

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case Number 23-20021

Honorable David M. Lawson

JAMES MARVIN REED,

Defendant,

---

**OPINION AND ORDER GRANTING IN PART AND DENYING IN PART  
DEFENDANT'S MOTION TO MODIFY CONDITIONS OF SUPERVISED RELEASE**

Defendant James Reed was convicted in April 2018 of engaging in illicit sexual conduct with a minor in a foreign place and sentenced to a custody term of 72 months to be followed by fifteen years of supervised release. The supervised release term included several standard and special conditions. Reed, who has been under supervision since May 2022 without incident, now moves to terminate four of those conditions, which require (1) computer, smartphone, and internet monitoring and payment of third-party fees related to the monitoring; (2) polygraph and penile plethysmograph testing; (3) probation officer access to any requested financial information; and (4) prohibition from incurring new lines of credit without prior approval from his probation officer. The government has responded that all the conditions except number two should continue. For the reasons discussed below, the Court will modify the supervised release order to terminate conditions two through four and require condition number one to remain in place.

I.

The prosecution of the case took place in the District of Minnesota. Jurisdiction was transferred to this Court in 2023 after conviction and sentencing because the defendant is located

in this district and is under supervision here. The background facts are taken from the defendant's pre-sentence report ("PSR") and transcript of his sentencing hearing in the District of Minnesota.

In September 2007, defendant Reed solicited sex from a minor ("Minor A") in Cebu City, Philippines. PSR, ¶10. Afterward, the defendant gave Minor A 2,000 pesos and offered to pay for her school expenses. *Ibid.* Minor A visited the defendant's condominium again multiple times between September and December 2007, and he paid her about 1,000 pesos each time they had sex. *Id.* at ¶11. According to Minor A, the defendant took nude photographs of her during each visit and saved them on his laptop, *id.* at ¶10, although the defendant denies this, *id.* at ¶24. "J.M.," another minor, told authorities that the defendant had sex with her as well as Minor A, *id.* at ¶12, but the defendant also denies this, *id.* at ¶24.

In December 2007, Minor A told the defendant she was pregnant with his child. *Id.* at ¶11. The defendant denied that the child was his and cut off further contact with her. *Ibid.* Minor A gave birth to the child in July 2008. *Ibid.* She was 15 years old. *Ibid.* A paternity test later confirmed that the defendant was the child's father. *Id.* at ¶14.

There is evidence that the defendant also engaged in other criminal sexual conduct beyond the charged offense. For instance, the defendant possessed DVD videos labeled "Child Abuse vol. 14" and "Child Abuse vol. 24" in his condominium in the Philippines. *Id.* at ¶42. The back cover of one of the videos contained a photograph of a child's genitals. *Ibid.* The National Center for Missing and Exploited Children indicated that some photos on the DVD boxes have appeared in other child pornography investigations. *Id.* at ¶43. Additionally, Grace Bustillo, the defendant's former girlfriend, told an investigator that she had seen nude photographs of teenagers on the defendant's laptop. *Id.* at ¶44. Minor "SBB," the minor child of Bustillo and the defendant, reported sexual abuse by the defendant to Bustillo and SBB's grandmother. *Ibid.* Another of his

children, “JR,” testified at the sentencing hearing that the defendant physically and sexually abused her as a child by, *inter alia*, open-mouth kissing her while she was in bed, hitting her with a belt, and forcing her to sit on his lap while his penis was out of his pants. Sentencing Tr., pp. 24-27. JR also advised the probation department that “she had conversations with the defendant regarding his sexual activity with young girls, between the ages of 16 and 18 years old, where he described having threesomes or having a girl watch him have sex with another.” PSR, ¶46. JR initially supported the defendant after he was charged — she at one point helped him transfer assets out of his name to avoid asset forfeiture — but she began assisting the government after she learned of SBB’s sexual abuse allegations. *Id.* at ¶¶21, 46. At the time of writing the PSR, the defendant denied physically, sexually, or mentally abusing anyone other than Minor A, *id.* at ¶24, but he did not deny possessing the “Child Abuse” pornography videos in his condominium.

