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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

UNITED STATES OF AMERICA,
Plaintiff, No. 4:20-CR-00151-LPR-1
V. June 22, 2021; 1:00 p.m.
ROBERT SHIFLET, Little Rock, Arkansas
Defendant.

TRANSCRIPT OF SENTENCING
BEFORE THE HONORABLE LEE P. RUDOFISKY
UNITED STATES DISTRICT JUDGE

APPEARANCES:

On Behalf of the Government:

KRISTIN BRYANT, Assistant United States Attorney
U. S. Attorney's Office
P.O. Box 1229
Little Rock, Arkansas 72203-1229

On Behalf of the Defendant:

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Proceedings reported by machine stenography; transcript prepared utilizing computer-aided transcription.

1 (Proceedings commencing in open court at 1:25 p.m.)

2 THE COURT: Everybody be seated, please.

3 Let me start by apologizing to everybody for my tardiness.
4 I needed to spend some time back in chambers reading over
5 everything one more time. This is a very difficult case in my
6 view and a very difficult call that I'm going to have to make
7 at the end of things here. And, obviously, I know it is
8 extraordinarily important to Mr. Shiflet, and I also know it's
9 extraordinarily important to the government and society. So I
10 felt like I needed to take a little extra time. Thank you all
11 for bearing with me. I appreciate it.

12 We are here today for sentencing in the United States
13 versus Robert Shiflet.

14 Mr. Shiflet, did I say that correctly?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Case Number 4:20-CR-00150. The
17 defendant, Mr. Shiflet, is present in court with his lawyers
18 Mr. Ross and Ms. Beckman. Welcome.

19 MR. ROSS: Thank you, Your Honor.

20 THE COURT: And the prosecution is welcomed by
21 Ms. Bryant. Ms. Bryant, nice to see you again.

22 MS. BRYANT: Nice to see you, Your Honor.

23 THE COURT: We are here today for sentencing under
24 the United States sentencing guidelines and the United States
25 sentencing statute, 18 USC 3553.

1 Are the parties ready to proceed? Ms. Bryant?

2 MS. BRYANT: We are, Your Honor.

3 THE COURT: Mr. Ross or Ms. Beckman?

4 MR. ROSS: Yes, Your Honor.

5 THE COURT: And I don't really have a problem, quite
6 frankly, with double-teaming, but in general is there one of
7 you who is going to speak today?

8 MR. ROSS: It will just be me, Your Honor.

9 THE COURT: Okay. Just very quickly in terms of how
10 the case got here, and this is mostly for the record, a June 2,
11 2020, four-count indictment charged Robert Shiflet with three
12 counts of transportation of a minor to engage in criminal
13 sexual activity on or about May 1997, between or about March 1,
14 2001, through on or about March 7, 2001, and between in or
15 about June 2002 through in or about September 2002, and one
16 count of coercion in or about June 2002 through in or about
17 September 2002, all in violation of federal law.

18 Mr. Shiflet pled guilty on November 30, 2020, to Counts 1
19 and 4 with a plea agreement. And I should mention that the
20 plea agreement was a Rule 11 subsection (c) plea agreement, and
21 I believe I deferred consideration of whether I was going to
22 accept the plea agreement until today.

23 I am going to make that determination after we go through
24 the presentence report and after I give the lawyers a chance to
25 discuss with me why they think I should or shouldn't accept the

1 plea agreement. And, obviously, if I reject the plea
2 agreement, I will give Mr. Shiflet a chance to withdraw his
3 guilty plea if he wants to, but now we're sort of really
4 putting the cart before the horse. Let's wait until we get
5 there.

6 Ms. Bryant, is there a motion for a third point of
7 acceptance?

8 MS. BRYANT: Yes, Your Honor.

9 THE COURT: Okay. That will be granted.

10 Mr. Shiflet, I need to do a couple of things for the
11 record.

12 THE DEFENDANT: Okay.

13 THE COURT: The first thing I need to do is swear you
14 in. Not all judges do this at a sentencing hearing, but it's
15 my policy for the defendant to be sworn in.

16 So, Heather, why don't we take care of that?

17 THE COURTROOM DEPUTY: Please rise. Raise your right
18 hand.

19 Do you swear or affirm to tell the truth, the whole truth,
20 and nothing but the truth so help you God or under penalty of
21 perjury?

22 THE DEFENDANT: I do.

23 THE COURTROOM DEPUTY: Thank you. You may be seated.

24 THE COURT: Mr. Shiflet, I need you to understand --
25 and we basically talked about this at your change of plea

1 hearing. I need you to understand that, given the oath you
2 just took, if you make any false statements to the Court, you
3 could be charged with perjury, and that would come along with a
4 substantial term of imprisonment over and above the crimes
5 we're here on today.

6 Do you understand that, sir.

7 THE DEFENDANT: Yes, sir.

8 THE COURT: The reason I make a big deal about that
9 is, if for some reason you don't understand what's going on, if
10 you don't understand a question I've asked you, if you don't
11 understand something I've said or something the government said
12 or something even your own lawyers have said, I don't want you
13 to sort of sit there quietly to go along to get along. I want
14 you to stop us and say, "Judge, Your Honor, I am not sure what
15 you've asked," or "I don't understand what's going on."

16 If you do that, I will give you some time to speak off the
17 record with your attorneys, and if they can't clear it up for
18 you, we can have a further conversation if your attorneys think
19 it's appropriate or if you really need it. Okay?

20 THE DEFENDANT: Okay.

21 THE COURT: Okay. On the other hand, if you do not
22 tell me that you don't understand something, I'm going to
23 assume that you understand everything that's going on here
24 today. Okay?

25 THE DEFENDANT: Okay.

1 THE COURT: Okay. Second, for the record,
2 Mr. Shiflet, are you satisfied with your lawyers Mr. Ross and
3 Ms. Beckman?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: In all respects?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Okay. Do you think at this point here
8 there is any reason that you should be allowed to withdraw your
9 plea of guilty that you entered on November 30, 2020?

10 THE DEFENDANT: No, sir.

11 THE COURT: Okay. Do you want to withdraw it?

12 THE DEFENDANT: No, sir.

13 THE COURT: At the change of plea hearing, I asked
14 you a fair number of questions to make sure I felt like you
15 were competent to proceed. I am going to ask you a slimmed
16 down version of those questions now.

17 First, could you just very quickly and briefly go over
18 your educational history?

19 THE DEFENDANT: I have an associate's degree, a
20 bachelor's degree, and I completed some graduate work but
21 didn't reach my master's degree.

22 THE COURT: This question then is going to sound
23 really silly to you, but I'm going to ask it for the record.

24 Do you read, write, and understand English well?

25 THE DEFENDANT: I do.

1 THE COURT: Are you on any prescription medication?

2 THE DEFENDANT: No, sir.

3 THE COURT: Is there any prescription medication that
4 you're supposed to be taking, so medication that a doctor has
5 currently prescribed for you but for some reason you are not
6 taking it?

7 THE DEFENDANT: We had this conversation before. I
8 have a diabetes medicine that was prescribed to me 16 years
9 ago. I've lost 40 pounds and altered my diet and don't need to
10 take it any more, but I never officially had a doctor tell me
11 to stop taking it.

12 THE COURT: Okay. Aside from that, anything else?

13 THE DEFENDANT: No, no.

14 THE COURT: Have you used illegal drugs in the last
15 two weeks?

16 THE DEFENDANT: I have never used illegal drugs.

17 THE COURT: Have you used alcohol in the last week?

18 THE DEFENDANT: No, sir.

19 THE COURT: Mr. Ross, any reason to think Mr. Shiflet
20 isn't competent to proceed?

21 MR. ROSS: No, Your Honor.

22 THE COURT: Ms. Bryant, do you have any reason to
23 think that?

24 MS. BRYANT: I do not, Your Honor.

25 THE COURT: Neither do I. For the record, I find

1 that Mr. Shiflet is competent to proceed in today's sentencing
2 hearing.

3 I am going to go over how this sentencing hearing is going
4 to work today. Both, Mr. Shiflet, for your understanding as
5 well as for the understanding of folks in the audience,
6 sometimes hearings like this for nonlawyers can get a little
7 bit frustrating because there is a lot of sort of legal jargon
8 that we deal with at the outset and at the beginning of these
9 things, and then we get into what I will say is the more sort
10 of nonlawyer argument part of this in the second part of the
11 hearing.

12 So in determining a sentence, I am going to consider the
13 factors listed in 18 USC 3553 and the sentencing guidelines.
14 Of course, given the subsection plea agreement, I will also
15 look at that and, at the appropriate point today, make a
16 determination about whether I'm going to follow the plea
17 agreement.

18 The Sentencing Reform Act of 1984 created sentencing
19 guidelines. I'll generally give a sentence within the
20 sentencing guidelines range unless there is reasonable grounds
21 not to do so.

22 There has been a presentence report here. We're going to
23 go over the presentence report and see if there are any
24 disputes or objections. If there are, I'll resolve them, and
25 then we'll work through the guidelines to see what we can come

1 up with in terms of a guidelines range. Then we will turn to
2 the plea agreement and talk about whether we're going to go
3 with the plea agreement or not. And ultimately, if we get up
4 to it, we will talk about what a fair sentence for you is under
5 the sentencing statute with, of course, both the guidelines and
6 the plea agreement as they may or may not contribute to this in
7 mind.

8 And just as a background, Mr. Shiflet, when I say, "a fair
9 sentence," what I really mean is a sentence that is sufficient
10 but no more than necessary to get at all the factors that
11 Congress has set out in the sentencing statute that sort of
12 explain what the -- what Congress's purpose in a sentence and
13 punishment is.

14 Do you understand that?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Okay. Mr. Shiflet, Mr. Ross, and perhaps
17 Ms. Beckman, are going to speak on your behalf today up to a
18 certain point. At a certain point, I'm going to ask Mr. Ross
19 if you wish to allocute, if you wish to speak to the Court
20 yourself. That's 100 percent up to you. You can do it. You
21 don't necessarily -- you don't have to do it. Totally your
22 call.

23 And, Mr. Ross, you should know that it is my policy to
24 allow anybody from, I guess, what I'll call, for lack of a
25 better term, Mr. Shiflet's side of the courtroom to speak as

1 well if that is something that you and Mr. Shiflet want.

2 MR. ROSS: Thank you, Your Honor.

3 THE COURT: Okay, Mr. Ross?

4 MR. ROSS: Thank you.

5 THE COURT: I'm going to put the onus, however,
6 Mr. Ross, on and you and Mr. Shiflet to remind me that, if for
7 some reason -- I don't think that's going to happen here. But
8 if for some reason we start getting into the actual imposition
9 of the sentence and Mr. Shiflet hasn't spoken and he wants to,
10 I am going to put the onus on you all to remind me about that.
11 Okay?

12 MR. ROSS: Understood. Thank you, Your Honor.

13 THE COURT: After all of that, Ms. Bryant, I'll move
14 to you. And, Ms. Bryant, one of the things I'll ask to you at
15 that point is if there are victims who wish to speak, either
16 wish to testify or wish to speak. Okay?

