UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF KENTUCKY
SOUTHERN DIVISION
ASHLAND

MATTHEW DEHART, PETITIONER VS. J.C. STREEVAL, Warden, RESPONDENT,	CIVIL ACTION NO. 18-cv-00074-HRW

DECLARATION OF STEPHEN P. SMITH

I, Stephen P. Smith, hereby declare and state as follows:

1. I have worked for the Bureau of Prisons (hereinafter "BOP") since January 2008. I have worked in the area of inmate sentence computations since July 2009. I have been employed as a Management Analyst at the Designation and Sentence Computation Center (hereinafter "DSCC") since August 2016. Pursuant to the underlying Habeas Corpus Petition, I audited the sentence computations for inmate Matthew Paul Dehart (hereafter "Petitioner"), Register Number 06813-036. My examination found that there is no error in the manner the Petitioner's sentence was calculated by the BOP.

2. The Petitioner is a federal inmate in the custody of the Bureau of Prisons, incarcerated at FCI Ashland, a federal prison located within the Eastern District of Kentucky. **[Attachment 13: Public Information Inmate Data].**

On August 6, 2010, Petitioner was arrested by the Federal Bureau of Investigations (hereinafter "FBI") for Obscene Material-Manufacturing. **[Attachment 1: USM-129 Individual Custody/Detention Report]**.

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On May 22, 2012, Petitioner was released on bond with special conditions. **[Attachment 1: USM-129 Individual Custody/Detention Report; Attachment 3: Order 5/22/2012, 10-CR-00250].**

On April 3, 2013, Petitioner entered Canada requesting refugee protection claiming he had been tortured by United State authorities and fear of persecution if returned. On April 4, 2013, he was arrested by the Canada Border Services Agency on grounds that his refugee claim was suspended pending an admissibility hearing under the Canadian Immigration and Refugee Protection Act, subparagraph 34(1)(a)[1] and 36(1)(c)[2]. **[Attachment 4: Canada Federal Court Reasons for Judgment]**.

On April 4, 2013, a status and detention review hearing was conducted in the United States District Court for the Middle District of Tennessee. The Petitioner failed to appear for the

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1 Security
34 (1) A permanent resident or a foreign national is inadmissible on security grounds for
(a) engaging in an act of espionage that is against Canada or that is contrary to Canada's interests;
2 Serious criminality
36 (1) A permanent resident or a foreign national is inadmissible on grounds of serious criminality for

hearing, and a bench warrant was issued for his arrest. **[Attachment 5: Order, Bench Warrant, 4/4/2013; Attachment 6: Warrant for Arrest, 10-CR-00250, 4/4/2013]**.

On April 8, 2013, the Petitioner was ordered detained by Canadian Border Services pursuant to subparagraphs 58(1)(a) and 58(1)(b) of the Act[3], namely on the grounds that he was a danger to the public due to his charge of being a sexual offender falling under subsection 246(f)[4] of the Canadian Immigration and Refugee Protection Regulations, S.O.R. 2002-227, allegations of espionage, and that he was unlikely to appear for future immigration proceedings. **[Attachment 4: Canada Federal Court Reasons for Judgment]**.

On April 15, 2013, a second detention hearing was held and denied, noting in part that the case was recent and the Minister of Citizenship and Immigration ought to be given a reasonable amount of time to prepare the case against the Petitioner. **[Attachment 4: Canada Federal Court Reasons for Judgment]**.

On August 7, 2013, Petitioner released on bond from Canada Border Services custody and remained in Canada subject to GPS monitoring pending hearings related to his immigration matter. The Petitioner was released pending the outcome of his admissibility hearing under

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(c) committing an act outside Canada that is an offence in the place where it was committed and that, if committed in Canada, would constitute an offence under an Act of Parliament punishable by a maximum term of imprisonment of at least 10 years

3 Release — Immigration Division

58 (1) The Immigration Division shall order the release of a permanent resident or a foreign national unless it is satisfied, taking into account prescribed factors, that

(a) they are a danger to the public;

(b) they are unlikely to appear for examination, an admissibility hearing, removal from Canada, or at a proceeding that could lead to the making of a removal order by the Minister under subsection 44(2);.

See http://laws-lois.justice.gc.ca/eng/acts/i-2.5/index.html

4 Danger to the public

246 For the purposes of paragraph 244(b), the factors are the following:

(f) conviction outside Canada, or the existence of pending charges outside Canada, for an offence that, if committed in Canada, would constitute an offence under an Act of Parliament for

(i) a sexual offence,. *See* http://laws-lois.justice.gc.ca/eng/regulations/SOR-2002-227/page-52.html#docCont

section 44[5]of the Canadian Immigration and Refugee Protection Act, S.C.2001, c.27.

[Attachment 4: Canada Federal Court Reasons for Judgment].

On April 23, 2014, the Petitioner was rearrested by the Canada Border Services Agency for failing to provide an address in relation to his release on a request for asylum. **[Attachment 7: Presentence Investigation Report, 10-CR-00250]**.

On November 19, 2014, a superseding indictment was filed in the United States District Court for the Middle District of Tennessee in Case No. 10-cr-00250, charging the petitioner with 2-counts of Production of Child Pornography, Transportation of Child Pornography, and Failure to Appear. On that same day the court issued a new warrant for the Petitioner's arrest.

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5 Loss of Status and Removal: Report on Inadmissibility
Preparation of report
44 (1) An officer who is of the opinion that a permanent resident or a foreign national who is in Canada is inadmissible may prepare a report setting out the relevant facts, which report shall be transmitted to the Minister.
Referral or removal order
(2) If the Minister is of the opinion that the report is well-founded, the Minister may refer the report to the Immigration Division for an admissibility hearing, except in the case of a permanent resident who is inadmissible solely on the grounds that they have failed to comply with the residency obligation under section 28 and except, in the circumstances prescribed by the regulations, in the case of a foreign national. In those cases, the Minister may make a removal order.
Conditions
(3) An officer or the Immigration Division may impose any conditions, including the payment of a deposit or the posting of a guarantee for compliance with the conditions, that the officer or the Division considers necessary on a permanent resident or a foreign national who is the subject of a report, an admissibility hearing or, being in Canada, a removal order.
Conditions — inadmissibility on grounds of security
(4) If a report on inadmissibility on grounds of security is referred to the Immigration Division and the permanent resident or the foreign national who is the subject of the report is not detained, an officer shall also impose the prescribed conditions on the person.
Duration of conditions
(5) The prescribed conditions imposed under subsection (4) cease to apply only when
(a) the person is detained;
(b) the report on inadmissibility on grounds of security is withdrawn;
(c) a final determination is made not to make a removal order against the person for inadmissibility on grounds of security;
(d) the Minister makes a declaration under subsection 42.1(1) or (2) in relation to the person; or
(e) a removal order is enforced against the person in accordance with the regulations.

[Attachment 8: Superseding Indictment 10-CR-00250; Attachment 9: Arrest Warrant, 11/19/2014].

The Petitioner's request for asylum was denied by Canadian authorities, and on March 1, 2015, he was deported to the United States. On March 1, 2015, Petitioner was arrested by the FBI at the USA/Canadian border, and was turned over to United States Marshals custody the same day. **[Attachment 1: USM-129 Individual Custody/Detention Report; Attachment 11: Transcript of Proceedings, 10-cr-00250, 11/12/2015]**.

On February 22, 2016, Petitioner was sentenced in the United States District Court for the Middle District of Tennessee in Case No. 08-CR-00391 to 72 months on Counts 1 and 2 for Receipt of Child Pornography, and 18 months on Count 3 for Failure to Appear. The 72 months imposed on Counts 1 and 2 were ordered to run concurrent, with the 18 months imposed on Count 3 to run consecutively to Counts 1 and 2. The BOP computed the sentence showing an aggregate term of 90 months, commencing on February 22, 2016, the date the sentence was imposed. Petitioner has been credited with time spent in custody from August 6, 2010, the original date of arrest, through May 22, 2012, the date released on bond; and March 1, 2015, the second date of arrest by federal authorities, through February 21, 2016, the day before the federal sentence commenced. Petitioner is projected to earn 352 days Good Conduct Time (GCT) resulting in a projected Statutory Release Date of November 24, 2019. **[Attachment 12: Judgment in a Criminal Case, 10-CR-00250; Attachment 13: Public Information Inmate Data]**.

On August 21, 2017, an investigation into the possibility of Foreign Jail credits was conducted by the DSCC. The investigation revealed that the Petitioner was not authorized credit

under Title 18, U.S.C. 3585(b) for the time he was detained by immigration authorities in Canada. It was verified that the Petitioner was deported from Canada on March 1, 2015, and had been detained pursuant to his request for asylum. Thereby his detention period in Canada from April 3, 2013, to August 7, 2013, and April 23, 2014, to February 28, 2015, was not qualified presentence time credit. **[Attachment 17: DSCC Memorandum for File, 8/21/2017]**.

On August 24, 2017, the Petitioner's sentence was recalculated to reflect the findings of the August 21, 2017, DSCC memorandum. **[Attachment 13: Public Information Inmate Data]**.

3. ADMINISTRATIVE REMEDIES

The BOP has established a three-tiered Administrative Remedy Program whereby an inmate may progressively redress grievances at the institutional, Regional, and Central Office (national) levels. *See generally* 28 C.F.R. § 542.10, et seq. The Administrative Remedy Program allows an inmate to seek formal review of an issue relating to any aspect of his or her confinement, to include sentence computations. Therefore, inmate challenges to the manner in which their sentences are computed and alleged denial of sentence credit by the BOP may be reviewed through the Administrative Remedy Program. Relief, if merited, can be granted administratively by the BOP pursuant to an inmate Administrative Remedy filing. Here, the Petitioner filed for relief under the Administrative Remedy System at all levels of review. The Administrative Remedy review found that the Petitioner's underlying federal sentence was appropriately computed by the BOP and his Administrative Remedies were denied at all levels. **[Attachment 14: Administrative Remedy Generalized Retrieval; Attachment 16: Administrative Remedy No. 915650]**.

I certify that the above cited documents are true and accurate copies of the records maintained by the Bureau of Prisons.

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Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing statements are true and correct.

AUGUST 8, 2018
DATE

Stephen P. Smith
Management Analyst
Designation & Sentence Computation Center
346 Marine Forces Drive
Grand Prairie, Texas 75051

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AUGUST 8, 2018
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Stephen P. Smith
Management Analyst
Designation & Sentence Computation Center
346 Marine Forces Drive
Grand Prairie, Texas 75051

Attachment 1

LIMITED OFFICAL USE
United States Marshals Service

USM-129 Individual Custody/Detention Report

DISTRICT: MIDDLE TENNESSEE TN/M NASHVILLE

Prepared On: 4:36 PM 03/01/2016

Save

I. IDENTIFICATION DATA

USMS NUMBER: 06813-036		**FID:** 01949153		**NAME:** DEHART, MATTHEW PAUL	
ADDRESS: [redacted]				**PHONE:**	
DOB: [redacted]		**AGE:** 31y		**POB:** WASHINGTON, DC	
CURRENT INST: Warren Co Jail				**ADMITTED:** 03-23-2015	
SEX: M	**RACE:** W	**HAIR:** BRO	**EYE:** BRO	**HEIGHT:** 70 in	**WEIGHT:** 180lb
SSN: [redacted]		**FBI UCN** [redacted]			**ALIEN NBR:**

OTHER NUMBER	OTHER NUMBER TYPE	ISSUE DATE	EXP DATE	REMARKS
NONE				

**SPECIAL CAUTIONS AND MEDICAL	REMARKS	SEPARATEE
Mental Concerns	STATES HE IS NOT SUICIDAL	
Medical Concerns	STATES HE HAS SUFFERED FROM DEPRESSION IN THE PAST. NO LONGER TAKES WELLBUTRIN, SEROQUEL OR LEXAPRO	
Medical Concerns	8-7-10 BIPOLAR DISORDER, WITH PSYCH	
Medical Concerns	8-7-10 MOOD INSTABILITY, PSYCHOSIS	
Medical Concerns	THORAZINE 25 MG. & 50 MG.	
Medical Concerns	8-7-10 TO ER FOR EYE PAIN, ACUTE PSYCHOSOS	
Miscellaneous	3/23/15: DEFENDANT DENIES THAT HE SUFFERS FROM ACUTE PSYCHOSIS AND BIPOLAR DISORDER. DR 3/3/2015 IS DOUBLE JOINTED	

TB CLEARANCE STATUS	ASSESSMENT DATE	EXPIRED
CLEARED	03-06-2015	03-05-2016

DNA TEST DATE	TAKEN?	DEPUTY	REMARKS/KIT#
08-09-2010	Yes	TROSPER,ED	B0033139

DETAINER DATE	L/R	ACTIVE	AGENCY	REMARK
		N		

PRISONER ALIAS	ALIAS REMARK
DEHART, MATTHEW	

GENERAL REMARKS

03/23/15: WHILE CLARIFYING PAST ENTRIES UNDER MEDICAL AND MENTAL HISTORIES THE DEFENDANT DENIED THATHE HAS HAD ACUTE PAYCHOSIS, BI POLAR DISORDER AND MOOD INSTABILITIES. HE HOWEVER, STATES THAT HE DID SUFFER FROM DEPRESSION WHILE IN HIGH SCHOOL.

