

1 (Begin proceedings in open court at 12:33 p.m.)

2 DEPUTY CLERK: 3:20-CR-49, United States of America
3 versus Lyons.

4 MS. LAWLESS: Good afternoon, Your Honor. Jo Lawless
5 on behalf of the United States.

6 MR. BUTLER: Good morning, Your Honor. For the
7 record, I'm William Butler. I represent Mr. Lyons.

8 THE COURT: Good afternoon. First, let me ask if
9 everybody can see me and hear me adequately? Mr. Butler?

10 MR. BUTLER: Yes, Your Honor, I can.

11 THE COURT: And Ms. Lawless?

12 MS. LAWLESS: Yes, sir.

13 THE COURT: And Mr. Lyons?

14 THE DEFENDANT: Yes.

15 THE COURT: Now, first, let's take up the issue of
16 proceeding in the manner that this hearing is scheduled for,
17 which is a -- obviously, by videoconference. Now, the CARES
18 Act, which was passed by Congress several months ago in the
19 early days of the pandemic, authorized federal courts to proceed
20 with hearings like this by videoconference, specifically Section
21 15002(b)(2) of the CARES Act. And, of course, this court's
22 General Order 20-23 provide the basis for proceeding in this
23 manner, along with the consent of both parties.

24 Now, Mr. Butler filed in the record of court a notice
25 indicating that he had conferred with Mr. Lyons and that he and

1 Mr. Lyons both agreed that it was proper and desirable to
2 proceed with this change of plea hearing via videoconference.
3 Is that correct, Mr. Butler?

4 MR. BUTLER: Yes, Your Honor, it is.

5 THE COURT: And nothing has changed in the interim
6 since your filing; is that correct?

7 MR. BUTLER: That's correct, Your Honor.

8 THE COURT: And, Mr. Lyons, you agree and consent to
9 proceed with your change of plea hearing via videoconference; is
10 that correct?

11 THE DEFENDANT: That is correct.

12 THE COURT: And, Ms. Lawless, the Government also has
13 no objection; is that correct?

14 MS. LAWLESS: We do not object, Your Honor, you are
15 correct.

16 THE COURT: Then I will find that the change of plea
17 hearing in this case may proceed via videoconference and should
18 not be further delayed without significant harm to the interest
19 of justice in light of, among other things, Mr. Butler's stated
20 reason, which is his particular vulnerability. I find that that
21 is certainly a reasonable basis for us to proceed via
22 videoconference, and we will then move forward.

23 So, Mr. Butler, you have explained Mr. Lyons' rights to him;
24 is that correct?

25 MR. BUTLER: That's correct, Your Honor.

1 THE COURT: And, Mr. Lyons, it is your intention to
2 plead guilty here this afternoon?

3 THE DEFENDANT: Yes, it is.

4 THE COURT: Now, before accepting your guilty plea,
5 there are a number of questions that I will need to ask you to
6 ensure that your guilty plea is valid. Some of these questions
7 will be of a personal nature. Some of the questions will be
8 about the rights that you must waive or give up in order to
9 plead guilty. We will talk about the charges contained in the
10 indictment. We will also discuss your plea agreement. Do you
11 understand how this will work?

12 THE DEFENDANT: Yes.

13 THE COURT: Now, if at any point you experience any
14 technical difficulty with your connection or you have trouble
15 hearing anything that's being said by me, or Mr. Butler, or
16 Ms. Lawless, I would ask you to raise your hand and we will stop
17 and make sure that you are brought up to speed. All right?

18 THE DEFENDANT: Okay.

19 THE COURT: Now, the first right that you must waive
20 is the right to remain silent. Do you wish to waive that right
21 in order to answer my questions going forward?

22 THE DEFENDANT: Yes, I do.

23 THE COURT: I'm going to have the clerk now administer
24 an oath or affirmation to you.

25 DEPUTY CLERK: Mr. Lyons, can you raise your right

1 hand.

2 (Defendant sworn.)

3 DEPUTY CLERK: Thank you.

4 THE COURT: I want to make sure now, Mr. Lyons, that
5 you understand that you have sworn to answer my questions
6 honestly.

7 THE DEFENDANT: Yes.

8 THE COURT: And that you understand that your answers
9 to my questions will now be subject to the penalties of perjury
10 or of making a false statement if you fail to answer truthfully.

11 THE DEFENDANT: I do.

12 THE COURT: If you would, give me your full name,
13 please.

14 THE DEFENDANT: Matthew Alexander Lyons.

15 THE COURT: And in what city and state did you reside
16 at the time of your arrest?

17 THE DEFENDANT: Elizabethtown, Kentucky.

18 THE COURT: Tell me how old you are.

19 THE DEFENDANT: 34.

20 THE COURT: Tell me how far you went in school.

21 THE DEFENDANT: I have some college.

22 THE COURT: And were you employed at the time of your
23 arrest?

24 THE DEFENDANT: I was.

25 THE COURT: Tell me where.

1 THE DEFENDANT: Big M Chevrolet.

2 THE COURT: What was the name of it?

3 THE DEFENDANT: Big M Chevrolet.

4 THE COURT: And what type of work did you do there?

5 THE DEFENDANT: Used car manager and new car manager.

6 THE COURT: Now, we're going to shift topics at this
7 point. Do you understand what is happening here today?

8 THE DEFENDANT: I do.

9 THE COURT: Now, I realize you are in the Grayson
10 County jail, but I still need to ask you the following
11 questions: Are you today under the influence of either alcohol
12 or drugs?

13 THE DEFENDANT: No, I am not.

14 THE COURT: What about prescription medications?

15 THE DEFENDANT: I have -- I am under prescription
16 medications given by the jail.

17 THE COURT: And tell me about those. What conditions
18 do those medications treat?

19 THE DEFENDANT: One is a nerve blocker that treats
20 sciatic nerve pain. The other one is a heart medication to
21 control or regulate my heart rate, and then I have metformin,
22 which is for diabetics.

23 THE COURT: Now, do any of those prescription
24 medications make it difficult for you to understand and follow
25 instructions?

1 THE DEFENDANT: No, they do not.

2 THE COURT: And more specifically, have any of those
3 medications made it difficult for you to, for instance,
4 understand the advice and counsel you have received from
5 Mr. Butler?