17 MS. BRYANT: Yes. Thank you, Your Honor.

18 THE COURT: Okay. And I think, Ms. Bryant, you have
19 been here in front of me for long enough that you know it's my
20 policy to allow Mr. Ross and Ms. Beckman to close up if they
21 have something they would like to say in reply. And then we
22 will get on to imposing sentence.

23 Okay. In terms of the presentence report, have both sides
24 reviewed the presentence report?

25 Ms. Bryant?

1 MS. BRYANT: We have.

2 THE COURT: Mr. Ross?

3 MR. ROSS: Yes, Your Honor.

4 THE COURT: Any objections, Ms. Bryant?

5 MS. BRYANT: No objections.

6 THE COURT: Mr. Ross?

7 MR. ROSS: There were no objections, Your Honor.

8 THE COURT: Okay. In that case I will adopt the
9 presentence report. If either side appeals my sentence, it may
10 be released to the lawyers for the parties without further
11 order of the Court.

12 I think we are probably far enough past the height of the
13 COVID crisis to have a bench conference up here. And given the
14 number of people in the courtroom, I don't think it's really
15 efficient to close the courtroom. So why don't you all at this
16 point come on up here?

17 (Whereupon the proceedings were held under seal.)

18 THE COURT: We're going to move into determining the
19 guidelines range. As I understand it, here is where we are:
20 In terms of Count 1, transportation of a minor to engage in
21 criminal sexual activity, the base offense level under the
22 guidelines is 19. The specific offense characteristics here:
23 The offense involved a victim who had attained the age of 12
24 years but not attained the age of 16, that is a plus 2. And
25 then specific offense characteristics, the victim was otherwise

1 in the custody, care, or supervisory control of the defendant,
2 that is another plus 2, which leads to an adjusted offense
3 level subtotal of 23.

4 On Count 1, Ms. Bryant, do you agree with that up to that
5 point?

6 MS. BRYANT: I do, Your Honor.

7 THE COURT: Okay. And then do you also agree that --
8 okay. Well, let's go on in a second after that.

9 Mr. Ross, for Count 1, up to the subtotal of 23, do you
10 agree with all of that?

11 MR. ROSS: I do, Your Honor.

12 THE COURT: Okay. Then Count 4, transportation of a
13 minor to engage in criminal sexual activity, the base offense
14 level under the guidelines is a 19. The offense involved a
15 minor. In terms of specific offense characteristics, a
16 computer or Internet access device was used to persuade,
17 induce, entice, coerce, or facilitate the travel of a minor to
18 engage in a commercial sex act. There is a plus 2 there, and
19 then that leads to an adjusted offense level subtotal of 21.

20 Ms. Bryant, do you agree with that?

21 MS. BRYANT: I do, Your Honor.

22 THE COURT: I'm sorry. I couldn't hear you.

23 MS. BRYANT: I'm sorry. I do, Your Honor.

24 THE COURT: Okay. Mr. Ross, do you agree with that?

25 MR. ROSS: I do, Your Honor.

1 THE COURT: Okay. Then in terms of a multiple count
2 adjustment, units are assigned pursuant to the United States
3 sentencing guidelines 3D1.4(a), (b), and (c). One unit is
4 assigned to the group with the highest offense level. One
5 additional unit is assigned for each group that is equally
6 serious or from 1 to 4 levels less serious. One half unit is
7 assigned to any group that is 5 to 8 levels less serious than
8 the highest offense level. Any groups that are 9 or more
9 levels less serious than the group with the highest offense
10 level are disregarded.

11 Here, Count 1 has an adjusted offense level of 23; that's
12 one unit. Count 4 has an adjusted level of 21; that's one
13 unit. So the total number of units are 2 units.

14 So the greater of the adjusted offense levels is a 23.
15 The increase in offense level is a plus 2, because of the units
16 I've just discussed. That leads to a combined adjusted offense
17 level of a 25. There is a negative 3 for acceptance of
18 responsibility, which leads to a total offense level of 22.

19 That was quite a mouthful, but, Ms. Bryant, do you agree?

20 MS. BRYANT: I do, Your Honor.

21 THE COURT: Mr. Ross, do you agree?

22 MR. ROSS: I do, Your Honor.

23 THE COURT: Okay. In terms of criminal history,
24 according to the presentence report, there is a total criminal
25 history score of a zero and a criminal history category,

1 therefore, of a I.

2 Ms. Bryant, do you agree?

3 MS. BRYANT: Yes, Your Honor.

4 THE COURT: Mr. Ross, do you agree?

5 MR. ROSS: Yes, Your Honor.

6 THE COURT: Okay. In terms of imprisonment options,
7 so the statutory range is the following: Counts 1, maximum
8 term of imprisonment is 10 years, and Count 4 maximum term of
9 imprisonment is 15 years. In terms of the guidelines, based on
10 a total offense level of 22 and a criminal history category
11 score of I, the guidelines imprisonment range is 41 to 51
12 months.

13 And then, obviously, in the plea agreement, the subsection
14 (c) plea agreement, at least as I read it on page 5, the
15 recommended sentence is 27 to 33 months on each count to run
16 concurrently with each other.

17 Ms. Bryant, is all of that correct?

18 MS. BRYANT: That is, Your Honor, based on what we
19 anticipated the calculations to be at the time. We thought
20 that was going to be the range. Unfortunately, to my
21 detriment, we were wrong on the calculation. But that is the
22 agreement that we've had reached based on our understanding at
23 the time.

24 THE COURT: Okay. Mr. Ross, do you agree with all of
25 that?

1 MR. ROSS: That's correct, Your Honor.

2 THE COURT: Okay. In terms of supervised release,
3 the statutory requirement on Count 1 is five years to life; on
4 Count 4, it's five years to life with multiple terms of
5 supervised release to run concurrently.

6 In terms of the guidelines, since the statute requires a
7 term of supervised release of five years, the guidelines
8 requirement for a term of supervised release is five years to
9 life. Notwithstanding the subsection (a)(1) to (3) of, I
10 guess, 5D1.2 in the guidelines, the length of the term of
11 supervised release shall not be less than the minimum term of
12 years specified for the offense under subdivisions (a)(1) dash
13 (3) -- or (a)(1) to (a)(3) and may be up to life if the offense
14 is a sex offense. The upshot of all of that is the guidelines
15 range is five years to life on each of them also to run
16 concurrently.

17 MS. Bryant, do you agree?

18 MS. BRYANT: I do, Your Honor.

19 THE COURT: Mr. Ross, do you agree?

20 MR. ROSS: I do, Your Honor.

21 THE COURT: Let me ask you both about this only
22 because I don't very often see subsection (c) plea agreements.
23 I don't think, unless I've missed it, that the Rule 11
24 recommendation talks at all about supervised release.
25 Obviously, the Court is going to order supervised release so, I

1 assume, whatever I order in the range is -- in your view, is
2 consistent with the plea agreement. But tell me if that is
3 incorrect.

4 Ms. Bryant?

5 MS. BRYANT: That's correct.

6 THE COURT: Mr. Ross?

7 MR. ROSS: I would concur, Your Honor.

8 THE COURT: Okay. In terms of probation, the
9 statutory range on Count 1 is not less than one year and not
10 more than five years. One of the following must be imposed as
11 a condition of probation unless extraordinary circumstances
12 exist: a fine, restitution, or community service.

13 On Count 4, in terms of the statutory range, it's also not
14 less than one year and not more than five years, and the same
15 thing I read about the various requirements unless for
16 extraordinary circumstances also apply, and multiple terms of
17 probation shall run concurrently. However, in the guidelines
18 range speak, he is ineligible because the guidelines range is
19 in Zone D of the sentencing table.

20 Ms. Bryant, do you agree with that?

21 MS. BRYANT: I do, Your Honor.

22 THE COURT: Mr. Ross, do you agree with that?

23 MR. ROSS: I do, Your Honor.

24 THE COURT: Okay. In terms of fines, the statute,
25 Count 1, the maximum fine is \$250,000; Count 4, the maximum

1 fine is \$250,000. Under the guidelines range, the fine range
2 for the offense is from \$7,500 to \$75,000.

3 Normally at this point I would say that the financial
4 report indicates that a defendant can't make payments, but I'm
5 not sure that is actually true here. Financial report, I would
6 say, is at least 50/50 and probably leans towards the side of
7 Mr. Shiflet being able to pay a fine if I were to impose one,
8 certainly in reasonable installment payments.

9 Having said that, I'm going to ask the same question I
10 just asked about supervised release on the fine section.
11 Ms. Bryant, is it your understanding -- I mean, the Rule 11
12 recommendation in the plea agreement doesn't speak to fines at
13 all. Is it your understanding that, if I assess a fine, in
14 addition to whatever imprisonment I assess, is that a violation
15 of the plea agreement, or is that -- is just the plea agreement
16 silent on that?

17 MS. BRYANT: I do not believe it's a violation of the
18 plea agreement, and the plea agreement is silent on it.

19 THE COURT: Mr. Ross, what is your view?

20 MR. ROSS: I would agree, Your Honor, that the plea
21 agreement is silent in that regard. However, before the Court
22 would make that decision, we would ask to be heard in that
23 regard.

24 THE COURT: For sure. That's -- obviously, I mean,
25 you're going to be -- before I make any decisions, you're going

1 to be heard on that. But I just want to make sure your
2 position is that, if I were to impose for -- nobody read the
3 tea leaves. This is just, for example.

4 If I were to impose a 33 month of imprisonment range and
5 give him X amount of a fine, your view is that would not
6 violate the subsection (c) plea agreement?

7 MR. ROSS: That is correct.

8 THE COURT: Is that correct?

9 MR. ROSS: That's correct, Your Honor.

10 THE COURT: Okay. I appreciate that.

11 Okay. There is a special assessment. Count 1, the
12 special assessment of \$100 is mandatory, and Count 4, a special
13 assessment of \$100 is mandatory. So I will be imposing those,
14 obviously.

15 My next question, Ms. Bryant, restitution, I had
16 thought -- but I could easily be wrong -- from reading the
17 statute that restitution is mandatory in this case. On the
18 other hand, I don't think you all have asked for restitution,
19 so I'm sort of struggling with where to go there.

20 MS. BRYANT: That is correct, Your Honor. I don't
21 believe -- and certainly some of the victims are here today,
22 and they can correct me if I'm wrong. Up to this point, we
23 have not received any request for monetary restitution.

24 THE COURT: So let me ask you this because, again, I
25 have not -- I have only seen one other case like this, which

1 involves the mandatory restitution statute, since I've been on
2 the bench. The restitution statute seems to speak in mandatory
3 terms and requires me to impose some type of restitution. On
4 the other hand, if you don't all ask for it, I wouldn't have
5 the foggiest place of where to begin in terms of a calculation.

6 So in the situation where the government does not ask for
7 it, what is your position legally on what I'm required to do
8 and not required to do?

9 MS. BRYANT: Your Honor, I know it's different now
10 because now Congress has said there is \$3,000 per victim. But,
11 obviously, that wasn't in play back when this offense happened.
12 And our understanding is, if there has not been any requested,
13 that the Court is not required to order it.

14 THE COURT: Okay. I appreciate that.

15 Mr. Ross, do you agree with all of that? And I guess do
16 you agree with what Ms. Bryant has said, or do you disagree
17 with that?