03/23/15: RECEIVED ON A WARRANT OF REMOVAL FROM BUFFALO, NY

II. CUSTODY INFORMATION

Custody 1	CUSTODY START DATE: 08-06-2010			END DATE:
CUSTODY STATUS	**OFFICE**	**START DATE**	**END DATE**	**REMARK**
WT-CASE-RESOLVE	075	08-06-2010	08-12-2010	
WT-TRANSFER	075	08-12-2010	08-20-2010	COMMITMENT TO USMS - NASVILLE, TN
TRANSFERRED	075	08-20-2010	08-30-2010	USMS/TENN WOR
RC-TRANSFER	075	08-30-2010	08-30-2010	FFT MMTEN
WT-TRANSFER	075	08-30-2010	09-07-2010	
TRANSFERRED	075	09-07-2010	09-07-2010	
RC-TRANSFER	075	09-07-2010	09-07-2010	
WT-CASE-RESOLVE	075	09-07-2010	05-22-2012	
RL-BOND	075	05-22-2012	03-01-2015	
READMIT	075	03-01-2015	03-01-2015	FOR THE PURPOSE OF TRANSFERRING CASE W/NY

WT-TRANSFER	075	03-01-2015	03-01-2015	W/NY ARRESTED BY FBI
TRANSFERRED	075	03-01-2015	03-01-2015	
RC-TRANSFER	075	03-01-2015	03-01-2015	
WT-CASE-RESOLVE	075	03-01-2015	03-06-2015	
WT-TRANSFER	075	03-06-2015	03-10-2015	CTD REC'D; WOR 2 USMS M/TN
TRANSFERRED	075	03-10-2015	03-10-2015	CTD REC'D; WOR 2 USMS M/TN
RC-TRANSFER	075	03-10-2015	03-10-2015	PTT00216-15
WT-TRANSFER	075	03-10-2015	03-20-2015	PTT00216-15
TRANSFERRED	075	03-20-2015	03-20-2015	PTT00232-15
RC-TRANSFER	075	03-20-2015	03-20-2015	
WT-CASE-RESOLVE	075	03-20-2015	02-25-2016	
WT-DESIG	075	02-25-2016		REQUESTED 3/1/2016

Court Case 1	Federal Court City	Judge	US Attorney	Defense Attorney
1:10-MJ-00140--MJK	TN/M NASHVILLE	WOODCOCK, JOHN	TORRESEN, NANCY	VILLA, VIRGINIA

	ARREST DATE	ARRESTING AGENCY	ARREST LOCATION	WARRANT NUMBER
Arrest	08-06-2010	FEDERAL BUREAU OF INVESTIGATION	CALAIS,ME	

	OFF CODE	OFFENSE	REMARKS	DISPOSITION
Offense	3701	Obscene Material - Mfr		

	SENTENCE DATE	SENTENCE	APPEAL DATE	DURATION
Sentence				

	SENTENCE DATE	REDUCED SENTENCE	APPEAL DATE	DURATION
Reduced Sentence				

COURT CASE STATUS	START DATE	END DATE	REMARKS
WOR	08-06-2010	08-06-2010	
WT-WOR-ORDER	08-06-2010	08-06-2010	
RC-WOR-ORDER	08-06-2010	09-07-2010	
ARREST	09-07-2010	09-07-2010	
WT-TRIAL	09-07-2010	03-02-2015	
WOR	03-02-2015	03-02-2015	
WT-WOR-ORDER	03-02-2015		

INST	INSTITUTION NAME	ADMIT	RELEASE	BOARDED	ACTION OR DISPOSITION
1AP	Penobscot Co Jail	08-06-2010	08-13-2010	7	
1AL	Cumberland Co Jail	08-13-2010	08-16-2010	3	
2GD	Strafford Co Corrections	08-16-2010	08-20-2010	4	
6L9	Grady County Criminal Justice Authority	08-30-2010	09-07-2010	8	
4F7	West Tenn Det Fac	09-07-2010	09-08-2010	1	
4EP	Warren Co Jail	09-08-2010	05-22-2012	622	
BND	BOND	05-22-2012	05-22-2012	1	
3RG	Niagara Co Jail	03-01-2015	03-04-2015	3	
2GM	NE Ohio Corr Ctr (CCA)	03-04-2015	03-10-2015	6	
6L9	Grady County Criminal Justice Authority	03-10-2015	03-20-2015	10	PTT00232-15
4F7	West Tenn Det Fac	03-20-2015	03-23-2015	3	
4EP	Warren Co Jail	03-23-2015		344	
			TOTAL DAYS BOARDED:	1012	

III. MEDICAL CONDITION/TREATMENT HISTORY

DATE SERVICE PROVIDED	VENDOR	SERVICE PROVIDED
04-11-2011	HERITAGE HEALTH	APRIL PRESCRIPTIONS
03-11-2011	HERITAGE HEALTH	MARCH PRESCRIPTIONS
02-25-2011	HERITAGE HEALTH	FEB PRESCRIPTION
01-31-2011	HERITAGE HEALTH	JAN PRESCRIPTION
12-14-2010	HERITAGE HEALTH	DEC PRESCRIPTIONS
08-17-2010	WESTWOOD PHARMACY	MEDICATION

08-09-2010	MILLER DRUG	MEDS
08-07-2010	NORTHERN RADIOLOGY	X-RAY
08-07-2010	BANGOR FIRE DEPT	AMBULANCE
08-07-2010	EASTERN ME MED CTR	ER - CT SCAN - LAB

This Document Represents the most recent USM129 Data as of 4:36 PM 03/01/2016.

Attachment 2

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

UNITED STATES OF AMERICA	)	
	)	NO. 3:10-00250
v.	)	
	)	18 U.S.C. § 2251
MATTHEW PAUL DEHART	)	18 U.S.C. § 2253
	)	18 U.S.C. § 2256
	)	

INDICTMENT

COUNT ONE
(Production of Child Pornography)

THE GRAND JURY CHARGES:

Between in or about May 2008 and in or about December 2008, in the Middle District of Tennessee and elsewhere, the defendant, **MATTHEW PAUL DEHART**, did knowingly and intentionally employ, use, persuade, induce, entice, and coerce a minor child under the age of eighteen to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct, which visual depiction was transported and transmitted using any means or facility of interstate commerce, and did attempt to do so.

In violation of Title 18, United States Code, Sections 2251(a) and 2251(d).

COUNT TWO
(Transportation of Child Pornography)

THE GRAND JURY FURTHER CHARGES:

On or about January 23, 2008, in the Middle District of Tennessee, and elsewhere, **MATTHEW PAUL DEHART**, knowingly shipped and transported and attempted to ship and transport child pornography, as defined in Title 18, United States Code, Section 2256(8)(A), in interstate and foreign commerce.

In violation of Title 18, United States Code, Sections 2252A(a)(1) and 2252A(b)(1).

A TRUE BILL

[redacted]

FOREPERSON

JERRY E. MARTIN
UNITED STATES ATTORNEY

S. CARRAN DAUGHTREY
ASSISTANT UNITED STATES ATTORNEY

Petty Offense ( )
Misdemeanor ( )
Felony (x)
Juvenile ( )

CRIMINAL COVER SHEET
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

County of Offense: Williamson

AUSA's NAME: S. Carran Daughtrey

Matthew Paul DeHart
Defendant's Name

USMS Custody
Defendant's Address

Interpreter Needed? ____Yes ___x__ No

If Yes, what language? _____

COUNT(s)	TITLE/SECTION	OFFENSE CHARGED	MAX. PRISON	MAX. FINE
1	18 / 2251(a)	Production of Child Pornography	30 years*	$250,000
2	18 / 2252A(a)(1)	Transportation of Child Pornography	20 years**	$250,000

If the defendant has a prior sex offense conviction, he will be subject to the following higher penalties:
* For second offense: 25 - 50 years or life if under 18/3559(e)); for multiple offense: 35 yrs to life or life if under 18/3559(e)
** For second or subsequent offenses: 15 - 40 years
*** For second or subsequent offenses: 10-20 years

Is the defendant currently in custody? (x) Yes ( ) No If Yes, State or Federal? Federal

Has a complaint been filed? (x) Yes ( ) No
If Yes: Name of Magistrate Judge Bryant Case No.: 10-mj-4062
Was the defendant arrested on the complaint? (x) Yes ( ) No

Has a search warrant been issued? ( ) Yes (x) No
If Yes: Name of Magistrate Judge _____ Case No.: _____

Was bond set by Magistrate/District Judge: ( ) Yes (x) No Amount of bond: _____

Is this a Rule 20? ( ) Yes ( ) No To/from what district? _____
Is this a Rule 40? (x) Yes ( ) No To/from what district? from the District of Maine

Is this case related to a pending or previously filed case? ( ) Yes (x) No

What is the related case number: _____

Who is the Magistrate Judge: _____ District Judge: _____

Estimated trial time: 3-4 days

Bond Recommendation: Detention

(Revised January 2008)

Attachment 3

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE NASHVILLE DIVISION

UNITED STATES OF AMERICA	)	
	)	
	)	
v.	)	Criminal No. 3:10-00250
	)	Judge Trauger
MATTHEW PAUL DEHART	)	

O R D E R

A detention review hearing was held on May 22, 2012. The findings of the court were announced from the bench at the close of the hearing, and those findings are incorporated herein by reference as if set forth verbatim. For the reasons expressed on the record, it is hereby **ORDERED** that the defendant shall be released pending trial, conditioned upon the posting of security satisfactory to the Clerk of Court in the two automobiles owned by the defendant's parents and, within thirty (30) days of the entry of this Order, the equity in the defendant's grandmother's house in Indiana.

The defendant's release will be subject to the standard conditions of release and the special conditions attached to this Order.

It is so **ORDERED**.

ENTER this 22nd day of May 2012.

ALETA A. TRAUGER
U.S. District Judge

RE: **DeHart, Matthew Paul**
Docket No. 3:10-cr-00250
Special Conditions of Bond

1. The defendant shall report to pretrial services as directed.

2. The defendant shall have all changes in residence and employment pre-approved by the pretrial services officer.

3. The defendant shall not reside in or visit any residence where minor children also reside without the prior approval of the pretrial services officer.

4. The defendant shall not associate, either directly or indirectly, with children who appear to be under the age of 18 nor frequent, volunteer, or work at places where children congregate (e.g., playgrounds, parks, malls, day-care centers or schools) unless approved by the pretrial services office. Should any contact with minors be approved by the pretrial services officer, it shall be in the presence of a responsible adult chaperone, who has been pre-approved by the pretrial services officer, and is aware of the defendant's current charges.

5. The defendant shall not possess, view, listen to, or go to locations where any form of sexually stimulating material or sexually oriented material is available.

6. The defendant shall not possess or use a computer or any device with access to any online computer service at any location (including place of employment) without the prior written approval of the pretrial services office. This includes any Internet service provider, bulletin board system, or any other public or private network or e-mail system.

7. The defendant shall be subject to a curfew as directed by the pretrial services officer. During non-curfew hours, the defendant's activities away from his residence shall be restricted to pre-approved absences for gainful employment, attorney visits, religious services, medical care or treatment needs, and such other times as may be specifically authorized by the pretrial services office. Electronic monitoring, as directed by pretrial services, shall be used to monitor compliance. This condition is in compliance with 18 U.S.C. § 3142(c)(1).

8. Defendant shall not travel outside of the Southern District of Indiana, except travel to and from the Middle District of Tennessee for attorney visits and required court appearances, without prior approval of the pretrial services office. The defendant shall be precluded from any travel to and within Williamson County, Tennessee.

9. Defendant shall avoid all contact, directly or indirectly, with any persons who are or may become a victim or potential witness in the subject investigation or prosecution, including any family member of the alleged victims.

10. The defendant agrees that he will not apply for a passport while on pretrial release. Should the defendant currently possess a valid passport, he shall surrender it to his pretrial services officer within 48 hours of release on bond, and agrees to allow pretrial services to maintain custody the passport pending final resolution of this case.

11. The defendant shall refrain from use or unlawful possession of any controlled substances and

RE: **DeHart, Matthew Paul**
Docket No. 3:10-cr-00250
Special Conditions of Bond

shall not consume any alcoholic beverages to avoid lowering inhibitions and deter offending. The defendant shall submit to any method of testing required by the pretrial services office for determining compliance with this condition.

12. The defendant is prohibited from possessing any firearms, dangerous weapons or other destructive devices.

13. The defendant shall notify the pretrial services officer within 48 hours of any law enforcement contact.

14. The defendant shall undergo polygraph examinations to monitor compliance with conditions of pretrial release, as directed by the pretrial services office.

15. The defendant shall permit pretrial services officers to visit him anytime at his home or elsewhere without advance notification. The defendant also shall permit confiscation of any contraband observed in plain view of the pretrial services officer.

16. The defendant shall participate in any mental health treatment as directed by the pretrial services officer. The defendant shall pay all or part of the cost for mental health treatment if the United States Probation and Pretrial Services Office determines the defendant has the financial ability to do so or has appropriate insurance coverage to pay for such treatment.

17. Refrain from use or unlawful possession of a narcotic drug or other controlled substances as defined in 21 U.S.C. Section 802, unless prescribed by a licensed medical practitioner.

18. Submit to any method of testing required by the pretrial services officer or supervising officer for determining whether the defendant is using a prohibited substance. Such methods may be used with random frequency and include urine testing, the wearing of a sweat patch, and/or any form of prohibited substance screening or testing.

19. Participate in a program of inpatient or outpatient substance abuse therapy and counseling if deemed advisable by the pretrial services officer or supervising officer. The defendant shall pay all or part of the cost for substance abuse treatment if the United States Probation and Pretrial Services Office determines the defendant has the financial ability to do so or has appropriate insurance coverage to pay for such treatment.

Attachment 4

Federal Court  Cour fédérale

Date: 20130905

Docket: IMM-5277-13

Citation: 2013 FC 936

BETWEEN:

CANADA (MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS)

Applicant

and

MATTHEW PAUL DEHART

Respondent

REASONS FOR JUDGMENT

HENEGHAN J.

[1] The Minister of Public Safety and Emergency Preparedness (the "Applicant") seeks judicial review of the decision of K. Henrique of the Immigration Division of the Immigration and Refugee Board (the "Board") dated August 7, 2013. In that decision, the Board ordered that Matthew Paul DeHart (the "Respondent") be released from detention on terms and conditions pending the outcome of his admissibility hearing under section 44 of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the "Act").

[2] At the request of the parties, a Judgment was issued on September 3, 2013, indicating that Reasons would follow.

[3] Although a Confidentiality Order was issued by Justice Zinn on August 15, 2013, upon the hearing of a motion to stay the release of the Respondent, that Order was lifted upon the hearing of this application for judicial review. Counsel for both parties were invited to make submissions on the point. Although Counsel for the Applicant requested that it remain in place, Counsel for the Respondent expressed the view that it was not necessary. The interests of the Respondent are more persuasive that those of the Applicant and in keeping with the general principle that court proceedings in Canada take place in public, in the exercise of my discretion, the Confidentiality Order was vacated.

Background

[4] The Respondent is a citizen of the United States who entered Canada with his parents, Paul and LeeAnn DeHart on April 3, 2013. All three claimed refugee protection upon their entry to Canada on the basis that the Respondent had been tortured by authorities in the United States and feared persecution if returned.

