

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
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3 UNITED STATES OF AMERICA,

4 v. 17 Cr. 307 (DLC)

5 ANTHONY WEINER,

6 Defendant.

7 -----x

8 New York, N.Y.
9 September 25, 2017
10:00 a.m.

10 Before:

11 HON. DENISE COTE,
12 District Judge

13 APPEARANCES

14 JOON H. KIM
15 Acting United States Attorney for the
16 Southern District of New York

17 AMANDA KRAMER
18 STEPHANIE LAKE
Assistant United States Attorneys

19 COVINGTON & BURLING LLP
Attorneys for Defendant

20 ARLO DEVLIN-BROWN
21 ERIN MONJU
PAUL FITZGERALD DOWNS

22 ALSO PRESENT: JOHN ROBERTSON, FBI
23 STACY SHAHRANI, FBI
24 DEREK STILES, Paralegal

25

1 (Case called)

2 MS. KRAMER: Good morning, your Honor. For the
3 government, AUSAs Amanda Kramer and Stephanie Lake, and joining
4 us at counsel table are FBI Special Agents John Robertson and
5 Stacey Shahrani.

6 MR. DEVLIN-BROWN: Arlo Devlin-Brown for the defendant
7 and joining me at counsel table is my client, Anthony Weiner,
8 and Erin Monju as well. Behind me is Paul Downs, also from my
9 law firm, and Derek Stiles, paralegal in my office.

10 THE COURT: Thank you.

11 Mr. Devlin-Brown, have you and your client both read
12 the presentence report?

13 MR. DEVLIN-BROWN: We have, your Honor.

14 THE COURT: Have you discussed it with each other?

15 MR. DEVLIN-BROWN: We have.

16 THE COURT: Do you have any objections to the report
17 other than what might be contained in your written sentencing
18 submissions to me?

19 MR. DEVLIN-BROWN: We do not, your Honor.

20 THE COURT: The presentence report will be made part
21 of the record in this case and placed under seal. If an appeal
22 is taken, counsel on appeal may have access to the sealed
23 report without further application to this Court.

24 I have reviewed the PSR and the sexual offense risk
25 evaluation of September 11, 2017, performed at the request of

1 the probation department. The defendant voluntarily
2 participated in that examination and a 29-page report was
3 issued.

4 And I've also received letters from the victim, the
5 father, and grandmother, and the defendant's short response to
6 those. All of those matters will be sealed as a part of the
7 sentence.

8 In addition, I have a memorandum from the defendant
9 with exhibits and a government memorandum. There have been
10 limited redactions made to those documents. They have largely
11 been filed in the public record. I have reviewed the proposed
12 redactions. I approve each of them.

13 There was one request that I had with respect to
14 Exhibit 43 to the defense sentencing submission which was
15 originally filed entirely under seal. I asked the parties to
16 consult, and I approve the proposed redactions that have been
17 submitted to me and, therefore, Exhibit 43 is also not now
18 largely in the public record.

19 I have received two letters from the public, one is
20 from a concerned New Yorker. Another is from a Robert
21 Donnelly. I just received Mr. Donnelly's letter this morning
22 and will file those on ECF.

23 With respect to the sentencing guidelines issue here,
24 which is our starting point, there are two relevant
25 calculations. The crime here, which is the transfer of obscene

1 materials to a minor, is a violation of Section 1470. A minor
2 is defined as someone under 16 years of age. One calculation
3 for the sentencing guidelines is the 10-year maximum sentence
4 under that statute. And that is because if you calculate the
5 sentencing guidelines in a certain way, with many cross
6 references considered that are contained in the sentencing
7 guidelines, that leads to a sentencing guidelines range of 135
8 to 168 months. But because of the statutory maximum, the
9 sentencing guidelines calculation becomes 10 years.

10 There is another sentencing guidelines calculation and
11 it is a fairly straightforward one, straightforward application
12 of the sentencing guidelines. It has a sentencing guidelines
13 range of 21 to 27 months. And this is the sentencing
14 guidelines that you would arrive at for a violation of 1470
15 without consideration of all those cross references.

16 The government in its plea agreement with the
17 defendant acknowledged that that 21 to 27-month guidelines
18 range is a fair and appropriate range in this case. The
19 probation department itself has recommended a sentence within
20 that range. I find independently, based on all the submissions
21 that have been made to me, that it is the appropriate
22 guidelines for the 1470 violation at issue here.

