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UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	Case No. 6:23-cr-00181-MC
vs.	)	
	)	April 24, 2024
DAVID CHRISTOPHER NOBLE,	)	
	)	Eugene, Oregon
Defendant.	)	
_____	)	

TRANSCRIPT OF PROCEEDINGS  
(Sentencing)

BEFORE THE HONORABLE MICHAEL J. McSHANE  
UNITED STATES DISTRICT COURT SENIOR JUDGE

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1 (April 24, 2024, at 10:43 AM.)

2 P R O C E E D I N G S

3  
4 THE COURT: All right. Just a reminder that  
5 our court reporter is working remotely from Portland. So it  
6 is important that you have your microphones on and close and  
7 that you speak up. But with that I will have Ms. Pew call our  
8 next case.

9 THE CLERK: Now is the time set for Criminal  
10 Case 23-00181, "United States of America vs. David Christopher  
11 Noble," sentencing hearing.

12 THE COURT: All right. If I could have the  
13 attorneys please introduce themselves for the record starting  
14 with the Government.

15 MR. McLAREN: Good morning, Your Honor. Will  
16 McLaren on behalf of the United States. I'm joined by ASA  
17 Adam Delph.

18 THE COURT: All right. Thank you, Mr. McLaren  
19 and Mr. Delph.

20 And for the defense?

21 MR. HERMANSEN: Good morning, Your Honor. Kurt  
22 Hermansen on behalf of David Christopher Noble who is present  
23 at defense table.

24 THE COURT: Thank you, Mr. Hermansen.  
25 And, Mr. Noble, good morning.

1 THE DEFENDANT: Good morning.

2 THE COURT: Mr. Noble, have you had a chance to  
3 discuss with Mr. Hermansen the presentence report that was  
4 prepared by the probation department?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: All right. Do you need any  
7 additional time to speak with Mr. Hermansen in private before  
8 we proceed?

9 THE WITNESS: No, Your Honor.

10 THE COURT: Are you satisfied with his advice  
11 and representation?

12 THE WITNESS: Yes, Your Honor.

13 THE COURT: All right. Mr. Hermansen, I do  
14 think there are guideline issues we need to resolve in terms  
15 of the guideline calculation. Would you like to be  
16 heard first -- well, maybe we should just break it up.

17 We, first, have the five-level enhancement  
18 under US Sentencing Guidelines Section 2G3.1, Subsections  
19 (b) (1) (A), where the Government is seeking a five-level  
20 enhancement under distribution for pecuniary gain.

21 Do you want to address that first?

22 MR. HERMANSEN: Yes, Your Honor. After I read  
23 the Government's sentencing memo, especially the text message  
24 on the top of page 12, I filed a reply indicating that I  
25 understand the Government has the better position on that

1 argument.

2 THE COURT: Okay. So I will impose and am  
3 prepared to impose the five-level enhancement under that  
4 section finding that the distribution was for a pecuniary gain  
5 as it is defined in the guidelines.

6 The other issue comes up with the application  
7 of the zero-point offender amendment. And here I think the  
8 Government's in a tougher position; so maybe I'll have the  
9 Government address this.

10 You're alleging that Mr. Noble does not qualify  
11 for the adjustment for the zero-point offender because the  
12 offense resulted in death or serious bodily injury as defined  
13 in US Sentencing Guideline 4C1.1, Subsection (a)(4).

14 It would require a leap for the Court to say  
15 that death or bodily injury occurred -- as long as it occurs  
16 to any species on earth, the guideline is applicable. It  
17 seems like that's a hard argument to make when we look at the  
18 guidelines as a whole where that -- I mean, really, even  
19 criminal statutes as a whole where that typically applies to  
20 death or bodily injury of a human.

21 MR. McLAREN: Your Honor, thank you.

22 I suppose I would just offer that I don't think  
23 it's such a major leap. The specific criteria, the exact  
24 quote is "the offense did not result in death or serious  
25 bodily injury." It's safe to say that the offense here

1 resulted in death and serious bodily injury.

2 I can get into the definitions of those that I  
3 think are applicable here, but I'll do that towards the end of  
4 this argument.

5 The reason I don't think it's such a leap is  
6 because the guidelines themselves have those exact words in a  
7 different section, under the safety valve eligibility  
8 criteria. Safety valve lays out five potential criteria that  
9 an offender needs to satisfy to be afforded safety valve  
10 relief. That's under 5C1.2. The Court is familiar with that  
11 section.

12 That criteria, it's 5C1.2(a)(3). The exact  
13 words in that criteria are, quote, the offense did not result  
14 in death or serious bodily injury to any person, end quote.

15 The fact that the guidelines specifically  
16 specify a person, "to any person," a species in that  
17 subsection rendered and codified and ratified years before the  
18 zero-point offender adjustment which was ratified last year, I  
19 think that speaks very loudly. I think that that means the  
20 defense may be asking you to take a leap.

21 The defense is asking you to add words to the  
22 applicable provision we're talking about here. The offense  
23 did not result in death or serious bodily injury is the full  
24 criteria for the zero-point offender adjustment.

25 The sentencing commission had the safety valve

1 quote at its fingertips. It appears the safety -- the  
2 sentencing commission used that precise quote and knocked off  
3 a few words. That's the only read I see.

4 THE COURT: I mean, you do see -- and maybe  
5 because I'm only trying to digest all of this now.

6 MR. McLAREN: Of course.

7 THE COURT: I haven't had a ton of time to  
8 think through all of this.

9 But it could result in some hyperbolic  
10 situations. I don't know. I'm thinking about a gun offense  
11 where a gun is discharged and hits a cow in a field a mile  
12 away.

