

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA**

Sam M. Gibbons U.S. Courthouse
Office of the Clerk
801 North Florida Avenue
Tampa, FL 33602
(813) 301-5400
www.flmd.uscourts.gov

Elizabeth M. Warren
Clerk of Court

Kristin Esposito
Tampa Division Manager

DATE: July 12, 2024

TO: Clerk, U.S. Court of Appeals for the Eleventh Circuit

UNITED STATES OF AMERICA

v.

Case No.: 3:23-cr-153-WWB-LLL

NICOLE DANIELLE DEVILBISS

U.S.C.A. Case No.: TBD

Enclosed are documents and information relating to an appeal in the above-referenced action. Please acknowledge receipt on the enclosed copy of this letter.

- Honorable Wendy W. Berger, United States District Judge appealed from.
- Appeal filing fee was not paid. Upon filing a notice of appeal, the appellant must pay the district clerk all required fees. The district clerk receives the appellate docket fee on behalf of the court of appeals. If you are filing in forma pauperis, a request for leave to appeal in forma pauperis needs to be filed with the district court.
- Certified copy of Notice of Appeal, docket entries, judgment and/or Order appealed from. Opinion was not entered orally.
- Court Reporter: Shelli Kozachenko, Heather Suarez, and Digital

ELIZABETH M. WARREN, CLERK

By: s/G. Lobaina, Deputy Clerk

APPEAL, CLOSED, CUSTODY, PLED

U.S. District Court
Middle District of Florida (Jacksonville)
CRIMINAL DOCKET FOR CASE #: 3:23-cr-00153-WWB-LLL-1

Case title: USA v. Devilbiss

Magistrate judge case number: 3:23-mj-01520-LLL

Date Filed: 11/15/2023

Date Terminated: 06/25/2024

Assigned to: Judge Wendy W.
Berger

Referred to: Magistrate Judge
Laura Lothman Lambert

Defendant (1)

Nicole Danielle Devilbiss
TERMINATED: 06/25/2024
also known as
Dev
TERMINATED: 06/25/2024
also known as
ThatMonkeyBitch
TERMINATED: 06/25/2024

represented by **Kathryn E Sheldon**
Federal Defender's Office
Jacksonville
200 W. Forsyth St.
Ste 1240
Jacksonville, FL 32202
904-232-3039
Fax: 904-232-1937
Email: kathryn_sheldon@fd.org
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
*Designation: Public Defender or Community
Defender Appointment*

Waffa Hanania
Federal Public Defender's Office
Suite 1240
200 W Forsyth St
Jacksonville, FL 32202-4326
904/232-3039
Fax: 904/232-1937
Email: Waffa_Hanania@fd.org
ATTORNEY TO BE NOTICED
*Designation: Public Defender or Community
Defender Appointment*

Pending Counts

18:371.F CONSPIRACY TO
CREATE AND DISTRIBUTE

Disposition

ANIMAL CRUSH VIDEOS

(1)

18:371.F CONSPIRACY TO
CREATE AND DISTRIBUTE
ANIMAL CURHS VIDEOS
(1s)

Imprisonment: 51 months; Supervised Release: 36
months; Special Assessment: \$100.00

Highest Offense Level (Opening)

Felony

Terminated Counts

None

Disposition**Highest Offense Level
(Terminated)**

None

Complaints

18 U.S.C. 48, 371, and 2:
CONSPIRACY TO CREATE
AND DISTRIBUTE ANIMAL
CRUSH VIDEOS

Disposition**Plaintiff**

USA

represented by **Ashley Washington**
US Attorney's Office – FLM
Suite 700
300 N Hogan St
Jacksonville, FL 32202
904-301-6300
Fax: 904-301-6310
Email: Ashley.Washington2@usdoj.gov
ATTORNEY TO BE NOTICED
Designation: Retained