23 Therefore, I will be considering the parties'
24 arguments with respect to this sentence in the context of the
25 sentencing guidelines range of 21 to 27 months and, of course,

1 I'll be considering as well all the statutory factors in
2 3553(a) that a Court must always consider in connection with
3 sentence. The probation department has recommended a sentence
4 of 27 months. The government has recommended a sentence within
5 the 21 to 27-month guidelines range, and the defendant has
6 asked for a probationary sentence.

7 I want to note before I hear from the parties that the
8 letters submitted to me have been very helpful. Some of them
9 have been extraordinarily brave to write, and I found them
10 informative and have considered them.

11 Let me start. I'll hear first from the government.

12 MS. KRAMER: Thank you, your Honor.

13 Anthony Weiner should be sentenced to a term of
14 imprisonment of 21 to 27 months and his request for probation
15 rejected for two principal reasons: The seriousness of the
16 offense and the need for deterrence.

17 On three separate occasions in early 2016, the
18 defendant sat in his Manhattan apartment, got online and asked
19 a real 15-year-old girl to display her naked body for him and
20 sexually perform. There are no circumstances under which that
21 is acceptable, excusable, or insignificant. Indeed, what the
22 defendant did is a serious felony, as he knew full well from
23 his decade as a United States congressman. The minor victim's
24 motives and postoffense conduct don't undermine the seriousness
25 of the actions knowingly taken by the defendant. Any effort to

1 shift the blame from the adult defendant to the minor victim in
2 this case should be flatly rejected.

3 THE COURT: I don't actually find that the defendant
4 is attempting to shift blame.

5 MS. KRAMER: Thank you, your Honor.

6 It's a longstanding principle of federal law that
7 adults cannot engage in sexual conduct, online or otherwise,
8 with minors of any age, including minor teenagers, and for good
9 reason. Because minors don't have the same ability as adults
10 to protect themselves and this is true no matter how grown up
11 they may try to seem. The law on this point is clear and it
12 must stay clear to affect general deterrence. Adults who
13 knowingly ask any minor to engage in sexually explicit conduct
14 online have committed a very serious offense and will be duly
15 punished.

16 In this specific case a meaningful sentence of
17 imprisonment is necessary not only to reflect the seriousness
18 of the offense, to promote respect for the law, and to deter
19 others, but also to specifically deter the defendant from
20 reoffending.

21 The fact that Anthony Weiner is sitting here today is
22 very sad for him and for those close to him. And while he
23 undoubtedly does have regret, given where he is, and truly
24 believes he will change, there is a history here that simply
25 cannot be ignored. He has made these claims before, though not

1 in criminal cases, but he has made these claims and has failed
2 to actually follow through or demonstrate a real acceptance or
3 awareness of the nature of his errors in judgment. The offense
4 conduct here shows an even more serious error in judgment, this
5 time one that is criminal and one that affects a minor.

6 With that history, with the record in this case, there
7 is not enough of a basis, in the government's view, for the
8 Court to have comfort that he will in fact change of his own
9 accord, even if supervised by probation. Something more and
10 different is required, beyond personal and professional
11 consequences, beyond the collateral consequences that he has
12 faced before, beyond the scrutiny of the public, all of which
13 have failed to sufficiently deter him in the past.

14 What is required here to stop the defendant from
15 reoffending, to fully pierce his denial and end this tragic
16 cycle is a meaningful term of imprisonment. The term that is
17 warranted in this case is 21 to 27 months. That was adopted by
18 the probation office, as your Honor recognized, who recommends
19 a 27-month term of imprisonment.

20 Every single one of the mitigating factors raised by
21 the defendant and considered by probation, including that the
22 defendant is not a pedophile, doesn't collect or trade in child
23 pornography, and never tried to meet the minor victim or other
24 minors, are already fully and fairly reflected in the range of
25 21 to 27 months. No further reduction should be given by the

1 Court.

2 In light of the seriousness of his crime, his
3 demonstrative need for specific deterrence, and the need to
4 reinforce the incredibly important principle that sexually
5 engaging with any minors online is a serious crime, Anthony
6 Weiner should be sentenced to prison for 21 to 27 months.

