

FILED IN OPEN COURT

9-9-2016

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

CLERK, U. S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE, FLORIDA

UNITED STATES OF AMERICA

v.

CASE NO. 3:16-cr-38-J-32JBT

LEONARD LELAND WALTERS, JR.

**NOTICE OF MAXIMUM PENALTY, ELEMENTS OF OFFENSE,
PERSONALIZATION OF ELEMENTS AND FACTUAL BASIS**

COMES NOW the United States of America, by and through the undersigned Assistant United States Attorney, stating as follows:

A. **MANDATORY MINIMUM AND MAXIMUM PENALTIES**

The defendant has expressed a desire to enter a plea of guilty to Counts One through Four of the Indictment. Counts One through Three charge the defendant with sexual exploitation of a child, specifically production of visual depictions of minors engaged in sexually explicit conduct, in violation of 18 U.S.C. §§ 2251(a) and (e). Count Four charges the defendant with transportation of child pornography, in violation of 18 U.S.C. §§ 2252(a)(1) and (b)(1).

The penalty for the offenses charged in Counts One through Three of the Indictment is a mandatory minimum term of imprisonment of not less than 15 years and a maximum of not more than 30 years, a fine of \$250,000, a term of supervised release of not less than 5 years and up to life, and a special assessment of \$100, said special assessment to be due on the date of sentencing. Pursuant to Title 18,

United States Code, Section 3583(k), if the defendant is required to register under the Sex Offender Registration and Notification Act and commits any criminal felony offense under Title 18, United States Code, Chapters 109A, 110 or 117, or Sections 1201 or 1591, the Court shall revoke the term of supervised release and require the defendant to serve a term of imprisonment of not less than 5 years and up to life. Any other violation of the terms and conditions of supervised release is punishable by a term of imprisonment of up to 3 years. With respect to this offense and pursuant to Title 18, United States Code, Sections 2259, 3663A and/or 3664, the Court shall order the defendant to make restitution to any victim of the offenses, and with respect to other offenses, the Court may order the defendant to make restitution to any victim of the offense(s), or to the community, as set forth below.

Count Four is punishable by a mandatory minimum term of imprisonment of not less than 5 years and not more than 20 years, a fine of \$250,000, a term of supervised release of not less than 5 years and up to life, and a special assessment of \$100, said special assessment to be due on the date of sentencing. A violation of the terms and conditions of supervised release carries a maximum term of imprisonment of 2 years, or a term of imprisonment of not less than 5 years and up to life, depending on the nature of the violation as set forth with respect to Counts One through Three above. With respect to this offense and pursuant to Title 18, United States Code, Sections 2259, 3663A and/or 3664, the Court shall order the defendant to make restitution to any victim of the offenses, 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.

With consecutive terms of imprisonment on Counts One through Four, the cumulative punishment is not less than 50 years' imprisonment and not more than 110 years' imprisonment, a fine of \$1,000,000, a term of supervised release of not less than 5 years and up to life, and a special assessment of \$400. A violation of the terms and conditions of supervised release carries a maximum term of imprisonment of 11 years, or a term of imprisonment of not less than 20 years and up to life, depending on the nature of the violation as set forth with respect to Counts One through Three above. Further, the Court shall order the defendant to make restitution to any victim of the offenses, and with respect to other offenses, the Court may order the defendant to make restitution to any victim of the offenses, or to the community, as set forth below.

B. ESSENTIAL ELEMENTS

The essential elements of Counts One through Three, a violation of 18 U.S.C. §§ 2251(a) and (e), Sexual Exploitation of Children, specifically Production of Visual Depictions of Minors Engaged in Sexually Explicit Conduct, are as follows:

- First: That the defendant knowingly employed, used, persuaded, induced, enticed or coerced a minor to engage in sexually explicit conduct;
- Second: That the defendant did so for the purpose of producing a visual depiction of such conduct; and

Third: That such visual depiction was produced using materials that had been transported or transmitted in interstate or foreign commerce.

The essential elements of Count Four, a violation of 18 U.S.C. §§ 2252(a)(1) and (b)(1), Sexual Exploitation of Children, specifically Transportation of Visual Depictions of Minors Engaged in Sexually Explicit Conduct, are as follows:

First: The Defendant knowingly transported a visual depiction in interstate or foreign commerce by any means, including by computer;

Second: producing the visual depiction involved using a minor engaged in sexually explicit conduct;

Third: the depiction shows a minor engaged in sexually explicit conduct; and

Four: the Defendant knew that at least one performer in the visual depiction was a minor and knew that the depiction showed the minor engaged in sexually explicit conduct.

