



U.S. Department of Justice

United States Attorney
District of New Jersey

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Newark, NJ 07102

(973) 645-2700

2015R611

August 22, 2016

David A. Holman
Office of the Federal Public Defender
972 Broad Street
Newark, NJ 07102

Re: Plea Agreement with Curtis Thompson

Dear Mr. Holman:

This letter sets forth the plea agreement between your client, Curtis Thompson, and the United States Attorney for the District of New Jersey ("this Office"). The government's offer to enter into this plea agreement will expire on September 6, 2016 if it is not accepted in writing by that date.

Charge

Conditioned on the understandings specified below, this Office will accept a guilty plea from Curtis Thompson ("THOMPSON"), pursuant to Fed. R. Crim. P. 11(c)(1)(C), to an Information which charges him with production of child pornography, in violation of Title 18, United States Code, Section 2251(a) and Section 2.

If THOMPSON enters a guilty plea and is **sentenced to a term of 240 months' imprisonment and a term of supervised release for life** on this charge, and otherwise fully complies with all of the terms of this agreement, this Office will not initiate any further criminal charges against THOMPSON for (i) producing child pornography from in or around May 2015 through in or around September 2015 involving Minor Victim 1 and Minor Victim 2; and (ii) receiving or possessing child pornography. However, in the event that a guilty plea in this matter is not entered for any reason or the judgment of conviction entered as a result of this guilty plea does not remain in full force and effect, THOMPSON agrees that any dismissed charges and any other charges that are not time-barred by the applicable statute of limitations on the date this agreement is signed by THOMPSON may be commenced

against him, notwithstanding the expiration of the limitations period after THOMPSON signs the agreement.

Should the Court at any time reject the plea under Fed. R. Crim. P. 11(c)(1)(C) or act contrary to its terms, either party may elect to be relieved of the terms of this plea and the parties will be returned to the status prior to the entry of the plea. This Office will advise the Court and the Probation Department of information related to sentencing, and such information may be used by the Court in determining THOMPSON's sentence.

Sentencing

The violation of 18 U.S.C. §§ 2251(a) and 2 to which THOMPSON agrees to plead guilty carries a statutory maximum prison sentence of thirty (30) years, a statutory minimum sentence of fifteen (15) years, and a statutory mandatory maximum fine equal to the greatest of: (1) \$250,000; (2) twice the gross amount of any pecuniary gain that any persons derived from the offense; or (3) twice the gross amount of any pecuniary loss sustained by any victims of the offense.

Pursuant to 18 U.S.C. § 2251, if the Court determines that THOMPSON has a prior conviction under Chapter 110, section 1591, Chapters 71, 109A, or 117, or under section 920 of title 10 (article 120 of the Uniform Code of Military Justice), or under the laws of any state relating to aggravated sexual abuse, sexual abuse, abusive sexual contact involving a minor or ward, or sex trafficking of children, or the production, possession, receipt, mailing, sale, distribution, shipment, or transportation of child pornography, the violation of 18 U.S.C. § 2251 to which THOMPSON agrees to plead guilty instead carries a mandatory minimum sentence of twenty-five (25) years and a statutory maximum prison sentence of fifty (50) years. If the Court determines that THOMPSON has two prior sex crime convictions, the violations of 18 U.S.C. § 2251(a) to which THOMPSON agrees to plead guilty instead carries a mandatory minimum sentence of thirty-five (35) years and a statutory maximum of life imprisonment. Pursuant to 18 U.S.C. § 3559(e), if THOMPSON has a prior sex conviction in which a minor was the victim, the violation of 18 U.S.C. § 2251(a) to which THOMPSON agrees to plead guilty instead carries a mandatory minimum sentence of life imprisonment.

Further, in addition to imposing any other penalty on THOMPSON, the sentencing judge: (1) will order THOMPSON to pay an assessment of \$100 pursuant to 18 U.S.C. § 3013, which assessment must be paid by the date of sentencing; (2) must order THOMPSON to pay restitution pursuant to 18 U.S.C. § 2259; (3) must order forfeiture pursuant to 18 U.S.C. § 2253; and

(4) pursuant to 18 U.S.C. § 3583 must require THOMPSON to serve a term of supervised release of at least five (5) years and up to a maximum term of life on supervised release, which will begin at the expiration of any term of imprisonment imposed. Should THOMPSON be placed on a term of supervised release and subsequently violate any of the conditions of supervised release before the expiration of its term, THOMPSON may be sentenced to not more than three (3) years' imprisonment in addition to any prison term previously imposed, regardless of the statutory maximum term of imprisonment set forth above and without credit for time previously served on post-release supervision, and may be sentenced to an additional term of supervised release.