7 Thank you, your Honor.

8 THE COURT: Mr. Devlin-Brown.

9 MR. DEVLIN-BROWN: Thank you, your Honor. I want to
10 start with a theme that Anthony sounded in his letter to the
11 Court, which dealt with what for him was a paradox of regret.
12 Because on the one hand, of course, he's filled with regret,
13 not only for the crime and the harm he has caused to the victim
14 here and to others in his life and himself, but for the whole
15 pattern beyond this crime of for years throwing away a good
16 portion of his life. So he's filled with regret there.

17 On the other hand, it was almost a year ago when
18 Anthony's interactions with the victim here were published that
19 caused him finally, after so many years of denial, to get
20 treatment and for that he cannot be regretful. He is grateful.

21 I want to pick up on a point that Ms. Kramer just made
22 because she noted that Anthony does have a long history and it
23 is stunning, the history, really, that it took this, this
24 criminal offense, for Anthony to realize there was a serious
25 problem in his life.

1 He had thrown away his congressional career by
2 exchanging messages with strangers on the Internet, an adult,
3 and America and New York is a very forgiving place. He was on
4 the verge, really -- he was leading the New York City mayoral
5 primary until the voters found out that even after he left
6 Congress in this scandal he had continued with the same
7 conduct.

8 In America they say there are second acts, but there
9 are no third acts, and after that Anthony was finished. And
10 yet even though his career had been ruined, he continued doing
11 the same thing again and again.

12 One of the ironies I found here, your Honor, in
13 looking through the history was that the gist of one of the
14 original diagnoses back when he left Congress in 2011 was along
15 the lines of Anthony was in control of his conduct and he was
16 perhaps a powerful man, as powerful men sometimes do, acting
17 out because they have that privilege and that power. And while
18 that is something that could be plausible if you are looking at
19 Anthony Weiner in 2011, it doesn't explain Anthony Weiner in
20 2016, after so much damage he had done to his life and he just
21 kept on doing it.

22 Anthony Weiner had a sickness. Dr. Must, the
23 probation officer's appointed evaluator, found that he was
24 highly compulsive in his sexual behaviors and that they were
25 motivated by addictive tendencies. And I know the label sex

1 addict, people have a visceral reaction sometimes against it
2 because it just sounds like an excuse, notwithstanding the fact
3 that there is increasing neurobiological research that it's
4 ongoing, but it shows that anything that can sort of light up
5 the reward center of the brain where those dopamine receptors
6 are can lead to harmful behaviors that are difficult to stop.

7 Ultimately, your Honor, I don't think this is a case
8 on these facts where the label really matters and a particular
9 diagnosis really matters because I think it's clear that
10 Anthony had a deep sickness, however you want to call it.

11 Just stepping back a little bit, he had ruined his
12 career repeatedly by exchanging messages under his own name
13 with strangers on the Internet, some portion of whom went
14 public with their encounters, and then he did the exact same
15 thing here. Ending up here today was almost -- perhaps not to
16 Anthony Weiner, but perhaps to maybe anyone else who would have
17 known he had done this -- foreseeable.

18 I submit these repeated acts of self-destruction are
19 not those of a scheming criminal. That doesn't excuse him, but
20 he was a sick man at the time he did this.

21 I think it's also important to emphasize that the
22 sickness was not fundamentally or even really at all about a
23 sexual obsession with teenagers. That's clear enough from his
24 history. He had exchanged hundreds of messages or probably
25 thousands of messages with hundreds of woman over the years,

1 all of whom had been adults. At the time of the offense,
2 around the time of the offense, he was in contact with as many
3 as 19 other adult women. This was his first teenager and it
4 was his last teenage victim.

5 It's also clear from the court-appointed evaluator,
6 Dr. Must, as it has been from everyone else who has examined
7 him, that he does not have an abnormal sexual interest in
8 teenagers.

9 The government's brief did attempt to cast some doubt
10 on this a bit. It suggested that an isolated statement that
11 Mr. Weiner had made to the examiner, as well as a supposed
12 interest in particular sorts of pornography, suggested perhaps
13 that there was something to a particular sexual interest in
14 teenagers that is abnormal and deviant. I think those
15 arguments, your Honor, could be readily rejected. I don't know
16 if the Court has concerns about those.