C. PERSONALIZATION OF ELEMENTS

COUNT ONE:

1. On or about March 13, 2015, in the Middle District of Florida, did you knowingly employ, use, persuade, induce, entice or coerce a minor to engage in sexually explicit conduct?

2. Do you admit that you did so for the purpose of producing a visual depiction of such conduct?

3. Were the visual depictions produced using materials that had been transported or transmitted in interstate or foreign commerce?

COUNT TWO:

1. On or about April 3, 2015, in the Middle District of Florida, did you knowingly employ, use, persuade, induce, entice or coerce a minor to engage in sexually explicit conduct?
2. Do you admit that you did so for the purpose of producing a visual depiction of such conduct?
3. Were the visual depictions produced using materials that had been transported or transmitted in interstate or foreign commerce?

COUNT THREE:

1. On or about April 22, 2015, in the Middle District of Florida, did you knowingly employ, use, persuade, induce, entice or coerce a minor to engage in sexually explicit conduct?
2. Do you admit that you did so for the purpose of producing a visual depiction of such conduct?
3. Were the visual depictions produced using materials that had been transported or transmitted in interstate or foreign commerce?

COUNT FOUR:

1. On or about March 24, 2015, in Clay County, in the Middle District of Florida, and elsewhere, did you knowingly transport a visual depiction in interstate or foreign commerce, that is, the computer file title listed in Count Four of the Indictment, by computer via the internet?
2. Do you admit that the production of such visual depiction involved a minor engaging in sexually explicit conduct?
3. Do you admit that this visual depiction was of a minor engaging in sexually explicit conduct?
4. Do you admit that you knew that at least one of the performers in this visual depiction was a minor and that you knew that the visual depiction showed the minor engaged in sexually explicit conduct?

D. FACTUAL BASIS

On or about March 11, 2015, Defendant Walters responded to an ad posted on Craigslist.org by an undercover law enforcement officer ("UC") as part of an operation investigating individuals involved in the sexual exploitation of children. Defendant Walters began communicating with the UC and Walters bragged to the UC that he has "a 15 year old that [he is] is fucking on a regular basis. And she sends tons of pics." Walters told the UC his age and requested pictures of the UC's 14-year-old "niece." Walters sent a photograph of "his girl," depicting a 15-year-old minor victim ("Minor Victim 1") and advised that he had nude photographs also and

inquired whether the UC had nude photographs of his "niece." Walters proceeded to tell the UC about sexual activity he has engaged in with the minor.

Walters then sent a photograph of Minor Victim 1 wearing revealing underwear and a shirt to the UC. Walters asked the UC, "Have you got any good porn sights for what we like I can't find any. Only video I have is of us." Walters asked the UC if his "niece" was a virgin and wanted to have sex, do sexting or if she would send more pictures. Walters asked for a clean picture of the UC's "niece" just so he would "know it's real." While waiting for a picture, Walters told the UC, "Only thing had mine do was she took pics of me and wife and watched and played with herself. Wife don't know what we do on the side." When the UC asked why Walters' wife does not know, Walters replied, "She just let her watch she afraid if I get caught so she don't want me touching just looking but I couldn't help myself when she offered. We been doing it for almost a year now."

Walters proceeded to offer the UC and his "niece" to come and stay the night at Walters residence in a 43' camper trailer on the horse farm where he resided in Middleburg, Florida, and to ride horses while there. Walters sent the UC four additional pictures of a camper and of horses. While discussing what they would do if the UC brought his "niece" to see Walters, Walters texted, "Well I was my girls first taught her nice and gentle and slow now she a wildcat. First step is be comfortable naked around all of us would she do that with you. Be naked. We had one of her friends stay and drank a little and played truth or dare. First on

phones then in person. Everyone more comfortable showing stuff if not face to face at first. My girl be her friend.”

