

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

UNITED STATES OF AMERICA

Cr. No. 24 – cr – 00019-PB

v.

MARC JACQUES

DEFENDANT’S SENTENCING MEMORANDUM

The defendant, Marc Jacques (“Jacques”), through counsel, files the following Sentencing Memorandum setting forth all factors that the Court should consider in determining what type and length of sentence is sufficient, but not greater than necessary, to comply with the statutory directives set forth in 18 U.S.C. § 3553(a). Additionally, contained within the instant Sentencing Memorandum, is a Motion for a Below Guideline Sentence (Variance), contained herein below.

The defendant notes that the Probation Department has done a complete and thorough job of accurately presenting to this Court his personal history replete with the factual presentation of his life, work history, family, emotional and physical events that have impacted his life. The defendant further notes that the Probation Department’s calculations of the sentencing guidelines are detailed, thorough and presented with clarity.

In response to the PSR, counsel objected to a “two - level enhancement” because the offense involved the use of a computer, see, USSG 2G2.2(b)(6).

Defendant believes that a 2-level downward variance is appropriate in this case as the use of a computer no longer distinguishes the defendant from most other possessors, since the offense of child pornography is now committed almost exclusively by computer. Additionally. Pursuant to the Plea Agreement, the United States will recommend that the Court apply a 2 – level downward variance to offset the “use of a computer” enhancement.

Accordingly, we believe that the base offense level should be decreased by 2 levels.

Introduction

On March 18, 2024, Jacques waived indictment and pled guilty to a one-count Information, charging him with distribution of child pornography on or about December 10, 2021, in violation of 18 U.S.C. 2252A(a)(2)(A) and (b)(1).

The Plea Agreement

The parties agree that a mandatory minimum term of 5 years is applicable pursuant to 18 U.S.C. 2252A(b)(1).

The guidelines

As is typical in many child pornography cases, Jacques is attributed virtually every enhancement under the child pornography guideline, USSG § 2G2.2. In their initial PSR Probation found that the application of the Sentencing Guidelines resulted in a Total Offense Level of 30, PSR ¶¶ 33. Applying a CHC of I, Probation found that the application of the Sentencing Guidelines yields an advisory guideline range of 97 months to 121 months. This

Total Offense Level includes a two-level enhancement because the offense involved a computer USSC 2G2.2(b)(6).

Defendant takes the position that a 2-level downward variance is appropriate in this case as the use of a computer no longer distinguishes the defendant from most other child pornography cases (as was originally intended), since the offense involving child pornography is now committed almost exclusively by computer.

Should the Court agree, the defendant's Total Offense Level would be revised from 30 to 28. Combined with a CHC of 1, defendant would face a Guidelines Sentencing Range of 78 – 97 months.

Sentencing under *Booker*

On January 12, 2005, the Supreme Court ruled that its Sixth Amendment holding in Blakely v. Washington, 124 S. Ct. 2531 (2004) and Apprendi v. New Jersey, 530 U.S. 466 (2000) applies to the Federal Sentencing Guidelines. United States v. Booker, 125 S. Ct. 738, 756 (2005). Given the mandatory nature of the Sentencing Guidelines, the Court found “no relevant distinction between the sentence imposed pursuant to the Washington statutes in Blakely and the sentences imposed pursuant to the Federal Sentencing Guidelines” in the cases before the Court. Id. at 751. Accordingly, reaffirming its holding in Apprendi, the Court concluded that

[a]ny fact (other than a prior conviction) which is necessary to support a sentence exceeding the maximum authorized by the facts established by a plea of guilty or a jury verdict must be admitted by the defendant or proved to a jury beyond a reasonable doubt. Id. at 756.

Based on this conclusion, the Court further found those provisions of the federal Sentencing Reform Act of 1984 that make the Guidelines mandatory, 18 U.S.C. § 3553(b)(1) or which rely upon the Guideline’s mandatory nature, 18 U.S.C. § 3742(e), incompatible with its Sixth Amendment holding. Booker, 125 S. Ct. at 756. Accordingly, the Court severed and excised those provisions, “mak[ing] the Guidelines effectively advisory.” Id. at 757.

Instead of being bound by the Sentencing Guidelines, the Sentencing Reform Act, as revised by Booker, requires a sentencing court to consider Guidelines ranges, see 18 U.S.C.A. § 3553(a)(4) (Supp.2004), but it permits the court to tailor the sentence in light of other statutory concerns as well, see § 3553(a). Booker, 125 S. Ct. at 757. Thus, under Booker, sentencing courts must treat the guidelines as just one of a number of sentencing factors set forth in 18 U.S.C. § 3553(a).

The primary directive in Section 3553(a) is for sentencing courts to “impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph 2.” Section 3553(a)(2) states that such purposes are:

- (A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;
- (B) to afford adequate deterrence to criminal conduct;
- (C) to protect the public from further crimes of the defendant; and
- (D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.

In determining the minimally sufficient sentence, § 3553(a) further directs sentencing courts to consider the following factors:

- 1) “the nature and circumstances of the offense and the history and characteristics of the defendant” (§ 3553(a)(1);
- 2) “the kinds of sentences available” (§ 3553(a)(3);
- 3) “the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct” (§ 3553(a)(6); and
- 4) “the need to provide restitution to any victims of the offense.” (§ 3553(a)(7).

Other statutory sections also give the district court direction in sentencing. Under 18 U.S.C. § 3582, imposition of a term of imprisonment is subject to the following limitation: in determining whether and to what extent imprisonment is appropriate based on the Section 3553(a) factors, the judge is required to “recogniz[e] that imprisonment is *not* an appropriate means of promoting correction and rehabilitation” (emphasis added).

Under 18 U.S.C. § 3661, “*no limitation* shall be placed on the information concerning the background, character, and conduct of [the defendant] which a court of the United States may receive and consider for the purpose of imposing an appropriate sentence” (emphasis added).

This statutory language certainly overrides the (now-advisory) policy statements in Part H of the sentencing guidelines, which list as “not ordinarily relevant” to sentencing a variety of factors such as the defendant’s age, educational and vocational skills, mental and emotional conditions, drug or alcohol dependence, and lack of guidance as a youth. *See* U.S.S.G. § 5H1. *See also* United States v. Nellum, 2005 WL 300073, 2005 U.S. Dist. LEXIS 1568 (N.D. Ind. Feb. 3, 2005) (Simon, J.) (taking into account fact that defendant, who was 57 at sentencing, would upon his release from prison have a very low likelihood of recidivism since recidivism reduces with age; citing Report of the U.S. Sentencing Commission, *Measuring Recidivism: the Criminal History Computation of the Federal Sentencing Guidelines*, May 2004); United States v. Naylor, 359 F. Supp. 2d 521 (W.D. Va. 2005) (concluding that sentence below career offender guideline range was reasonable in part because of defendant’s youth when he committed his predicate offenses – he was 17 – and noting that in Roper v. Simmons, 125 S. Ct. 1183, 1194-96 (2005), the Supreme Court found significant differences in moral responsibility for crime between adults and juveniles).