17 THE COURT: I do not, and I didn't actually see that
18 the government was making that argument in any developed way.
19 I don't find there is any basis for it.

20 MR. DEVLIN-BROWN: Thank you, your Honor.

21 Let me move on then beyond sort of the sickness, which
22 I think is indisputable.

23 I think it's also indisputable that Anthony is in a
24 very different place mentally and emotionally than he was a
25 year ago. And the government says, well, this could be -- and

1 they give him credit for the work he has done, but they said
2 this could be sort of a pattern that we have seen before.

3 Respectfully, your Honor, there is no pattern. There
4 is no pattern. He sought treatment once in 2011, when he
5 resigned from Congress, and he is the first to admit, he is
6 very open with everyone, that he was not accepting of the
7 treatment at the time. He didn't want to change his behavior
8 at the time. And that, combined perhaps with therapy that says
9 you are in charge of your behaviors, you can change them if you
10 want, well, he didn't want. And that's a flaw of Anthony's,
11 that he didn't want to change his behaviors at the time. But
12 there hasn't been some long cycle after the 2013 mayoral
13 campaign, it's not clear if he saw the therapist a few more
14 times, but there was no big sort of public recovery and there
15 was no private recovery either.

16 But more to the point, your Honor, the transformation
17 that has occurred in Anthony is not something that remotely
18 appears phony. Virtually every day over the past year he has
19 been going to treatment of one form or another. He has been
20 hobbling there on crutches after knee surgery and inspiring
21 other people with his commitment to it.

22 There have been family members, family members who
23 have been very hurt by the conduct Anthony Weiner has engaged
24 in, who have observed now for the first time someone who is out
25 of their deep denial and seems very committed to making

1 themselves better.

2 Dr. Must, the independent evaluator, said specifically
3 he is not, quote, putting on airs and that he appears to be
4 taking his treatment very seriously. She added that if his
5 motivation and dedication to his own progress continues at this
6 pace and he is genuine and forthcoming in discussing his
7 behaviors and continues to use the support and help offered to
8 him, he has a strong potential of living a life that is
9 sexually healthy, offense free, and value fulfilled. That's
10 Dr. Musk, the independent evaluator.

11 Anthony doesn't need prison, your Honor, to continue
12 on this path towards wellness. Dr. Must makes that clear. She
13 says he can be treated within the community. She even urges
14 the inclusion of his current therapist and the 12-step model
15 that has been so helpful to him to be integrated into standard
16 sex offender treatment that is often recommended in these
17 cases.

18 So it can be done outside of prison and the cold
19 reality, your Honor, is it won't happen in prison. The Bureau
20 of Prisons, as we set out in our submission, does not offer any
21 treatment probably of any form that Anthony Weiner would be
22 eligible for, much less something that would be as suitable and
23 as beneficial to what he has been found to have engaged in now.

24 The government makes the point, and it's a valid
25 point, of course, that one of the goals of sentencing is to

1 prevent Anthony Weiner and deter Anthony Weiner from ever
2 committing an offense like this again. And the defense of
3 course agrees with that, your Honor. But I would submit that
4 the best way to do that, the best way to do that is to allow
5 him to continue on the progress he has been on for now, which
6 is getting better and will help him avoid making the same
7 mistakes he has before in a way that prison won't.

8 The government also makes the point, and it is also a
9 valid point, how can we rely on this present claim of
10 self-awareness and transformation. And the reason, your Honor,
11 we recommend a probationary sentence is because it doesn't
12 require reliance on that. A probationary sentence would impose
13 substantial restrictions on his behavior, it would give the
14 probation department substantial tools to see if he deviates
15 from this path of treatment, and it would give the Court the
16 power, which Mr. Weiner knows the Court had to use before,
17 including in similar cases, to send him to jail should he slip
18 off the path that he's been on. Probation can be for up to
19 five years, where supervised release could be only three in
20 this case. There are a lot of ways that probation can hold the
21 prospect of prison over Anthony Weiner but allow him to
22 continue a path that is much more successful in terms of
23 getting treatment.

24 I understand, though, your Honor, that there is more,
25 a lot more that goes into a sentencing determination than what

1 is good for the defendant and what will help the defendant get
2 better, what will help their family. That's not the only thing
3 that goes into a sentence.