6 THE DEFENDANT: No.

7 THE COURT: Have you ever been treated for addiction
8 to drugs or alcohol?

9 THE DEFENDANT: No.

10 THE COURT: Have you ever been diagnosed with a mental
11 illness or disorder?

12 THE DEFENDANT: No.

13 THE COURT: Have you ever been treated for any mental
14 health problem?

15 THE DEFENDANT: I have not.

16 THE COURT: And with respect to those medications you
17 mentioned, are you regularly seeing a physician or other
18 healthcare professional who provides those prescriptions?

19 THE DEFENDANT: Not on a regular basis, no.

20 THE COURT: But you are able to have them refilled; is
21 that correct?

22 THE DEFENDANT: Correct.

23 THE COURT: And, Mr. Butler, have you had any problems
24 communicating with Mr. Lyons?

25 MR. BUTLER: No, Your Honor, I haven't.

1 THE COURT: And you have met and counseled with him
2 regarding the charges in the indictment and the terms of his
3 plea agreement; is that correct?

4 MR. BUTLER: Yes, Your Honor, we've gone over all the
5 facts of his case, as well as the plea agreement multiple times
6 via Zoom, and I believe he's completely competent and he
7 understood everything that we talked about.

8 THE COURT: Understood your legal advice, that is?

9 MR. BUTLER: That's correct.

10 THE COURT: And he's been able to assist you in the
11 preparation of a defense in the case?

12 MR. BUTLER: Yes, Your Honor.

13 THE COURT: Any reason to believe that he doesn't
14 understand the nature of the charges in the indictment?

15 MR. BUTLER: No, Your Honor, there isn't.

16 THE COURT: Any reason to believe that he is impaired
17 in any way?

18 MR. BUTLER: No, Your Honor.

19 THE COURT: And I believe you already said you believe
20 he is competent; is that correct?

21 MR. BUTLER: That's correct.

22 THE COURT: Based upon my observations of Mr. Lyons,
23 albeit at a distance via video, also based upon his answers to
24 my questions, the information provided by Mr. Butler, I find
25 that Mr. Lyons is competent to plead guilty to the charges

1 against him in the indictment.

2 Now, Mr. Lyons, do you have there on the table in front of
3 you a copy of the indictment?

4 THE DEFENDANT: I do.

5 THE COURT: And have you had enough time to go over
6 the charges in the indictment with Mr. Butler?

7 THE DEFENDANT: I have.

8 THE COURT: And are you fully satisfied with the
9 advice, counsel, and representation that Mr. Butler has given
10 you?

11 THE DEFENDANT: I am.

12 THE COURT: And are you satisfied with proceeding
13 solely with Mr. Butler as your counsel, not including your
14 former counsel?

15 THE DEFENDANT: I am.

16 THE COURT: So we're going to circle back to a
17 discussion of the indictment in a few minutes.

18 Now we're going to cover those essential rights I spoke of
19 at the outset of the hearing that any defendant who chooses to
20 plead guilty must waive or give up.

21 First, I want to make sure you understand that you have a
22 right to assistance of counsel at every stage of the proceedings
23 against you, and if you cannot afford counsel, one will be
24 appointed to represent you free of charge throughout the
25 pendency of these charges. Do you understand that?

1 THE DEFENDANT: I do.

2 THE COURT: Do you also understand that you have the
3 right to plead not guilty and the right to persist in that plea?

4 THE DEFENDANT: I do.

5 THE COURT: Do you understand you have no obligation
6 to plead guilty here today if you do not wish to do so?

7 THE DEFENDANT: I do.

8 THE COURT: Do you also understand that you have a
9 right to a trial by jury and that a plea of guilty constitutes a
10 waiver of that right; and if I accept your guilty plea, there
11 will be no further trial of any kind?

12 THE DEFENDANT: I do.

13 THE COURT: Do you understand that if there was a
14 trial, you would be presumed innocent and the United States
15 would bear the burden of proving you guilty beyond a reasonable
16 doubt before you could be convicted?

17 THE DEFENDANT: I do.

18 THE COURT: Do you understand that if you plead
19 guilty, you will no longer be presumed innocent?

20 THE DEFENDANT: I do.

21 THE COURT: Do you understand that you have the right
22 to a speedy and public trial by jury?

23 THE DEFENDANT: I do.

24 THE COURT: Now, if there was a trial, any verdict
25 must be a unanimous decision of a jury composed of 12 people.

1 Do you understand that if you plead guilty, you will be giving
2 up your right to a jury trial?

3 THE DEFENDANT: I do.

4 THE COURT: Also, if there was a trial, Mr. Butler
5 could vigorously represent you in that trial. He could object
6 to any evidence offered by the United States. He could cross-
7 examine their witnesses. He could compel witnesses to appear
8 and testify in your behalf. He could make arguments to the
9 court and ultimately to the jury, but by pleading guilty, there
10 will be no opportunity for Mr. Butler to take these actions in
11 your behalf. Do you understand that?

12 THE DEFENDANT: I do.

13 THE COURT: Now, do you also understand that if there
14 was a trial, you would have a right to testify, if you chose to
15 do so?

16 THE DEFENDANT: I understand.

17 THE COURT: And do you also understand that you have a
18 right not to testify and no one could force you to testify in
19 your own trial?

20 THE DEFENDANT: I understand.

21 THE COURT: And, finally, do you understand, if you
22 plead guilty, you'll also have to waive your right not to
23 incriminate yourself, since I will ask you questions about what
24 you did in order to establish a proper factual basis for your
25 guilty plea?

1 THE DEFENDANT: I understand.

2 THE COURT: Do you understand you will have to
3 acknowledge your guilt?

4 THE DEFENDANT: I understand.

5 THE COURT: So, Ms. Lawless, as we come back to the
6 indictment, let me turn to you now and ask you to briefly
7 describe the nature of the charges here in this indictment.
8 We'll need to discuss the penalties which apply to the charges.
9 We'll need to cover the forfeiture notice, and I'll need you to
10 tell me whether restitution will be an issue in this case going
11 forward.