18 MR. ROSS: No. I agree with that. If no restitution
19 has been requested, I don't think the Court has to do that.

20 THE COURT: Okay. Ms. Bryant, am I right that
21 forfeiture is not at play in this case?

22 MS. BRYANT: Yes, Your Honor.

23 THE COURT: Okay. I think I'm going -- I think I
24 know the answer to this given all that we've just discussed,
25 but I'm going to ask it for the record: Are there any

1 objections to this interpretation of my sentencing options?

2 Ms. Bryant?

3 MS. BRYANT: No, Your Honor.

4 THE COURT: Mr. Ross?

5 MR. ROSS: No, Your Honor.

6 THE COURT: Is anybody moving for -- not a variance
7 yet but a departure?

8 Ms. Bryant?

9 MS. BRYANT: No, Your Honor.

10 THE COURT: Mr. Ross?

11 MR. ROSS: Not in lieu of the agreement, Your Honor.

12 THE COURT: I got it. I mean, obviously, you all are
13 asking for the plea -- you all are asking for the plea
14 agreement sentence to be imposed. I take it, having said that,
15 if I reject the plea agreement -- again, don't read the tea
16 leaves. If I reject the plea agreement and if Mr. Shiflet
17 didn't withdraw his guilty plea, that's a bunch of ifs, but if
18 all of that happened, I assume you would all be asking for the
19 lowest sentence possible, which I take it would not be a
20 departure but it would probably be a variance down.

21 MR. ROSS: Your Honor, just for a point of
22 clarification. So not reading the tea leaves, but if -- my
23 understanding is that, if the Court decided to not accept the
24 plea agreement, the 11(c) agreement --

25 THE COURT: Yep.

1 MR. ROSS: -- and then the Court gives Mr. Shiflet
2 the opportunity to withdraw his plea --

3 THE COURT: Correct.

4 MR. ROSS: -- if that is the case, then what we would
5 be requesting is additional time to make that determination and
6 to go through some of those options. Having said that, if
7 later we request to not withdraw the plea, then it would be my
8 understanding that the Court would allow us to file additional
9 motions with the Court in that instance.

10 THE COURT: So I'm not sure that's the way the
11 statute requires things, but, quite frankly, if I decide to
12 reject the plea agreement, that seems like a pretty reasonable
13 way to proceed. I will let Ms. Bryant be heard on that, if and
14 when we get to it. But that strikes me as a reasonable way to
15 proceed, so I would be inclined towards that, if we end up
16 there.

17 MR. ROSS: Understood, Your Honor.

18 THE COURT: Okay. So with that understanding, I
19 think I understand, in no case really at this point would you
20 be asking for a departure though; correct? To be distinguished
21 from a variance.

22 MR. ROSS: That's correct, Your Honor.

23 THE COURT: Okay. And, Ms. Bryant, you all are not
24 asking for a variance; is that correct?

25 MS. BRYANT: Correct, Your Honor. In this instance

1 we're just requesting the guideline range, the high end of the
2 guideline range, which we propose in our (c)(1)(C) plea
3 agreement.

4 THE COURT: Okay. Then let's talk now about the plea
5 agreement, because I think this is a fair point to talk about
6 it. And I don't want you all to sort of having -- have to
7 shoot at a mirage, so I'm just going to tell you how I feel
8 right now, and then you all can respond to it. And I'll be
9 perfectly honest, Mr. Ross. I certainly want to hear what you
10 say, but I am particularly interested in hearing what the
11 government has to say.

12 I am extraordinarily concerned about this plea agreement.
13 I am not sure I've ever been as concerned about a
14 recommendation that the government has made.

15 I have sat in this chair and sent people to prison for
16 five years, six years, seven years, eight years -- the
17 government's request sometimes nine and ten years -- for simply
18 owning a gun and being a felon.

19 I have sent people to jail for that amount -- to prison
20 for that amount of time for selling drugs, which is bad, but is
21 not visiting harm on the body of a minor.

22 I'll just be honest I don't know how I'm going to sleep at
23 night if what Mr. Shiflet gets for the conduct that is in the
24 presentence report that I wrote, if Mr. Shiflet has to serve
25 33 months on both together and met concurrently.

1 I have no -- and look, maybe you all will explain to me
2 how under the statute that makes sense and what I'm missing,
3 but that does not strike me as a sufficient sentence under
4 3553. So I am really looking to you all to explain why I'm
5 wrong about that and how in this case that makes any sense.

6 Mr. Ross, normally, I would start with you, and I'm happy
7 to do that. On the other hand, it may be, quite frankly, to --
8 I don't want to run your case for you. But it may be, quite
9 frankly, to your benefit for me to hear from Ms. Bryant because
10 maybe she is going to be able to persuade me that this makes
11 some sense from the government's perspective.

12 MR. ROSS: I don't mind having Ms. Bryant go first,
13 Your Honor.

14 THE COURT: Ms. Bryant, why don't you take a shot at
15 it because I don't want to use the word flabbergasted, but I'm
16 a little bit flabbergasted.

17 MS. BRYANT: So, Judge, I absolutely agree with you.
18 Quite frankly, it pains me to have to advocate for a sentence
19 like this. If Mr. Shiflet had committed these offenses two
20 years ago, he would be looking at not less than 10 years
21 imprisonment.

22 And so when trying to figure out the appropriate
23 resolution in this case and looking at the guideline range that
24 was in effect at the time that he committed these offenses, I
25 completely agree with you. It's incredibly low.

1 I don't know if there is an appropriate prison sentence
2 for what he did. But in looking at the passage of time that
3 has happened since these offenses were committed, you know,
4 looking at 20 years ago, the lack of what we would determine to
5 be any physical evidence, it's essentially going to be our
6 victims having to come up and talk about what happened to them.

7 As required by the statute, our victims were consulted,
8 and we've consulted with them on several occasions,
9 specifically the victims in the alleged -- in the indictment.
10 And we all agreed, considering the circumstances of this case,
11 that this would be a fair resolution; that it would provide
12 closure to what happened to them, you know, almost two decades
13 ago.

14 So I certainly understand the Court's consideration. And,
15 quite frankly, I agree with you. But, unfortunately, back
16 then, the statute and the guidelines aren't on my side.

17 THE COURT: Yeah. But first -- but, first of all, I
18 understand when you say, the statute and the guidelines -- or
19 at least I understand it a little bit -- aren't on your side.
20 But the statute has a significant prison sentence, and the
21 guidelines are what the guidelines are. But I have every
22 right, if I want to, except for the plea agreement, which we
23 can deal with, to vary upwards.

24 So again, I haven't made any hard conclusions. I am open
25 to listening to everybody. But, tentatively, when I have read

1 all of this stuff, if the government had managed to prove at
2 trial all of what I see and hear -- or I should say, if the
3 government had managed to prove at trial beyond a reasonable
4 doubt that Mr. Shiflet was guilty of the crimes to which he has
5 pled guilty to and I am able to take into consideration what's
6 in the presentence report, which at that point I would be, I
7 don't know why this isn't a case that screams out for an upward
8 variance.

9 Having said all of that, if what you're telling me is that
10 the government's case was not strong and that you were worried
11 that there was a substantial risk that you would lose at trial
12 and you're telling me that, because of that risk, you and the
13 victims decided that the 33 months was essentially better than
14 nothing and that's why you think this is fair, that's a
15 different point. I mean, that's -- you know, I'll take it for
16 what it's worth, but that is potentially persuasive.

17 I don't really see the other part as being persuasive
18 because I could vary up to the statutory maximum if I wanted
19 to.

20 MS. BRYANT: So going to back to your point about the
21 strength of our case. Certainly, I think our case is strong,
22 but again considering the lapse of time, you know, 15,
23 20 years, the finite absolute of this being done without them
24 having to get up there and testify about what happened, about
25 being cross-examined about what happened during that time

1 period, and, again, just having the opportunity to put this
2 behind them, we agreed that this was a fair resolution to
3 propose to the Court.

4 THE COURT: How strong are the government's concerns
5 if I reject this plea agreement? And I mean, I'm giving you
6 the chance to tell me what you need to tell me because I'm
7 leaning towards rejecting this plea agreement. And if you're
8 telling me, "Judge, if you do that, there is a chance we're
9 never going to get anything, and these victims are going to go
10 on the stand, and it's going to be awful for them to relive
11 it," I'm open to it, but you've just said you think you have a
12 strong case.

13 MS. BRYANT: I do.

14 THE COURT: If you really think you have a strong
15 case, then the argument that, you know, this happened a long
16 time ago and there is no physical evidence is mitigated by you
17 telling me you think you have a strong case. So I'm trying to
18 figure out how strong is the government's concern if I reject
19 this plea agreement?

20 MS. BRYANT: well, I think always -- it's always a
21 crap shoot in front of a jury to begin with, you know. What we
22 do with every case, before we decide if we're going to go to a
23 jury trial, in looking at what offer do we make, we consider
24 the possibility that a jury may not find our evidence as
25 credible as we do.

1 So I absolutely believe the witnesses and their
2 credibility. But the fact with the passage of time that has
3 come with this, I think a portion of our concern is a jury may
4 think, well, how do you remember all of that? Or how do you do
5 this? And knowing that we can get a finite conclusion to this
6 case and to this conduct, I think was something that was
7 appealing to all of us.

8 But I certainly don't say that to discount the strength of
9 the case. And so to be candid with the Court, I absolutely
10 think we could win at a jury trial. But to have to put my
11 victims through that, when knowing that we could get a prison
12 sentence, were factors that we weighed in coming to this
13 agreement.

14 THE COURT: Do you think 27 to 33 months is fair?

15 MS. BRYANT: No.

16 THE COURT: Do you think it's what Congress would
17 have wanted under the sentencing statute?

18 MS. BRYANT: well, obviously, now given that the time
19 that now Congress attributes to this conduct, no. But again,
20 that is weighing all the other factors that I've given to the
21 Court and just having lived through this just these past few
22 years with these victims, knowing that this is a burden they've
23 carried with them for a much more significant period of time,
24 to tell them, "Okay. We're going back, and now we're going to
25 prep. We're going to prepare for trial" -- and, you know, it's

1 been hard on them just to prepare a statement to read to you --
2 to have to go in front of 12 people and tell, you know, details
3 about what he did to them when they were a child and then face
4 Cross-examination on that, I think that we're at the right
5 resolution.

6 THE COURT: So, Ms. Bryant, you know -- and this is
7 just one of the perks of being a sort of local prosecutor. I
8 know you well, and you've been in my court before, and so I
9 kind of can take your temperature a little bit. And I know
10 you're a straight shooter.

11 On a scale of zero to ten, what is the government's
12 objection if I were to reject the plea agreement? I am
13 really -- I'm trying to figure --

14 MS. BRYANT: I honestly --

15 THE COURT: If you told me it was a ten, I know you.
16 I understand what you're telling me. If you tell me it's a
17 two, I also know you, and I know what you're telling me.

18 MS. BRYANT: Really, before I give you the answer, I
19 would like to be able to consult with my victims.

20 THE COURT: I think that would be useful. And,
21 Ms. Bryant, while I normally don't say this, given the nature,
22 circumstances, and issues in this case, I think it might be a
23 good idea to consult maybe a little higher up the chain just to
24 make sure that we have the full United States's position on
25 this. That is up to you.