In August 2016, the defendant was arrested in the Philippines. *Id.* at p. F.1. He was deported the next month. *Ibid.* He was charged with illicit sexual conduct in violation of 18 U.S.C. §§ 2423(c), (f) in the United States in 2017. He initially was charged in the District of Columbia, but that indictment was dismissed, and he later was charged in the District of Minnesota. *Ibid.* While the prosecution was ongoing, the defendant took steps to secret his assets from the federal government, including enlisting JR to help him transfer assets out of his name and transferring a property worth approximately \$130,000 to his brother for one dollar. *Id.* at ¶21.

The defendant entered a guilty plea on April 19, 2018. *Id.* at ¶2. In the plea agreement, the government stipulated to a term of imprisonment not to exceed 97 months. *Id.* at ¶3. On June 7, 2018, the Honorable Donovan W. Frank sentenced the defendant to 72 months in prison plus 15 years of supervised release. Sentencing Tr., pp. 77-78. The sentencing judge further ordered the

defendant to pay a special assessment of \$100 and criminal restitution of \$6,000. *Id.* at p. 81. The special conditions of the defendant's supervised release included the following:

2. The defendant shall not possess or use a computer or have access to any on-line service without the prior approval of the U.S. Probation and Pretrial Services Office. The defendant's cooperation shall include, but not be limited to, allowing installation of a computer and Internet monitoring program and/or identifying computer systems, Internet-capable devices, and similar memory and electronic devices to which the defendant has access. Monitoring may include random examinations of computer systems along with Internet, electronic, and media storage devices under the defendant's control. The computer system or devices may be removed for a more thorough examination, if necessary. The defendant shall contribute to the cost of such monitoring services, based on the defendant's ability to pay, as deemed appropriate by the U.S. Probation and Pretrial Services Office.

3. The defendant shall provide the probation officer access to any requested financial information, including credit reports, credit card bills, bank statements, and telephone bills.

4. The defendant shall be prohibited from incurring new credit charges or opening additional lines of credit without approval of the probation officer.

...

8. The defendant shall participate in sex offender and/or mental health treatment as approved by the probation officer and shall submit to risk assessment which may include but is not limited to physiological testing and polygraph/truth verification testing. Polygraph testing may be used following completion of primary treatment as directed by the probation officer to monitor adherence to the goals and objectives of treatment. Sex offender assessments and treatment are to be conducted by a therapist approved in advance by the probation office. Further, the defendant shall contribute to the costs of such treatment as determined by the Probation Office Co-Payment Program not to exceed the total cost of treatment.

*See* July 2, 2024 Supervision Report, ECF No. 5, PageID.28-29.

In 2020, Minor A filed a civil suit against the defendant in the District of Minnesota under 18 U.S.C. § 2255, a statute that provides a civil damage remedy to a minor who was a victim of criminal conduct defined by a variety of statutes, including the statute of conviction in this case. The court granted summary judgment to Victim A in 2022, awarding her \$150,000 (the statutory

liquidated amount) plus reasonable attorneys' fees. *Doe v. Reed*, 20-2178, 2022 WL 1122129, at \*2 (D. Minn. Apr. 14, 2022).

The defendant was released from custody in May 2022. The probation department reports that he has paid all his criminal debts in full as of December 9, 2022, and the financial monitoring and line-of-credit approval conditions have not been used since then. It further reports that it has monitored the defendant's computer and smart phone activity since he was released, and it has not found evidence of violating materials.

Jurisdiction over this case was transferred to this Court on January 10, 2023. ECF No. 2. On January 13, 2026, the defendant filed a *pro se* motion to modify his special conditions of supervised release to terminate the four conditions mentioned above. The defendant's appointed counsel filed a supplemental brief in support of the motion on March 12, 2026. The government stated in its response that it takes no position on discontinuing the defendant's polygraph and penile plethysmograph testing, but it opposes terminating the other three challenged conditions.

## II.

The defendant's overarching argument is that any discretionary condition of supervised release must be reasonably related to the offense, the defendant's history, public safety, or the defendant's rehabilitation. With that in mind, he contends that the condition requiring internet, computer, and smartphone monitoring unduly infringes on his constitutional rights, especially since he did not use a computer in the underlying offense, and nothing about his current conduct suggests that continued digital access restrictions are necessary. He also asserts that the costs of computer and phone monitoring, which he is required to bear, have increased recently, and the requirement has caused him a substantial financial burden. Additionally, he argues that the monitoring system is prone to false alerts, which causes him disruptions in his daily life. The

government disagrees, contending that that computer monitoring is necessary to prevent the defendant from engaging in further sexual exploitation offenses.