The directives of Booker and § 3553(a) make clear that courts may no longer uncritically apply the guidelines. Such an approach would be “inconsistent with the holdings of the merits majority in Booker, rejecting mandatory guideline sentences based on judicial fact-finding, and the remedial majority in Booker, directing courts to consider all of the § 3353(a) factors, many of which the guidelines either reject or ignore.” United States v. Ranum, 353 F. Supp. 2d 984, 985-86 (E.D. Wisc. Jan. 19, 2005) (Adelman, J.). As another district court judge has correctly observed, any approach which automatically gives “heavy” weight to the guideline range “comes perilously close to the mandatory regime found to be constitutionally infirm in Booker.” United States v. Jaber, 362 F. Supp. 2d 365 (D. Mass. 2005). *See also* United States v. Ameline, 400

F.3d 646, 655-56 (9th Cir. Feb. 9, 2005) (advisory guideline range is “only one of many factors that a sentencing judge must consider in determining an appropriate individualized sentence”), reh’g en banc granted, 401 F.3d 1007 (9th Cir. 2005).

Justice Scalia explains the point well in his dissent from Booker’s remedial holding:

Thus, logic compels the conclusion that the sentencing judge, after considering the recited factors (including the guidelines), has full discretion, as full as what he possessed before the Act was passed, to sentence anywhere within the statutory range. If the majority thought otherwise – if it thought the Guidelines not only had to be ‘considered’ (as the amputated statute requires) but had generally to be followed – its opinion would surely say so. Booker, 125 S. Ct. at 791 (Scalia, J., dissenting in part).

Likewise, if the remedial majority thought the guidelines had to be given “heavy weight,” its opinion would have said so. The remedial majority clearly understood that giving any special weight to the guideline range relative to the other Section 3553(a) factors would violate the Sixth Amendment.

In sum, in every case, a sentencing court must now consider all of the § 3553(a) factors, not just the guidelines, in determining a sentence that is sufficient but not greater than necessary to meet the goals of sentencing. And where the guidelines conflict with other sentencing factors set forth in § 3553(a), these statutory sentencing factors should generally trump the guidelines. See United States v. Denardi, 892 F.2d 269, 276-77 (3d Cir. 1989) (Becker, J, concurring in part,

dissenting in part) (arguing that since § 3553(a) requires sentence be no greater than necessary to meet four purposes of sentencing, imposition of sentence greater than necessary to meet those purposes violates statute and is reversible, even if within guideline range)

Nature and Circumstances of Offense

Upon information and belief, in June of 2022, based upon an investigation, a search warrant was obtained for Jacques residence, vehicle and person. The warrant was executed on June 7, 2022. Jacques voluntarily agreed to be interviewed by agents. During the course of the interview, he admitted to using his cell phone and personal laptop to view, save and share child pornography. A search of his electronic devices confirmed his statements.

History and Characteristics of Defendant

Rimas is a 50-year-old man who was born and raised in Massachusetts. His father is 82 years old and resides in Springfield, MA. Jacques maintains a close relationship with his father. His brother, Robert, is 54 and resides in Scarborough, ME. Jacques mother passed away in April of 2020 from the Coronavirus. By all accounts, Jacques has lived a productive life. He graduated from high school in 1996. He then attended the College of the Holy Cross in Worcester, MA, where he graduated with a degree in political science. He then attended the Universite Concordia in Montreal, Canada, graduating in 2000, where he obtained a master's

degree in public policy and public administration. Jacques personal and family data, mental and emotional health and employment record set forth in detail he PSR. However, Jacques specifically refers the Court to the Psychosexual Risk Assessment report authored by Laurie Guidry, Psy.D., previously filed in court and under seal at the Rule 11 hearing.

Jacques has surrounded himself with loving and fulfilling relationships as evidenced by numerous letters of support. See Exhibit C. Exhibits A, B and F referenced in this Sentencing Memorandum have been previously filed under seal. As a result, the first conventionally filed exhibit attached hereto is Exhibit C.

Throughout the pendency of this case, Jacques has taken responsibility for his actions and taken steps to understand and address his behavior. He submitted to a forensic evaluation by Dr. Guidry, who opined that Jacques presents as a very low and manageable risk for recidivating. Additionally, on his own, Jacques sought counseling in order to help alleviate the issue that resulted in the instant action. See Exhibit D, letter of David Brower, PhD.

Since his release on pretrial conditions, Jacques has had no issues of non-compliance and has made a satisfactory adjustment to supervision. He has had access to a computer, smartphone and internet without any issues. Additionally, Jacques had maintained his employment.

Motion for Below-Guideline Sentence (Variance)

Jacques moves the Court to sentence him below the advisory guideline range. A sentence of five years is sufficient, but not greater than necessary, to comply with the statutory purposes of sentencing, *see* 18 U.S.C. § 3553(a).

While the now advisory Guidelines, *see United States v. Booker*, 543 U.S. 220 (2005), must still be properly calculated and the court must consider the advisory Guidelines range, the court may not presume this advisory range is reasonable. *United States v. Stone*, 575 F.3d 83, 94 (1st Cir. 2009). The advisory Guidelines range now serves as merely an initial benchmark for sentencing, which is ultimately considered along with other 18 U.S.C. §3553(a) factors. *See Rita v. United States*, 551 U.S. 338 (2007); *Kimbrough v. United States*, 552 U.S. 85 (2007); *Gall v. United States*, 552 U.S. 38 (2007).

Kimbrough “makes manifest that sentencing courts possess sufficient discretion under section 3553(a) to consider requests for variant sentences premised on disagreements with the manner in which the sentencing guidelines operate.” *Stone*, 575 F.3d at 89. This Court’s precedent “has interpreted *Kimbrough* as suppling this power even where a guideline provision is a direct reflection of a congressional directive.” *Id.*

The child pornography guideline, found at §2G2.2 of the Sentencing Guidelines, “is fundamentally different from most and that, unless applied with great care, can lead to unreasonable sentences that are inconsistent with what §3553 requires.” *United States v. Dorvee*, 616 F.3d 174, 184 (2d Cir. 2010); *see also United States v. Stone*, 575 F.3d 83, 97(1st Cir. 2009) (“[W]e wish to express our view that [§2G.2 is] harsher than necessary . . . [F]irst-offender sentences of this duration are usually reserved for crimes of violence and the like.”); *United States v. Grober*, 624 F.3d 592 (3d Cir. 2010) (finding district court provided compelling explanation for policy concerns and justification for sentence outside range).