Date Filed	#	Docket Text
10/31/2023	<u>1</u>	COMPLAINT as to Nicole Danielle Devilbiss(1). (NK) [3:23-mj-01520-LLL] (Entered: 10/31/2023)
10/31/2023		Arrest of Nicole Danielle Devilbiss on 10/31/2023. (NK) [3:23-mj-01520-LLL] (Entered: 11/02/2023)
10/31/2023	<u>Z</u>	MINUTE Entry for In Person proceedings held before Magistrate Judge Laura Lothman Lambert: Initial Appearance as to Nicole Danielle Devilbiss held on 10/31/2023. (DIGITAL) (NK) [3:23-mj-01520-LLL] (Entered: 11/02/2023)

10/31/2023	8	ORAL MOTION to Appoint Counsel by Nicole Danielle Devilbiss. (NK) [3:23-mj-01520-LLL] (Entered: 11/02/2023)
10/31/2023	9	ORAL MOTION for Detention by USA as to Nicole Danielle Devilbiss. (NK) [3:23-mj-01520-LLL] (Entered: 11/02/2023)
10/31/2023	<u>10</u>	***CJA 23 Financial Affidavit by Nicole Danielle Devilbiss (filed in open court). (NK) [3:23-mj-01520-LLL] (Entered: 11/02/2023)
10/31/2023	11	ORAL MOTION to Continue Detention Hearing by Nicole Danielle Devilbiss. (NK) [3:23-mj-01520-LLL] (Entered: 11/02/2023)
11/01/2023	<u>3</u>	ORDER suspending Local Rule 7.02(a) for the limited purpose of allowing Anne Schindler to bring a laptop into the building on 11/1/2023 for the detention hearing at 1:00 in courtroom 5B. See order for details. Signed by Magistrate Judge Patricia D. Barksdale on 11/1/2023. (ASL) [3:23-mj-01520-LLL] (Entered: 11/01/2023)
11/01/2023	<u>14</u>	MINUTE entry for the in person proceedings held before Magistrate Judge Patricia D. Barksdale: DETENTION HEARING as to Nicole Danielle Devilbiss held on 11/1/2023. (digital) (ASL) [3:23-mj-01520-LLL] (Entered: 11/03/2023)
11/01/2023	<u>15</u>	ORDER OF TEMPORARY DETENTION as to Nicole Danielle Devilbiss. The detention hearing is scheduled for 11/2/2023 at 03:00 PM in Jacksonville Courtroom 5B before Magistrate Judge Patricia D. Barksdale. Signed by Magistrate Judge Patricia D. Barksdale on 11/1/2023. (ASL) [3:23-mj-01520-LLL] (Entered: 11/03/2023)
11/02/2023	<u>4</u>	NOTICE OF ATTORNEY APPEARANCE: Kathryn E Sheldon appearing for Nicole Danielle Devilbiss (Sheldon, Kathryn) [3:23-mj-01520-LLL] (Entered: 11/02/2023)
11/02/2023	<u>5</u>	NOTICE of Filing Memorandum in Support of Release on Bail by Nicole Danielle Devilbiss (Sheldon, Kathryn) Modified on 11/2/2023 (SPM). [3:23-mj-01520-LLL] (Entered: 11/02/2023)
11/02/2023	<u>6</u>	MOTION for Miscellaneous Relief, specifically Supplemental Briefing in Support of Detention by USA as to Nicole Danielle Devilbiss. (Washington, Ashley) Modified on 11/2/2023 (SPM). [3:23-mj-01520-LLL] (Entered: 11/02/2023)
11/02/2023	<u>12</u>	ORDER APPOINTING FEDERAL PUBLIC DEFENDER (granting 8 ORAL Motion to Appoint Counsel) as to Nicole Danielle Devilbiss. Signed by Magistrate Judge Laura Lothman Lambert on 11/2/2023. (NK) [3:23-mj-01520-LLL] (Entered: 11/02/2023)
11/02/2023	<u>13</u>	ORDER OF TEMPORARY DETENTION (granting 11 ORAL Motion to Continue Detention Hearing) as to Nicole Danielle Devilbiss. Detention Hearing set for 11/1/2023 at 01:00 PM in Jacksonville Courtroom 5B before Magistrate Judge Patricia D. Barksdale. Signed by Magistrate Judge Laura Lothman Lambert on 11/2/2023. (NK) [3:23-mj-01520-LLL] (Entered: 11/02/2023)
11/02/2023	<u>16</u>	MINUTE entry for the in person proceedings held before Magistrate Judge Patricia D. Barksdale: DETENTION HEARING as to Nicole Danielle Devilbiss held on 11/2/2023. (digital) (ASL) [3:23-mj-01520-LLL] (Entered: 11/03/2023)
11/02/2023	<u>17</u>	ORDER Setting Conditions of Release (CONDITIONS HAVE NOT BEEN MET). Signed by Magistrate Judge Patricia D. Barksdale on 11/2/2023. (ASL)