The defendant also contends that the financial restrictions are no longer necessary because he has paid all the financial obligations imposed by the judgment of sentence. The government acknowledges that the court-ordered restitution and special assessment have been paid, but it argues that those conditions should remain in place because the defendant still has certain debts, including a civil judgment obtained by Minor A against the defendant that has not been satisfied.

Finally, the defendant challenges the conditions requiring periodic polygraph and penile plethysmograph testing, but the government acknowledges that Reed suffers from medical conditions that make such a test inadvisable, and it does not oppose the removal of those conditions.

Section 3583(e)(2), Title 18, United States Code authorizes a district court “to adjust supervised release conditions to account for new or unforeseen circumstances.” *United States v. Faber*, 950 F.3d 356, 359 (6th Cir. 2020); *see also United States v. Lowenstein*, 108 F.3d 80, 85 (6th Cir. 1997) (“Further, the fact that § 3583(e)(2) and Rule 32.1(b) are intended to allow courts to respond flexibly to unforeseen changes in the circumstances of a defendant likewise indicates that a violation of an existing supervised release term does not have to precede a modification.”). Defendants may petition a district court for modification of the terms of supervised release under section 3583(e)(2). *See United States v. Schultz*, 733 F.3d 616, 623 (6th Cir. 2013); *United States v. Zobel*, 696 F.3d 558, 575 (6th Cir. 2012).

In modifying a supervised release condition, the Court must consider several of the original sentencing factors, such as those found in 18 U.S.C. § 3553(a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(4), (a)(5), (a)(6), and (a)(7). *See* 18 U.S.C. § 3583(e)(2). “[T]he provisions of the Federal

Rules of Criminal Procedure relating to the modification of probation and the provisions applicable to the initial setting of the terms and conditions of post-release supervision” also apply to the motion decision. *Ibid.* Generally, before a district court modifies a condition of supervised release, a hearing is required where the defendant is allowed to offer “information in mitigation.” Fed. R. Crim. P. 32.1(c)(1). However, if the proposed modification “is favorable to the person,” “[a] hearing is not required.” *Id.* (c)(2)(B). The defendant in this case seeks to remove certain conditions; since that would be a favorable outcome for him, no hearing is required. *See ibid.*

“[A] condition of supervised release must be ‘reasonably related’ to various sentencing factors, including the nature of the offense and the characteristics of the defendant.” *Shultz*, 733 F.3d at 619 (quoting 18 U.S.C. § 3583(d)(1)). Further, the condition “must involve ‘no greater deprivation of liberty than is reasonably necessary’ to deter crime, protect the public and rehabilitate the defendant.” *Ibid.* (quoting 18 U.S.C. § 3583(d)(2)).

A.

In support of his argument to discontinue the condition requiring third-party monitoring of his internet activities and permitting inspection of his devices, Reed points to the finding that “[t]here is no information to suggest the defendant used a computer or an interactive computer service to communicate with Minor A.” PSR ¶30. Therefore, he says, the condition has no reasonable relationship to the crime committed because it did not involve the use of a computer. He also argues that the condition should be subject to heightened scrutiny because it implicates fundamental constitutional rights.

These arguments are not well taken. “[E]ven though supervised release restrictions may affect constitutional rights such as First Amendment protections, most restrictions are valid if directly related to advancing the individual’s rehabilitation and to protecting the public from

recidivism.” *United States v. Ritter*, 118 F.3d 502, 505 (6th Cir. 1997). But a “direct relation” between the offense of conviction and a supervised release condition “is not required,” as long as the condition is related to the relevant sentencing factors. *United States v. Salisbury*, No. 23-2071, 2024 WL 5075401, at \*7 (6th Cir. Dec. 11, 2024).

