

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
NORTHWESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

KEITH A. GRAVES
a/k/a CHRIS WOODS,

Defendant.

Case No. 4:14-cr-235

UNITED STATES SENTENCING
MEMORANDUM

The United States of America, by and through its attorney, Christopher C. Myers, United States Attorney for the District of North Dakota, and Brandi Sasse Russell, Assistant United States Attorney, submits this Sentencing Memorandum to the Court for purposes of requesting a variance from the sentencing range established by the United States Sentencing Guidelines as calculated within the Pre-Sentence Investigation Report. The United States believes the calculated Guidelines sentencing range does not take into account all of the harm caused by the Defendant by his offense conduct, and that a sentence of life imprisonment should be imposed under the circumstances of this case and after consideration of all of the sentencing factors listed within 18 U.S.C. § 3553(a).

In sentencing a defendant convicted of a crime, a court must impose a reasonable sentence upon the defendant after consideration of all of the sentencing factors contained within 18 U.S.C. § 3553(a). United States v. Booker, 125 S. Ct. 738, 757 (2005). The United States Sentencing Guidelines, including policy statements issued by the United

States Sentencing Commission, are included among those sentencing factors. See 18 U.S.C. § 3553(a)(4) & (5).

The Eighth Circuit Court of Appeals has stated that a sentencing court must first determine the appropriate Guidelines sentencing range, since that range remains an important factor to be considered in the imposition of a sentence. United States v. Haack, 403 F.3d 997, 1003 (8th Cir. 2005). The guideline sentencing range is calculated in the same manner as it was pre-Booker. Id. Once the applicable range is determined, the court should then decide if a traditional departure is appropriate under Part K and/or § 4A1.3 (Departures Based on Inadequacy of Criminal History Category) of the Guidelines. Id. Those considerations will result in a “guidelines sentence.” Id. Once the guidelines sentence is determined, the court shall then consider all other factors set forth in 18 U.S.C. § 3553(a) to determine whether to impose a sentence under the guidelines or a non-guidelines sentence. Id.

The appellate court will determine whether the district court abused its discretion by imposing an unreasonable sentence on the defendant. Id. at 1004. A sentence may be unreasonable if a sentencing court fails to consider a relevant factor that should have received significant weight, gives significant weight to an improper or irrelevant factor, or considers only appropriate factors but nevertheless commits a clear error of judgment by arriving at a sentence that lies outside the limited range of choice dictated by the facts of the case. Id.

In this case, the PSR calculated a Guidelines sentencing range of 324-405 months based upon a total offense level of 39 and criminal history category III. See PSR ¶ 123.

The United States argues the Court should impose an upward variance from the advisory Guideline sentencing range based upon the sentencing factors contained in 18 U.S.C. § 3553(a). This Court has the ability and discretion to impose a “non-guidelines sentence” in this case. See Booker, supra. The Court must consider the guideline range, but is permitted to tailor the sentence in light of the other statutory concerns as well. See United States v. Wingate, 415 F.3d 885, 888 (8th Cir. 2005). Those other statutory factors include:

- (1) the nature and circumstances of the offense and the history and characteristics of the defendant;
- (2) the need for the sentence imposed -
 - (A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;
 - (B) to afford adequate deterrence to criminal conduct;
 - (C) to protect the public from further crimes of the defendant; and,
 - (D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;
- (3) the kinds of sentences available;
-
- (5) any pertinent policy statement...
- (6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and,
- (7) the need to provide restitution to any victims of the offense.

See 18 U.S.C. § 3553(a).

The nature of the offense is self-evident as the Court heard the evidence throughout the trial. The Court is aware of the history and characteristics of the defendant based upon the trial and Presentence Investigation Report. Defendant has a

history of similar conduct. The sentence needs to afford adequate deterrence to criminal conduct and protect the public from further crimes of the defendant. It does not appear that having been involved in a human trafficking offense which has had a profound effect on the victim's mental and emotional well-being has had a significant impact on the defendant, such that it will cause him to change his behavior if released.