13 MR. McLAREN: Your Honor, I suppose I would bat  
14 that back to your court and say that I don't know if the -- if  
15 the gun hitting the cow a mile away is the offense in  
16 particular. Perhaps the gun offense was the unlawful  
17 possession of that firearm.

18 I do want to acknowledge the sort of supposed  
19 radicalism of this argument that the guidelines are somehow  
20 creating a heightened concern for the death of animals. I  
21 don't know how radical that is. The guidelines speak to no  
22 small number of statutes that involve the protection of  
23 wildlife. I don't want to belabor the point, but I do want to  
24 make it.

25 There's the Animal Fighting Venture

1 Prohibition. That's a statute, 7 USC 2156, anticipated in the  
2 guidelines in Chapter 3. It involves cock fighting, dog  
3 fighting, et cetera. The Bald and Golden Eagle Protection  
4 Act --

5 Shall I pause?

6 The Bald and Golden Eagle Protection Act, the  
7 Migratory Bird Treaty Act, the Fur Seal Protection Act, the  
8 Wild Horse and Burrow Act, the Marine Mammal Protection Act,  
9 the Endangered Species Act, the Lacey Act, none of these  
10 specify as to the zero-point offender.

11 But it is fair to say that the guidelines  
12 anticipate many a statute that involves damage or death  
13 whether it be mild, taking a seal, selling it on the black  
14 market, or much worse, clubbing a seal. The guidelines don't  
15 have holes when it comes to animals. They're pretty inclusive  
16 in terms of all of these statutes.

17 Under 2Q2.1, that's trafficking of wildlife for  
18 the most part. That's the guidelines section there, not the  
19 guidelines section here. We have the obscenity section here.  
20 But under that section, just by way of example, to note that  
21 the commission and the guidelines account for substantial  
22 damage and death with respect to animals.

23 Application Note 5 of 2Q2.1 is, quote, If the  
24 offense involved the destruction of a substantial quantity of  
25 fish, wildlife, or plants and the seriousness of the offense

1 is not adequately measured by the market value, an upward  
2 departure may be warranted.

3 Now, we are not seeking an upward departure  
4 here. We are just noting that the guidelines aren't silent as  
5 to this whole issue. And then I do want to get into some  
6 statutory interpretation here for fear of belaboring the issue  
7 if Your Honor would permit me.

8 THE COURT: No. Go ahead.

9 MR. McLAREN: So there is a canon of statutory  
10 construction that I will butcher, "expressio unius est  
11 exclusio alterius." And this is just from 2022, "Bittner vs.  
12 the United States," opinion written by Justice Gorsuch in  
13 which he notes that, when Congress includes particular  
14 language in one section of a statute but omits it from a  
15 neighbor, we normally understand that difference in language  
16 to convey a difference in meaning.

17 THE COURT: Mr. McLaren, let's -- let's look at  
18 what the reduction actually does in the context of the  
19 two-point reduction.

20 MR. McLAREN: Of course.

21 THE COURT: A zero-point offender needs to  
22 meet, you know, some additional criteria to qualify for the  
23 two-level reduction, but the conviction can't be a sexual  
24 offense.

25 MR. McLAREN: Correct.

1 THE COURT: Does that include animals?

2 MR. McLAREN: I'm not arguing that it does at  
3 this point.

4 THE COURT: A terrorism-related offense, that's  
5 not going to include animals. A civil rights violation I  
6 assume is not going to include animals. And then it goes on  
7 to additional criteria: no threats or violence were used, did  
8 not result in death or bodily injury, did not involve firearms  
9 or dangerous weapons, did not include aggravating factors, no  
10 financial hardship was caused as a result.

11 I mean, if you look at all of the exceptions,  
12 they seem to be directed towards violence towards -- towards  
13 humans. I mean, if the Guideline Commission wanted to add  
14 violence towards animals, they could have and -- so, I mean,  
15 there's different statutory canons that could apply here.

16 You're picking one, but there are others too  
17 that would apply and suggest that animals are not included in  
18 this kind of general exclusion of keeping violent offenders  
19 out of the zero-point reduction.

20 MR. McLAREN: I acknowledge the Court's point  
21 there. I think I'm drawn back to the fact that if they wanted  
22 to add animals, they could have. And also, logically, if they  
23 wanted to remove the words "to any person" they could have,  
24 and they did. They did.

25 They had this exact criteria in another

1 section, and when they ratified and codified this new section,  
2 those words are gone. So it's possible that it was some typo.  
3 It's possible that they assumed it would all be assumed. But  
4 I think assuming something here is drawing something into the  
5 guidelines that are simply not there.

6 THE COURT: Can't the Court use the -- in  
7 another way -- I mean, without -- you're looking at the  
8 two-point reduction. I mean, can't the Court factor into --  
9 death or bodily injury of the animal into its assessment of  
10 what the appropriate sentence is?

11 MR. McLAREN: The Government submits that the  
12 Court is able to do whatever the Court finds appropriate.

13 THE COURT: Sounds like a federal clerk.

14 MR. McLAREN: The answer -- the answer is, Your  
15 Honor, absolutely. Your Honor ultimately assesses what the  
16 appropriate guideline is. And the Government will note here  
17 it is seeking the high end of the guidelines. It is not  
18 asking for an upward reduction.

19 It -- I don't read the zero-point offender to  
20 omit this statute. The animal crushing statute anticipates  
21 torture and murder and drowning and death. It appears to be  
22 precisely this sort of thing that is considered in the context  
23 of the severity of the offense potentially counseling against  
24 a favorable adjustment.