[5] On October 6, 2010, the Respondent was indicted in Tennessee for production and transportation of child pornography. The Applicant's home had been searched and his computer seized on January 25, 2010. He was stopped and detained on August 6, 2010, by American officials when he was crossing from Canada to the United States at Calais, Maine. He alleges he was

drugged, subjected to psychological torture and questioned by FBI agents in relation to national security matters.

[6] During his detention the Respondent was diagnosed with a psychotic break and has since exhibited signs of Post Traumatic Stress Disorder. He claims that this was a result of the torture he experienced.

[7] The Respondent was detained in Maine until October 2010. He was ultimately released from custody in Tennessee on May 22, 2012, subject to conditions with his parents posting as security for his release two automobiles that they owned and his grandmother posting equity in her house in Indiana. He remained on pre-trial release until April 4, 2013, when he failed to appear for a status conference and detention review hearing related to his case. A bench warrant issued for his arrest after the Respondent left the United States and entered Canada.

[8] The Respondent alleges that he has been a member of the online hacker group Anonymous since it was founded. As a result, he was privy to what he believes is a leaked government document relating to the national security of the United States. He claims that the child pornography investigation is a cover for the United States government to attempt to retrieve this document from him and investigate him for espionage. This is the basis for his fear of persecution; he believes this was the reason for his interrogation and torture in August 2010.

[9] On April 4, 2013, the Respondent was arrested by Canada Border Services Agency on the grounds that his refugee claim was suspended pending an admissibility hearing under subparagraphs 34(1)(a) and 36(1)(c) of the Act.

[10] At the first detention review hearing on April 8, 2013, the Respondent was ordered detained pursuant to subparagraphs 58(1)(a) and 58(1)(b) of the Act, namely on the grounds that he was a danger to the public, his charge being a sexual offence falling under subsection 246(f) of the *Immigration and Refugee Protection Regulations*, S.O.R. 2002-227 (the "Regulations") and that he was unlikely to appear for future immigration proceedings. The Board noted that detention was warranted as he was a danger to the public due to the serious nature of the child pornography offences and the allegations of espionage, and his history of violating court orders. It also found that the Respondent had not presented an alternative to detention nor was there any indication that he faced a lengthy detention.

[11] A second detention review hearing was held on April 15, 2013. The Respondent requested that he be released on his own recognizance pending his admissibility hearing. The Board rejected this as an alternative to detention, stating that the Applicant posed a danger to the public and was unlikely to appear for further proceedings. It noted that the Respondent's case was recent and the Minister of Citizenship and Immigration (the "Minister") ought to be given a reasonable amount of time to prepare its case against him, and given his failure to appear in the United States, detention was a better option than release at this time.

[12] A third detention review hearing was held on May 13, 2013. The Board again confirmed that the Respondent poses a danger to the public and is unlikely to appear for further proceedings. The Board repeated that the Respondent's fear of being returned to his home country increased the likelihood that he would fail to appear for future proceedings. The Board again found that his detention was unlikely to be lengthy.

[13] Although the Respondent proposed that he be released and that a church in Toronto would provide a residence for him and financial support, the Board rejected this alternative as it did not address the concerns regarding the danger he posed to the public or his risk of flight.

[14] The next detention review hearing was held on June 12, 2013. The Board restated the concerns about the danger to the public posed by the Respondent and the likelihood he would not appear for future proceedings. His detention was continued.

[15] On this date, the Board noted that his detention was becoming lengthy, and he was facing a lengthy period of future detention. It expressed concern that there had been no disclosure package from the Minister as of the date of the hearing, and requested the Minister to advise when it would be ready. The Board suggested to the Respondent that he retain legal counsel to help him in this matter and that he propose a substantial release plan for his next detention review hearing.

[16] The Respondent's fifth detention review hearing took place on July 10, 2013. The Board relied on the same reasons as in the previous decisions and continued his detention. The Board noted that hearing dates were set for the Respondent's admissibility hearing and his refugee

protection claim, and these would take place shortly. The Board noted that the Respondent was working on a substantial release proposal, however, the five thousand dollar performance bond offered by the parents did not satisfy the Board's concerns. Due to the fact that the two hearings were due to take place fairly close together and with regard to the previous reasons of the Board, the Respondent's detention was continued.

Decision Under Review

[17] The Respondent's next detention review hearing was held on August 7, 2013. Board Member Karina Henrique, in departing from the earlier decision of the Board, authorized his release subject to conditions. The Board found, as clear and compelling reasons for this departure, the potential that the Respondent's future detention will be lengthy and that a substantial release plan had been submitted by the Respondent. She found that the conditions adequately addressed the concerns that the Respondent posed a danger to the public and was unlikely to appear in the future.

[18] The Respondent's parents were to post a $10,000.00 cash deposit, and the Respondent was to be the subject of GPS monitoring during his release. The monitoring is to be paid for by his parents. They were required to pre-pay for six months of monitoring to address the Minister's concerns about the adequacy of their funds. The GPS monitoring is to ensure that the Respondent complies with the condition that he remain under house arrest 24 hours a day, 7 days a week, save to attend weekly check-ins with Canada Border Services Agency and to attend hearings related to his immigration matter. Whenever the Respondent leaves his parents' residence, he is to be accompanied by them. Finally, as a condition of his release the Respondent is not to have access to

the internet, nor any electronic devices that can connect to the internet, including computers or cell phones with a data plan.

[19] The Board acknowledged the seriousness of the charges faced by the Respondent but also noted that now, these are allegations and he is presumed innocent. Being satisfied with the release plan submitted by the Respondent, the Board ordered he be released from detention, subject to the conditions set out in its order.

Submissions

i) Applicant's Submissions

[20] The Applicant argues that the Board erred in accepting the Respondent's parents as bondspersons. He says that they are unsuitable, for several reasons.

[21] First, the Applicant refers to paragraph 47(1)(a) of the Regulations and submits that since the parents defaulted on their guarantee in the United States, they are ineligible to act as bondspersons.

[22] Further, the Applicant argues that the Board unreasonably accepted that the parents could ensure compliance with the terms of the Respondent's release. He submits that the conduct of the parents in accompanying the Respondent to Canada shows that they support him and believe that he is not guilty of the charges against him in the United States. The Applicant further argues that the conduct of the parents demonstrates a willingness to forfeit property that has been posted as security and to help the Respondent to evade a Court order in the United States.

[23] The Applicant then argues that the Board unreasonably found that electronic monitoring adequately addressed the concerns identified in paragraphs 58(1)(a) and (b) of the Act, that is that the Respondent is a danger to the public and unlikely to appear for proceedings under the Act.

[24] He submits that the GPS monitoring plan is not sufficiently specific and accordingly that it is unreasonable. In this regard, the Applicant relies on the decision in *Canada (Minister of Public Safety and Emergency Preparedness) v. Berisha* (2012), 12 Imm. L.R. (4th) 321 at paras. 91-92. He says that the release plan does not say that the parents are to stay home with the Respondent at all times to ensure that he complies with the release conditions. He also complains that the plan is vague with respect to the size of the monitored zone.

[25] Finally, the Applicant submits that the Board unreasonably and improperly engaged in speculation as criticized by the Federal Court of Appeal in *Canada (Minister of Citizenship and Immigration) v. Li*, [2010] 2 F.C.R. 433 at paras. 67 and 68. He argues that the Board can only estimate the length of future detention on the basis of the facts that exist at the time of the detention review hearing.

ii) Respondent's Submissions

[26] The Respondent takes the position that the Board's decision meets the standard of reasonableness in all respects. In the first instance, he acknowledged that while his parents are in default of a guarantee in a foreign jurisdiction, the prohibition in paragraph 47(1)(a) of the

Regulations does not apply since there is nothing in those Regulations to say that this law applies in respect of a default that occurred outside of Canada.

[27] In any event, the Board had evidence about the posting of security in the United States. As well, there was evidence about the money available to the parents in Canada to provide a substantial cash deposit. There was also evidence of a close relationship between the Respondent and his parents.

[28] Furthermore, there was evidence about the character, employment history and recent occupations of the parents that supports their suitability as bondspersons.

[29] The Board did not rely solely on the parents to ensure his compliance with the conditions of his release. The Board ordered 24/7 house arrest and a ban on access to the internet. The GPS monitoring was included to ensure that the Respondent complies with the conditions of his release. There was evidence before the Board about the functioning of the GPS.

[30] The Respondent further submits that the Board's Order concerning the GPS monitoring was sufficiently specific. The decision in *Berisha* can be distinguished since the concerns addressed in that case do not arise here. The zone is restricted to the parents' residence and the police will be contacted if a breach of the monitored zone is detected.

[31] Finally, the Respondent argues that the Board's consideration of the anticipated period of detention is inherently a speculative exercise. The Board's conclusion is based on its expertise and

experience in conducting detention reviews. He submits that the Board addressed the elements of paragraphs 58(1)(a) and (b) and reasonably concluded that he should be released.

Discussion and Disposition

[32] This Application for judicial review raises the following issues:

1) What is the appropriate standard of review?

2) Was the Board's decision that the Respondent's parents could act as bondspersons unreasonable?

3) Was the Board's determination that electronic monitoring adequately addressed the section 58 concerns unreasonable?

4) Was the Board's speculation about the future length of the Respondent's detention unreasonable?

[33] The decision in issue here was made pursuant to subsection 58(1) of the Act. Paragraphs 58(1)(a) and (b) are relevant and provide as follows:

58. (1) The Immigration Division shall order the release of a permanent resident or a foreign national unless it is satisfied, taking into account prescribed factors, that	58. (1) La section prononce la mise en liberté du résident permanent ou de l'étranger, sauf sur preuve, compte tenu des critères réglementaires, de tel des faits suivants :
(a) they are a danger to the public;	a) le résident permanent ou l'étranger constitue un danger pour la sécurité publique;
(b) they are unlikely to appear for examination, an admissibility hearing, removal from Canada, or at a proceeding that could lead to the making of a removal order	b) le résident permanent ou l'étranger se soustraira vraisemblablement au contrôle, à l'enquête ou au renvoi, ou à la procédure pouvant mener à la

by the Minister under subsection 44(2);	prise par le ministre d'une mesure de renvoi en vertu du paragraphe 44(2);

[34] A decision made under section 58 involves the assessment of evidence, subject to the statutory requirements. As such, it raises a question of mixed fact and law, and the applicable standard of review is reasonableness; see *Dunsmuir v. New Brunswick*, [2008] 1 S.C.R. 190 at para. 51 and *Canada (Minister of Citizenship and Immigration) v. Thanabalasingham*, [2004] 3 F.C.R. 572 at para. 10. So the principal issue in this application is whether the Board's decision to release the Respondent, upon conditions including the provision of a cash deposit by his parents, was reasonable.

[35] According to the decision in *Thanabalasingham*, a detention review is not a *de novo* hearing where a Board can make a decision without regard to prior decisions. Rather, a detention review is essentially a "fact-based decision to which deference is shown" and where a Board is to give "clear and compelling reasons" for departing from earlier decision to detain. At para. 12, Justice Rothstein (as he then was) described what is required:

> The best way for the member to provide clear and compelling reasons would be to expressly explain what has given rise to the changed opinion, i.e. explaining what the former decision stated and why the current member disagrees.

[36] In my opinion, the decision meets the standard of reasonableness as discussed in *Dunsmuir* at para. 47, that is, justifiable, intelligible and transparent. Further the decision demonstrates "clear and compelling reasons" for departing from the prior decisions.

[37] The Board reasonably found that the parents could post security by means of a cash deposit. The prohibition in section 249(1)(a) of the Regulations does not apply. In the first place, there is no evidence that the parents had posted a "guarantee" in the United States. According to the Order of the United States District Court for the Middle District of Tennessee Nashville Division, dated May 22, 2012, as found in the Certified Tribunal Record, the Respondent was ordered released from detention. The Order provides, in part, as follows:

> Ordered that the defendant shall be released pending trial, conditioned upon the posting of security satisfactory to the Clerk of the Court in the two automobiles owned by the defendant's parents and, within thirty (30) days of the entry of this Order, the equity in the defendant's grandmother's house in Indiana.

[38] There is nothing in the terms and conditions attached to this Order spelling out the circumstances in which the authorities could realize the security posted and there is no evidence in the record to show if the American authorities have taken any steps to enforce the security posted.

[39] Furthermore, in my opinion, there is no evidence that the parents are in "default" of any guarantee. The policy manual ENF8, entitled "Deposits and Guarantees", prepared by Citizenship and Immigration Canada ("CIC") suggests that the word "guarantee" in subsection 48(1)(a) of the Act bears the usual meaning of "guarantee". In that regard, I refer to the decision of the Supreme Court of Canada in *Communities Economic Development Fund v. Canadian Pickles Corp.*, [1991] 3 S.C.R. 388 at page 413 as follows:

> A guarantee is generally a contract between a guarantor and a lender. The subject of the guarantee is a debt owed to the lender by a debtor. In the contract of guarantee, the guarantor agrees to repay the lender if the debtor defaults…

[40] In my view the security posted by the parents is not a "guarantee" according to Canadian Law. The Applicant has failed to show that the security is a "guarantee", so his argument about the application of paragraph 48(1)(a) cannot succeed.

[41] Furthermore, the Applicant's argument in this regard seems to me to require the extraterritorial application of the Act. This is contrary to the general principle that in the absence of clear language in legislation authorizing extraterritorial application, Canadian law applies only within Canada; see the decision in *Society of Composers, Authors, and Music Publishers of Canada v. Canadian Association of Internet Providers*, [2004] 2 S.C.R. 427 at para. 55 where Justice Binnie said "the courts nevertheless presume, in the absence of clear words to the contrary, that Parliament did not intend its legislation to receive extraterritorial application."

[42] There is no argument raised concerning the capacity of the parents to enter a contract in the province of Ontario, certainly no evidence was filed in that regard. In any event, they are providing cash and no contract is required in that regard.

[43] I turn next to the argument about the Board's finding as to the appropriateness and sufficiency of GPS monitoring.

