

AF Approval SLW

Chief Approval KNH

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 6:16-cr-60-Orl-40KRS

LUIS SERRANO

PLEA AGREEMENT

Pursuant to Fed. R. Crim. P. 11(c), the United States of America, by A. Lee Bentley, III, United States Attorney for the Middle District of Florida, and the defendant, LUIS SERRANO, and the attorney for the defendant, Maria Guzman, mutually agree as follows:

A. **Particularized Terms**

1. **Count Pleading To**

The defendant shall enter a plea of guilty to Count One of the Indictment. Count One charges the defendant with production of a visual depiction of a minor engaging in sexually explicit conduct, in violation of 18 U.S.C. § 2251(a).

2. **Minimum and Maximum Penalties**

Count One is punishable by a mandatory minimum term of imprisonment of 15 years up to 30 years, a fine of not more than \$250,000, a term of supervised release of at least 5 years up to life, and a special assessment of \$100.

Defendant's Initials LS

Additionally, pursuant to 18 U.S.C. § 3014, the Court shall impose a \$5,000 special assessment on any non-indigent defendant convicted of an offense in violation of certain enumerated statutes involving sexual abuse or sexual exploitation of children.

With respect to certain offenses, the Court shall order the defendant to make restitution to any victim of the offense, and with respect to other offenses, the Court may order the defendant to make restitution to any victim of the offense, or to the community, as set forth below.

3. Elements of the Offense

The defendant acknowledges understanding the nature and elements of the offense with which defendant has been charged and to which defendant is pleading guilty. The elements of Count One are:

- First. An actual minor, that is, a real person who was less than 18 years old, was depicted;
- Second. Defendant employed, used, persuaded, induced, or enticed the minor to engage in sexually explicit conduct for the purpose of producing a visual depiction of the conduct; and
- Third. Either (a) the Defendant knew or had reason to know that the visual depiction would be mailed or transported in interstate or foreign commerce; (b) the visual depiction was produced using materials that had been mailed, shipped, or transported in interstate or foreign commerce by any means, including by computer; or (c) the visual depiction was mailed or actually transported in interstate or foreign commerce.

4. Counts Dismissed

At the time of sentencing, the remaining counts against the defendant, Counts Two, Three, and Four, will be dismissed pursuant to Fed. R. Crim. P. 11(c)(1)(A).

5. No Further Charges

If the Court accepts this plea agreement, the United States Attorney's Office for the Middle District of Florida agrees not to charge defendant with committing any other federal criminal offenses known to the United States Attorney's Office at the time of the execution of this agreement, related to the conduct giving rise to this plea agreement.

6. Mandatory Restitution to Victim of Offense of Conviction

Pursuant to 18 U.S.C. § 2259, defendant agrees to make full restitution to C.A.B. (listed as "C.L." in Count One of the Indictment due to scrivener's error).

7. Incarceration Recommendation

The defendant acknowledges that the United States will recommend to the Court that the defendant be sentenced to a substantial period of incarceration.

8. Acceptance of Responsibility - Three Levels

At the time of sentencing, and in the event that no adverse information is received suggesting such a recommendation to be unwarranted, the United States will recommend to the Court that the defendant receive a two-

level downward adjustment for acceptance of responsibility, pursuant to USSG §3E1.1(a). The defendant understands that this recommendation or request is not binding on the Court, and if not accepted by the Court, the defendant will not be allowed to withdraw from the plea.

Further, at the time of sentencing, if the defendant's offense level prior to operation of subsection (a) is level 16 or greater, and if the defendant complies with the provisions of USSG §3E1.1(b) and all terms of this Plea Agreement, including but not limited to, the timely submission of the financial affidavit referenced in Paragraph B.5., the United States agrees to file a motion pursuant to USSG §3E1.1(b) for a downward adjustment of one additional level. The defendant understands that the determination as to whether the defendant has qualified for a downward adjustment of a third level for acceptance of responsibility rests solely with the United States Attorney for the Middle District of Florida, and the defendant agrees that the defendant cannot and will not challenge that determination, whether by appeal, collateral attack, or otherwise.