25 But I don't want to belabor the point. I fear

1 I already have. So unless Your Honor has more questions,  
2 that's all I have.

3 THE COURT: Thank you, Mr. McLaren.

4 Mr. Hermansen, on that issue.

5 MR. HERMANSEN: If the Court is going to stay  
6 with its tentative, I'll submit. If the court has changed its  
7 mind, I'm happy to argue.

8 THE COURT: It's an interesting issue, and  
9 certainly I think the Government has made their record if they  
10 wish to appeal, but I'm not prepared to find that the  
11 exclusion from the two-point reduction applies here.

12 I believe, when the Guideline Commission was  
13 formulating the two-point reduction and adding the language  
14 that the activity did not result in death or serious bodily  
15 injury, they were referring to humans. And I say that because  
16 of the overreaching tenor of the exclusion from the two-point  
17 reduction seems to be aimed at acts of violence, terrorism,  
18 sexual assault towards human beings.

19 So I will allow for the zero-point adjustment,  
20 and I will find the total offense level, then, with the  
21 five-level enhancement for distribution for pecuniary gain is  
22 a 16, criminal history is 1, leaving a guideline range of 21  
23 to 27 months.

24 MR. McLAREN: And the Government is making a  
25 one-point variance so it would bring that down to 15 with a

1 guideline range of 18 to 24.

2 THE COURT: I'm not sure if I'm going to accept  
3 that variance.

4 MR. McLAREN: Okay.

5 THE COURT: But we'll -- you can certainly tell  
6 me more.

7 With regard then, generally, to the 3553 A  
8 factors whether I should accept the Government's variance or  
9 whether -- well, the Government is not arguing for an upward  
10 departure, but, Mr. Hermansen, I am contemplating it. So I  
11 think you need to make your record here as to why that should  
12 not occur.

13 MR. HERMANSEN: Thanks, Your Honor.

14 I think in this case the guidelines take into  
15 account everything and if the Court -- there are very few of  
16 these prosecutions, but if the Court looks at other similar  
17 prosecutions, the one that's the most similar that the  
18 Government and the defense have recognized is the "Herrera"  
19 case. In the "Herrera" case, the court gave 12 months and a  
20 day.

21 There are -- I found a number of other animal  
22 crush cases where the Court gave 12 months and a day. What  
23 distinguishes those cases is they were different animals, but  
24 the conduct was direct by the defendants who were sentenced to  
25 12 months and a day. They were directly torturing the animals

1 and videotaping it and distributing it.

2 So this case is slightly different in that it's  
3 a group that was not started by Mr. Noble. Mr. Noble joined  
4 the group. The leader of the group has not even yet been  
5 charged or prosecuted. There are two other individuals in  
6 this international group that I think one is appearing maybe  
7 tomorrow for arraignment in other jurisdictions.

8 So this case is the first in the -- this group  
9 of people who were putting together money to give to someone  
10 in Indonesia to torture and videotape these macaques. It's a  
11 horrible case. I'm sure, you know, no one involved in this  
12 case wants to have to deal with this case. I mean, this is --  
13 it's like -- but here we are.

14 And, you know, it's -- I've really struggled  
15 with this case because as -- as an -- I mean, I think most  
16 people are animal lovers. And as a vegan I'm especially judgy  
17 with, you know, the way animals are treated. I've probably  
18 had more exposure to PETA videos than most people because I do  
19 believe in animal rights.

20 At the same time -- and I think we forget that;  
21 right? We forget that in society we -- we all look the other  
22 way when it comes to the treatment of animals and that, I  
23 recognize, is necessary for -- to feed the planet. The way we  
24 warehouse animals is horrific. And it's also not, you know,  
25 healthy to be eating animals that -- like, now we have bird

1 flu again in the United States.

2 But this case, obviously, is different because  
3 there's a perverse pleasure in creating and watching those  
4 videos. So as far as why the Court should follow the  
5 guidelines, I don't think -- I think, when the Court hears  
6 from Mr. Noble -- and I'm going to ask -- and Ron LaPointe is  
7 here as well, his stepfather.

8 I think the Court will get some insight into  
9 Mr. Noble that is not expressed in those horrific text  
10 messages where he appears to be really enjoying the suffering  
11 of little animals. I mean, there's no way of putting a pretty  
12 face on that. Obviously, that kind of -- all the comments  
13 that different people made in the group, clearly everyone --  
14 you know, anyone involved needs some serious counseling and  
15 therapy.

16 And so I'm not going to -- I'm going to let  
17 Mr. Noble speak for himself about how he got involved and why  
18 he got involved. And so what I'd like to do is just focus on  
19 the other 3553 A factors which is that Mr. Noble has zero  
20 criminal history. He's someone who -- in this case, you know,  
21 this is, you know, his worst hour.

22 He's brought into court, the shame involved in  
23 this case, and his name has been plastered all over the place.  
24 The Government's moved to the presentence report writer. That  
25 -- you know, there's a group of people who follow these animal

1 torture cases. Most of them are in state court.

2 And they've created a website that, any time  
3 someone is going to court, whether it's for bail or to plead  
4 guilty or the charges or sentencing, they put a petition  
5 online. And that's one of the ways that I found -- didn't  
6 realize that right here in Oregon -- I forget where it is,  
7 Hillsboro or something. You know, there was a lab that was  
8 torturing macaques. And, thankfully, this organization --  
9 well, PETA got videos, and they released them.

10 But this organization put a petition on their  
11 website saying, you know, give us money. Sign this petition  
12 saying that you, you know, oppose this horrible treatment of  
13 these monkeys. And we do all that tortuous research on  
14 monkeys because they are close to our DNA. So I understand  
15 the Government's argument that -- you know, that they're  
16 closer to us.