12 MS. LAWLESS: Yes, Your Honor. This is a six-count
13 substantive indictment followed by a notice of forfeiture. It
14 charges, in Count 1, the production of child pornography on or
15 about February 16th, here in the Western District of Kentucky,
16 in Hardin County, that Mr. Lyons knowingly employed, used,
17 persuaded, induced, enticed, or coerced a minor, John Doe 1, to
18 engage in sexually complicit conduct for the purposes of
19 producing visual depictions of that conduct in violation of
20 federal law.

21 That particular charge carries with it a mandatory minimum
22 term of not less than 15 years in prison, a maximum potential
23 penalty of 30 years in prison, a \$250,000 fine, or both prison
24 and a fine, and not less than five years and it could be any
25 number of years, up to and including life, of supervised

1 release. With a prior qualifying conviction, that increases to
2 not less than 25 years in prison. The fine and term of
3 supervised release would stay the same.

4 With regard to Count 2, Your Honor, the charge is referred
5 to as "online enticement." Again, this dates to February 16th
6 of this year, here in the Western District, in Hardin County,
7 that Mr. Lyons used a facility and means of interstate commerce
8 to knowingly persuade, induce, or entice an individual who had
9 not reached the age of 18 years, John Doe 1, to engage in
10 sexually explicit activity for which a person may be charged
11 with a criminal offense in violation of federal law.

12 That's going to be the same charge or -- I'm sorry. That's
13 not correct. The penalties will be the same, but I'll do them
14 separately.

15 With regard to Count 2, not less than 10 years in prison,
16 not more than life, a \$250,000 fine, or both, and not less than
17 five years and it could be any number of years, up to and
18 including life of supervised release.

19 Count 3 charges, on or about April 1st of this year -- this
20 is a sex trafficking of a minor charge -- in the Western
21 District of Kentucky, in Hardin County, that Mr. Lyons knowingly
22 affecting interstate commerce recruited, enticed, harbored,
23 transported, provided, obtained, advertised, patronized, or
24 solicited by any means a person -- in this particular case that
25 would be John Doe 2 -- knowing that the person had not attained

1 the age of 18 and would be caused to engage in a commercial sex
2 act in violation of federal law.

3 On or about April 1st -- and this is going to be Count 4.
4 So these are the same date, but this -- it's the same charge.
5 However, this is a different child, John Doe 3. The penalties
6 are the same for both of those counts, Your Honor, and it would
7 be not less than 10 years in prison, not more than life,
8 \$250,000 fine, or both, and, again, not less than five years and
9 it could be any number of years, up to and including life on
10 supervised release.

11 When we move to Count 5 of the indictment, that's a
12 distribution of child pornography charge. He's charged with, on
13 or about April 30th in 2018, here in the Western District of
14 Kentucky, in Hardin County, that Mr. Lyons knowingly distributed
15 child pornography, as that term is defined under federal law,
16 using any means and facility of interstate commerce in and
17 affecting interstate commerce by any means, including by
18 computer in violation of federal law.

19 The penalty for Count 5 is not less than five years, not
20 more than 20 years in prison, a \$250,000 fine or both prison --
21 and term imprisonment and a fine, and not more than 40 years --
22 I'm sorry. That's not less than five years and it could be any
23 number of years, up to and including life of supervised release.
24 With a prior qualifying conviction, the penalty raises from not
25 less than 15 years -- up to not less than 15 years and not more

1 than 40 years on the term of imprisonment. The fine and term of
2 supervised release would be the same.

3 Count 6 charges, on or about April 9th of 2020, here in the
4 Western District of Kentucky, Hardin County, Kentucky, that
5 Mr. Lyons knowingly possessed material that contained an image
6 of child pornography as defined under federal law that had been
7 mailed, shipped, or transported using any means of facility of
8 interstate commerce, again, in violation of federal law.

9 The penalties for Count 6 are not more than 10 years'
10 imprisonment, a \$250,000 fine, or both, and not less than five
11 years or it could be any number of years, up to and including
12 life of supervised release. With a prior qualifying conviction,
13 it increases to not less than 10 years and not more than 20
14 years of imprisonment. The fine and term of supervised release
15 would be the same.

16 For each of the charges, each of the six counts, there's a
17 mandatory \$5,000 assessment if you determine at the time of
18 sentencing that the defendant is not indigent.

19 There is a forfeiture allegation that's set out that covers
20 under different provisions of federal law all six of the
21 charges. I can tell you, Judge, that there were digital
22 devices, multiple digital devices that were seized in connection
23 with the investigation, as well as the pickup truck that
24 Mr. Lyons was driving at the time of the sex trafficking charges
25 that are set out in Counts 3 and Count 4 of the indictment.

1 Restitution is mandatory in this case under federal law. We
2 have made -- we have given notice to all three of the
3 identifiable victims that we have -- John Doe 1, 2, and 3 -- not
4 just about the charges, Your Honor, but also about today's
5 change of plea hearing. We have not received any requests for
6 restitution at this point in time. If that should change, we
7 would bring it to the court's attention, as well as defense
8 counsel, before sentencing and address those financial issues at
9 the time of sentencing.

10 THE COURT: Mr. Butler, have the charges and potential
11 penalties been accurately described by Ms. Lawless?

12 MR. BUTLER: Yes, Your Honor.

13 THE COURT: Mr. Lyons, do you understand the charges
14 in the indictment as outlined by Ms. Lawless?

15 THE DEFENDANT: I do.

16 THE COURT: And do you understand the potential
17 penalties which apply here, including mandatory minimum
18 sentences that apply with respect to Counts 1 through 5?

19 THE DEFENDANT: I do.

20 THE COURT: Now, one of the potential penalties in
21 addition to the terms of incarceration that Ms. Lawless
22 addressed that are applicable to each of the counts is a term of
23 supervised release.

24 Count 1, as an example, carries a minimum term of supervised
25 release of five years, and with a prior qualifying conviction,

1 that may go to as high as a minimum term of supervised release
2 of 25 -- is that right, 25 years, Ms. Lawless?

3 MS. LAWLESS: No, Your Honor. I'm sorry. This was
4 not very artfully drafted.

5 The term of imprisonment would include --

6 THE COURT: Oh, that's right.

7 MS. LAWLESS: -- increase from 15.

8 THE COURT: I see that now. So is there a qualifying
9 conviction? Does the Government anticipate there is a
10 qualifying conviction here?