However, pursuant to 18 U.S.C. § 3583(k), should THOMPSON be placed on a term of supervised release and subsequently commit an offense while on release in violation of chapters 109A, 110, or 117, or section 1201 or 1591 of the United States Code, for which imprisonment for a term longer than one (1) year can be imposed, THOMPSON must be sentenced to at least five (5) years' imprisonment in addition to any prison term previously imposed, regardless of the statutory maximum term of imprisonment set forth above and without credit for time previously served on post-release supervision, and may be sentenced to an additional term of supervised release.

In addition, pursuant to the Justice for Victims of Trafficking Act of 2015, upon conviction, unless the Sentencing Court finds the defendant to be indigent, an additional mandatory special assessment of \$5,000 must also be imposed.

Pursuant to Fed. R. Crim. P. 11(c)(1)(C), this Office and THOMPSON agree that a sentence of 240 months' imprisonment and a term of supervised release for life is reasonable and is the appropriate disposition of this case. Accordingly, if the Court accepts this plea agreement, THOMPSON will be sentenced to a term of 240 months' imprisonment and a term of supervised release for life.

Rights of This Office Regarding Sentencing

Except as otherwise provided in this agreement, this Office reserves its right to take any position with respect to the appropriate sentence to be imposed on THOMPSON by the sentencing judge, to correct any misstatements relating to the sentencing proceedings, and to provide the sentencing judge and the United States Probation Office all law and information relevant to sentencing, favorable or otherwise. In addition, this Office may inform the sentencing judge and the United States Probation Office

of: (1) this agreement; and (2) the full nature and extent of THOMPSON's activities and relevant conduct with respect to this case.

Stipulations

This Office and THOMPSON agree to stipulate at sentencing to the statements set forth in the attached Schedule A, which hereby is made a part of this plea agreement. These stipulations are offered as recommendations to the Court pursuant to Fed. R. Crim. P. 11(c)(1)(C), and bind the Court once, and if, the Court accepts the plea agreement. To the extent that the parties do not stipulate to a particular fact or legal conclusion, each party reserves the right to argue the existence of and the effect of any such fact or conclusion upon the sentence. Moreover, this agreement to stipulate on the part of this Office is based on the information and evidence that this Office possesses as of the date of this agreement. Thus, if this Office obtains or receives additional evidence or information prior to sentencing that it determines to be credible and to be materially in conflict with any stipulation in the attached Schedule A, this Office shall not be bound by any such stipulation. A determination that any stipulation is not binding shall not release either this Office or THOMPSON from any other portion of this agreement, including any other stipulation. If the sentencing court rejects a stipulation, both parties reserve the right to argue on appeal or at post-sentencing proceedings that the Court was within its discretion and authority to do so. These stipulations do not restrict this Office's right to respond to questions from the Court and to correct misinformation that has been provided to the Court.

Restitution

THOMPSON understands that he will be required to pay full restitution to the victims of the offense to which the defendant is pleading guilty. The defendant agrees that, in return for the U.S. Attorney's Office's compliance with its obligations under this agreement, the Court may order restitution to persons other than the victims of the offense to which the defendant is pleading guilty. In particular, THOMPSON agrees that the Court may order restitution to any victim of any offenses that are considered relevant conduct to the offense to which the defendant is pleading guilty, as defined in U.S.S.G. § 1B1.3, for any losses suffered by those victims as a result of those offenses. THOMPSON further agrees that he will not seek the discharge of any restitution obligation, in whole or in part, in any present or future bankruptcy proceeding.

Forfeiture

THOMPSON agrees, as part of his acceptance of responsibility and pursuant to 18 U.S.C. § 2253, he will forfeit to the United States (1) all computer and computer accessories on which law enforcement discovered visual depictions described in Sections 2251, 2251A, 2252, 2252A, 2252B, and 2260 of Title 18 of the United States Code; (2) all visual depictions described in Sections 2251, 2251A, 2252, 2252A, 2252B, and 2260 of Title 18 of the United States Code that were produced, transported, shipped, or received in violation of chapter 109A of Title 18, United States Code; (3) all property, real and personal, constituting or traceable to gross profits or other proceeds obtained from the offense charged in the Information; and (4) all property, real and personal, used or intended to be used to commit or to promote the commission of the offense charged in the Information and all property traceable to such property ("Forfeitable Property"). See 18 U.S.C. § 2253. Thompson agrees that the Forfeitable Property includes, but is not limited to, one Apple iPhone, bearing serial number FK3QDC9GGRYD.

THOMPSON acknowledges that the Forfeitable Property is subject to forfeiture as a visual depiction, or book, magazine, periodical, film, videotape, or other matter that contains a visual depiction, described in 18 U.S.C. § 2252A that was produced, transported, shipped, or received in violation of chapter 109A of Title 18, United States Code; any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from a violation of 18 U.S.C. §§ 2252A or 2251; and any property, real or personal, used or intended to be used to commit or to promote the commission of a violation of 18 U.S.C. §§ 2252A or 2251 and any property traceable to such property.