9. Forfeiture of Assets

The defendant agrees to forfeit to the United States immediately and voluntarily any and all assets and property, or portions thereof, subject to forfeiture, pursuant to 18 U.S.C § 2253, whether in the possession or control of the United States, the defendant or defendant's nominees. The assets to be forfeited specifically include, but are not limited to, the following: Dell Inspiron

Defendant's Initials 

desktop computer, Samsung cell phone, Toshiba external hard drive, purple cell phone, and metro PCS cell phone (yellow).

The defendant agrees and consents to the forfeiture of these assets pursuant to any federal criminal, civil judicial or administrative forfeiture action. The defendant also hereby agrees to waive all constitutional, statutory and procedural challenges in any manner (including direct appeal, habeas corpus, or any other means) to any forfeiture carried out in accordance with this Plea Agreement on any grounds, including that the forfeiture described herein constitutes an excessive fine, was not properly noticed in the charging instrument, addressed by the Court at the time of the guilty plea, announced at sentencing, or incorporated into the judgment.

The defendant admits and agrees that the conduct described in the Factual Basis below provides a sufficient factual and statutory basis for the forfeiture of the property sought by the government. Pursuant to the provisions of Rule 32.2(b)(1)(A), the United States and the defendant request that promptly after accepting this Plea Agreement, the Court make a determination that the government has established the requisite nexus between the property subject to forfeiture and the offense(s) to which defendant is pleading guilty and enter a preliminary order of forfeiture. Pursuant to Rule 32.2(b)(4), the defendant agrees that the preliminary order of forfeiture will satisfy the notice requirement and will be final as to the defendant at the time it is entered. In the event the forfeiture is

omitted from the judgment, the defendant agrees that the forfeiture order may be incorporated into the written judgment at any time pursuant to Rule 36.

The defendant agrees to take all steps necessary to identify and locate all property subject to forfeiture and to transfer custody of such property to the United States before the defendant's sentencing. The defendant agrees to be interviewed by the government, prior to and after sentencing, regarding such assets and their connection to criminal conduct. The defendant further agrees to be polygraphed on the issue of assets, if it is deemed necessary by the United States. The defendant agrees that Federal Rule of Criminal Procedure 11 and USSG §1B1.8 will not protect from forfeiture assets disclosed by the defendant as part of his cooperation.

The defendant agrees to take all steps necessary to assist the government in obtaining clear title to the forfeitable assets before the defendant's sentencing. In addition to providing full and complete information about forfeitable assets, these steps include, but are not limited to, the surrender of title, the signing of a consent decree of forfeiture, and signing of any other documents necessary to effectuate such transfers.

The defendant agrees that the United States is not limited to forfeiture of the property specifically identified for forfeiture in this Plea Agreement. If the United States determines that property of the defendant identified for forfeiture cannot be located upon the exercise of due diligence; has been transferred or sold to, or deposited with, a third party; has been placed

beyond the jurisdiction of the Court; has been substantially diminished in value; or has been commingled with other property which cannot be divided without difficulty; then the United States shall, at its option, be entitled to forfeiture of any other property (substitute assets) of the defendant up to the value of any property described above. The Court shall retain jurisdiction to settle any disputes arising from application of this clause. The defendant agrees that forfeiture of substitute assets as authorized herein shall not be deemed an alteration of the defendant's sentence.

Forfeiture of the defendant's assets shall not be treated as satisfaction of any fine, restitution, cost of imprisonment, or any other penalty the Court may impose upon the defendant in addition to forfeiture.

The defendant agrees that, in the event the Court determines that the defendant has breached this section of the Plea Agreement, the defendant may be found ineligible for a reduction in the Guidelines calculation for acceptance of responsibility and substantial assistance, and may be eligible for an obstruction of justice enhancement.

10. Abandonment of Property - Computer Equipment

The United States of America and defendant hereby agree that any computer equipment as defined in 18 U.S.C. § 2256, seized from the defendant and currently in the custody and/or control of Homeland Security Investigations or other appropriate agency, were properly seized and are subject to forfeiture to the government according to 18 U.S.C. §§ 2253 or 2254, and/or that the

Defendant's Initials SL

computer equipment and peripherals constitute evidence, contraband, or fruits of the crime for which he has pled guilty. As such, defendant hereby relinquishes all claim, title and interest he/she has in the computer equipment and peripherals to the United States of America with the understanding and consent that the Court, upon approval of this agreement, hereby directs Homeland Security Investigations, or other appropriate agency, to cause the computer equipment described above to be destroyed forthwith without further obligation or duty whatsoever owing to defendant or any other person.