1 MS. BRYANT: That's why I brought Mr. Gordon, so he's
2 here.

3 THE COURT: I'm not in your business, but I want to
4 make sure -- I want to make sure whatever you all are doing
5 reflects the full position of the United States here.

6 MS. BRYANT: Absolutely.

7 THE COURT: So why don't we take five minutes and do
8 that.

9 MS. BRYANT: Sure.

10 THE COURT: And, obviously, Mr. Ross, I am going to
11 give you a whole lot of time to talk about what you want.
12 We're going to recess, but I'm going to remain here. Just go
13 about your business.

14 (A brief recess was taken.)

15 THE COURT: Ms. Bryant, are we ready to go back on
16 the record?

17 MS. BRYANT: I am, Your Honor.

18 THE COURT: What are your thoughts?

19 MS. BRYANT: So, first of all, thank you for giving
20 us time to talk. And just so the Court knows, there are four
21 victims that are here today that I've been able to consult and
22 consult with their families, because, you know, it's not just
23 the victims that have had to live through what happened but
24 also the impact on their families.

25 And I think our -- the overarching answer there is there

1 isn't enough time to -- enough punishment and prison time for
2 what he did to them. But considering the factors in this case
3 and issues that could arise, we think that it's in the best
4 interest of the case that the Court accept the plea agreement,
5 give him 33 months, and a lifetime of supervised release, and
6 that will be our request to the Court.

7 THE COURT: Okay. Mr. Ross, if you want to be
8 heard --

9 MR. ROSS: Thank you, Your Honor. This is a very
10 unique case. The way it's positioned, the length of time that
11 has passed. And, Your Honor, I think that, when the Court
12 looks at the agreement of the parties here, not only the
13 government and the defense but also the victims that are
14 involved in this, and respecting their wishes that there is
15 closure, that there could be closure on this case, I think that
16 that is something that the Court should take into consideration
17 and in high regard.

18 But at the same time, the Court knows that, in sentencing,
19 you sentence in the individualized case. And what's
20 interesting and what I would point out to the Court is, over
21 this 15-, 20-year span of period, the Court can also take into
22 consideration post-offense rehabilitation, post-offense actions
23 of the defendant in considering a sentence that is sufficient
24 but not greater than necessary.

25 And what we have supplied to the Court is a considerable

1 amount of character letters and support letters that cover an
2 extended period of time that show what Mr. Shiflet has been
3 about over the last 15, 20 years and his conduct. And that
4 there hasn't been any inclination -- there hasn't been any
5 other reports of any inappropriate behavior over this period of
6 time. And that he's taken that time to, you know, continue to
7 strengthen his family. His kids are grown now.

8 But at the same time, Your Honor, when you look at when he
9 was first brought into custody on this charge, he was released.
10 He was released on conditions, and he abided by those
11 conditions without any problems at all. And one of the things
12 that the Court always knows and for detention purposes is: Are
13 they a flight risk, and are they a danger to the community?
14 That was not found when he was brought in. The government did
15 not move to detain him at that period of time. I mean, there
16 has been no inclination that he continues or would be a threat
17 or a danger to the community.

18 And so at the same time, Your Honor, you look at also the
19 collateral consequences from a punishment standpoint that he is
20 also going to be enduring. You think about when he was
21 arrested. There was a lot of publicity, and there was a lot of
22 negative headlines that was print -- put out, not only in the
23 Northern District of Texas but here in Arkansas. When he pled
24 guilty, there was another series of reports in that regard.
25 And in sentencing, there probably will be reports as well.

1 But the public shame that comes with that is also a type
2 of punishment. It's something else that he is going to endure,
3 Your Honor, with sex offender registration for life. That's a
4 collateral consequence that he's going to have to continue with
5 to live with, for the purposes.

6 When he is in custody, Your Honor, there is -- I would
7 argue to the Court having visited many, many, many clients that
8 are in prison, that on this type of offense there is a
9 heightened level of stress and anxiety and danger that is put
10 upon an individual rather than the regular individual who is
11 maybe a drug dealer or firearm -- felon in possession of a
12 firearm that goes into prison. There is going to be a complete
13 change of culture that he's going to find himself in, a
14 complete different whole arena of life that he's going to have
15 to endure and undergo.

16 And those are certain circumstances that, I think, argue
17 for, in this particular individualized case, that a sentence in
18 this range that the government and Mr. Shiflet has agreed to,
19 makes it appropriate and reasonable.

20 But I think the bigger part is looking at what he has done
21 in these 20 years that have passed. And when you argue for
22 closure in this case, not only for the victims but also for
23 Mr. Shiflet, where he and the victims can put this chapter
24 behind them and not have to undergo any further stress and
25 anxiety and wonder of what's going to happen.

1 There is no winners in this case. That is for sure. But
2 the case is in a very unique posture as well, probably one that
3 the Court will not see in a very long time given the time --
4 the period of time that's passed in this case.

5 So we would ask the Court to note that, when it would be
6 considering if this is a sufficient sentence but not greater
7 than necessary, to note the agreement of the parties, the
8 post-offense rehabilitation and what he's done, that he's not
9 currently a threat to society --

10 THE COURT: Mr. Ross, let me ask you this because
11 there are -- well, there are a number of things that concern
12 me, but let me ask you about at least two. Thank you.

13 Number one, I have to be concerned about deterrence, yes,
14 specific deterrence, but let's just pause it for a second that
15 you've already talked to that in terms of his rehabilitation in
16 the intervening years. Jury is out on that, but let's just
17 stipulate for a second that you've talked about that.

18 I have to worry about general deterrence. At least in my
19 mind, this is among the very worst crimes one can commit. In
20 terms of just the conduct that Mr. Shiflet pled guilty to, it's
21 among the worst crimes that one can commit. And it's among the
22 crimes that probably have the longest term psychological effect
23 on its victims, of any I know, perhaps save murder. And
24 certainly as to the related offense conduct that's in the
25 presentence report, it gets even worse than the specific crimes

1 to which Mr. Shiflet pled guilty to.

2 Part of what I need to do is make sure that other people
3 don't do this. How in the world is 33 months -- telling people
4 who might commit a crime like this, who are in a position of
5 authority over their victims like Mr. Shiflet was, telling them
6 that they might get 33 months -- how in the world does that
7 deter them from doing something as heinous as this?

8 MR. ROSS: I think that there is two answers, Your
9 Honor. One is perhaps a cynical answer, but I think it's
10 something to consider. And that is that most people who are
11 out there doing that are not looking and taking notes of what
12 people are getting for purposes of sentencing. It is not
13 something that is necessarily widely and highly reported. And
14 so from a deterrent standpoint, people really don't get the
15 deterrent until possibly they're in custody and understand
16 what's going on and because there is not this public, you know,
17 look at what this person got.

18 The second answer, as far as general deterrence goes, is
19 there is a fine line, a fine balancing act that the Court has
20 to do at sentencing, especially in this particular case.
21 Because as the statute says, when the Court's consideration is
22 the individual that is standing before the Court and the
23 individual circumstances that are before the Court -- and in
24 this particular case, Your Honor, there -- if the Court is
25 leaning with "I can't give a sentence of 33 months because of

1 the message that is sent for general deterrence," the Court
2 also has to balance that with let me look at what's the here
3 and now, what's before the Court, what's the rash -- the --
4 what's the word I'm looking for? It's the circumstances of
5 this case, the posture of this case, Your Honor. And I think
6 the difference is this: Again --

7 THE COURT: Can I ask you, because I want to try to
8 get down to brass tacks here --

9 MR. ROSS: Sure.

10 THE COURT: When you say, "the circumstances of this
11 case" and "the posture of this case," is what you're really
12 telling me that the government has a weak case and they could
13 end up losing and Mr. Shiflet could end up walking away a free
14 man? I am trying to figure out what it is you mean or if that
15 is a euphemism for something we really don't want to talk
16 about.

17 MR. ROSS: No, it's not a euphemism. I think what I
18 mean by that, the posture of the case, is that this is a 15-,
19 20-year-old case; right?

20 THE COURT: Why does that matter, I guess, is my
21 question? Does that matter because it makes the government's
22 case weaker, or does it matter because Mr. Shiflet hasn't had
23 somebody accuse him of something in the intervening 15 years,
24 or both of those things?

25 MR. ROSS: Well, no. I think -- here's the -- I

1 think here's the potential issue. This is the problem; right?
2 Is that whenever you have a case that is this old and you have
3 no physical evidence of anything that happened and it is a
4 pure -- becomes a he said/she said type of issue; right? Then
5 it's up to a jury to decide. And like Ms. Bryant said, it's a
6 crap shoot -- right? -- as far as what the jury is going to
7 decide on that.

8 Subjecting the individuals to cross-examination and having
9 them have to go through all of that again is not what
10 Mr. Shiflet has chosen to do. I mean, he has chosen to accept
11 responsibility for the offense and not put the victims through
12 that, Your Honor.

13 And this is an agreement that we had with the government,
14 and this is an agreement that was consulted with the victims by
15 the government before it was signed. This was an offer that
16 was made by the government and that we considered. In that
17 sense, Mr. Shiflet has said, "I will accept responsibility, and
18 I will plead, and I will not put them through this."

19 And so as we're here in that posture of the time in court,
20 everybody wants closure. And so I would ask the Court to
21 consider that rather than focusing so much on general -- there
22 will be plenty of cases before the Court, plenty of cases,
23 where the Court can impose a sentence that is going to speak
24 loud and clear. But in this individual's case, this is not the
25 case to do that, Your Honor.

1 THE COURT: Can you talk a little bit about the fine?
2 If I was to impose a fine, what do you think is a fair number?

3 MR. ROSS: So the question in that regard, Your
4 Honor, is: What is the purpose of a fine? Right? What
5 punishment does the fine really do? It's money; right?

6 Mr. Shiflet, when you look at the financial statement in
7 the presentence report -- you know, could the Court impose a
8 fine? Absolutely. Ecstatic, absolutely.

9 would we argue against imposing a fine? Yes. Why?
10 Because he still has a lot of financial obligations. I will
11 tell you this that Mr. Shiflet did not hire me and cover my
12 fee. It was his family, his parents, that did that, because
13 they didn't have the money to do it. So that's not reflected
14 in that as well; that his family, his parents, have put
15 together the \$140,000 to help him out. They, in and of
16 themselves, don't have the funds to satisfy a large fine from
17 the Court.

18 And there is so much collateral consequences that are
19 going to occur in this case, as far as employment goes and him
20 having to rebuild to be able to do that, it's going to be a
21 struggle, and I don't want to set him up for failure in that
22 regard, Your Honor, putting any more additional stresses that
23 not only that the victims have gone through -- I mean, clearly
24 a lot of stressors. But this is not just a cakewalk for
25 Mr. Shiflet and his family either. There is a lot of stressors

1 that have been involved, you know, with all of this.

2 So I would ask the Court that, if the Court were to impose
3 a fine, that it not be a significant one. But we would argue
4 that there really need not be one at all. I think Mr. Shiflet
5 clearly gets the message.