17 So that same group has put every fact of this  
18 case on their website, and then you can either say you agree  
19 that he should get the max or you -- or you don't sign the  
20 petition.

21 And in looking at the few people who do  
22 comment -- you know, this is why I don't go on the Internet.  
23 I mean, it's scary to see their comments. They're, like, oh,  
24 he should get the death penalty. You know, he should -- he  
25 should be tortured the way the animals were tortured. So the

1 Internet is a very dark place that people go to.

2 And I understand it's a great repository for  
3 information, and you can go to Wikipedia and find great stuff.  
4 But it's also in a lot of ways destroying our society. It  
5 allows these dark places to fester and then people who --  
6 probably most of them who have suffered trauma go there to  
7 view these videos. And they're all over YouTube.

8 So the thing -- the reasons I think that  
9 Mr. Noble -- I mean, you'll hear from Mr. Noble. And I think  
10 he has a solid place he can go and live. This case has  
11 destroyed his life. He's lost his marriage. He's lost his  
12 job. He's been in custody the entire time. He has severe  
13 Crohn's disease.

14 And I know that he's been self-destructive for  
15 probably 20 years which just festered and is probably -- has  
16 led, you know, to his involvement in this case which is  
17 completely foreign to his prior character.

18 I mean, he's someone who had a singular goal in  
19 life and that was to be an Air -- you know, be in the Air  
20 Force and be a pilot. And he's one of the few people who was  
21 able to achieve that goal. It's -- you know, I have friends  
22 who tried to do that. It's extremely difficult. And he went  
23 into the ROTC. From a young age, this is all he wanted, you  
24 know, out of life was to have, you know, wife, kids, and to be  
25 a pilot.

1 He went into the ROTC, did really well, went  
2 in. He got his wings, entered the Air Force. And as soon as  
3 that happened, he's then diagnosed with Crohn's disease. And  
4 despite the Crohn's disease and despite having to have -- I  
5 think it was 30 inches or some huge amount of his lower  
6 intestines, colon removed, he still wanted to -- you know, was  
7 hoping that this autoimmune disease would be in remission and  
8 that he could stay in and be deployed in Afghanistan or  
9 wherever they needed to send him.

10 And -- but then it didn't go away, and the Air  
11 Force told him we don't need you anymore. And he floundered  
12 and has floundered ever since. I mean, he -- he's worked.  
13 He's been a productive member of society, but that darkness  
14 never went away and he obviously chose the wrong path of  
15 dealing with his dreams being destroyed.

16 So he has that severe Crohn's disease. I'm not  
17 confident that the BOP can take care of it. To their credit  
18 they've given him the HUMIRA so the doctors know -- the  
19 doctor's evaluation we submitted shows he absolutely needs  
20 that. I'm not confident that, if the Court gives him a  
21 lengthy sentence and he gets transferred, that he'll be  
22 continued on that because, when he was put in custody, there  
23 was a period of time that he didn't get it.

24 And I've looked through all the doctors' notes  
25 and this is what -- there's two -- I mean, this is the thing

1 that scares me the most about this case is that there was a  
2 period of time where he couldn't afford the HUMIRA because it  
3 went to \$500 a dose. He had to pay \$500 every other week to  
4 get these injections. He couldn't afford it; so he went off  
5 it.

6 And then there's these notes from the doctor  
7 saying, you know -- and I've -- they're very unusual doctors'  
8 notes saying, like, I sat with him. I spent more than 30  
9 minutes explaining to Mr. Noble that he absolutely has to take  
10 this medication because it's kind of like an antiviral drug  
11 with, you know, HIV.

12 If you -- you know, I've had friends who go off  
13 antivirals -- or -- and then your body adjusts, and then you  
14 can't go back on the antiviral again. You have to go on a  
15 different one. You could hear the doctor yelling at him in  
16 these notes that, like, no matter the cost, you have to stay  
17 on this drug.

18 So when he was -- he was -- he was  
19 originally -- they executed a search warrant. They talked to  
20 him, and he wasn't arrested until later. So they talked to  
21 him in March. He -- his -- he left where he was living.  
22 After they did the search, his wife said, okay, we're done.  
23 They -- and he got divorced while he was at Sheridan.

24 He lived for a substantial period of time with  
25 Ron LaPointe and -- his stepfather and his mom where he had

1 ready access to the VA. The HUMIRA's \$11, not \$500. He was  
2 getting -- after his contact with law enforcement, he was  
3 getting, you know, regular counseling and actually, finally,  
4 you know, taking care of his -- his psychological issues.

5 So that's why my recommendation, Your Honor, is  
6 a sentence that's similar to similarly situated to people who  
7 have been sentenced for the same conduct and people who,  
8 instead of living this virtual arm's length distance sadism,  
9 you know, or enjoyment out of this or whatever -- you know,  
10 there are people who did this hands-on and in a much more  
11 sexual way were torturing animals, and they got 12 months and  
12 a day.

13 So in order to do what the guidelines say and  
14 give him what similarly situated people give, I'm asking that  
15 Court give him the equivalent of 12 months and a day which  
16 would be time served -- I think it's something like 11 months  
17 and 10 days -- and that he -- the Court could impose a lengthy  
18 period of home confinement in lieu of more prison so that he  
19 would go back to the home he was living in when he was  
20 arrested, which is near the VA, with loving and supportive  
21 family who can make sure that he stays on the straight and  
22 narrow and gets his psychological treatment that he needs at  
23 the VA.