THOMPSON further agrees to waive all interest in the Forfeitable Property in any administrative or judicial forfeiture proceeding, whether criminal or civil, state or federal. THOMPSON agrees to consent to the entry of orders of forfeiture for the Forfeitable Property and waives the requirements of Fed. R. Crim. P. 32.2 and 43(a) regarding notice of the forfeiture in the charging instrument, announcement of the forfeiture at sentencing, and incorporation of the forfeiture in the judgment. THOMPSON understands that the forfeiture of Forfeitable Property is part of the sentence that may be imposed in this case and waives any failure by the court to advise him of this pursuant to Fed. R. Crim. P. 11(b)(1)(J) at the guilty plea proceeding. THOMPSON hereby waives any and all claims that this forfeiture constitutes an excessive fine and agrees that this forfeiture does not violate the Eighth Amendment of the United States Constitution.

Immigration Consequences

THOMPSON understands that, if he is not a citizen of the United States, his guilty plea to the charged offense will likely result in his being subject to immigration proceedings and removed from the United States by making him deportable, excludable, or inadmissible, or ending his naturalization. THOMPSON understands that the immigration consequences of this plea will be imposed in a separate proceeding before the immigration authorities. THOMPSON wants and agrees to plead guilty to the charged offense regardless of any immigration consequences of this plea, even if this plea will cause his removal from the United States. THOMPSON understands that he is bound by his guilty plea regardless of any immigration consequences of the plea. Accordingly, THOMPSON waives any and all challenges to his guilty plea and to his sentence based on any immigration consequences, and agrees not to seek to withdraw his guilty plea, or to file a direct appeal or any kind of collateral attack challenging his guilty plea, conviction, or sentence, based on any immigration consequences of his guilty plea.

Waiver of Appeal and Post-Sentencing Rights

As set forth in Schedule A, this Office and THOMPSON waive certain rights to file an appeal, collateral attack, writ, or motion after sentencing, including but not limited to an appeal under 18 U.S.C. § 3742 or a motion under 28 U.S.C. § 2255, which challenges the conviction or sentence imposed by the Court if the plea is accepted and the sentence is imposed in accordance with the terms of this agreement. This Office will not file any appeal, motion, or writ which challenges the conviction or sentence imposed by the Court if that sentence is imposed in accordance with the terms of this agreement. Furthermore, if the Court accepts the terms of this plea agreement, both parties waive the right to file an appeal, collateral attack, writ or motion not barred by the proceeding paragraphs.

Registration Consequences

THOMPSON understands that his guilty plea to the charged offense will likely result in a requirement that he register as a sex offender under federal and state law, and he will be subject to the registration laws' requirements and penalties. THOMPSON wants and agrees to plead guilty to the charged offense regardless of any registration consequences of that plea. THOMPSON understands that he is bound by his guilty plea regardless of any registration consequences of the plea. Accordingly, THOMPSON waives any and all challenges to his guilty plea and to his sentence based on any registration consequences, and agrees not to seek to withdraw his guilty plea,

or to file a direct appeal or any kind of collateral attack challenging his guilty plea, conviction, or sentence, based on any registration consequences of his guilty plea.

Adam Walsh Child Protection and Safety Act

THOMPSON has been advised, and understands, that under the Sex Offender Registration and Notification Act, a federal law, he must register and keep the registration current in each of the following jurisdictions: where THOMPSON resides; where he is an employee; and where he is a student. THOMPSON understands that the requirements for registration include providing his name, his social security number, the address of any place where he resides or will reside, the names and addresses of any places where he is or will be an employee or a student, and the license plate number and a description of any vehicle owned or operated by him, among other information. THOMPSON further understands that the requirement to keep the registration current includes informing at least one jurisdiction in which he resides, is an employee, or is a student not later than three business days after any change of his name, residence, employment, or student status. THOMPSON has been advised, and understands, that failure to comply with these obligations subjects him to prosecution for failure to register under federal law, 18 U.S.C. § 2250, which carries a statutory maximum prison sentence of 10 years and a statutory maximum fine equal to the greatest of: (1) \$250,000; (2) twice the gross amount of any pecuniary gain that any persons derived from the offense; or (3) twice the gross amount of any pecuniary loss sustained by any victims of the offense.

Other Provisions

This agreement is limited to the United States Attorney's Office for the District of New Jersey and cannot bind other federal, state, or local authorities. However, this Office will bring this agreement to the attention of other prosecuting offices, if requested to do so.