Because the child pornography guideline offense levels and enhancements were directed by Congress and were not the result of “an empirical approach based on data about past sentencing

practices,” the resulting Guideline ranges can yield unreasonably high sentences in otherwise “run of-the-mill cases.” *United States v. Dorvee*, 616 F.3d at 186-87. *See also United States v. Tutty*, 612 F.3d 128, 132-33 (2d Cir. 2010) (suggesting that the guidelines can generate “unreasonable results” if not “carefully applied.”). These directives led first-time offenders to receive offense levels at or near the statutory maximum for the offense because most, if not all, of the enhancements apply in nearly every case. *See Dorvee*, 616 F.3d at 186-87; *Grober*, 624 F.3d at 603-08 (reviewing history of the child pornography guideline); *United States v. Henderson*, 649 F.3d 955, 960-63 (9th Cir. 2011) (same).

In 2012 the United States Sentencing Commission examined child pornography sentencing outcomes. *See* U.S. Sentencing Comm’n, *Report to the Congress: Federal Child Pornography Offenses, ii-iii* (2012) (“*The Report*”). The Commission compiled *The Report* in part to address the increasing rate of below-guideline sentences for offenders sentenced under §2G2.2 and because the sentencing data “indicate[d] that a growing number of courts believe[d] that the current sentencing scheme in non-production offenses [was] overly severe for some offenders.” *Id. at ii*.

In June 2021, the United States Sentencing Commission published its study concerning Federal Sentencing of Child Pornography: Non-Production Offenses. *See*, https://www.ussc.gov/sites/default/files/pdf/research-and-publications/researchpublications/2021/20210629_Non-Production-CP.pdf (last visited July 2, 2021) (“2021 Report”). This publication served to update and expand the U.S. Sentencing Commission’s 2012 Child Pornography Report. Although the 2012 report concluded that “the non-production child pornography sentencing scheme should be revised to account for technological changes in offense conduct, emerging social science research about offender behavior, and variations in offender culpability and sexual dangerousness” Congress has not acted

on those recommendations and the guideline enhancements remain intact. *Id.* at 2-3. Accordingly, judges continue to sentence nonproduction offenders below the guideline range. *Id.*

The 2021 Report produced key findings which once again underscore how the guideline enhancements have not evolved with the current technology and have “become so ubiquitous that they now apply in the vast majority of cases sentenced under [USSG] 2G2.2.” *Id.* at 4. For example, “in fiscal year 2019, over 95 per cent of non-production child pornography offenders received enhancements for use of a computer and for the age of the victim (images depicting victims under the age of 12)”. *Id.* Enhancements for images depicting sadistic conduct or abuse of an infant or toddler were applied in 84% of cases and an enhancement for having 600 or more images was applied in 77.2% of cases. *Id.* (noting that non-production offenses involved median number of 4,265 images). (The PSR calculates the number of images attributable to Jacques at 600 or more)

Of interest to Jacques’s case, the 2021 Report documented the sentencing outcomes for common non-production offenses where the resulting guideline range was 78 to 97 months, accounting for four specific offense characteristics applied in the majority of cases. *Id.* at 54, fn. 126 (images depicting a prepubescent minor or a minor under the age of 12; images depicting sadistic or masochistic conduct; the use of a computer; 600 or more images). The study, comprised of 119 possession offenders, revealed that the average sentence was 47 months, with 81.5% sentenced below the guideline range. *Id.* at 55 (sentences ranging from probation to 228 months for the 119 offenders). The 2021 Report revealed “significant sentencing disparities among similarly situated offenders as courts and the government contend with the outdated statutory and guideline structure.” *Id.* at 69. The report concluded that “even though the key factors identified in the 2012 Child Pornography Report influence sentences, they cannot be

considered in a sufficiently uniform manner in the absence of a properly calibrated guideline that jettison outdated factors.” *Id.*

§ 3553(a)(6). The need to avoid unwarranted sentencing disparities among defendants with similar records who have been found guilty of similar conduct.

1. An analogous case recently before the U.S. District Court – NH can be found in *U.S. v. Colburn*, 19CR208. In *Colburn*, a review of court documents indicates that during the course of an investigation investigators identified a yahoo account email address associated with the receipt of child pornography. Like Rimas, the facts indicate that Colburn met with investigators and admitted that the email address was his and that he was the only one that accessed the account. The investigators then searched Colburn’s home, cell phone and laptop that contained over 2,000 still images and 141 videos of child pornography (141 videos @ 75 images each equates to 10,575 images). Some of the files depicted sexual abuse of an infant or toddler, some depicted prepubescent minors, and some depicted the bondage of minors. Furthermore, the evidence revealed a video that Colburn created using a cellphone camera. In the video, the camera follows two minor girls wearing shorts and surreptitiously records them as they walk around an outdoor event. The focal point of the camera is their buttocks. On its face, one of the differences between the Colburn matter and the instant case is that Colburn was charged with possession of child pornography, while Jacques has been charged with distribution of the same. Additionally, we believe that it is important to note that in Colburn the United States requested that a two – level downward variance be imposed as it is recognized that possessing child pornography is now committed exclusively by computer. Likewise, in the case at bar, Jacques

received the images on his computer or cell phone as well. At sentencing, Colburn requested that the Court vary downward from a guideline range of 78 to 97 months of imprisonment and impose a term of probation. The Government, on the other hand, submitted that a sentence of 63 – months of imprisonment, followed by five years of supervised release, was sufficient but not greater than necessary to meet the purposes of 18 U.S.C 3553(a). Colburn was ultimately sentenced to 36 months in federal prison, a reduction of more than 50% off of the low end of the guideline range.

2. Another analogous case recently before the U.S. District Court – NH can be found in *U.S. v. Adams*, 21CR183. In *Adams*, the facts indicate that in August of 2020 the FBI received information that Adams was attempting to contact underage females. Adams established contact with an undercover UC with the online persona of a 13-year-old girl. The two then maintained contact. In October of 2020 Adams sent sexually explicit pictures and a video of himself and engaged the UC in an explicit conversation. Search warrants were executed at his home and electronic devices were seized. Forensic review revealed that Adams was engaged in sexually oriented chats with numerous minor females. Adams was sentenced to 12 months and one day for attempted transfer of obscene material to a minor.

3. A third case in the U.S. District Court – NH is *U.S. v Cote*, 21CR00140. On or about January 25, 2022, Cote was sentenced to 60 months for possession of child sexual abuse material. *Cote* is analogous to Jacques in that a federal search warrant was executed at Cote’s residence in Franklin, NH. The investigation into Cote stemmed from activity that took place on a social media account that resolved back to Cote. Various electronic devices were seized during the search. Forensic review of the devices revealed over 2,500 images and over 300 videos

depicting child sexual exploitation material. Cote also admitted to viewing and possessing child sexual abuse material and to trading the material with others online.

4. A fourth case in the U.S. District Court – MA is *U.S. v Carme*, 10CR10073. On or about March 8, 2022, Carme was sentenced to 63 months. Carme had pled guilty to distribution of child pornography, receipt of child pornography and one count of possession of child pornography involving a prepubescent minor and a minor who had not attained 12 years of age. Carme had downloaded and distributed numerous images and video files depicting child pornography. During a search of his home, a laptop and external hard drive were seized. Forensic review of the hard drive revealed approximately 7,811 images and 616 videos of child pornography. abuse material. Additionally, Carme distributed the material to others.

