

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

UNITED STATES OF AMERICA, Jacksonville, Florida
Plaintiff, Case No. 3:23-cr-153(S1)-WWB-LLL
-vs- June 18, 2024
NICOLE DANIELLE DEVILBISS, 10:37 a.m.
Defendant. Courtroom 12A

TRANSCRIPT OF SENTENCING
BEFORE THE HONORABLE WENDY W. BERGER
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S

GOVERNMENT COUNSEL:

Ashley Washington, Esquire
Elisibeth Adams, Esquire
United States Attorney's Office
300 North Hogan Street, Suite 700
Jacksonville, FL 32202

DEFENSE COUNSEL:

Kathryn Sheldon, Esquire
Federal Defender's Office
200 West Forsyth Street, Suite 1240
Jacksonville, FL 32202

OFFICIAL COURT REPORTER:

Shellli Kozachenko, RPR, CRR, CRC
221 North Hogan Street, #185
Jacksonville, FL 32202
Telephone: (904) 301-6842

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transcript produced by computer.)

P R O C E E D I N G S

June 18, 2024

10:37 a.m.

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COURT SECURITY OFFICER: All rise. United States District Court in and for the Middle District of Florida is now in session, the Honorable Wendy Berger presiding.

Please be seated.

COURTROOM DEPUTY: Case No. 3:23-cr-153, United States of America versus Nicole Danielle Devilbiss.

Counsel, will you please state your presence for the record, beginning with the government.

MS. WASHINGTON: Good morning again, Your Honor. Ashley Washington and Elisibeth Adams for the United States, and also seated at counsel table is HSI Special Agent Ashley Wilson.

THE COURT: Good morning.

AGENT WILSON: Good morning, Your Honor.

MS. ADAMS: Good morning.

MS. SHELDON: Good morning, Your Honor. Kathryn Sheldon on behalf of Ms. Devilbiss. She's seated to my right.

THE COURT: Okay. Ms. Devilbiss, can you raise your right hand for me, please.

Do you swear or affirm that the testimony you shall give in this cause will be the truth, the whole truth, and nothing but the truth, so help you God?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: All right. You can put your hand down.
3 I need you to speak up for me too.

4 THE DEFENDANT: Okay. Yes, ma'am.

5 THE COURT: Ms. Devilbiss, back on February 13th of
6 this year, you entered a plea of guilty to Count One of the
7 superseding indictment charging you with conspiracy to create
8 and distribute animal crush videos, in violation of Title 18 of
9 the United States Code, Sections 371 and 48(a)(2) and (3).

10 Now, the Court has previously accepted your guilty
11 plea and has adjudged you guilty of that offense, and so now
12 we've reached the stage of the proceedings where the Court
13 imposes sentence.

14 Before we do, let me go over with you what I have
15 reviewed. I went back and reviewed the superseding indictment.
16 I have reviewed the presentence investigation report, the
17 notice of maximum penalties, and the personalization and
18 factual statements.

19 I have reviewed, again, the presentence investigation
20 report and the attachments to that report. I have reviewed the
21 defendant's support and legal argument for guidelines
22 calculations. I have reviewed that as well as other -- as the
23 notice of submission of materials for sentencing with the
24 sentencing memorandum and all of the attachments to that.

25 I've also reviewed the United States's sentencing

1 memorandum, as well as going over everything with the 3553(a)
2 factors.

3 Is there anything that may have been filed later that
4 I have missed?

5 MS. WASHINGTON: No, Your Honor.

6 MS. SHELDON: There is nothing -- nothing else that's
7 been filed.

8 THE COURT: Okay. All right.

9 Ms. Devilbiss, did you have the opportunity to read
10 and go over the presentence investigation report with
11 Ms. Sheldon?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Are there any objections to the factual
14 accuracy of the report?

15 THE DEFENDANT: No, ma'am.

16 THE COURT: Okay. Any objections to the factual
17 accuracy?

18 MS. WASHINGTON: No, Your Honor.

19 THE COURT: Are there any unresolved objections to
20 the calculations of the guidelines?

21 MS. SHELDON: Yes, Your Honor.

22 THE COURT: Okay.

23 MS. SHELDON: We do maintain the objections that were
24 filed with respect to the sentencing guidelines.

25 I also have an additional objection to the petition

1 that was added to the back of the sentencing memorandum. I
2 don't believe that it meets the requirements of Rule 49. I do
3 not believe that those people listed are victims as
4 contemplated by Rule 60. I did bring some case law to sort of
5 talk about that.

6 And the reason why I didn't file anything to support
7 that is because it was very quickly submitted with the final
8 presentence investigation report. It wasn't with the initial
9 one.

10 With respect to Rule 49, Your Honor, it indicates who
11 is a party and who is not a party to -- to a case. And it does
12 permit that a non-party may serve and file a paper only if
13 doing so is required or permitted by law. This is Rule 49(c).

14 A non-party must serve every party as required by
15 Rule 49(a) but may use the court's electronic filing system
16 only if allowed by court order or local rule.

17 I then went to Rule 60 and 18 U.S.C. 3771 to talk
18 about what crime victims are and how they're defined pursuant
19 to the statute. And according to Rule 60, it defines a
20 victim -- or it describes what victims are entitled to and if
21 there are multiple victims, etc., and that the Court must
22 decide any motion asserting a victim's right as described by --
23 by the proceedings they're entitled to attend.

24 But it's actually -- the definition of victim is
25 defined in 377 -- 18 U.S.C. 3771. And for the purposes of

1 3771, the term "crime victim" means any person against whom the
2 state offense is committed or, if that person is killed or
3 incapacitated, that person's family member or other lawful
4 representative.

5 And I would argue that the people who have filed the
6 motion are not a family member of the animal, nor are they
7 their lawful representative. There is no indication -- there's
8 no amicus. There was no request on behalf of the court to have
9 those people file a motion.

10 Instead, it's basically public opinion. And I would
11 suggest to this Court that public opinion is not appropriate
12 for the Court to consider in its sentencing memorandum.

13 Justice Alito and Justice Rehnquist have both talked
14 about public opinion, and they say that the judicial branch
15 derives its legitimacy not from following public opinion but
16 from deciding by its best lights whether legislative enactments
17 of the popular branches of government comport with the
18 Constitution.

19 And I would suggest that submission of a petition of
20 what the public wants, based on nothing legal or
21 constitutional, is inappropriate for the Court to consider, and
22 I would ask that it be stricken from the sentencing memorandum.

23 THE COURT: Ms. Washington?

24 MS. WASHINGTON: Your Honor, I don't picture them as
25 relatives or victims of the primates in this offense, but

1 rather, pursuant to 3661, there's no limit on what the Court
2 can consider in terms of the offense or the defendant for the
3 purposes of sentencing.

4 So these are merely concerned members of the public
5 that filed petitions -- they're not filed even, that submitted
6 petitions reflecting their views on the case. And certainly
7 since the monkeys are generally part of society, I think that
8 since they're a portion of this offense, that having their
9 views attached, that there's nothing wrong with that pursuant
10 to 3661.

11 Now, certainly I'm not advocating for any of the
12 positions expressed by those people, but that was something
13 that those two groups put forth. It was merely put forth as
14 part of the effect of this conduct generally. We unfortunately
15 have, you know, people -- or victims that cannot speak, not
16 people.

17 THE COURT: This is an interesting case, and it
18 raises, you know, interesting issues.

19 To the extent that advocacy groups have submitted
20 information relative to their thoughts on the particular case,
21 it's relevant for what it's worth. I -- I'm not going to
22 strike it from the petition, but it's not the basis for the
23 Court's decision in this case.

24 MS. SHELDON: Yes, Your Honor. And just as a point
25 of clarification, it was also filed in the court record, so

1 there -- it's actually docketed as a certain number separate
2 from the sealed presentence investigation report.

3 And I don't know that that's appropriate, pursuant to
4 the rules of federal criminal procedure.

5 THE COURT: If it's attached to the presentence
6 investigation report, then it should be sealed.

7 MS. SHELDON: That is sealed, yes, Your Honor.

8 There's a separate docket number -- I believe it's
9 47 -- on the public docket where it's been filed, actually, as
10 a part of the record in this case. And I do believe that that
11 should not remain, and that should be stricken from the record.

12 MS. WASHINGTON: Your Honor, my office certainly
13 didn't file that. My understanding is it may have gone to the
14 clerk's office, and the clerk's office may have put it on
15 there.

16 But I'm not sure that the petition in its entirety is
17 there. I think, when I viewed it at least, it appeared that
18 maybe a letter or something was there and not everything.

19 But, certainly, if the whole petition is there, I
20 have no objection to that. I simply had no part in how it got
21 there.

22 THE COURT: Okay. Well, to the extent that it's --
23 it's on the record outside the presentence investigation, those
24 entries will be stricken.