6 THE COURT: And I should say for the record that I
7 have read all of the letters that have been submitted, and I'm
8 going to make sure they are part of the record. I will put
9 them in the correspondence file. So they will be available to
10 the parties but not the public, unless anybody has any
11 objection to that.

12 Ms. Bryant?

13 MS. BRYANT: No, Your Honor.

14 THE COURT: Mr. Ross, do you have an objection to
15 that?

16 MR. ROSS: No objection, Your Honor.

17 THE COURT: I didn't mean to cut you off, Mr. Ross.
18 Is there anything more you want to say about the plea agreement
19 or whether I should accept it or not?

20 MR. ROSS: No, Your Honor.

21 THE COURT: Okay. What I would like to do, unless
22 either Ms. Bryant or Mr. Ross have a persuasive objection, is I
23 would like to hear from the victims now before I make a
24 decision about whether or not I'm going to accept the plea
25 agreement.

1 MS. BRYANT: Certainly, Your Honor.

2 THE COURT: Mr. Ross, any concerns?

3 MR. ROSS: No, no, Your Honor.

4 THE COURT: Okay.

5 MS. BRYANT: Your Honor, the first witness I'll call
6 is Brittany Lacy, and she is BB in the indictment.

7 THE COURT: Heather, would you swear her in, please?

8 THE COURTROOM DEPUTY: Raise your right hand, please,
9 Do you swear or affirm to tell the truth, the whole truth,
10 and nothing but the truth so help you God or under penalty of
11 perjury?

12 MS. LACY: I do.

13 THE COURTROOM DEPUTY: Thank you.

14 MS. BRYANT: And, Your Honor, the way that I had told
15 them this would go, unless the Court wants it to go a different
16 way, is I just said I would let them provide their statement.
17 I didn't intend on asking them any questions. Obviously, we
18 may be in a different posture now. I am happy if the Court
19 wants to ask questions.

20 THE COURT: That's perfectly fine. I think, other
21 than what the witnesses would like to tell me, which they can
22 tell me whatever they want, at the very end or beginning or
23 wherever, if they don't, maybe you could ask them about how
24 they feel about this case settling --

25 MS. BRYANT: Sure.

1 THE COURT: -- how they feel about me accepting the
2 plea agreement versus not accepting the plea agreement, if
3 you -- if that is something you want to ask about.

4 MS. BRYANT: So if you could just start by
5 introducing yourself and then reading your prepared statement,
6 please.

7 MS. LACY: My name is Brittany Lacy. I first want to
8 thank you for giving me the opportunity to speak today.
9 Believe it or not, this is a very sad occasion for me. There
10 are no winners here. Today, you face the consequences of this
11 in your life, but the victims you've hurt have already paid a
12 very high price.

13 I am less trusting of others. I doubt that other's
14 motives and intentions are pure. I am less likely to believe
15 that people are innately good. You have affected my ability to
16 be intimate with others and not just physically. I tend to be
17 guarded because someone I trusted hurt me in a way that left
18 permanent scars.

19 I believed you when you told me you loved me in the purest
20 sense. I believed you when you said you couldn't love me any
21 more if I was your own daughter. I believed that that is what
22 a father's love looked like. It took me years to untangle all
23 of those lies.

24 I loved you like a dad. I would have done anything you
25 asked. You knew that, and you used those lies to exploit me

1 for your own selfish gain.

2 After I reported you to the church, you blamed me and have
3 continued to do so. I carried that responsibility for a long
4 time, but I won't anymore.

5 I was a kid. You were my pastor, a father figure, and you
6 used that position to manipulate and exploit me. Even if you
7 are remorseful, you can never grasp the depth of the damage
8 you've caused to me, to the other women you've hurt, to our
9 families, to your own family.

10 It might surprise you to know that my reason for coming
11 forward never came from a place of resentment, bitterness,
12 anger, or even hatred towards you. I spent many years
13 struggling with those feelings. But by God's grace and with
14 his help I forgave you a long time ago.

15 I feel like God has been very patient with you. He has
16 given you multiple opportunities over the years to repent of
17 this sin in your life. He has confronted you in the form of
18 friends, counselors, the church, and the law enforcement.

19 Unfortunately, I truly believe we've reached a critical
20 point when someone has to intervene. You really can't control
21 yourself.

22 (The court reporter interrupted.)

23 THE COURT: Ma'am, I know you're nervous. Anybody
24 would be in your situation. It's just we've got to make sure
25 we got a good record.

1 MS. LACY: I truly believe we've reached a critical
2 point when someone has to intervene. You really can't control
3 yourself. I don't say that to relieve you of any
4 responsibility for your actions. I do feel at this point that
5 the most merciful thing that can be done is to put you in a
6 position where you can't hurt anyone else. If I can save one
7 victim, then this was all worth it to me. And believe it or
8 not, it hasn't been easy.

9 I would like to say that your victims, they are some of
10 the bravest, most encouraging, Christ-centered ladies that I
11 have ever had the pleasure of knowing. That is a testament to
12 their strength but even more so it is a testament to God's
13 redemptive grace working in our lives. Only he can heal the
14 wounds you caused.

15 Before you brought it up, I also put in there, Your Honor,
16 if I may, I respectfully ask that you consider the full measure
17 of Mr. Shiflet's offenses when you hand down his sentence
18 today.

19 THE COURT: What is your thought on whether or not I
20 should accept this plea agreement which, as you've heard here
21 today, under the plea agreement, the most prison time I can
22 give Mr. Shiflet is 33 months. Obviously, if I reject the plea
23 agreement, he could theoretically -- he could in reality
24 withdraw his plea, and we would have to go to trial.

25 How do you feel about that?

1 MS. LACY: I don't think there is any prison sentence
2 that you can give him that is appropriate for what he's done.
3 So I feel like it's almost a difficult question to answer. I
4 feel like it's your courtroom, and you are in the position to
5 determine what's fair and appropriate.

6 THE COURT: If I accept the plea, will you go home
7 satisfied and feel like justice was served and that you can get
8 on with your life?

9 MS. LACY: I think any measure of justice was more
10 than I hoped for whenever this investigation started. My life
11 will never be normal regardless of what you decide today.

12 THE COURT: Okay. Thank you very much.

13 MS. BRYANT: Your Honor, next is Hayley Rigdon, who
14 is HH in the indictment.

15 THE COURT: Before you sit down, she's just going to
16 swear you in.

17 THE COURTROOM DEPUTY: Raise your right hand.

18 Do you swear or affirm to tell the truth, the whole truth,
19 and nothing but the truth so help you God or under penalty of
20 perjury?

21 MS. RIGDON: I do.

22 THE COURTROOM DEPUTY: Thank you. You may be seated.

23 MS. RIGDON: I'm just catching my breath.

24 THE COURT: Take as much time as you need.

25 MS. RIGDON: I want to begin by saying I forgive you,

1 not because you have asked for my forgiveness or even deserve
2 it, but I will continue to choose forgiveness over bitterness.
3 I don't think I ever let myself believe that you would actually
4 face consequences for what you did to me almost 25 years ago.

5 Sometimes I wonder if you really thought you were in the
6 clear and had everyone in your life duped. I trusted that the
7 Lord would be the vindicator, and I am so thankful that you
8 have now been exposed as the predator you are.

9 You dropped into my world and my family's home on the
10 night of my 13th birthday party. Looking back, you started
11 grooming all of us day one. You made sure to target the people
12 surrounding me, my most trusted gatekeepers. You perverted
13 what I believe the Lord gave you as God-given gifts to be used
14 for his glory and had put you in a position of disciple making.

15 Instead, you chose to use these sacred gifts for
16 manipulation and exploitation. You cruelly abused your
17 position, and you used it to be a selfish and evil predator to
18 many young women.

19 The fact that -- the fact that you chose to leave teaching
20 me about God and helping me grow more deeply in my faith and
21 doing it with the intention to gain all of my trust to abuse
22 me, psychologically and physically, is beyond my comprehension.
23 You tried to convince me that I had fault and ownership in what
24 you did to me. You were relentless.

25 Your calculated choices to be this predator has had a

1 ripple effect way beyond me. You groomed and lied to all the
2 people around me so strategically, and I know that they are
3 dealing with the pain of not being able to protect all of us
4 from you.

5 I've had to forgive 14-year-old Hayley for not speaking up
6 when you molested me. I wish more than anything that I could
7 have protected all of those girls that you hurt after me. I
8 know without a doubt that I did nothing to deserve or invite
9 this into my life. No one is responsible for what happened
10 except for you.

11 I do believe that Melissa stood silently and complicitly
12 and did nothing to protect us, but you are the predator. I did
13 not know that the psychological consequences would last this
14 long. I have come to learn that, despite walking through great
15 counseling, that my brain and nervous system would continue to
16 be impacted to this day. The trauma that you caused in my
17 young life rewired my developing brain to involuntary
18 self-protect and be hypervigilant for any perceived threat,
19 among other things.

20 I know that more healing is possible over time, but this
21 physiological and emotional damage has caused suffering that
22 lasted well beyond the events of your abuse.

23 I am so thankful for the healing that I have experienced
24 and for the beautiful life and family that God has given me.
25 God has remained so faithful to me.

1 My prayer is that your heart will be softened before the
2 Lord and true repentance comes. I have no wish for harm in
3 your life, but I do pray justice is served for the decades of
4 trauma and pain that you have caused.

5 I want to thank Jerry Spurgers and Kristin Bryant and
6 their teams for taking on our case and getting us to this
7 monumental point today.

8 Your Honor, I respectfully ask that you consider the full
9 impact of Robert Shiflet's offenses as you hand down his
10 sentence today.

11 THE COURT: You probably heard the question that I
12 asked the first brave person who was in this witness chair.

13 MS. RIGDON: Yes.

14 THE COURT: I need to ask you the same question.
15 Do you remember it?

16 MS. RIGDON: Why don't you go ahead and ask it again.

17 THE COURT: So I have to make a choice here about
18 whether to accept the plea agreement, which in the plea
19 agreement the stiffest imprisonment sentence that I can give
20 Mr. Shiflet is 33 months, or not accept the plea agreement. If
21 I don't accept the plea agreement, Mr. Shiflet is entitled to
22 withdraw his guilty plea, in which case we would go to trial.

23 And if Mr. Shiflet then got convicted, I, or a judge
24 sitting like me, would sentence him to something within the
25 statutory sentence.

1 MS. RIGDON: Yes.

2 THE COURT: Obviously, he could be acquitted.

3 MS. RIGDON: Yes, sir.

4 THE COURT: So I need to know from your perspective
5 what you would like me to do. It doesn't mean I'm going to do
6 it.

7 MS. RIGDON: Sure.

8 THE COURT: I just want to know what your preference
9 is and why.

10 MS. RIGDON: You know, that is a massive question.

11 THE COURT: I do. And I, quite frankly, have some
12 concerns asking it, but because of this case and honestly
13 because of what the range is in this agreement and where I
14 would be without this agreement, I feel like I have a
15 responsibility to know because, while I have to make sure
16 Mr. Shiflet's rights are protected, I will tell you, in terms
17 of accepting or not accepting the plea agreement, it is very,
18 very important to me to understand what you, the victims, want
19 and whether or not finality and not having to deal with this in
20 court is sort of the principal focus for you or if you think
21 the 33 months are too low and you want this to go to trial. I
22 wouldn't ask you if I didn't feel like I needed to know your
23 thoughts on it.

