

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF FLORIDA  
GAINESVILLE DIVISION

UNITED STATES OF AMERICA,

-against-

Docket # 1:15-CR-00023

JONATHAN MARSHALL TAYLOR,

Defendant.

---

**DEFENDANT'S OPPOSITION TO PETITION  
TO MODIFY CONDITIONS OF SUPERVISED RELEASE**

Defendant, Jonathan Marshall Taylor, by and through undersigned counsel, hereby respectfully submits this opposition to the Department of Probation's request for modification of the Conditions or Term of Supervised Release filed June 19, 2020, and respectfully states as follows:

**PROCEDURAL HISTORY**

1. The Government commenced this action on August 25, 2015 by filing the Indictment charging Defendant with Sex Trafficking by Force, Fraud or Coercion, in violation of 18 U.S.C. §§ 1591(a)(1), 1591(b)(2) and 2.
2. Defendant was arrested pursuant to a warrant and appeared in this Court on August 27, 2015, and was subsequently released upon a \$100,000.00 bond.
3. On January 20, 2016, Defendant entered a guilty plea pursuant to a plea agreement with the Government.
4. On September 16, 2016, Defendant was sentenced to 48 months imprisonment followed by 10 years of Supervised Release with standard conditions.
5. Defendant did not appeal from the judgment of conviction.

6. Defendant was released from the custody of the Bureau of Prisons on April 7, 2020 and commenced his term of Supervised Release.

7. On June 19, 2020, the Department of Probation filed a Request for Summons and Modification of the Conditions or Term of Supervision (Docket # 71) requesting that this Court add additional conditions of Supervised Release.

8. That application is pending before this Court, and scheduled for a hearing there on March 9, 2021 at 9:00 a.m. before the Honorable Allen C. Winsor, D.C.J.

### **STATEMENT OF RELEVANT FACTS<sup>1</sup>**

9. Since this Court sentenced Defendant, the Court is well aware of the circumstances of this offense and Defendant's background. In the interest of brevity, undersigned counsel will focus on the following salient facts that are necessary to determine this application.

10. Prior to sentencing, Defendant was examined by Dr. Gregory A. Prichard, Psy.D., and administered several psychological tests, including the Dynamic Risk Assessment, the Static 99R, and the PCL-R. That examination resulted in a written report dated March 28, 2016, and which was submitted to this Court prior to sentencing.<sup>2</sup>

11. In that report, Dr. Prichard concluded that Defendant was not a sexual deviant, was not attracted to minors, and was an "extremely low risk in the sexual realm...In other words, I would not consider any kind of sexual deviancy diagnosis for him or that he is any type of sexual risk to the community. Rather, I would suggest that the prominent issue is risk of continuation of Cocaine use, which Mr. Taylor has indulged for more than 20 years." (Report of Dr. Gregory A. Prichard dated March 28, 2016, p. 6).

---

<sup>1</sup> The facts set forth herein are gleaned directly from the final pre-sentence investigation report, documents filed with this Court, conversations with the Defendant and others, and any exhibits attached hereto.

<sup>2</sup> Both of Dr. Prichard's reports referenced herein are being filed as exhibits to this document. Due to the sensitive nature of the contents, the documents are sought to be filed under seal.

12. Prior to sentencing, the Department of Probation submitted a Pre-Sentence Investigation Report that detailed Defendant's personal history, including a then 25-year+ problem with cocaine use. No recommendation for any special conditions of Supervised Release was set forth in the final Pre-Sentence Investigation Report.

13. At sentencing, the Government conceded that the application of the two-level increase under Guideline 2G1.3(b)(3), use of a computer to communicate with a minor, did not apply based on the facts of this case. (Transcripts of Sentencing, pp 11-15). The Government specifically stated that the minor was not brought to Defendant as a result of his use of a computer, but rather based on his relationship with the traffickers.

14. At sentencing, this Court noted that the facts of this case differed from most cases involving trafficking of minors for sex:

I'm not going to -- I've read your reports, and the government and probation didn't suggest otherwise. Nobody has suggested that he's a pedophile. Nobody has suggested that he's seeking out minors. But part of the sentence today will be he's going to be sentenced for what he did. And I'm not going to treat him like all the other people that come in front of me that do have computers filled with child porn that did seek out minors, that this was their choice, that they represent a clear and present danger to minors, but the sentence does have to reflect the seriousness of what he did do. And what he did do is get strung out on coke and have sex with a 15-year old, not once, but repeatedly.

...

He is not situated the same as many people that come in here for the same crime because they are pedophiles, because they have a history of it, because they've got computers full of child pornography, and so forth.

...

But those are my concerns. I absolutely am not going to treat him like the pedophile, the person that's -- has a history of it, and the person who I'm concerned the second they walk out of the courtroom is going to go call another 13 year old. And there are plenty of those defendants that appear in front of me.

(Transcripts of Sentencing, pp 27-28).