4 And I know that one difficult thing in sentencing in
5 this case is that, as Ms. Kramer pointed out, this is a serious
6 offense. It is a very serious offense. And there is a
7 question whether the weight of an offense like this requires
8 prison, requires prison to reflect really the significance. I
9 respectfully submit that that is not the case here.

10 Anthony's conduct was illegal and it was wrong, but it
11 was significantly less egregious than really every other single
12 instance of this crime involving the prosecution of adults for
13 having sexual discussions with minors on the Internet than
14 there has ever been.

15 All of the other cases that are out there that we have
16 seen, certainly all in the Southern District, have involved
17 defendants who are trolling the Internet looking for minor
18 victims to exploit, and this case started in the other
19 direction, with a minor victim reaching out to Anthony Weiner.

20 And Anthony Weiner didn't do any of the really
21 disturbing predatory things that occur in almost every other
22 case in one form or another. This wasn't an effort to have
23 sexual contact with the victim, as it often is in these cases.
24 He didn't disguise identity to win trust from the victim
25 initially and obtain some explicit images only to, as many

1 defendants do, then threaten to expose the victim if the
2 conduct ceases.

3 This case is very unusual. And I know your Honor has
4 seen cases in a somewhat different context, in the child
5 pornography context. And child pornography is an
6 extraordinarily serious offense. It's extraordinarily serious.
7 Even just viewing it, right, supports a market where this stuff
8 is made. But there are nuances to that serious offense, too.
9 There are defendants who one has to worry about whether they
10 are going to molest children because they seem sexually
11 obsessed with children and their pattern seems to be
12 particularly focused on children. And then there are
13 defendants in this brave new world of the Internet we live on
14 who seem to be clicking on everything and click on things they
15 shouldn't click on, but clearly don't have the same problematic
16 behaviors that pose such a risk to society. This is a serious
17 offense, your Honor. But there is a spectrum to these sorts of
18 offenses.

19 That brings me to the very peculiar circumstances
20 surrounding this offense, and the government intones that
21 Anthony should be sentenced for what he did, not for what
22 motivated the minor victim. And to a significant point they
23 are absolutely right.

24 From the perspective of Anthony's morality, there are
25 two completely independent decisions that occur. One is, the

1 victim made a decision to encourage Anthony to engage in his
2 infamous behaviors in order to make a profit, which she did.
3 But that does not excuse Anthony's independent moral choice.
4 He had a moral choice. When confronted with someone he
5 believed to be a minor to engage or not engage, he failed that
6 moral test. So his moral failing is his own and his crime is
7 his own.

8 But this point in the proceeding, your Honor, at
9 sentencing is not the point where the question is, is Anthony
10 guilty of making a bad moral choice, is he guilty of a crime.
11 At this point the Court looks to a broader picture of the
12 nature and circumstances of the offense.

13 And in many cases, your Honor, harm to the victim is a
14 really crucial component of a sentence. There are times in all
15 sorts of contexts where the damage that has occurred to an
16 innocent person because the conduct of the defendant is so
17 destructive that prison really is compelled.

18 And I submit that what Anthony did is wrong, what
19 Anthony did is harmful. But punishing him for what he did
20 here, which was to respond to someone where he had never
21 responded to a teenaged person before, someone who was looking
22 to capitalize on his compulsions, that is different in nature
23 than someone who is seeking out victims on the Internet to
24 exploit. They are both bad things, but there is a difference
25 and a significant difference.

1 Your Honor, I'd like to close with where we started in
2 the sentencing submission. This is an unusual crime of sad
3 coincidences that have had far-reaching consequences in this
4 case. But as a morality play it's a complicated one. It's one
5 I think without really true villains.

6 Your Honor, you have to obviously impose a sentence
7 that is significant to the crime that's been committed in this
8 case. But we would ask you to impose a sentence that is
9 measured in terms of what actually occurred that recognizes
10 that Anthony's sickness was a significant driver of it, that
11 he's in recovery, that there is an opportunity to build on this
12 recovery and have prison be a prospect if it's necessary, but
13 not apply it now, and give an opportunity for something
14 positive to emerge from the wreckage of all of this.