24 MS. RIGDON: while I -- my hope is that he's
25 punished to the full measure of the law. But I think, as

1 Brittany said, I never in a million years thought he would get
2 punishment at all because I believe to this day he continues to
3 manipulate and lie.

4 So the idea of him having the opportunity to walk out of
5 this court at some point free and clear with no consequences,
6 including any kind of probation or anything like that, is
7 devastating to me.

8 So the amount of time is not my concern. The punishment
9 is my concern. And the stamp on his life, for the rest of his
10 life, is important to me because he's stamped my life. And I
11 cannot, no matter -- we walk out of this courtroom with him in
12 life -- in prison for life or for another year, it does not
13 matter.

14 THE COURT: Okay.

15 MS. RIGDON: So does that answer --

16 THE COURT: It answers it very well, and I appreciate
17 it.

18 MS. RIGDON: Okay. Thank you.

19 MS. BRYANT: Your Honor, I have two more witnesses.
20 Ms. Rigdon's husband, Kyle, would like to speak to the Court.

21 THE COURTROOM DEPUTY: Raise your right hand.

22 Do you swear or affirm to tell the truth, the whole truth,
23 and nothing but the truth so help you God or under penalty of
24 perjury?

25 MR. RIGDON: I do.

1 THE COURTROOM DEPUTY: Thank you. You may be seated.
2 If you're soft spoken, make sure you pull that mic up to you.

3 MR. RIGDON: Yes.

4 Thank you, Your Honor. I --

5 THE COURT: I do think you need to speak closer into
6 the mic.

7 MR. RIGDON: I did not prepare a written letter. I
8 actually decided to speak today, and so forgive me. It may not
9 be as polished as Brittany and Hayley.

10 Rob, you've never met me. But I met Hayley ten years ago,
11 and it was the greatest gift of my life. What I can tell you
12 is that you stole from my wife. And what I've come to find out
13 since is that you've stolen from a whole lot more people than
14 just my wife.

15 I don't know how many letters you submitted today, but I
16 am very grateful for your sake that we're in Arkansas because,
17 if we were in our hometown, this courtroom would be packed full
18 of character witnesses on the other side of your cube letters.

19 Your Honor, I completely agree that the way that we're
20 speaking about what happened to these girls so many years ago
21 is unfair.

22 The same way that you stole from them was unfair. The
23 sentencing process is unfair. Twenty years goes by, it doesn't
24 change the crime. It doesn't change what you've robbed from
25 them.

1 what I can tell you is, in the happiest moments of our
2 marriage, our child being born, the day that we got married,
3 monumental parts of our life, you have some way of creeping
4 into these ladies' minds.

5 And so whatever happens today with sentencing, my hope and
6 my prayer is that you have nothing but time to think about your
7 actions, the way that it's affected them, the same way that
8 what you did to them haunts them to this day, even after hours
9 and hours and hours of counseling and processing this with
10 friends and seeing pastors, and the list goes on and on, as you
11 can imagine. The same way that this haunts us consistently for
12 the last ten years and for them 25-plus years ago, I hope that
13 this haunts you in the quiet of a cell, haunts you the same way
14 that it's haunted them in their lows and in their highs.

15 whatever happens today will be unfair. what I do pray for
16 you is that the Lord absolutely wrecks your heart in the midst
17 of those quiet times because you and I both know that this
18 courtroom has nothing on what the Lord can do when he gets
19 ahold of somebody's heart. That's all, Your Honor.

20 THE COURT: Thank you.

21 MS. BRYANT: And, Your Honor, lastly, I would call
22 Kristine Lavalle.

23 THE COURTROOM DEPUTY: Raise your hand.

24 Do you swear or affirm to tell the truth, the whole truth,
25 and nothing but the truth so help you God or under penalty of

1 perjury?

2 MS. LAVALLE: I do.

3 THE COURTROOM DEPUTY: Thank you.

4 MS. LAVALLE: Thank you.

5 Rob, we're all here today because you chose to sexually
6 abuse, molest, rape, manipulate, spiritually and emotionally
7 abused teenage girls. You stole childhood innocence for your
8 own sexual fulfillment.

9 I am the brave 19-year-old girl who told her counselor at
10 Ditton Bible about your power, abuse against me. I also
11 invited Brittany to Texas to tell her story. Had religious
12 leaders not covered for you and the church and Liberty
13 Christian School, you could have been arrested 15 years ago.

14 I told the police how you took advantage of my emotional
15 and physical boundaries as a 13-year-old girl. You rubbed your
16 feet up and down my legs under the dinner table while I was
17 paralyzed to say anything in front of your wife. You tickled
18 me and didn't stop when I told you to. You made me lay down
19 with you on the couch while you wrapped your arms and legs
20 around me after your wife went to sleep.

21 You forced your hands on my neck, sides, lower back, and
22 face, and you whispered in my ears -- you told me you loved me.
23 You asked me if your touch was okay, and you iced me out
24 emotionally if I said, "No."

25 Manipulation, spiritual and emotional manipulation. You

1 are the very man who taught me textbook purity culture about
2 dating, marriage, physical touch, sex, turn -- and you turned
3 out to be sexually abusing teenage girls in my youth group at
4 the same time. This breaks the very heart of God.

5 Your selfish criminal behavior caused me years of trauma,
6 tears, anxiety, depression, grief, questioning, money for hours
7 of counseling, medical leave from my job, hours on the phone
8 talking to other victims, my family, lawyers, police, and the
9 FBI. What an absolute waste of my time and energy, an absolute
10 waste -- I'm sorry.

11 THE COURT: Don't be sorry. Take your time.

12 MS. LAVALLE: -- because you wanted sexual
13 gratification from children. Instead of addressing your sexual
14 brokenness, you indulged yourself, and you hid.

15 Unfortunately, it took the teenagers you abused to grow up
16 into adult women in our thirties to call the police on you.
17 You're a pathological liar, a sex offender, a federal prisoner,
18 and incredibly selfish.

19 You will have plenty of time in jail to repent, reflect,
20 and be real with yourself and God about what you have done
21 should you choose to. You lied to your wife. You lied to your
22 parents. You lied to your children. You lied to all of us,
23 the community of Ditton Bible Church and Liberty Christian
24 School. You lied. You're a threat to society and not a safe
25 person.

1 To your father, Robert Shiflet, your oldest son Tom
2 recently admitted to sexually abusing his cousin when she was
3 ages three to six years old. You must be well aware that both
4 of your sons have been accused of pedophile behavior.

5 MR. ROSS: Your Honor, I'm going to object to any
6 addressing of the father in this.

7 THE COURT: Why don't you address the Court.

8 MS. LAVALLE: To the Court, it must be well aware
9 that Robert Shiflet's --

10 THE COURT: It's okay. Take your time. It's fine.

11 MS. LAVALLE: Like just another casual day in
12 America.

13 THE COURT: All you need to do is say whatever you
14 were going to say but just say it to me.

15 MS. LAVALLE: Okay. You must be well aware now that
16 Robert Shiflet, Sr. -- both of his sons have been accused of
17 pedophile behavior. I wonder how both of his sons turned out
18 to be this way. I wonder were they also abused as children.

19 Rob and his brother Tom were caught by their uncle
20 watching pornography together as young men. Tom said that it
21 was given to him by his father.

22 whatever demonic stronghold to sexual addiction,
23 pornography, and child abuse going on in your home needs to
24 stop and be broken. All of you -- all of them need to come
25 clean, including your wives in their denial.

1 Melissa, I also hold you responsible for this mess. You
2 have kept silent and turned a blind eye to your husband's
3 pattern of pedophilia. Why did you get up and go to sleep and
4 leave me alone with your husband in the living room when I was
5 a teenage girl. I managed to get away that night and laid
6 awake so anxious I could vomit, fearing I would be raped if I
7 fell asleep. I was traumatized.

8 Over and over his pattern continued. Where were you?
9 What did you do to confront it? What negligence on your behalf
10 not to call out your husband and save teenage girls from his
11 oppression, especially Brittany. You have continued to stand
12 by your husband after multiple confrontations by the church,
13 police detectives investigating your home and your family, and
14 you continued, till date, to stand by him like you are today
15 sticking up for him. Your husband is a criminal. It's time
16 for you to wake up. You are part of the problem.

17 Quite frankly, I wish nothing to hear from your family.
18 Your denial would only add insult to injury. I don't even
19 think it's fair to really hear Rob's side at this point, unless
20 he's confessing his guilt. You've desecrated the church, the
21 name of God as a pastor, and you are a wolf in sheep's
22 clothing.

23 I am choosing to forgive you for the abuse, pain, and
24 suffering you have caused me because Jesus has forgiven me. I
25 cancel the debt you owe me by the blood of Jesus and release

1 you from how badly you've hurt me whether you are repentant or
2 not.

3 Legally, you are responsible for the crimes you've
4 committed and the punishment you deserve consequently. The
5 trauma you've caused cannot be undone.

6 Jesus alone heals me and stands with me in righteous
7 anger. I can only imagine how he feels compared to the amount
8 of righteous anger I feel against you.

9 I beg God's mercy on your lives to convict you of your
10 sin, to bring confession, repentance, and healing for all of
11 you.

12 This is my story of redemption: forgiving you and finding
13 healing from all the damage you have done. Jesus gets all the
14 glory he is due, and no one will steal his joy from me.

15 I am almost done.

16 THE COURT: No. Take your time.

17 MS. LAVALLE: Okay. Today ends. I've been waiting
18 for this day 20 years. Today ends a dark era that has followed
19 me for 20 years. Hopefully, today ends. Let some Earthly
20 justice be served, and we will celebrate it.

21 I slept so soundly the day that you got arrested. I
22 haven't slept that well since I was 13, knowing that you were
23 put away, to my knowledge, away from society, away from
24 tormenting other teenage girls.

25 I am so proud of myself and all the victims for our

1 bravery and encouraged to be resilient and share our story.

2 I feel incredibly privileged -- I feel incredibly
3 privileged to have a government that believed us and pursued
4 justice on our half -- our behalf. It only took two hard,
5 exhausting years to complete.

6 Even to stand up here today and to say our final thoughts
7 is so empowering and vulnerable. These were the most
8 exhausting, emotionally draining, upsetting, infuriating,
9 disgusting, annoying, disappointing, retraumatizing, and
10 successful years of my life.

11 Your Honor, I besiege you on behalf of the victims, our
12 communities, and the law to commit Rob Shiflet for the greatest
13 amount of jail time possible. He's been confronted multiple
14 times and denied it or found a way out of legal prosecution for
15 years.

16 Let this be an example to the global church. You cannot
17 silence the voice of childhood victims of sexual abuse because
18 you're afraid, value fame over honesty, are uneducated or
19 passive about what to do. This negligence left the door open
20 for more children to be abused in the last 15 years. That is
21 completely unacceptable and cannot be tolerated.

22 I imagine if there are more victims after Brittany, maybe
23 even Rob's children or their friends, I hope they will find
24 their voices and use them one day, too. He is a repeat
25 offender with a pattern of behavior that has not been exposed

1 until now. He is a threat to society and women of all age --
2 ages.

