As to that role, the trial evidence established that Ms. Maxwell was instrumental in the abuse of several underage girls and that she herself participated in some of the abuse, and it is her conduct for which she has been convicted in the court under the laws of this country and it is her conduct for which she must be held accountable.

EFTA02839446

Turning to that conduct, the punishment here must reflect the seriousness of the offense, promote respect for the law, provide just punishment for the offense, and deter.

First, as to the seriousness, the defendant's conduct was, as aptly described by the probation department, heinous and predatory. Ms. Maxwell worked with Epstein to select young victims who were vulnerable. Once selected, Ms. Maxwell played a pivotal role in facilitating the abuse of the underaged girls through a series of deceptive tactics. A sophisticated adult woman, she provided an initial venire of responsibility and even safety. She befriended and developed relationships of trust. She then manipulated the victims and normalized sexual abuse through her involvement, encouragement, and instruction.

To give one example from trial, Jane testified that Ms. Maxwell cultivated a friendship with her, took her to movies and shopping. In an initial sexual interaction, while Jane was 14 years old, the defendant engaged in sexual conduct with Epstein while Jane was present. After that, the defendant instructed Jane, again, while she was only 14 years old, on how to massage Epstein, including instructions on how to touch his penis during massages. The abuse later escalated to Epstein using vibrators on Jane, penetrating her with his fingers. During some of the sexual abuse, the defendant would herself touch Jane's breasts.

Carolyn, the victim of the sex trafficking charge,

EFTA02839447

provides another example. She testified that she confided in the defendant that her mother was an alcohol and that she had been raped and molested by her grandfather starting at a very young age. The defendant, aware of this knowledge, used it to subject Carolyn to a continuing cycle of sexual abuse. The defendant wasn't an impassive observer, but herself touched Carolyn's breasts, again, at the time Carolyn was 14. For years, Carolyn was paid for the sexualized massages, including personally paid by the defendant.

Similar patterns of conduct were described by other witnesses. Indeed, the criminal conduct established at trial was extensive and it was far-reaching. Ms. Maxwell and Epstein victimized multiple underaged girls using this pattern, this playbook, over the span of many years and in a variety of locations. And the damage done to these young girls was incalculable. They did bravely testify at trial about what happened to them despite the extraordinary difficulty that entailed. They withstood cross-examination from zealous defense counsel and testified credibly at trial about the trauma that they had endured and the painful, horrific, and lasting impact of that trauma. They did so, they told me in their statements, in order to help ensure justice for themselves and others and to do what they could to try to prevent other girls from suffering in the future as they had suffered.

EFTA02839448

The sentence I impose must reflect the gravity of Ms. Maxwell's conduct, of Ms. Maxwell's offense, the pivotal role she played in facilitating the offense, and the significant and lasting harm it inflicted. So, too, must the sentence promote respect for the law, provide just punishment, and afford adequate deterrence.

As I have described, this scheme was long-lasting, it was far-reaching, it was horribly damaging to the victims. Just punishment and promotion of respect for the law, it demands a substantial sentence that meets the scope of the conduct and the scope of the harm.

Moreover, general deterrence is critically important to the sentence I will impose. A substantial sentence will send an unmistakable message that those who engage in and facilitate the sexual abuse and trafficking of underaged victims will be held accountable by the law.

As the probation department stated, a significant sentence should promote general deterrence against the exploitation and degradation of humans made possible by this offense, and I fully agree. But let me be clear that Ms. Maxwell is wealthy or that this case is high profile is not a basis for increasing punishment in any regard, but the rule of law demands, and this Court must ensure that, whether you are rich or poor, powerful or entirely unknown, nobody is above the law. That message serves the important interest in

EFTA02839449

deterrence and just punishment as well. All of these factors suggest that a very serious, a very significant sentence is necessary to achieve the purposes of punishment that I have just described.

Of course I must, and I do, take into account the history and characteristics of the defendant. Ms. Maxwell is over 60 years old. This is her first conviction. Neither in arguing for pretrial detention nor with respect to sentencing has the government contended that Ms. Maxwell represents a continuing danger to the public. As I explained, I do not need to find she is a continuing danger to apply 4B1.5(b), as her decade-long pattern of predatory activity amply justifies that enhancement and a substantial sentence, but her present lack of dangerousness is a factor in my consideration of a proper sentence.