*Salisbury* provides a good example of how a special supervision condition need have only an oblique connection to the offense of conviction. There, the defendant was convicted of possessing methamphetamine, and he challenged a supervised release condition prohibiting contact with minors, including his own grandchild, without permission from his probation officer. *Id.* at \*6. The Sixth Circuit agreed that prohibiting contact with minors did not directly relate to his drug offense. *Id.* at \*7. Nonetheless, it held that the condition was proper because a “special condition may be ‘based on *any* of several sentencing factors,’ including ‘the history and characteristics of the defendant.’” *Ibid.* (quoting *United States v. Childress*, 874 F.3d 523, 527 n.2 (6th Cir. 2017)). Although the offense of conviction was drug possession, the defendant had “multiple convictions for domestic violence and sexual assault of minors.” *Id.* at \*1. Therefore, the prohibition on contacting minor children was reasonably related to the defendant’s “history of sexually assaulting minor children and the ‘need . . . to protect the public from further crimes’ by him.” *Id.* at \*7 (quoting 18 U.S.C. § 3553(a)(1), (a)(2)(C)).

Here, the computer and internet monitoring condition is reasonably related to the defendant’s history and characteristics. The defendant does not dispute that he possessed videos titled “Child Abuse” that contained pornographic material, evidently involving children. PSR, ¶42. Minor A also reported that the defendant took nude pictures of her while she was a minor and saved them on his computer (although the defendant denies this). *Id.* at ¶10, 24. Some of the cover photos on the DVDs that the defendant possessed have appeared in other child pornography

investigations, *id.* at ¶43, which supports the inference that he either received them or distributed copies of them with the assistance of the internet. And even disregarding the defendant's history of possessing child pornography, it is not a stretch to think that the defendant might attempt to communicate with minors online or search the internet for child pornography when he pleaded guilty to having sex with a minor. Moreover, a separate condition of the defendant's supervised release requires him to refrain from viewing sexually stimulating materials, and the ability to inspect the defendant's computer and monitor his internet usage allows the probation department to confirm the defendant's compliance with that condition.

The defendant also contends that the condition is not reasonably related to his offense because the offense occurred long ago, in 2007. However, *United States v. Ford*, the primary case that the defendant cites in support of this argument, quoted language from an earlier case that even "a seventeen-year-old sex crime conviction could plausibly be reasonably related to the imposition of such conditions, . . . [f]or example, if the defendant had an extensive history of committing sex crimes that involved minors." 882 F.3d 1279, 1288 (10th Cir. 2018) (quoting *United States v. Dougan*, 684 F.3d 1030, 1035 (10th Cir. 2012)). Here, the PSR reveals multiple allegations of sexual abuse by the defendant's own children, and a third allegation by a friend of Minor A. Although the defendant disputes these allegations, they are numerous, and they are consistent with the sexual proclivity toward children demonstrated in the offense for which the defendant was convicted. The rationale behind the idea that some conduct is "too old" to justify a supervised release condition is that a person's recidivistic tendencies have timed out when he has refrained from such similar conduct for a sufficiently long time. See *United States v. Carter*, 463 F.3d 526, 531-32 (6th Cir. 2006); *Dougan*, 684 F.3d at 1037 (concluding that a "seventeen-year-old conviction for a sexual battery was too remote in time to be reasonably related to the imposition

of special sex-offender-related conditions of supervised release” because the defendant “has shown no proclivity toward sexual violence over the last seventeen years, and he has never shown a proclivity toward sexual interactions with children”). A similar inference cannot be drawn for Reed, from whom the sentencing judge perceived “little remorse of any kind” at the time of sentencing in 2017, Sentencing Tr., p. 77, and whose ability to engage in other sexually inappropriate conduct involving minors was limited because he spent many of the intervening years incarcerated with other adults. Even though the offense for which the defendant was convicted happened long ago, the record does not suggest that he has been so reformed in the intervening 19 years that the challenged condition is no longer necessary for the protection of the public.

The cell phone, computer, and internet monitoring condition is reasonably related to the defendant’s history of sexually inappropriate conduct. It protects the public and ensures the defendant’s rehabilitation by deterring him from seeking out sexually explicit material involving minors. The monitoring requirement is reasonably related to the relevant sentencing factors, and it will not be removed.

#### B.

The defendant contends that he no longer should be subject to the financial monitoring and credit approval conditions because his financial obligations to the Court have been satisfied. The government opposes lifting this condition because Minor A has obtained a civil judgment against the defendant that remains unsatisfied. In his reply, the defendant asserts that ensuring his compliance with financial obligations to third parties is not a legitimate basis for continuing access to his financial information and limitations on his ability to obtain credit.