3 Thank you, Your Honor, for your diligence in this case and
4 for hearing me today because this story matters very much.

5 THE COURT: So you've heard the question that I've
6 asked other the other witnesses before -- I should say the
7 other victims before you -- and probably should say the other
8 survivors before you. I have to ask you the same question.
9 The 33 months -- and I think it should be obvious to everybody,
10 including Mr. Shiflet, that I'm not even considering anything
11 in the top range in the plea agreement by now.

12 The 33 months, right now that is what -- by virtue of the
13 plea agreement, that is the highest, longest term I can give
14 Mr. Shiflet. My other option is to reject the plea agreement.
15 But if I reject the plea agreement, Mr. Shiflet can change his
16 plea, and this case would go to trial. Obviously, a trial, you
17 don't know what happens.

18 MS. LAVALLE: Right.

19 THE COURT: So he could get convicted, and then I
20 could sentence him without the stipulation of 33 months being
21 the highest, or he could get acquitted and walk away a free
22 man.

23 what do you want in terms of me accepting or rejecting the
24 plea agreement?

25 MS. LAVALLE: So it's clearly a complicated question

1 for all of us.

2 THE COURT: For all of us including me.

3 MS. LAVALLE: Right. My greatest concern in all
4 sincerity, which I'm answering indirectly but I'm coming to a
5 point, is I believe he's a threat to society, and I don't
6 believe that it's hard -- I don't believe that he stopped
7 victimizing people in the last 15 years.

8 So my greater concern -- because no amount of jail time
9 will ever make up for what he's done for any of the victims.
10 To me, the jail time is more about keeping society safe on top
11 of consequences federally. As they discussed earlier, that in
12 the news, if you're a pedophile and you abuse children
13 sexually, that you should go to jail for that.

14 So it's very complicated for us as victims, too. It's a
15 huge risk. And so you may feel in the room that we're trying
16 to take what we can, because it's better than nothing. And
17 quite honestly, until two years ago, I never thought this day
18 would come in my life. Never dreamed of it. Never dreamed of
19 it. So we're all just kind of like it's a miracle that we're
20 here.

21 I would like to see him away from society as long as
22 possible. If the best we can get is 33 months, okay. Sounds
23 like the other victims are willing to go to trial if they have
24 to, but it's a huge risk. And the thought of him getting away
25 with nothing and being put back into society is really scary.

1 I would also like to add, for what his lawyer said
2 earlier, if he didn't want to be stuck with his name in the
3 newspaper titles, he should have thought about that before he
4 made the decisions that he did.

5 And, also, Your Honor, I am not sure if you're aware that
6 the majority of women or children who were abused sexually, the
7 amount of time it takes for them to be able to process what
8 happened and express that usually isn't until your thirties.

9 I was able to come forward as a 19 year old. Dana was
10 able to come forward at 21 or 22. So the likelihood of the
11 people that he's abused in the last 15 years, they're very well
12 in their twenties or even younger and not able to express that.

13 So the thought of him not having repeated this -- and
14 there is a hoard of other witnesses who were also groomed.
15 This is not just these girls. There is a long line of people.
16 It's a pattern of behavior that went on for a very long time.

17 So do you feel like I answered your question?

18 THE COURT: I do, and I appreciate it.

19 MS. LAVALLE: I appreciate you.

20 MS. BRYANT: Your Honor, as Ms. Lavalle mentioned,
21 there is one other victim. She just said that she doesn't wish
22 to speak today. I just want to note -- I'm not going to put
23 her name on the record -- just note her presence.

24 THE COURT: Okay. Ms. Bryant, anything else from
25 you?

1 MS. BRYANT: In regard to just the Court accepting
2 the 33 months --

3 THE COURT: Sure.

4 MS. BRYANT: -- or why I think it's appropriate?

5 THE COURT: Yeah. Is there anything -- on that, is
6 there anything else you want to say?

7 MS. BRYANT: No, Your Honor. I think they, as you
8 quoted them, the survivors, said it better than any of the rest
9 of us could.

10 THE COURT: Okay. Mr. Ross, if Mr. Shiflet wishes to
11 allocute, I want to hear that now before I decide what to do
12 about the plea agreement.

13 THE DEFENDANT: Yeah. Your Honor, I do want to
14 apologize for my actions 20 years ago. I understand that they
15 were my responsibility. I fully understand that there was no
16 actions by any of these girls that contributed to it, but it
17 was on me. And I understand that it was wrong.

18 And knowing the hurt that I incurred upon them and their
19 families, even future families, the hurt that it incurred on my
20 wife and my family has been something that I've had to deal
21 with for the last 20 years.

22 I hope this process helps brings closure for these girls.
23 And I hope it helps bring closure for my wife as well. That's
24 been something that we've struggled with.

25 I had a friend -- when all of this stuff happened 20 years

1 ago, a friend of mine told me -- he said, "You can't change
2 what you've done, but every day you can put a day between you
3 and this sin."

4 And at the time, to be honest, we're talking about eight
5 or ten days, and it was more of a discouragement than anything
6 else. But I've genuinely tried for 18, 19, whatever years it's
7 been, for upwards of 6,000 days to put a day between me and
8 that sin, and it --

9 THE COURT: I assume you mean whatever the last day
10 you did this --

11 THE DEFENDANT: That's right.

12 THE COURT: -- series of events?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Because it was more than one.

15 THE DEFENDANT: Yes, sir.

16 THE COURT: A lot more.

17 THE DEFENDANT: Yes, sir.

18 I apologize to these ladies and to their families and to
19 my wife. And I just long for the day that I can go back and be
20 a father again and be a husband again with my family. But I do
21 acknowledge that all of the responsibility is on me.

22 There was a reference to the fact that I blamed them, and
23 I don't. I have in the past, probably in an effort to justify
24 my sin and my actions. I looked for things that maybe could
25 have contributed or justified, and I just fully come to the

1 realization that it's 100 percent on me completely. I want to
2 put that on the record with you.

3 THE COURT: Thank you for your statement.

4 Mr. Ross, anybody else from, I guess, your side of the
5 courtroom?

6 MR. ROSS: No, Your Honor.

7 THE COURT: Okay. Ms. Bryant, I guess one thing I
8 didn't ask you is your thoughts about a fine. To be perfectly
9 honest, the more and more I think about it, it leaves a bad
10 taste in my mouth. I mean, a bunch of people have said there
11 is no amount of prison that can rectify this, and I understand
12 that sentiment. The idea of putting a price in terms of a
13 fine, on what he did just sits wrong with me, but I want to
14 know what the government thinks.

15 MS. BRYANT: You know, I don't think it's just
16 putting a fine on what he did. I think it's part of a
17 punishment. And, you know, there were a couple of things in
18 the PSR that stood out to me a little that are different in
19 this case. First was how much money he was, obviously, making
20 a month in paragraph 59. I understand that that has decreased
21 based on the fact that he has since gone into custody, but if
22 he is released after 33 months, if he's able to get back into
23 that own business, which he owned and operated -- so it's not
24 as if he's at the whim of someone else rehiring him. It's his
25 own business.

1 The fact that he does have four vehicles and a boat. You
2 know, again, they're not the -- they're not full of value, but
3 I think that a fine might be -- is probably appropriate. You
4 know, I think -- I can't remember what you said earlier.

5 THE COURT: I guess what my question is: You don't
6 think or -- and this is going to have a question mark at the
7 end --

8 MS. BRYANT: Sure.

9 THE COURT: -- although it's going to sound like a
10 sentence. You don't think that a fine will suggest in any way
11 somebody can essentially pay for this like a ticket, doing the
12 awful things he did? That's my concern.

13 MS. BRYANT: I do not. No, Your Honor. I think it
14 shows that it's part of a punishment.

15 THE COURT: What do you think a reasonable fine would
16 be given the guidelines range which, as I understand it, is
17 7,500 to 75,000?

18 MS. BRYANT: My -- I think probably 7,500 on a
19 reasonable installment plan, as the Court would impose.

20 THE COURT: Okay. Do you want to heard at all more
21 on that, Mr. Ross?

22 MR. ROSS: Just briefly, Your Honor. I know that
23 Ms. Bryant specified the fact that -- how much money he was
24 making prior to and after. But, one, even though it's his own
25 business, that being now at the stage, even coming out and

1 labeled and it being known, a lot of his work from the
2 standpoint of, you know, the websites and the digital issues
3 and what he did with this -- a lot of that had to do with
4 organizations that were religious organizations that will
5 probably, or may, take a second look at rehiring his company.

6 So there are some ramifications about him being able to
7 come just right back into his business and be able to make a
8 living in that regard. So I just wanted to point that out for
9 the Court's consideration.

10 THE COURT: Okay. I'm going to need ten minutes.
11 I'm going to take a recess, and I'll be back, and I'll let you
12 know what I think about the plea agreement.

13 And if anybody needs to use the facilities, including the
14 defendant, this would be a good time.

15 (A brief recess was taken.)

16 THE COURT: Everybody be seated, please.

17 MS. Bryant, are the folks who you want to be back back
18 yet? If not, we can wait a second.

19 MS. BRYANT: Can we wait? I don't see everyone.
20 I'll go check real quick.

21 THE COURT: No, no. Just take your time.

22 MS. BRYANT: I think we're all here now, Your Honor.

23 THE COURT: Mr. Shiflet, --

24 Am I on the record? Can you hear me?

25 THE REPORTER: Yes.

1 THE COURT: -- I want you to listen to me carefully.
2 I haven't written anything down so this is probably going to
3 come out slowly, but I have spent some time back there thinking
4 about this very carefully. I want to make very clear that I'm
5 not a mind reader; I'm not a heart reader. I don't know what's
6 in your mind; I don't know what's in your heart. I can only go
7 off of the materials in front of me, what I've heard from you
8 today, what I've heard from the victim impact statements, what
9 I've heard from your lawyer, what I've heard from the
10 government, and the rest of the things that were on the record.

11 So I may be wrong about this, but if I'm wrong, let me
12 make clear to you that you've earned me being wrong based on
13 what you've done. You are a terrible person. And I have never
14 sat up here, since I've been on the bench, and said that to any
15 defendant.

16 I don't believe you. I don't believe what you said here
17 today. I don't believe that you're sorry in the slightest. I
18 don't believe that you have rehabilitated yourself. I believe
19 you haven't been caught again, but I don't believe you've
20 rehabilitated yourself.

21 I don't believe the letters that have been provided on
22 your behalf. I either think some of them are outright lies,
23 some of them shade the truth, and some of them you've probably
24 manipulated very well just like you manipulated these brave
25 women.

1 I don't think you are a good person, and I don't think you
2 stand a chance of becoming a good person. I hope I'm wrong
3 about that. I may well be. God will know. I'll never know.

4 If it was up to me and you had been found guilty after
5 trial, I would have sent you away for 25 years. I would have
6 sent you away for the 10 years on one count and the 15 years on
7 the other. I think you are a danger to society. I think what
8 you have done is among the worst things that you could possibly
9 do. I think you have ruined lives, and I don't think you care
10 very much.