Her sentencing submission letters and psychological report discuss the impacts of an overbearing and demanding father and the tragic death of her brother at the beginning of her life. The record indicates that she has engaged in some charitable works, including environmental conservation and health-related charitable organizing and giving. The set of letters I received from her family members and friends describe her as attentive and loving to her family and a loyal and generous friend. A letter from an inmate describes her tutoring of other inmates while incarcerated and Ms. Sternheim

EFTA02839450

represents that she has heard similarly from other defense counsel. I take all of these factors into account consistent with the 3553(a) statutory provision when deciding what sentence to impose.

Beyond these factors, much of the defense written submission, not the oral statement today, but much of the written submission focused on a series of complaints about Ms. Maxwell's pretrial detention. As I have said in many sentencing proceedings since the pandemic began, the conditions in the MDC have been extremely difficult for all inmates as a result. There have been extended periods of lockdown, health risks, and the lack of access to legal and social visits and programming and the like. Conditions at the MDC are, to put it mildly, not what they should be, and serving time during the pandemic has been more difficult than serving time before it. As I have in other sentencings, I take into account this in imposing an appropriate sentence. I also take into account that, as a high-profile defendant charged and convict of sex offenses against minors, Ms. Maxwell faces security risks and has endured additional isolation and surveillance beyond the typical pretrial detainee.

That said, I largely reject the defense's primary written contention that Ms. Maxwell has been singled out for uniquely harsh and punishing treatment. To the contrary, I agree with the government that many of the complaints have been

EFTA02839451

unfounded and exaggerated and that Ms. Maxwell's treatment at MDC was overall as good as or better than that of the typical pretrial detainee at the MDC during the pandemic.

I also reject the repeated allegations that Ms. Maxwell, who was provided extensive access to computers and legal materials, as well as to highly involved counsel, was in any way not able to prepare for trial or sentencing. I will say that I think a lack of full candor regarding treatment is consistent with a lack of candor to Pretrial Services and to the Court regarding finances, as well as the dishonesty that I have concluded occurred during the civil deposition that makes up the perjury counts. Overall, the behavior appears consistent with a pattern of deflection of blame.

I will note that I was -- I would emphasize that the sentencing submission talks about these complaints and blames others but did not express remorse or acceptance of responsibility. Ms. Sternheim and Ms. Maxwell today acknowledge the courage of the victims who testified and who spoke, talked about the pain and anguish that they have expressed, to some extent acknowledged the impact on them and their suffering, and I think that is important for the victims to hear. What there wasn't expressed was acceptance of responsibility. Now let me be clear. Ms. Maxwell is fully entitled to exercise her constitutional -- was fully entitled and is fully entitled to exercise her constitutional right to

EFTA02839452

go to trial. She has every right to appeal that verdict. But it is appropriate for this Court, in the face of genuine expressions of remorse and acceptance of responsibility, to decrease punishment because that's part of the message that's being sent by the law. It's appropriate to note and to take into account a lack of acceptance of responsibility, a lack of expression of remorse as to her own conduct. Today's sentence will attempt to acknowledge the harm that Ms. Maxwell caused and it will strongly and unequivocally condemn her criminal conduct.

I do conclude, consistent with the Probation Department recommendation, that a sentence of 240 months, which is slightly above the guideline range that I found, is both sufficient and necessary -- and no greater than necessary to meet the purposes of punishment that I have described.

I will now formally state the sentence I intend to impose. I will ask Ms. Maxwell and her counsel to please rise.

Ms. Maxwell, it is the judgment of this Court that you be sentenced to a period of 240 months, 20 years, to be followed by a period of five years' supervised release.

You may be seated.

To be precise, I am sentencing Ms. Maxwell to 60 months on Count Three, 120 months on Count Four, and 240 months on Count Six, all to run concurrently, for a total of 240 months' imprisonment. I am sentencing her to three years of

supervised release on Counts Three and Four and five years on Count Six, all to run concurrently, for a total of five years of supervised release.

Defense counsel indicated no objection to the conditions of supervised release indicated in the presentence report, and so I impose them precisely as stated in the presentence report, including the standard conditions, special conditions, and mandatory conditions of supervised release. Again, I am imposing them precisely as stated in the PSR.

I order Ms. Maxwell to pay a fine in the amount of $750,000. The maximum amount per count is $250,000, so that is $750,000 total. As I have indicated, I reject the contention that the defendant is unable to pay a fine. Ms. Maxwell has received a $10 million bequest from Epstein. This is in addition to her other assets. And the defendant, I conclude, is able to afford a substantial fine, and I conclude that the maximum amount per count is reasonable under all relevant circumstances in light of the counts of conviction.