5. A fifth case in U.S. District Court – Maine is *U.S. v. Andrew Hazelton*. On or about January 28, 2022, Hazelton was sentenced to 5 years in prison followed by 5 years of supervised release for possessing child pornography. According to court records, Hazelton chatted with a 10-year-old girl. During the chat after learning that she was 10, he said that he wanted to see her “sexy body” and asked her to send him pictures of her in her panties and without a shirt. He also said that he wanted to have sex with her. Investigators searched his residence. An analysis of his phone revealed a folder containing dozens of files depicting minors, some of those prepubescent, engaging in sexually explicit conduct.

6. A sixth case in U.S. District Court – RI is *U.S. v. Richard Woodhead*, 17CR 068. On or about December 15, 2017, Woodhead, an Attleboro, MA police sergeant, was sentenced to 60 months in federal prison for attempted receipt of child pornography. According to court documents and information presented to the Court, between September 2016 and December 2017, Woodhead had posted multiple online advertisements. In the advertisements, Woodhead

requested to see nude pictures of people's daughters. A UC began communicating with Woodhead and had multiple conversations with him. During the conversations, Woodhead and the UC discussed meeting so that Woodhead could engage in sexual relations with the child. Additionally, Woodhead requested that the UC send him naked pictures of the child.

7. Finally, the case of *U.S. v Anthony Weiner*, 17CR307 (Southern District of NY) is directly illustrative of a case in which, while applicable, the Court did not impose a sentence subject to the cross – reference contained in USSG 2G2.1. In *Weiner*, the defendant pled guilty to a one count information charging him with the transfer of obscene material to a minor. In their calculation of the Guidelines, the Government found the following. A BOL of 10 pursuant to (2G3.1(a). A 7-level increase under 2G3.1(b)(1)(E), and 2 level increase for the use of a computer (2G3.1(b)(3). The Government then applied the cross reference under 2G2.1, which yielded a BOL of 32. To this, a 2-level increase under 2G2.1(b)(1)(B) was applied as the offense involved a minor between the age of 12 and 16. Likewise, a 2-level enhancement was applied under 2G2.1(b)(6)(B)(i) for use of a computer. Weiner then received a 3-level departure for acceptance of responsibility, for an applicable Guideline offense level of 33, which yielded a Guideline range of 135 – 168 months. However, Weiner received a sentence of 21 months, far below the Guideline sentence.

The Defendant's extraordinary family circumstances warrant a downward departure or variance:

Prior to Booker, a downward departure on the grounds of family ties and responsibilities was "appropriate if the defendant's role was so different in kind or degree from the many kinds of support that can be important in the family relationship, that it made the family ties and

responsibilities factor ... exceptional”. *US v. Roselli*, 366 F.3d 58, 69 (1st Cir. 2004), quoting *US v. Louis*, 300 F.3d 78, 82 (1st Cir. 2002). Post *Booker*, as a general matter, courts may vary with the Guideline ranges based solely on policy considerations, including disagreements with the Guidelines”. *US v. Martin*, 520 F.3d 87,93 (1st Cir. 2008) quoting *Kimbrough v. US*, 85, 101 (2009). “A district court may take idiosyncratic family circumstances into account, at least to some extent, fashioning a variant sentence.” *Martin*, 520 F.3d at 93. See also, *US v. Munoz – Nava*, 524 F.3d 1137, 1143, 1148 (10th Cir. 2008) (record supported finding extraordinary family circumstances; defendant cared for his 8 year old son as a single parent and had elderly parents with serious medical problems); *US v. Lehmann*, 513 F.3d 805, 806,809 (8th Cir. 2008) (affirming downward variance where the court found that a prison sentence would negatively affect the defendant’s disabled son).

For a complete and substantial statement in support of the requested variance please refer to the records previously filed under seal as Exhibits A, B and F as well as conventionally filed Exhibits E and G. Based upon the information set forth hereinabove, medical and otherwise, we believe that record clearly evidences extraordinary family factors that the courts have recognized when fashioning a downward departure or variance.

Requested Relief

The paramount directive in 18 U.S.C. §3553(a) is that the Court must impose a sentence that is “sufficient, but not greater than necessary,” to achieve the purposes of the sentencing statute. 18 U.S.C. §3553(a). While the child pornography guideline provides a one-way ratchet,

the sentencing statute calls for a holistic inquiry. Jacques presents a number of mitigating factors in support of a downward variance: 1) he has no criminal record; 2) he has complied with his conditions of release; 3) he is at a relatively low risk for recidivating with a contact offense; 4) he has held long-term employment and financially supported his family; 5) he has a supportive family and friends; 6) he is the father of two teenagers who he is extremely close to; 7) he has voluntarily engaged in counseling to address this offense; and 8) extraordinary family circumstances exist.

A sentence of five years (60 months) or below is sufficient to promote all the purposes of sentences, including reflecting the seriousness of the offense, promoting respect for the rule of law, and providing just punishment, and deterring further criminal conduct.

Defendant requests that he be allowed to self report to the institution as designated by the BOP and additionally requests that he be designated to serve his sentence at FCI Devens.

CONCLUSION

For the reasons set forth above, the Court should grant a sentence which is below and outside of the applicable guideline range. Jacques submits that a sentence of 60 months or below, followed by 3 years of supervised release is sufficient, but not greater than necessary to comply with the statutory directives set forth in 18 U.S.C. 353(a).

Respectfully submitted,
Marc Jacques
By His Attorney,

Date: August 17, 2024

/s/ Neil F. Faigel
Neil F. Faigel
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CERTIFICATE OF SERVICE

I, Neil F. Faigel, hereby certify that on August 17, 2024, a true copy of the above document was sent via ECF to AUSA Kasey Weiland.

/s/ Neil F. Faigel

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

24-cr-00019-01-PB

UNITED STATES OF AMERICA

V.

MARC JACQUES

NOTICE OF CONVENTIONAL FILING

Please take notice that the Defendant has conventionally filed the following exhibit – Exhibit A.

This exhibit has been conventionally filed as it pertains to the medical records of a minor filed under seal.

Respectfully submitted,

/S/ Neil F. Faigel
Neil F. Faigel

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I hereby certify that on August 16, 2024, I electronically filed the foregoing in the Clerk of Court for the US District Court District of NH by using the CM/ECF. I certify that all participants in this case are registered CM/ECF users, and that service will be accomplished by the CM/ECF system.

/S/ Neil F. Faigel
Neil F. Faigel

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

24-cr-00019-01-PB

UNITED STATES OF AMERICA

V.

MARC JACQUES

NOTICE OF CONVENTIONAL FILING

Please take notice that the Defendant has conventionally filed the following exhibit – Exhibit B.