		[3:23-mj-01520-LLL] (Entered: 11/03/2023)
11/08/2023	20	NOTICE OF HEARING as to Nicole Danielle Devilbiss: Preliminary Hearing set for 11/14/2023 at 03:00 PM in Jacksonville Courtroom 12A before Magistrate Judge Laura Lothman Lambert. (NK) [3:23-mj-01520-LLL] (Entered: 11/08/2023)
11/14/2023	<u>21</u>	MINUTE Entry for In Person proceedings held before Magistrate Judge Laura Lothman Lambert: Preliminary Hearing as to Nicole Danielle Devilbiss held on 11/14/2023. (DIGITAL) (NK) (Additional attachment(s) added on 11/15/2023: # <u>1</u> Government Exhibit List, # <u>2</u> Government Exhibit 1) (NK). [3:23-mj-01520-LLL] (Entered: 11/14/2023)
11/14/2023	<u>22</u>	ORDER Finding Probable Cause as to Nicole Danielle Devilbiss. Signed by Magistrate Judge Laura Lothman Lambert on 11/14/2023. (NK) [3:23-mj-01520-LLL] (Entered: 11/14/2023)
11/15/2023	<u>23</u>	INDICTMENT returned in open court as to Nicole Danielle Devilbiss (1) count(s) 1. (Attachments: # <u>1</u> Restricted Unredacted Indictment) (BD) (Entered: 11/16/2023)
11/17/2023	25	NOTICE OF HEARING as to Nicole Danielle Devilbiss: Arraignment set for 11/30/2023 at 10:30 AM in Jacksonville Courtroom 5D before Magistrate Judge Laura Lothman Lambert. (NK) (Entered: 11/17/2023)
11/29/2023	<u>26</u>	MOTION to Modify Conditions of Release <i>Under 18 U.S.C.3142(C)(3)</i> by Nicole Danielle Devilbiss. (Sheldon, Kathryn) Motions referred to Magistrate Judge Laura Lothman Lambert. (Entered: 11/29/2023)
11/30/2023	<u>29</u>	MINUTE Entry for In Person proceedings held before Magistrate Judge Laura Lothman Lambert: ARRAIGNMENT as to Nicole Danielle Devilbiss(1) held on 11/30/2023 as to Count 1. Defendant pled not guilty. (DIGITAL) (NK) (Entered: 12/01/2023)
11/30/2023	<u>30</u>	NOTICE of acceptance of general discovery by Nicole Danielle Devilbiss (filed in open court). (NK) (Entered: 12/01/2023)
11/30/2023	40	NOTICE of Standing Order Regarding Due Process Protections Act, <u>3:20-mc-20-TJC, Doc 1</u> as to Nicole Danielle Devilbiss: Pursuant to the Due Process Protections Act, the Court confirms the United States' disclosure obligation under Brady v. Maryland, 373 U.S. 83 (1963), and its progeny and orders the United States to comply with that obligation. Violating this order may result in consequences, including exclusion of evidence, adverse jury instructions, dismissal of charges, contempt proceedings, and other sanctions. Signed by Judge Timothy J. Corrigan. (NK) (Entered: 12/18/2023)
12/01/2023	<u>27</u>	TRANSCRIPT of Digitally Recorded Detention Hearing (Vol 1 of 2) as to Nicole Danielle Devilbiss held on 11/01/2023 before Judge Patricia D. Barksdale. Court Reporter/Transcriber: Katharine M. Healey, RMR, CRR, FPR-C. Email address: katharinehealey@bellsouth.net. Telephone number: (904) 301-6843. NOTICE TO THE PARTIES – The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such notice is filed, the transcript may be made remotely available to the public without redaction after ninety (90) calendar days. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER or