[44] Having regard to the evidence that was before the Board on this issue, I am satisfied that this part of the decision was reasonable. A representative of the GPS monitor provider testified at the hearing. The Applicant's representative availed of her opportunities to ask questions. It was clear

from that evidence that the monitor would be programmed in such a way, with GPS utility, that a breach of conditions as to the Respondent's movements would be communicated to the police.

[45] The witness specifically was asked by the Member how the apparatus would work if she imposed a 24-hour curfew. The witness replied "That's the most basic."

[46] Having regard to the evidence before the Member, I am satisfied that she reasonably accepted the proposed GPS monitoring as a condition of the Respondent's release.

[47] Finally, there is the issue whether the Board engaged in improper speculation about the length of continued detention. The Board acknowledged that, as of August 7, 2013, there is "a potential" for the Respondent to "be in detention for a long period of time". It acknowledged that he was facing an admissibility hearing that had been postponed and for which a date would be set administratively. It noted that the Respondent's refugee protection hearing was due to begin on August 22. It went on to say the following:

> However, everyone is human and people get sick, and situations arise where there is no guarantee that your refugee claim will proceed on the 22. There is no guarantee that will be concluded. There is no guarantee that a decision will be rendered that day, so that will delay the time that you have to sit in detention.

[48] The Applicant focuses on these remarks in arguing that the Board engaged in speculation in making the decision of August 7, 2013. I disagree.

[49] The Board reasonably considered the likely length of the Respondent's detention. In doing so, it was building upon the remarks made by previous Boards. There is a noticeable progression in

the decision of the earlier Boards, discussing the likely length of detention. In the beginning, Boards were saying that detention was unlikely to be lengthy but at the hearing on June 12, that is the hearing before Board Member Adamidis, there was a concern that detention "has begun to be lengthy".

[50] It appears that the Board reasonably took this observation and the passage of time into account in making the decision on August 7, 2013, to release the Respondent from detention.

[51] Overall, I am satisfied that the Board described clear and compelling circumstances for departing from the prior decisions. It reasonably accepted the parents as bondspersons in respect of a cash deposit. The Board reasonably assessed the suitability of electronic monitoring. It established a 24-hour curfew, effectively house arrest, together with the condition that the Respondent reside with his parents and notify the immigration authorities prior to any change of address.

[52] In the result, the application for judicial review is dismissed. No serious question of general importance was proposed for certification.

"E. Heneghan"

Judge

Ottawa, Ontario
September 5, 2013

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-5277-13
STYLE OF CAUSE:	CANADA (MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS) v. MATTHEW PAUL DEHART
PLACE OF HEARING:	Toronto, Ontario
DATE OF HEARING:	August 28, 2013
REASONS FOR JUDGMENT:	HENEGHAN J.
DATED:	September 5, 2013

APPEARANCES:

Gregory G. George Jane Stewart	FOR THE APPLICANT
Lily Tekle	FOR THE RESPONDENT

SOLICITORS OF RECORD:

William F. Pentney Deputy Attorney General of Canada Toronto, Ontario	FOR THE APPLICANT
Law Office of Larry Butkowsky Toronto, Ontario	FOR THE RESPONDENT

Attachment 5

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE NASHVILLE DIVISION

UNITED STATES OF AMERICA	)	
	)	
	)	
v.	)	Criminal No. 3:10-00250
	)	Judge Trauger
MATTHEW PAUL DEHART	)	

O R D E R

A status conference and detention review hearing was scheduled for 10:00 a.m. on April 4, 2013. The hearing convened, and counsel for all parties were present. The defendant failed to appear. Therefore, it is hereby **ORDERED** that a bench warrant shall issue for the immediate arrest of the defendant.

It is so **ORDERED**.

ENTER this 4th day of April 2013.

ALETA A. TRAUGER
U.S. District Judge

Attachment 6

AO 442 (Rev. 10/03) Warrant for Arrest

UNITED STATES DISTRICT COURT

MIDDLE District of TENNESSEE

UNITED STATES OF AMERICA

V.

MATTHEW PAUL DEHART

WARRANT FOR ARREST

Case Number: 3:10-00250

To: The United States Marshal
and any Authorized United States Officer

YOU ARE HEREBY COMMANDED to arrest MATTHEW PAUL DEHART
Name

and bring him or her forthwith to the nearest magistrate judge to answer a(n)

☐ Indictment ☐ Information ☐ Complaint X Order of court ☐ Probation Violation Petition ☐ Supervised Release Violation Petition ☐ Violation Notice

charging him or her with (brief description of offense)

FAILURE TO APPEAR FOR HEARING ON APRIL 4, 2013 (Order DE # 182)

in violation of Title 18 United States Code, Section(s) 3146(a)

Honorable Aleta A. Trauger, U.S. District Judge
Name of Issuing Officer

Signature of Issuing Officer

United States District Judge
Title of Issuing Officer

April 4, 2013 Nashville, TN
Date and Location

RETURN

This warrant was received and executed with the arrest of the above-named defendant at

DATE RECEIVED	NAME AND TITLE OF ARRESTING OFFICER	SIGNATURE OF ARRESTING OFFICER
DATE OF ARREST		

Attachment 8

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

UNITED STATES OF AMERICA	)	NO. 3:10-CR-00250
v.	)	
MATTHEW PAUL DEHART	)	18 U.S.C. § 2251 18 U.S.C. § 2252A 18 U.S.C. § 2256 18 U.S.C. § 3146

SUPERSEDING INDICTMENT

COUNT ONE

THE GRAND JURY CHARGES:

Between in or about May 2008 and December 2008, in the Middle District of Tennessee and elsewhere, the defendant, **MATTHEW PAUL DEHART**, did knowingly and intentionally employ, use, persuade, induce, entice, and coerce a minor child under the age of eighteen (known to the Grand Jury as Victim A) to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct, which visual depiction was transported and transmitted using any means or facility of interstate commerce, and did attempt to do so.

In violation of Title 18, United States Code, Sections 2251(a) and 2251(d).

COUNT TWO

THE GRAND JURY FURTHER CHARGES:

On or about January 23, 2008, in the Middle District of Tennessee and elsewhere, **MATTHEW PAUL DEHART**, knowingly shipped and transported and attempted to ship and transport child pornography, as defined in Title 18, United States Code, Section 2256(8)(A), in interstate and foreign commerce.

In violation of Title 18, United States Code, Sections 2252A(a)(1) and 2252A(b)(1).

COUNT THREE

THE GRAND JURY FURTHER CHARGES:

Between in or about December 2007 and May 2008, in the Middle District of Tennessee and elsewhere, the defendant, **MATTHEW PAUL DEHART**, did knowingly and intentionally employ, use, persuade, induce, entice, and coerce a minor child under the age of eighteen (known to the Grand Jury as Victim B) to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct, which visual depiction was transported and transmitted using any means or facility of interstate commerce, and did attempt to do so.

In violation of Title 18, United States Code, Sections 2251(a) and 2251(d).

COUNT FOUR

THE GRAND JURY FURTHER CHARGES:

On or about April 4, 2013, in the Middle District of Tennessee, **MATTHEW PAUL DEHART**, having been released pursuant to chapter 207 of Title 18, United States Code, while awaiting trial for a violation of Title 18, United States Code, Section 2251, a felony punishable by a term of imprisonment of not more than 30 years, in Case Number 3:10-CR-00250, entitled United States v. Matthew Paul Dehart, for appearance before Judge Aleta A. Trauger, on April 4, 2013 at 10:00 am for a Status Conference and Detention Review Hearing in the aforementioned case, did knowingly and willfully fail to appear for that hearing as required.

In violation of Title 18, United States Code, Sections 3146(a)(1) and 3146(b)(1).

A TRUE BILL

[redacted]

FOREPERSON

LYNNE T. INGRAM
ASSISTANT UNITED STATES ATTORNEY

S. CARRAN DAUGHTREY
ASSISTANT UNITED STATES ATTORNEY

DAVID RIVERA
UNITED STATES ATTORNEY

Attachment 9

AO 442 (Rev. 01/09) Arrest Warrant

UNITED STATES DISTRICT COURT

for the

Middle District of Tennessee

United States of America
v.

Matthew Paul Dehart
in Canadian custody

Defendant

Case No. 3:10-00250 Judge Trauger

ARREST WARRANT

To: Any authorized law enforcement officer

YOU ARE COMMANDED to arrest and bring before a United States magistrate judge without unnecessary delay

(name of person to be arrested) Matthew Paul Dehart ,

who is accused of an offense or violation based on the following document filed with the court:

☐ Indictment ☑ Superseding Indictment ☐ Information ☐ Superseding Information ☐ Complaint

☐ Probation Violation Petition ☐ Supervised Release Violation Petition ☐ Violation Notice ☐ Order of the Court

This offense is briefly described as follows:

18:2251(a) and 18:2251(d) Production of child pornography (Counts 1 and 3)
18:2252A(a)(1) and 18:2252A(b)(1) Shipping and transporting child pornography (Count 2)
18:3146(a)(1) and 18:3146(b)(1) Failure to appear (Count 4)

Date: 11/19/2014

Ann E. Schwarz
Issuing officer's signature

City and state: Nashville, Tennessee

Ann E. Schwarz, Criminal Docketing Supervisor
Printed name and title

Return

This warrant was received on *(date)* 11-20-14, and the person was arrested on *(date)* 3-23-15
at *(city and state)* Nashville TN.

Date: 3-23-15

Dan Wells, Deputy
Arresting officer's signature

David Shelton Deputy
Printed name and title

Attachment 10

Kneyse G. Martin - RE: Request for Verification of Foreign Jail Credit (Dehart, Matthew Paul #06813-036)

From: "Moreira, Carlos (CRM)" <[redacted]v>
To: Deborah Colston [redacted]
Date: 8/18/2017 2:18 PM
Subject: RE: Request for Verification of Foreign Jail Credit (Dehart, Matthew Paul #06813-036)
CC: "Kneyse G. Martin"[redacted]

Hi Deborah,

Good afternoon. I apologize for the confusion.

That was a typo. Mr. DeHart was deported on March 1, 2015.

Please let me know if you need any additional information. Thank you for your time.

Respectfully,
Carlos Moreira
International Affairs Specialist – Office of International Affairs
[redacted]
U.S. Department of Justice, Criminal Division
1301 New York Ave. NW
Washington, DC 20530

From: Deborah Colston[redacted]
Sent: Friday, August 18, 2017 2:11 PM
To: Moreira, Carlos (CRM) [redacted]
Subject: RE: Request for Verification of Foreign Jail Credit (Dehart, Matthew Paul #06813-036)

Good Morning Carlos,

Thank you for your response. However, our information shows he was deported to the United States March 1, 2015. Could you please check your dates again?

Thank you.

*****Please copy Kneyse Martin[redacted]n your response*****

Deborah H. Colston
Management Analyst (Section IV)
Federal Bureau of Prisons
Designation & Sentence Computation Center
Grand Prairie, Texas

[redacted]

"*When you judge another, you do not define them, you define yourself.*" -Wayne Dyer

>>> "Moreira, Carlos (CRM)" [redacted] 8/17/2017 12:57 PM >>>

Hi Deborah,

Good afternoon. The electronic file shows that Mr. DeHart was deported to the US on March 1, 2016.

Please let me know if you have any questions. Thank you for your time.

Respectfully,
Carlos Moreira
International Affairs Specialist – Office of International Affairs
[redacted]
U.S. Department of Justice, Criminal Division
1301 New York Ave. NW
Washington, DC 20530

From: Deborah Colsto [redacted]
Sent: Thursday, August 17, 2017 8:51 AM
To: Moreira, Carlos (CRM) [redacted]
Subject: Request for Verification of Foreign Jail Credit (Dehart, Matthew Paul #06813-036)

Good Morning Carlos,

Per your voice mail, please respond to this email verifying Mr. Dehart was deported, including the dates and any additional information you may have.

Thank you.

Deborah H. Colston
Management Analyst (Section IV)
Federal Bureau of Prisons
Designation & Sentence Computation Center
Grand Prairie, Texas
[redacted]

"*When you judge another, you do not define them, you define yourself.*" -Wayne Dyer

Attachment 11

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

UNITED STATES OF AMERICA	)	
	)	
VS	)	No. 3:10-cr-00250
	)	
MATTHEW PAUL DEHART	)	

BEFORE THE HONORABLE ALETA A. TRAUGER, DISTRICT JUDGE

TRANSCRIPT OF PROCEEDINGS

November 12, 2015

APPEARANCES:

For the Government: JIMMIE LYNN RAMSAUR
LYNNE T. INGRAM
Asst. U.S. Attorney
110 Ninth Ave S., Suite A961
Nashville, TN 37203

For the Defendant: FREDERIC B. JENNINGS
195 Plymouth St, Fifth Floor
Brooklyn, NY 11201

Roxann Harkins, RPR, CRR
Official Court Reporter
801 Broadway, Suite A837
Nashville, TN 37203
615.403.8314
roxann_harkins@tnmd.uscourts.gov

The above-styled cause came to be heard on November 12, 2015, before the Hon. Aleta A. Trauger, District Judge, when the following proceedings were had at 3:07 p.m. to-wit:

THE COURT: We're here on a change of plea in United States versus Matthew Paul Dehart. We have Jimmie Lynn Ramsaur and Lynne Ingram for the government and Frederic Jennings for Mr. Dehart.

Would you bring your client around, please.

MR. JENNINGS: Yes, Your Honor. Where would you like, to the podium?

THE COURT: To the podium. I understand that the agent is trying to make a 4:30 flight?

COURTROOM DEPUTY: Mr. Jennings, I'm sorry.

THE COURT: Oh, you're trying to make a 4:30 flight. Well, you have to be here for the whole thing. I was going to suggest some flipping around of order, but I guess I won't since you have to be here.

All right. Mr. Dehart, raise your hand to be sworn, please.

(Defendant sworn.)

THE COURT: Mr. Dehart, everything you say in court today is under oath and could be used against you in a prosecution for committing perjury or making a false statement. Do you understand that?

THE DEFENDANT: I do, Your Honor.

THE COURT: How old are you?

THE WITNESS: 31 years old.

THE COURT: How far did you go in school?

THE DEFENDANT: 14 and a half years, Your Honor.

THE COURT: Okay. Mr. Dehart, you are charged in a superseding information filed in this Court today with the following offenses, and I know you've been before the magistrate judge for arraignment on this.

