IN THE UNITED STATES DISTRICT COURT FOR THE

NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA,	)	
	)	
	)	
Plaintiff,	)	
vs.	)	Case No. 3:12-CR-317-L
	)	Case No. 3:12-CR-413-L
BARRETT LANCASTER BROWN,	)	Case No. 3:13-CR-30-L
	)	
Defendant.	)	

REPORTER'S TRANSCRIPT OF PROCEEDINGS

HAD ON THURSDAY, JANUARY 22, 2015

SENTENCING HEARING CONTINUATION

BEFORE THE HONORABLE SAM A. LINDSAY, JUDGE PRESIDING

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I N D E X

	VOLUME	PAGE
COURT'S RULIING	II	311
REPORTER'S CERTIFICATE	II	325

(THE FOLLOWING PROCEEDINGS WERE HAD IN OPEN COURT, WITH ALL PARTIES AND COUNSEL PRESENT.)

THE COURT: Let me apologize to the parties in this case as well as the public. The Court is in the middle of two legal matters. The Court is also in the process of concluding a trademark infringement case and the Court also has this matter, so I apologize for the delay, but it was something that could not be avoided.

All right, this is United States versus Barrett Lancaster Brown, case numbers 3:12-CR-317-L and 3:12-CR-413-L. Is the government ready?

MS. HEATH: Yes, Your Honor.

THE COURT: Is the defense ready to proceed?

MR. SWIFT: Yes, Your Honor, we are.

MS. CADEDDU: Yes, Your Honor.

THE COURT: Mr. Brown, are you ready to proceed?

THE DEFENDANT BROWN: Yes, Your Honor.

THE COURT: All right, this is a continuation of the hearing that we held I believe December 16, 2014. The Court read into the record a number of documents that it had received as of that date.

Since the hearing on December 16, 2014, there were some additional documents submitted to the Court. There was a letter from a Ronnie Walker, a letter in support of Mr. Brown, and an e-mail from Sherry Martini on behalf of

Mr. Brown.

The Court has received the government's brief regarding grouping which was ordered by the Court. The Court has also received Defendant's brief regarding grouping of counts which was ordered by the Court.

The Court has also received Defendant's response to the government's sentencing exhibits, and the government's reply to Brown's response to government's sentencing exhibits.

Are there any other written documents that the Court has not received concerning this matter?

MS. CADEDDU: I don't believe so, Your Honor.

MS. HEATH: Not from the government, Your Honor.

THE COURT: All right. This is a reminder to those in the audience. Last time we were here, there was some conduct that was inappropriate. If that takes place today, the persons who engage in such conduct will be ushered outside of the courtroom.

If you were not one of the persons engaging in the conduct, then you have nothing to worry about, but security will remove you if the conduct is -- if conduct is engaged in in which the Court finds objectionable.

We had several outstanding issues that need to be resolved concerning the guidelines, and there are also

things that have to be considered under Title 18 United States Code Section 3553(a)(1) through (7). The Court will get to those in due time.

There was an objection made by the defense as to grouping. With respect to this objection, the defense contends that in calculating the guidelines, the Court must first determine the base offense level for each offense before grouping and apply any specific offense characteristics or enhancements with respect to that charge.

It further states that after -- when I say it, I should say he. The defense further states after this is done, the counts are then grouped according to Section 3D1.1 of the United States Sentencing Guidelines, the offense with the highest total offense level as opposed to the highest base offense level.

From what the Court can tell in response to Mr. Brown's objections to the pre-sentence report, the government agrees that this is the correct approach for calculating the guidelines for counts grouped on a nonaggregate basis pursuant to United States Sentencing Guidelines Section 3D1.2(c).

Let me say this also before the Court gets to its ruling on that. The Court believes that the three offenses, that is, the accessory charge after the fact,

the obstruction charge, and the internet threat are closely related and involve substantially the same harm, and therefore it should be grouped on a nonaggregate basis as proposed by the government pursuant to United States Sentencing Guidelines Section 3D1.2(c), and there is no need for the Court to read that into the record. The parties are familiar with that.

With respect to these three counts, the Court concludes that one of the counts embodies conduct that is treated as a specific offense characteristic in or adjustment to the guideline applicable to another of the counts, that is, each of the counts involved obstructive conduct and substantially the same harm.

The Court also determines that the argument made by Defendant regarding the lack of the same victim a temporal distinction is inapplicable under United States Sentencing Guidelines Section 3D1.2(c), and therefore, the Court overrules the Defendant's objections to the extent that he contends that the count should not be grouped into a single group.

As I initially started, what the Court can ascertain, the Defense objected to the matter in which the guidelines were calculated by the probation officer. As stated before, they cite United States versus Dickson, which is found at 632 F.3d 186. The jump page is 190 to

191. That was a 2011 case by the Fifth Circuit.

The Court agrees with the defense with respect to the grouping of the offenses as to how they should be calculated. The Court believes that the Defendants are correct -- the Defendant is correct on this point as set forth by United States versus Dickson; therefore, the Court sustains the objection made by the Defense regarding the matter in which the guidelines should be calculated.

Therefore, the Court will first determine the base offense level for each offense and apply any specific offense characteristics or enhancements to determine the highest adjusted offense level before grouping the counts according to Section 3D1.3.

With respect to the internet threats count, the base offense level, the Court determines to be 12. There are two levels added pursuant Section 2A6.1(b)(2), that is, because there were several threats to injure Agent Robert Smith from August 12 and September 12, so two levels would be added.

With respect to Section 3A1.2(b) of the Sentencing Guidelines, there is an enhancement of six levels pursuant to that section, so the adjusted offense level for the internet threats is 20.

We next come to the offense -- excuse me -- the

offense of accessory after the fact. Before the Court can determine the offense level, there are some objections that the Court has to deal with.

Just so that we are all on the same page, Counsel for both parties, I take it there is no additional evidence to be introduced at this stage in light of the Court's previous admonition at the last hearing.

MS. CADEDDU: That is correct, Your Honor, from the defense.

MS. HEATH: Your Honor, other than for the record the two exhibits that were mentioned in the motion by the government in response by the Defense, Government's Exhibit No. 62 and 63. For record purposes, we would offer what the Court already has in its possession.

THE COURT: All right, 62 and 63, -- one of them I believe, and there has been a lot of paper involved in this case, was attached to your reply and one is not; is that correct?

MS. HEATH: Correct, Your Honor.

THE COURT: Which one was not attached? 63?

MS. HEATH: I believe 63 was attached. 62 was not attached because it was 57 pages.

THE COURT: 62 was not attached. The question I have is this then. When was your document filed?

MS. HEATH: The document was filed -- I don't have the file mark. It was filed on the deadline the Court gave the government to file.

THE COURT: That doesn't tell me anything, Ms. Heath.

MS. HEATH: I am sorry.

THE COURT: There are a lot of deadlines set in this case. There is a reason why I want a specific date. It was filed before the end of the year?

MS. HEATH: Yes, Your Honor. It was filed in December. The government's brief for grouping was filed December 23rd, and the -- this other motion may have been December 22nd.

THE COURT: Let me ask you with respect to Exhibit Nos. 62 and 63, were copies of those documents provided to the defense?

MS. HEATH: Yes, Your Honor.

MS. CADEDDU: Your Honor, may I just -- I have 63 as an attachment to the motion.

THE COURT: Well, she said 63 was attached. She said 62 was not attached because it was 57 pages long.

MS. CADEDDU: I am trying to recall which one it is. I guess --

MS. HEATH: That was the IRC that I e-mailed to Mr. Ghappour.

MS. CADEDDU: Yes, we have received that.

THE COURT: All right, if that is the case then those two documents will be considered as part of the record of this case for sentencing purposes. One issue we resolved last time was the loss amount. The Court concluded that given the amount of loss, that is, because it was between $400,000 and not greater than a million dollars, 14 levels would be added to the accessory count.

The loss amount is really not in dispute insofar as the Court is concerned because it was determined back at the hearing on December 16, 2014.

So it appears to me that what we have to discuss with respect to the accessory after the fact count is the four-level enhancement. I believe the government's position now is that the four-level enhancement is appropriate as opposed to a six-level enhancement; is that correct, Ms. Heath?

MS. HEATH: For the number of victims?

THE COURT: Yes.

MS. HEATH: Yes, Your Honor.

THE COURT: And what is the defense's position? I know initially you objected to the six-level enhancement. Are you saying there should be none? I want to make certain everything is nailed down.

MS. CADEDDU: Yes, Your Honor, that's correct. I believe we addressed that in -- in the brief regarding the government's additional exhibits. As an initial matter, we have a concern about the exhibit -- we don't have an objection to admission.

We don't think it answers the questions. There are no dates or times on the charges listed on that victim list, so there is no way. We have the government --

THE COURT: Okay, which document are you talking about?

MS. CADEDDU: -- discussing Exhibit No. 63, Your Honor.

THE COURT: You said there are no dates or times.

MS. CADEDDU: No, sir.

THE COURT: So Ms. Heath, how do you connect the dots if that is correct?

MS. HEATH: The testimony from Agent Smith during the last sentencing hearing on December 16th, he indicated that he had prepared this chart based upon charges that had occurred after Mr. Brown had posted or posted the link to the file that had the credit cards. So he did testify that all of the cards that he considered to be stolen, he used several factors.

One factor was to make sure the card was a valid

card; two, to make sure that we had a CVV or other identifier on the card; and third, that the cards were actually used after the posting dates by Mr. Brown on Project PM.

THE COURT: Ms. Cadeddu?

MS. CADEDDU: Well, Your Honor, I mean, the government asserts without any back-up documents that these charges all occurred after the date and the time, I assume the time that Mr. Brown was supposed to have posted the link.

THE COURT: Let me ask you this. If the agent testified to that, what evidence do you have to contradict that? In other words, if there is testimony that it occurred as he said it did, what do you have to contradict that? To say that you have no supporting documentation does not necessarily refute what the agent has testified to.

MS. CADEDDU: I wasn't given the underlying documents. I have no idea what the dates and times were. I am saying as a foundational matter that is problematic.

Even if you accept the fact, even if you accept the government's arguments that all these charges, and by the way there are several charges in there with zero loss. There are countries listed or cities that are in

countries that don't match up. It is not -- it is really -- the list is problematic itself.

Even if you accept the government's argument that these charges were made after the date and time that Mr. Brown reposted the link, the link he posted was already public. The information was already in the public domain. The link that he reposted was reposted in the Project PM IRC Channel, but it was already out there in Pastebin in an entirely public location, so there is no -- the government can't prove causation.