As part of the plea agreement in this case, defendant hereby states under penalty of perjury that he/she is the sole and rightful owner of the property, and that defendant hereby voluntarily abandons all right and claim to and consents to the destruction of: Dell Inspiron desktop computer, Samsung cell phone, Toshiba external hard drive, purple cell phone, and metro PCS cell phone (yellow).

11. Sex Offender Registration and Notification

The defendant has been advised and understands, that under the Sex Offender Registration and Notification Act, a federal law, the defendant must register and keep the registration current in each of the following jurisdictions: the location of the defendant's residence, the location of the defendant's employment; and, if the defendant is a student, the location of the defendant's school. Registration will require that the defendant provide information that includes name, residence address, and the names and addresses of any places

at which the defendant is or will be an employee or a student. The defendant understands that he must update his registrations not later than three business days after any change of name, residence, employment, or student status. The defendant understands that failure to comply with these obligations subjects the defendant to prosecution for failure to register under federal law, 18 U.S.C. § 2250, which is punishable by a fine or imprisonment, or both.

B. Standard Terms and Conditions

1. Restitution, Special Assessment and Fine

The defendant understands and agrees that the Court, in addition to or in lieu of any other penalty, shall order the defendant to make restitution to any victim of the offense pursuant to 18 U.S.C. § 3663A, for all offenses described in 18 U.S.C. § 3663A(c)(1); and the Court may order the defendant to make restitution to any victim of the offense(s), pursuant to 18 U.S.C. § 3663, including restitution as to all counts charged, whether or not the defendant enters a plea of guilty to such counts, and whether or not such counts are dismissed pursuant to this agreement. The defendant further understands that compliance with any restitution payment plan imposed by the Court in no way precludes the United States from simultaneously pursuing other statutory remedies for collecting restitution (18 U.S.C. § 3003(b)(2)), including, but not limited to, garnishment and execution, pursuant to the Mandatory Victims Restitution Act, in order to ensure that the defendant's restitution obligation is satisfied.

On each count to which a plea of guilty is entered, the Court shall impose a special assessment pursuant to 18 U.S.C. § 3013. The special assessment is due on the date of sentencing.

The defendant understands that this agreement imposes no limitation as to fine.

2. Supervised Release

The defendant understands that the offense to which the defendant is pleading provides for imposition of a term of supervised release upon release from imprisonment, and that, if the defendant should violate the conditions of release, the defendant would be subject to a further term of imprisonment.

3. Immigration Consequences of Pleading Guilty

The defendant has been advised and understands that, upon conviction, a defendant who is not a United States citizen may be removed from the United States, denied citizenship, and denied admission to the United States in the future.

4. Sentencing Information

The United States reserves its right and obligation to report to the Court and the United States Probation Office all information concerning the background, character, and conduct of the defendant, to provide relevant factual information, including the totality of the defendant's criminal activities, if any, not limited to the count(s) to which defendant pleads, to respond to comments made by the defendant or defendant's counsel, and to correct any misstatements or

inaccuracies. The United States further reserves its right to make any recommendations it deems appropriate regarding the disposition of this case, subject to any limitations set forth herein, if any.

5. Financial Disclosures

Pursuant to 18 U.S.C. § 3664(d)(3) and Fed. R. Crim. P. 32(d)(2)(A)(ii), the defendant agrees to complete and submit to the United States Attorney's Office within 30 days of execution of this agreement an affidavit reflecting the defendant's financial condition. The defendant promises that his financial statement and disclosures will be complete, accurate and truthful and will include all assets in which has any interest or over which the defendant exercises control, directly or indirectly, including those held by a spouse, dependent, nominee or other third party. The defendant further agrees to execute any documents requested by the United States needed to obtain from any third parties any records of assets owned by the defendant, directly or through a nominee, and, by the execution of this Plea Agreement, consents to the release of the defendant's tax returns for the previous five years. The defendant similarly agrees and authorizes the United States Attorney's Office to provide to, and obtain from, the United States Probation Office, the financial affidavit, any of the defendant's federal, state, and local tax returns, bank records and any other financial information concerning the defendant, for the purpose of making any recommendations to the Court and for collecting any assessments, fines, restitution, or forfeiture ordered by the Court. The defendant expressly