This agreement was reached without regard to any civil or administrative matters that may be pending or commenced in the future against THOMPSON. This agreement does not prohibit the United States, any agency thereof (including the Internal Revenue Service and Immigration and Customs Enforcement) or any third party from initiating or prosecuting any civil or administrative proceeding against THOMPSON.

No provision of this agreement shall preclude THOMPSON from pursuing in an appropriate forum, when permitted by law, an appeal, collateral

attack, writ, or motion claiming that THOMPSON received constitutionally ineffective assistance of counsel.

No Other Promises

This agreement constitutes the plea agreement between THOMPSON and this Office and supersedes any previous agreements between them. No additional promises, agreements, or conditions have been made or will be made unless set forth in writing and signed by the parties.

Very truly yours,

PAUL J. FISHMAN
United States Attorney

Svetlana M. Eisenberg

By: SVETLANA M. EISENBERG
Assistant U.S. Attorney


APPROVED:



THOMAS EICHER
Chief, Criminal Division
United States Attorney's Office

I have received this letter from my attorney, David A. Holman, Esq. I have read it. My attorney and I have discussed it and all of its provisions, including those addressing the charge, sentencing, stipulations, waiver, registration, restitution, forfeiture, and immigration consequences, as well as the impact of Fed. R. Crim. P. 11(c)(1)(C) upon this agreement. I understand this letter fully. I hereby accept its terms and conditions and acknowledge that it constitutes the plea agreement between the parties. I understand that no additional promises, agreements, or conditions have been made or will be made unless set forth in writing and signed by the parties. I want to plead guilty pursuant to this plea agreement.

AGREED AND ACCEPTED:


Curtis Thompson

Date: 9/7/16

I have discussed with my client this plea agreement and all of its provisions, including those addressing the charge, sentencing, stipulations, waiver, registration, restitution, forfeiture, and immigration consequences, as well as the impact of Fed. R. Crim. P. 11(c)(1)(C) upon this agreement. My client understands this plea agreement fully and wants to plead guilty pursuant to it.


David A. Holman, Esq.

Date: 9/7/16

Plea Agreement with Curtis Thompson

Schedule A

1. This Office and Curtis Thompson ("THOMPSON") agree to stipulate to the following facts:

a. From in or around May 2015 to in or around September 2015, THOMPSON employed, used, persuaded, induced, enticed or coerced a minor victim in Mercer and Essex Counties, New Jersey, to take part in sexually explicit conduct for the purpose of producing a visual depiction of such conduct, which visual depiction was produced using materials that had been mailed, shipped, or transported across state lines or in foreign commerce by any means (hereinafter the "Production Offense").

b. The Production Offense involved a minor who had attained the age of twelve years but not attained the age of sixteen years, as defined in U.S.S.G. § 2G2.1(b)(1)(B).

c. The Production Offense involved the commission of a sexual act, as defined in U.S.S.G. § 2G2.1(b)(2)(A).

d. The Production Offense involved the use of a computer or an interactive computer device to entice a minor to engage in sexually explicit conduct, as defined in U.S.S.G. § 2G2.1(b)(6)(B).

2. The instant offense of conviction is a covered sex crime, and the defendant engaged in a pattern of activity involving prohibited sexual conduct, as defined in U.S.S.G. § 4B1.5(b)(1).

3. In accordance with the above, and pursuant to Fed. R. Crim. P. 11(c)(1)(C), the parties agree that a sentence of 240 months' imprisonment and a term of supervised release for life for the charge contained in the Information is reasonable under 18 U.S.C. § 3553(a), and neither party will argue for a sentence below or above 240 months' imprisonment and a term of supervised release for life. Furthermore, should the Court reject this agreement, either party may elect to be relieved of the terms of this plea and the parties will be returned to the status prior to the entry of the plea.

4. THOMPSON knows that he has and, except as noted below in this paragraph, voluntarily waives, the right to file any appeal, any collateral attack, or any other writ or motion, including but not limited to an appeal under 18 U.S.C. § 3742 or a motion under 28 U.S.C. § 2255, which challenges

the sentence imposed by the sentencing Court if the sentence imposed is 240 months' imprisonment and a term of supervised release for life. This Office will not file any appeal, motion or writ which challenges the sentence imposed by the sentencing Court if the sentence imposed is 240 months' imprisonment and a term of supervised release for life. The provisions of this paragraph are binding on the parties even if the Court employs a Guidelines analysis different from that stipulated to herein. Furthermore, if the sentencing court accepts the stipulation set forth in Schedule A, both parties waive right to file an appeal, collateral attack, writ, or motion claiming that the sentencing Court erred in doing so.

5. Both parties reserve the right to oppose or move to dismiss any appeal, collateral attack, writ, or motion not barred by the preceding paragraph.