15 Thank you, your Honor.

16 THE COURT: Mr. Weiner, I'll hear anything that you
17 have to say to me on your behalf in connection with this
18 sentence.

19 THE DEFENDANT: Your Honor, with your permission, may
20 I read it.

21 Your Honor, the crime I committed was my rock bottom,
22 but I am truly grateful that it finally began me on my
23 recovery. Every day since has been a little bit better than
24 the one before.

25 I live a different and better life today. I'm no

1 longer in the hole. Now I focus on how to live my new smaller
2 life one day at a time, and I'm working to make amends for my
3 actions. I was a very sick man for a very long time, but I'm
4 also responsible for the damage I have done. Your Honor, I
5 have a disease, but I have no excuse.

6 Your Honor, I accept complete and total responsibility
7 for my crime. I was the adult. I acted not only unlawfully
8 but immorally. And if I had done the right thing, I would not
9 be standing before you today. I am profoundly sorry to the
10 victim for my crime.

11 The prosecutors are skeptical that I have truly
12 changed, and I don't blame them. The description of me from
13 the government's brief is right. I repeatedly acted in a
14 obviously destructive way when I was caught. I claimed I would
15 never do it again. I blamed others for my actions, but I
16 didn't stop. I convinced myself that my behavior wasn't really
17 the problem. It was something else. I know there is a name
18 for people who act like that, an addict. I recognized it in my
19 brother Seth, who was killed by his addiction, but I couldn't
20 see it in myself.

21 But, your Honor, that's not me today. Today I am
22 gratefully recovering. I am following a program of rigorous
23 honesty, spiritual fitness, and an abundance of support. I go
24 to therapy twice a week. I attend meetings every day. I look
25 for ways to be of help to others who are sick and suffering and

1 who are struggling with what I have struggled with. And I look
2 for ways and I hope and I pray that in the service that I do
3 I'm helping prevent other unknown victims, unknown innocents
4 from themselves becoming victims.

5 Let me tell you a bit about my son. I left this to
6 the end because I have trouble talking about him without tears.
7 Jordan has been my salvation, the one perfect thing in my life.
8 I always told myself, if I get that one thing right, all else
9 would be forgiven. No matter what befell me, I would always be
10 there for Jordan, showing him that if you get knocked down, you
11 dust yourself off and you get back up.

12 Your Honor, I realize now that by not being honest
13 about how I continued to knock myself down, I betrayed his
14 amazing mother. I was teaching him the wrong things. I was
15 hurting him instead of helping him.

16 Finally, your Honor, I'm teaching him the right
17 lessons: Accepting responsibility, being truthful, and showing
18 compassion and, yes, the ability of all of us, no matter how
19 far we have fallen, to simply try to do the next right thing;
20 and when we are wrong, promptly admit it. I am living in
21 amends to him, your Honor, by being the father he needs.

22 I stand before you because I victimized a young person
23 who deserved better. I fully accept responsibility for what I
24 did. I have lost so much and appropriately so.

25 Your Honor, I'm not asking that you trust that my

1 recovery is real. I know it is real, which is all that
2 matters. And I long ago forfeited the right to ask for the
3 benefit of the doubt from you or from anyone, so I don't ask
4 that you trust me. I ask you for the opportunity to prove that
5 it is real. I ask for the opportunity on probation to keep
6 leading my smaller, healthier life each day, to keep getting
7 better, to be of service, and to be a good father to my son.
8 If I fail, I know what will happen. But with God's grace, I
9 will not.

10 Thank you, your Honor.

11 THE COURT: So the crime here was the defendant's
12 engagement with a minor in early 2016. She contacted him. He
13 was notorious. And as a result of their contacts he
14 transferred obscene material to her. There were, as I
15 understand it, four illegal exchanges: On Skype, Snapchat, and
16 a site called Confide.

17 The defendant knew this young woman was in high school
18 and getting her learner's permit. He never took any steps to
19 ensure she wasn't a minor. She asserts, and he does not test
20 or dispute, that at some point he learned she was 15.

21 When the minor continued or attempted to continue
22 their exchanges, the defendant essentially stopped the
23 conversation with her over the Internet somewhere in March of
24 2016, and this criminal behavior occurred at a time when the
25 defendant was intensely engaged in online communications with

1 women, some sexual, some nonsexual conversations over the
2 Internet with strangers, and it had been a pattern of his for
3 at least five years.