		purchased through the Court Reporter. Redaction Request due 12/22/2023. Redacted Transcript Deadline set for 1/2/2024. Release of Transcript Restriction set for 2/29/2024. (KMH) (Entered: 12/01/2023)
12/01/2023	<u>28</u>	TRANSCRIPT of Digitally Recorded Continuation of Detention Hearing (Vol 2 of 2) as to Nicole Danielle Devilbiss held on 11/02/2023 before Judge Patricia D. Barksdale. Court Reporter/Transcriber: Katharine M. Healey, RMR, CRR, FPR-C. Email address: Katharinehealey@bellsouth.net. Telephone number: (904) 301-6843. NOTICE TO THE PARTIES – The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such notice is filed, the transcript may be made remotely available to the public without redaction after ninety (90) calendar days. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER or purchased through the Court Reporter. Redaction Request due 12/22/2023. Redacted Transcript Deadline set for 1/2/2024. Release of Transcript Restriction set for 2/29/2024. (KMH) (Entered: 12/01/2023)
12/01/2023	<u>31</u>	SCHEDULING ORDER as to Nicole Danielle Devilbiss: Status Conference set for 12/18/2023 at 03:30 PM in Jacksonville Courtroom 12C before Judge Brian J. Davis; Jury Trial set for Trial Term Commencing on 1/2/2024 at 09:00 AM in Jacksonville Courtroom 12C before Judge Brian J. Davis; Discovery/Dispositive/Suppression motions due by 12/14/2023. Signed by Magistrate Judge Laura Lothman Lambert on 11/30/2023. (NK) (Entered: 12/01/2023)
12/04/2023	<u>32</u>	RESPONSE in Opposition by USA as to Nicole Danielle Devilbiss re <u>26</u> MOTION to Modify Conditions of Release <i>Under 18 U.S.C.3142(C)(3)</i> . (Washington, Ashley) Modified text on 12/4/2023 (GL). (Entered: 12/04/2023)
12/06/2023	<u>33</u>	SUPERSEDING INDICTMENT returned in open court as to Nicole Danielle Devilbiss (1) count(s) 1s. (Attachments: # <u>1</u> Restricted Unredacted Indictment) (BGR) (Entered: 12/06/2023)
12/07/2023	35	NOTICE OF HEARING ON MOTION/ARRAIGNMENT in case as to Nicole Danielle Devilbiss; Hearing on <u>26</u> MOTION UNDER 18 U.S.C. § 3142(C)(3) TO MODIFY CONDITIONS OF PRETRIAL RELEASE. Motion Hearing/Arrestment on Superseding Indictment set for 12/8/2023 at 03:00 PM in Jacksonville Courtroom 5D before Magistrate Judge Laura Lothman Lambert. (NK) (Entered: 12/07/2023)
12/08/2023	<u>37</u>	MINUTE Entry for In Person proceedings held before Magistrate Judge Laura Lothman Lambert: ARRAIGNMENT/MOTION HEARING regarding <u>26</u> Motion under 18 U.S.C. § 3142(C)(3) to Modify Conditions of Pretrial Release as to Nicole Danielle Devilbiss(1); Count 1s, held on 12/8/2023. Defendant pled not guilty. (DIGITAL) (NK) (Entered: 12/13/2023)
12/13/2023	<u>36</u>	Unopposed MOTION to Continue Motions Deadlines and Trial by Nicole Danielle Devilbiss. (Sheldon, Kathryn) Modified on 12/14/2023 (SPM). (Entered: 12/13/2023)
12/13/2023	<u>38</u>	ORDER denying <u>26</u> Motion Under 18 U.S.C. § 3142(C)(3) to Modify Conditions of Pretrial Release as to Nicole Danielle Devilbiss(1). Signed by Magistrate Judge Laura Lothman Lambert on 12/13/2023. (NK) (Entered: 12/13/2023)
12/15/2023	<u>39</u>	