This exhibit has been conventionally filed as it pertains to the medical records of a minor filed under seal.

Respectfully submitted,

/S/ Neil F. Faigel
Neil F. Faigel

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/S/ Neil F. Faigel
Neil F. Faigel

July 22, 2024

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Hon. Paul Barbadoro
U.S. District Court
District of New Hampshire
55 Pleasant Street, Room 110
Concord, NH 03301

Re: Marc A. Jacques

Your Honor,

I am writing in regard to the legal proceedings against my father, Marc A. Jacques, of Newbury NH.

To begin, I wish to make clear that I am aware of the charges against my father and the potential penalties to his plea agreement.

I am Maëlle Des Lauriers Jacques, the 16 year old daughter of Marc A. Jacques. Being his child, I have known him my entire life, through positive and negative parts of my life. I will be entering my junior year of high school this fall, often regarded as the hardest year, notably with the four AP courses I've undertaken. These circumstances further increase my need for a stable living environment.

Living with my father matters to me and has for years. The security I feel at his home is simply not apparent at my mother's, which parallels my choice to live at his home nearly 100% of the time. Whether it be general support with schoolwork, being shown love as any child should, or support with my hobbies, and gender transition, the effort from my father is vital to my happiness. Despite arguments when I was little and other troubles the two of us have faced, over the past years I have seen nothing but sheer determination to improve from mistakes he's made in the past, like the charges he faces today. He has attended therapy, group rehabilitation sessions, and faced the social consequences of his actions without retaliation or relapses. Among this he has grown to be a better father, showing me more support than ever as I grow away from my mother, even while he balances working to support two kids who stay with him almost 100% of the time as a now single father.

If I were unable to stay with him due to a prison sentence, it would be a major strike to my own mental stability as I would lose the home I grew up in and the safety I feel inside of it, as well as the sheer support from him which I simply do not receive at my mother's. The work I have begun to do with the ACLU in regard to my existence as a trans girl in sports is also reliant upon his moral support in my testifying and meeting with Senators. A prison sentence would also harm me and my brother's future as we would stop receiving support for college payments without his salary. For his rehabilitation as well, the work he's put into becoming a better person would be stripped away as he loses the ability to see his therapist and participate in group rehab if locked away, among the mental distress put upon him by losing his kids. I beg of you to consider the work he's put in, and the reliance I place upon him as a parent and necessary figure in my life.

Thank you for taking the time to read my statement. I ask that Marc Alan Jacques be sentenced to probation in lieu of any prison time, so he can continue to support his children and grow as a person. Please contact me with any further questions.

Sincerely,
Maëlle Des Lauriers Jacques

July 22, 2024

Rémi Joseph Jacques
332 Old Post Road, Newbury, New Hampshire
(603) 266-9921
remijo.jacques@gmail.com

Hon. Paul Barbadoro
U.S. District Court
District of New Hampshire
55 Pleasant Street, Room 110
Concord, NH 03301

Re: Marc A. Jacques

Your Honor,

I am writing in regard to the legal proceedings against my father, Marc A. Jacques, of Newbury NH.

To begin, I wish to make clear that I am aware of the charges against my father and the potential penalties to his plea agreement. I am Rémi Jacques, the 18 year old son of Marc A. Jacques. This fall I will be attending Georgetown University in Washington D.C. so that I can study Government in undergrad, pursue a law degree in graduate school, and devote my life to supporting my community through governmental & legal advocacy.

I write this letter not to dispute any of the moral or legal repugnancies of the actions to which my father has pleaded guilty but rather to offer a deeper look at his actions and responsibilities in the greater span of the world. My sister and I immediately were faced with the consequences of my father's action as I was the one driving the car the morning we were pulled over on Route 103 by a large group of police. We had been living primarily with my father since our parent's divorce as he had proven himself to be far more personally supportive of our interests & paths in life than our mother, who was at best mildly interested in brief conversation during a car ride home or at worst actively attempting to get my sister to quit sports. Our father on the other hand took every opportunity to support our interests in life, appearing at every sporting event, every theater performance and every academic award ceremony, taking time to play soccer with my sister after his work hours, discussing his knowledge of Quebecois politics with me for homework assignments, and even coming to support us at the State House when we gave testimony with the ACLU on bills affecting education & LGBTQ youth within the state.

I have spent much of the last two years grappling with my complicated feelings towards my father; happiness brought about by his genuine care towards his children, disgust and anger toward his crimes and the ways they've irreparably changed the lives of our family, and the mixture of pride and disappointment at his successful attempts at bettering himself following his initial arrest. After being faced with the revelation of his deeds as well as the loss of his job

making our home life unstable, it would have been easy for our relationship as a family to have ended with disavowing him as an unforgivable criminal without care for those around him, however, he readily stepped up to try and make up for his failings. In the months following he entered therapy, joined an AA style organization with daily meetings (one of which he now hosts weekly), and began the search for a new job to support us. A large step down from international employment, he began as an Amazon delivery driver, working incredibly long hours all the while searching for a better paying position that would allow him to spend time still with us, which he has now found at Dartmouth College. Since then he has taken efforts to remove himself from the social isolation he had fallen into during COVID, finding new friendships both in colleagues at work, local musicians he plays with, and even reconnecting with old work colleagues willing to give him a chance despite knowledge of his actions.

In regard to myself, my father's continued presence in my life is a comfort of unconditional love and something that allows me the financial stability to be able to pursue higher education, however beyond my own simple perspective I know his presence is everything to my younger sister. As a young transgender girl she is frequently faced with hostility in the world, not only from vapid media or school bullies but also by our own mother and stepmother who have frequently made their lack of support known to her. I know I can only provide her so much support in the rest of her high school life from across the country and I believe his love & support to her truly helps her from slipping back into the depressive & self-harming tendencies she suffered during the pandemic. This has become even more important as the recently passed NH HB-1205 prevents my sister from partaking in her preferred school community of girls soccer & track with her friends. I feel as if my father has taken full accountability for his actions and done everything he could to try and improve not only himself, but the world around him in the past two years. While I understand the severity of his charges, I also believe that my family and the community around him would gain more from a sentence that allows him to still hold a job & support those around him in the world outside of a prison cell.

Thank you, Your Honor, for taking the time to read my statement. If necessary, I am available for contact at the email provided above to reiterate the facts stated within this letter.

Sincerely,
Rémi J. Jacques

Honorable Paul Barbadoro
U.S. District Court
District of New Hampshire
55 Pleasant Street, Room 110
Concord, NH 03301
Re: Marc Alain Jacques

August 5, 2024

Your Honor,

I am writing in regards to the legal proceedings against Marc A. Jacques of Newbury, New Hampshire. I want to make it clear that I am aware of the charges against Mr. Jacques and potential penalties to his plea agreement.