The Fifth Circuit has held that you have to have -- you have to in order to hold someone accountable for loss, there has to be causation and there simply isn't. There is no way -- the government has presented no evidence to show that Mr. Brown ever used a credit card or that any person who had access to the Project PM IRC used any of the credit cards.

There are no ways to show these credit cards were used as result of reposting an already public link. The link was already in the public domain and all the credit card information was in the public domain, and the mere fact that they were used even if you accept they were used after the date and time that he reposted in what essentially was a private channel, that doesn't make the government's causation argument.

THE COURT: Ms. Heath?

MS. HEATH Your Honor, first as to the underlying documentation back in March of 2014, the government provided to Mr. Ghappour the spreadsheet provided to the government by Capital One, American Express, Wells Fargo, Sun Trust, and Alpha Bank, and these banks provided spreadsheets showing the losses, so we did provide the underlying documentation with regard to the loss.

With regard to the stolen data being in the public realm doesn't undermine the fact that what was stolen data that then was procured by Mr. Brown and retransmitted or remade available to other individuals and as to the conduct again, we were very careful to not include the hundreds of thousands of dollars of loss that occurred prior to Mr. Brown posting it, but just using that loss occurring after Mr. Brown posted the link which would be more than relevant conduct as to what other people were doing with the credit cards.

THE COURT: Let me ask this question. Okay, there was a posting by someone prior to the time Mr. Brown posted; is that correct?

MS. HEATH: Yes, Your Honor.

THE COURT: There was a prior posting of this information; is that correct?

MS. HEATH Yes, Your Honor, it was on a website

on the internet.

THE COURT: Now, does not the record reflect that the prior posting -- let me say it like this, does not the record reflect or do not those exhibits reflect that between the time of the prior posting and Mr. Brown posting that the lapse of time was approximately one to two hours? Wasn't there a one to two-hour window?

MS. HEATH: The posting by the other person on the internet relay chat, yes, there was a two-hour window where Mr. Brown was talking with that individual after they posted it about the stolen credit cards, yes, Your Honor.

MR. SWIFT: We object to that.

MS. CADEDDU: Charles -- may I respond, Your Honor.

THE COURT: Sure.

MS. CADEDDU: Actually, Your Honor, I believe the record you will see an exhibit attached to one of our briefs where we attached crypton which a crypton as explained or crypton as explained in the brief is a place where Anonymous typically posted links to stolen data -- I am sorry Pastebin Crypton is basically a historical record of what is posted.

Pastebin was what Anonymous used in order to make public information that they had stolen, and what Your

Honor is referring to is the fact that I think it was about an hour I would have to check the times exactly, but about an hour and 45 minutes before the link was and in the AnonOp, and Mr. Brown in the Project PM an hour and 45 minutes before that, Anonymous made the basically big release of this data by posting that link in Pastebin, so yes, it had been in the very public domain for about an hour and 45 minutes before it was posted in the IRC channels.

THE COURT: All right, do you have something further to say, Ms. Heath?

MS. HEATH No, Your Honor.

THE COURT: Okay, let me say this with respect to the number of victims and relevant conduct because relevant conduct is also tied up with the issue. With respect to the four-level enhancement that we are talking about, there is no question that the government has the burden of proving by a preponderance of the evidence, the facts necessary to support any enhancement.

As we all know at least the parties a preponderance of the evidence simply means that something is more likely true than not and a court may, of course, draw reasonable inferences from the evidence and the facts to determine whether an enhancement applies.

With respect to the loss, a Defendant is responsible

for any loss caused directly by his offense conduct, and when the Court makes this determination, it also considers that a Defendant is accountable for losses due to the Defendant's conduct as well as those due to the Defendant's relevant conduct.

That is what the Fifth Circuit stated in United States versus Hammond, found at 201 F.3d 346. The jump page is 351. That is a 2001 case decided by -- a 1999 case decided by the Fifth Circuit.

Just so we are clear Defendant's relevant conduct includes all reasonably foreseeable acts and omissions of others in furtherance of jointly undertaken criminal activity. That is also a cite from the Hammond case which in turn cites the applicable section of the United States Sentencing Guidelines.

For a defendant to be accountable under this section, the Court has to determine the scope of the criminal activity that the defendant agreed to jointly undertake. The Court has to then determine whether the defendant agreed to undertake criminal activity jointly with others whether the loss is caused by others or within the scope of that agreement and whether the third party's misconduct was reasonably foreseeable to the defendant.

There is quite a bit of to and fro between the government and the defense. The Court has read over a

number of documents and looked at exhibits, and at this point, it is going to cut to the chase and of course if either side disagrees with the Court, that side can consider whether an appeal to the Fifth Circuit is appropriate.

Despite the arguments and the to and fro between the parties, the Court determines that paragraphs 28 through 54 and 75 to 79 support a relevant conduct finding. These paragraphs show that the hacks and attacks conducted by Anonymous and related groups were perpetrated primarily to obtain compromised data of all sorts whether it be credit card data or other information for purposes of exploiting, threatening, harassing destroying the person that entities target whom the hackers thought or considered to be enemies.

These paragraphs that the Court just read into the record set forth or describe Mr. Brown's involvement and role in the hacker group as more than reporting the hackers activities. The Court believes that these paragraphs reflect that Mr. Brown considered himself as one of the -- one of them and was all a part of the hackers efforts. When the Court reads these paragraphs, the Court concludes that Mr. Brown collaborated with and supported the hackers identified targets, provided advice, strategized and assisted in organizing hacker

activities.

He also used the hackers to obtain credit card and other information illegal to exploit and harm other persons or entities that he personally targeted in retaliation for their investigation of him.

At times, Mr. Brown attempts to minimize his role by certain statements. However, one thing that the Court has noticed in its sentencing memorandum, he acknowledges or admits that he crossed the line in journalistic inquiry into criminal conduct when abandoned the role as an observer and reporter of events and offered to aid Hammond, and we are talking about Jerry Hammond -- Jeremy Hammond.

In addition to the pre-sentence report, those paragraphs that the Court read into the record, there are also other exhibits. The Government's Exhibit 49, 50, and 51 also indicated Mr. Brown's awareness and approval of the hackers activities in exploiting stolen credit card information prior to the Stratfor hack, and the Court concludes that the information in these three exhibits together with the information in the pre-sentence report is sufficient to support a finding that the scope of the criminal activity that Mr. Brown agreed to jointly undertake with Anonymous and related hacker groups included the use of stolen credit card

information as a means of exploiting, harassing, ruining, or destroying targeted persons and businesses and that the losses caused by the hackers who were actually used the credit card stolen during the Stratfor hack, and that is S-t-r-a-f-o-r making unauthorized charges to Mr. Brown regardless of when the unauthorized charges were made using credit card information posted by Mr. Brown or some other person who participated in the hack.

As the Court eluded to earlier, the prior posting of this information was not quote, unquote, hours a part, but instead occurred between a one and two-hour window.

Also, there have been a couple other exhibits talked about this morning. Those are Government's Exhibit No. 62 and 63, and when I take those exhibits in conjunction with the agent's testimony, the Court concludes that this information satisfies the Onenese, and the Court cited the Onenese in the earlier hearing, it is not going to go into that again.

When I say it satisfies the Onenese case, I'm talking about with respect to the third category of victims, and this information indicates that 109 individual credit cardholders sustained an actual loss totaling $20,678.

For that reason, the Court concludes there is a preponderance of the evidence to support a four-level

victim enhancement based upon 109 individual credit card victims pursuant to United States Sentencing Guidelines Section 2B1.1(b)(2)(B).

Just so the record is clear, the Court was unable to find any Fifth Circuit case discussing relevant conduct in determining loss under Section 2B1.1 and the base offense level.

There are a couple cases from the Seventh and Eighth Circuits that indicate that relevant conduct applied to determining the number of victims.

Okay, that is the Court's ruling with respect to the loss amount, and the Court would state also for the record that this includes any other evidence that was adduced at the hearing on December 16, 2014. Are there any more objections as to the accessory after the fact, Counsel?

MR. SWIFT: Well, yes, Your Honor, there was the trafficking, the objection to trafficking, the two-level enhancement for that.

THE COURT: All right, Ms. Nassar, let me see you at the bench a minute.

(PAUSE IN PROCEEDINGS.)

THE COURT: Ms. Cadeddu, what is your objection with respect to the trafficking?

MS. CADEDDU: Yes, Your Honor, the argument is

essentially is it related to the argument we made before and that is, you cannot traffic something that is already in the public domain. By reposting a link to be information that was already public, he didn't actually traffic in anything.

The case -- the government cites a case, a child pornography case where the government contends, and I can find that cite. It is in the government's reply actually.

It is United States versus Paul 274 F.3d 155, a Fifth Circuit case from 2001. In that case, the Defendant retrieved images from all -- the case says images from the internet that were child pornography. There is no indication about -- the government contends that they were public, but there is no information that says that they were public.

In fact, the case talks about various child pornography communities and illegal communities and so forth, so in any case, the Defendant had images and then reposted those to a community.

In this case, Mr. Brown didn't take credit card numbers and move them anywhere. The credit card numbers existed in a public location.

There is a public link that was already out there, and he reposted a link, so he didn't traffic in any

credit card information. He reposted a link and we do not believe that a trafficking enhancement is warranted on those facts.

THE COURT: All right, thank you.

MS. CADEDDU: Thank you, Your Honor.

THE COURT: Ms. Heath, what is your response? Do you rely on United States versus Paul, which is found 274 F.3d 155, and the jump cite appears to be page 163? How is that applicable to the situation we have here?

MS. HEATH: Your Honor, in United States versus Paul, it is the government's understanding that this individual obtained images from the internet and then re-presented them or re-sent them to other individuals and made them available to other individuals. That would be trafficking.

He is making -- he is furthering the accessibility by other people who may not have had access to the original place he went to. In Mr. Brown's case, he was in one IRC chat room talking to a certain group of people.

The link to the file is posted. He takes that link. He downloads it to his computer, so he is actually in possession of it and takes the link and retraffics or resubmits it to another IRC channel to make it available to another group of people. Therefore, you can traffic

in things that are publicly available or have been available to other people.

Most of the child pornography cases are just that, retrafficking in items that have been taken from other sites. Very rarely do you have a child pornography trafficking case that they have original images that they have created themselves and trafficked.

They are trafficking in things that have already been out there in the public. That case, to the government's belief is on point with regard to the complaint that the defense has made regarding the public stature of the stolen goods.