Count One charges that between about May of 2008 and December of 2008 in this district that you knowingly received child pornography and material that contains child pornography, specifically visual depictions of a minor child, Victim 1, engaged in sexually explicit conduct that had been shipped or transported in interstate and foreign commerce by means of a computer in violation of federal law.

Count Two charges the same offense, between about December of 2007 and May of 2008 with

regard to Victim 2.

And Count Three charges that on or about April 4 of 2013 in this district you, having been released while awaiting trial for a felony, punishable by imprisonment of up to 30 years, were to appear for a status conference and detention review hearing on April 4 of 2013 in this courtroom, and that you knowingly and willfully failed to appear for that hearing as required.

And this information also contains a forfeiture allegation that requires you to forfeit all of this computer equipment and any child pornography and so forth that were seized from you.

Do you feel that you understand these charges against you?

THE DEFENDANT: I do, Your Honor.

THE COURT: Have you told your lawyers everything you know about the facts that support these charges?

THE DEFENDANT: I have, Your Honor.

THE COURT: Have they discussed with you what the government would have to prove for you to be found guilty of these charges?

THE DEFENDANT: We've had that discussion, Your Honor.

THE COURT: Have they discussed with you any possible defenses you might have?

THE DEFENDANT: They have, Your Honor.

THE COURT: All right. And we had a hearing on some of those defenses just on Monday. And have they done all the investigation that you've asked them to do?

THE DEFENDANT: They have, Your Honor.

THE COURT: Are you satisfied with their representation of you so far?

THE DEFENDANT: I am satisfied, Your Honor.

THE COURT: Mr. Dehart, Counts One and Two carry a prison term of no less than five years, up to 20 years, a fine of up to $250,000, a supervised release term of at least five years on up to life, and a $100 special assessment.

Count Three carries a prison term of up to 10 years consecutive to the offenses in Counts One and Two, a fine of up to $250,000, a supervised release term of up to three years, and a $100 special assessment.

I want to explain a little more about those penalties to you. We do not have any parole in the federal system. We have a system of good-time

credits that you might or not earn, up to 54 days per year. However many days you earn would be credited at the end of each year and would shorten your jail time by that much.

Any period of jail time is followed by a period of supervised release where you would be reporting to a probation officer and having to comply with certain conditions. If you violated any of those conditions, your supervised release could be revoked and you could be made to serve additional time in prison.

These offenses carry with them substantial fines. I must levy a fine against you unless I find you're financially unable to pay a fine. The $100 special assessment per count must be paid, no matter what your ability is to pay it.

These are felonies you're offering to plead guilty to. Conviction of a felony may deprive you of the right to vote, the right to possess a firearm, and these convictions may be counted as necessary prior convictions in a prosecution for being a habitual criminal. Do you understand all that?

THE DEFENDANT: I do, Your Honor.

THE COURT: Are you presently on probation or parole from any other offense?

THE DEFENDANT: No, Your Honor.

THE COURT: I want to explain to you the important constitutional rights you're giving up by pleading guilty. You have the right to go to trial with the assistance of your lawyer, who would confront and cross-examine the witnesses on your behalf.

You could not be made to take the stand, testify, incriminate yourself, call a witness or put on any kind of a case at all. It would be the government's sole burden to prove each and every element of these offenses beyond a reasonable doubt to the satisfaction of a jury of 12 people. Their verdict would have to be unanimous.

Do you understand that by pleading guilty you're giving up all of those important constitutional rights?

THE DEFENDANT: I do understand, Your Honor.

THE COURT: And do you understand there will be no further trial of any sort; there will just be a sentencing hearing in front of me?

THE DEFENDANT: I understand that, Your Honor.

THE COURT: You are proposing to plead guilty under a plea agreement with the government.

Have you read both the petition to enter a plea of guilty and the plea agreement attached to it?

THE DEFENDANT: I have, Your Honor.

THE COURT: Feel you understand both of these documents?

THE DEFENDANT: I do, Your Honor.

THE COURT: I want to go over your plea agreement with you at this time. You are agreeing to plead guilty to all three counts of this superseding information. In pleading guilty, you are admitting the facts set out on pages 4 through 6 of this plea agreement and that those facts establish your guilt beyond a reasonable doubt of those three charges.

Have you read those facts very carefully and are you prepared to admit that they are true?

THE DEFENDANT: I have and I am, Your Honor.

THE COURT: You and the government agree that the November 2014 edition of the Federal Sentencing Guidelines will apply to your case.

You and the government are agreeing to recommend to the Court that the base offense level for Counts One and Two is a 32. The base offense level for Count Three is a 15. The combined offense level is 34. You are recommending a three-level reduction

for accepting responsibility, resulting in a final adjusted offense level of 31.

Everyone agrees you're in Criminal History Category I. You and the government have agreed on a specific sentence in this case. You have agreed that the sentence imposed by the Court in this binding plea agreement will include a term of imprisonment of 90 months in the BOP in the custody of the Bureau of Prisons followed by 10 years of supervised release.

The sentence will be imposed as follows: A sentence of 72 months imprisonment on Counts One and Two to run concurrently with each other and a sentence of 18 months imprisonment on Count Three, to run consecutive to the Counts -- to the sentence imposed on Counts One and Two. The rest of the sentencing is up to the Court.

If I accept this agreement and impose that agreed-upon sentence, you will not be allowed to withdraw your guilty plea. However, if I refuse to accept this agreement, then either you or the government may withdraw from the plea agreement.

Do you understand that?

THE WITNESS: I do, Your Honor.

THE COURT: You understand and agree that

you are subject to supervised release for a minimum of five years on up to life. In this case you are agreeing to serve 10 years of supervised release after your incarceration. You are also agreeing that you will submit to sex offender evaluation and treatment as recommended by an appropriate provider contracted per the guidelines and procedures promulgated by the Administrative Office of the US Courts.

You're also agreeing that you will register as a sex offender with the appropriate authorities of any state in which you reside, are employed or attend school. You're agreeing to pay the special assessment of $300 at or before the time of your sentencing.

Do you agree to all those special conditions?

THE DEFENDANT: I do, Your Honor.

THE COURT: You are agreeing to forfeit all of this computer equipment. You're agreeing to a forfeiture judgment against this property because it was used or intended to be used to commit or to promote the commission of the offenses set out in Counts One and Two of the superseding information.

And so you are acknowledging that all this equipment is subject to forfeiture. You're

agreeing to the entry of a forfeiture judgment for this property. You're agreeing to its seizure and you understand it may be disposed of according to law. You're unaware of any third party who has any ownership interest in or claim to the subject property that is subject property that is subject to forfeiture.

Do you understand all that?

THE DEFENDANT: I do, Your Honor.

THE COURT: You are agreeing to execute truthfully and completely a financial statement, provide tax returns and any other financial information requested of you.

This plea agreement concerns criminal liability only. It does not bar any administrative or civil claims. And it is limited to the US Attorney's Office for the Middle District of Tennessee. It does not bind any other federal, state or local prosecuting authorities.

You are waiving certain appellate rights in this plea agreement. You're waiving your right to appeal whether or not you are guilty of the three offenses you're pleading guilty to. You're waiving your right to appeal the denial of any trial rights that might have been available to you, had you elected

to go to trial. You're also waiving the right to appeal any sentence imposed consistent with this plea agreement. You're waiving all appellate rights and collateral attacks concerning forfeiture and all matters related to this.

You're waiving your right to challenge the sentence imposed in a collateral attack. However, these waivers do not apply if you claim that your plea today is involuntary or your lawyer has rendered you ineffective assistance of counsel or the government has engaged in prosecutorial misconduct.

Likewise, the government is waiving its right to appeal any sentence imposed consistent with this plea agreement. The United States under this plea agreement agrees not to seek additional criminal charges in this district against you for the events between December 2007 and December 2008, which occurred in this district and which are described above in this plea agreement. In other words, the child pornography offenses or the failure to appear offense. Okay?

However, nothing in this plea agreement limits the United States in the prosecution of you in other districts or for crimes not disclosed in this plea agreement statement of facts, except as expressly

set forth in this plea agreement.

So I interpret this to reserve the right of the government if they are seeking any charges in connection with the supposed allegations of espionage; is that right? Is that what this means?

MS. RAMSAUR: It just means that if there are any other crimes that have been committed by this defendant that aren't included in this, they are subject to potential prosecution.

THE COURT: Okay.

MS. RAMSAUR: Whatever they might be.

THE COURT: Whatever they might be. Anything other than these two counts of receipt of child pornography and failure to appear. Do you understand that?

THE DEFENDANT: I do, Your Honor.

THE COURT: Okay. If you engage in additional criminal activity after you've pled guilty but before your sentencing, that will be considered a breach of the plea agreement, and the government may seek to void the plea agreement. You must comply with the plea agreement until you are sentenced.

Is that basically your understanding of your plea agreement?

THE DEFENDANT: That is my understanding,

Your Honor.

THE COURT: Has anyone promised or suggested to you what sentence I will give you in order to get you to plead guilty, other than to say, if I accept this plea agreement, I have to give you the binding sentence?

THE DEFENDANT: No, Your Honor.

THE COURT: Has anyone put any kind of pressure on you, psychological or physical, to get you to plead guilty?

THE DEFENDANT: No, Your Honor.

THE COURT: Have you had any alcohol in the last 12 hours?

THE DEFENDANT: I have not, Your Honor.

THE COURT: Have you had any narcotics, hallucinogens or medicine contains narcotics in the last 12 hours?

THE DEFENDANT: I have not, Your Honor.

THE COURT: Are you on any medication at all today?

THE DEFENDANT: I am not, Your Honor.

THE COURT: Okay. You're not on any kind of medication?

THE DEFENDANT: No medication, Your Honor.

THE COURT: Is your mind clear and you feel like you know what you're doing?

THE DEFENDANT: My mind is clear. I know what I'm doing, Your Honor.

THE COURT: All right. I'm going to ask all parties to execute the documents at this time. Mr. Jennings, I think we still have a typo in the petition. I've got the revised petition. At the top of page 2.

MR. JENNINGS: I think you're correct.

THE COURT: Change the five to 10?

MR. JENNINGS: We've interlineated and initialed a change to the agreement, which should correct that typo.

THE COURT: Okay, very good.

All right. If you'll step back, Ms. Ingram, Ms. Ramsaur, I'll hear the facts.

MS. INGRAM: The United States calls Special Agent John McMurtrie.

JOHN McMURTRIE

called as a witness, after having been first duly sworn, testified as follows:

THE COURT: Go ahead.

MR. McMURTRIE: In approximately 2006 or early 2007, defendant Matthew Paul Dehart, then age

21, who resided in Indiana, met two boys, Victim 1 and 2, from Franklin, Tennessee, online while playing the game World of Warcraft. As of December 2007, Victim 2, a 16-year-old boy, was in regular contact with Dehart; and as of the summer of 2008, Victim 1, a 14-year-old boy, was in regular contact with Dehart.

Dehart represented himself online as a 17-year-old son of a Mafia family and also as two minor teenage females while communicating with the victims. Dehart encouraged both victims to take sexually explicit images and videos of themselves and send them to the alleged teenage girls at email addresses provided by Dehart.

Sometime between May and December of 2008, Victim 1 complied with this request. One of the alleged girls also sent a sexually explicit video of child pornography to Victim 1 in or about January 2008. Sometime between December 2007 and May 2008, Victim 2 also complied with Dehart's request.

Until 2009, when Dehart was 24, he continued to communicate with both victims and even traveled to Franklin, Tennessee and visited Victim 2 on at least one occasion.

Count One, receipt of child pornography.

Dehart requested 14-year-old Victim 1 to create and send images, videos of himself masturbating. A forensic analysis of the computers and electronic media seized from Dehart revealed at least seven sexually explicit images of Victim 1 that were found on Dehart's laptop and external hard drive, along with sexually explicit chats that show Dehart knowingly received these images.

Victim 1 sent the images from Tennessee to Dehart in Indiana through the use of a computer. The time range is May 2008 through December 2008, shortly before the investigation began.

Count Two, receipt of child pornography. Victim 2 was originally forensically interviewed on January 7, 2009, at the Williamson County Child Advocacy Center. Victim 2 explained that after developing a friendship with Dehart, he had asked Dehart for a laptop for his birthday. Dehart asked for a dick pic from Victim 2. Victim 2 took a picture of his penis with his cell phone and sent it to Dehart.

Dehart requested more pictures from Victim 2, but Victim 2 sent Dehart more images of a penis that he found on the computer. The forensics indicates date ranges for the images of child

pornography to be from December 10, 2007, to May 2008. A forensic analysis of computers and electronic media seized from Dehart pursuant to a search warrant revealed sexually explicit images of Victim 2 located on defendant's hard drives.

Count Three, failure to appear. Dehart was charged in an indictment in this case on October 6, 2010, with one count of production of child pornography in violation of Title 18 United States Code Sections 2251(a) and 2251(d) and one count of transportation of child pornography in violation of Title 18 United States Code Sections 2252A(a)(1), and 2252A(b)(1).

Conviction of these offenses carries penalty -- I'm sorry, carry penalties of 15 to 30 years and five to 20 years respectively.

This Court released defendant pending trial on May 22, 2012. Defendant was subject to the standard conditions of release and special conditions, which this Court attached to the order releasing him. Defendant was required to appear before the Court on April 4, 2013, at 10:00 a.m. for a status conference and detention reviewing hearing.

Defendant failed to appear at that time and was later determined that Dehart had fled to

Canada. Judge Trauger issued a bench warrant for defendant's arrest. The defendant was eventually arrested at the United States/Canadian border upon Canada's rejection of the defendant's asylum request and order of removal to the United States.

This statement of facts is provided to assist the Court in determining whether a factual basis exists for the defendant's plea of guilty and criminal forfeiture. The statement of facts does not contain each and every fact known to the defendant and to the United States concerning defendant's and/or others' involvement in the offense conducted -- offense conduct and other matters.

THE COURT: Thank you, Agent McMurtrie.

Do you have any questions for the agent, Mr. Jennings?

MS. RAMSAUR: Your Honor, could I have one moment before you do that?

THE COURT: Sorry. Okay.

MS. RAMSAUR: Your Honor, my mistake. We need to add one thing to Count -- the facts in Count Two, and that is that the images that are discussed in the paragraph on Count Two on page 5 were sent by Victim 2 from Tennessee to the defendant in Indiana.