Defendant's current conviction involved numerous victims, eight of whom appeared and testified at trial, and numerous others named throughout the trial which were never located prior to trial. The victims presented testimony and the Court was able to observe the mental and emotional affect the Defendant's conduct had on them. In addition, since the presentation of the United States case in chief, the United States located an additional victim, L.B., whom was identified and named as a victim throughout the trial. In L.B.'s interview, she indicated she was a juvenile when she met Defendant and as a juvenile, was put in charge of the girls. She stated that she sold methamphetamine for the Defendant and recruited girls for the Defendant. L.B. said it was her job to "control the girls." See Exhibit 1. L.B. furthermore told interviewing agents that she was also physically assaulted by the Defendant and witnessed the other girls being assaulted by the Defendant. L.B. stated Defendant tried to "choke her out" and slapped her on occasions. Id. L.B. also stated that he would get the girls "messed up on methamphetamine" so they would keep selling themselves for him and if they didn't meet his expectations, there were consequences. Id.

L.B.'s statements corroborated the victims whom testified at trial. Defendant assaulted or threatened to assault the women or have someone else assault them. He

utilized numerous different weapons to control the women such as a gun, Taser, belt, bat, in addition to forcing them to have sex and sell his drugs. All of these facts are certainly relevant for the Court to consider under the 3553(a) factors.

Defendant also has a serious and extensive criminal history, going back to when he was a juvenile. Defendant was charged and sentenced as a juvenile with transporting and selling narcotics on multiple occasions, Burglary, Possessing Burglary Tools, Assault with a Dangerous Weapon, Shooting from a Vehicle, Forgery, Concealed Weapon, and DUI of a controlled Substance, not to mention several other serious offenses that contained no disposition. In addition, Defendant continued his criminal pattern of conduct into adulthood with convictions for False Information to Law Enforcement, Three counts of Lewd Acts Upon a Child under age 14, for which he was required to register as a sex offender, and Prostitution. Defendant's criminal record also includes numerous violations of parole which would indicate he is not a good candidate to be successful on any release condition, in addition to the fact that he was a registered sex offender when he committed the underlying offenses of conviction.

Imposition of a life sentence of imprisonment would properly reflect the "nature and circumstances of the offense" and "the need for the sentence imposed - to reflect the seriousness of the offense" as it would account for all of the injuries that actually resulted from the Defendant's conduct as well as the significant potential for catastrophic injury from that conduct. Furthermore, imposition of life imprisonment would more properly reflect the need for the sentence imposed to "promote respect for the law, and to provide just punishment for the offense" and to "protect the public from further crimes of the

defendant.” The attitude and behavior displayed by the Defendant throughout the trial and his criminal career suggests that he is more likely to engage in future criminal activity than one who is remorseful. Neither the total offense level nor the criminal history score take this conduct into account in determining the Defendant’s guideline sentencing range.

Based upon the foregoing reasons, the United States respectfully requests that this Court vary upward from the advisory Guidelines sentencing range calculated within the PSR, and impose a sentence of life imprisonment.

Dated this 12th day of February, 2016.

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CERTIFICATE OF SERVICE

I hereby certify that on February 12, 2016, the following document(s):

UNITED STATES SENTENCING MEMORANDUM (W/exhibit)

was filed electronically with the Clerk of Court through ECF, and that ECF will send a Notice of Electronic Filing (NEF) to the following:

Mr. Thomas Tuntland

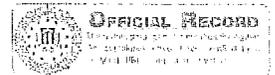
I further certify that a copy of the foregoing documents will be mailed by first class mail, postage paid, to the following non-ECF participant(s):

Mr. Keith Graves
HACTC
110 Industrial Rd.
Rugby ND 58368

Dated: February 12, 2016.

/s/ Angel Pedersen

Angel Pedersen
Office of the United States Attorney



FEDERAL BUREAU OF INVESTIGATION

Date of entry 11/02/2015

L [REDACTED] I [REDACTED] B [REDACTED] (hereafter L [REDACTED]), female, date of birth [REDACTED] [REDACTED] 1996, [REDACTED] Whiterocks, Utah, grandma's (CORINA T [REDACTED] telephone number [REDACTED]-2354, was interviewed at the Duchesne County Jail. After being advised of the identities of the interviewing Agents and the nature of the interview, L [REDACTED] provided the following information:

L [REDACTED] thought the FBI in North Dakota wanted to question her about a human trafficking case. L [REDACTED] had gone to Williston to sell drugs and some girls started selling themselves. L [REDACTED] was in charge of the girls and told them what to do, although L [REDACTED] did not prostitute herself. At that time, L [REDACTED] was 17 years old and the girls were approximately 24 years old. None of the girls were juveniles. While in Williston, L [REDACTED] associated with a black male individual, CHRIS, and L [REDACTED] guessed his last name was BROWN. CHRIS also went by CB and he had pounds of methamphetamine.