THE COURT: Okay, does the government have any cases that deal with the situation that we have here?

MS. HEATH: No, Your Honor.

THE COURT: Well, let me ask you this. That particular case, I am talking about the Paul case, it seemed to mention in passing that videotapes of children filed in public settings quote, unquote, and other materials were seized by the agents, but is there any discussion in that case regarding the effects of trafficking or dissemination or disseminating data that is already publicly available whether generally or specifically? That was the case involving pornography, but there are some statements made.

Is there any discussion by the Court, and this is what I am looking for?

MS. HEATH: It does not appear that the Court or that issue was an issue that was specifically contested in that opinion, so no, the Court didn't specifically address it. All the government can assume is that the courts from the year from handling child pornography cases and the standard case in trafficking you are taking images that are publicly available on one site and making them available to other individuals.

So it has been an -- all I can say is it has been an understood feature in child pornography trafficking cases, so no, this Court did not specifically address that issue of making available items that were already publicly available.

THE COURT: Well, I guess my question is, how does that support your position then?

MS. HEATH: In that the term used for trafficking in child pornography cases is the simple definition of trafficking. You take items and you redistribute them to other individuals.

In drug cases, you are trafficking in items. You are basically taking possession of it from one location and giving it to other people, so the basic definition of trafficking in this case, Mr. Brown, is taking stolen

data that is presented in one IRC chat room.

He is taking that link to the file containing the stolen data, and he is making it available, furthering the availability to other individuals in another site, so I am just seeing that the definition of trafficking is similar in all these cases where you have taken from potentially a public domain, but it doesn't seem to matter in the definition where it comes from.

I don't have a case that says it didn't matter, but it seems that the case that support trafficking often come with the element of taking the item from a public domain and presenting it to other individuals so the traffic is just furthering in transferring that data to another individual or another entity.

THE COURT: Ms. Cadeddu.

MS. CADEDDU: Thank you, Your Honor. I just don't believe that these are analogous cases. What the government is doing is complaining of transmitting data with the posting of a link.

In the child pornography case, if you take contraband, the actual images, the drugs or the contraband, and you move them and give them to someone else. In this case, what happened was there was a public -- there was a link to a public website that contained this data, and Mr. Brown took a link that was posted in an IRC channel

for AnonOps and reposted to a public website.

He didn't move the data and give it to someone else, and the analogous situation in child pornography would be if someone said I found child pornography on X website, so you can go look there. That would be equivalent, and there is no case, I have never had a case -- never seen a case where that is considered trafficking.

Telling someone where they can find child pornography is not trafficking and this is exactly what happened here. Mr. Brown took a link to a public website and said essentially there is data related to the hack, took the link and reposted somewhere else. He did not traffic in the data.

THE COURT: Any final remarks, Ms. Heath? The burden of proof is on the government to prove that the enhancement applies.

MS. HEATH: Your Honor, Mr. Brown did take possession of the accessibility of that data by taking the link to the file and reposting it to make it available to other people.

In the real world -- I am trying to think of an example even in drug deals when a drug dealer has a key to an apartment and gives the key to somebody for them to go to the apartment. They are physically not taking drugs and moving them themselves.

They are giving a key or a means of accessibility to the items that they want traffic in, so giving the key to the other person so that person can then go retrieve the items themselves, that type of situation has occurred in drug cases.

So in this situation, the key here would be the link. He has provided access to the data and it is stolen data, and he knows that it is stolen data. I don't know there is any question about that. So the actual making available for that to other people is the trafficking of the data, Your Honor.

In this case, it is not as if he is going to print out the five thousand credit cards on a piece of paper and fax them to be somebody. He is making accessible electronically by providing the link to the file that contains the data.

MS. CADEDDU: Would you like a response from me, Your Honor?

THE COURT: Well, she has the burden, so she has the right to have the last reply unless you have something new to tell the Court.

MS. CADEDDU: No, Your Honor. I was going to point out the drug examples. Drugs are in a private location in her example. In this case, we are talking about public data on Pastebin. I don't think it is a

correct analogy.

THE COURT: One final response, Ms. Heath, in light of Ms. Cadeddu's comments since the burden is on you. Do you have anything to say in regard to her last comment about the drug situation?

MS. HEATH: Your Honor, I don't think the issue comes down to whether it is a public or private place. That was just an example to show that you don't have to physically touch the items to be involved in trafficking of the item.

The individual can leave it at a public location and tell the other person where to go find it and provide them a map to a public location where they can find the item. I think there are all instances or ways in which data or physical items, in this case this is trafficking in electronic data. In this case, Mr. Brown made accessible the data to other people by providing the data link to the file.

THE COURT: The Paul case is not directly on point. The Court readily acknowledges that. However, the Court does believe that through analogy there is sufficient evidence and adequate basis to apply the two-level enhancement for trafficking; therefore, the Court overrules the defense's objection to the enhancement for trafficking pursuant to United States

Sentencing Guidelines Section 2B1.1(b)(11)(B)(i) and (11).

Any other objections with respect to the accessory after the fact count?

MS. CADEDDU: I don't believe so, Your Honor. I think that is the only pending objection.

THE COURT: All right, then the Court is now going to compute the guidelines for that count. The base offense level under this count is 6. That is pursuant to United States Sentencing Guidelines 2B1.1(a)(2).

With respect to the loss amount, as the Court previously stated, the appropriate enhancement for the loss amount is 14. That issue was resolved at the previous hearing.

We next come to an enhancement for whether or not the offense was used -- committed by sophisticated means. The Court believes there is more than ample evidence or more than preponderance of the evidence to show that the offense was committed by sophisticated means, therefore, two levels are added.

Also pursuant to 2B1.1(b)(17)(B), two levels are added pursuant to the unauthorized dissemination of personal information.

We next get to whether or not four levels should be added for the number of victims. The Court has discussed

that in fairly substantial detail.

The Court stated earlier that it read the position of the parties, the exhibits, looked at the applicable provisions of the pre-sentence report and concluded that based upon the applicable law and the section of the applicable guidelines, that the four-level enhancement was -- or should apply, and the Court overrules the Defendant's objection in that regard, and the Court does apply the four-level enhancement pursuant to the applicable provision of guidelines.

We have talked about the trafficking enhancement. The Court has ruled that that should apply. That would give an offense level of 30. There is no dispute by any of the parties pursuant to United States Sentencing Guidelines Section 2X3.1(a), six levels are to be deducted, so that would give an offense level of 24.

Then there is an obstruction enhancement that should apply pursuant to Section 3C1.1 of the Sentencing Guidelines. That is a two-point enhancement.

With respect to accessory after the fact, the Court comes up with an offense level of 26 at this point.

Finally, we get to the obstruction count. The base offense level is 10, and there are no enhancements or characteristics to add there, therefore, the adjusted

offense level would be 10. Out of the three counts based upon the Court's determination, the count for accessory after the fact has the highest adjusted offense level, and we have a 26 adjusted offense level.

Other than the objections that have already been ruled on by the Court, does any party have any objections as to the Court's determination or calculation of the adjusted offense levels as to the three charges that are the subject of this sentencing hearing?

MS. CADEDDU: Just the previously discussed objections, Your Honor.

THE COURT: I said other than those.

MS. CADEDDU: Yes, Your Honor. I want to make sure I have not waived.

THE COURT: You are not waiving those. I think you adequately briefed those. I think I have ruled on them.

MS. CADEDDU: No new objections.

THE COURT: One of them I sustained, and the others I did not.

Does the government have anything?

MS. HEATH: No, Your Honor.

THE COURT: So based upon the Court's calculation with respect to the three offenses involved the accessory count produces the highest adjusted offense level of 26.

This is the offense level that will be used to calculate the guidelines for this group.

There is only one single group. It is not necessary for the Court to apply Section 3D1.2 regarding the number of units. The adjusted offense level is 26.

We next come to the issue of acceptance of responsibility. The question in this regard is whether Mr. Brown gets a two-level reduction for acceptance of responsibility or a three-level reduction for acceptance of responsibility.

Ms. Heath, at this time, does the government move for the additional level for acceptance of responsibility pursuant to United States Sentencing Guidelines Section 3E1.1(b)?

MS. HEATH: Yes, Your Honor, the government has made its intention clear that if the Court gave the initial two levels, the government would move for the third level.

THE COURT: All right, thank you.

The Court does conclude that Mr. Brown has accepted responsibility for his conduct. The government has moved for the additional level for acceptance of responsibility. The offense level is 16 or greater. The Court determines that the government's motion is well taken. Accordingly, Mr. Brown will be granted a

three-level reduction for acceptance of responsibility. That makes the total offense level 23.

Mr. Brown has a criminal history category of II. There were objections made by the defense as -- stating that the criminal history category overstates -- the criminal history category is overstated. The Court disagrees.

The Court determines that the criminal history category determined by the probation officer is correct, and therefore, with respect to any objection regarding the criminal history category made by the defense, the Court overrules such objection. Therefore, there is a total offense level of 23 and a criminal history category of II.

With a criminal history category of II and an offense level of 23, that gives a guideline range of imprisonment of 46 to 57 months.

Are there any other matters concerning the guidelines?

MS. CADEDDU: None from the defense, Your Honor.

MS. HEATH: Your Honor, the government reads offense level 23 with a criminal history category II to be 51 to 63 months.

THE COURT: You are correct. I looked at the wrong column. It is 51 through 63, offense level 23,

criminal history category II, that is 51 through 63. That is where the lines intersect, so you are correct, Ms. Heath. But actually, would it not be capped at 60 since that is the maximum amount that any -- isn't it capped at 60 since that is the maximum amount statutorily for any of the counts involved?

MS. HEATH: No, it is 8-and-a-half years, Your Honor.

THE COURT: That is 102 months. All right, the 60 months is only for the internet threats.

MS. HEATH: Correct, Your Honor.

MR. SWIFT: Yes, Your Honor; that's correct.

THE COURT: All right, thank you, Mr. Swift. All right, in addition to considering the advisory guidelines the Court must also consider the statutory factors set forth in Title 18 United States Code Section 3553(a)(1) through (7).

When the Court considers these statutory factors, it must impose a sentence that is sufficient but not greater than necessary to accomplish the objectives of paragraph (a)(2) of Section 3553 Title 18.