11 MS. LAWLESS: It's unclear, Your Honor. We certainly
12 have given notice of that. Mr. Lyons was convicted -- I think
13 it's about 10 years ago of similar conduct, but it was the state
14 charge, the unlawful use of electronic device. It was also an
15 undercover operation. His former counsel and I talked about
16 that quite a bit and expect that there may be some more briefing
17 that we would provide to the court.

18 So he's been given notice that it very well may be a
19 mandatory minimum of 25 years. I will tell you that in our
20 guidelines calculations, recognizing of course that they are
21 only recommendations to the court, his guideline range comes out
22 above 25 -- or 25 years and above. It covers that so -- I know
23 I'm jumping ahead a little bit on you. That is the reason we
24 have the (C) plea agreement that addresses or takes into account
25 what the United States believes to be the mandatory minimum but

1 nevertheless is within the guidelines range, and it's for a
2 25-year recommendation sentence -- recommended sentence to the
3 court.

4 THE COURT: I see. Do you take issue with any of
5 that, Mr. Butler?

6 MR. BUTLER: No, Your Honor. I understand exactly
7 what Ms. Lawless has stated.

8 THE COURT: So let me return to you, Mr. Lyons.
9 Before that clarification, my question to you was really to make
10 sure you understand what supervised release is, because several
11 of these counts contain mandatory terms of supervised release,
12 and that would kick in, if you will, after any term of
13 incarceration that you may serve.

14 It appears at least a five-year term of supervised release
15 would follow any term of incarceration. And I want to make sure
16 you understand that during that period of supervised release,
17 while you're being overseen by a U.S. probation officer, you'll
18 be subject to certain rules and conditions. And if you violate
19 those rules and conditions, you could be subject to additional
20 penalties, including possibly a return to prison. Do you
21 understand?

22 THE DEFENDANT: I understand.

23 THE COURT: Now, do you also understand, as
24 Ms. Lawless outlined, that it is possible as a result of your
25 guilty plea that I will be asked to impose an order of

1 restitution for you to make payment to identified victims in
2 this case?

3 THE DEFENDANT: I understand.

4 THE COURT: Do you also understand that the Government
5 intends to ask the court to order forfeiture of some of the
6 electronic items -- anything else, Ms. Lawless, along those
7 lines?

8 MS. LAWLESS: A pickup truck.

9 THE COURT: I'm sorry?

10 MS. LAWLESS: I'm sorry, Your Honor. I interrupted.
11 I'm sorry I spoke over you. There's a pickup truck that he
12 drove to meet and pick up John Doe 2 and 3.

13 THE COURT: And so that will be included in the order?

14 MS. LAWLESS: Yes, sir.

15 THE COURT: And so I want to make sure you understand
16 then, Mr. Lyons, that once the court orders those items,
17 including that pickup truck and other electronic devices, once
18 the court orders their forfeiture, those items will become the
19 property of the United States.

20 THE DEFENDANT: I understand.

21 THE COURT: Now, do you also understand that I will
22 order a special penalty assessment of \$100 for each felony
23 count, and here under other provisions of the law, those special
24 penalty assessments may rise to a mandatory \$5,000 assessment
25 under Title 18 of the U.S. Code, Section 3014.

1 THE DEFENDANT: I understand.

2 THE COURT: Now, are you presently on probation or
3 parole from a conviction in any other court?

4 THE DEFENDANT: I am not.

5 THE COURT: Do you understand that once you plead
6 guilty here and judgment is entered, you will stand convicted of
7 federal felony crimes?

8 THE DEFENDANT: I understand.

9 THE COURT: Now, as a result of those convictions, you
10 are likely to lose several valuable rights and privileges,
11 including the right to vote, to serve on a jury, and to possess
12 a firearm. Do you understand?

13 THE DEFENDANT: I understand.

14 THE COURT: And do you also understand that given the
15 nature of these charges, the result of your conviction will also
16 likely result in substantial future restrictions on where you
17 may live and work, with whom you may associate, and possible
18 requirements that you register as a sex offender?

19 THE DEFENDANT: I understand.

20 THE COURT: Now, I ask the following questions of each
21 individual who chooses to plead guilty. They may or may not be
22 applicable to you, Mr. Lyons, but I do ask them equally. First,
23 if you are not a citizen of the United States, do you understand
24 that a conviction here may cause you to be deported from the
25 United States and to be detained until such deportation?

1 THE DEFENDANT: I understand.

2 THE COURT: And if you are a naturalized citizen of
3 the United States, do you understand that your conviction here
4 may result in the commencement of denaturalization proceedings
5 against you?

6 THE DEFENDANT: I understand.

7 THE COURT: And, Mr. Butler, I presume that if either
8 of these scenarios happens to be applicable to Mr. Lyons, you've
9 had occasion to talk about that with him.

10 MR. BUTLER: Yes, Your Honor, we did discuss that
11 briefly.

12 THE COURT: And is he a natural born U.S. citizen?

13 MR. BUTLER: He's a natural born citizen.

14 THE COURT: Very well. Then we can move on.

15 Mr. Lyons, has anyone threatened you, or threatened anyone
16 close to you, or forced you in any way to plead guilty?

17 THE DEFENDANT: No, no, Your Honor.

18 THE COURT: Is it your choice to plead guilty?

19 THE DEFENDANT: It is, Your Honor.

20 THE COURT: And you are doing so pursuant to a written
21 plea agreement; is that correct?

22 THE DEFENDANT: That is correct.

23 THE COURT: Now, I've been provided with the parties'
24 (C) plea agreement. It is 12 pages in length. Your signature,
25 Mr. Lyons, appears on the 12th and final page of the plea

1 agreement. Do you have a copy of it with you there at the
2 table?

3 THE DEFENDANT: I do.

4 THE COURT: And did you in fact sign it?

5 THE DEFENDANT: I did.

6 THE COURT: It is dated a few days ago on November the
7 18th. Is that correct?

8 THE DEFENDANT: That is correct.

9 THE COURT: And did you review it carefully with
10 Mr. Butler before signing it?

11 THE DEFENDANT: We did.

12 THE COURT: Ms. Lawless, let me return to you and ask
13 you now to review the essential terms of the parties' plea
14 agreement.