25 MS. SHELDON: Thank you, Your Honor.

1 THE COURT: Okay. All right.

2 Any other objections? Let's go over them now.

3 MS. SHELDON: Yes, Your Honor. With respect to the
4 objection for major role, as I spoke about at length in the
5 guidelines objection, we do not believe that Ms. Devilbiss
6 qualifies for a major role enhancement, which is a four-point
7 enhancement in this case.

8 When talking about major role, the commentary talks a
9 lot about the difference between title and action, and I would
10 submit to the Court that Ms. Devilbiss's actions in this case
11 were that of every other, essentially, group member.

12 She was on equal footing, with the ability to post
13 information, with the ability to remove information. There are
14 several people who are not admins who I indicated in the
15 sentencing memorandum, specifically Staple, who adds and
16 removes members, as well as Nat.

17 I believe that her -- when talking about the
18 commentary to the guidelines enhancement, we're talking about
19 people who are significant in orchestrating the criminal
20 activity, the leader, the boss, the one who is going out,
21 procuring the material, the one who is receiving financial gain
22 from the material, who is recruiting accomplices, the person
23 who is essentially running the enterprise.

24 And for the purposes of this case, Ms. Devilbiss was
25 an active member in a group. She did not create the group.

1 She did not invite members to the group.

2 She did remove some people from the group. On one
3 occasion, she removed 11 members, but that is not unique to
4 Ms. Devilbiss. Anyone in this group could add and remove
5 members.

6 THE COURT: Well, she was clearly designated the
7 leader of the group. You wouldn't agree with that?

8 MS. SHELDON: I would say that the -- TK, the Torture
9 King, the creator and admin of the group, sort of arbitrarily
10 made her the leader. She did not request to be the leader.
11 She was not offered any financial compensation for being the
12 leader.

13 She did -- in fact, it is a title in name only, which
14 is what the guidelines talk about as being insufficient for the
15 enhancement.

16 THE COURT: But then wasn't she running -- I mean,
17 she was effectively running this group, and the other group
18 members saw her as the leader of the group.

19 MS. SHELDON: Your Honor, I disagree with that. I
20 believe that --

21 THE COURT: Wasn't that what they said in their -- in
22 their -- in the chats?

23 MS. SHELDON: TK said that one time. But I think if
24 you look to actually the other chats, you see that this is run
25 more as a -- as a democracy. They take votes on things. They

1 talk about things collectively.

2 The government, I think, will present some evidence.
3 Ms. Devilbiss was not -- she was literally on equal footing
4 with any other member. Anyone could have added the same
5 things, removed the same things that she did.

6 She was essentially a leader in name only. That's
7 it. They named her the Queen Admin. They named other people
8 the Punisher, the -- you know, other -- there were other titles
9 that were given.

10 THE COURT: But you can have more than one person
11 that holds a major role, correct?

12 MS. SHELDON: I believe you could theoretically have
13 more than one person that holds a major role, but I think there
14 needs to be something more than just a title that designates
15 you as the person.

16 I think that your conduct has to illustrate that you
17 are taking a more active role in this, that you are getting new
18 material for the group, that you --

19 THE COURT: And you don't believe that her conduct
20 qualified for that.

21 MS. SHELDON: Your Honor, there are two binders full
22 of conduct from this group. I believe that the government has
23 specifically curated the most horrible things that
24 Ms. Devilbiss said to make her appear to be more important than
25 she was.

1 I think if you actually look at the conduct of the
2 group as a whole, all the thousands and thousands of pages of
3 these 60 members and the things that they said and the things
4 that they did, you will find that Ms. Devilbiss's actions are
5 no different than any of the other group members'.

6 The only difference is that she has this Queen Admin,
7 and the Torture King, CI 1, who, after he was caught by the
8 government, decided that Ms. Devilbiss would be the head
9 admin -- but there was nothing else in the commentary that
10 would support giving her this significant enhancement.

11 This is four points. This is not a small
12 enhancement. This is for somebody who's, like, a mob boss.
13 There are other --

14 THE COURT: Well, there are situations where people
15 that are in a different type of criminal organization -- let's
16 just use drugs, for example.

17 MS. SHELDON: Yes, Your Honor.

18 THE COURT: You have a drug kingpin who is the leader
19 of a group, gets arrested, prosecuted, and sentenced to serve a
20 certain amount of time that would designate somebody else to
21 run the organization while this person is incarcerated.

22 I mean, you wouldn't argue that that person didn't
23 have a major role if they're running the organization, would
24 you?

25 MS. SHELDON: No, Your Honor. But I would argue that

1 that person is significantly different because they have the
2 ability to control the drugs that move within the organization.
3 They have the ability to control the lieutenants or the
4 soldiers or whoever work for them.

5 Ms. Devilbiss had no control over any other users in
6 the group. She could not control the things that they posted.
7 All she could do was remove them or -- and sometimes she did,
8 and sometimes she didn't.

9 But the point is literally everyone else in the group
10 had that same ability to do so. And I would suggest that the
11 way that Ms. Devilbiss moderated, or didn't even moderate, the
12 content -- on a lot of occasions there's talk of, "She's not
13 present." "She's not here." "Where is she?" "We're not
14 sure," because they had questions that the former admin had put
15 in place.

16 But I would say she's significantly different
17 because, again, going to the actual commentary, we're talking
18 about are there recruitment of accomplices? No. She is not
19 going and inviting all these other people to the group too.

20 Does she get a larger share of the fruits of the
21 crime? No. She didn't get paid for this. Everyone had equal
22 access to the materials. Everyone had equal access to post or
23 remove.

24 The degree of participation and planning in the
25 organization of the offense? No. Everyone, thousands and

1 thousands and thousands of pages, is participating, is -- is a
2 part of this group chat.

3 And, Your Honor, I know it looks bad when they pull
4 out certain portions of these -- and that's what -- it's
5 curated. It's curated to make her seem more important than she
6 is.

7 Does she say some horrible and disgusting things?
8 Yes. Did she act on any of it? No. She never set up the
9 subscription plan that's, like, talked about. That's not
10 created. She never visited to get any monkey.

11 She never curated any videos. She never paid anyone
12 in a foreign country to make videos, and other people in the
13 group did, did those things.

14 But as far as her relative degree of control, she's
15 not moderating the content. Anyone can add content. Anyone
16 can remove content.

17 THE COURT: But she did send out payments, correct?

18 MS. SHELDON: She sent a payment --

19 THE COURT: To fund the videos.

20 MS. SHELDON: Not -- well, she didn't send payments
21 to Indonesia. She sent payments to people in the United
22 States. She sent a payment to the Torture King, CI 1, which
23 was required for all the group members, which is -- I would say
24 doesn't make her any different from anyone else in the group
25 because everyone who entered the group had to pay Torture King

1 to enter. So she's not benefiting in that way.

2 She also pays Sadistic Kitten, who is CI 2, but that
3 was in reference to a post that Sadistic Kitten was unable to
4 pay for something for her granddaughter.

5 But as far as actually contacting people in other
6 countries, telling them what to do to the monkeys, and sending
7 payment, it's -- it's more removed than that.

8 She had -- she got no financial benefit from this at
9 all, which I think is important in a major role. When you're
10 talking about a criminal enterprise -- we're talking about
11 something like in a drug case that makes money, right? And
12 there's no --

13 THE COURT: Well, this is a different type of
14 payment. The payment is not necessarily monetary. The payment
15 in this case is the -- the videos and the content in the videos
16 and whatever benefit --

17 MS. SHELDON: That may --

18 THE COURT: -- she derived from viewing them.

19 I mean, it's no different than, like, child
20 pornography. I mean, they -- they get photographs for whatever
21 pleasure they get out of watching that.

22 MS. SHELDON: Yes, Your Honor. And that's why I
23 cited to a case where someone who was the administrator of a
24 child pornography group chat, the administrator, him and his
25 brother, neither of them were granted major role. And that was

1 in this jurisdiction in front of Judge Corrigan.

2 And I think that is apt because, again, we have
3 someone in a similar situation who is a moderator, who is not
4 receiving financial benefit, who is not -- who was just
5 participating in the group and not getting those enhancements.

6 Of also import is Mr. Nobles, who was previously
7 sentenced -- he was also an administrator -- did not get this
8 enhancement. And I just do not believe that Ms. Devilbiss's
9 conduct in this case -- I believe her conduct is less severe in
10 that he specifically commissioned videos out of Indonesia, paid
11 the videographers, and she did not do that.

12 But he was an administrator. He participated
13 actively in the group. He did not get the major role
14 enhancement.

15 I do not believe that it would be equitable for
16 Ms. Devilbiss, based on her conduct in this case, to receive
17 that same enhancement.

18 THE COURT: Okay. Ms. Washington?

19 MS. WASHINGTON: Your Honor, I have several exhibits.
20 I've already shared them with Ms. Sheldon.

21 If I could approach?

22 THE COURT: You may.

23 MS. WASHINGTON: Your Honor, I provided some
24 additional materials to show that Ms. Devilbiss was not just
25 like any other person.