4 The story that's been given to me indicates that it
5 consumed an enormous amount of his time and his energy. And as
6 he has acknowledged and his counsel has acknowledged, this
7 pattern continued despite two very public exposures of online
8 sexual exchanges with women. In one in 2011, he lost his
9 congressional seat; another in 2013, he lost his chance to
10 become mayor of New York.

11 The public exposure this time, in 2016, has been very
12 different in a variety of ways, but I do find it to be true
13 that it has led to the defendant's first serious engagement
14 with treatment, and it appears to be effective for him. He has
15 thrown himself into this treatment as intensely as he has
16 thrown himself into so many other things he has done in his
17 life. I think that's one of the hallmarks of his activity as
18 it's been described to me in the submissions I have received.
19 It's one of intensity and now he is intensely engaged in his
20 treatment.

21 I have to look at the factors under Section 3553(a) to
22 decide what is the appropriate sentence here for this crime and
23 this defendant. Let me begin by talking about the issue of
24 punishment. This was a serious crime and it's a serious crime
25 that deserves serious punishment. He used pornography and

1 obscene language in requesting a minor to perform sexual acts
2 for him over the Internet. I don't think that the complexity
3 of the victim's motives or identity or the fact that she
4 initiated this contact are relevant. They are irrelevant. She
5 was a minor. She was a victim. She is entitled to the law's
6 full protection.

7 Let me turn to the issue of individual deterrence. I
8 think this is a much more complex question. There is no
9 evidence whatsoever that the defendant has any deviant interest
10 in teenagers or minors. There is no evidence he ever targeted
11 teenagers or minors for any of his online activity. His
12 illness did not involve sexual contact. It was an intense
13 online engagement with his correspondents.

14 There is a uniform opinion by those who have examined
15 him that he is an addict. He has a disease that involves
16 sexual compulsivity. Some call it a sex addiction. It is
17 sexually explicit conversations with strangers over the
18 Internet. But I do find as well that he is finally receiving
19 effective treatment for this disease for what is described as
20 his hypersexuality. Steps are being taken and can continue to
21 be taken to limit his access to social media, and that will be
22 a very important part of his recovery.

23 He is participating in individual and group therapy.
24 He is engaging in Sex Addicts Anonymous. I find he is making
25 an enormous contribution to others who are suffering from that

1 same disease. I find that it is likely if he continues with
2 this engagement that he can make an enormous contribution to
3 society in both an awareness of this problem, the risks it
4 involves to families, to those who suffer from the disease, and
5 to those who may be victimized by the disease. I find this
6 could be a true public service.

7 But the difficulty here is that this is a very strong
8 compulsion, so strong, as we have seen, despite two very public
9 disclosures and the destruction of his career on two occasions,
10 he continued with the activity. So it is difficult to know how
11 to weigh the issue of individual deterrence. He has made great
12 strides, but it will remain a challenge for years to come.

13 Of course I have to be conscious of the fact that what
14 I'm describing here is not criminal unless it crosses the line
15 that our legislators have written. The crime here was engaging
16 in this kind of activity with a minor over the Internet. That
17 is not the focus of his addiction, but he did not control that
18 behavior to make sure it didn't cross that line.

19 Let me turn to the last factor that's very important
20 in deciding the sentence and that's one of general deterrence.
21 There is a lot written about what role general deterrence
22 should have in sentencing, but here I think it has enormous
23 importance. Because of the defendant's notoriety, gained well
24 before he engaged in this criminal activity, there is intense
25 interest in this prosecution, in his plea, and his sentence,

1 and so there is the opportunity to make a statement that could
2 protect other minors. General deterrence is a very significant
3 factor in this sentence.

4 Mr. Weiner, please stand. I impose a term of
5 imprisonment of 21 months to be followed by a term of
6 supervised release of three years with the following special
7 conditions: You must cooperate in the collection of DNA. You
8 must comply with the requirements of the Sex Offender
9 Registration and Notification Act as directed by your probation
10 officer and the Bureau of Prisons, as well as any state sex
11 offender registration agency in the location in which you
12 reside or work.