THE COURT: Okay. I'm going to give you back the original and let you make that addition and have everyone initial it.

All right. Mr. McMurtrie, you just want to add that -- Mike, you want to give it back to him and let him -- just recite where you've added that sentence in, if you'd read it.

MR. McMURTRIE: Yes, ma'am. Victim 2 took a picture of his penis with his cell phone and sent it to Dehart from Tennessee to Indiana.

THE COURT: Okay.

All right. Let's have Mr. Dehart back, please.

MR. JENNINGS: No questions for Mr. McMurtrie.

THE COURT: Okay. Mr. Dehart, you heard the agent read the facts that support these three charges against you. Did he accurately inform the Court of what you did here?

THE DEFENDANT: Yes, he did, Your Honor.

THE COURT: For you to be found guilty of Counts One and Two, the government would have to prove these elements beyond a reasonable doubt to the jury: That you knowingly received images of a minor engaging in sexually explicit conduct; that you knew the images

were of a minor engaging in sexually explicit conduct; and that the images that you received had been transported in interstate commerce by computer.

Do you think the government could prove all those elements for Counts One and Two if you had gone to trial?

THE DEFENDANT: I believe so, Your Honor.

THE COURT: And as to Count Three, the government would have to prove these elements against you beyond a reasonable doubt: That you had been released on bail pending trial; that you were required to appear in court on a specific date; and that you knowingly and willfully failed to appear.

Do you think the government could prove those elements against you if you had gone to trial on Count Three?

THE DEFENDANT: Yes, Your Honor.

THE COURT: So you are pleading guilty to these three counts because you are guilty of these three offenses?

THE DEFENDANT: I am, Your Honor.

THE COURT: The Court finds there's a factual basis for the plea in this case. The Court has observed the appearance of Mr. Dehart and his responsiveness to the questions asked. Based upon

that observation and the answers to the questions, the Court is satisfied that Mr. Dehart is in full possession of his faculties and competent to plead guilty. He is not under the apparent influence of narcotics, hallucinogens or alcohol. He understands the nature of the charges to which his plea is offered, the minimum mandatory terms of imprisonment and maximum possible penalties provided by law.

He is waiving his constitutional rights to trial and the constitutional rights accorded all persons accused of a crime. He's aware of the plea agreement made in his behalf and has offered to plead guilty voluntarily.

I will accept the plea today. And can we set the sentencing for Monday, February 22 at 11:30 in the morning? Does that work for everybody?

MS. RAMSAUR: Yes, Your Honor.

MR. JENNINGS: Yes, Your Honor.

THE COURT: All right. The defendant is in custody. Is there anything else on this case?

MS. INGRAM: No, Your Honor.

MS. RAMSAUR: No, Your Honor.

MR. JENNINGS: No, Your Honor.

THE COURT: All right. Mr. Jennings, I hope you make your flight.

MR. JENNINGS: Thank you.

THE COURT: All right. We're in recess.

(Which were all of the proceedings had in the above-captioned cause on the above-captioned date.)

REPORTER'S CERTIFICATE PAGE

I, Roxann Harkins, Official Court Reporter for the United States District Court for the Middle District of Tennessee, in Nashville, do hereby certify:

That I reported on the stenographic machine the proceedings held in open court on November 12, 2015, in the matter of UNITED STATES OF AMERICA v. MATTHEW PAUL DEHART, Case No. 3:10-cr-00250; that said proceedings were reduced to typewritten form by me; and that the foregoing transcript is a true and accurate transcript of said proceedings.

This is the 16th day of March, 2017.

s/ Roxann Harkins____
ROXANN HARKINS, RPR, CRR
Official Court Reporter

Attachment 12

AMT

AO 245B (Rev. 02/16) Judgment in a Criminal Case
Sheet 1

UNITED STATES DISTRICT COURT

MIDDLE District of TENNESSEE

UNITED STATES OF AMERICA
v.
MATTHEW PAUL DEHART

JUDGMENT IN A CRIMINAL CASE

Case Number: 3:10-cr-00250
USM Number: 06813-036

Defendant's Attorney

THE DEFENDANT:

X pleaded guilty to count(s) 1, 2, and 3 of the Superseding Felony Information

☐ pleaded nolo contendere to count(s) which was accepted by the court.

☐ was found guilty on count(s) after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18 U.S.C. §2252A(a)(2)(A)	Receipt of Child Pornography	12/2008	1
18 U.S.C. §2252A(a)(2)(A)	Receipt of Child Pornography	5/2008	2
18 U.S.C. §3146(a)(1)	Failure to Appear	4/4/2013	3

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s)

X Count(s) Original and Superseding Indictment ☐ is X are dismissed on the motion of the United States.

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

2/22/2016
Date of Imposition of Judgment

Signature of Judge

Aleta A. Trauger, US District Judge
Name and Title of Judge

2/25/2016
Date

DEFENDANT: MATTHEW PAUL DEHART
CASE NUMBER: 3:10-cr-00250

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal States Bureau of Prisons to be imprisoned for a total term of:

Counts 1 and 2 - 72 months to run concurrently
Count 3 - 18 months to run consecutively to Counts 1 and 2

X The court makes the following recommendations to the Bureau of Prisons:
1. That the defendant be housed at FCI-Morgantown, West Virginia or at a facility located in the northeast.

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

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____ .

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____ .

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

a _____ , with a certified copy of this judgment.

_____
UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: MATTHEW PAUL DEHART
CASE NUMBER: 3:10-cr-00250

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

Counts 1 and 2 - 10 years to run concurrently; Count 3 - 3 years to run concurrently with Counts 1 and 2

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. *(Check, if applicable.)*

X The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. *(Check, if applicable.)*

X The defendant shall cooperate in the collection of DNA as directed by the probation officer. *(Check, if applicable.)*

☐ The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which he or she resides, works, is a student, or was convicted of a qualifying offense. *(Check, if applicable.)*

☐ The defendant shall participate in an approved program for domestic violence. *(Check, if applicable.)*

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
2) the defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer;
3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
4) the defendant shall support his or her dependents and meet other family responsibilities;
5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: MATTHEW PAUL DEHART
CASE NUMBER: 3:10-cr-00250

SPECIAL CONDITIONS OF SUPERVISION

1 The defendant is prohibited from owning, carrying or possessing firearms, destructive devices, or other dangerous weapons.

2. The defendant shall cooperate in the collection of DNA as directed by the United States Probation Office.

3. The defendant shall participate in a mental health program as directed by the United States Probation Office. The defendant shall pay all or part of the cost of mental health treatment if the United States Probation Office determines the defendant has the financial ability to do so or has appropriate insurance coverage to pay for such treatment.

4. The defendant shall register as a sex offender with the appropriate-authorities of any state in which he resides, is employed, or attends school in compliance with 18 U.S.C. § 2250(a).

5. The defendant agrees to submit to a sex offender assessment and treatment as recommended by an appropriate provider contracted per the guidelines and procedures promulgated by the Administrative Office of the United States Court.

6. The defendant shall not consume any alcoholic beverages.

7. The defendant shall not associate with children under the age of 18 nor frequent, volunteer, or work at places where children congregate (e.g., playgrounds, parks, malls, day-care centers or schools) unless approved by the U.S. Probation Office.

8. The defendant shall not contact victim 1 (J.T.) or victim 2 (P.S.) or any member of their family, either in person, telephone, mail, email, or through a third party, and the United States Probation Office will verify compliance.

9. The defendant shall not buy, sell, exchange, possess, trade, or produce visual depictions of minors engaged in sexually explicit conduct. The defendant shall not correspond or communicate in person, by mail, telephone, or computer, with individuals or companies offering to buy, sell, trade, exchange, or produce visual depictions of minors engaged in sexually explicit conduct, as defined in 18 U.S.C. § 2256(2).

10. The defendant shall not possess or use a computer or any device with access to any "on-line computer service" at any location (including place of employment) without the prior written approval of the United States Probation Office. This includes any Internet service provider, bulletin board system, or any other public or private network or e-mail system. The defendant's residence shall not contain any electronic devices capable of Internet access without prior approval of the probation officer.

11. The defendant shall consent to the U.S. Probation Office conducting unannounced examinations of the defendant's computer system(s), mobile devices, and internal/external storage devices, which may include retrieval and copying of all memory from hardware/software and/or removal of such system(s) for the purpose of conducting a more thorough inspection. The defendant will consent to having installed on the defendant's computer(s), any hardware/software to monitor computer use or prevent access to particular materials. The defendant will further consent to periodic inspection of any such installed hardware/software to ensure it is functioning properly.

12. The defendant shall provide the U.S. Probation Office with accurate information about the defendant's entire computer system (hardware/software) and internal/external storage devices; all passwords used by the defendant; and will abide by all rules regarding computer use and restrictions as provided by the U.S. Probation Office.

13. The defendant shall furnish all financial records, including, without limitation, earnings records and tax returns, to the United States Probation Office upon request.

DEFENDANT: MATTHEW PAUL DEHART
CASE NUMBER: 3:10-cr-00250

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	Assessment	Fine	Restitution
TOTALS	$ 300.00	$ 0	$ 0

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

Name of Payee	Total Loss*	Restitution Ordered	Priority or Percentage

TOTALS	$ _____	$ _____

☐ Restitution amount ordered pursuant to plea agreement $ _____

☐ The defendant must pay interest on restitution and a fine of more than $2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: MATTHEW PAUL DEHART
CASE NUMBER: 3:10-cr-00250

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

A X Lump sum payment of $ 300.00 due immediately, balance due

☐ not later than _____, or
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or

B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or

C ☐ Payment in equal _____ *(e.g., weekly, monthly, quarterly)* installments of $ _____ over a period of _____ *(e.g., months or years)*, to commence _____ *(e.g., 30 or 60 days)* after the date of this judgment; or

D ☐ Payment in equal _____ *(e.g., weekly, monthly, quarterly)* installments of $ _____ over a period of _____ *(e.g., months or years)*, to commence _____ *(e.g., 30 or 60 days)* after release from imprisonment to a term of supervision; or

E ☐ Payment during the term of supervised release will commence within _____ *(e.g., 30 or 60 days)* after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or

F ☐ Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

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

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers *(including defendant number)*, Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

☐ The defendant shall pay the cost of prosecution.

☐ The defendant shall pay the following court cost(s):

X The defendant shall forfeit the defendant's interest in the following property to the United States:
1. Western Digital 80 GB External Hard Disk Drive, SN 57442D5743414D39;

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

ADDITIONAL FORFEITED PROPERTY

2. HP IPAQ PDA and PNY 512 MB Flash Drive, SN 058f00016378;

3. Maxtor BlackArmor 320 GB External Hard Disk Drive, SN 2HC037S7;

4. Gateway FX laptop, Seagate 160 GB Hard Disk Drive, SN 5NK0HKR5 (Disk 1 of 2);

5. Gateway FX laptop, Seagate 160 GB Hard Disk Drive, SN 5NK0G5VV (Disk 2 of 2); and

6. Motorola Droid, SJUG5546AC, IMSI 3100045514270578 seized from defendant's residence on January 25, 2010 in Warrick County Indiana (hereinafter collectively referred to as "Subject Property").

Attachment 13

DSCBM * PUBLIC INFORMATION * 07-30-2018
PAGE 001 * INMATE DATA * 10:15:20
AS OF 07-30-2018

REGNO..: 06813-036 NAME: DEHART, MATTHEW PAUL

RESP OF: ASH
PHONE..: [redacted] FAX: [redacted]
RACE/SEX...: WHITE / MALE
AGE: 34
PROJ REL MT: GOOD CONDUCT TIME RELEASE PAR ELIG DT: N/A
PROJ REL DT: 11-24-2019 PAR HEAR DT:

G0002 MORE PAGES TO FOLLOW . . .

DSCBM * PUBLIC INFORMATION * 07-30-2018
PAGE 002 * INMATE DATA * 10:15:20
AS OF 07-30-2018

REGNO..: 06813-036 NAME: DEHART, MATTHEW PAUL

RESP OF: ASH
PHONE..: [redacted] FAX: [redacted]
HOME DETENTION ELIGIBILITY DATE: 05-24-2019

THE FOLLOWING SENTENCE DATA IS FOR THE INMATE'S CURRENT COMMITMENT.
THE INMATE IS PROJECTED FOR RELEASE: 11-24-2019 VIA GCT REL

----------CURRENT JUDGMENT/WARRANT NO: 010 ----------

COURT OF JURISDICTION.....: TENNESSEE, MIDDLE DISTRICT
DOCKET NUMBER.....: 3:10-CR-00250
JUDGE.....: TRAUGER
DATE SENTENCED/PROBATION IMPOSED: 02-22-2016
DATE COMMITTED.....: 04-13-2016
HOW COMMITTED.....: US DISTRICT COURT COMMITMENT
PROBATION IMPOSED.....: NO

	FELONY ASSESS	MISDMNR ASSESS	FINES	COSTS
NON-COMMITTED.:	$300.00	$00.00	$00.00	$00.00

RESTITUTION...: PROPERTY: NO SERVICES: NO AMOUNT: $00.00

----------CURRENT OBLIGATION NO: 010 ----------
OFFENSE CODE....: 512
OFF/CHG: 18:2252A(A)(2)(A) RECEIPT OF CHILD PORNOGRAPHY (CT1&2);
18:3146(A)(1) FAILURE TO APPEAR (CT 3)

SENTENCE PROCEDURE.....: 3559 PLRA SENTENCE
SENTENCE IMPOSED/TIME TO SERVE.: 90 MONTHS
TERM OF SUPERVISION.....: 10 YEARS
DATE OF OFFENSE.....: 05-01-2008

G0002 MORE PAGES TO FOLLOW . . .