Defendant's Initials SS

authorizes the United States Attorney's Office to obtain current credit reports in order to evaluate the defendant's ability to satisfy any financial obligation imposed by the Court.

6. Sentencing Recommendations

It is understood by the parties that the Court is neither a party to nor bound by this agreement. The Court may accept or reject the agreement, or defer a decision until it has had an opportunity to consider the presentence report prepared by the United States Probation Office. The defendant understands and acknowledges that, although the parties are permitted to make recommendations and present arguments to the Court, the sentence will be determined solely by the Court, with the assistance of the United States Probation Office. Defendant further understands and acknowledges that any discussions between defendant or defendant's attorney and the attorney or other agents for the government regarding any recommendations by the government are not binding on the Court and that, should any recommendations be rejected, defendant will not be permitted to withdraw defendant's plea pursuant to this plea agreement. The government expressly reserves the right to support and defend any decision that the Court may make with regard to the defendant's sentence, whether or not such decision is consistent with the government's recommendations contained herein.

Defendant's Initials



7. Defendant's Waiver of Right to Appeal the Sentence

The defendant agrees that this Court has jurisdiction and authority to impose any sentence up to the statutory maximum and expressly waives the right to appeal defendant's sentence on any ground, including the ground that the Court erred in determining the applicable guidelines range pursuant to the United States Sentencing Guidelines, except (a) the ground that the sentence exceeds the defendant's applicable guidelines range as determined by the Court pursuant to the United States Sentencing Guidelines; (b) the ground that the sentence exceeds the statutory maximum penalty; or (c) the ground that the sentence violates the Eighth Amendment to the Constitution; provided, however, that if the government exercises its right to appeal the sentence imposed, as authorized by 18 U.S.C. § 3742(b), then the defendant is released from his waiver and may appeal the sentence as authorized by 18 U.S.C. § 3742(a).

8. Middle District of Florida Agreement

It is further understood that this agreement is limited to the Office of the United States Attorney for the Middle District of Florida and cannot bind other federal, state, or local prosecuting authorities, although this office will bring defendant's cooperation, if any, to the attention of other prosecuting officers or others, if requested.

9. Filing of Agreement

This agreement shall be presented to the Court, in open court or in camera, in whole or in part, upon a showing of good cause, and filed in this cause, at the time of defendant's entry of a plea of guilty pursuant hereto.

10. Voluntariness

The defendant acknowledges that defendant is entering into this agreement and is pleading guilty freely and voluntarily without reliance upon any discussions between the attorney for the government and the defendant and defendant's attorney and without promise of benefit of any kind (other than the concessions contained herein), and without threats, force, intimidation, or coercion of any kind. The defendant further acknowledges defendant's understanding of the nature of the offense or offenses to which defendant is pleading guilty and the elements thereof, including the penalties provided by law, and defendant's complete satisfaction with the representation and advice received from defendant's undersigned counsel (if any). The defendant also understands that defendant has the right to plead not guilty or to persist in that plea if it has already been made, and that defendant has the right to be tried by a jury with the assistance of counsel, the right to confront and cross-examine the witnesses against defendant, the right against compulsory self-incrimination, and the right to compulsory process for the attendance of witnesses to testify in defendant's defense; but, by pleading guilty, defendant waives or gives up those rights and there will be no trial. The defendant further understands that if

defendant pleads guilty, the Court may ask defendant questions about the offense or offenses to which defendant pleaded, and if defendant answers those questions under oath, on the record, and in the presence of counsel (if any), defendant's answers may later be used against defendant in a prosecution for perjury or false statement. The defendant also understands that defendant will be adjudicated guilty of the offenses to which defendant has pleaded and, if any of such offenses are felonies, may thereby be deprived of certain rights, such as the right to vote, to hold public office, to serve on a jury, or to have possession of firearms.