I am a mental health professional and University Associate Professor of social work who specializes in treating, teaching and research about trauma, but I am writing this letter as personal character reference and as a close friend of Mr. Jacques over the past 25 years. In the quarter century of friendship with Marc, we met in 1999, as young adults both just out of college. Since then, I have watched him grow from an enthusiastic, adventurous young man into an incredibly caring and dedicated father. Marc and I have children of similar ages and I know that his children, quite simply, are his world. We have supported each other's parenting journeys through all the developmental stages and through challenging times as we both lost our mothers suddenly and at similar times. Over the past two years, Marc has become a single father and I know few men who are as dedicated and invested in his children's wellbeing than Marc. His son and daughter, and who they are as people, committed citizens, and what I know they will accomplish in this world are more a testament to his character and parenting than I could ever express in this letter.

I say this with conviction not just as his friend but as a practicing mental health professional and researcher/scholar in mental health and trauma for the past 20 years. Marc has struggled with addiction and with the lived experience of this addiction, he has made some very poor choices. I am not writing this letter to in any way, dispute the charge for which Marc has submitted his guilty plea, or to under-estimate the seriousness of the charges brought against him, but to highlight what I see as Marc's growth and commitment to his own health and recovery over the past two years. Working a recovery program is challenging, and Marc has shown up to do this work, confront his actions, and change himself for the better - through therapy, participation in and leadership of a twelve-step group, all while grappling with the consequences of his actions including the loss of his entire career. I know how committed he is to keep working on himself and continuing to change for the better. Marc is a committed member of his community, an LGTBQIA+ activist and can do more for the world if he is allowed to stay active with his family, and community rather than serving prison time. In addition to being an excellent father, Marc is a talented musician, sports fan, son, brother, and caring friend.

Marc's children, most importantly, still need him. His daughter lives in a politically precarious world, and not having her father there on a day-to-day basis to support her, I feel, would do

irreparable harm to her and how far she has come in her own healing journey. I hope you will consider allowing Marc to be there for her, in person, in these next few critical years of her development and to allow him to continue making his community a healthier and more inclusive place through his continued work and personal growth.

Thank you for considering my statement and I am available for any follow-up questions that you may have at the email address listed below.

Sincerely,

Dr. Elisabeth Counselman-Carpenter

Elisabeth Counselman-Carpenter, PhD, LCSW, MSW, RPT-S
Professorc2014@gmail.com

Lawrence S. DiCara, P.C.
175 Federal Street, Suite 1500
BOSTON, MASSACHUSETTS 02110

Telephone: (617) 749-9403
larry@larrydicara.com
www.larrydicara.com

8 August 2024

Personal and Confidential

**Hon. Paul Barbadoro
U.S. District Court
District of New Hampshire
55 Pleasant Street, Room 110
Concord, NH 03301**

Re: Marc Jacques

Your Honor,

Although I have been a member of the bar for many decades, I write not as a lawyer but as someone who has known Marc Jacques for over 30 years. I also do so acknowledging the seriousness of the charges to which he has pled guilty.

His is a complicated personal situation. I know from my own experience that divorce is a traumatic experience for families. In Marc's case, his family situation is even further complicated than I would have known had we not been in an ongoing conversation for many months.

His ex-wife is now married to a woman. She and her new partner, although financially capable, are providing minimal financial assistance to her children, including Remi's attendance at Georgetown.

A greater complication is that Maelle, a transgender child currently in high school has been effectively ostracized by her own mother. She feels abandoned emotionally. This leaves Marc as a single parent and as his daughter's primary support system, especially as her older brother heads off to college.

I know very little about transgender children, but do know that they are bullied in school and often subject to derision. In this case, Maelle has faced enormous pressures including some truly nasty press as a result of her competing in Girls Track & Field events.

A new bill signed into law in New Hampshire will prohibit her from doing so going forward. Another recent law will prevent her from seeking gender affirming medical treatment. This child is under the care of a psychiatrist and sadly is self-cutting, as she has done before.

I don't know exactly what will happen to Maelle if her father were not on the scene to provide emotional as well as financial support. I doubt her mother will welcome her into her home or care for her as Marc has done throughout her transition.

I think sentencing Marc to extensive community service, whereby he would discuss the challenges we all face in the brave new world in which we all live due to the availability of electronic information of every possible variety would be far more beneficial to the citizens of New Hampshire and society in general.

I am not a doctor, just a real estate lawyer. I have three daughters of my own who chose to live with me when their mother decided to leave our family home. I know how complicated that was. This situation is even more complicated in many ways. That is why I am requesting that you take all of these things into consideration with the hope that Marc can remain the parent that he has been to this child since she was born, as well as to his son in college.

If the Court has any questions, please feel free to contact me.

Sincerely,

/s/ Lawrence S. DiCara

Lawrence S. DiCara

LSD:tf

Life Resource Center

David L. Brower, PhD

139 Old Country Rd
New Ipswich, NH
03071

Psychotherapy
Certified Life Coach

Ph: 603 673-7700

Dbrowerphd@gmail.com

Pastoral psychotherapist #26

browerblog.com

Hon. Paul Barbadoro
U.S. District Court
District of New Hampshire
55 Pleasant Street, Room 110
Concord, NH 03301

July 23, 2024

Page 1 of 3

Re: Jacques, Marc
Your Honor:

Mr. Jacques has been in therapy with me for the last thirteen months, beginning on April 25, 2023, to the present date. During this time, he is also participating in a Sex and Love Addicts Anonymous group on a regular, essentially daily basis, which, he states, helps him start the day off right. I am also familiar with the Psychosexual Risk Assessment conducted by Dr. Guidry, dated 12.28.2023. The focus of that report was to assess the extent to which Mr. Jacques is at risk of re-offending.

Based on my experience with Mr. Jacques, I essentially concur with her summary judgments. She states, among other things:

1. Upon detection, persons with his psychological and personal profile "do not persist in their offensive behavior." Mr. Jacques and his children have grievous amounts to lose were he to persist, and he is acutely aware of those consequences.

2. There is no data suggesting psychopathology representative of "a persisting source of sexual disinhibition or dyscontrol that would serve to increase his current risk for sexual re-offense." As she states, "he has remained offense-free" to the date of her report, and he has, likewise, remained offense-free to the present date.

3. "At the present time, he presents a low, limited, and manageable risk to recidivate..." sexual misconduct. I have found, as did she, an absence of significant criminality. More so, my experience with him is of a person intent on remaining

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offense-free. He focuses on rebuilding a life for himself and his children. He is a very devoted father.

Dr. Guidry essentially assesses Mr. Jacques as a "low, limited, and manageable risk" level person with the ability to respond favorably to management and treatment. In that regard, I, again, completely agree.