		ORDER granting <u>36</u> Unopposed Motion to Continue Motions Deadlines and Trial as to Nicole Danielle Devilbiss(1). Status Conference set for 1/22/2024 at 03:30 PM in Jacksonville Courtroom 12 C before Judge Brian J. Davis. Jury Trial set for trial term commencing on 2/5/2024 at 09:00 AM in Jacksonville Courtroom 12 C before Judge Brian J. Davis. Discovery, dispositive, suppression, and all other non-discovery motions are due on or before January 22, 2024. Signed by Judge Brian J. Davis on 12/14/2023. (CKS) (Entered: 12/15/2023)
01/02/2024	<u>41</u>	Case as to Nicole Danielle Devilbiss Reassigned to Judge Wendy W. Berger. New case number: 3:23-cr-153-WWB-LLL. Senior Judge Brian J. Davis no longer assigned to the case. (ELM) (Entered: 01/02/2024)
01/05/2024	<u>42</u>	NOTICE OF RESCHEDULING HEARING: The Status Conference previously scheduled for 1/22/2024 is rescheduled as to Nicole Danielle Devilbiss as a Telephone Conference set for 1/9/2024 at 9:30 AM in Orlando Courtroom 3B before Judge Wendy W. Berger. <u>The parties shall call 1-877-873-8018 ten minutes before the hearing is scheduled to begin.</u> Access Code: 9703505. Security Code: 010924. (CKS) (Entered: 01/05/2024)
01/09/2024	<u>44</u>	Minute Entry for Telephonic proceedings held before Judge Wendy W. Berger: STATUS Conference as to Nicole Danielle Devilbiss held on 1/9/2024. Court Reporter: Heather Suarez (CKS) (Entered: 01/12/2024)
01/09/2024	<u>45</u>	ORAL MOTION to Continue Trial by Nicole Danielle Devilbiss. (CKS) (Entered: 01/12/2024)
01/09/2024	<u>46</u>	ORAL ORDER granting <u>45</u> Oral Motion to Continue Trial as to Nicole Danielle Devilbiss (1). After considering all the factors, including those set forthin 18 U.S.C. § 3161(h)(7)(B), and for the reasons stated on the record, the Court findsthat the ends of justice served by granting such a continuance outweigh the best interestof the public and the defendant(s) in a speedy trial. The Court, therefore, determines thatthe time from today until and including April 30, 2024, shall be "excludable time"pursuant to 18 U.S.C. § 3161(h). Jury Trial set for 4/15/2024 at 09:00 AM in Jacksonville Courtroom 12 A before Judge Wendy W. Berger. Status Conference set for 3/12/2024 at 09:30 AM in Jacksonville Courtroom 12 A before Judge Wendy W. Berger. Signed by Judge Wendy W. Berger on 1/9/2024. (CKS) (Entered: 01/12/2024)
01/10/2024	<u>43</u>	NOTICE OF ATTORNEY APPEARANCE: Waffa Hanania appearing for Nicole Danielle Devilbiss (<i>co-counsel</i>) (Hanania, Waffa) (Entered: 01/10/2024)
02/12/2024	<u>47</u>	NOTICE OF HEARING as to Nicole Danielle Devilbiss: Change of Plea Hearing set for 2/13/2024 at 02:00 PM in Jacksonville Courtroom 5D before Magistrate Judge Laura Lothman Lambert. (NK) (Entered: 02/12/2024)
02/13/2024	<u>48</u>	MINUTE Entry for In Person proceedings held before Magistrate Judge Laura Lothman Lambert: Change of Plea Hearing as to Nicole Danielle Devilbiss held on 2/13/2024. (DIGITAL) (NK) (Entered: 02/14/2024)
02/13/2024	<u>49</u>	CONSENT regarding entry of a plea of guilty as to Nicole Danielle Devilbiss (filed in open court). (NK) (Entered: 02/14/2024)
02/13/2024	<u>50</u>	NOTICE of maximum penalty, elements of offense, personalization of elements and factual basis by USA as to Nicole Danielle Devilbiss (filed in open court; original returned to AUSA). (NK) (Entered: 02/14/2024)