11. Factual Basis

Defendant is pleading guilty because defendant is in fact guilty. The defendant certifies that defendant does hereby admit that the facts set forth in the attached "Factual Basis," which is incorporated herein by reference, are true, and were this case to go to trial, the United States would be able to prove those specific facts and others beyond a reasonable doubt.

12. Entire Agreement

This plea agreement constitutes the entire agreement between the government and the defendant with respect to the aforementioned guilty plea and no other promises, agreements, or representations exist or have been made to the defendant or defendant's attorney with regard to such guilty plea.

13. Certification

The defendant and defendant's counsel certify that this plea agreement has been read in its entirety by (or has been read to) the defendant and that defendant fully understands its terms.

DATED this 4th day of August, 2016.

A. LEE BENTLEY, III
United States Attorney

Luiz D. Serrano
LUIS SERRANO

Defendant

Christina R. Downes
Christina R. Downes
Special Assistant United States Attorney

M. Guzman
Maria Guzman
Attorney for Defendant

Katherine M. Ho
Katherine M. Ho
Assistant United States Attorney
Chief, Orlando Division

Defendant's Initials LS

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 6:16-cr-60-Orl-40KRS

LUIS SERRANO

FACTUAL BASIS

On October 30, 2015, Homeland Security Investigations (HSI), used law enforcement peer-to-peer (P2P) software and the Internet Crimes Against Children (ICAC) database to investigate Internet Protocol (IP) address 99.42.5.102 based on that IP address making known child pornography available for receipt and distribution over one hundred times from July 1, 2015 to February 23, 2016. On January 21, 2016, using a law enforcement version of the P2P software, HSI Special Agent (SA) Joseph Grey established a direct connection with what would later be confirmed as the defendant's computer utilizing IP address 99.42.5.102. The law enforcement version of the P2P software ensures that all the contents of the downloaded file are received only from the target IP address, in this instance, IP address 99.42.5.102. During this connection on January 21, 2016, SA Grey was able to conduct a single source download of multiple child pornography videos from the computer utilizing IP address 99.42.5.102. After the single source download, he reviewed the files downloaded from IP address 99.42.5.102.

Defendant's Initials



Below is a description of the files:

- (a) "pthc 10y 12y gs with 14y b (veronika 10 nuevo 2 nenas_all(1)469.mpg." This color video file is approximately 3 minutes in length and depicts two prepubescent female children approximately 7 to 9 years of age nude sitting on a couch. During the video one of the children inserts a flesh colored cylindrical object into the vagina of the other child. The video concludes with footage of a minor female child approximately 8 to 10 years of age performing oral sex on an adult male.
- (b) "(pthc) Pedo 8yr mexican slave.mpg." This color video file is approximately 5 minutes in length and depicts a prepubescent minor female child, approximately 7 to 9 years of age nude on a bed. During the video an adult male repeatedly penetrates the anus, vagina, and mouth of the child with his penis.

Additionally, the ICAC database records showed a consistent pattern of child exploitative material being offered for distribution or sharing over P2P networks from IP address 99.42.5.102 since July 2015. Once SA Grey confirmed that the IP address 99.42.5.102 was associated with the possession and distribution of child pornography, he conducted a Domain Name System (DNS) check on IP address 99.42.5.102, and determined that IP address 99.42.5.102 is registered to an AT&T Internet Services subscriber by the name of M.T., who had a listed address of 1174 Smathers Avenue, in Orlando, FL.