In some circumstances, it is appropriate for the Court to consider a defendant's financial obligations to persons or entities other than the Court when fashioning supervised release conditions. A common provision, for example, may require a defendant to comply with child support obligations as a means of ensuring reintegration into society. *See, e.g., United States v. Camp*, 410 F.3d 1042, 1046 (8th Cir. 2005) (holding that district court did not abuse its discretion by imposing supervised release conditions meant to ensure the defendant's compliance with child support obligations); *United States v. Traufeld*, 768 F. App'x 802, 811 (10th Cir. 2019) ("[T]he district court's imposition of \$12,000 in restitution justifies the special condition requiring probation's approval for new credit accounts unless he was making his periodic payments, particularly because the revised PSR shows that he owes more than \$21,000 in past child support payments."). However, the government has not directed the Court to any authority justifying a supervised release condition for the sole purpose of assisting a private party in the collection of a civil judgment, even when the judgment is obtained against the defendant by his crime victim.

The sentencing court ordered restitution for the victim as authorized by the Victim & Witness Protection Act, 18 U.S.C. § 3663 *et seq.* (VWPA) and the Mandatory Victims Restitution Act (MVRA), 18 U.S.C. § 3663A, and it was appropriate to impose financial disclosure conditions to ensure that the defendant would satisfy the restitution order. But he has paid all that the judgment of sentence required. Although a restitution order can be enforced using some of the same devices used to collect a civil judgment, courts have drawn a distinction between a restitution order and a civil judgment. *See United States v. Mindel*, 80 F.3d 394, 397-98 (9th Cir. 1996) ("Congress made clear the extent and purposes of the VWPA. Nowhere in the statute does Congress suggest that the VWPA was intended to provide victims with a private remedy to sue or appeal restitution decisions, and nothing in the statute's legislative history supports such a reading,

either.”); *United States v. Johnson*, 983 F.2d 216, 220 (11th Cir. 1993) (“[S]imply because 18 U.S.C. § 3663(h)(2) states that restitution is enforceable in the same manner as a judgment in a civil action, does not transform restitution into a civil judgment.”). A restitution order is penal in nature. *Ibid.* (“[T]he Supreme Court has stated that though restitution resembles a judgment ‘for the benefit of’ a victim, it is penal, rather than compensatory. Thus, although restitution and a civil judgment are enforceable similarly, restitution is not a civil judgment.”) (quoting *Kelly v. Robinson*, 479 U.S. 36, 52-53 (1986)). For that reason, imposing financial disclosure and credit limitation provisions as a condition of supervised release is appropriate. And if a defendant violates those conditions, the Court may impose its coercive powers to enforce them. However, once the financial penalties have been satisfied, there is no longer a justification to maintain the conditions. Using them to enforce a private civil judgment would transform the Court and the probation department into a collection agency.

Because there no longer is a valid reason to maintain the supervised release conditions that the defendant must provide his probation officer access to any requested financial information and that he may not open new lines of credit without prior approval from his probation officer, those conditions will be removed.

### C.

The government acknowledges that polygraph testing is “inadvisable at this moment” due to the defendant’s medical conditions, ECF No. 25, PageID.90. It does not discuss the penile plethysmography condition, but the defendant represents, and the government does not dispute, that this district does not engage in penile plethysmograph testing. ECF No. 21, PageID.72. For those reasons, the conditions requiring them will be removed.

III.

The internet and electronic device monitoring conditions of supervised release are appropriate and related to the defendant's offense of conviction. The other challenged conditions no longer can be justified.

Accordingly, it is **ORDERED** that the defendant's motion to terminate certain special conditions of supervised release (ECF No. 12) is **GRANTED IN PART AND DENIED IN PART**.

It is further **ORDERED** that the following conditions of supervised release are terminated:

3. The defendant shall provide the probation officer access to any requested financial information, including credit reports, credit card bills, bank statements, and telephone bills.
4. The defendant shall be prohibited from incurring new credit charges or opening additional lines of credit without approval of the probation officer.
8. The defendant shall submit to physiological testing and polygraph/truth verification testing.

The motion is **DENIED** in all other respects.

s/David M. Lawson  
DAVID M. LAWSON  
United States District Judge

Dated: September 29, 2026