24 THE COURT: Okay. Mr. Noble, is there  
25 something you would like to tell me?

1 THE DEFENDANT: Yes, Your Honor.

2 MR. HERMANSEN: Make sure to talk slowly and  
3 into the microphone.

4 THE DEFENDANT: I'm a little nervous.  
5 Your Honor, the first thing --

6 MR. HERMANSEN: Okay. So you have to talk --  
7 maybe I'll move you over so you're directly in front of it.

8 THE DEFENDANT: Your Honor, the first thing I'd  
9 like to say is that I apologize for wasting the Court's time  
10 by causing this Court to come -- this case to come to court  
11 and to let you know I'm more disappointed in myself than I  
12 could possibly express to the Court.

13 This is not who I am. For most of my life,  
14 I've had many different animals: horses, donkeys, pigs, cats,  
15 dogs, in some cases -- in one case a bird. Never once did  
16 anything like this ever happen, never once. They were revered  
17 members of the family, and this was a series of bad decisions  
18 on my part that led to this.

19 It wasn't until I sought help in March of 2023  
20 that I realized I was using one maladaptive coping technique  
21 after another to deal with my issues that should have been  
22 dealt with properly 20 years ago stemming from the depression  
23 I went into after my dream was taken away. This is just  
24 another one of the techniques in a long line of bad techniques  
25 that were used that I should not have used.

1                   No matter the reason, no matter the case, the  
2 fact is I chose to do this; and I am truly sorry for my  
3 actions. And, honestly, I am thankful someone intervened  
4 because, clearly, I failed to check myself.

5                   I know I'm in no position to request anything  
6 from the Court, but I feel I need to ask. No matter the  
7 sentence handed down, I ask that mental health check-ins and  
8 appointments be mandated by the Court. I do not want anything  
9 like this to happen again, and I want to do whatever it takes  
10 to ensure that happens.

11                   I did this. I chose to do this, and I truly  
12 wish I hadn't. I treated trauma with trauma. I chose the  
13 wrong actions and hurt myself, my family, and my friends. I  
14 take full accountability for my actions as horrible as they  
15 are.

16                   I accept whatever ruling the Court hands down  
17 and give this absolute promise to Your Honor. I will correct  
18 my behavior, get on the straight and narrow again, and the  
19 Court will never see or hear from me again. It's time for me  
20 to grow up and deal with my issues in the correct way.  
21 Innocence should never be met with hate.

22                   Thank you, Your Honor.

23                   THE COURT: All right. Thank you, Mr. Noble.  
24                   Anything else from the defense?

25                   MR. HERMANSEN: Your Honor, may Mr. LaPointe

1 address the court?

2 THE COURT: Yes.

3 Mr. LaPointe, why -- probably the easiest place  
4 to get you is kind of that center chair with the microphone if  
5 you want to step up there. And you can have a seat if you're  
6 more comfortable.

7 And if you could maybe start by just telling us  
8 your first and last name.

9 MR. LaPOINTE: My name is Ron LaPointe, retired  
10 lieutenant colonel with the Air Force.

11 I first met Chris just -- well, actually, I  
12 commissioned him. I swore him in when he came into the Air  
13 Force. I married his mother 26 years ago, and it's the same  
14 time frame when we first met.

15 The -- I've never -- this is a complete  
16 surprise to us. Just like Chris was saying, it was well  
17 hidden, and we had no idea.

18 Chris was staying with us, you know, getting  
19 his treatment down in Henderson, Nevada, outside Las Vegas a  
20 few minutes away from the VA center there; and he was with us  
21 for four months. And whenever he comes out back into society,  
22 then he's welcome to be with us again for all the full  
23 support.

24 We live in a gated community and there's going  
25 to be -- it's no burden on us at all. We're well off enough

1 that we don't even notice when he's there. I do know he's had  
2 animals over the years. And he's stayed with us and we play  
3 with our dogs and stuff and we've never seen anything like  
4 this at all.

5 I didn't really have anything prepared to say,  
6 and I'm not sure what all the Court needs us to talk about. I  
7 do want to say that, you know, he's welcome. When he lived  
8 with us, he went to church with us every Sunday. His  
9 mother -- you know, I wrote the letter I'm sure you read about  
10 I know how she's taken care of him over the year with the  
11 Crohn's disease.

12 Our biggest concern over all of this is medical  
13 treatment and -- you know, the Crohn's is -- when you have  
14 this autoimmune disease and it works against your body and  
15 sometimes -- it's irreversible. When it does the damage, the  
16 damage is done.

17 And the depression, you know, he was getting  
18 treatment for too at the VA. And I'm sure that's going to  
19 continue, like Chris was saying, too and keep the mental side  
20 of his treatment here and where it takes him to that dark  
21 place that I certainly don't understand, but he definitely  
22 needs to get that and keep with it.

23 His mother was going to be here, but she had a  
24 back procedure done on Friday and was on pain pills and  
25 couldn't fly up to join us. I drove up here to -- after he

1 got divorced, to sell a car of his and pick up his goods and  
2 take them down to Nevada with me. So when he's out, then he's  
3 got his place all set up to go with all of his belongings.

4 I don't really have too much more to say unless  
5 you have any questions, Your Honor.

6 THE COURT: I don't. You know, it's certainly  
7 important to know that he has support in the community, and I  
8 think you've certainly clarified that. I appreciate it.

9 MR. LaPOINTE: And I am -- you know, this is  
10 his only family, really, left. Since he was imprisoned, his  
11 dad died. So I had the unfortunate task to call the prison  
12 and notify him of that.

13 And he has a stepmother and two half -- half --  
14 a half brother and half sister but he hadn't been close to  
15 them; so we are his only family.