15 MS. LAWLESS: Yes, Your Honor. This plea agreement
16 between Mr. Lyons and the United States is under a specific rule
17 of criminal procedure 11(c)(1)(C). It's a binding plea
18 agreement on the parties. We recognize that no one can bind the
19 court, but it does include, as you mentioned just a couple of
20 minutes ago, a specific recommendation for disposition if you
21 accept the plea agreement.

22 If you should reject that plea agreement, Your Honor,
23 because you wanted to impose a sentence lower than or more than
24 what the parties have agreed upon, then Mr. Lyons would have the
25 opportunity to withdraw his pleas of guilty to the charges in

1 the -- that are set out in the plea agreement. Similarly, the
2 United States would be relieved of its obligations under the
3 plea agreement and could proceed with any charges that are
4 supported by the facts and the law and, upon conviction of any
5 of those charges, could proceed with a request for sentencing
6 different than what would be in the plea agreement supported by
7 the facts and the law. So it's important for the record and for
8 Mr. Lyons to understand, if you accept our plea agreement, he's
9 bound by it. If you reject it, then he would have the
10 opportunity to withdraw, as would the United States.

11 The plea agreement talks a lot about the things that you've
12 already discussed this morning, the charges, the indictment, the
13 constitutional rights. Importantly, on page two, beginning at
14 the very top of that page in numbered paragraph three and it
15 goes on through page five to the top of page six in numbered
16 paragraph four, there's a detailed factual basis for the pleas
17 to cover all six of the charges that are set out in the
18 indictment.

19 Numbered paragraph four goes through the penalties that
20 you've talked about already. And while there are mandatory
21 minimums that apply to a number of the charges that are in the
22 indictment, they are not required under law to stack. So when
23 we put them together, the combined minimum term of imprisonment
24 would be 15 years. That's the most serious of all the charges.
25 The maximum term of imprisonment would be life. The combined

1 maximum fine would be \$1,500,000, and the \$5,000 mandatory
2 assessment per count if you determine that he is not indigent.

3 The plea agreement calls for a term of supervised release,
4 which comes up a little bit later.

5 You've already talked to Mr. Lyons about any impact on his
6 citizenship. He is a natural born citizen of the United States,
7 but consistent with Sixth Circuit precedent, we include that
8 notice, just like you did, in every plea agreement that we do
9 now.

10 The plea agreement talks about, in numbered paragraph eight,
11 the parties understand that the United States Attorney's Office
12 has an obligation to fully apprise the court and the probation
13 officer of all facts that are pertinent to sentencing.

14 It talks again about financial obligations, which the
15 special penalty assessment of \$100 per each count is 600, and a
16 5,000 per count if the court determines that he's not indigent.

17 It also discusses or addresses what we talked about a little
18 bit ago, the mandatory restitution aspects of the case. We
19 don't have any requests at this time, but if there's something
20 that should come up between now and the time of sentencing,
21 we'll certainly bring it to the court's and defense counsel's
22 attention.

23 Numbered paragraph 11 sets out that at the time of
24 sentencing the parties will agree that a sentence of 25 years in
25 prison, followed by a life term of supervised release, is the

1 appropriate disposition of the case. We will also ask you to
2 consider a fine at the lowest end of the applicable guideline
3 range, based upon a determination of his ability to pay, and
4 demand forfeiture as referenced in paragraph one of the plea
5 agreement and in the indictment.

6 Numbered paragraph 13 addresses appellate rights. Mr. Lyons
7 is acknowledging that he's aware of his right to appeal his
8 conviction and sentence. However, he's waiving his rights to
9 appeal either the conviction or any sentence that you impose,
10 assuming that you accept the plea agreement. He's also agreeing
11 that he will not pursue an appeal later on for a collateral
12 attack with two discrete exceptions: If there are claims of
13 ineffective assistance of counsel or prosecutorial misconduct.
14 Otherwise, he's waiving his appeal rights both directly -- or
15 directly after the term -- imposition of his sentence. Sorry.
16 I got kind of tongue-tied -- as well as collaterally at a later
17 time.

18 Numbered paragraph 14, he's acknowledging that he will be
19 required to register under the federal Sex Offender Registration
20 Notification Act and under any state law where he might live,
21 work, go to school, or visit for more than a brief period of
22 time. It's a federal obligation in addition to the state
23 obligation that may be imposed in any of those places.

24 There is discussion also about the forfeiture aspects of the
25 plea agreement. We'll proceed with those at the appropriate

1 time through the appropriate motions.

2 He agrees that he's not going interpose an objection to the
3 transfer of evidence to other state, local, or federal agencies.
4 He's also agreed to abandon his interest and forfeit his
5 interest in any of the evidence that was seized during the
6 course of the investigation.

7 In numbered paragraph 23, it talks about what I did just a
8 moment ago, that if the court refuses to accept the agreement,
9 his options as well as the United States' options on how to
10 proceed going forward.

11 Twenty-five says that he agrees that the disposition
12 provided for in the agreement is fair, taking into account all
13 aggravating and mitigating factors, and he will not oppose
14 imposition of a sentence that incorporates the disposition
15 that's set out in this agreement.

16 Numbered paragraph 26 sums up that this written plea
17 agreement and the sealed supplement that was tendered to the
18 court in accordance with local rule, and practice, and order are
19 the only agreements. As you can imagine, Your Honor, I know you
20 know in all criminal cases there's a fair amount and sometimes a
21 lot of negotiation that goes on. This case involves a lot of
22 serious crimes and there has been back and forth over a
23 significant period of time trying to work out how to go forward
24 in the case. All of that said, this written plea agreement and
25 the sealed plea supplement are the only agreements between the

1 parties. There aren't side deals, promises, or anything that
2 hasn't been committed to writing and tendered to the court.

3 THE COURT: Mr. Butler, do you agree with
4 Ms. Lawless's description of the essential terms of the parties'
5 plea agreement?

6 MR. BUTLER: Yes, Your Honor.

7 THE COURT: So, Mr. Lyons, we're going to talk now
8 about a few of the provisions in your plea agreement. You have
9 a copy again there with you; correct?

10 THE DEFENDANT: I do.

11 THE COURT: So if you would, first, turn to page two
12 of the plea agreement. Paragraph three contains the agreed upon
13 factual basis for your guilty plea. It's about four pages long,
14 and I want to make sure that -- first of all, that you have
15 carefully reviewed all of the text in paragraph three with
16 Mr. Butler.