02/14/2024	<u>51</u>	REPORT AND RECOMMENDATIONS Concerning Plea of Guilty re: count One of the Superseding Indictment as to Nicole Danielle Devilbiss. Signed by Magistrate Judge Laura Lothman Lambert on 2/14/2024. (NK) (Entered: 02/14/2024)
02/22/2024	<u>53</u>	ACCEPTANCE OF PLEA of guilty and adjudication of guilt re: count(s) One of the Superseding Indictment as to Nicole Danielle Devilbiss. Sentencing set for 6/18/2024 at 11:00AM in Jacksonville Courtroom 12 A before Judge Wendy W. Berger. Signed by Judge Wendy W. Berger on 2/22/2024. (CKS) (Entered: 02/22/2024)
02/22/2024	54	NOTICE OF HEARING as to Nicole Danielle Devilbiss: Sentencing set for 6/18/2024 at 11:00AM in Jacksonville Courtroom 12A before Judge Wendy W. Berger. All motions and/or memorandums the parties would like the Court to consider, shall be filed no later than 6/11/2024. Counsel is to notify the Courtroom Deputy Clerk as soon as possible if they believe the sentencing will be longer than 30 minutes. Defendant's presence required. (CKS) (Entered: 02/22/2024)
02/27/2024	55	NOTICE OF RESCHEDULING HEARING (AS TO TIME ONLY): The Sentencing hearing previously scheduled for 06/18/2024 at 11:00AM is rescheduled as to Nicole Danielle Devilbiss. New hearing time: <u>Sentencing set for 6/18/2024 at 10:00AM in Jacksonville Courtroom 12 A before Judge Wendy W. Berger.</u> (CKS) (Entered: 02/27/2024)
05/17/2024	<u>57</u>	NOTICE to the Court Regarding Petition as to Nicole Danielle Devilbiss. (Attachments: # <u>1</u> Exhibit)(CKS) (Entered: 05/17/2024)
06/03/2024	58	NOTICE OF RESCHEDULING HEARING (AS TO TIME ONLY): The Sentencing hearing previously scheduled for 06/18/2024 at 10:00 AM is rescheduled as to Nicole Danielle Devilbiss. New hearing time: <u>Sentencing set for 6/18/2024 at 10:30AM in Jacksonville Courtroom 12 A before Judge Wendy W. Berger.</u> (CKS) (Entered: 06/03/2024)
06/06/2024	<u>59</u>	SENTENCING MEMORANDUM by USA as to Nicole Danielle Devilbiss (Washington, Ashley) (Entered: 06/06/2024)
06/11/2024	<u>62</u>	SENTENCING MEMORANDUM by Nicole Danielle Devilbiss (Attachments: # <u>1</u> Exhibit DCF Report, # <u>2</u> Exhibit Police Report, # <u>3</u> Exhibit Domestic Violence Paperwork, # <u>4</u> Exhibit Medical Records, # <u>5</u> Exhibit Letters of Support)(Sheldon, Kathryn) (Entered: 06/11/2024)
06/11/2024	<u>63</u>	NOTICE of Support and Legal Arguments for Guideline Calculations by Nicole Danielle Devilbiss re <u>62</u> Sentencing Memorandum. (Sheldon, Kathryn) (Entered: 06/11/2024)
06/12/2024	<u>64</u>	NOTICE of Submission of Materials for Sentencing by Nicole Danielle Devilbiss re <u>62</u> Sentencing Memorandum. (Attachments: # <u>1</u> Exhibit Letters of Support)(Sheldon, Kathryn) (Entered: 06/12/2024)
06/18/2024	<u>65</u>	Minute Entry for In Person proceedings held before Judge Wendy W. Berger: SENTENCING held on 6/18/2024 for Nicole Danielle Devilbiss (1), Count(s) 1s, Imprisonment: 51 months; Supervised Release: 36 months; Special Assessment: \$100.00. Court Reporter: Shelli Kozachenko (CKS) (Additional attachment(s) added on 6/28/2024: # <u>1</u> Exhibit List, # <u>2</u> Exhibit 1, # <u>3</u> Exhibit 2, # <u>4</u> Exhibit 3, # <u>5</u> Exhibit 4, # <u>6</u> Exhibit 5, # <u>7</u> Exhibit 6, # <u>8</u> Exhibit 7, # <u>9</u> Exhibit 8) (CKS). (Entered: 06/20/2024)