1 So Exhibit 1 is a screenshot of what are some
2 administrators, with defendant as the owner. That's her
3 picture to the left. And there is attempts of her trying to
4 add two people to the group, so she was trying to exercise that
5 authority there.

6 And those were what appear to be screenshots from her
7 MacBook in her iCloud account from July 14th, 2022, with the
8 date tied to it.

9 What's also included there, Exhibit 2, showing when
10 TK, in April of 2022, who was C1, took that group from basic to
11 supergroup.

12 And Exhibit 3 shows you the Telegram information and
13 that a supergroup allows a group to be up to 5,000 people. And
14 although there are democratic ways to run groups in which
15 everyone has the same privileges. You can assign people
16 admins, and that's a date from 2015.

17 Exhibit 14 -- or, excuse me, Exhibit 4 shows an admin
18 private chat. So this is just among the administrators, and
19 you can see how there's discussions of whether we should add
20 people to the group. And even Ms. Devilbiss at one point says
21 that, "I'm waiting to hear from everyone on whether we should
22 add this person back to the group."

23 And so this was a subset of people. That wasn't the
24 entire group chat talking right there about the different
25 things they wanted to do in the group. It was just those

1 people that were in charge, which includes Ms. Devilbiss.

2 Exhibit 5 is a screenshot of contacts showing that
3 some are administrators and some are not. It does not show
4 everyone with that administrator designation. Ms. Devilbiss is
5 there within those contacts and showing that she is, in fact,
6 one of the limited group of people who were administrators.

7 Exhibit 6 is part of the Dreamy Winter chat, which
8 is, again, showing that switch from basic to supergroup, and
9 that is part of the timing when Ms. Devilbiss was made
10 administrator.

11 And I want to correct for the record that when law
12 enforcement got involved in this case, they did not make the
13 defendant an administrator. The timeline is that in June of
14 2022 Ms. Devilbiss was made an administrator by C1, but it was
15 not until August that a search warrant was executed, and the
16 accounts were taken over.

17 That was not HSI or law enforcement picking
18 Ms. Devilbiss as administrator, making her into that role.
19 That was, in fact, the actual co-conspirator who made that
20 decision and designated her in that manner.

21 And Ms. Devilbiss proceeded to act accordingly in
22 running that group, with other people, which as the Court
23 pointed out, you don't just have to have one person in charge
24 to make them eligible for a role enhancement. Multiple people
25 can be and should be.

1 Now, in the Noble case, he was not assessed the role
2 enhancement. I spoke to the prosecutor, and he said they
3 didn't consider it. It wasn't a matter of whether it applied
4 or did not apply. They didn't consider it. So I don't think
5 the fact that it was not applied means that Ms. Devilbiss
6 should not be eligible because that was not something
7 considered in that case.

8 I've also included there in Exhibit 7 a private chat
9 conversation between TK, which is C1, and Ms. Devilbiss from
10 July 2022. And it talks about Ms. Devilbiss cleaning house so
11 only true ones are in the group, so again referencing her
12 ability and control over that group. And he essentially
13 compliments her on it.

14 And so this is, again, predating that search warrant
15 execution when TK, as C1, was still operating in that
16 particular role and was not being directed or that account
17 taken over by law enforcement.

18 And so, Your Honor, it's our position, consistent
19 with those materials, as well as the arguments in the
20 sentencing memorandum, that the conversation and the behavior
21 from the defendant are consistent with someone exercising
22 leadership control over the group and that although there were
23 multiple people, that does not disqualify her. It just shows
24 more people are eligible for that enhancement as well.

25 And while, yes, we have found several instances where

1 the defendant was exercising control and making statements,
2 we're only using her conduct. We're not cherry-picking. We're
3 picking highlights of things she's done. We're using her own
4 behavior, her own actions.

5 And so while there may have been times in which she
6 wasn't exercising control, days in which she was less active,
7 it doesn't mean you're less of a leader because you're not as
8 loquacious or as active in your desire to spread hatred and do
9 things of that nature. It just means that some days maybe life
10 got in the way.

11 But there were also efforts to obtain content. There
12 was an effort to set up that subscription plan. There's the
13 discussions of talking about getting their own monkey for the
14 group to abuse themselves directly and create their own
15 content. So she was spearheading efforts to further the
16 group's goals and interests.

17 And so, Your Honor, I would submit to you that that
18 enhancement is proper.

19 THE COURT: Anything else?

20 MS. SHELDON: Your Honor, just with respect to the
21 government's exhibits that they've entered, I think it's
22 important to note that Exhibit 1 says specifically that she
23 can't do this. She doesn't have the privileges to add or
24 remove.

25 It's a screenshot from her computer, but they're

1 talking about her ability and her control, and their own
2 evidence is showing, "Sorry, you can't do that," which I think
3 is important.

4 With respect to, again, hanging -- Exhibit 2 --

5 THE COURT: Well, those exhibits say, "You can't add
6 wolfram to the group because of wolfram's privacy settings,"
7 not because of any reason on her part. Just it's on the part
8 of the person wanting to be in the group.

9 MS. SHELDON: Right. And that's the point of
10 Telegram. The point of Telegram is that the user -- it's
11 democratic. The user sets their own settings. The person who
12 is operating their own device and their own computer is in
13 charge of their actions.

14 So despite being an admin, it does not give you
15 authority to change the individual's -- the individual members'
16 actions, to change their access, to change this, or to change
17 that.

18 The government's arguing she exercised all this
19 control over the group. Look at -- look at how much control
20 she has. But in reality, because of the function of Telegram
21 being dictated by each user, she can only access what they give
22 her, and many of them didn't.

23 And many of them -- again, so I think it's important
24 to note that it's not because she's head admin she has all
25 access to all the people in the group.

1 THE COURT: Well, you know, anybody -- nobody can get
2 access to certain material if it's -- if the person on the
3 other end has got it private.

4 I mean, if somebody else -- if I'm trying to add you
5 to a group and you've got something set as private, I mean,
6 nobody can do it. I mean, nobody could add it unless you
7 change your privacy settings.

8 MS. SHELDON: Right. This is within the group.

9 THE COURT: Why does that -- but why does that
10 mean -- how does that -- how does that lessen somebody's
11 involvement?

12 Let's say the -- whatever the person's name is that
13 she was chatting with, the king or whatever -- I mean, I dare
14 say he wouldn't be able to get somebody in that had their
15 privacy settings a certain way.

16 MS. SHELDON: So these are members who are already in
17 the group, and she is requesting --

18 THE COURT: But you can't add -- then this -- "You
19 cannot add somebody to a group" would say to me that this
20 person's not in the group.

21 MS. SHELDON: They were in the larger group. They
22 were not in any kind of admin chat. So when she's trying to
23 add them from the Hangin with the King or the larger group to
24 an admin chat, she did not have the ability to do that.

25 With respect to -- Exhibit 3 talks about the

1 supergroups. Your Honor, I would just note that there were
2 many people who had the same access as Ms. Devilbiss. And the
3 point of a major role enhancement is not -- the point of it is
4 that you don't give it to everybody -- right? -- that they are
5 special in a bad way to get a four-point enhancement.

6 So I would suggest that their conduct has to be
7 conduct showing something more than title alone, something more
8 than words alone.

9 Recruitment, fruits of crime, and the nature and
10 scope of the illegal activity and the exercise controlled. And
11 I think that's -- that's the issue here, is that, as you
12 indicated, when you have a user of the computer, it's up to the
13 person who's using it.

14 The other people who are admins of the group cannot
15 exercise control, necessarily, of those users because they're
16 in different locations, different -- and I think that's what
17 differentiates this substantially from any other kind of major
18 role enhancement, like for a drug trafficking organization,
19 because here you don't have people who are having meetings
20 face-to-face about the plans of their criminal enterprise.

21 And I think that's why the case law is not replete
22 with administrators of group chats, whether they be child
23 pornography or something of this nature, being given a major
24 role enhancement.

25 And frankly, I -- there was none that I can find

1 where a major role enhancement had been given to someone for
2 only having the title of administrator in a group chat.

3 THE COURT: Okay. Well, I've taken a look at this,
4 and I've reviewed her statements and her activity, along with
5 those of the others. I do find that there can be -- you can be
6 a major role player without being the only major role player,
7 and I think she took a significant role in this organization
8 and others saw her as such.

9 And I find that the major role applies in this case,
10 so I'm going to overrule the objection as to that.

11 MS. SHELDON: Yes, Your Honor. I do believe that
12 would preclude her from zero-point offender, but for purposes
13 of the record, I would like to just preserve that we do not --
14 if, for whatever reason, a higher court does not believe she is
15 a major role, we would like to preserve the issue with respect
16 to injury to another person.