17 THE DEFENDANT: I have.

18 THE COURT: And do you agree with everything that is
19 written in paragraph three of your plea agreement?

20 THE DEFENDANT: I do.

21 THE COURT: Is it accurate?

22 THE DEFENDANT: It is accurate.

23 THE COURT: Now, I want to make sure you understand
24 that, under some circumstances, either you or the United States
25 may have the right to appeal any sentence that I impose in this

1 case, but as Ms. Lawless has pointed out, paragraph 13 on page
2 eight of your plea agreement contains an appeal waiver. And
3 that means that you have waived your right to appeal your guilty
4 plea, conviction, or sentence unless your appeal is based upon a
5 claim of ineffective assistance of counsel and/or prosecutorial
6 misconduct. Do you understand that?

7 THE DEFENDANT: I do.

8 THE COURT: You understand you have very limited
9 appeal rights remaining as a result of the concessions made in
10 your plea agreement?

11 THE DEFENDANT: I understand.

12 THE COURT: Now, do you have any questions remaining
13 about your plea agreement for Mr. Butler?

14 THE DEFENDANT: I do not.

15 THE COURT: Do you agree with all of the terms of your
16 plea agreement?

17 THE DEFENDANT: I do.

18 THE COURT: Now, the plea agreement will be entered in
19 the record.

20 In accordance with the local rules of our court, all plea
21 agreements in this district contain a plea supplement which is
22 sealed in the record.

23 Now, we are operating as we said at the outset via
24 videoconference. Counsel, as well as the defendant -- I believe
25 we have a court official and a jail official on the call also.

1 Is that correct?

2 MS. LAWLESS: Your Honor, Dr. Littrell is the case
3 agent, if that's who you see, Mike Littrell, with the computer
4 things behind him.

5 THE COURT: I see. Okay. The case agent. And then
6 we have someone from the Grayson facility that's monitoring
7 also; is that correct?

8 MS. LAWLESS: Judge, I think they do it a little bit
9 differently at Grayson County. I know at Oldham there's often
10 an official in the room. I think at Grayson County they may put
11 the inmate in there and nobody stays in there with him or really
12 monitors what's going on.

13 THE COURT: Right.

14 MR. BUTLER: I agree with Ms. Lawless, Your Honor,
15 that's -- excuse me for talking over, but I think that's the way
16 Grayson County handles it, at least in my experience.

17 THE COURT: Yes, I -- all right. I think then we've
18 gotten squared away with who all is on the videoconference.

19 So there is no jail official on there. I am -- as you can
20 tell, I think, from the video, I am in courtroom one of the
21 courthouse, and the court reporter is also physically present
22 here, the clerk, my deputy clerk is also present, as are court
23 IT folks and other chambers staff, but there is no one else in
24 the gallery in the courtroom.

25 So we will go on the sealed record to discuss the plea

1 supplement.

2 (Excerpt filed under seal.)

3 THE COURT: Very well. Let's go back on the unsealed
4 portion of the record.

5 Mr. Lyons, have there been any other promises made to you to
6 cause you to change your plea to one of guilty?

7 THE DEFENDANT: No, Your Honor.

8 THE COURT: Now, have you and Mr. Butler talked about
9 how the sentencing commission guidelines will be utilized in
10 your case?

11 THE DEFENDANT: We have.

12 THE COURT: The guidelines are not mandatory, but I
13 will in an effort to determine an appropriate sentence in your
14 case identify the guidelines applicable to the counts in the
15 indictment to which you are pleading guilty. They will be
16 calculated. They will be analyzed, along with your criminal
17 history score, and I will take into account the recommended
18 sentence that results from that calculation. Do you understand
19 how that works?

20 THE DEFENDANT: I do.

21 THE COURT: Now, I am also required to take into
22 consideration and apply any minimum or maximum sentence that is
23 set by Congress in the U.S. Code, as we have previously
24 discussed. Do you understand that?

25 THE DEFENDANT: I do.

1 THE COURT: Mr. Butler, are you satisfied that
2 Mr. Lyons understands the role of the sentencing commission
3 guidelines in determining his sentence?

4 MR. BUTLER: Yes, Your Honor.

5 THE COURT: Now, do you also understand, Mr. Lyons,
6 that I will not be able to determine an appropriate sentence in
7 your case until after the presentence investigation report has
8 been prepared by the U.S. Probation Office?

9 THE DEFENDANT: I understand.

10 THE COURT: Now, this is a comprehensive report that
11 the probation office will prepare. You will have an
12 opportunity, with the advice of counsel, to participate in the
13 preparation of that report by giving an interview to the
14 probation office. That report will be comprehensive. It will
15 provide me with information about you and your background, about
16 the offense conduct here. It will include guideline
17 calculations, as well as a criminal history score.

18 Once it is prepared, it will be provided to you and
19 Mr. Butler, as well as to the United States, and each side will
20 have an opportunity to review it, to provide feedback to the
21 U.S. Probation Office, as well as to object to its contents. Do
22 you understand that?

23 THE DEFENDANT: I do.

24 THE COURT: Once that process is complete, I will hold
25 a sentencing hearing, and at that sentencing hearing, I will

1 resolve any objections to the contents of the presentence
2 investigation report. Also, each side at that hearing will have
3 the opportunity to present evidence and testimony to the court
4 that is relevant to the issues of sentencing. Do you
5 understand?

6 THE DEFENDANT: I do.

7 THE COURT: Now, do you also understand, Mr. Lyons,
8 that parole has been abolished in the federal system, and if you
9 are sentenced to a term of imprisonment, you will not be
10 released on parole?

11 THE DEFENDANT: I understand.

12 THE COURT: Now, Ms. Lawless talked about how your
13 plea agreement was written pursuant to Rule 11(c)(1)(C), and she
14 specifically said that -- and we discussed that paragraph 11 of
15 your plea agreement contains the parties' agreement on a
16 sentence of 25 years' imprisonment, followed by a lifetime of
17 supervised release.

18 I want to make sure you understand that that agreed upon
19 sentence pursuant to Rule 11(c)(1)(C) is binding upon you and
20 upon the United States if I accept it, but it is not binding
21 upon the court. Do you understand that?