11 However, what I am most concerned about here is the
12 victims getting justice. Thirty-three months is not justice,
13 but reading between the lines, I have the feeling that the
14 government has some concerns about this case if it went to the
15 jury. And I have a feeling that, while these women have all
16 said or implied that they would testify, which makes them more
17 brave than you are on a single day of your life, that they
18 don't want to, and they want this to be done, and that they are
19 scared, if this case goes to trial, you may end up getting off
20 completely.

21 And I understand that. That's a reasonable, rational
22 concern, and I understand what it would do to them if that
23 happened. And so I'm going to accept the plea agreement, not
24 in any way, shape, or form having anything to do with you or
25 anything anybody has said positive about you, but for them,

1 because they deserve some justice, even if it's not the justice
2 that they or society should get completely. And here, some
3 punishment is better than no punishment.

4 So here is where we are: I am going to sentence you as
5 follows: Pursuant to the subsection (c) plea agreement and the
6 Sentencing Reform Act of 1984, including the -- considering the
7 provisions found in 18 USC 3553, it is the judgment of the
8 Court that you are hereby committed to the custody of the
9 Bureau of Prisons to be imprisoned for a term of 33 months on
10 Count 1 and 33 months on Count 4 to run concurrently.

11 The Court recommends you receive a psychosexual evaluation
12 and participate in sex offender counseling.

13 Upon release from imprisonment, you'll be on supervised
14 release for a term of five years on -- no. I apologize.
15 That's wrong.

16 Upon release from imprisonment, you'll be on supervised
17 release for a term of life on Count 1 and life on Count 4 to
18 run concurrently. You must report to the probation office in
19 the district to which you are released within 72 hours of
20 release from the custody of the Bureau of Prisons and comply
21 with all mandatory and standard conditions that apply.

22 I want to say, Mr. Shiflet, the reason I am sentencing you
23 to life on supervised release is I think you are dangerous. I
24 think you are a danger to the public, I think you are a danger
25 to society, and I do not think you should have any room to do

1 this again. We just don't know how far your manipulation goes,
2 and I am not willing to take the chance to let you run around
3 without supervision.

4 You must participate in sex offender treatment under the
5 guidance and supervision of the probation office and follow the
6 rules and regulations of that program, including submitting to
7 periodic polygraph testing to aid in the treatment and
8 supervision process. You must pay for the cost of treatment,
9 including polygraph sessions, at the rate of \$10 per session,
10 with a total cost not to exceed \$40 per month, based on ability
11 to pay as determined by the probation office. If you are
12 financially unable to pay for the cost of treatment, the copay
13 requirement will be waived.

14 As we do not have a request from the government for
15 restitution, I am not imposing restitution. I am going to
16 impose a \$7,500 fine. I think the sentencing factors in 3553
17 call out for punishment that is in excess of the 33 months, and
18 I think the \$7,500, given what your financial report says, is a
19 fair or -- I guess the way I should say it is a sufficient but
20 no more than necessary fine to help get at the factors in 3553.
21 You can pay that in installment payments. So while you are in
22 prison, you can pay it at 10 percent of the amount that you
23 have in your prison fund. And after you get out of prison, you
24 can pay it from 10 percent of your monthly income.

25 Let me stop there. Probation, on the fine part, any

1 concerns with how I did the installment payments?

2 THE PROBATION OFFICER: No, Your Honor.

3 THE COURT: Okay. You must not view or possess any
4 visual depiction, as defined in 18 USC 2256, including any
5 photograph, film, video, picture, or computer or
6 computer-generated image or picture whether made or produced by
7 electronic, mechanical, or other means of sexually explicit
8 conduct, as defined in 18 USC 2256, or any other material that
9 would compromise your sex offense specific treatment.

10 And I want to say there are two reasons I am imposing this
11 requirement. Number one, doing this would interfere with your
12 sex offender treatment, and I don't want it to do that. But
13 even after your sex offender treatment, I am very worried that
14 looking at these visual depictions, as I've defined them, will
15 lead you back into or into a continuation of sex offenses. And
16 I am trying very hard to make that not happen.

17 You must not enter adult bookstores, strip clubs, or
18 adult-themed entertainment businesses or any establishments
19 where such material or entertainment is available. And the
20 reasons again are the same reasons I've just cited.

21 You must not possess or use computers, as defined in
22 18 USC 1030(e)(1), or other electronic communications or data
23 storage devices or media except with the prior approval of the
24 probation officer. And that is to make sure, essentially, that
25 you don't violate the requirements that I've just put on you.

1 You must not access the Internet except for reasons
2 approved in advance by the probation office. Same reasoning as
3 above. You must allow the probation officer to install
4 computer monitoring software on any computer you use. To
5 ensure compliance with the computer monitoring conditions, you
6 must allow the probation officer to conduct initial and
7 periodic unannounced searches of any computers, as defined in
8 18 USC 1030(e)(1), subject to computer monitoring.

9 These searches will be conducted to determine whether the
10 computer contains any prohibited data prior to installation of
11 the monitoring software, whether the monitoring software is
12 functioning effectively after its installation, and whether
13 there have been attempts to circumvent the monitoring software
14 after its installation. You must warn any other people who use
15 the computers that the computers may be subject to searches
16 pursuant to this condition.

17 You must not participate in online gaming. You must not
18 utilize or maintain any membership or accounts of any social
19 networking site or websites that allow minor children
20 membership, a profile, an account, or web page without the
21 approval of the probation officer. This includes websites that
22 explicitly prohibit access or use by sex offenders. And the
23 point here is to not let you be exposed to children in an
24 environment where you might do some of the same things that you
25 did repeatedly to these victims.

1 You must submit your person, property, homes, residence,
2 vehicles, papers, computers, as defined in 18 USC 1030(e)(1),
3 other electronic communication or data storage devices or
4 media, or office to a search conducted by the United States
5 probation office and a United States probation officer.
6 Failure to submit to a search may be grounds for revocation of
7 release. You must warn any other occupants that the premises
8 may be subject to searches pursuant to this condition.

9 It should probably go without saying that I am the Judge
10 that will deal with a revocation. And so just to be fair, I am
11 warning you. You do not want to have any violations of
12 supervised release, whether they are substantive or technical,
13 because I promise you you will not be happy with the
14 consequences.

15 The probation office will provide state officials with all
16 information required under any sexual predator and sexual
17 offender notification and registration statutes and may direct
18 the defendant to report to these agencies personally for
19 required additional processing such as an interview and
20 assessment, photographing, fingerprinting, polygraph testing,
21 and DNA collection.

22 You must not use any sexual stimulating drug, unless
23 specifically prescribed by a doctor who has been notified of
24 your sex offender status. You must allow the probation office
25 to verify such notification.

1 You must not communicate or otherwise interact with HH,
2 BB, KL, or KS either directly or through someone else. If any
3 contact occurs, you must immediately leave the area and report
4 the contact to the probation office.

5 You must not have direct contact with any child you know
6 or reasonably should know to be under the age of 18 without the
7 permission of the probation officer. If you do have any
8 contact with any child you know or reasonably should know to be
9 under the age of 18 without the permission of the probation
10 officer, you must report this contact to the probation officer
11 within 24 hours. Direct contact includes written
12 communication, in-person communication, or physical contact.
13 Direct contact does not include incidental contact during
14 ordinary daily activities in public places.

15 Here, I want to emphasize the reason for this prohibition.
16 I am not going to go through the very explicit and very
17 disgusting conduct that was in the presentence report,
18 particularly the offense conduct and the related conduct, but
19 it is very clear to me, however long ago it was that you
20 performed illicit acts with minors over and over again with
21 more than one -- and like I said, I'm not letting that happen
22 again.

23 You must not go to or remain at any place where you know
24 children under the age of 18 are likely to be including parks,
25 schools, playground, and child care facilities. You must

1 provide the probation officer with access to any requested
2 financial information, including unexpected financial gains,
3 and authorize the release of any financial information. The
4 probation office may share financial information with the U.S.
5 Attorney's office.

6 You must not incur new credit card charges or open
7 additional lines of credit without the approval of the
8 probation officer unless all criminal penalties have been
9 satisfied.

10 You must cooperation -- you must cooperate in the
11 collection of DNA as directed by the probation officer.

12 A \$200 special penalty assessment is mandatory in this
13 case.

14 That was a lot of things so let me make sure, from the
15 probation office, is there anything that you believe I've
16 missed?

17 THE PROBATION OFFICER: No, Your Honor.

18 THE COURT: Okay. Ms. Bryant, any objections to the
19 form of the sentence or anything you would like me to say in
20 terms of 3553 or the plea agreement, more than I've said
21 already?

22 MS. BRYANT: Your Honor, and I was writing down the
23 initials. I just want to make sure I got it. You said there
24 not to communicate with HH, BB, KL, KS. And did you include at
25 the end of that "or any other victim, like, known to the

1 defendant"? I'm just trying to make sure --

2 THE COURT: I did not, but I will include it now.

3 Or any other victim known to you, sir. Do you understand
4 that?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Okay. And when I say that, I don't just
7 mean a victim that we've caught you. If there is any victim
8 you've ever had, no contact with them. Okay?

9 Ms. Bryant, anything else?

10 MS. BRYANT: No, Your Honor.

11 THE COURT: Okay. Mr. Ross, objections to the form
12 of the sentence, things you would like me to discuss, or
13 anything else?

14 MR. ROSS: Your Honor, no objections to the form of
15 the sentence. One of the questions I would ask the Court to
16 consider is if the Court would make a recommendation for his --
17 to the Bureau of Prisons of where he would be; that that would
18 be somewhere in the DFW area.

19 THE COURT: I will not. He doesn't deserve me making
20 one.

21 MR. ROSS: Understood. Thank you, Your Honor.

22 THE COURT: Anything else?

23 MR. ROSS: Nothing further.

24 THE COURT: Mr. Shiflet, is there anything about this
25 sentence that you feel violates an understanding or agreement

1 you had with anyone?

2 THE DEFENDANT: No.

3 THE COURT: I need to tell you this for the record,
4 Mr. Shiflet. You have a right to appeal your conviction if you
5 believe that your guilty plea was somehow involuntarily or if
6 there is some other fundamental defect in the proceeding that
7 was not waived by your guilty plea.

8 You also have a statutory right to appeal your sentence
9 under certain circumstances particularly if you think the
10 sentence is contrary to law. With very few exceptions, a
11 Notice of Appeal must be filed within 14 days of judgment being
12 entered in your case.

13 If you are unable to pay the cost of the appeal, you may
14 apply for leave to appeal in forma pauperis. If you ask, the
15 Clerk of the Court will prepare and file a Notice of Appeal on
16 your behalf.

17 Ms. Bryant, anything else from your side?

18 MS. BRYANT: No, Your Honor.

19 THE COURT: Mr. Ross, anything else from your side?

20 MR. ROSS: Nothing further, Your Honor.

21 THE COURT: We are adjourned.

22 (Adjourned at 4:05 p.m.)

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REPORTER'S CERTIFICATE

I certify that the foregoing is a correct transcript of proceedings in the above-entitled matter.

/s/ Suzanne M. McKennon, CSR, CRR, RMR
United States Court Reporter

Date: 06/29/2021