13 You must pay the fine that I will impose. You must
14 comply with the standard conditions of supervised release. You
15 must submit yourself to a reasonable search by the probation
16 department. You must seek and maintain full-time employment.
17 I want you engaged productively in full-time work. You are to
18 provide the probation department access to any and all
19 requested financial information.

20 With respect to some of the special conditions in the
21 PSR, I'm looking in particular at pages 35 and 36. I impose
22 the special condition at the bottom of page 35 requiring you to
23 participate in a computer Internet monitoring program
24 administered by the probation department.

25 Turning to page 36, you must submit to search of your

1 electronic storage devices and electronic communications. You
2 may not have contact with the victim. You must not directly
3 cause or encourage anyone else to have contact with the victim.
4 You must participate in an outpatient sex offender treatment
5 program approved by the probation department.

6 You shall be supervised by the district of your
7 residence. You shall pay a special assessment of \$100. You
8 shall pay a fine of \$10,000. You must begin paying that fine
9 while in prison. Upon release from prison you shall pay 10
10 percent of your gross monthly income toward the fine.

11 I decline to impose any restitution. There is no
12 mandatory restitution available under 3663(a) or 3664. Neither
13 the government nor the probation recommends restitution. I
14 have looked at 3663. It's largely irrelevant. To the extent
15 it is not, I decline to impose restitution in the exercise of
16 my discretion.

17 Counsel, is there any legal reason I cannot impose the
18 sentence I described as stated?

19 MS. KRAMER: No, your Honor.

20 MR. DEVLIN-BROWN: No, your Honor.

21 THE COURT: I order the sentence I have described on
22 the record to be imposed as stated.

23 I don't believe there are any open counts.

24 MS. KRAMER: That's correct, your Honor.

25 THE COURT: Mr. Weiner, I need to advise you of your

1 right to appeal. If you are unable to pay the cost of an
2 appeal, you may apply for leave to appeal in forma pauperis.
3 Any notice of appeal must be filed within 14 days of the
4 judgment of conviction. I'm required by law to advise you of
5 those rights, though I know of no ground for an appeal. You
6 entered a plea of guilty here pursuant to a plea agreement.
7 You have largely given up your right to appeal.

8 Counsel, is there anything else we need to do?

9 MS. KRAMER: Yes. Very briefly, your Honor. There
10 was a consent preliminary order of forfeiture entered on May
11 19, at the time of the plea, as docket No. 6. I just wanted to
12 call that to the Court's attention.

13 THE COURT: I believe that was the forfeiture of an
14 iPhone.

15 MS. KRAMER: That's correct, your Honor.

16 THE COURT: I make that forfeiture also part of the
17 sentence.

18 MS. KRAMER: And, your Honor, the defendant has agreed
19 in the plea agreement, and the law requires, that upon his
20 release he must register under the Sex Offender Registration
21 and Notification Act, if the Court wants to advise the
22 defendant of his reporting obligations under that act.

23 THE COURT: I think I did as part of the sentence.

24 MS. KRAMER: I apologize, your Honor.

25 THE COURT: Mr. Devlin-Brown.

1 MR. DEVLIN-BROWN: Your Honor, I know the Court's
2 ordinary practice for a defendant located in the New York City
3 area is often to recommend incarceration in the New York City
4 area. I've spoken to a prison consultant working with us, and
5 have reason to believe this is true independently, that in a
6 sentence of this length that recommendation could well result
7 in Mr. Weiner being incarcerated at the MDC, which is a
8 maximum-security facility. I think given the importance
9 contact with his son has played in his recovery and holding him
10 together, that would be extraordinarily detrimental. I would
11 ask the Court to consider recommending FCI Schuylkill, and if
12 not that, recommend as low a security facility as necessary to
13 address your prison considerations.

14 THE COURT: Mr. Devlin-Brown, I don't make
15 recommendations for particular facilities. Do you want me to
16 recommend that the defendant be designated to a facility as
17 close to the New York City area as possible, or not?

18 MR. DEVLIN-BROWN: No, your Honor.

19 THE COURT: I am going to require the defendant to
20 surrender by November 6 to the designated facility. If no
21 facility has been designated by that time, he must surrender
22 here to the marshals by 2 p.m. in this courthouse on November
23 6.

24 Thank you.

25 o0o