16 THE COURT: Thank you for coming.

17 All right. Then for the Government?

18 MR. McLAREN: Yes, Your Honor.

19 So it's quite the long sentencing memo. I  
20 won't belabor any of the specific aspects of the offense  
21 unless the Court has questions or clarification. I know it's  
22 quite a bit to digest.

23 THE COURT: I guess I'm curious what's  
24 happening with some of the other folks involved in this group.  
25 Is there -- there are other prosecutions it sounds like.

1 MR. McLAREN: Yes, Your Honor. And I was going  
2 to -- I'll address those now, and I'll touch on them a bit in  
3 a moment.

4 So there are five similar cases in the country.  
5 One has already been adjudicated, and that's the case  
6 Mr. Hermansen mentioned from District of Wisconsin.

7 I mentioned this in a footnote, and I'd be  
8 happy to have a sidebar. I already discussed this with  
9 Mr. Hermansen, but there are other factors involved in that  
10 "Herrera" case that weighed on sentencing in that case unless  
11 Your Honor has more questions.

12 THE COURT: No. I think that answers it.

13 MR. McLAREN: There are three individual cases  
14 besides this one. One of them -- two of them involve these  
15 intermediaries that I mentioned in the memo.

16 Effectively, the structure of this whole thing  
17 is group crowd sources funding for a video they want to see.  
18 They pay an intermediary who has a relationship with someone  
19 in Indonesia. That intermediary then coordinates with the  
20 Indonesian individual, gets the video back. So two of those  
21 intermediaries are subject of these other cases.

22 And as I understand it, the last individual is  
23 similarly situated to Mr. Noble, a sort of leader in the  
24 stateside group. So those are pending sentencing.

25 Three of them, I believe, are -- or two of them

1 are pending sentencing. One of them has only recently been  
2 charged. And the one that was recently charged is sort of a  
3 much more well-known member of this group, and he was one of  
4 those intermediaries going back and forth.

5 So nascent is the word. This is -- there  
6 aren't a great many of these. There aren't many comparable  
7 sentences from which to draw. I want to unpack -- any other  
8 question to that effect, Your Honor?

9 THE COURT: I guess I -- maybe I should have  
10 known this from the materials. But the kind of money that's  
11 being paid to produce these videos, I mean, I'm assuming it's  
12 not remarkable in that it's being produced in countries where  
13 people are very poor.

14 MR. McLAREN: That's precisely it, Your Honor.  
15 Questions arose immediately. What's the -- what's the  
16 severity of the criminal offense where they are Venomoing,  
17 Cash App payments of \$20 a pop? What are we talking about in  
18 terms of how to treat that? And pretty instantaneously we  
19 came to understand that it's not that this is a small amount  
20 of money. It's just what that money's value is when it gets  
21 to its final destination.

22 I drop a footnote deep, deep into the long  
23 memo. The HSI agent looked into it early on in the case. How  
24 far does \$20 go in Indonesia? A quick comparator -- and this  
25 is just basic research -- is under a dollar is a loaf of

1 bread. So I think that kind of explains that maybe 20 or \$100  
2 on a consistent basis, that is -- that is good living in  
3 Indonesia. Rent is 80 percent cheaper than here in the United  
4 States as a couple of considerations.

5 Now -- any more questions about the details?

6 THE COURT: No.

7 MR. McLAREN: So I don't want to belabor the  
8 point of the severity of the video that's discussed at length,  
9 this ants video I mentioned. I want to be clear. That's not  
10 the only comparable video, but it's the primary one on which  
11 everyone focused in terms of this investigation largely  
12 because Mr. Noble was involved in the inception, upon its --  
13 upon its receipt in the group, celebrated. It was very  
14 detailed and specific.

15 And this was a very attenuated and  
16 difficult-to-investigate organization because it operated on  
17 encrypted platforms.

18 This ants video was severe, and so are so many  
19 of the videos like it and unlike it. All of them are unique  
20 in their own way, and they're all horrific in their own way.

21 I want to unpack a couple of things that  
22 were -- that have been discussed thus far. The Government  
23 acknowledges the medical issues with which Mr. Noble deals and  
24 sympathizes and also wants to acknowledge the fact that the  
25 evidence doesn't reflect Mr. Noble put his hands on an animal

1 here and killed or tortured a monkey himself.

2 That's just not how this offense, how this  
3 group, how this whole structure and conspiracy worked. It  
4 didn't. Their hands were clean. I'll get to whose hands were  
5 made dirty by way of these offenses, but the Government does  
6 acknowledge it wasn't Mr. Noble's.

7 One of the things I wanted to unpack is the  
8 time in the Air Force and the zero criminal history. I guess  
9 I would just submit to the Court, to the extent it's not clear  
10 in the materials, Mr. Noble was adjudicated guilty before a  
11 court-martial in the mid aughts. He was an Air Force officer  
12 at the time. His departure from the Air Force was as a result  
13 of a dismissal.

14 I looked into what all of this means, and to  
15 the extent it needs more details, that's a dishonorable  
16 discharge for an officer. It's a rare -- a rare eventuality.  
17 Mr. Noble's adjudication of guilty led, not only to the  
18 dismissal, but a custodial sentence following the offenses in  
19 that case which were unrelated to the offenses here.

20 And I don't want to belabor the point. But  
21 that is to say that this is not his first time sitting in  
22 front of a tribunal facing the consequences of his actions.  
23 And I think we should acknowledge that when we consider the  
24 actions that he -- that he took up with respect to this case  
25 and this group.

1           The offenses were not just an end-user  
2 involvement. These were months and months and months of a  
3 leadership role in this organization as an administrator.  
4 Granted, it's an online chat platform, but it's not minimal  
5 that Mr. Noble was changing its name on a regular basis to  
6 apparently avoid law enforcement detection.