In particular, the Court must consider or impose a sentence that reflects the seriousness of the offense, one that promotes respect for the law, one that provides just punishment, one that protects the public from

further crimes of the defendant, one that affords or serves as an adequate deterrence to criminal conduct, and finally, a sentence that provides the defendant with the needed or necessary educational or medical care -- needed vocational training, medical care, or other correctional treatment in the most effective manner.

The Court will take all those matters into consideration before it imposes sentence against Mr. Brown.

Ms. Cadeddu, would you like to be heard on behalf of your client?

MS. CADEDDU: With the Court's permission, Mr. Swift will discuss the 3553(a) factors.

THE COURT: Very well, let me ask you, Mr. Swift, do you prefer to discuss those first -- or let me ask this. Was there anybody who is going to speak on behalf of Mr. Brown?

MR. SWIFT: There is one witness that will speak on behalf of Mr. Brown.

THE COURT: Who is that witness?

MR. SWIFT: Tim Rodgers of D Magazine, Your Honor.

THE COURT: All right, do you prefer him to go first?

MR. SWIFT: I would prefer him to go forward,

sir.

THE COURT: All right, call him forward. Are you doing it narrative form or what?

MR. SWIFT: Narrative form, Your Honor.

THE COURT: Any objection from the government?

MS. HEATH: No objection, Your Honor.

THE COURT: All right, sir just step forward to the lectern, right where you are, and state your name, please.

THE WITNESS TIM RODGERS: Tim Rodgers.

THE COURT: All right, sir, what would you like to tell the Court?

THE WITNESS TIM RODGERS: Barrett has been writing for me, and there has been discussion whether the guy is a journalist. I have maintained for a long time that he is that and many other things. What I would like to speak to is just the journalism part of it.

Barrett has been writing the entire time he has been incarcerated. He has earned if not a living at least money doing it, and I would hope to employ him when he gets out.

As for his other activities, I am not here to talk about that, just whether the guy is a legitimate journalist, and I would say yes.

THE COURT: All right, thank you, Mr. Rodgers.

THE WITNESS TIM ROGERS: Thank you.

THE COURT: All right, Mr. Swift.

MR. SWIFT: Thank you, Your Honor. From the podium?

THE COURT: Yes, sir.

MR. SWIFT: Yes, Your Honor. I began, Your Honor, by pointing to something that with respect to the guidelines factors which is the first factor that you start with in utilizing the 3553.

Understanding what Your Honor has calculated, I would point out several things to the Court that we pointed out in the sentencing memorandum, the first being that the maximum sentence for which the accessory after the fact charge for which Mr. Brown has been found guilty is actually two-and-a-half years.

THE COURT: 30 months; that is correct.

MR. SWIFT: 30 months, and we argue that that maximum under the circumstances is appropriate. Although, the guidelines have a higher one.

In normal circumstance absent the other charges, absent the other charges, the guidelines maximum would be set at the maximum sentence. I think that there are a lot of factors to look at this in looking at applying 3555(sic) here, but the first one is to recognize the basic justice of someone, so we are not importing

sentencing power in the form of other crimes that were committed to go beyond what Congress had intended or the Court should impose for a particular offense.

And under accessory after the fact, as the Court has found there are some significant factors. There is the amount of loss. There is the number of persons who were effected, but I think also accessory after the fact when one looks at Mr. Brown's role within that, he has admitted that he crossed over from a journalist also adequately deters that, and we have to be sure that we don't over deter it.

If we look at the remainder of the questions, I think the questions for the Court because of how we -- how this case was charged because we actually have three different cases is whether to run -- run the additional sentences or any sentences consecutively or concurrently. That is really the question.

I am not standing before the Court arguing that 30 months is not appropriate on the accessory after the fact. There are a lot of benefits for him. There are a lot of deterrents, but I am not going to stand here and argue given all the part that 30 months would not be appropriate.

The question that we said applying the 3555 factors is, does the Court need to do more. Looking at the

threats applying the facts to the threats, we have understand where Mr. Brown was in his mental health. His statement what has been otherwise lucid and sometimes controversial person, the threats were completely uncharacteristic of him. They were a meltdown -- the Court has the entire transcript -- a rage, if you will, for which he expressed remorse and will express remarks.

THE COURT: You said the threats need to be looked at in terms of Mr. Brown's mental state, and I understand your position on that, and I guess I will let you finish because you can be thinking about this. When a threat is made, the intended victim or intended target does not know that.

MR. SWIFT: That is absolutely true.

THE COURT: I have no way -- if a threat were made to me, I would have no way of assessing the mental -- necessarily assessing the mental state of that person.

So you have a public official who is conducting an investigation or part of an investigation and threats are made not only to him, but also to harm his children.

You know, one concern of Congress was that you make threats to individuals. Individuals are intimidated. They are afraid. They are harassed.

When you talk about a public official or any public official, not just public official in this case, but that can have a chilling effect on that individual doing his or her job.

MR. SWIFT: I agree on all of that.

THE COURT: I would like for you to address that.

MR. SWIFT: The first part is I agree. That is why Mr. Brown pled guilty to the statements he made. When applying the 3555, you need to apply that factor. I do also say that we need to look at in applying a punishment not greater or sufficient but not greater. We need to look at Mr. Brown at the time that he makes the threats. We need to look at where he is at, and at that particular time, he in some respects admirably, but foolishly by all reports had gone off of drug medication and is in the process of the equivalent of a nervous breakdown.

So one of the things the Court has to ask itself is in appointing a punishment here on what is beyond is Mr. Brown likely to do this again? Is this abnormal or abhorrent conduct for him or is this normal conduct? I would say to Your Honor, that it is abnormal. It is not representative of him, and that is another factor to be put on the scale, to be put on the scale, at the time is the seriousness of the conduct. Those are both things

that Your Honor is weighing, and so what I am saying to Your Honor is that there -- the factors of his mental health, et cetera, is something else you should be looking at in determining what additional punishment should be made for the threats.

The other part I think you have to look at in part on it is the unique world of the internet in that part, and the conversation and part in which we behave on the internet. If Your Honor googled this morning Deflategate with the Patriots, we would see --

THE COURT: You would see Bill Belichick's name.

MR. SWIFT: We would see people in the comment section going on and on, and I cannot believe that anyone would behave that way in the public square. At least I would hope not.

I would hope they would not say these things to one another, but in the internet world we often do, and so it goes over the top, and so the next thing I think that needs to be looked at inside the threat is where it occurs in judging on that level is that they go over the top.

I realize that that may have a -- still has an effect on the agent, but I would also point out that the threats -- first, the threats that Mr. Brown was convicted of by the way are threats to do actual physical

harm. That is why it carries the five years sentence, and those threats were not made against the agent or his family.

They are listed as other ones or additional threats that were made, but the threats he made very clear were not to do physical harm.

They were simply in Mr. Brown's chats to dox them or expose, ridicule them, put out information about them that would lessen them in the public esteem, and so the threats that he makes that I wanted to address in that part of the over the top to the FBI of things that I have not gone into, if people come, I will shoot them, et cetera.

While it could be taken credible, need to be looked at in the context -- in the context of the internet and in the context of these type of conversations when weighing -- we pled guilty, but on weighing the severity of the threat.

THE COURT: Well, let me ask you this. When were the threats made? September 12, 2012?

MR. SWIFT: That's correct, Your Honor.

THE COURT: What had taken place before then?

MR. SWIFT: Well, during the period of time his mother -- what had happened was he was under investigation from March on. During that period of time,

Judge, he began --

THE COURT: That is my precise point, that he was under investigation, and he made these threats. Whether he made them out of anger. He made threats. There was an investigation going on.

All right, so it appears that he was upset about prior activities, prior incidents. He made threats, and there was some strong language used regarding Special Agent Smith, his children, and even what he would do if any FBI agents or government officials came to where he lived. I don't think there is any mistake as to what was said.

MR. SWIFT: No, Your Honor, there is not.

THE COURT: So what I am saying is we need to put those threats in the proper context, and so I don't know that your analogy about Deflategate was necessarily on point. Here we have an ongoing investigation and based upon my review of the record, these threats came after the other two offenses were committed.

MR. SWIFT: That's correct.

THE COURT: And there were other things going on to with his mother and all of that. The whole obstruction of justice charge was that there were computers hidden or tried to be hidden from the FBI.

So I am saying, that was a culmination of a lot of

activity or interaction between him and the government. I just want make certain we put everything in the proper context.

MR. SWIFT: Yes, Your Honor. The other thing I would add is you skipped over clearly the threats the things he becomes upset about and pushes him over the edge and one that brings it a little more back to an immediate stimulus was that his mother was going to be arrested and charged for what basically is his conduct in all of this, that she has been brought into this, and that has an extraordinary effect.

I think that all of us can relate to because family, you know, I have often said you can say anything you want about me, but I have a problem with you saying something about my mom. I think that is a generation of which we understand and grow up and that is common part. It doesn't excuse -- it doesn't say that I hit -- it doesn't say those things, but it does give a reason beyond simply I am trying to stop them from investigating me.

He had been under investigation for a long time. He broke. He broke, and he ranted, and he raved, and he said all of these things, and we agree that a reasonable person could take them seriously, and that under those circumstances they constituted a threat. However, the Court is still left with the fact that it is a rant and a

rave.

It is atypical that he breaks at the end of it to ask yourself what additional punishment should be warranted for that beyond 30 months? By either running a sentence -- there are several ways the Court could do it, but really it comes down to what additional punishment should be warranted in this case for those threats.

Our argument to Your Honor is that at no means should it be -- we believe that it is reasonable to say that the 30 months covers all, but if the Court disagrees and says that there needs be -- we look at it by saying that sentencing at the max for the major offense gets us there.

If the Court doesn't believe that is a reasonable sentence, when we look at those is somewhere in the neighborhood and sentences -- somewhere around 12 months additional time and -- no more than 12 months additional time for those threats.

We would also look at the Court -- in rehabilitating of Mr. Brown. One of the things that I think should be clear to the Court is he had been under investigation for a very long time.

Mr. Brown is an extraordinary talented person as a writer. You heard from the letters and all of those parties.

One of the things that we want to accomplish is to rehabilitate Mr. Brown. It is a voice we want to hear from. As a society, as a writer, he is a benefit.

He may not always be in agreement with society, but those type of voices are the ones that have made America stronger over time, but it is also clear if Mr. Brown continues to utilize narcotics, that not only will he shorten his own life, he will cut short his voice and he is likely to make similar mistakes.

