

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

F I L E D
APR 22 2014
CLERK'S OFFICE
U.S. DISTRICT COURT
EASTERN MICHIGAN

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

Case No. 10-20766
Hon: AVERN COHN

PAUL WILLIAM HILTON,

Defendant.

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MEMORANDUM

I.

On April 17, 2014, defendant was sentenced to a custody term of 40 years on his plea of guilty to two (2) counts of Conspiracy to Produce Child Pornography, 18 U.S.C. § 2251(a) and 18 U.S.C. § 2251(e). The statutory minimum sentence for the offenses is 35 years; the statutory maximum is "life." Under the Sentencing Guidelines, defendant scored an Offense Level of 43, and a Criminal History of III. This scoring calls for a life sentence. This memorandum briefly explains the reasons for the variance.

II.

18 U.S.C. § 3553 states, in pertinent part:

(a) Factors to be considered in imposing a sentence.— The court shall impose a sentence sufficient, but not greater than necessary to comply with the purposes set forth in paragraph (2) of this subsection.

(2) the need for the sentence imposed–

(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

The Court must also consider “the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct.” 18 U.S.C. § 3353(a)(6).

III.

Defendant is 53 years old; his life expectancy is 28 years. Given defendant’s age, a custodial sentence of 40 years is sufficient but not greater than necessary to comply with the 18 U.S.C. § 3553 factors.

A custodial sentence of 40 years reflects the seriousness of defendant’s offense by providing a significant period of incarceration while allowing defendant the opportunity to re-enter society after rehabilitation. The sentence also affords adequate deterrence to criminal conduct and protects the public from further crimes of the defendant. No citation of authority is necessary to note that elderly prisoners are substantially more expensive to house than average age prisoners, and generally represent a substantially lower risk than average age prisoners when released. Additionally, elderly prisoners are substantially more difficult to manage than average age prisoners. See Marina Stal, MA, *Treatment of*

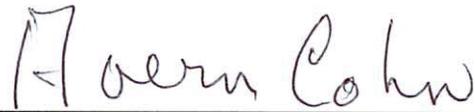
Older and Elderly Inmates Within Prisons, 19(l) *Journal of Correctional Health Care* 69, 71–72 (2012). Lastly, there are procedures available to civilly commit an inmate about to be released from custody who is considered “sexually dangerous.” 18 U.S.C. § 4248. These procedures will protect the public from further crimes of the defendant if he is deemed sexually dangerous after completing his 40-year sentence.

In addition, the Court must avoid sentencing disparities. Defendant's co-defendant, Nichole Hollingsworth, was sentenced to a custody term of 15 years after her plea of guilty to Conspiracy to Produce Child Pornography, 18 U.S.C. § 2251. A 40-year sentence, opposed to life, is comparable to sentences in similar child pornography cases in this circuit. See, e.g., *United States v. Gann*, 160 F. App'x 466 (6th Cir. 2005) (defendant sentenced to 17.5 years for producing and receiving child pornography, 18 U.S.C. §§ 2251(a), 2252A(a)(2)(A), using his daughters to produce pornography); *United States v. Bowers*, No. 07-20208 (E.D. Mich. Oct. 30, 2008) (defendant sentenced to 25 years after conviction by jury of sexual exploitation of a child in the manufacture of child pornography, 18 U.S.C. § 2251(a), and possession of child pornography, 18 U.S.C. § 2252(a)(4)(B), using his minor daughter and her friends to produce pornography); *United States v. Weller*, 330 F. App'x 506 (6th Cir. 2009) (holding that district court did err in sentencing defendant to 10 years, departing from 27 to 33 year Guideline range, for conspiracy to distribute, receive, and possess child pornography).

IV.

Given the considerations stated above, which will allow defendant re-entry to the community if rehabilitated after serving his sentence, the totality of the circumstances, and considering the 18 U.S.C. § 3553 factors, 40 years in the Court's view is a more

appropriate sentence than life.



AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: April 22, 2014