DSCBM * PUBLIC INFORMATION * 07-30-2018
PAGE 003 OF 003 * INMATE DATA * 10:15:20
AS OF 07-30-2018

REGNO..: 06813-036 NAME: DEHART, MATTHEW PAUL

RESP OF: ASH
PHONE..: [redacted] FAX: [redacted]

----------CURRENT COMPUTATION NO: 010 ----------

COMPUTATION 010 WAS LAST UPDATED ON 08-21-2017 AT DSC AUTOMATICALLY
COMPUTATION CERTIFIED ON 08-22-2017 BY DESIG/SENTENCE COMPUTATION CTR

THE FOLLOWING JUDGMENTS, WARRANTS AND OBLIGATIONS ARE INCLUDED IN
CURRENT COMPUTATION 010: 010 010

DATE COMPUTATION BEGAN.....: 02-22-2016
TOTAL TERM IN EFFECT.....: 90 MONTHS
TOTAL TERM IN EFFECT CONVERTED..: 7 YEARS 6 MONTHS
EARLIEST DATE OF OFFENSE.....: 05-01-2008

JAIL CREDIT.....	FROM DATE	THRU DATE
	08-06-2010	05-22-2012
	03-01-2015	02-21-2016

TOTAL PRIOR CREDIT TIME.....: 1014
TOTAL INOPERATIVE TIME.....: 0
TOTAL GCT EARNED AND PROJECTED..: 352
TOTAL GCT EARNED.....: 270
STATUTORY RELEASE DATE PROJECTED: 11-24-2019
EXPIRATION FULL TERM DATE.....: 11-10-2020
TIME SERVED.....: 5 YEARS 2 MONTHS 18 DAYS
PERCENTAGE OF FULL TERM SERVED..: 69.5

PROJECTED SATISFACTION DATE.....: 11-24-2019
PROJECTED SATISFACTION METHOD...: GCT REL

G0000 TRANSACTION SUCCESSFULLY COMPLETED

Attachment 14

```
  DSCBM          *ADMINISTRATIVE REMEDY GENERALIZED RETRIEVAL *          07-30-2018
PAGE 001 OF                                                              10:14:28
     FUNCTION: L-P SCOPE: REG   EQ 06813-036     OUTPUT FORMAT: UNSAN
-------LIMITED TO SUBMISSIONS WHICH MATCH ALL LIMITATIONS KEYED BELOW----------
DT RCV: FROM __________ THRU __________ DT STS: FROM __________ THRU __________
DT STS: FROM ___ TO ___ DAYS BEFORE "OR" FROM ___ TO ___ DAYS AFTER DT RDU
DT TDU: FROM ___ TO ___ DAYS BEFORE "OR" FROM ___ TO ___ DAYS AFTER DT TRT
STS/REAS: _______ _______ _______ _______ _______ _______ _______ _______ _______ _______
SUBJECTS: _____ _____ _____ _____ _____ _____ _____ _____ _____ _____ _____ _____ _____
EXTENDED: _ REMEDY LEVEL: _ _              RECEIPT: _ _ _ "OR" EXTENSION: _ _ _
RCV  OFC : EQ _____       _____       _____       _____       _____       _____
TRACK:  DEPT: __________ __________ __________ __________ __________ __________
      PERSON: ___         ___         ___         ___         ___         ___
        TYPE: ___         ___         ___         ___         ___         ___
EVNT FACL: EQ _____       _____       _____       _____       _____       _____
RCV FACL.: EQ _____       _____       _____       _____       _____       _____
RCV UN/LC: EQ __________ __________ __________ __________ __________ __________
RCV QTR..: EQ __________ __________ __________ __________ __________ __________
ORIG FACL: EQ _____       _____       _____       _____       _____       _____
ORG UN/LC: EQ __________ __________ __________ __________ __________ __________
ORIG QTR.: EQ __________ __________ __________ __________ __________ __________
```

G0002 MORE PAGES TO FOLLOW . . .

DSCBM *ADMINISTRATIVE REMEDY GENERALIZED RETRIEVAL * 07-30-2018
PAGE 002 OF 002 * UNSANITIZED FORMAT * 10:14:28

REMEDY-ID	REG STATUS-DATE SUBJ1/SUBJ2	NAME STATUS	DATE-RCV ABSTRACT	ORIG UNIT OR LOC/QTRS/FACL RCV-OFC	RCV-FACL	EVNT-FACL
915650-F1	06813-036	DEHART, M		R	R02-003U	ASH
	09-22-2017	CLD	09-15-2017	ASH	ASH	ASH
	30AM/	I/M C/O JAIL CREDIT				
915650-R1	06813-036	DEHART, M		R	R02-003U	ASH
	11-08-2017	CLD	10-19-2017	MXR	ASH	ASH
	30AM/	I/M C/O JAIL CREDIT				
915650-A1	06813-036	DEHART, M		R	R02-003U	ASH
	12-05-2017	REJ	11-22-2017	BOP	ASH	ASH
	30AM/	I/M C/O JAIL CREDIT				
915650-A2	06813-036	DEHART, M		R	R02-003U	ASH
	03-01-2018	CLD	01-23-2018	BOP	ASH	ASH
	30AM/	I/M C/O JAIL CREDIT				

4 REMEDY SUBMISSION(S) SELECTED
G0000 TRANSACTION SUCCESSFULLY COMPLETED

Attachment 15

Quick Links

- Canadian Immigration Handbook
- How to Choose a Canadian Lawyer
- U.S. Immigration Handbook
- How to Choose a U.S. Lawyer
- Henry J. Chang's Canada - U.S. Immigration Blog
- Greg Boos' U.S. Immigration Blog
- Follow Henry J. Chang on Twitter

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FOLLOW US ON twitter

Canadian Grounds of Inadmissibility

The Immigration and Refugee Protection Act ("IRPA") describes different grounds of inadmissibility, which include: (a) security grounds, (b) human or international rights violations, (c) criminality, (d) organized criminality, (e) health grounds, (f) financial reasons, (g) misrepresentations, (h) non-compliance with Canadian immigration laws, and (i) inadmissible family members. Each of these grounds of inadmissibility are described in greater detail below. Foreign nationals are subject to all of these grounds of inadmissibility; permanent residents are subject to some, but not all of these grounds of inadmissibility.

Security Grounds

General

According to Subsection 34(1) of the IRPA, **a permanent resident or a foreign national** is inadmissible on security grounds for

a. Engaging in an act of espionage or an act of subversion against a democratic government, institution or process as they are understood in Canada;

b. Engaging in or instigating the subversion by force of any government;

c. Engaging in terrorism;

d. Being a danger to the security of Canada;

e. Engaging in acts of violence that would or might endanger the lives or safety of persons in Canada; or

f. Being a member of an organization that there are reasonable grounds to believe engages, has engaged or will engage in acts referred to in paragraph (a), (b) or (c).

According to Section 14 of the Immigration and Refugee Protection Regulations ("IRPR"), for the purpose of determining whether a foreign national or permanent resident is inadmissible under Paragraph 34(1)(c) of the IRPA, where one of the following determinations or decisions has been previously rendered, the findings of fact set out in that determination or decision will be considered conclusive findings of fact and the person may be deemed inadmissible without the need to re-establish the findings of fact as set out in the previous determination or decision:

a. A determination by the Immigration and Refugee Board, based on findings that the foreign national or permanent resident has engaged in terrorism, that the foreign national or permanent resident is a person referred to in section F of Article 1 of the Refugee Convention **[which makes the Refugee Convention inapplicable to those who have committed war crimes or crimes against humanity]**; or

b. A decision by a Canadian court under the *Criminal Code* concerning the foreign national or permanent resident and the commission of a terrorism offence.

Exemption

According to Subsection 34(2) of the IRPA, the above acts do not constitute inadmissibility in respect of a permanent resident or a foreign national who satisfies the Minister of Immigration that their presence in Canada would not be detrimental to the national interest.

Human and International Rights Violations

General

According to Subsection 35(1) of the IRPA, **a permanent resident or a foreign national** is inadmissible on grounds of violating human or international rights for:

a. Committing an act outside Canada that constitutes an offence referred to in Sections 4 to 7 **[which deal with genocide, crimes against humanity, and war crimes committed inside and outside of Canada]** of the *Crimes Against Humanity and War Crimes Act*;

b. Being a prescribed senior official in the service of a government that, in the opinion of the Minister of Immigration, engages or has engaged in terrorism, systematic or gross human rights violations, or genocide **[an act or omission committed with intent to destroy, in whole or in part, an identifiable group of persons, as such, that at the time and in the place of its commission, constitutes genocide according to customary international law or conventional international law or by virtue of its being criminal according to the general principles of law recognized by the community of nations, whether or not it constitutes a contravention of the law in force at the time and in the place of its commission]**, a war crime **[an act or omission committed during an armed conflict that, at the time and in the place of its commission, constitutes a war crime according to customary international law or conventional international law applicable to armed conflicts, whether or not it constitutes a contravention of the law in force at the time and in the place of its commission]** or a crime against humanity **[murder, extermination, enslavement, deportation, imprisonment, torture, sexual violence, persecution or any other inhumane act or omission that is committed against any civilian population or any identifiable group and that, at the time and in the place of its commission, constitutes a crime against humanity according to customary international law or conventional international law or by virtue of its being criminal according to the general principles of law recognized by the community of nations, whether or not it constitutes a contravention of the law in force at the time and in the place of its commission]** within the meaning of subsections 6(3) to (5) of the Crimes Against Humanity and War Crimes Act; or

c. Being a person, **other than a permanent resident**, whose entry into or stay in Canada is restricted pursuant to a decision, resolution or measure of an international organization of states or association of states, of which

Canada is a member, that imposes sanctions on a country against which Canada has imposed or has agreed to impose sanctions in concert with that organization or association.

According to Section 15 of the IRPR and for the purpose of determining whether a foreign national or permanent resident is inadmissible under Paragraph 35(1)(a) of the IRPA, if any of the following decisions or the following determination has been rendered, the findings of fact set out in that decision or determination shall be considered as conclusive findings of fact:

a. A decision concerning the foreign national or permanent resident that is made by any international criminal tribunal that is established by resolution of the Security Council of the United Nations, or the International Criminal Court as defined in the *Crimes Against Humanity and War Crimes Act* ;

b. A determination by the Immigration and Refugee Board, based on findings that the foreign national or permanent resident has committed a war crime or a crime against humanity, that the foreign national or permanent resident is a person referred to in section F of Article 1 of the Refugee Convention **[which makes the Refugee Convention inapplicable to those who have committed war crimes or crimes against humanity]**; or

c. A decision by a Canadian court under the *Criminal Code* or the *Crimes Against Humanity and War Crimes Act* concerning the foreign national or permanent resident and a war crime or crime against humanity committed outside Canada.

According to Section 16 of the IRPR and for the purposes of Paragraph 35(1)(b) of the IRPA, a prescribed senior official in the service of a government is a person who, by virtue of the position they hold or held, is or was able to exert significant influence on the exercise of government power or is or was able to benefit from their position, and includes:

a. Heads of state or government;

b. Members of the cabinet or governing council;

c. Senior advisors to persons described in Paragraph (a) or (b);

d. Senior members of the public service;

e. Senior members of the military and of the intelligence and internal security services;

f. Ambassadors and senior diplomatic officials; and

g. Members of the judiciary.

Exemption

According to Subsection 35(2) of the IRPA, Paragraphs 35(1)(b) and 35(1)(c) of the IRPA do not apply in the case of a permanent resident or a foreign national who satisfies the Minister that their presence in Canada would not be detrimental to the national interest. However, no exemption exists for persons described in Paragraph 35(1)(a); such persons are forever inadmissible.

Criminality

General

According to Subsection 36(1) of the IRPA, a **permanent resident or a foreign national** is inadmissible on grounds of serious criminality for:

a. Having been convicted *in Canada* of an offence under an Act of Parliament *punishable by a maximum term of imprisonment of at least 10 years*, **or** of an offence under an Act of Parliament *for which a term of imprisonment of more than six months has been imposed*;

b. Having been convicted of an offence *outside Canada* that, if committed in Canada, would constitute an offence under an Act of Parliament *punishable by a maximum term of imprisonment of at least 10 years*; or

c. Committing **[a conviction is not required]** an act *outside Canada* that is *an offence in the place where it was committed* and that, if committed in Canada, would constitute an offence under an Act of Parliament *punishable by a maximum term of imprisonment of at least 10 years*.

According to Subsection 36(2) of the IRPA, **a foreign national** is inadmissible on grounds of criminality for:

a. Having been convicted *in Canada* of an offence under an Act of Parliament *punishable by way of indictment*, **or** of *two offences* under any Act of Parliament *not arising out of a single occurrence*;

b. Having been convicted *outside Canada* of an offence that, if committed in Canada, *would constitute an indictable offence* under an Act of Parliament, **or** of *two offences not arising out of a single occurrence* that, if committed in Canada, *would constitute offences* under an Act of Parliament;

c. Committing **[a conviction is not required]** an act *outside Canada* that is an offence *in the place where it was committed* and that, if committed in Canada, *would constitute an indictable offence* under an Act of Parliament; or

d. Committing **[a conviction is not required]**, *on entering Canada*, an offence under an Act of Parliament prescribed by regulations **[Section 19 of the IRPR prescribes the following Acts of Parliament: (i) the *Criminal Code*; (ii) the IRPA; (iii) the *Firearms Act*; (iv) the *Customs Act*; and (v) the *Controlled Drugs and Substances Act*]**.

Rules Governing Criminal Inadmissibility

According to Subsection 36(3) of the IRPA, the following provisions govern the grounds of inadmissibility described in Subsections 36 (1) and 36(2):

a. An offence that may be prosecuted either summarily or by way of indictment is deemed to be an indictable offence, even if it has been prosecuted summarily;

b. Inadmissibility under Subsections 36(1) and 36(2) may not be based on a conviction in respect of which a pardon has been granted and has not ceased to have effect or been revoked under the *Criminal Records Act*, or in respect of which there has been a final determination of an acquittal;

c. The matters referred to in Paragraphs 36(1)(b) and 36(1)(c) and 36(2)(b) and 36(2)(c) do not constitute inadmissibility **in respect of a permanent resident or foreign national** who, after the prescribed period, satisfies the Minister that

they have been rehabilitated or who is a member of a prescribed class that is deemed to have been rehabilitated;

d. A determination of whether a permanent resident has committed an act described in Paragraph 36(1)(c) must be based on a balance of probabilities; and

e. Inadmissibility under Subsections 36(1) and 36(2) may not be based on an offence designated as a contravention under the *Contraventions Act* or an offence under the *Young Offenders Act*.