It should not be lost on the Court on your part during this period of time Mr. Brown has abused narcotics from an early age and this had significant effects both when Mr. Brown was committing the offenses and I dare say that probably had significant effects in pushing him from that line of journalist to something else, but also when he tried to go off the narcotics abruptly it was wild personality swings and those types of things. Therefore, we believe it is very important that Mr. Brown get treatment for his narcotics addiction when he comes out.

Although, he has been in a forcible sober state, we would recommend that the Court use part of its time and in fact even in the threats time and additional probation time to mandate treatment. Mr. Brown parents are able to afford it and will afford it. We have offered that evidence to the Court.

This isn't a pipe dream. It can happen and the Court can use part of its power by mandating this under probation and holding a sentence over Mr. Brown's head as part of that.

We think that that will do a significant benefit not only for Mr. Brown, but society and here in this case safe the taxpayers money.

The last part that I think you need to keep in mind, Your Honor, when putting down a sentence and this is from all the letters that you have received is we want to make sure whatever you do we don't overkill.

Journalists and others are very concerned. You've heard from journalists. You have heard from members of the public. You've heard from professors. You've heard from sociologists, from a wide group of people, and they are concerned.

To give but one example that significantly changed the sentence, two months for a link. There is great concern for Mr. Brown's case. He did not plead guilty to it, but his sentence is being arguably enhanced under the government.

If I as a journalist send a link with thousands and thousands and thousands of documents in it from one of these parts, and I post it, I may be potentially liable unless I can't post or send anything in the digital age

without knowing exactly what is in it.

THE COURT: Well, I really think it is a bit more than that. And I do not want to recap the evidence and the paragraphs that I talked about, the testimony from the agent, and the exhibits and all of that, but you have to consider the totality of the conduct.

When I consider the totality of the conduct, I ruled the way I did because I think that he was more involved than what he wants me to believe, and I am not basing that on argument, I am basing that on a collection of documents and some testimony.

You look -- oh, by the way, I am drawing reasonable inferences from that testimony and from that documentation, and you are doing your job. You are supposed to minimize his conduct. That is why he has all these smart lawyers, but I have to look down through the water and see if there are any fish. I have to see what the real issue is. And all I am saying is his involvement in posting that link is more than what it appears or what the defense wants the Court to think.

There is a lot of evidence surrounding that, and you read the PSR. You look at those exhibits, and in my mind, there is no question that it is more than just a mere posting of a link.

You get a view of that evidence and consider that

testimony. All I have to say is he was more involved than he wants the Court to believe and I think that is more than adequately supported by the record, and I did not go into each particular fact because we will be here until tomorrow. But if the Fifth Circuit wants to review it, I think the Fifth Circuit will be convinced that he was more involved than what I am being led to believe at this moment. So I guess what I am saying is what took place is not going to chill any First Amendment expression by journalists.

As I stated earlier, -- well, that is on something else, but I will stand by my statement that what the Court is doing with respect to that is not going to chill any First Amendment expression by any journalist because it was more than just the mere posting. It goes to his involvement with others who were involved in this same activity. That is why I found that that was relevant conduct, and that conduct was foreseeable. You may proceed.

MR. SWIFT: Yes, Your Honor. Well, I don't disagree. Again, I agree with the Court that Mr. Brown crossed a line in that part. What I think and one might take from Ms. Quinn's testimony and others is how close it can be to crossing a line, and what I am concerned about is the chilling of journalists and what they are

concerned about is at this line. If the sentence for crossing a line is extreme, then the effect will be that others will not get close to the line and it is in this area that I am concerned.

I think the Court should consider deterrence. Obviously, the Court has given a significant thought to it, but I said the reasons others are concerned, many have written to the Court, et cetera, out of concern is that there is a concern of that chilling factor and a recognition of the value for the work Mr. Brown has done. At the end, as I said to Your Honor, this -- the defense -- adding all that up on his level of involvement sits there and says, okay, still that would take him for this crime to a maximum of 30 months for the accessory after the fact and putting out what Congress has passed, and our argument is that a maximum on an accessory after the fact certainly addresses both of the facts that Your Honor has put out and without overdoing the concerns that have been put out.

As I said, I believe we argue that a sentence -- if Your Honor believes that it is necessary running an additional sentence consecutively on 18 months -- excuse me for 12 months, for 12 months on the threats charge, more than accomplishes what is adequate there when taking into effect all of the 3555 factors and not awarding a

sentence that is greater than necessary. Thank you, Your Honor, unless have you questions of which I am happy to answer.

THE COURT: Not at this time. I may have some later on.

MR. SWIFT: Thank you.

THE COURT: Thank you, Mr. Swift. All right, Mr. Brown, you may address me at this time and present any information that you would like in mitigation of your sentence. In other words, if there is something that you would like to tell the Court before the Court imposes sentence, you may do so at this time.

THE DEFENDANT BROWN: Yes, Your Honor.

THE COURT: Approach the lectern.

THE DEFENDANT BROWN: Good morning.

MS. CADEDDU: He can't hear very well, Your Honor.

THE DEFENDANT BROWN: The allocution I give is going to be different from the sort that usually includes a sentencing hearing because this is an unusual case touching upon unusual issues. It is also a very public case, not just in the sense that it has involved closely by the public, but also in the sense that it has implications to the public, and even in the sense that the public has played a major role because, of course,

the great majority of the funds for my defense were donated by the public. So now I have three duties I must carry out. I must express my regret, but I also must express my gratitude.

I also have to take this opportunity to ensure that the public understands what has been at stake in this case and why it has proceeded in the way that it has. Because, of course, the public didn't simply pay for my defense through its donations paid for my prosecution for their tax dollar and the public has a right to know what it is paying for, and Your Honor has a need to know the implication of what he is ruling on today.

First, I will speak to regret like nearly all federal defendants, I hope convince Your Honor that I sincerely regret some of the things that I have done. I don't think anyone doubts that I regret quite a bit about my life including some of the things that have brought me here today.

Your Honor has the sentencing responsibility statements that my employers provided to you. Every word of that was sincere. The videos were idiotic, and although I made them in a manic state brought on by a sudden withdrawal from Paxil and Suboxone and stress brought on due to threats to prosecute my mother as well as revelations that have now circulated in the press

regarding misconduct by a certain company approaching the FBI in this investigation, that still means those YouTube footage talking nonsense about the FBI not taking me alive and all of that.

Likewise, I didn't have the right to hide my files from the FBI during a lawful investigation. And I would have had a better chance of protecting my contacts in foreign countries if I pursued the matters in the court after the raid rather than stupidly trying to hide in the kitchen cabinet as my mother and I did in regard to relating to the effort to redact sensitive matter after the Stratfor hack.

I explained to Your Honor in my statements that I do not want to be a hypocrite. If I criticized the government for breaking the law, and then break the law myself in an effort to reveal their wrongdoing, I should expect to be punished just as I caused the criminal act of the government link of HPGary and Palton to be punished.

When we start fighting crimes by any means necessary, we become guilty of the same gynocracy as law enforcement agencies throughout history that break the rules to get the villains and so become villains themselves.

I am going to say a few more words about regrets in a

moment, but for now I am going to get to an unusual part of the allocution. I am going to make a few criticisms of the man in which the government pursued this case. Normally, this sort of thing is left to one's lawyers because if you do otherwise, you run the risk of the defendant seeming combative rather than contrite.

I think Your Honor understands that one can regret the unjust things that one has done while also being concerned about the unjust things that have been done to him and which thus might be done to others.

Based upon certain statements that Your Honor has made as well as the one particular ruling, I have cause to believe that Your Honor will understand that perhaps even sympathize with the unusual responsibility I have today which makes it necessary that I point out some things very briefly.

I do so with respect to Your Honor, but I also do it for selfish reasons. I want to make absolute certain that Your Honor is made aware that the picture the government has painted for you of me is a false one. Even aside from the several First Amendment issues that have already been wildly discussed as a result of this case, there is also the matter of the dozens of people around the world who have contributed to my think tank Project PM by writing for a public website Echelon2.org.

Quite incredibly, the government has declared these contributors, some of them journalists to be criminals and participants in a criminal conspiracy. As such, the government has sought from this Court a subpoena by which to obtain the identities of all of my contributors. Your Honor denied that motion last year, and I am very grateful to Your Honor for having done so.

Unfortunately, the government thereafter went around Your Honor and sought to obtain these records by other means. Now, those dozens of people who have given their time and expertise for which have been held as journalists or advocacy groups as a crucial enterprise are now at risk of being indicted under the same sort of spurious charges that I was facing not long ago when the government exposed me to decades of prison times for copying and pasting a link to a publicly available file that other journalists were also linking too without being prosecuted for it.

They are now resorted to arguing because I managed to determine after downloading the file that it did not contain the millions of e-mails I was expecting that it necessary follows that I must have therefore known before downloading the file that it contained no e-mails at all. This not only fails to make sense. It fails to make sense on several different levels.

The fact that the government has still asked you to punish me for that link is proof that any more were needed that those of advocates against government secrecy are to be pursued without regard for the rule of law or even common decency.

Your Honor, I understand this is my sentencing hearing and not an inquiry to the government's conduct. This is not a place to go into the government's demonstrable errors and contradictions to be found in the government's documentation and the testimony given by the government. But it would hypocritical of me to attest to the government's conduct and not provide Your Honor with at least one example here in addition to the examples ascertained by our previous filings.

I would do so very briefly. September 13, 2012, bond hearing, held Magistrate Judge Stickney's court the day after my arrest, Special Agent Allyn Lynd took the stand and claimed under oath that in reviewing my laptops he found discussions in which I admit to having engaged in, quote swatting, unquote, which he referred to as quote, violent conduct, unquote.

Your Honor may not be familiar with the term "swatting" as Mr. Lynd described it at the hearing, it is, quote, where they try to place a false 911 call to the residence of an individual in order to endanger that

individual, unquote. He went on to elaborate at length about this presenting it as the key reason why I should not receive bond.

Your Honor will have noted that this has never come up again. That is because Mr. Lynd's claims were entirely untrue, but that did not stop him from making them, any more than it stopped him from planning at that hearing that I have lived in the Middle East, a region I have never had the pleasure of visiting.

Your Honor, this is one example from a single hearing -- I could have picked others, if Your Honor can extrapolate, Your Honor can get a sense how much value to be placed on the rest of the government's testimony in this case including that which pertains to the linking issue.

Likewise, Your Honor can probably understand the concerns I have about what my contributors might be subjected to by the government if this sort of behavior proves effective today.

Naturally, I hope Your Honor will keep this in mind and I hope other districts and this judge as well because again that remains a great concern that my associates will be next to be indicted.