06/27/2024	<u>66</u>	JUDGMENT as to Nicole Danielle Devilbiss (1), Count(s) 1s, Imprisonment: 51 months; Supervised Release: 36 months; Special Assessment: \$100.00. Signed by Judge Wendy W. Berger on 6/25/2024. (CKS) (Entered: 06/27/2024)
07/11/2024	<u>68</u>	NOTICE OF APPEAL by Nicole Danielle Devilbiss re <u>66</u> Judgment. Filing fee not paid (Sheldon, Kathryn) (Entered: 07/11/2024)
07/12/2024	<u>69</u>	TRANSCRIPT of Sentencing as to Nicole Danielle Devilbiss held on 6/18/24 before Judge Berger. Court Reporter/Transcriber: Shelli Kozachenko. Email address: shellikoz@gmail.com. Telephone number: 904.301.6842. NOTICE TO THE PARTIES – The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such notice is filed, the transcript may be made remotely available to the public without redaction after ninety (90) calendar days. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER or purchased through the Court Reporter. Redaction Request due 8/2/2024. Redacted Transcript Deadline set for 8/12/2024. Release of Transcript Restriction set for 10/10/2024. (SMK) (Entered: 07/12/2024)

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

UNITED STATES OF AMERICA

v

Case Number: 3:23-cr-153(S1)-WWB-LLL

NICOLE DANIELLE DEVILBISS

a/k/a "Dev"

a/k/a "ThatMonkeyBitch"

USM Number: 84626-510

Kathryn E Sheldon, Esq. (FPD)

200 W. Forsyth St.

Ste 1240

Jacksonville, FL 32202

JUDGMENT IN A CRIMINAL CASE

The defendant pleaded guilty to Count One of the Superseding Indictment. The defendant is adjudicated guilty of this offense:

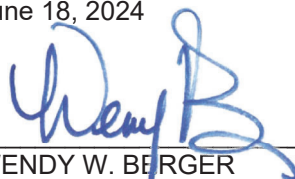
<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
<u>18 U.S.C. §§ 371 and 48(a)(2) and (3)</u>	Conspiracy to Create and Distribute Animal Crush Videos	May 23, 2023	One

The defendant is sentenced as provided in the following pages of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

IT IS ORDERED that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States attorney of any material change in the defendant's economic circumstances.

Date of Imposition of Sentence:

June 18, 2024



WENDY W. BERGER
UNITED STATES DISTRICT JUDGE

June 25, 2024

Nicole Danielle Devilbiss
a/k/a "Dev"
a/k/a "ThatMonkeyBitch"
3:23-cr-153(S1)-WWB-LLL

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of **FIFTY-ONE (51) MONTHS**.

The Court makes the following recommendations to the Bureau of Prisons

- Incarceration at a facility close to Jacksonville, Florida. If a facility is not available, the Court recommends that Defendant be placed at a facility in the state of Florida or an adjacent state.
- Defendant receive mental health treatment.
- Defendant participate in a drug treatment program.
- Defendant enroll in any educational or vocational programs as are available.

The defendant is remanded to the custody of the United States Marshal.

RETURN

I have executed this judgment as follows:

The defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By: _____
Deputy U.S. Marshal

Nicole Danielle Devilbiss
a/k/a "Dev"
a/k/a "ThatMonkeyBitch"
3:23-cr-153(S1)-WWB-LLL

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of **THREE (3) YEARS**.

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of placement on supervision and at least two periodic drug tests thereafter as directed by the probation officer. You must submit to random drug testing not to exceed 104 tests per year.
4. You must cooperate in the collection of DNA as directed by the probation officer.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below).

The defendant shall also comply with the additional conditions as follows.