17 THE COURT: I agree with you on that.

18 MS. SHELDON: Thank you, Your Honor.

19 THE COURT: On that issue I do agree with you. Okay.
20 Anything -- any other objections?

21 MS. SHELDON: No, Your Honor.

22 THE COURT: Okay.

23 MS. WASHINGTON: No, Your Honor.

24 THE COURT: Did you want to make any additional
25 argument with regard to the --

1 MS. WASHINGTON: I'll rely on arguments in my
2 sentencing memorandum. Thank you, Your Honor.

3 THE COURT: Okay. It's a normal argument, but I just
4 don't believe it applies.

5 Okay. So absent the two issues we have already
6 discussed, are there any objections to the -- any other
7 unresolved objections to the calculation of the guidelines?

8 MS. SHELDON: No, Your Honor.

9 THE COURT: Ms. Devilbiss?

10 THE DEFENDANT: No, ma'am.

11 THE COURT: Okay. Government?

12 MS. WASHINGTON: No, Your Honor.

13 THE COURT: Okay. So the Court's going to adopt the
14 undisputed factual statements and guidelines applications.

15 And I understand your objections to the ones that we
16 have discussed, but the Court's going to adopt the guidelines
17 calculations found in the presentence investigation report.

18 I show a total offense level of 22, a criminal
19 history category of I, a guideline range of between 41 months
20 and 51 months, a range of supervised release between one and
21 three years.

22 I don't believe there's any restitution in this case,
23 correct?

24 MS. WASHINGTON: That's correct, Your Honor.

25 THE COURT: Okay. A fine range of between 15,000 and

1 150,000, and then there is that \$100 special assessment.

2 Any reason why the Court should not proceed to
3 sentencing?

4 MS. WASHINGTON: No, Your Honor.

5 MS. SHELDON: No, Your Honor.

6 THE COURT: All right. Then I'll hear anything you
7 wish to offer in mitigation.

8 MS. SHELDON: Yes, Your Honor.

9 With respect -- may it please the Court?

10 With respect to Ms. Devilbiss in this case,
11 Ms. Devilbiss has had a difficult go of things for the past
12 while. She does not use that as an excuse for her conduct, but
13 she wanted the Court to understand where this mindset came from
14 that led her to this very dark place in her life, as she has
15 described it.

16 Ms. Devilbiss, as I've, you know, sort of outlined in
17 my sentencing memorandum, had an unusual and sort of difficult
18 childhood in that her stepfather dealt with significant
19 alcoholism, and her father lived many states away so she did
20 not have a close familial relationship with him.

21 This sort of came to a head when she was a senior in
22 high school and led to some pretty poor decision-making on her
23 part, dropping out of school, quickly having a baby, and sort
24 of starting that life very young.

25 And Ms. Devilbiss has cycled through a lot of

1 relationships which have been very toxic to her. And she
2 acknowledges her toxicity back in -- in a lot of these
3 situations, but she has a pattern of destructive partnerships
4 in her life.

5 And that is not just something from her, but it's
6 documented in the court record. She's got her -- her first
7 child's father making false reports to DCF and interfering in
8 her new marriage. And she's then suffering from domestic abuse
9 from her significant other in Texas, requiring surgery to her
10 hand and putting her in a situation where she didn't feel like
11 she could go advocate for the rights to her son.

12 And then most recently, with this -- this last
13 incident with her -- her youngest daughter's father, it's not
14 just the few police reports that were submitted. It was
15 ongoing for a long time.

16 And Ms. Devilbiss was vulnerable in a lot of ways
17 because she had some opioid dependency that she was dealing
18 with, and she was on methadone. And she didn't have a lot of
19 confidence in herself and her abilities, and she allowed
20 herself to be in these situations where she was taken advantage
21 of and abused, frankly, in pretty horrific ways.

22 While she did try to seek counseling and sort of get
23 to the root of these issues, it -- it wasn't fast enough, and
24 it wasn't significant enough for her to make significant
25 changes to her life, and she became pretty agoraphobic.

1 She wasn't really leaving the house a lot after this
2 most recent domestic violence incident. She was kind of on the
3 computer. And she was looking for friendship, and she was
4 looking for companionship, and she was looking for some people
5 who would accept her.

6 And in some of the government's exhibits, you see her
7 conversations with the other codefendants and the people. She
8 saw these as her friends. She saw these as people that she
9 could depend on, that she could come to, that she could trust,
10 that she could talk to.

11 But it was bonding over some pretty sick and sadistic
12 things. And a lot of what she described to me as relief that
13 she felt was that it's -- it was sort of her attempting to gain
14 power and control over the situation. She had been abused.
15 She had been victimized. And so it may not seem to make a lot
16 of sense, but she got some relief in seeing something else
17 abused that wasn't her.

18 So it made her feel like I'm not the only one. I --
19 it's like -- it's sort of empowering when you're viewing it
20 because you feel a certain type of way in that you're turning
21 the tables.

22 Acknowledging that this is not good and definitely in
23 need of some serious mental health help and psychological help,
24 there are significant studies that show that that is a trauma
25 response that some people have in these situations.

1 They seek to relive the trauma and try to understand
2 it and process it. And in her writings in her journals, I
3 mean, it's -- it's disturbing, and I think --

4 THE COURT: Explain to me how this conduct is seeking
5 to relive the trauma. This is just way -- I mean, I don't wish
6 what she's gone through on anybody --

7 MS. SHELDON: Yes, ma'am.

8 THE COURT: -- in terms of her -- the issues of
9 domestic violence in her relationships, but this is wholly
10 different from that.

11 MS. SHELDON: Your Honor, it's a vulnerable thing, a
12 vulnerable animal unable to care for itself. She identified
13 with the -- with the monkeys. She identified with them as,
14 like, co-sufferers of abuse. That's how she initially --

15 THE COURT: Yeah, but they -- they killed these
16 monkeys. They didn't only just abuse these monkeys in horrific
17 ways. They killed them. They made them suffer until they
18 died. It is beyond -- and she specifically requested baby
19 monkeys because they were close to babies.

20 See, this is -- this is wholly different to me than
21 suffering the abuse at the hands of a boyfriend or spouse in
22 the level that she did. Not to condone any of it because it's
23 bad, but this -- the acts that were perpetrated on these
24 animals go well beyond anything that was ever perpetrated on
25 her.

1 And I just don't -- I have a difficult time
2 justifying, seeing this correlation, and how -- how to sort of
3 find being the victim of domestic violence remotely mitigating
4 to the acts that were perpetrated on these -- on these animals
5 and her specific requests and comments she made regarding some
6 of it --

7 MS. SHELDON: Yes, Your Honor. So --

8 THE COURT: -- so help me figure that out.

9 MS. SHELDON: Well, it's twofold. One is an attempt
10 to belong. One is that she is in this group.

11 And the comments are not unique to Ms. Devilbiss, so
12 it's sort of --

13 THE COURT: None of it's good --

14 MS. SHELDON: No.

15 THE COURT: -- but she's the one that's sitting in
16 front of me today.

17 MS. SHELDON: Yes, Your Honor. I understand. So
18 it's an attempt to belong, to find belonging in a group of
19 people who enjoy viewing this type of material.

20 So a lot of it is bluster. A lot of it is bravado.
21 And there are many lies told by her and others in the group,
22 lies about their jobs, lies about this, lies about that, in an
23 effort to seem more important than they are.

24 And I think that is part of it. It's part of trying
25 to seem tough, trying to -- who can be the most extreme, sort

1 of. But -- but that was how the group functioned, and that's
2 how they found companionship. And I know that that's unusual.

3 With respect to some of the things that Ms. Devilbiss
4 experienced, they're not all detailed in the sentencing
5 memorandum. She -- in the police reports. Many of the things
6 she experienced were not reported. Sexual violence, not
7 reported; being strangled, not reported.

8 THE COURT: Well, that was -- that was reported.

9 MS. SHELDON: Yeah. And so the things that you see
10 her writing about, pinching the nose shut, is her reliving the
11 trauma of being strangled. It's her writing down her feelings,
12 not expecting them to come before Your Honor, okay? These --
13 this is her personal journal. This is her -- her --

14 THE COURT: So explain to me this, then.

15 MS. SHELDON: Yes, Your Honor.

16 THE COURT: Explain to me when the police officers
17 showed her a journal entry where she talks about wanting to --
18 to pinch a monkey over and over again until it passes out, that
19 her response to the law enforcement officer was to laugh.

20 MS. SHELDON: Yes, Your Honor. That is an indication
21 of how severe her -- trauma responses are very -- are varied,
22 and they're different. And sometimes what appears to be grief
23 or -- it manifests itself in strange ways.

24 THE COURT: It can also be a sign of just --

25 MS. SHELDON: Psychopathy.

1 THE COURT: -- depravity.

2 MS. SHELDON: Right --

3 THE COURT: Psychopathy, yeah.

4 MS. SHELDON: -- a sign of -- a sign of depravity.

5 THE COURT: Yes.

6 MS. SHELDON: But what I think is important about
7 Ms. Devilbiss is that this conduct ceased when the group was
8 over. When the group was dissolved, she was not arrested for
9 several months, and there's absolutely no evidence that she
10 sought additional groups, that she went anymore to see anything
11 being hurt or tortured.