I tried to protect my contributors, Your Honor, and I try to protect the public's right to link to source

materials without being subjected to misuse of the statute.

Last year when the government offered me a plea bargain, whereby I could plead to one of the 11 fraud charges related to linking and told me it was final, I turned it down. To have accepted that plea with a two-year sentence would have been convenient for me. Your Honor will note that I actually did eventually plead to an accessory charge with potentially more prison time, but it would have been wrong.

Even aside from the obvious fact that I did not commit fraud and thus couldn't sign onto any such thing to do so would have also caused a dangerous precedent. It would have endangered my colleagues each of whom would now have been depicted as a former associate of a convicted fraudster and given the government particularly the FBI one more tool by which to persecute journalists and activists who they deem are dangerous or undesirable, just as they did in the early 70's and late 60's.

Journalists are especially vulnerable right now, Your Honor, they will become more so when the FBI starts making false claims about them.

In response to our motion to dismiss the charges for obstruction of justice based upon the hiding of laptops, the government claimed that those laptops contained

evidence of a plot I orchestrated to attack the kingdom of Bahrain on the orders of Amber Lyon. Your Honor, Amber Lyon is a journalist and former CNN reporter who I do know and respect, but I can assure Your Honor I am not in the habit of attacking foreign state anarchies on her behalf.

I think it is unjust to use this court to throw off that sort of Ms. Lyon in a public filing as they did if they are not prepared to back it up, and they are not prepared to back it up. But that won't stop the kingdom Bahrain from repeating this assertion and perhaps in keeping Ms. Lyon out of the country because she has indeed reported on the Bahrain monarchy's violent crackdowns on pro-democracy protests in that country and she has done so from that country. And if she ever returns to that country to continue that important work, she will now be subject to arrest on the grounds of the United States Department of Justice itself has explicitly accused of orchestrating an attack on that country's government.

Your Honor, this is extraordinary. This is really extraordinary. Ms. Lyon isn't the only journalist who has been made less secure legally by this prosecution. Every journalist in the United States has put at risk by the novel and sometimes radical claims that the

government has advance particularly in the sentencing process.

The government now asserts I am not a journalist and thus unable to claim the First Amendment protections guaranteed to those engaged in information gathering activity.

Your Honor, I have not denied that I'm involved in Anonymous. I never denied that. That means different things at different times in different situations, and I will ask you to not rely on certain information in the PSR and certain claims made previously by the government. This government asserts that I am not a journalist and that seems to be the issue because they made this several times.

Your Honor, I have been employed as a journalist for much of my adult life. I have written for dozens of magazines and newspapers, and I am the author of two published and critically-acclaimed books that's nonfiction. Your Honor has received letters from editors who have published my journalistic work as well as award-winning journalist Rick Greenwald who notes they have used that work in their own articles. If I am not a journalist, Your Honor, then there are many, many people in this country who are also not journalists without even realizing it, and thus at risk as I am.

Your Honor, it would be one thing if the government were putting the standard by which a journalist can be defined. They have not put forth such a standard. Their assertion rests on the fact that despite having referred to myself as a journalist hundreds of times, I at one period rejected that term, much in the same way that someone running for office might reject the term politician.

Now, the government has introduce a new standard whereby anyone who once denied being a particular thing, is no longer that thing in a legal sense, that at least would be a firm and noble criteria even if problematic in several cases, but that is not what the government is doing in this case.

Consider, for instance, I have denied being the spokesperson for Anonymous hundreds of time both public and private ever sense the press begin calling me that in the beginning of 2011. On a couple of occasions when I contacted executives of contracting firms like Booz Allen Hamilton in the wake of reservations that they have been spying on my associates and I for reasons that we were naturally quite anxious to ascertain, I did indeed pretend to be an actual official spokesperson for Anonymous because I wanted to encourage those particular people to talk to me and they did.

Of course, I explained this many, many times, and the government itself knows this even if they have since claimed otherwise. In that September 13th criminal complaint filed against me, the FBI itself acknowledges that I do not claim any official role with Anonymous. Likewise in last month's hearing, the prosecutor slipped and referred to me as a journalist even after having previously found it necessary to deny me that title. But there you have it. Deny being a spokesperson for Anonymous hundreds times, and spokesperson for Anonymous. Deny being a journalist once or twice, and you are not a journalist.

What conclusion can one draw from this sort of reasoning other than that you are whatever the FBI finds convenient for you to be at any given time. This is not the rule of law, Your Honor. It is the rule of law enforcement and it is very, very dangerous.

Your Honor, I am asking you to give me a time served sentence of 30 months because to do otherwise I believe would have effect of rewarding this sort of reckless behavior on the part of the government. I have been punished for my reckless behavior. I acknowledge my reckless behavior.

There is a great deal about my life, Your Honor, that drug use, poor decisions, unfairness to my opponents,

crossing the line multiple times with Anonymous that I have never denied ever. But I am asking for that particular sentence today because again as my lawyer argued and acknowledged based upon the guidelines has pointed out that was what the actual facts of the case perceived upon, and the public to the extent that it has made a voice heard through letters and donations and op-eds in major newspapers also believes the circumstances warrant at.

I would ask that the government believes the facts warrant my release today because look at all the lies they would have to tell to keep me in prison. I thank you for your indulgence, Your Honor.

I want conclude by thanking everywhere who has supported my defense over the past few years. I need to single out one person in particular who is here today, Kevin Gallagher who contributed to my Project PM group and who stepped up immediately after my arrest to build up a citizens initiative group to raise money for my the defense and spread the word by what was at stake in this case.

The two and a half years of my incarceration, Kevin has literally spent the bulk of his free time working to give me my life back. He is one of the extraordinary people who has given of himself to make possible this

great and beautiful movement of ours. This movement will protect activists and journalists from secretive and secret retaliation by powerful corporate actors with ties to the state and the FBI in particular.

Your Honor, Kevin Gallagher is not a relative of mind or childhood friend. This is only third time I have been in the same room with him. Nonetheless, he has dedicated two years of his life to ensure that I have the best possible lawyers on this case and to ensure that the press understood what was at stake here.

Your Honor, he even set up something on Amazon where I could ask for books on particular subjects and supporters could buy them and have them sent to me, and he spoke to my mother several times a week.

During that early period when I was facing over hundred years worth of charges and wasn't clear whether or not I would ever be coming home, he would offer support and reassurance to her, an effort that I will never be able to repay. He knows how much I regret the pain and heartbreak that my family has suffered during this ordeal.

A few weeks ago, Kevin got a job to be with the Press Foundation one of the world's most widely-respected advocacy organizations, and according to the government, he is also a member of a criminal organization because

like other journalists and activists across the world, he has been a contributor to Project PM, and the government has determined Project PM to be criminal enterprise.

I think the government is wrong about Kevin, Your Honor, but that is not why I brought him up. I am glad for this opportunity to express my gratitude to him in a public setting, there are some gifts for which conventional gratitude is indeed insufficient payment. One can only respond to such gifts by working to become the sort of person that actually deserves to receive them. I thank you will have to suffice as I am not bringing him up here merely to thank, instead I am using him in my defense. Your Honor, this very noble person, this truly exemplary citizen who takes his citizenship seriously rather than taking it for granted, knows pretty much everything there is to know about me, my life, my past, my work from the things I have done and things I left undone to the things I should not have done at all, and he has given himself over to the cause of freeing me today. He is the exact sort of person I try to recruit with crucial work we do with Project PM. I am so proud to have someone like him doing so much more.

Your Honor, the last thing I will say in my own defense is that so many people like Kevin Gallagher worked on my behalf. Having now said all the things I

need to say, I respectfully submit to Your Honor's decision.

THE COURT: All right, thank you, Mr. Brown.

All right, Ms. Heath, would the government like to be heard?

THE COURT: Excuse me. Anything further from the defense?

MS. CADEDDU: No, Your Honor.

THE COURT: Thank you, Ms. Cadeddu.

Ms. Heath, would the government like to be heard?

MS. HEATH: Yes, Your Honor.

THE COURT: All right, you may proceed.

MS. HEATH: Your Honor, in this case the government did not prosecute Mr. Brown for political reasons for being a pseudo-former journalist or current journalist or to stifle his First Amendment rights or anybody's First Amendment rights. The government's investigation of Mr. Brown was based entirely on own admissions of engaging and repeatedly committing criminal acts such as participating and facilitating hacking of secure networks of corporations, targeting corporations and individuals for attack, extorting individuals, possessing and disseminating stolen data such as personal identifying information and credit card information.

The government's arrest of Mr. Brown was based on

the fact that he began the series of threats. He started out soon after the searches and began doxing the agent to find out who the agent was and where the agent lived. Then for a couple weeks before his arrest, those threats escalated to the point of threatening to shoot, showing himself shooting videos on YouTube, and giving an ultimatum to the agent. I bring this up, Your Honor because the Defense wishes to explain away Mr. Brown's conduct based upon poor judgment, drug use, intoxication, desire to protect his work product, or the desire to protect his mother, pretext of being a journalist, his desire to reclaim property that was seized by the FBI when, in fact, this is a good example of Mr. Brown, and Mr. Brown's character. Mr. Brown's character are the characteristics of the offender are one of the 3553 factors that this Court can take into consideration.

So the entirety of Mr. Brown's involvement in this case, the threats, the obstruction, assisting individuals engaged in hacking, disseminating personal identifying information, and credit card information, extorting individuals, all of the relevant conduct goes to what type of character Mr. Brown has.

In this case the claims that he has as far as poor judgment or drug problems, these issues have been with Mr. Brown apparently for his entire adult life, and there

is no indication that this was anything out of the normality for Mr. Brown's activities.

Respect for the law is another characteristic that the Court can take into consideration for 3553, and the government would contend that the character of the Defendant in this case and the actions that he has engaged in by himself and with other individuals has shown through the relevant conduct shows that there is very little respect for the law as can be seen from his allocution. There is very little respect for abiding by the law, following the law.

The government would contend that with regard to activities engaged in by Mr. Brown in his association with Anonymous members that retaliation was a way of life. If you did not like something somebody did, something a corporation did, you would retaliate, so very much being vigilantes going outside the law to do their own manner of finding justice, so there has been no showing that Mr. Brown has any respect for the law, so the sentence in this case must show that an individual should have respect for the law and should acknowledge the seriousness of the offense.

Mr. Brown benefited greatly from the plea agreement that he was allowed to enter into in this case. The government offered him and has always been offering him

the ability to plead to one count from each indictment. In this case, the plea agreement reached capped Mr. Brown's exposure at 8 and a half years.