Investigation on 10/21/2015 at Duchesne, Utah, United States (In Person)

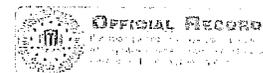
File # 50-MP-5327939

Date drafted 10/26/2015

by Lemon Travis L, David Ryan

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Exhibit 1



FEDERAL BUREAU OF INVESTIGATION

Date of entry 10/30/2015

L [REDACTED] B [REDACTED] ("B [REDACTED]") Date of Birth [REDACTED]/1996, Social Security Number [REDACTED] 9120, an enrolled member of the Turtle Mountain Chippewa Tribe, Tribal Enrollment Number unknown, of specific address unknown however she stated that it is the 1st green house on the left when you enter White Rock, Utah, was interviewed at the San Luis Detention Center, ("SLDC") 406 N. Avenue D, San Luis, AZ 85349, (928) 627-2101. After being advised of the identity of the interviewing agents and the nature of the interview, B [REDACTED] provided the following information:

At the time of the interview B [REDACTED] was an inmate at the SLDC so before the interview began B [REDACTED] was advised of her Miranda rights using FBI form FD-396 by SA Stokes at approximately 2:16 P.M. B [REDACTED] stated that she understood her rights, and that she wished to speak with the interviewing agents. She signed the consent portion of the form at approximately 2:20 P.M. B [REDACTED] was also advised that the interview would be recorded on a digital device. (AGENT NOTE: Upon review of the digital recording SA Stokes learned that advisement of rights and the beginning portion of the interview were not recorded; the recording started at approximately 2:28 P.M.) B [REDACTED] stated that she had arrived at the SLDC on October 24, 2015. Agents did not discuss the case that she was in custody on with her.

B [REDACTED] said that she met a person by the name of CHRIS BROWN, ("BROWN") in Minot, North Dakota in the summer of 2014. When asked if she could remember the exact date that they met and she narrowed the time frame down to April or May of 2014. She stated that she was only involved with him for approximately two weeks. It was B [REDACTED]'s recollection that she was 16 or 17 years old when they met. B [REDACTED] said that while with BROWN that she sold Methamphetamine, and recruited friends of hers to work as prostitutes for him. B [REDACTED] recruited them by asking them if they wanted to make some money. She recruited her friends Morning Starr, ("Starr") Two Hearts, and Natasha Atkin, ("Atkin") to work as prostitutes for BROWN. All of the girls were members of the Turtle Mountain Chippewa Tribe.

B [REDACTED] said that during that time she thought of BROWN as her boss, and that she was his assistant. She said it was her job to "control the girls." She or BROWN would use Brown's iPad to take pictures of the girls and post them to "Backpage.com", ("Backpage"). The ads were paid for using

 Investigation on 10/27/2015 at San Luis, Arizona, United States (In Person)
File # 50-MP-5327939Date drafted 10/28/2015by T. Kenneth Stokes Jr., Jaime Magallon

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FD-302a (Rev. 05-08-10)

50-MP-5327939

Continuation of FD-302 of L [REDACTED] B [REDACTED], On 10/27/2015, Page 2 of 4

gift cards that were purchased at Walmart. SA Magallon asked her where the money came from to purchase the gift cards, and B [REDACTED] responded that it came from drug sales or money that the girls made on their dates. BROWN taught B [REDACTED] how to post the photos to Backpage, and then that became part of her duties too. They would use her Yahoo account, "L [REDACTED] B [REDACTED]@yahoo.com" or a fake Yahoo account they setup to upload the pictures to Backpage. She could not recall the username for the fake account. They would use the iPad or go to the library in Willston, ND to post the photos. B [REDACTED] said that no photos were taken of her, and that she did not go out on dates for BROWN. B [REDACTED] said that BROWN gave each of the girls an LG Trac Phone that was purchased from Walmart. Another one of B [REDACTED]'s duties was to purchase phone cards at Walmart and to recharge the minutes on all the phones. The phone numbers for these phones are the numbers that were posted with the ads on Backpage

B [REDACTED] said that on her second day with BROWN he tried to "choke her out." When asked if she actually passed out she stated that she did not. Additionally, BROWN slapped her a couple of times with his open hand. She was told that Star was forced to tase an unknown female until she (the unknown female) passed out. Additionally, she was told that Atkin was raped by BROWN and a male hereafter referred to as "UNSUB 1". Both of these incidents occurred after she had left BROWN. UNSUB 1 had previously told B [REDACTED] to be careful BROWN that he had been in the Army, served in Operation Desert Storm, and had once "worked for" the "Feds".