Mr. Jacques has already paid dearly for his mistakes and, in many ways will continue to pay. He has lost a career of some distinction, which he loved, his ability to travel to his homeland (Canada), and significant social relationships, both male and female. Reconstituting either his social or professional life is now fraught with seemingly insurmountable hurdles. He has lost income to the extent of putting his children's future education in jeopardy as well as being able to provide a home for them. Dr. Guidry states, concerning the parents, that "They continue to the present time to share custody of their two children evenly." While that may be true "on paper," the fact is that custody is not evenly shared. The care and affection they receive, the attention, support, assistance, or funding (e.g., for daily expenses, college tuition, and college expenses) is on their father's shoulders. Apparently, since the time of their mother's remarriage, tragically, she has had and will have little to do with her children. Thus, the children rely, essentially, on their father's continued presence. The loss of their father would leave them bereft of parental resources.

Mr. Jacques has worked hard to amend the hardships he has brought to himself and his family over the past two years, during which he has remained under legal indictment and lived with personal humiliation. He has attended therapy willingly, openly, and with complete honesty. He is fully forthcoming, not hesitant to discuss or disclose any aspect of his life, thoughts, or feelings, and has not been obscure, defensive, or deceitful. As he has rightly said, "Lying only makes things worse." He certainly is not a man without a conscience

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Mr. Jacques continues to work on developing meaningful and mature attachments that are not distorted by the fantasy or deception so prevalent in the slippery and unfortunately ubiquitous world of pornography. My hope and goal for him is the furtherance and continued appreciation of such attachments as have continued to take place during my time as his therapist. Clearly, I am encouraging an appreciation of his progress as opposed to the otherwise collapse of his progress and the consequential devastation incurred by his family, life, and children, should that progress be dismantled by incarceration.

Thank you for taking the time to consider this letter. If questions remain, please do not hesitate to get in touch.

Cordially yours,

A handwritten signature in blue ink, appearing to read 'D. Brower', followed by a large, stylized circular flourish.

David L. Brower, PhD

EXHIBIT E

August 15, 2024

Marc A. Jacques
332 Old Post Road
Newbury, NH 03255

Hon. Paul Barbadoro
U.S. District Court
District of New Hampshire
55 Pleasant Street, Room 110
Concord, NH 03301

Re: Marc A. Jacques

Your Honor,

I am writing in regard to the legal proceedings against myself, Marc A. Jacques, of Newbury NH and the upcoming sentencing hearing on September 9, 2024.

To begin, I wish to make clear that I am aware of and fully understand the potential penalties in my plea agreement. Furthermore, I wish to make clear that I understand how wrong I was to make the poor choices that I made; I take full responsibility for my actions and poor decision making and I own and accept the repercussions stemming from those actions and decisions.

I am not the person I was two years ago, and I have taken full advantage of each and every day since June 7, 2022, to be a better person and a better parent. Through daily meetings of Sex and Love Addicts Anonymous and through hard discussions and work with my therapist, Dr. David Brower, I have come to understand not only how terrible and impactful my actions were, but I have come to understand on several levels more about why I made those poor choices and how I will never make those choices again.

Most importantly though, the last two years have given me a miraculous opportunity to become a better father and to grow even closer to my two children. Rémi (18) and Maëlle (16) have been the main focus of my life since the days they were born and in the pre-COVID world, my sole wish was to be able to spend more time with my family. While their mother and I have shared custody from our divorce agreement circa 2020, for many reasons, they have chosen to be with me close to full time since 2022 and since the summer of 2023, it has been closer to 100% of the time, something which has brought me peace and happiness and further reasoning to be a better person.

It is the fact that they have chosen to be with me 100% of the time that I would like to discuss with you presently. Rémi is off to Georgetown University on August 21st and while we are so very proud of him and excited for him, it is going to be a very difficult transition for Maëlle.

Maëlle is a rising junior at Kearsarge Regional High School, and she is a transgendered girl. Maëlle has been living a life of transition and attempting to discover herself since 2019 and since then the

three things that have brought her understanding; acceptance and unconditional love are Rémi; myself and her teammates on her school athletic teams. As noted, Rémi moves on August 21st and on August 19th, Maëlle is officially banned from playing sports by the Government of New Hampshire, according to laws recently passed by the Legislature and signed by Governor Sununu.

As a transgendered teen, Maëlle has had a very, very tough time finding acceptance and seeking to love themselves. Since the Spring of 2023, Maëlle has faced online bullying, vicious attacks on social media and has been the subject of discrimination in pamphlets distributed publicly throughout our school district, as just some examples. Before finding joy in school sports, Maëlle suffered from anorexia, depression and anxiety and practiced self-harm (cutting). Since the NH Legislature began their attempts to take rights away from Maëlle and other trans teens this past legislative session, Maëlle has become more anxious once again and has had episodes of self-harm.

To add to these issues, Maëlle no longer feels supported by her mother and does not feel welcome in her home. Thus, in 2024, Maëlle and Rémi have spent two nights at her home. Maëlle's mother and her new wife do not support Maëlle in their transgendered journey and they actively oppose Maëlle's taking part in athletics. They likewise stood in Maëlle's way in beginning medical procedures in 2021 which could have begun the road towards gender affirmation care when Maëlle becomes an adult.

During the legislative journey of the past year, while I have supported Maëlle; been present to discuss the legislation and the potential impacts and attended legislative hearings at the State House with Maëlle and Rémi, their mother has played no role and has not even acknowledged what has been occurring and she has not had one word of support to offer. While I have been the one with Maëlle as she deals with this heart break and is questioning why the state government is attacking her individually (there are only 3 other trans athletes who are publicly out), her mother has not been involved at all.

As we move forward, Maëlle has a very long and a very difficult road ahead, both legally and medically. On the legal side, Maëlle and I (and Rémi) have been working closely with the ACLU and GLAD (GLBTQ Legal Advocates and Defenders) to discuss possible action on both state and federal levels to provide the opportunity to play sports these last two years of high school and we are presently attempting to find the appropriate path to changing gender on documents such as her birth certificate and legally changing her name. Regarding these legal issues, Maëlle's mother does not support her on these ventures and Maëlle is going to need steady and loving support, not to mention rides to and from the plethora of meetings/hearings which will be taking place in the coming months/years.

Regarding Maëlle's interactions with the ACLU and GLAD, I am the sole parental contact for these issues and Maëlle's future efforts with these groups depend on my continued support. As an example, Maëlle was recently nominated for a White House award "*Girls Leading Change*," for girls leading change and tackling important issues facing their communities, and they didn't even bother contacting her mother to seek her support for the nomination.

On the school front, I met with the Assistant Superintendent, the High School Principal and the Athletic Director on August 7th to discuss the coming school year and what will happen when the ban goes into effect on August 19th. I expressed that Maëlle's ultimate goal is to continue to play sports with her teammates and that we are ready to explore any and all options. They noted that

Maëlle's mother has expressed opposition to Maëlle's taking part in athletics at the high school- once again, not only refusing to support Maëlle, but explicitly blocking Maëlle's wishes and choices on a subject which has had a tremendously positive impact on Maëlle's physical and mental wellbeing.