12 I think if this was an indication of psychopathy, we
13 would have had prior instances before this group of this kind
14 of behavior, and we would see continued -- we would have seen
15 it continue after the group was dissolved.

16 I think that her behavior in this group was really a
17 function of wanting to belong and wanting to fit in in a very
18 strange way with people who she truly believed to be her -- her
19 only friends, really the only people that she felt comfortable
20 speaking with.

21 She talks about being in a dark and gross place in
22 her life. But what you don't have from Ms. Devilbiss -- who is
23 not young. I mean, she's -- well, in her -- in her mid 30s,
24 but normally when you have psychopathy, you see it present
25 itself much earlier. You see significant instances of

1 abhorrent behavior.

2 And I also think it's important that while what
3 Ms. Devilbiss said in the chats is horrible, her actions, what
4 she actually did, do not mirror her words.

5 So when she says, "Oh, I'm going to create this
6 subscription group," "I'm going to do this," "I'm going to do
7 that," she doesn't. She takes no concrete steps towards that.

8 When she says, "I'm going to go to Ocala and I'm
9 going to get a monkey, and I'm going to do this and that," it's
10 fantasy. It's nothing -- no concrete action was ever taken
11 towards these intrusive and disgusting and pervasive ideas.

12 They're -- they're really a function -- she's all
13 talk, basically. Not good talk. I'm not saying it's good, but
14 it's all talk. What she's not doing is going out and abusing
15 animals.

16 There was an animal living in her home, a cat, the
17 whole time. She's not hurting the animals. There's --

18 THE COURT: How does her behavior of sending money so
19 that these people in Indonesia or wherever can create these
20 videos so that they could be sent to the group -- she uploads
21 the group.

22 How is that not hurting the -- hurting the animal in
23 this case?

24 MS. SHELDON: So she is a participant in the
25 marketplace, the same way that we would talk about, like, CP.

1 I'm not going to say that she's not a participant in this
2 marketplace.

3 But I think there's -- in the same way that we have
4 the viewing images versus the hands-on images, I think that --
5 or the hands-on offenses, I think that's sort of different
6 from --

7 THE COURT: How is this any different than paying
8 somebody to create child pornography?

9 MS. SHELDON: So --

10 THE COURT: I mean, if we're -- I'm saying -- we're
11 not dealing with a child, but what I'm saying is you got
12 somebody that's paying somebody to produce child pornography.

13 MS. SHELDON: Right. It's one --

14 THE COURT: Why is that any different than paying
15 somebody to produce these animal crush videos?

16 MS. SHELDON: So paying someone to enter a group so
17 this money could be forwarded further, I agree with.

18 But actually -- so the -- I would say the difference
19 between her conduct and Mr. Noble's conduct and Mr. Herrera's
20 conduct is reaching out specifically to the videographer in
21 Indonesia: "Dear Mr. Videographer, I want you to do this to
22 the monkey," and this and that. "And I'm going to pay you in
23 U.S. dollars this much."

24 She is one step removed from that. Her payments are
25 to enter the group, to be a portion of the group. But as far

1 as actually reaching specifically out to the videographer and
2 requesting certain content and, like, demanding certain content
3 and making direct payment --

4 THE COURT: Wasn't there some sort of request to not
5 make these things happen so fast? There was a situation there
6 where apparently the animal was -- like, died too soon, didn't
7 suffer enough --

8 MS. SHELDON: So --

9 THE COURT: -- and that these videos should be longer
10 and not quite as quick so that they can -- I guess for her own
11 pleasure, the pleasure of those in the group, watch longer
12 videos of the suffering of these poor innocent animals?

13 MS. SHELDON: Your Honor, that's a commentary to the
14 group. It's not a commentary to the director of the video, and
15 I think that's the difference. It's a comment on -- on the
16 video as a whole.

17 But in all of the evidentiary review that I did, it
18 appears as though she attempted to reach out to a videographer
19 on one occasion. And in that attempt she asked if they could
20 make a video down by the beach, nothing violent, and it was
21 early in this journey. And then there were no further attempts
22 or discussions after that.

23 So -- and I -- I do think it's important, if the
24 Court is wondering about depravity and psychopathy, that when
25 this group, her friend group, is dissolved, it stops. And it's

1 not that she's not looking at silly videos of animals anymore
2 because she is, but there's no more violence. There's no more
3 any kind of that.

4 I do believe that this was an isolated incident --
5 or, like, an isolated time period in Ms. Devilbiss's life,
6 coming on the back of a traumatic event that she did not
7 process well.

8 And, again, I'm -- it's not an excuse for -- and she
9 doesn't believe it's an excuse. She -- but there -- there is
10 literature to support this, to support that the victims of
11 repeat trauma and trauma generally can have these sort of
12 disastrous, destructive behaviors.

13 THE COURT: No. I agree with that.

14 MS. SHELDON: And she is ashamed. She is
15 embarrassed. She is horrified. When she looks back at these
16 things, she feels sick about what she said and did.

17 And so I think that there's a lot more -- and it's so
18 easy -- I wouldn't say easy, but in looking back, you can say,
19 "Wow, that is really gross. That is really depraved. Like,
20 what were you thinking?"

21 Unfortunately we weren't in her mind at the time to
22 know exactly what she was dealing with and how. And clearly
23 her being in front of this Court today shows us that it's not
24 legal, and it's not appropriate, and she will be punished for
25 it.

1 So outside of her -- outside of just her, her history
2 and characteristics, I think I've hit on that plenty.

3 With respect to some of the arguments in the
4 government's sentencing memorandum, they talk about the human
5 impact that this has on the videographers, and my point is
6 slightly different in that I -- in the same -- sort of the same
7 vein as CP, we don't have compassion for the person who's doing
8 the terrible acts of violence. I'm having difficulty
9 understanding that.

10 I understand that they want U.S. dollars, but the
11 fact that the people who actually do the abuse to the animals
12 are punished with months, if that, often not punished at all, I
13 think, is instructive in a case like this. Eight months maybe
14 was the most severe sentence that we saw.

15 THE COURT: But they were punished in Indonesia --

16 MS. SHELDON: In Indonesia.

17 THE COURT: -- which follows different --

18 MS. SHELDON: Yes, Your Honor.

19 THE COURT: -- different laws than we do, and, you
20 know, I don't -- I don't hold much sympathy for those people.

21 MS. SHELDON: Additionally, with respect to disparate
22 sentences, I did find a few other animal crush video cases.
23 And the ones that I found involve Mr. Herrera, who was part of
24 this same sort of monkey torture and abuse ring, where he
25 personally commissioned the videos; he personally paid the

1 videographers. The judge found that he was sick and sadistic
2 in many ways and gave him a year and a day.

3 And I also found another case out of Indiana, where a
4 woman was charged with actual creation of animal crush videos,
5 which is a higher-level felony, punishable by a much higher
6 degree, where she personally slaughtered 10 dogs and 11 cats,
7 including newborn kittens, on live social media and was
8 sentenced to 30 months.

9 So I understand the government wants to deter this
10 behavior. I frankly don't believe that a prosecution like this
11 will be very helpful in deterring because I think people who
12 view or do these things probably aren't going to be deterred by
13 a federal sentence. I think there's probably something much
14 more significant going on with their mental health or anything
15 else than what happens to Ms. Devilbiss.

16 And with that being said, I would ask the Court to
17 consider those other sentences when -- when we think about
18 disparate sentences in her case.

19 These are very rarely prosecuted. TK, who I did
20 spend a lot of time talking about in the memo, will certainly
21 be receiving a 5K motion for his involvement in helping to
22 dismantle this group, and he has yet to be sentenced.

23 C2, I do not know whether she has even been charged
24 as of this point. I don't know that the District of Alabama
25 was interested in her prosecution.

1 Your Honor, with respect to the computer enhancement
2 in this case -- that's a two-point enhancement -- I think that,
3 you know, the Court could consider that any cases involving
4 distribution of videos at this point are all going to be
5 involving a computer in this day and age. So I don't know that
6 that should necessarily hold a lot of weight for the sentencing
7 guidelines and what should be considered in this case.

8 And as far as promoting respect for the law,
9 Ms. Devilbiss understands that she's going to be punished.
10 She's going to be sent to prison, and there will be a period of
11 supervised release to follow.

12 And we believe that a sentence in the amount of 21 to
13 24 months would be appropriate in this case, and we ask the
14 Court to consider that.

15 THE COURT: Is there anyone here that wants to speak
16 on her behalf?

17 MS. SHELDON: Your Honor, her parents are here, her
18 mother and stepfather. They submitted letters to the Court.

19 THE COURT: I read their letters.

20 MS. SHELDON: They're nervous and wish not to, but
21 they are in support of her here today.

22 THE COURT: Okay. Ms. Devilbiss, would you like to
23 say anything?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Can you come up to the microphone?