According to B [REDACTED], BROWN would get the girls "messed up out of their minds" with Methamphetamine so that they would keep prostituting for him. He told them that he expected each girl to make \$1,500 a night on their dates. He threatened B [REDACTED] that if the other girls did not meet their quotas that she would suffer the consequences. When asked what those consequences would be B [REDACTED] said that BROWN threaten not to feed them, or give them a room to sleep. In particular he told B [REDACTED] that her consequences would be that she would have to make up the money, or she would be beaten. B [REDACTED] did say that BROWN never enforced his threat of "consequences" on her.

Typically, each girl averaged \$200 to \$300 a night on dates and she would average \$500 a night in Methamphetamine sales. Brown normally advertised dates with the girls at \$300 for an hour, and \$150 for a half an hour. Although they normally stayed at the "International Airport" hotel, BROWN was very clear with the girls that they could not use their rooms for dates or they would be beaten. BROWN did not want anyone to know where they were staying, that is why he did not want them using their rooms for dates. The girls would meet their dates out of the hotel, and then go to

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Continuation of FD-302 of L [REDACTED] B [REDACTED], On 10/27/2015, Page 3 of 4

the date's house or an alley way. B [REDACTED] was told by the girls that sometimes their dates would take them out for dinner too.

B [REDACTED] recalled that BROWN did record the girls having sex. Specifically, on one instance she observed BROWN recording Star, and the female, (hereafter referred to as "UNSUB 2") who introduced them to BROWN earlier that day having "4 Way sex" with UNSUB 1 and BROWN. B [REDACTED] and Jerica De Cotea, ("De Cotea") were in the living room of a hotel drinking, while the other four were in the bedroom engaging in sex.

B [REDACTED] said that she had just visited her boyfriend at a police station in Belcourt, ND when UNSUB 2 approached her and asked if she wanted to "have a good time" and if she "played darts." B [REDACTED] said she understood the phrase to, "play darts" as slang for shooting up with Methamphetamine. She told UNSUB 2 that she would like to have a good time, but that she didn't play darts. UNSUB 2 called BROWN on the phone, and had B [REDACTED] speak with him. UNSUB 2 then took B [REDACTED] to a hotel across from the Walmart in Minot, ND where she met BROWN for the first time.

B [REDACTED] said that she left BROWN on or about May 21, 2014. She said that BROWN dropped her and the other girls off at the library in Willston to upload photos while he went somewhere else. B [REDACTED] spoke to her mother on the phone; her mother told her that she had just arrived in Willston, and would pick B [REDACTED] up at the library. B [REDACTED] said she told the other girls that she had a family emergency in Utah, and that she was leaving. B [REDACTED] said that she advised the other girls to leave BROWN and go back home. The other girls failed to leave BROWN, and that is when Atkin was raped and the other girl tased. B [REDACTED] said that she returned to North Dakota a couple of months later and spoke to Star who told her about the things that happened after she left.

B [REDACTED] described BROWN as an African American male, approximately 6 feet tall, and weighting 200 plus pounds with a stocky build. He was bald headed and wore a goatee. She did not know if he had any scars, marks, or tattoos. He drove a four door gold colored car with tinted windows, possibly a Chevy Malibu. He also used a touch screen cellular telephone possible an iPhone.

At this point in the interview SA Stokes showed B [REDACTED] a color photograph of an African American male which B [REDACTED] positively identified as BROWN. B [REDACTED] initialed and dated the photograph in the lower right corner, and wrote "Chris B" in the upper right corner.

The interview was terminated at 3:01 P.M.

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Continuation of FD-302 of L [REDACTED] B [REDACTED], On 10/27/2015, Page 4 of 4