15. This Court reacknowledged this in pronouncing sentence:

I found the evaluation submitted by your lawyers to be persuasive, in turn, helpful. Oftentimes what's presented is not helpful, but I found that it was helpful to have you evaluated and then realize that you don't have the predispositions that we have in many similar cases. And that certainly is a mitigator and was actually helpful to the Court and is consistent with your presentation to the Court. You certainly have conducted yourself appropriately on release, which I weigh, as I should, and I certainly consider the fact that you have been able to pass your drug tests. I recognize -- and it would be inappropriate to sentence you as those who are true pedophiles and have a predisposition and represent a great danger in terms of specific deterrence. It also would be unfair and inappropriate to treat you as one who, similarly, had their computers loaded with child porn and so forth. All of those things are true and all of those things would weigh in favor of a lower sentence, and I consider all those things.

(Transcript of Sentencing, p. 49).

16. Ultimately, the Court granted the Government's 5K motion and sentenced Defendant well below both the applicable Guidelines range and the mandatory minimum based upon his cooperation. In imposing sentence, this Court ordered that Defendant comply with the standard conditions of Supervised Release, with several special conditions:

- (a) evaluation and treatment as needed for substance abuse;
- (b) regular testing for alcohol or drug use during Supervised Release;
- (c) that Defendant register as a sex offender as required by State law with the appropriate agency;
- (d) that Defendant provide proof of sex offender registration to Probation upon his release;
- (e) that Defendant cooperate with the sex offender registration agency as required by law;
- (f) no contact with the victim;

(g) that Defendant be subject to search of his residence, place of business, or vehicle by his Probation Officer;

(h) to inform all other residents of his home that the premises may be subject to search by Probation; and

(i) that Defendant cooperate in the submission of a DNA sample to Probation

(Transcripts of Sentencing, pp 55-56, Docket # 63).

17. Upon Defendant's release from the Bureau of Prisons, the Department of Probation filed the instant petition, seeking to add a number of special conditions to Supervised Release, which include:

1. a requirement that Defendant participate in sex offender counseling/treatment
2. a requirement that Defendant submit to periodic polygraph testing "as a means to ensure that he or she is in compliance with the requirements of his or her supervision or treatment program."
3. A prohibition on the possession of a "computer" which includes all types of commonly-owned smartphones
4. A requirement that Defendant be monitored for his internet use
5. a ban on use of the internet or any online computer service without the prior approval of probation
6. periodic searches of computer/smartphone/electronic devices
7. a ban on the use of data encryption
8. a full ban on the use of any pornography, including pornographic material depicting consenting adults
9. a prohibition on any place "where children are likely to gather"
10. pre-approval of any employment by Probation

18. In preparation of the Probation Department's Petition, Dr. Gregory Prichard re-evaluated Defendant in January, 2021, and completed a report dated February 3, 2021. In that

report, Dr. Prichard repeated his original conclusions. In addition, Dr. Prichard noted that Defendant has remained drug-free and has not used sex as a coping mechanism since his release. Dr. Prichard concluded that again, Defendant has little to no risk of sexual deviance, and poses little to no risk of reoffending.

### **ARGUMENT**

19. A District Court may impose special conditions of Supervised Release so long as they are reasonably related to the nature and circumstances of the offense, the history and characteristics of the defendant, and the need for adequate deterrence, to protect the public, and to provide any needed training or treatment. See United States v. Belcher, 803 Fed.Appx. 281, 283-284 (11th Cir. 2020); 18 U.S.C. § 3583(d); 18 U.S.C. § 3553(a)(1), (a)(2)(B)-(D), USSG § 5D1.3. The conditions must also involve no greater deprivation of liberty than is reasonably necessary for achieving those purposes and be consistent with any pertinent policy statements issued by the Sentencing Commission. United States v. Taylor, 338 F.3d 1280, 1282-1283 (11th Cir. 2003).

20. Here, the additional proposed special conditions are not reasonably related to the nature and circumstances of the offense, Defendant's history and characteristics, any needed training or treatment, and are not necessary for the protection of the public.

21. First, the particular circumstances of this offense demonstrate that the proposed special conditions are not reasonable related to the offense conduct. Here, Defendant was a regular user of cocaine, and regularly mixed cocaine and prostitutes. The same people that supplied him drugs also supplied him with prostitutes. One of those prostitutes was the minor who was trafficked by the same group of associates. While Defendant also found prostitutes on his own, he never sought out the services of a minor; rather, he hired adult women who consented to this business arrangement. As this Court and the Government previously determined, a computer or internet

usage was not a factor in this arrangement – in fact, neither had anything to do with the sexual contact with the minor. The Court’s factual and legal determination in sustaining Defendant’s objection to the two-level enhancement in Guideline 2G1.3(b)(3), and in accepting the Government’s stipulation on that issue, bears this out.

22. The Court’s statements at sentencing also bear this out. This Court noted that Defendant’s circumstances were very different from other defendants with the same or similar charges, those who intentionally sought out minors for sexual contact, or who possessed child pornography or other similar deviant materials. In contrast, the underlying criminal conduct in this case involved no such intentional action. Upon his arrest, Defendant’s electronics were seized, and a subsequent search yielded no child pornography or any indication that Defendant had a predilection for minors.

23. Thus, none of the proposed added conditions are reasonably related to the nature and circumstances of this offense and the offense conduct.