As can be seen from the pre-sentence report, Mr. Brown could have faced up to 235 months for the entirety of his conduct, had the remaining counts in the indictment gone to trial, so Mr. Brown benefited greatly by this particular plea agreement. The government would contend that the top of the plea agreement, the 8 and a half years is actually the most appropriate sentence for Mr. Brown in this case and appropriate pursuant to the 3553 factors. However, acknowledging that the guidelines is a guide that the Court can use in order to impose a sentence, the government understands that the top of the guidelines in this case is merely 63 months. Therefore, the government would request that the Court sentence Mr. Brown based upon the guidelines recommendations as well as the 3553 factors to at least the 63 months that the guidelines allow itself Court to sentence, and the government does and this the Court is not bound by the guidelines, but in this case since there has been no notice by the Court that it intends to go above the guidelines range the government understands that the sentence may very well be just the 63 months which the guideline range recommends.

THE COURT: All right, thank you, Ms. Heath.

All right, we are going to take a 30-minute break. We will reconvene at 12:45, and at the time the Court will impose sentence.

THE COURT SECURITY OFFICER: All rise.

(A RECESS WAS HAD.)

THE COURT SECURITY OFFICER: All rise.

(THE FOLLOWING PROCEEDINGS WERE HAD IN OPEN COURT, WITH ALL PARTIES AND COUNSEL PRESENT.)

THE COURT: Ms. Foster, let me see you a minute at the bench.

(AN OFF-THE-RECORD DISCUSSION WAS HAD WITH THE PROBATION OFFICER AT THE BENCH.)

THE COURT: All right, Ms. Heath.

MS. HEATH: Yes, Your Honor. Over the break, I was reminded that the guidelines Section 3D1.4 determining the combined offense level on grouping, that it appears that one additional level should be added to the offense level in that the offense would be greater or the most serious group would count as one level, and then the threat count is one -- is about six levels less than the serious group, so that would be a half level, or a half unit, so one and a half units would require the inclusion of one additional level in the offense level.

As a second point, I just wanted to state that I

believe I inferred that the Court could not go above the 63 months or the top of the guidelines which IS another offense level is added, that would be 71 without notice, but that would only be if the Court were departing on some other factors other than what has been brought up in the pleadings today and in the prior hearing and the hearing today, and that is pursuant to Sentencing Guidelines Section 6A1.4. I just wanted to clarify that, Your Honor.

THE COURT: Okay, you said a mouthful there. You said it increases the guidelines, the offense level by 1. Is that what you said?

MS. HEATH: Correct, Your Honor.

THE COURT: All right, so the Court has made a determination earlier of --

MS. HEATH: 23.

THE COURT: 23 right, and a criminal history category that gives a guideline range of 51 to 63 months, and you are saying now the level should be 24.

MS. HEATH: Correct, Your Honor, according to the guidelines calculation.

THE COURT: Which would yield a range of 57 to 71; is that correct?

MS. HEATH: That is correct.

THE COURT: What section are you citing?

MS. HEATH: That would be guidelines Section 3D1.4.

THE COURT: Ms. Cadeddu, any response?

MS. CADEDDU: Well, no, Your Honor. I am not sure that I fully understand the Court's articulation of how the counts were grouped earlier, so you know, the grouping rules are what they are, and -- and I hate to ask the Court to go back on its calculation, but I wasn't exactly sure how the Court had grouped those counts after resolving both sets of objections.

THE COURT: All right, Ms. Foster, can I see you a minute.

(AN OFF-THE-RECORD DISCUSSION WAS HAD WITH THE PROBATION OFFICER.)

THE COURT: In light of what the Court has done previously, the Court is going to leave the guideline calculation as previously determined, that is, the range of 23 criminal history, category II. With an offense level of 23, criminal history category II, that leaves the range at 51 to 63.

Is there any reason why sentence cannot be lawfully imposed at this point?

MS. CADEDDU: No, Your Honor.

MS. HEATH: No, Your Honor.

MS. CADEDDU: No, Your Honor.

THE COURT: All right, Mr. Brown, would you and Counsel approach the lectern.

The Court has determined that the advisory guideline range is 51 to 63 months. The Court has also considered the statutory factors under Title 18 United States Code Section 3553(a)(1) through (7).

The Court has considered all of the exhibits that have been admitted during the course of this hearing. The Court has also considered the arguments of Counsel, that is, Counsel for the government and Counsel for the defense.

The Court has heard from one person, Mr. Tim Rodgers. The Court has also heard from Mr. Barrett Brown the Defendant, and when the Court has said it has considered all of the information and evidence in this case, that also relates to the numerous letters that the Court has received earlier on behalf of Mr. Brown.

In considering the guidelines and the statutory factors, the Court believes the sentence is fair, just, and reasonable under the circumstances of this case, in particular, the Court believes that that range is just, fair, and reasonable because of the charge with respect to the internet threats.

The Court has already indicated that those threats are serious. The Court has also indicated that what a

threat can do with respect to a person in the performance of his or her duties. Perhaps if the threats were not involved in these offenses, the Court might well consider that a sentence below the guidelines would be reasonable, but based upon the threats and the threats are explicit and when you put those together and you follow the sequence of events that were taking place, certainly, those threats are something that the Court has to take seriously and address and all of this is done in conjunction with the factors under paragraph (a)(2) of Section 3553, and those are factors that relate to the seriousness of the offense, protection of the public, just punishment, deterrence of further criminal conduct. When I talk about that, I am not just talking about criminal conduct on the part of Mr. Brown, but others who may be inclined to make threats to public officials in the performance of their duties.

I have heard statements made about Mr. Brown's mental state. The problem with that is when threats are made and made over a period of time in relationship to an investigation that is going on, they have to be taken seriously. Threats cannot be taken lightly, and notwithstanding the mental state or drug use by Mr. Brown, the Court believes that he, Mr. Brown, was fully aware of the nature of the threats and what he was

doing. Yes, there is one video that indicates that he tries to minimize the threat by saying he is not going to kill the agent, but he is going to make his life difficult, he is going to focus in on his kids, and there are further statements made if the FBI or any government officials try to come to his house or apartment, he is ready for them.

There is talk about how good a marksman he is and so forth, and when you combine all of that, it would make any reasonable person believe that those threats are quite real. Accordingly, they have to be addressed by the Court.

The judgment of the Court is as follows: The judgment of the Court with respect to Count 1 in case number 3:12-CR-317-L, is that Mr. Barrett Lancaster Brown be committed to the custody of the Federal Bureau of Prisons for a term of 48 months.

With respect to Count 1 in case number 3:12-CR-413-L, the judgment of the Court is that Mr. Brown be committed to the custody of the Federal Bureau of Prisons for a term of 12 months, and with respect to Count 2 in case number 3:12-CR-413-L, it is the judgment of the Court that Mr. Brown be committed to the custody of the Federal Bureau of Prisons for a term of three months. The Court orders that these sentences run consecutive to each other

for a total term of 63 months.

The Court also recommends to the Bureau of Prisons that if Mr. Brown is eligible, that he be allowed to participate in the Bureau of Prisons Comprehensive Residential Treatment Program.

The Court will impose no fine against Mr. Brown, because the Court determines that he does not have the financial resources or future earning capacity to pay a fine. In addition to the mandatory restitution that will be ordered, the Court does not desire that the imposition of a fine interfere with Mr. Brown's ability to make restitution as the Court will later order. As required by law, the Court orders that Mr. Brown pay a special assessment of $100 on Count 1, case number 3:12-CR-317-L; $100 on Count 1 on case no. 3:12-413; and $25 on Count 2 in case number 3:12-CR-413-L for a total special assessment of $225.

With respect to supervised release, the Court orders the term of supervised release as follows: Two years on Count 1 in case number 3:12-CR-317, and one year as to Counts 1 and 2 in case number 3:12-CR-413. These terms of supervised release are to run concurrently with each other.

With respect to the terms of supervised release just imposed by the Court, it is ordered that upon Mr. Brown's

release from imprisonment he shall comply with the standard conditions contained in the Court's judgment and shall comply with the mandatory special conditions hereafter stated. He shall not commit another federal, state, or local crime. He shall not illegally possess controlled substances. He shall cooperate in the collection of DNA as directed by the probation officer. He shall not possess a firearm, ammunition, destructive device or any dangerous weapon. He shall report in person to the U.S. probation office in the district to which he is released from the custody of the Federal Bureau of Prisons within 72 hours of release. He is to refrain from any unlawful use of controlled substance. He is to submit to one drug test within 15 days of release from imprisonment and two periodic drug tests thereafter as directed by the probation officer.

He shall participate in a program either as an inpatient or outpatient approved by the U.S. Probation Office for treatment of narcotic, drug or alcohol dependency which will include testing for the detection of substance use or abuse.

He shall abstain from the use of alcohol and all other intoxicants both during and after completion of treatment. He shall contribute to the cost of services rendered, that is, a copayment at the rate of not less

than $50 per month.

Mr. Brown shall participate in mental health treatment services as direct by the probation officer until successfully discharged. These services may include medications prescribed by a licensed physician. He shall contribute to the cost of the services rendered, that is, a copayment at that time rate of at least $50. He is also ordered to provide to the probation officer all requested financial information.

With respect to restitution which the Court determines to be mandatory, Mr. Brown is ordered to pay restitution in the amount of $890,250, payable to the United States District Clerk. Restitution is payable immediately, and any unpaid balance shall be payable during incarceration.

Restitution shall be disbursed to Strategic Forecasting Incorporated in the amount of $815,000; Combined Systems Incorporated, $30,000; and the law firm of Puckett and Faraj, $45,250.

If upon commencement of the term of supervised release any part of the restitution remains unpaid, Mr. Brown shall make payments on such unpaid balance in monthly installments of not less than ten percent of his gross monthly income or at a rate of not less than $50 a month, whichever is greater.

Payment shall begin no later than 60 days after his release from confinement and continue each month thereafter until the balance is paid in full.

In addition, at least 50 percent of receipts received from gifts, tax returns, inheritances, bonuses, lawsuit awards, and any other receipt of money shall be paid toward the unpaid balance within 15 days of receipt. This payment plan shall not effect the ability of the United States to immediately collect payment in full through garnishment, the Treasury Offset Program, the Inmate Financial Responsibility Act, the Federal Debt Collections Procedures Act of 1990, or any other means available under federal or state law.