Based on the above, on March 3, 2016, Magistrate Judge Thomas B. Smith approved a federal search warrant for 1174 Smathers Ave., Orlando, FL. On March 4, 2016, HSI executed the federal search warrant and located the defendant, Luis Serrano in the home. The defendant told agents that he is 24 years of age, that he was employed as a security guard by a resort company,

Defendant's Initials LS

and that he speaks and understands English. During the course of the interview, the defendant advised that he uses the P2P file sharing system called "eMule." He further admitted that he knew how the P2P works, e.g. that people receive and share files between each other over the internet. When asked specifically about the two videos mentioned above, the defendant stated he recognized them and would "not be surprised if they were in his P2P share folder." He further told agents that over the past two to three years he has been downloading images and videos of child pornography and that he uses those images and videos to masturbate. The defendant stated that he had a large quantity of child pornography on his Dell desktop computer in his bedroom, along with his external hard drive, and that he is the only person that accesses that computer and that he started looking at child pornography as a curiosity and eventually "got outta hand." He also admitted to using a white and purple older phone, and a metro PCS phone to access child pornography, along with accessing and viewing child pornography with his newer Samsung cell phone. SA Grey showed the defendant the screen shots of those videos which were the subject of the January 21, 2016, direct downloads. The defendant admitted that he is specifically familiar with the screen shots of the video entitled "(pthc) Pedo 8yr mexican slave.mpg" and that he has seen the contents of that video on his computer and stated he received it from eMule. Additionally, a hash match conducted on the aforementioned files confirmed that these were the same two video files distributed from IP address 99.42.5.102 on January 21, 2016.

SA Grey also showed the defendant an image of a nude female child approximately six to eight years old tied down to a bench with her legs spread. Agents located this image on the defendant's Dell desktop during the execution of the search warrant. The defendant also admitted during the post-*Miranda* interview that he received this image through eMule. A forensic preview showed that he received the image sometime in July of 2015. After a full forensic analysis search of the Dell desktop, agents discovered 340 images and 175 videos of visual depictions containing minors engaged in sexually explicit conduct. A more detailed review of the images and videos showed that 171 images and 64 videos were of infants and toddlers engaged in sexually explicit conduct and that 32 images and 58 videos were of sadistic and/or masochistic violence involving minors.

During the forensic preview conducted on scene during the search warrant on March 3, 2016, Certified Forensic Analyst Nicholas Volpicella located dozens of images and videos of what appeared to be a girl approximately fourteen to sixteen years of age. One video image showed her inserting a white cylindrical object into her vagina. When confronted with this specific video during his post-*Miranda* interview, the defendant agreed that there were images of his "girlfriend" on his phone and that he remembered asking her to produce and send the video depicting C.A.B. inserting a cylindrical device into her vagina around December of 2015. She sent the image of child pornography to the defendant by computer, over the internet. He said that this was his "girlfriend" (C.A.B.), who was sixteen

years of age and lived in Jacksonville, Florida. The defendant told agents that he met C.A.B. on a chat site several years when he believed her to be twelve or thirteen years old, and that they did not meet in person for the first time until February 4, 2016. At the time of their in-person meeting, the defendant told SA Grey that he believed that C.A.B. was sixteen years of age. During this meeting he picked C.A.B. up in a car that he rented for this trip, and took her to a location to engage in sexual activity. Specifically, Serrano stated that during the meeting he kissed C.A.B.'s bare breasts, fondled them and took photos of them with his phone. Serrano denied having sex with the C.A.B. because she was menstruating.

In addition to the sexual activity that occurred on February 4, 2016, the defendant admitted that he would save the images and videos of C.A.B. performing sex acts at his request to his computer under a certain file structure. He further stated that he uses a chat application on his cell phone called "KiK messenger" to communicate with C.A.B. and receive the videos she self-produces for him. The defendant also admitted that he sent the images of C.A.B. performing sex acts at his request to an online identity named "Greg Universe" and approximately five to ten other individuals online.

During a subsequent forensic review of Serrano's bedroom computer, agents also discovered several videos depicting C.A.B performing sex acts. One was a recorded video chat on "Google Hangout" between the defendant and C.A.B. in which the defendant told C.A.B. to do certain sexual activities and

which C.A.B. then performed. Specifically, he told her to undress and show her vagina to the camera, and to masturbate, which she did. C.A.B. would later review this video with agents and indicate that it was recorded around Valentine's Day of 2015, right after she had turned fifteen. She also told agents that the defendant directed her to produce the first video depicting sexually explicit conduct around May of 2014, when she was fourteen years old and in eighth grade. Agents located this video on the defendant's laptop and showed it to C.A.B., who confirmed it was produced at the defendant's request around May of 2014. In the video, C.A.B. is shown undressing and masturbating.