1 THE DEFENDANT: Okay. I never believed I would be
2 standing here on this side of the law facing a sentence that
3 could change my life in many ways. There isn't a moment of
4 each passing day that goes by that I'm not thinking about the
5 poor choices that I've made to bring me where I am today.

6 This is not a life I'm used to. I wasn't raised
7 around crime. I was taught the difference between right and
8 wrong, and I never had an issue assimilating between the two.

9 Looking back, I've been able to reflect on where
10 there was a major shift in my life caused by severe and
11 repetitive domestic abuse. Going untreated by proper and
12 available therapy, my PTSD and anxiety became gradually worse.

13 I felt alone, and I was in a very dark place. I
14 found what I thought was a safe haven in a group of people. I
15 longed for comfort, love, peace, and acceptance by someone,
16 anyone, due to the damage caused.

17 I wasn't able to realize the behaviors I was
18 condoning, and my situational awareness was at an all-time low.
19 Looking back and reflecting on everything, I'm aware there are
20 so many resources that I could have utilized, and I have
21 accepted this is no one else's fault but my own.

22 Being detained the past eight months, I've been able
23 to see everything for what it is truly worth. I was able to
24 detox off my medication and find the positive outlets to assist
25 with my PTSD and anxiety and depression. Most importantly,

1 I've built on my faith and relationship with God.

2 While building on my faith and learning how to trust
3 God, I found true atonement. I know He won't put me through
4 anything I can't handle. For these reasons I'm at peace with
5 whatever punishment is decided for me. I will say no
6 punishment will ever be enough because if I could go back and
7 change things, I would. Words cannot express how sorry I am
8 for my actions and my role in all of this.

9 To my mother and father, to my three amazing
10 children, the animal rights activists, the animals themselves,
11 caretakers, veterinarians, to every person and thing that's
12 been affected by my careless actions, I am truly, from the
13 depths of my heart, sorry.

14 I ask that you have mercy on me during the sentencing
15 process. I'm a very different woman from what I was when taken
16 into custody last year.

17 I long for my children. My oldest is approaching
18 graduation. I haven't seen my son in years. My youngest was
19 just diagnosed with autism. She remains nonverbal, and from
20 the time that she was born, I haven't been away from her for a
21 day until coming in here.

22 I long to regain a normal and fruitful life, a happy
23 life with my children. So please allow me a second chance to
24 make all of this right.

25 THE COURT: Okay. Thank you.

1 THE DEFENDANT: Thank you.

2 THE COURT: All right. Ms. Washington?

3 MS. WASHINGTON: Your Honor, my sentencing memorandum
4 and the PSR lay out this offense, but I certainly want to
5 review some of the highlights.

6 The defendant talked about being involved in multiple
7 Telegram groups dedicated to the abuse and torture of monkeys.
8 And these groups, as the Court pointed out, were not content
9 with really the heinous material that already existed and
10 needed more that harmed, maimed, and unfortunately killed
11 primates in many of these videos.

12 And the crowdfunding helped continue this for the
13 enjoyment of that group with at least three payments being sent
14 toward these videos.

15 And even the PSR points out, on page 8, paragraph 11,
16 on October 7th the defendant says, "This video is on me. Just
17 let me know when payment needs to be made. DM me, whoever is
18 handling, so I can get you the funds to pay for the video for
19 everyone." So it wasn't just entry into the group. It was
20 much, much more.

21 And as we've talked about at length, the defendant
22 wasn't just a passive member of the group. She took on that
23 administrative role.

24 While maybe she didn't seek it out, it was given to
25 her, and she actively used it, controlling who had access,

1 working to try to obtain more content, as indicated in that
2 particular paragraph, as well as the other ones talking about
3 Chiro's owner, who -- when we talk about the water video, that
4 was a monkey being drowned repeatedly and thrown in the water.
5 So it wasn't a monkey playing in the water; it was still
6 abusing an animal, so it was not any sort of lighthearted fare
7 that she was trying to obtain.

8 And the defendant also was very active in her
9 comments to the group, talking about pacing and talking about
10 other aspects of things she'd like to see.

11 Your Honor, if I could approach with one more
12 exhibit. It's on the list, and I've already shown Ms. Sheldon,
13 Exhibit 8.

14 THE COURT: Yes.

15 MS. WASHINGTON: This highlights a couple things in
16 this conversation, Your Honor, and I just have an excerpt of a
17 few pages there.

18 It shows the defendant talking specifically, for
19 example, on 4077, about macaques and about how -- she talks
20 about how greedy they are. And she goes into detail but ends
21 the comment with, "I want to mutilate them all one by one."

22 4078 to 4079 talks about, "In the name of science, I
23 think we must conduct a few cardiovascular experiments. As
24 always, getting a set of vitals on the rat would be a good
25 habit to form. In my opinion, the most important vital to

1 check would be blood pressure.

2 "Assuming their arms and legs are broken, a proper
3 reading would be impossible. As such, blood pressure readings
4 should be done around the neck and manually for the most
5 accurate reading. Don't forget to pump the cuff all the way up
6 to at least 200 plus, and instead of fully releasing the
7 pressure, it's best to hold it until ... well, until you're
8 satisfied.

9 "Don't ever trust the first reading. It's important
10 to repeat as many times as necessary, and you can always change
11 the position of the rat from sitting to dangling over an open
12 tub filled with jellyfish. Possibilities are endless."

13 So that just goes to show some of the more active
14 things. The defendant doesn't just say, "Let's get more
15 videos." She lays out exactly what she'd like to see, and some
16 of the other comments in the PSR are consistent with that.

17 But also significant in this conversation is 4108.
18 Defendant has repeatedly pointed to PSD being the cause -- PTSD
19 being the cause of her interest in his group.

20 And while I can't say whether this did more than
21 another, one of the things that came up in this conversation
22 was that Ms. Devilbiss used to work at a primate sanctuary.
23 And she talks here that's where her hatred began.

24 And she talked about spraying them down with a hose
25 and she enjoyed it, even though they disliked it. And she goes

1 on to detail where it is on 4109, "Primarily Primates. It's
2 just before Boerne, still considered San Antonio. It's off of
3 Boerne Stage Road."

4 That place really exists. That is actually a primate
5 sanctuary. Now, there was some checking done to see if she
6 volunteered there. There was no record of her, but whether she
7 could have volunteered with a group, whether she got to go
8 there as a spectator, we don't know that.

9 But she certainly is very specific here and detailed
10 several times about working with this animal sanctuary was
11 where she really started to hate primates. And certainly from
12 the PSR, we have a sense for the timing of when she was in the
13 Texas area, and so that seems like that would be much, much
14 longer ago than we had indicated so far.

15 A review, a forensic review, of her devices also
16 showed targeted searches for things such as "I hate monkeys"
17 and "monkey hating." That was in May of 2022. So, again, not
18 just limited to the content of the group.

19 And I think what's also significant here is the
20 amount of time. We're talking about over a year. This is a
21 huge amount of time that she's involved in this group. Now,
22 I'll agree that 100 percent of her comments did not say, "I
23 hate monkeys," and detail torture. We're not saying that's the
24 only thing she ever did.

25 We're saying that was her primary interest,

1 certainly, the abuse and torture of monkeys. So while not
2 every single comment was made by her, not every single moment
3 of every day was she speaking, but she spoke enough to detail
4 her interest in abusing and torturing monkeys.

5 It's also significant the number of videos that are
6 found on her devices. And these, of course, some would qualify
7 as animal crush. Some are -- do not reach the actual level of
8 obscene, but just because they don't have obscene doesn't mean
9 they're still not extremely heinous and egregious acts being
10 committed on these monkeys. They are still just as terrible as
11 those other videos to watch, and I have, unfortunately, had to
12 view a number of them.

13 The video that's referenced in the superseding
14 indictment in the notice of maximum penalties is an
15 excruciatingly long video of almost 12 minutes, and I will tell
16 you that it's probably been one of the most difficult things
17 I've ever had to watch.

18 I struggled not to cover my own eyes because of how
19 cruel and depraved the conduct is that's inflicted upon the
20 monkey in that video.

21 But there's also other types of torture the defendant
22 references, things like the chargrilled toes reference. She
23 talks about a blender monkey, and unfortunately that's exactly
24 what it sounds like, putting a monkey in a blender. So that is
25 not hyperbole. There are actual videos, unfortunately, of that

1 out there.

2 There's other videos about boiling liquid substances
3 and other things of that nature the group reveled in.
4 Seemingly, like, the more depraved or torturous you could be
5 towards primates, the happier the group was.

6 And so it's concerning that this might be the
7 cathartic part of her PTSD, as referenced in the defendant's
8 sentencing memorandum. It's hard to see how that would be
9 cathartic for anyone at any time to revel in the abuse and
10 torture of animals.

11 It is also hard to see how, as the Court pointed out,
12 anyone could feel relief from watching animals being tortured,
13 regardless of their own personal circumstances, and repeatedly
14 and often, while also raising a small child in their home.