Pursuant to Title 18 United States Code Section 3612(f)(3), the Court waives any interest on the amount of restitution because it determines that Mr. Brown is unable to pay interest on the amount of restitution.

Further, Mr. Brown shall not be employed by or affiliated with, own, or control or otherwise participate directly or indirectly in any business that involves access to credit information of other persons including but not limited to handling of credit cards, bank check drafts, or other financial documents without the probation officer's prior approval.

Also, Mr. Brown shall participate and comply with

the requirements of the computer and internet monitoring program, contributing to the cost of monitoring in an amount not to exceed $40. He shall consent to the probation officer conducting ongoing monitoring of his computer or computers. The monitoring may include the installation of a hardware and/or software system that allows evaluation of computer use. He shall not remove, tamper with, reverse engineer, or circumvent the software in any way.

He shall only use authorized computer systems that are compatible with the software and/or hardware used by the computer internet monitoring program.

He shall permit the probation officer to conduct a preliminary computer search prior to the installation of such software. At the discretion of the probation officer, monitoring software may be disabled or removed at any time during the term of supervision.

Mr. Brown shall submit to periodic unannounced examinations of his computer storage media and other electronic or internet capable devices performed by the probation officer at reasonable times and in a reasonable manner based upon reasonable suspicion of contraband or a violation of supervision. This may include the retrieval and copying of any prohibited data and or the removal of such systems for the purpose of conducting a more

thorough inspection.

Mr. Brown shall provide written authorization for release of information from his internet service provider. Mr. Brown shall not use any computer other than the one he is authorized to use without prior approval from the probation officer.

Further, Mr. Brown shall not use any software program or device designed to hide, alter, or delete records or analogs of his computer use, internet activities, or files stored on his computer.

There has not been any motion filed for a preliminary order of forfeiture, is that correct, Ms. Heath?

MS. HEATH That is correct, Your Honor. I believe we do have the Defendant's agreement to relinquish certain properties.

THE COURT: That is what I am going to get to. I wanted to make certain I didn't overlook anything with respect to a preliminary order of forfeiture.

MS. HEATH: No, Your Honor.

THE COURT: Mr. Brown, pursuant to your plea agreement which was filed in April of 2014, there is an attachment to that plea agreement. In fact, the attachment is labeled attachment (A). Based upon your plea agreement, you have agreed to relinquish, give up,

and waive any legal right, title, or ownership in the property attached to your plea agreement.

Are you aware of that list, sir?

THE DEFENDANT BROWN: Yes, I have a procedural question though, Your Honor. The copy of the Declaration of Independence they took from me as evidence. Will I get that back?

THE COURT: So what are you saying? First of all, let's deal with this. Before we get off track, you asked me about the -- I asked you about the property forfeiture. Let's deal with that first.

THE DEFENDANT BROWN: Right.

THE COURT: There is an attachment (A) which lists a number of items.

THE DEFENDANT BROWN: Right.

THE COURT: Now, according to the plea agreement, you agreed to forfeit that property, that is, you would give up any right, title, or claim to any of the items listed on attachment (A) of the exhibit; is that correct?

THE DEFENDANT BROWN: Yes, I understand, Your Honor.

THE COURT: All right, Ms. Cadeddu, did you have something?

MS. CADEDDU: I would say it appears and I would note for the record that 1B1 item 5 is a book,

Declaration of Independence. It would appear he has forfeited his Declaration of Independence.

THE COURT: All right, I want to make certain we are on the same page.

Do you understand in light of your plea agreement, Mr. Brown, all those items listed in attachment (A) to your plea agreement have been forfeited by you to government. That means you have no title, claim, or interest with respect to any of those items listed on attachment (A); do you understand that?

THE DEFENDANT BROWN: Yes, Your Honor.

THE COURT: And do you understand that this will constitute part your sentence in this case?

THE DEFENDANT BROWN: Yes, Your Honor.

THE COURT: All right, Ms. Cadeddu or Mr. Swift, is there a request for a particular facility?

MS. CADEDDU: Yes, Your Honor, we would request Fort Worth if available, and we understand it is a recommendation only.

THE COURT: I want to make certain that is clear on the record. Mr. Brown, your attorney, Ms. Cadeddu has requested that you be allowed to serve your sentence at the facility in Fort Worth.

The Court will make that recommendation to the Bureau of Prisons, however, please keep in mind that it

is the Bureau of Prisons not the Court that ultimately decides where you serve your sentence.

Mr. Brown, based upon the plea agreement, you waive your right of appeal except in limited circumstances pursuant to page 7, paragraph 14. If you decide to appeal this matter, any appeal that you take must be taken within 14 days of my written decision which will probably issue tomorrow. If not, it will issue no later than Monday.

If you cannot afford the cost of an appeal, you have the right to ask for permission to proceed in forma pauperis. Also, if you cannot afford an attorney for purposes of appeal, you have the right to request an attorney and one will be provided to represent you.

Ms. Heath, are there counts to be dismissed?

MS. HEATH: Yes, Your Honor, the government would move this Court to dismiss the remaining counts in cause number 3:12-CR-317-L, to dismiss the original indictment and superseding indictment in cause number 3:12-CR-413-L, and the original indictment in cause number 3:13-CR-030-L.

THE COURT: All right, let's go through that one more time. First, you said the remaining counts in case no. 3:12-CR-317; is that correct?

MS. HEATH: Correct.

THE COURT: The motion is granted and the remaining counts in that case are hereby dismissed with prejudice. All right, let's go to the 413.

MS. HEATH: The original indictment and superseding indictment as it stands today in 3:12-CR-413-L.

THE COURT: All right, that motion is granted, and the original indictment and superseding indictment are hereby dismissed with prejudice with respect to case number 3:413.

MS. HEATH: Finally, the original indictment in cause number 3:13-CR-030-L.

THE COURT: That was 3:13-CR-030?

MS. HEATH: Correct.

THE COURT: That is granted, and the original indictment in that case is dismissed.

Any other matters?

MS. HEATH: No, Your Honor.

THE COURT: Is there anything further on this case at this time?

MS. CADEDDU: No, Your Honor.

MR. SWIFT: No, Your Honor.

MS. HEATH: Not from the government.

THE COURT: All right, Mr. Brown, you are remanded to the custody of the United States Marshal and

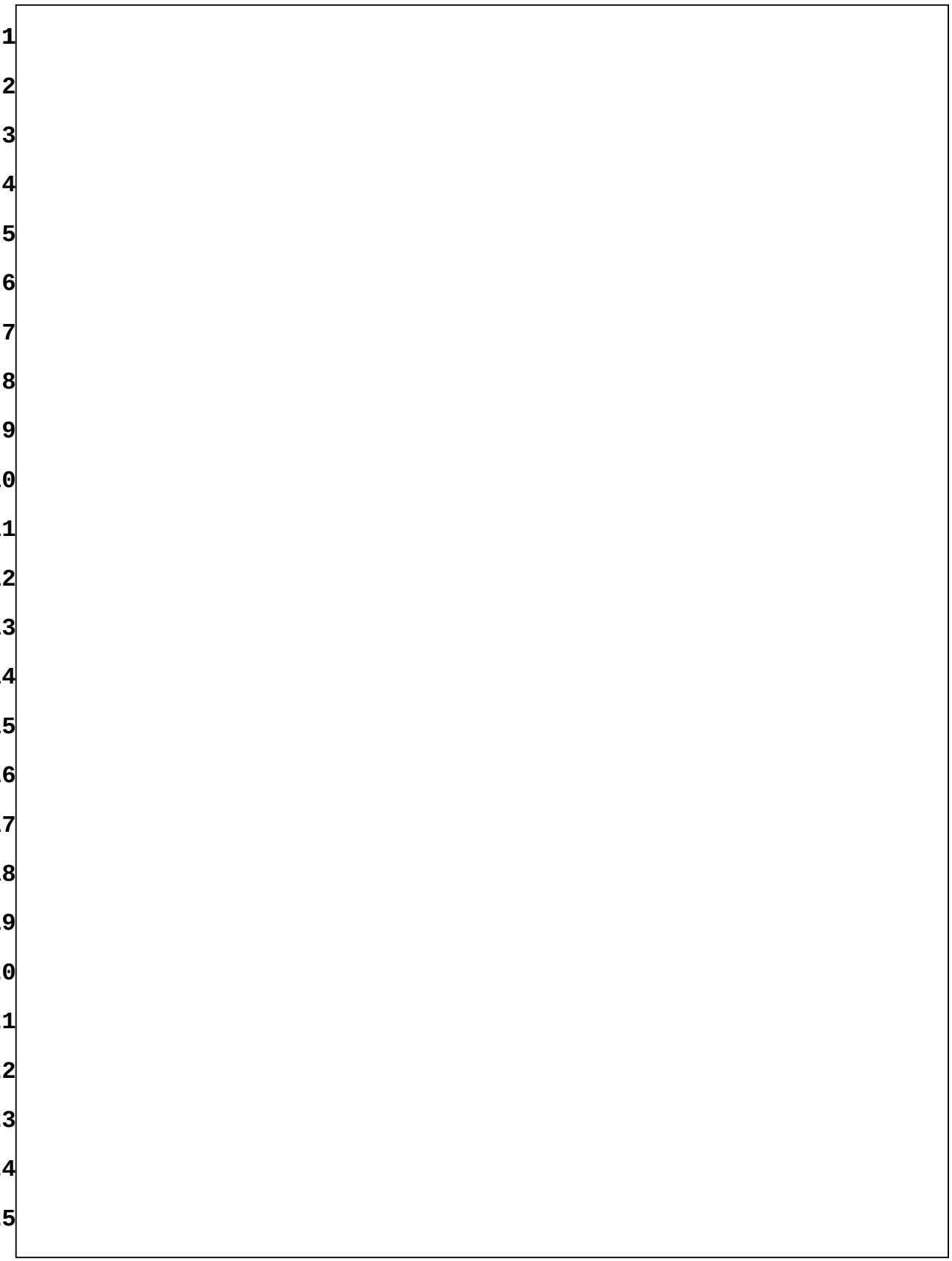
court is adjourned.

THE COURT SECURITY OFFICER: All rise.

(THE HEARING WAS CONCLUDED AND THE COURT WAS IN RECESS.)

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. I further certify that the transcript fees format comply with those prescribed by the court and the Judicial Conference of the United States.

S/Charyse C. Crawford *04-15-2015*
Signature_____ Date:_____
Charyse C. Crawford, CSR, RPR
United States Court Reporter
Northern District of Texas - Dallas Division



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