On March 23, 2015, the UC emailed Walters advising that he had taken a video of his “niece” in the event Walters was still interested. Walters replied, “Absolutely take it from that cam with phone and give me a sample that sounds hot. I have a few videos also.” The UC agreed to send the video later and Walters replied, “Ok man that would be cool just been on the screen with your phone I will send you something in return.” On March 24, 2015, the UC sent a video to Walters via email at lenwalters52@gmail.com. The video was of a law enforcement officer and was only suggestive in nature and did not contain any nudity. In return, Walters sent the UC a picture via email of Victim 1, who was nude from at least the waist up leaning over a naked adult male lying on his back. The female was performing oral sex on the male’s erect penis. Walters identified that the female in the photograph was his girl he had previously told the UC about. He elaborated, “She will be 16 in April.”

Law enforcement examined EXIF data contained in the photograph Walters sent of the young female and the EXIF data contained in photographs Walters previously sent to the UC. Both pictures were taken with the same model Samsung Galaxy Note 3 mobile telephone, utilizing the same software and settings on two different dates, the former taken on March 13, 2015, and the latter taken on January 12, 2015.

Law enforcement identified and located Minor Victim 1 and her mother and confirmed her identity and the sexual relationship. Minor Victim 1 disclosed that Walters recorded the sexual abuse and sent her photographs and videos of sexually explicit conduct on a mobile telephone he provided to her, which he instructed her to conceal from her mother.

On April 27, 2015, Homeland Security Investigations ("HSI") executed a federal search warrant for Walters residence at 3199 State Road 16 W, Green Cove Springs, FL 32043, ~~_____~~ ^{KS} Several electronic devices were seized and child pornography was located on three devices, all of which were cell phones. In total, there were 619 still images recovered from the media and 11 videos of Minor Victim 1 engaging in sexually explicit conduct. A description of three of the files recovered during the forensic examination from Walters' telephone, which had traveled in interstate and foreign commerce, and which Walters produced using this telephone:

1. Date: 03-13-2015
File Name: 20150313_143604.mp4
Samsung Phone

Description: This color video is approximately 35 seconds in length and has audio. The video shows Minor Victim 1 in view of the camera from the chest up and she is naked. Minor Victim 1 is performing oral sex and masturbating Leonard Walters' erect penis. This is taking place inside a vehicle.

2. Date: 04-03-2015
File Name: 20150403_140251.mp4
Samsung Phone

Description: This color and audio video is approximately three minutes and thirty-seven seconds (3:37) in length. The video starts out with Minor Victim 1 completely naked straddling Leonard Walters with his erect penis inside Minor Victim 1's vagina. Walters is lying on his back on a bed. Next the video shows a close up of Walters' erect penis inside Minor Victim 1 with Walters rubbing Minor Victim 1's vagina. Next Minor Victim 1 performs oral sex on Walters' erect penis. Next Minor Victim 1 is on top of Walters with his erect penis inside of her vagina and he tries to digitally penetrate her anus. Next Walters pulls out his penis and ejaculates in front of the camera. The video ends with the minor child grabbing the camera and Walters face is visible on the screen.

3. Date: 04-22-2015
File Name: 20150422_180750.jpg
Samsung Phone

Description: This color image depicts Minor Victim 1 completely naked lying on top of a blanket on her back. The minor victim's entire body is within view of the camera. The image shows Defendant Leonard Walters from his chest down and he is inserting his erect penis inside Minor Victim 1's vagina.

On April 27, 2015, Walters waived his *Miranda* rights and submitted to a recorded interview by HSI and Clay County Sheriff's Office, wherein he admitted to being a little too close with Minor Victim 1. He described picking her up from school, taking her lunch and picking her up to bring her to his residence. After learning that agents had already interviewed Minor Victim 1, Walters admitted to having a sexual relationship with Minor Victim 1. He said the first time he had sex with Minor Victim 1 was the preceding year on his birthday. Walters said he had sex with Minor Victim 1 at least 75 times and described the acts in detail. Walters acknowledged receiving nude pictures of Minor Victim 1 from an old phone of his he provided to her. Walters also described an instance when Minor Victim 1's

grandmother was ill and in the hospital and he agreed to care for Minor Victim 1 at her home for the weekend, where further sexual acts took place. Walters said he used to tie Minor Victim 1 up with zip ties or a dog leash. Walters referred to Minor Victim 1 as having "daddy issues" and advised that she called him "Daddy." Walters acknowledged having sent the photograph of Minor Victim 1 performing oral sex on him to the UC and also provided a written statement to law enforcement as well.

Respectfully submitted,

A. LEE BENTLEY, III
United States Attorney

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CERTIFICATE OF SERVICE

I hereby certify that on September 6, 2016, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the following:

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