15 And that's one of the things that's extremely
16 concerning, is that the defendant does say she considers
17 monkeys to be like humans and compared baby monkeys to
18 children.

19 Even more concerning is that when defendants were
20 arresting -- or, excuse me, when law enforcement was arresting
21 the defendant and they saw her saying goodbye to her child, she
22 said, "Goodbye, monkey." And understandably, the agents were
23 pretty horrified by that statement and seeing that interaction.

24 The defendant's own statements through the chat,
25 through the post-arrest statements about the human comparison

1 makes the defendant a danger. She readily encouraged the abuse
2 and torture of small animals. And by her own admission,
3 through those journal entries and through the group
4 conversations, wanted to abuse and torture animals of her own,
5 animals here locally.

6 We're not talking about a trip to Indonesia, which
7 perhaps is not something that Ms. Devilbiss is readily capable
8 of, but traveling to Ocala or other areas around here in our
9 own court district is something that's possible and within the
10 realm of reach of Ms. Devilbiss and something she dreamed
11 about.

12 I mean, the fact that she took it to a second medium,
13 that this wasn't limited to just what she was doing online,
14 which would almost support her argument of being taken in by
15 the group, but this is her own private journal reflections in
16 which she smiled, smiley face, about getting these animals to
17 torture and abuse on her own.

18 You have to wonder, if it is so cathartic to watch
19 this abuse and torture, where does she draw the line? When
20 will she draw the line when it comes to people themselves, if
21 she's having this trouble and if she takes such joy or
22 amusement from watching that happen?

23 And, Your Honor, this case is distinguishable from
24 the other cases raised by Ms. Sheldon. The Herrera case, I
25 can't get into the specifics, given the circumstances of that

1 case. But there are very different circumstances from
2 Ms. Devilbiss as to why that was an appropriate sentence in
3 that case concerning how that defendant behaved immediately, in
4 terms of how that defendant conducted himself, that warranted a
5 much lighter sentence in that case.

6 And I certainly can tell you more at sidebar, but
7 there's a number of sealed filings in that case, so I really
8 wouldn't want to put that in the public record here, but those
9 circumstances do not apply to Ms. Devilbiss.

10 In terms of Christopher Noble, or David Christopher
11 Noble, again, there's some different similarities there, in
12 terms of Ms. Devilbiss being -- as Ms. Sheldon said, she's not
13 young. She knows right from wrong.

14 She is -- was the sole caretaker of three. She
15 doesn't have any identifiable diagnoses that were put forth to
16 the Court to really explain her conduct.

17 And there again, the role enhancement was not
18 discussed, and so that put her in a different circumstance,
19 making him eligible for that zero-point-offender status and
20 Ms. Devilbiss not. So those are already some differences
21 there.

22 And certainly her making this next comment about the
23 human difference, I spoke to the prosecutor in that case who
24 explained as well that for weeks when they were investigating
25 this case, they couldn't understand why was the focus monkeys

1 for this particular Telegram group. Why that animal?

2 And the agent involved in the investigation of that
3 case said, you know, when he looked back and he kind of
4 squinted his eyes, he could see the similarities to children of
5 his own in looking at the baby monkeys, the sounds when they're
6 in pain, how they look when they're laughing, just so many
7 similarities given the closeness of monkeys to humans.

8 And so they argue, you know, certainly look at the
9 similarities. You picked this animal so closely related to
10 humans. But by the defendant's own admission, she says they're
11 similar to humans, and that's, in fact, what appears to have
12 drawn her to this.

13 So it's more concerning that she readily admits the
14 close association between humans and monkeys for these videos
15 she was actively interested in, in obtaining more, in trying to
16 harm herself. And so I'd say that's a difference there.

17 And then in the case of the individual who tortured
18 the animals herself, Krystal Cherika Scott, she was just 19
19 years old, and she had profound mental health issues. Grew up,
20 as I understand it, with a mother who raised her in a life of
21 filth, and so had a number of challenges, which prompted the
22 government to even point that out in their sentencing
23 memorandum, the significant mental health challenges that she
24 was facing. And so that is why that sentence, 30 months, was
25 appropriate there, given a lot of the mitigation.

1 Your Honor, I would argue that that is not the case
2 here, that the defendant does not have those mitigating
3 factors, that she has a number of aggravating factors, and that
4 the fact that she would so readily support, condone, advocate
5 the abuse and torture of animals to her that are like humans is
6 something that really requires a significant sentence here.

7 And I think specific and general deterrence are
8 important here, that this is a new area, unfortunately, of
9 depravity that people are starting in. And I think a message
10 does need to be sent that it's not okay for you to participate
11 in this.

12 Even if you're here in the United States sending
13 money, you're not just doing that. You're contributing to a
14 larger problem and certainly depleting the resources of
15 macaques out in Indonesia and other countries. But also, it is
16 a heinous form of conduct to engage in.

17 And this is a case unlike really anything else our
18 office has seen. I routinely prosecute child exploitation
19 cases, and seeing some of the things in this case are unlike
20 anything I've seen in even those cases. And so specific and
21 general deterrence is important but also the seriousness of
22 this offense.

23 I would have thought before doing this case it went
24 without saying you don't abuse and torture monkeys and try to
25 kill them. And certainly you don't try to do it for sport.

1 You don't do it for fun. You don't try to see how badly you
2 can do it, what horrible ways you can think of to do it.

3 But clearly it does not go without saying, and so
4 that is something that I think is important, as well as
5 promoting respect for the law, providing just punishment. And
6 in this case I do think the public needs to be protected. I
7 think that the defendant's own statements show the danger that
8 she poses.

9 And so for those reasons the United States is asking
10 for a sentence at the top end of the guidelines.

11 THE COURT: Ms. Devilbiss, I've reviewed everything.
12 I've listened to your statement. I've heard the argument of
13 counsel. And I've gone through and contemplated and thought
14 through the sentencing factors outlined in Title 18 of the
15 United States Code, Section 3551(a), as I'm required to do.

16 The first thing that the Court considers, obviously,
17 is the nature and circumstances of the offense, and we have
18 gone through that here today. And there's really no need for
19 me to repeat it, other than to say that this has to be one of
20 the most serious, disturbing, sickening offenses that I have
21 had to review or sentence someone on probably in my career on
22 the bench, and I've seen some pretty bad stuff.

23 And it shows a level of depravity that really is
24 rarely seen, and I find that your conduct in this case is
25 really deplorable.

1 Now, I've considered your history and your
2 characteristics as well. I mean, I've considered your life
3 history, as I've had a chance to review it in the PSR. I've
4 considered the sentencing memorandum and all the attachments.

5 And I read them, and I know that you have suffered
6 abuse at the hands of your paramours, and that's not something
7 that I -- like I said earlier, that I would wish on anybody.
8 It is -- it is horrible. It is wrong on every level.

9 But it just does not excuse this behavior. It just
10 does not. As much as I would like to find some reason that
11 would cause an individual to engage in this behavior, it is
12 outside of -- I just -- I can't -- I can hardly think of
13 anything outside some severe mental illness or psychopathy.

14 So the sentence that I impose certainly has to
15 reflect the seriousness of the offense. It's got to promote
16 respect for the law. It's got to provide a just punishment.

17 It's got to deter, or work to try to deter, the
18 behavior, and protect the public from future crimes; provide
19 you with whatever training, mental health treatment, anything
20 that we can give you; and account for, you know, sentencing
21 disparities, which I've considered as well.

22 I've considered the cases that your attorney brought
23 up. There aren't very many of these type of animal crush cases
24 throughout the country. This is relatively new. I mean, I'd
25 never heard of it before. I couldn't imagine.

1 I mean, I've heard of, you know, people abusing
2 animals, but I've -- this is just beyond anything that I could
3 even comprehend or wrap my head around, that people would do
4 this to an animal, pay to have it done, watch it, request more
5 of it. I mean, I can't -- I just -- it's hard to even fathom
6 that a human being would want to watch what's on these videos,
7 much less seek it out.

8 I don't necessarily believe, when we talk about
9 deterrence, that any sentence that the Court gives in a
10 particular case is going to deter the general public from
11 committing these types of crimes.

12 I think this -- these are sort of new in the realm of
13 cases that are going on that we've seen. And so to the extent
14 that any sentence that I hand out could deter somebody else
15 from engaging in this conduct, I hope that it does.

16 My main goal is to deter you from engaging in this
17 type of conduct. So when I think of deterrence, I'm always
18 looking more at specific deterrence than I am general
19 deterrence. I mean, I think, you know, a punishment would
20 prevent me and generally law-abiding citizens from committing
21 these types of crimes, or any crime, but I don't know how much
22 it deters like-minded individuals from committing any specific
23 crime.

24 The next is to protect the public, and this is, you
25 know, something that I struggle with, to, you know, try to

1 find -- determine for myself whether or not you pose a danger
2 to the public.