24. Second, none of the proposed special conditions are reasonably related to the Defendant’s history and characteristics. Again, the Court’s statements at sentencing are conclusive on this point.

25. In addition, the forensic psychological reports of Dr. Gregory Prichard establish that the additional proposed special conditions are not reasonably related to Defendant’s history and characteristics. Those reports, based upon quantifiable data, establish that Defendant has little to no risk of reoffending, and that the underlying offense conduct was the result of excessive cocaine use and poor judgment, rather than sexually deviant motivation. It is worth noting that the two reports are created five years apart from each other, and the most recent report indicates a positive

change in Defendant's life – the lack of drug use for the past 5 years, and the lack of any abnormal sexual behavior.

25. Dr. Prichard noted that Defendant did view what can only be fairly characterized as “normal” pornography – sexually explicit material depicting consenting adults engaged in normal sexual behavior, free of abnormal activities or fetishes. Defendant's behavior of viewing this type of material is hardly outside the mainstream.

26. Third, no sex offender treatment is necessary. This Court essentially made that determination at the time of sentencing after carefully considering all of the facts of the case and sentencing factors. Nothing has changed for the worse since sentencing; instead, things have changed for the better. Defendant has remained drug-free for more than five years. As Probation noted in the PSR and as this Court noted at sentencing, while he was at liberty on bond, he fully complied and remained drug-free. He received substance abuse counseling while incarcerated, and notably, was not referred to any mental health treatment or sex offender treatment while in the Bureau of Prisons. He has not engaged in any self-destructive sexual behavior since his release from custody. In short, he has been able to function, and improve, without the added time, trouble, and expense of sex offender treatment – which a forensic psychologist has deemed completely unnecessary.

27. Finally, because the data establishes that Defendant poses little to no risk to the public, the proposed additional special conditions are not reasonably related to the penological goal of specific deterrence.

28. However, the proposed additional special conditions all involve a much greater deprivation of liberty than is reasonably necessary to address the Defendant's needs.



29. By way of example, Probation seeks a blanket ban on all pornography, not just sexually explicit material depicting minors. This would prevent Defendant from viewing material that bears no rational relationship to the offense or the offense conduct, a freedom that millions of Americans possess and exercise without issue.

30. The same holds true with Probation's request to prevent, or extremely limit, Defendant's use of the internet and devices which are so inextricably interwoven with living in this society. Under Probation's view, Defendant should be prohibited from using an iPhone to communicate with his attorney, setting up business transactions, or going to work in an office where he is required to use a computer or the internet.

31. Additionally, Probation seeks carte blanche to inspect all private information without exception on any electronic device. This would include confidential communications with Defendant's counsel, his treating medical professionals, his girlfriend, his religious advisor, and all sorts of other private information that Probation simply has no legitimate interest in viewing.

32. The proposed additional special condition banning Defendant from being present any place where "children are likely to gather" is not reasonably related to any penological goal. As this Court is aware, Defendant is an avid cave diver, and lives in Florida because Florida is the cave-diving capital of the world. This proposed ban would prevent Defendant from going to any public park or waters, where families and children gather, but which are necessary access points to the diving locations. In the absence of any information that Defendant committed any illegal or immoral acts in such places, this ban is not reasonably related to anything.

33. Finally, the request to subject Defendant to the use of periodic polygraph tests is unreasonable. There several valid reasons that polygraph test results are generally inadmissible in American courts. In short, they are unreliable. Therefore, requiring Defendant to subject himself

to periodic testing by unreliable and inadmissible methods, especially when he has demonstrated no problem with complying with the existing conditions of Supervised Release so far, is not rationally related to any valid penological goal.

**CONCLUSION AND RELIEF REQUESTED**

34. Because the proposed additional conditions are not related to the nature and circumstances of the offense, the history and characteristics of the defendant, and the need for adequate deterrence, to protect the public, and to provide any needed training or treatment, and involve much greater deprivation of liberty than is reasonably necessary to achieve any penological goal, this Court should deny the petition in its entirety. In the alternative, this Court should narrowly tailor any additional special conditions to avoid a greater deprivation of liberty.

Dated: February 22, 2021

Respectfully submitted,

*/s/ Patrick Michael Megaro*  
Patrick Michael Megaro, Esq.  
Florida Bar ID # 738913  
New Jersey Bar ID # 3634-2002  
New York Bar ID # 4094983  
North Carolina Bar ID # 46770  
Texas Bar ID # 24091024  
Washington State Bar ID # 50050  
1300 North Semoran Boulevard, Suite 195  
Orlando, Florida 32807  
(o) 407-255-2164  
(f) 855-224-1671  
[pmegaro@halscottmegaro.com](mailto:pmegaro@halscottmegaro.com)  
*Attorney for Defendant*

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served via CM/ECF on February 22, 2022 via CM/ECF to:

Francis Todd Williams  
Office of the United States Attorney  
[Frank.Williams@usdoj.gov](mailto:Frank.Williams@usdoj.gov)

*/s/ Patrick Michael Megaro*  
Patrick Michael Megaro, Esq.