The government has indicated that it is not seeking restitution nor forfeiture.

I am imposing a mandatory special assessment, as I must, of $100 per count, which is due immediately.

Does either counsel know of any legal reason, other than those already argued, why the sentence shall not be imposed as stated?

EFTA02839454

MS. MOE: No, your Honor.

MS. STERNHEIM: Your Honor, I would just like to make one statement, if I may. With regard to the fine, the Court indicated the bequest in the will. I just want the record to reflect that that is an unactualized bequest, as Ms. Maxwell has received nothing, and it is the expectation that she will receive nothing.

THE COURT: I understand. And to be clear, I am not finding and accept that she hasn't received anything, but there have only been nonspecific claims that she won't receive anything and there are additional assets that lead me to the conclusion that she is able to pay the fine.

MS. STERNHEIM: Thank you, Judge.

THE COURT: Thank you.

And just to confirm, Ms. Sternheim, any legal reason why the sentence should not be imposed as stated other than what already was argued?

MS. STERNHEIM: No, your Honor, but I do have requests for recommendation.

THE COURT: I will get there. Thank you.

The sentence as stated is imposed. I do find the sentence is sufficient but not greater than necessary to satisfy the sentencing purposes that I described earlier.

Ms. Maxwell, when you are released and on supervised release, you will have the guidance and support of the

EFTA02839455

probation department. I must caution you to comply strictly with all of your conditions of supervised release. If you are brought back before me for a violation of those conditions, I may sentence you to another term of imprisonment.

With that, Ms. Sternheim, requests regarding designation?

MS. STERNHEIM: Thank you, Judge.

We request that Ms. Maxwell be designated, based on a recommendation by the Court, to the BOP facility, the women's facility in Danbury, and also a recommendation that she be enrolled in the FIT program, which is the Female Integrated Treatment program, to address past familial and other trauma.

THE COURT: Okay.

MS. STERNHEIM: Thank you.

THE COURT: I recommend to the Bureau of Prisons consideration of placement in Danbury and consideration of eligibility for enrollment in the FIT program.

Ms. Moe, remaining counts and underlying indictments that need to be dismissed at this time?

MS. MOE: Yes, your Honor. The government moves to dismiss Counts Seven and Eight and any underlying indictments.

THE COURT: The motion is granted. Counts Seven and Eight are dismissed and any underlying indictments are dismissed.

Ms. Maxwell, I am required to inform you of your

EFTA02839456

appellate rights. You have the right to appeal your conviction and your sentence. The notice of appeal must be filed within 14 days of the judgment of conviction.

Other matters to take up counsel?

MS. MOE: Not from the government, your Honor. Thank you.

MS. STERNHEIM: No. Thank you.

THE COURT: Let me note, I will issue a housekeeping order posttrial to ensure complete docketing of all -- any outstanding materials and complete records, so please look for that. I will issue the judgment -- I should just say, Ms. Moe, the Court intends to indicate the end of the conspiracy date as the last date in the record, which I believe is in July of 2004, of acts in furtherance of the criminal conduct, and obviously the government took a different position with respect to that. But in light of the Court's finding, any objection to that?

MS. MOE: No, your Honor. We will review the exhibits. If that date is different from the sentencing transcript, we will submit a letter to the Court, but otherwise no objection, your Honor.

MS. STERNHEIM: No objection.

THE COURT: All right.

MS. MOE: With apologies, your Honor, with respect to the judgment, in light of the Court's decision to impose an

above-guidelines sentence and an above-guidelines fine, we would respectfully request that the Court address both the sentence and the fine in the Court's statement of reasons.

THE COURT: Yeah, I actually -- guideline range, let me just check. I meant to talk about that. I'm not sure it is an above-guidelines, but it may be since, as we know, I read over five to mean five. So maybe I got that wrong. Let me just check.

[redacted], you are right. It is 20 to 200,000 for each count. Do I have that right?

MS. MOE: Yes, your Honor. Thank you.

THE COURT: All right. Thank you.

I want to thank counsel. As I indicated, I do thank the victims who made statements in writing or orally and their counsel who supported them in that endeavor. I thank counsel for Ms. Maxwell and counsel for the government.

We are adjourned.

oOo

EFTA02839458