22 THE DEFENDANT: I understand.

23 THE COURT: That means that if I accept your guilty
24 plea and I accept the terms of your plea agreement, you will be
25 bound by your guilty plea and you will not be permitted to

1 withdraw it. But if I do not accept the terms of your plea
2 agreement, you will be given an opportunity to withdraw your
3 guilty plea and again enter a plea of not guilty.

4 THE DEFENDANT: I understand.

5 THE COURT: Do you also understand that no one can
6 make a promise that binds the court?

7 THE DEFENDANT: I do.

8 THE COURT: As I said, it is binding upon you and upon
9 the Government, but I want you to understand that I may accept
10 the plea agreement and impose the agreed upon sentence or I may
11 reject the plea agreement altogether. Do you understand that?

12 THE DEFENDANT: I understand.

13 THE COURT: And, Mr. Butler, you've discussed with
14 Mr. Lyons how a (C) plea works; is that correct?

15 MR. BUTLER: Yes, Your Honor, I have.

16 THE COURT: Now, consistent with my practice, we will
17 proceed through to the end of this hearing, but I will defer a
18 decision, Mr. Lyons, to a later date, including possibly the
19 date of your sentencing hearing, as to whether to accept your
20 plea agreement. And so it will be entered in the record as
21 proposed.

22 Now, Ms. Lawless, let me turn back to you and ask you to
23 summarize the evidence that the United States would produce at
24 trial on each of the six charges against Mr. Lyons.

25 And, Mr. Lyons, I will have some follow-up questions for

1 you, so please let me know if you don't hear anything that
2 Ms. Lawless says.

3 MS. LAWLESS: Yes, sir. On April 7th of this year, a
4 detective with the Kentucky Office of Attorney General's
5 Department of Criminal Investigation -- that would be Detective
6 Littrell -- received a request for assistance with a forensic
7 investigation on -- or review of some materials that had been
8 obtained through the course of a search warrant.

9 The Radcliff Police Department detective who reached out to
10 Detective Littrell -- had to do with a complaint that the
11 Radcliff police detective was investigating. He had received a
12 call from a grandparent who told him that at least one minor was
13 posting on social media about engaging in sexual activity with
14 an adult in exchange for currency.

15 The Radcliff detective interviewed the two minors that are
16 identified in the indictment as John Doe 2 and 3, seized their
17 mobile devices, and was granted consent to search those by their
18 legal guardians.

19 The Radcliff police detective had already identified
20 Mr. Lyons as the adult with whom the two boys had engaged in
21 sexual activity in exchange for money. And he learned that
22 Mr. Lyons had a prior conviction out of 2008 in Hardin District
23 Court for attempted prohibited use of electronic communication
24 system to procure a minor for sex in violation of state law.

25 The Radcliff detective obtained and executed a state search

1 warrant to seize and search Mr. Lyons' mobile devices. And on
2 April 10th, he delivered those, the state search warrant, the
3 consent forms, and all of those mobile devices to the Department
4 of Criminal Investigations with the AG's office for an
5 examination.

6 Detective Littrell conducted a full file extraction of
7 Mr. Lyons' iPhones and discovered what is set out in the factual
8 basis there. There were lots of images, lots of data that was
9 contained in there, including videos and photos. And during the
10 decoding process, he used something called Project Vic hash set
11 to identify potential child sex abuse images and videos that
12 were on the device.

13 And, basically, what that is, we have a set of hash values
14 from known series or known victims that have been identified in
15 other investigations around the country and sometimes
16 internationally. So he ran that program against what he had
17 discovered or pulled from Mr. Lyons' phone and learned that
18 there were, in fact, identifiable victims that were there.

19 During the review, he found more than 1,500 images and video
20 files that were identified by that hash value that I just
21 described to you, but he also continued to look through -- not
22 just through the automated process but through an actual
23 examination of him opening files and taking a look at what was
24 there. There were images that had been stored in PINs, so
25 personal identification code, protected applications within the

1 frequently used folder on Mr. Lyons' iPhone main screen. And
2 when you got to that, there were more than 250 categorized
3 folders within there.

4 There's a sampling that is set out at the top of page three.
5 They have to do with boys, Your Honor. I'm not going to go
6 through all of those specifics, but they're approximately 12
7 years old, 8 years old, 12 years old. And the descriptions of
8 what Detective Littrell found at the time are outlined there.

9 He continued to review the materials that were on Mr. Lyons'
10 iPhone, and what he discovered was that on April 1st of this
11 year, Mr. Lyons had communicated with at least one 14-year-old
12 boy, John Doe 2 in the indictment, on Grindr, a social media
13 app. And according to the interview with the boy, Lyons
14 exchanged photographs with him and conversations over the course
15 of the app, and then they started text messaging one another.

16 During those conversations, Mr. Lyons agreed to pay the boy
17 \$50 in exchange for Lyons performing oral sex on him, and the
18 two of them agreed to meet at a convenience store in Hardin
19 County, Kentucky.

20 On that same day, Mr. Lyons traveled to the convenience
21 store and met not one but two. There were actually two
22 14-year-old boys there, and in the indictment they're identified
23 as John Doe 1 -- I'm sorry. It would be -- should be 3 and 4 --
24 or 2 and 3. That's wrong -- John Doe 2 and 3. I apologize for
25 that typographical error.

1 Mr. Lyons picked up the boys in his 2017 Chevy Silverado
2 truck and drove them to a local Dollar General parking lot. And
3 while they were there, he performed oral sex on John Doe 2.
4 During that incident, John Doe 3 videoed it, and the DCI
5 detective retrieved and reviewed the video during the forensic
6 examination of the phones.

7 According to the interviews with John Doe 2 and 3, Mr. Lyons
8 also performed oral sex on both of them, although only one was
9 recorded, and he paid John Doe 2 \$70 and John Doe 3 \$60
10 following that particular incident.

11 During the review of Mr. Lyons' iPhone, Detective Littrell
12 also located a chat from earlier in the year, February 16th of
13 2020, between Lyons and a boy identified as only as "Trevor,"
14 who had indicated during the course of their communications that
15 he was 16 years old.

16 During this conversation Trevor, at the request and
17 persuasion of Mr. Lyons, sent two photos and two videos of
18 himself engaged in sexually explicit conduct. And there's an
19 excerpt of the conversations that are set out in the plea
20 agreement where Mr. Lyons identifies himself as being 32 years
21 old, and Trevor identifies himself as being 16. And over the
22 course of them talking about what's -- what's going on, the
23 images -- there are descriptions of the images that Detective
24 Littrell found during the course of his examination.