To add a note regarding my August 7th meeting with school officials, the Assistant Superintendent noted that since debate regarding legislation began, opposition by hate groups has become more specific and Maëlle herself has been targeted. In one case, it was necessary for the School District to take police action against an individual from Maine. Maëlle is going to need my support if she is not allowed to play sports and if she is eventually allowed to participate on her high school teams, she is going to need me to be present and in attendance to support her and protect her in the face of the fears she will have of what could happen to her on the athletic fields.

On the medical front, Maëlle has begun exploring her options with the Endocrinology Department at Dartmouth Hitchcock Medical Center and with her mother being adamantly opposed to gender affirming medical care, I am Maëlle's sole adult support system. We have begun attending information gathering appointments at DHMC and have an appointment in early October at which we will be meeting with the Endocrinology and Cryogenic departments to discuss Maëlle's options for care which can take place before she turns 18. Between now and Maëlle's turning 18 in November 2025, there are going to be many medical appointments and meetings and Maëlle will need my support.

The Pediatric Endocrinologist at DHMC is also exploring the option of providing a medical opinion that the gender dysphoria from which Maëlle is suffering can be declared a disability, most notably in the context of the sports ban. This potential option is another strong example of Maëlle needing my support and caretaking as her mother and stepmother will oppose this option and any other option which could lead to Maëlle's playing high school sports.

To add a final note regarding Rémi- he has been an extraordinary sibling to Maëlle, and he is the first person that Maëlle seeks out to discuss any situation, good or bad. Rémi's leaving is going to be incredibly difficult for Maëlle and losing both Rémi and sports the same week may have a terrible impact on Maëlle's physical and mental health. Add in the punishments which I am facing and Maëlle may lose all three of the things that bring her peace, joy and unconditional love at the same time. Rémi is well aware of these facts, and I worry about the impact of all of this on his health and well-being. Studying at a university such as Georgetown is difficult and stressful enough. I fear that he will not be able to be as successful in his studies if he knows that his sister must deal with my being away, not only while being alone, but living in a home where she doesn't feel welcome and is not able to discuss her stressors with her mother and stepmother.

In closing, I understand and accept that I deserve further punishment. My misdeeds were reprehensible and the punishment which I have faced thus far such as loss of my career, severe financial distress and loss of relationships is merited, and I am far from being done with being punished. These punishments are my fault and my fault alone and I own that responsibility. Maëlle, however, is innocent and I fear that any punishment including incarceration will be traumatic to Maëlle and lead to physical and mental harm. Transgendered teens have the highest rate of suicide in the United States, and I am afraid for Maëlle and her path if she is forced to live with her mother and her stepmother in a home where she is not supported and feels unwelcome.

Thank you, your Honor, for taking the time to read my statement.

Respectfully,

Marc A. Jacques

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

24-cr-00019-01-PB

UNITED STATES OF AMERICA

V.

MARC JACQUES

NOTICE OF CONVENTIONAL FILING

Please take notice that the Defendant has conventionally filed the following exhibit – Exhibit F.

This exhibit has been conventionally filed as it pertains to the medical records of a minor filed under seal.

Respectfully submitted,

/S/ Neil F. Faigel
Neil F. Faigel

23 Main Street, Second Floor

Mailing address – PO Box 5161

Andover, MA 01810

(978) 681 – 9600

attyfaigel@comcast.net

I hereby certify that on August 16, 2024, I electronically filed the foregoing in the Clerk of Court for the US District Court District of NH by using the CM/ECF. I certify that all participants in this case are registered CM/ECF users, and that service will be accomplished by the CM/ECF system.

/S/ Neil F. Faigel
Neil F. Faigel

EXHIBIT G

A SMALL SAMPLE OF ARTICLES TARGETING MAELLE JACQUES

Google “Maëlle Jacques Kearsarge” or “Maëlle Jacques track” - these are just some of the links-

<https://www.breitbart.com/sports/2023/05/25/boy-takes-second-knocking-girl-out-of-new-hampshire-track-field-championships/>

<https://www.dailywire.com/news/pathetic-cheating-male-social-media-rips-high-school-boy-who-dominates-girls-track-and-field-championship>

<https://torontosun.com/sports/other-sports/high-school-trans-athlete-wins-high-jumping-event-sparking-outrage>

<https://www.breitbart.com/sports/2024/02/12/watch-male-high-jumper-obliterates-girls-state-record-in-new-hampshire-high-school-championship/>

<https://www.sportskeeda.com/us/olympics/news-another-less-mediocre-man-atop-women-s-podium-riley-gaines-slams-male-high-jumper-maelle-jacques-winning-girls-high-school-title>

Maëlle was the target of this pamphlet which appeared in public spaces in the Kearsarge School District in summer 2023:

WARNING!

To Kearsarge Regional High School Families:
Are you aware?

There is a male student using your daughters' restrooms and changing facilities.
This male student is also competing and winning in your daughters' sports, stealing their achievements.

According to Kearsarge Regional School District policy:

JBAC - PHYSICAL PRIVACY OF STUDENTS

JBAC - PHYSICAL PRIVACY OF STUDENTS

With respect to all restrooms, locker rooms or changing facilities, students shall have access to facilities that correspond to their gender identity. Each student will have access to restroom, locker room or changing facilities which are consistent with that student's gender identity as defined within District policy ACAA.

Any student who is uncomfortable using a sex-segregated facility, regardless of the reason, shall, upon the student's request, be provided with a gender neutral alternative. This may include, for example, unisex, single-user changing or bathroom facilities.

Each school shall designate facilities designed for use by one person at a time as accessible to all students regardless of gender. Schools are required to incorporate single-user facilities and greater individual privacy into new construction or renovation, and to assess ways to increase privacy for all students in existing facilities.

Complaints and appeals under this policy are as provided under District Policy ACAA.

See Also: ACAA - Sexual Harassment and Sexual Violence - Students

First Read: 4/5/2018
Second Read: 4/19/2018
Date Adopted: 4/19/2018

Source URL: <https://www.kearsarge.org/district/school-board-mbc/policies/jbac-physical-privacy-students>

Does the idea of a male stripping naked, genitalia on display, in front of your daughter make you feel uncomfortable?

Does the idea of males beating your daughter in a race, taking her place, awards, and scholarships seem wrong to you?

Does the idea of your child's school having a policy that could permit any male with devious intent to declare himself a girl on a whim, enter your daughter's locker room and rape her make you fear for your daughter's safety?

It should; girls and women are being raped in Loudoun County, Virginia, and countless other supposedly female-only spaces due to these gender-identity policies.

PROTECT OUR DAUGHTERS

What can you do?

Contact your school board. Attend a school board meeting. Contact your politicians.
Tell them to protect the rights of your daughters.

Visit: <https://www.kearsarge.org/district/school-board-mbc>
Email the School Board Chair: kbartholomew@kearsarge.org
Email the School District Superintendent: wfeneberg@kearsarge.org