3 I mean, certainly you pose a danger to animals,
4 and -- but does that manifest itself to a danger to the public?
5 It's something that the Court considered. I think that anybody
6 who engages in this type of depraved conduct, especially in
7 light of your -- things that you've said with regard to the
8 fact that these look like babies, human babies, that there is a
9 level of concern that the Court has that if you can't act these
10 things out on the animal, do you act them out on children.

11 You know, sentences, you know, are for varying
12 reasons. There's a punishment aspect to it, and then there is
13 a rehabilitative aspect to it, and I hope that the sentence
14 that I give can satisfy both of those. They can punish you for
15 your conduct and then provide a way that hopefully, while
16 you're on supervised release, helps you, because I do think you
17 need some serious mental health treatment.

18 So I've considered the kinds of sentences available.
19 I've considered the statutory range of five years. I've
20 considered what you score. I've considered, you know, the
21 major role.

22 And I have to say, you know, I found that you played
23 a major role in this organization. But when it comes to
24 sentence, regardless of whether or not I allowed those points,
25 it would not -- it would not change the outcome of what the

1 Court would sentence you to today.

2 And certainly I've considered the sentencing
3 disparities, but it's kind of hard to get a gauge on those as
4 well because every case is different.

5 But I have taken into account the fact that you
6 entered a plea to this case so that we did not have to try this
7 case, so that ladies and gentlemen sitting over there would not
8 have to be -- have to look at any of these videos and really
9 probably be traumatized for the rest of their lives, having
10 looked at them. And for that reason you're not getting five
11 years, which would be the statutory max.

12 So pursuant to Title 18 of the United States Code,
13 Sections 3551 and 3553, it's the judgment of the Court,
14 Ms. Devilbiss, that you're hereby committed to the custody of
15 the Bureau of Prisons to be imprisoned for a term of 51 months.

16 Upon release from imprisonment, you'll serve a
17 three-year term of supervised release, and while on supervised
18 release, you'll comply with the mandatory and standard
19 conditions adopted by the Court in the Middle District of
20 Florida, which can be found at Section 5D1.3(a) and (c) of the
21 United States Sentencing Guidelines.

22 In addition, you'll comply with the following special
23 conditions:

24 You'll participate in a substance abuse program.
25 That can be outpatient or inpatient, and you'll follow the

1 probation officer's instructions regarding the implementation
2 of this directive.

3 And you'll contribute to the cost of these services
4 not to exceed an amount determined reasonable by the probation
5 office's sliding scale. So they have a sliding scale to help
6 you with those payments. And during and upon completion of the
7 program, you'll submit to random urinalysis.

8 You'll also participate in a mental health treatment
9 program, either outpatient or inpatient. You'll follow the
10 probation officer's instructions regarding the implementation
11 of the court directive. And you'll contribute, again, to the
12 cost based on their sliding scale.

13 Without prior written approval of your probation
14 officer, you're prohibited from either possessing or using a
15 computer. That includes a smartphone, a handheld computer
16 device, a gaming console, or an electronic device capable of
17 connecting to an online service or an Internet service
18 provider.

19 This includes a computer at a public library, an
20 Internet café, your place of employment, or an educational
21 facility if you're in school. And you're prohibited from
22 possessing electronic storage data medium, flash drive, compact
23 disc, floppy disc, or using any data encryption technique or
24 program.

25 Now, if you are approved to use a device -- so if

1 you're working and you have to use a computer at work and your
2 probation officer has allowed you to use a computer for that
3 instance -- then you've got to permit routine inspection of the
4 device, including the hard drive and any other electronic data
5 storage medium to ensure that you're adhering to this
6 condition. And the probation officer will conduct the
7 inspection in a manner no more intrusive than is necessary to
8 ensure compliance.

9 So if this may affect a third party -- say you're
10 working and you have to use the computer at work, then you need
11 to let your employer know about this inspection provision. And
12 you have to inform any third party of the restriction, of this
13 restriction, and the inspection provision.

14 You'll submit to a search of your person, your
15 residence, your place of business, any storage units under your
16 control, your computer, or a vehicle. And that search will be
17 conducted by the probation office at a reasonable time and in a
18 reasonable manner, under reasonable suspicion that there is a
19 violation of this condition.

20 So if you're living with somebody, you need to make
21 sure that that person or people are aware of this search
22 provision, because failure to submit to a search could be
23 grounds to revoke your supervision.

24 You'll provide your probation officer with access to
25 any requested financial information.

1 You'll be prohibited from working with, possessing,
2 or owning any type of animal.

3 Having been convicted of a qualifying felony, you'll
4 cooperate in the collection of DNA, as directed by your
5 probation officer.

6 You'll also refrain from the unlawful use of any
7 controlled substance. And you'll submit to one drug test
8 within 15 days of being placed on supervision and at least two
9 periodic drug tests thereafter, as directed by your probation
10 officer. And you'll submit to random drug testing not to
11 exceed 104 tests per year.

12 Based on your financial status, I will waive
13 imposition of a fine in your case.

14 Were there any forfeiture matters to consider?

15 MS. WASHINGTON: No, Your Honor.

16 THE COURT: Okay. You also are ordered to pay the
17 United States a special assessment of \$100, and that's due
18 immediately.

19 Are there any requests for any particular
20 institution?

21 MS. SHELDON: Your Honor, we would request closest to
22 Jacksonville, Florida, please.

23 THE COURT: Okay. What's the closest one to here,
24 Coleman?

25 MS. SHELDON: For women, I believe it's Tallahassee.

1 I don't know that Coleman has a women's area.

2 THE COURT: Okay. Tallahassee. Okay.

3 I will recommend that you be placed in a facility
4 close to Jacksonville, and, you know, if the closest one to
5 Jacksonville is not available, that they look to the state of
6 Florida or adjacent states before they send you someplace else.

7 Is there any -- but I want you to go someplace where
8 you can get mental health treatment and drug treatment.

9 Is there -- are there any programs that you're
10 interested in?

11 THE DEFENDANT: As many as I can take for mental
12 health, for drug addiction.

13 THE COURT: I'm talking about -- and I'm recommending
14 you for that, but is there anything like vocational programs?

15 THE DEFENDANT: Finish college, any sort of trade. I
16 mean, I'm just going to make the most of --

17 THE COURT: Okay.

18 THE DEFENDANT: -- the time that I have doing
19 anything that I can.

20 THE COURT: All right. Then I'll recommend you for
21 any educational opportunities and vocational opportunities that
22 the institution provides.

23 I don't have the authority to order you to a
24 particular institution. That's completely up to the Bureau of
25 Prisons, and it is a separation-of-powers issue.

1 But to the extent that they consider the
2 recommendations that I put in the judgment, I'll put those in
3 the judgment. And I do think that they consider the
4 recommendations of the Court. I just wanted to make sure I had
5 everything in there that you are interested in.

6 THE DEFENDANT: Thank you.

7 THE COURT: Okay. After considering the advisory
8 sentencing guidelines and all the factors outlined in Title 18
9 of the United States Code, Sections 3553(a)(1) through (7), the
10 Court determines that the sentence imposed is sufficient but
11 not greater than necessary to comply with the statutory
12 purposes of sentencing.

13 And the Court having pronounced sentence, does
14 counsel for the defendant or counsel for the government have
15 any objection to the sentence imposed or the manner in which
16 the sentence was imposed?

17 MS. WASHINGTON: No objection, Your Honor.

18 MS. SHELDON: Your Honor, we do object -- renew our
19 objection to the guidelines that were calculated for the major
20 role enhancement and for the non-inclusion of the zero-point
21 offender. We object to the sentence as greater than necessary
22 for the purposes of 3553(a).

23 THE COURT: Okay. Ms. Devilbiss, you're hereby
24 remanded to the custody of the United States Marshal to await
25 designation by the Bureau of Prisons.

1 You have a right to appeal from the judgment and
2 sentence within 14 days from entry of the judgment. Failure to
3 appeal within that 14-day period will waive your right to
4 appeal.

5 The government also has a right to appeal.

6 You're advised that you're entitled to the assistance
7 of counsel in taking an appeal, and if you cannot afford an
8 attorney to represent you, then the Court would appoint one for
9 you.

10 And if you could not afford the filing fee, the Court
11 would direct the Clerk of Court to accept your notice of appeal
12 without such a fee.

13 Good luck to you.

14 COURT SECURITY OFFICER: All rise.

15 (The proceedings were concluded at 12:01 p.m.)

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CERTIFICATE OF OFFICIAL COURT REPORTER

UNITED STATES DISTRICT COURT)

MIDDLE DISTRICT OF FLORIDA)

I hereby certify that the foregoing transcript is a true and correct computer-aided transcription of my stenotype notes taken at the time and place indicated therein.

DATED this 12th day of July, 2024.

s/Shellie Kozachenko
Shellie Kozachenko, RPR, CRR, CRC
Official Court Reporter