7           It's not minimal that Mr. Noble sends payment  
8 after payment after payment contributing to the creation of  
9 these videos. None of that is minimal. All of this reflects  
10 an extensive, thorough, detailed, dedicated approach to this  
11 animal crushing ring.

12           And now I want to get to those people in  
13 Indonesia. That 12 months and a day is not the only sentence  
14 that's been adjudicated in this whole line of cases. I  
15 mention in the sentencing memo that two of the Indonesian  
16 individuals suspected to be videographers for this and similar  
17 groups, one was adjudicated a 6-month sentence as I understand  
18 it. The other one was adjudicated a 30-month sentence fairly  
19 quickly by the Indonesian courts.

20           I don't want to minimize those individuals'  
21 activity here. They carried out the torture. But I do want  
22 to ask whether this torture would have been carried out if not  
23 for the consistent payments of individuals here in the United  
24 States. It is not sufficient that somebody wasn't carrying  
25 out the offense themselves. It must be considered that other

1 people were used to carry out the offense.

2 Can they be called victims? Of course not.  
3 They are co-conspirators. But the vicarious trauma associated  
4 with making and producing these videos at \$20 a pop for  
5 Americans to enjoy and consume on a regular basis, I think  
6 that should be considered. I very much think that should be  
7 considered with respect to all the reverberations from these  
8 actions.

9 I -- I speak to the victim which is a monkey  
10 and another monkey and another monkey. These are -- these are  
11 creatures that are considered endangered, endangered not by  
12 the United States standard, but the IUCN. I quote multiple  
13 primatology and sort of species studies that speak to their  
14 kind of diminishing nature in those places, their protected  
15 nature in various parts of their range.

16 These are -- these are creatures to be valued.  
17 These are creatures that were completely unvalued called rats,  
18 treated worse than anything imaginable and more than I want to  
19 put on a record or say here in quotes.

20 The fact is these animals died repeatedly in  
21 these videos. Almost every one tends to end with the monkey  
22 expiring. Sometimes they don't, and they reuse it for the  
23 next video. These should be considered.

24 And I think the final consideration, Your Honor  
25 asked about other cases. We pretty commonly walk past 18 USC

1 3553 A(2) (b). That's the -- that's the aspect of this statute  
2 that speaks to the deterrents, deterring conduct. We walk  
3 past it because sometimes it can be abstract and hard to  
4 quantify.

5 And in this case it's palpable. The deterrence  
6 of a sentence -- and the Government's recommending the high  
7 end here. The deterrence of a sentence will be felt in these  
8 five other cases and elsewhere.

9 I submit that this is a very online community.  
10 They're purely online. They're -- they seem to be a group of  
11 people who look like professionals from the community who have  
12 this perverse enjoyment of this horrific thing. There is only  
13 one custodial sentence adjudicated in recent years, and it's  
14 this 12 months and a day associated with Mr. Herrera.

15 I'd argue the deterrent value associated with a  
16 sentence here for Mr. Noble and his co-conspirators and anyone  
17 else watching is tangible. The normalization of torture and  
18 murder of these creatures that these videos bring about should  
19 not be tolerated by this Court or any other court.

20 And I -- I think, as I say in the memo, because  
21 these victims can't speak for themselves, I submit the Court  
22 should fashion a sentence that can. So we do seek the high  
23 end. And I have -- I can answer any questions the Court may  
24 have.

25 THE COURT: No. I think you've answered all of

1 my questions. Thank you.

2 MR. HERMANSEN: Your Honor, I just -- on the  
3 other people, I don't know if the Government notes the status  
4 of Sadistic Queen. The Sadistic Queen -- and Mr. McLaren can  
5 correct me if I'm wrong. But I mean, she's the one who set  
6 this whole group up, and I don't think she's been charged at  
7 all.

8 So that would create a deterrence if the person  
9 who created the group were charged.

10 THE COURT: I don't know if you want to speak  
11 to that.

12 MR. McLAREN: Insofar as it matters, the  
13 Government agrees entirely with Mr. Hermansen, that all of  
14 these should face accountability.

15 Thank you, Your Honor.

16 THE COURT: Okay. Well, Mr. Noble, I am  
17 finding that your total offense level is 16. I am granting  
18 the zero-point adjustment. Your criminal history being 1,  
19 that leaves a range of 21 to 27 months.

20 There are a number of things I am looking at in  
21 terms of you. You're 48 years old. You do have some medical  
22 issues that are certainly serious, specifically Crohn's  
23 disease. You do not have a criminal history, but you do have  
24 a history of court-martial in the Air Force. You do have  
25 mental health issues regarding depression stemming from a

1 traumatic childhood that obviously needs some addressing.

2           You know, I'm not going to give you a lecture  
3 but what I'll tell you, Mr. Noble, is -- I mean, since 1988  
4 I've worked in some aspect in the criminal justice system, and  
5 I have seen a lot of things. I've seen thousands upon  
6 thousands of defendants. I've seen many individuals who have  
7 perpetrated, you know, pretty remarkably inhumane crimes.

8           But by and large that inhumanity stems often  
9 from momentary lapses in judgment. Somebody loses their  
10 temper. They have anger problems. They're jealous. They go  
11 into a bar, get into a bar fight because they're drinking too  
12 much. They have poor decision-making that's impulsive that  
13 stems often from childhood trauma and childhood development.

14           Often they're undergoing psychosis due to  
15 mental health issues where voices are telling them to do just  
16 remarkably awful things, individuals who are in so much drugs  
17 that they're behaving psychotically in the moment. Every  
18 terrible crime I can think of with the exception of maybe a  
19 couple of homicides, there wasn't a lot of thought to it.  
20 There wasn't a lot of premeditation.