Nicole Danielle Devilbiss
a/k/a "Dev"
a/k/a "ThatMonkeyBitch"
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STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame. After initially reporting to the probation office, the defendant will receive instructions from the court or the probation officer about how and when the defendant must report to the probation officer, and the defendant must report to the probation officer as instructed.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within **72 hours**.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature: _____

Date: _____

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ADDITIONAL CONDITIONS OF SUPERVISED RELEASE

1. The defendant shall participate in a substance abuse program (outpatient and/or inpatient) and follow the probation officer's instructions regarding the implementation of this court directive. Further, the defendant shall contribute to the costs of these services not to exceed an amount determined reasonable by the Probation Office's Sliding Scale for Substance Abuse Treatment Services. During and upon completion of this program, the defendant is directed to submit to random drug testing.
2. The defendant shall participate in a mental health treatment program (outpatient and/or inpatient) and follow the probation officer's instructions regarding the implementation of this court directive. Further, the defendant shall contribute to the costs of these services not to exceed an amount determined reasonable by the Probation Office's Sliding Scale for Mental Health Treatment Services.
3. Without prior written approval of the probation officer, you are prohibited from either possessing or using a computer (including a smart phone, a hand-held computer device, a gaming console, or an electronic device) capable of connecting to an online service or an internet service provider. This prohibition includes a computer at a public library, an internet cafe, your place of employment, or an educational facility. Also, you are prohibited from possessing an electronic data storage medium (including a flash drive, a compact disk, and a floppy disk) or using any data encryption technique or program. If approved to possess or use a device, you must permit routine inspection of the device, including the hard drive and any other electronic data storage medium, to confirm adherence to this condition. The United States Probation Office must conduct the inspection in a manner no more intrusive than necessary to ensure compliance with this condition. If this condition might affect a third party, including your employer, you must inform the third party of this restriction, including the computer inspection provision.
4. The defendant shall submit to a search of her person, residence, place of business, any storage units under the defendant's control, computer or vehicle, conducted by the United States Probation Officer at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation. The defendant shall inform any other residents that the premises may be subject to a search pursuant to this condition.
5. The defendant shall provide the probation officer access to any requested financial information.
6. The defendant shall be prohibited from working with, possessing, and/or owning animals.
7. The defendant shall cooperate in the collection of DNA, as directed by the probation officer.

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CRIMINAL MONETARY PENALTIES

The defendant must pay the following total criminal monetary penalties under the schedule of payments set forth in the Schedule of Payments.

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment¹</u>	<u>JVTA Assessment²</u>
TOTALS	\$100.00, due immediately	\$0.00	Waived	\$0.00	\$0.00

SCHEDULE OF PAYMENTS

Unless the court has expressly ordered otherwise in the special instructions above, if this judgment imposes a period of imprisonment, payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons’ Inmate Financial Responsibility Program, are made to the Clerk, U.S. District Court, unless otherwise directed by the court, the probation officer, or the United States attorney.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTA assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

The defendant shall pay interest on any fine or restitution of more than \$2,500, unless the fine or restitution is paid in full before the fifteenth day after the date of the judgment, pursuant to [18 U.S.C. § 3612\(f\)](#). All of the payment options on the Schedule of Payments may be subject to penalties for delinquency and default, pursuant to [18 U.S.C. § 3612\(g\)](#).

¹ Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.
² Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

UNITED STATES OF AMERICA

vs.

Case No.: 3:23-CR-153-WWB-LLL

NICOLE DANIELLE DEVILBISS

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that NICOLE DANIELLE DEVILBISS, Defendant above named, hereby appeals to the United States Court of Appeals for the Eleventh Circuit from the Corrected Judgment in a Criminal Case entered in this action on June 27, 2024.

DATED this 11th day of July 2024.

A. FITZGEARLD HALL, ESQ.
FEDERAL DEFENDER, MDfL

/s/ Kathryn Sheldon

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Jacksonville FL 32202
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Kathryn_sheldon@fd.org

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing *Notice of Appeal* was served by electronic notification to Ashley Washington, Assistant United States Attorney, 300 North Hogan Street, 7th Floor, Jacksonville FL 32202, on July 11, 2024.

/s/ Kathryn Shelton, Esquire
Kathryn Sheldon, Esquire
Assistant Federal Defender