25 Trevor, who is referred to in Mr. Lyons' phone and set out

1 here in the course of the factual basis is John Doe 1 in the
2 indictment. Detective Littrell was able to identify through
3 additional investigation the identity of John Doe 1. And after
4 identifying him, he was able to conduct an interview with John
5 Doe 1.

6 During the course of that interview, Detective Littrell was
7 able to confirm that John Doe 1 was the person with whom
8 Mr. Lyons had been communicating and that he was 16 at the time
9 of their communication, as well as the fact that he had sent the
10 images that are described earlier in the plea agreement in the
11 factual basis.

12 After or also during the review of the phone, Detective
13 Littrell located a chat conversation between Mr. Lyons and
14 another adult named Robert Alan Thompson. Ordinarily we
15 probably wouldn't include the full name of another person,
16 except that Mr. Thompson has also been charged in federal court,
17 and his case is pending on your docket, and he's also pled
18 guilty.

19 Further investigation revealed that Mr. Thompson was a
20 middle school teacher in Frankfort, Kentucky, at the time of the
21 communications between Mr. Lyons and Mr. Thompson. Mr. Thompson
22 later moved to Hardin County and was teaching middle school
23 there.

24 Mr. Lyons and Mr. Thompson engaged in chat conversation on
25 April 30th of 2018. During that conversation, Mr. Lyons sent

1 Mr. Thompson two photos of actual minors engaged in sexually
2 explicit conduct. And there's an excerpt of their conversation
3 and a description of what was sent. The ages of the boys in
4 that transmission were 12 and 14, and clearly the images were
5 sexually explicit in nature.

6 Based on all of that, Your Honor, we think that that
7 establishes factually what happened to support Counts 1 through
8 6.

9 Additionally, Apple iPhones are not manufactured in the
10 Commonwealth of Kentucky and the term "means or facility of
11 interstate commerce" can include the internet or telephones, the
12 social media apps that were used in the course of communication
13 between Mr. Lyons, the minors that were identified, John Doe 1,
14 2, and 3, as well as Mr. Thompson, and the text communications
15 all occurred through the use of Mr. Lyons' iPhone. That's not
16 much of a summary, but it's the best that I can do. It's kind
17 of a long-winded thing, but it covers, we believe, all six of
18 the charges.

19 THE COURT: Mr. Lyons, did you hear and understand
20 everything that Ms. Lawless just said?

21 THE DEFENDANT: I do.

22 THE COURT: Do you agree with her summary of the facts
23 against you?

24 THE DEFENDANT: I do.

25 THE COURT: And do you agree that the summary she just

1 gave is consistent in all respects with the agreed upon factual
2 basis in paragraph three of your plea agreement that we talked
3 about a little while ago?

4 THE DEFENDANT: I do.

5 THE COURT: Is it true that you did all of the things
6 that the prosecutor said that you did?

7 THE DEFENDANT: It is.

8 THE COURT: I find that there is a factual basis for
9 Mr. Lyons' pleas of guilty.

10 Mr. Lyons, having found you competent to enter a guilty
11 plea, having found that you understand the rights that you must
12 waive in order to plead guilty, having concluded that your
13 guilty plea is voluntary, having found that you understand the
14 potential consequences of your guilty plea and the terms of your
15 plea agreement, and having found a factual basis for your guilty
16 plea, I will now ask you to tell me how you plead with respect
17 to each of the six counts against you.

18 In the case of U.S. v. Matthew Alexander Lyons, Number
19 3:20-CR-49, how do you plead as to Count 1 of the indictment?

20 THE DEFENDANT: Guilty.

21 THE COURT: And as to Count 2?

22 THE DEFENDANT: Guilty.

23 THE COURT: And as to Count 3?

24 THE DEFENDANT: Guilty.

25 THE COURT: As to Count 4?

1 THE DEFENDANT: Guilty.

2 THE COURT: As to Count 5?

3 THE DEFENDANT: Guilty.

4 THE COURT: And as to Count 6?

5 THE DEFENDANT: Guilty.

6 THE COURT: I accept Mr. Lyons' pleas of guilty to
7 Counts 1 through 6 of the indictment. While accepting his
8 guilty pleas, as you previously indicated, I have not yet
9 decided whether to accept the parties' plea agreement. His
10 guilty pleas will be entered in his behalf in the record.

11 Now, before we address a date for sentencing, Mr. Butler,
12 Ms. Lawless, are there any issues left for us to cover with
13 respect to Mr. Lyons' change of plea?

14 MS. LAWLESS: No, sir.

15 MR. BUTLER: No, Your Honor.

16 THE COURT: And do we have a date?

17 DEPUTY CLERK: March the 1st at 1:30.

18 THE COURT: And that works for both counsel?

19 MS. LAWLESS: It does.

20 MR. BUTLER: Yes, Your Honor.

21 THE COURT: We will at some point, Mr. Butler, in
22 advance of March 1st address whether the hearing may be safely
23 -- with respect to your personal concerns, may be safely
24 conducted in the courtroom or whether at that time we still need
25 to do so remotely, but we will save that issue and hope that

1 conditions change in the interim.

2 MR. BUTLER: Thank you.

3 THE COURT: Anything else that we need to talk about
4 at this time?

5 MS. LAWLESS: No, Your Honor. As you know, the
6 statute changes after someone is convicted, but Mr. Lyons has
7 been detained up to this point. I'm not aware of any reason to
8 change that, and we would -- legal reason to change that, and we
9 would ask you to order his continued detention.

10 MR. BUTLER: I understand, Your Honor.

11 THE COURT: Yeah, there's been no motion to revoke his
12 detention order, and so that issue is really not before me. I
13 think, given the serious nature of the crimes to which Mr. Lyons
14 has now pleaded guilty, his detention would be mandatory,
15 subject to a finding of extraordinary circumstances. In any
16 event and as I said, that's not before me via motion, so we will
17 maintain the detention as previously ordered.

18 If there's nothing else, then we will be adjourned. Thank
19 you.

20 (Proceedings concluded at 1:39 p.m.)

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