21           This was the most calculated cruelty I've ever  
22 seen in my entire career. I've never seen anything like this  
23 in terms of the planning, the thinking through, the follow  
24 through, to do something that -- for just the prurient  
25 interest of causing pain and death to another creature and,

1 not just quick pain and death, but slow torture.

2 It's really difficult to understand, but the  
3 one thing that's very clear to me is that there are groups of  
4 people out there that find great joy in this kind of activity,  
5 you know, as hard as it is to imagine. And that group needs  
6 to understand that it simply cannot continue and the court  
7 system will not tolerate it.

8 So I am departing. I'm finding the conduct  
9 here was extreme as defined in Section 5K2.8 of the United  
10 States Sentencing Guideline Manual and that it warrants an  
11 upward departure in order to deter both you and others here  
12 and throughout the country from engaging in this sort of  
13 behavior.

14 Here you produce videos that depicted the  
15 gratuitous infliction of injury on these animals. You  
16 directed and funded the prolonged and extreme pain they were  
17 subjected to and you took -- and the members of your group  
18 took great pleasure in enjoying the slow death of these  
19 animals.

20 The guideline range here simply does not  
21 produce the type of sanction that adequately deters this level  
22 of extreme conduct. And I don't think this level of conduct  
23 was contemplated by the Sentencing Guideline Commission when  
24 they formed the advisory guideline range for this particular  
25 offense.

1                   So I'm imposing a 48-month prison term to  
2 Bureau of Prisons. That will be followed by three years of  
3 supervised release. The conditions of your release, I will  
4 adopt those conditions set forth in the presentence report,  
5 both the special and standard conditions.

6                   Those conditions must certainly involve mental  
7 health therapy; a full mental health assessment; obviously, no  
8 contact with animals; and limitations on all electronic  
9 devices. There's a \$100 assessment I'm required to impose.

10                   Is there anything else that needs to be in the  
11 order from the Government?

12                   MR. McLAREN: Nothing else from the  
13 Government's perspective that needs to be in the order.

14                   THE COURT: Anything from the defense?

15                   Is there a recommendation, then, for Sheridan  
16 or some other institution?

17                   MR. HERMANSEN: We would ask for an institution  
18 in Nevada.

19                   THE COURT: All right. The Court will  
20 recommend a Nevada institution.

21                   Mr. Noble, you may have limited appellate  
22 rights, but if you do wish to appeal, you have 14 days to file  
23 a notice of appeal. To file a notice, you need to direct your  
24 attorney to do so or contact the court clerk directly.

25                   I will make a finding that, because you're in

1 custody, you're unable to pay the filing fee.

2 Do you have any questions about the sentence?

3 MR. HERMANSEN: Your Honor, so the Court is  
4 departing upward under 5K2.8 seven levels and then giving the  
5 mid range?

6 THE COURT: Yes.

7 MR. HERMANSEN: I think it's seven because, if  
8 the guideline range is 21 to 27 months at a 16, if we go up to  
9 23 -- well, maybe my math is wrong, but you're going from 16  
10 to a 23 and then giving mid range 48.

11 (Indecipherable conversation.)

12 THE STENOGRAPHER: I'm unable to hear the  
13 conversation that is happening; so it is not in the record.

14 THE CLERK: Your Honor, I'm showing that it's a  
15 six-level upward departure. From 16 it gets to 22 which is  
16 the first guideline range that reaches the 48-month  
17 sentencing.

18 MR. HERMANSEN: Correct.

19 THE COURT: Yes.

20 MR. HERMANSEN: You're correct. I stand  
21 corrected.

22 THE COURT: Thank you for clarifying.

23 So for the record, the departure is based  
24 specifically on the conduct here being extreme as defined in  
25 Section 5K2.8. That departure will be a six-level departure

1 to an offense level of 22, the criminal history category of 1.  
2 The range is 41 to 51 months. I'm imposing a 48-month  
3 sentence followed by the three years of supervised release.

4 MR. McLAREN: Yes, Ms. Pew, the Government will  
5 dismiss the remaining counts in the indictment. I'll follow  
6 up after this matter. I believe it's Counts 2 and 3, and I'll  
7 submit a detailed email when I return.

8 I see Supervisor US Probation Officer Fuchs  
9 nodding her head.

10 Okay. Counts 2 and 3 which the Government will  
11 dismiss at this time.

12 THE COURT: All right. Anything else for the  
13 record?

14 All right. Thank you, folks. We'll be in  
15 recess.

16 MR. McLAREN: Thank you.

17  
18 (The hearing concluded at 11:38 AM.)  
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C E R T I F I C A T E

STATE OF OREGON )  
County of Multnomah ) ss.

I, Shellene L. Iverson, Registered Certified Professional Reporter and Certified Shorthand Reporter for the State of Oregon, do hereby certify these proceedings were held remotely before me at said time and place set forth in the caption hereof.

At said time and place I reported in stenotype all testimony adduced and other oral proceedings had in the foregoing matter to the best of my ability; that thereafter my notes were reduced into the typewritten transcript; and the foregoing transcript, pages 4 through 39, both inclusive, is a true and correct transcript of my original stenographic notes.

I also certify I am not a relative or employee of any attorney/counsel employed by the parties hereto or financially interested in the action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal at Portland, Oregon, this 14th day of May 2024.

Shellene L. Iverson, CSR, RPR  
Shellene L. Iverson  
Registered Professional Reporter  
Certified Shorthand Reporter  
Certificate No. 03-0386  
Certificate Expires: 9/30/24