Prescribed Period Before Applying to Establish Rehabilitation

As stated in Paragraph 36(3)(c) of the IRPA, it is possible to apply to establish rehabilitation after the prescribed period has ended (assuming that deemed rehabilitation does not apply). If the person satisfies the Minister of Immigration that he or she has been rehabilited, the person will no longer be inadmissible. For the purposes of Paragraph 36(3)(c) of the IRPA, the prescribed period is five years:

a. After the completion of an imposed sentence, in the case of matters referred to in Paragraphs 36(1)(b) and 36(2)(b) of the IRPA, if the person has not been convicted of a subsequent offence other than an offence designated as a contravention under the *Contraventions Act* or an offence under the *Young Offenders Act*; and

b. After committing an offence, in the case of matters referred to in Paragraphs 36(1)(c) and 36(2)(c) of the IRPA, if the person has not been convicted of a subsequent offence other than an offence designated as a contravention under the *Contraventions Act* or an offence under the *Young Offenders Act*.

Deemed Rehabilitation

As stated in Paragraph 36(3)(c) of the IRPA, it is also possible for certain inadmissible persons to be automatically considered rehabilitation. If this deemed rehabilitation applies, the person is no longer considered inadmissible. According to Subsection 18(2) of the IRPR and for the purposes of Paragraph 36(3)(c) of the IRPA, the following persons are members of the class of persons deemed to have been rehabilitated:

a. Persons who have been convicted *outside Canada* of *no more than one offence* that, if committed in Canada, *would constitute an indictable offence* under an Act of Parliament, if all of the following conditions apply, namely,

   i. The offence is punishable in Canada by a maximum term of imprisonment of less than 10 years,

   ii. At least 10 years have elapsed since the day after the completion of the imposed sentence,

   iii. The person has not been convicted in Canada of an indictable offence under an Act of Parliament,

   iv. The person has not been convicted in Canada of any summary conviction offence within the last 10 years under an Act of Parliament or of more than one summary conviction offence before the last 10 years, other than an offence designated as a contravention under the *Contraventions Act* or an offence under the *Youth Criminal Justice Act*,

v. The person has not within the last 10 years been convicted outside Canada of an offence that, if committed in Canada, would constitute an offence under an Act of Parliament, other than an offence designated as a contravention under the *Contraventions Act* or an offence under the *Youth Criminal Justice Act*,

vi. The person has not before the last 10 years been convicted outside Canada of more than one offence that, if committed in Canada, would constitute a summary conviction offence under an Act of Parliament, and

vii. The person has not committed an act described in Paragraph 36(2)(c) of the IRPA;

b. Persons convicted *outside Canada* of *two or more offences* that, if committed in Canada, *would constitute summary conviction offences* under any Act of Parliament, if all of the following conditions apply, namely,

i. At least five years have elapsed since the day after the completion of the imposed sentences,

ii. The person has not been convicted in Canada of an indictable offence under an Act of Parliament,

iii. The person has not within the last five years been convicted in Canada of an offence under an Act of Parliament, other than an offence designated as a contravention under the *Contraventions Act* or an offence under the *Youth Criminal Justice Act*,

iv. The person has not within the last five years been convicted outside Canada of an offence that, if committed in Canada, would constitute an offence under an Act of Parliament, other than an offence designated as a contravention under the *Contraventions Act* or an offence under the *Youth Criminal Justice Act*,

v. The person has not before the last five years been convicted in Canada of more than one summary conviction offence under an Act of Parliament, other than an offence designated as a contravention under the *Contraventions Act* or an offence under the *Youth Criminal Justice Act*,

vi. The person has not been convicted of an offence referred to in Paragraph 36(2)(b) of the IRPA that, if committed in Canada, would constitute an indictable offence, and

vii. The person has not committed an act described in Paragraph 36(2)(c) of the IRPA; and

c. Persons who have committed *no more than one act outside Canada* that is *an offence in the place where it was committed* and that, if committed in Canada, *would constitute an indictable offence* under an Act of Parliament, if all of the following conditions apply, namely,

i. The offence is punishable in Canada by a maximum term of imprisonment of less than 10 years,

ii. At least 10 years have elapsed since the day after the commission of the offence,

iii. The person has not been convicted in Canada of an indictable offence under an Act of Parliament,

iv. The person has not been convicted in Canada of any summary conviction offence within the last 10 years under an Act of Parliament or of more than one summary conviction offence before the last 10 years, other than an offence designated as a contravention under the *Contraventions Act* or an offence under the *Youth Criminal Justice Act*,

v. The person has not within the last 10 years been convicted outside of Canada of an offence that, if committed in Canada, would constitute an offence under an Act of Parliament, other than an offence designated as a contravention under the *Contraventions Act* or an offence under the *Youth Criminal Justice Act*,

vi. The person has not before the last 10 years been convicted outside Canada of more than one offence that, if committed in Canada, would constitute a summary conviction offence under an Act of Parliament, and

vii. The person has not been convicted outside of Canada of an offence that, if committed in Canada, would constitute an indictable offence under an Act of Parliament.

Exemption for Persons Convicted in Canada or Two or More Summary Offences

According to Subsection 18.1 of the IRPR, foreign nationals who are inadmissible under Paragraph 36(2)(a) of the IRPA solely on the basis of having been convicted *in Canada* of *two or more offences* that *may only be prosecuted summarily*, under any Act of Parliament, cease to be inadmissible if it has been at least five years since the day after the completion of the imposed sentences.

Organized Criminality

According to Subsection 37(1) of the IRPA, a **permanent resident or a foreign national** is inadmissible on grounds of organized criminality for:

a. Being a member of an organization that is believed on reasonable grounds to be or to have been engaged in activity that is part of a pattern of criminal activity planned and organized by a number of persons acting in concert in furtherance of the commission of an offence punishable under an Act of Parliament by way of indictment, or in furtherance of the commission of an offence outside Canada that, if committed in Canada, would constitute such an offence, or engaging in activity that is part of such a pattern; or

b. Engaging, in the context of transnational crime, in activities such as people smuggling, trafficking in persons or money laundering **[this list is not intended to be exhaustive]**.

Exemptions

According to Subsection 37(2) of the IRPA:

a. Subsection 37(1) does not apply in the case of a **permanent resident or a foreign national** who satisfies the Minister that their presence in Canada would not be detrimental to the national interest; and

b. Paragraph 37(1)(a) does not lead to a determination of inadmissibility by reason only of the fact that the **permanent resident or foreign national** entered Canada with the assistance of a person who is involved in organized criminal activity **[in other words, persons whose involvement with criminal organizations is limited to having used their services for the purpose of coming to Canada to claim refugee protection, will not be considered a member of such organization and will have access to the refugee determination process]**.

Health Grounds

General

According to Subsection 38(1) of the IRPA, a foreign national is inadmissible on health grounds if their health condition:

a. Is likely to be a danger to public health **[according to Section 31 of the IRPR, before concluding whether a foreign national's health condition is likely to be a danger to public health, an officer who is assessing the foreign national's health condition shall consider: (i) any report made by a health practitioner or medical laboratory with respect to the foreign national; (ii) the communicability of any disease that the foreign national is affected by or carries; and (iii) the impact that the disease could have on other persons living in Canada]**;

b. Is likely to be a danger to public safety **[according to Section 33 of the IRPR, Before concluding whether a foreign national's health condition is likely to be a danger to public safety, an officer who is assessing the foreign national's health condition shall consider: (i) any reports made by a health practitioner or medical laboratory with respect to the foreign national; and (ii) the risk of a sudden incapacity or of unpredictable or violent behaviour of the foreign national that would create a danger to the health or safety of persons living in Canada]**; or

c. Might reasonably be expected to cause excessive demand on health or social services **[according to Section 34 of the IRPR, before concluding whether a foreign national's health condition might reasonably be expected to cause excessive demand, an officer who is assessing the foreign national's health condition shall consider: (i) any reports made by a health practitioner or medical laboratory with respect to the foreign national; and (ii) any condition identified by the medical examination]**.

According to Subsection 38(2) of the IRPA, Paragraph 38(1)(c) does not apply in the case of a foreign national who:

a. Has been determined to be a member of the family class and to be the spouse, common-law partner or child of a sponsor within the meaning of the IRPR;

b. Has applied for a permanent resident visa as a Convention refugee or a person in similar circumstances;

c. Is a person granted refugee protection; or

d. Is, where prescribed by the regulations, the spouse, common-law partner, child or other family member of a foreign national referred to in any of paragraphs (a) to (c).

According to Section 24 of the IRPR and for the purposes of Subsection 38(2) of the IRPA, a foreign national who has been determined to be a member of the family class is exempted from the application of Paragraph 38(1)(c) of the IRPA if they are:

a. In respect of the sponsor, their conjugal partner, their dependent child or a person referred to in Paragraph 117(1)(e) or 117(1)(g); or

b. In respect of the spouse, common-law partner or conjugal partner of the sponsor, their dependent child.

When Medical Inadmissibility Issues Arise

Health grounds of inadmissibility are most likely to be discovered where a medical examination is a required in order to receive permanent residence or, in some cases, a temporary resident visa. However, immigration officers may also require a medical examination where they are of the opinion that the foreign national may be medically inadmissible. According to the *Immigration Manual*, an immigration officer may form the opinion that a person may be medically inadmissible by:

a. Observation (the person may appear to be sick or may require assistance); and

b. Questioning (has the person recently been discharged from the hospital? Has the person recently been sick? Is the person taking medication for serious illness?)

Where the person is applying for admission at a port of entry (land port/ferry port/international airport) and where there are grounds to believe, on the "balance of probabilities" that a person is medically inadmissible, an immigration officer may proceed as follows:

a. At land and ferry ports, persons who require an immigration medical examination will be required to go to a designated medical practitioner in the United States. If the person continues to deman entry or leaves and returns to seek entry prior to obtaining a medical certificate, the immigration officer may choose to write a Subsection 44(1) inadmissibility report citing Subsection 41(a) **[non-compliance with the IRPA]** or Subsection 20(1) **[not having a visa or other document required under the IRPR]** as appropriate. This may result in the Minister of Immigration making a removal order against the person.

b. At international airports, where it is believed that the person may be medically inadmissible, normally, after consultation by telephone with a medical officer with the Immigration Medical Services (HMA) Division, the examination should be adjourned under the provisions of Section 23 of the IRPA **[which states that the immigration officer may authorize the person to come to Canada for the purpose of further examination]**. The person would then be required to undergo a medical examination by a Panel Physician in Canada. However, if an immigration officer believes that the person is an immediate public health or safety risk, an order to detain the person and a Subsection 44(1) inadmissibility report written on the basis of Subsection 41(a) **[non-compliance with the IRPA]** and Paragraph 16

(2)(b) **[obligation of a foreign national to submit to a medical examination on request]** would be appropriate.

Health Inadmissibility for Temporary Entry

According to the *Immigration Manual*, an applicant who is inadmissible as a permanent resident may not be inadmissible as a temporary resident. This is because a permanent resident may require services that a temporary resident would not require. An immigration officer cannot use the results of a permanent resident's examination to refuse an application for temporary entry. A new medical examination for the appropriate category must be obtained.

Health Inadmissibility for Permanent Residence

According to the *Immigration Manual*, a person who fails a temporary resident application is also likely to fail a permanent resident examination. Still, an officer cannot use the results of a temporary resident examination to refuse an application for permanent residence. A new medical examination for the appropriate category must be obtained.

Financial Reasons

According to Section 39 or the IRPA, a foreign national is inadmissible for financial reasons if they are or will be unable or unwilling to support themself or any other person who is dependent on them, and have not satisfied an officer that adequate arrangements for care and support, other than those that involve social assistance, have been made. According to the *Immigration Manual*, if the person satisfies the immigration officer that adequate arrangements for care and support (not involving social assistance) are in place, then they do not fall within this inadmissibility provision. In addition, according to Section 21 of the IRPR, persons who have been granted refugee protection are exempt from this ground of inadmissibility.

Misrepresentation

General

According to Subsection 40(1) of the IRPA, a **permanent resident or a foreign national** is inadmissible for misrepresentation:

a. For directly or indirectly misrepresenting or withholding material facts relating to a relevant matter that induces or could induce an error in the administration of the IRPA **[according to the *Immigration Manual*, admissibility for misrepresentation occurs only if it is material; the misrepresentation must affect the process undertaken by or the final decision of the immigration officer]**;

b. For being or having been sponsored by a person who is determined to be inadmissible for misrepresentation;

c. On a final determination to vacate a decision to allow the claim for refugee protection by the permanent resident or the foreign national; or

d. On ceasing to be a Canadian citizen, in the circumstances set out in Subsection 10(2) **[which deals with retention, renunciation and resumption of citizenship by false representation or fraud or by knowingly concealing material circumstances]** of the *Citizenship Act*.

However, according to Section 22 of the IRPR, persons who have claimed refugee protection, if disposition of the claim is pending,

and persons who have been granted refugee protected are exempted from the application of this ground of inadmissibility. In addition, according to the *Immigration Manual*, the misrepresentation provisions do not apply to family members of persons granted refugee protection who are living abroad.

Application and Duration of Misrepresentation Ground

According to Subsection 40(2) of the IRPA:

a. The permanent resident or the foreign national continues to be inadmissible for misrepresentation for a period of two years following, in the case of a determination outside Canada, a final determination of inadmissibility under Subsection 40(1) **[i.e. the date of the refusal letter]** or, in the case of a determination in Canada, the date the removal order is enforced **[according to Section 49 of the IRPA, a removal order comes into force on the latest of the following dates, except in respect of a refugee protection claimant: (i) the day the removal order is made, if there is no right of appeal; (ii) the day the appeal period expires, if there is a right to appeal but no appeal is made; and (iii) the day of final determination of the appeal, if an appeal is made]**; and

b. Paragraph 40(1)(b) of the IRPA does not apply unless the Minister of Immigration is satisfied that the facts of the case justify the inadmissibility.

Non-Compliance with the IRPA

According to Section 41 of the IRPA, a person is inadmissible for failing to comply with the IRPA:

a. In the case of a foreign national, through an act or omission which contravenes, directly or indirectly, a provision of the IRPA; and

b. In the case of a permanent resident, through failing to comply with Subsection 27(2) **[which states that a permanent resident must comply with any conditions imposed under the IRPR]** or Section 28 of the IRPA.

This section provides for the refusal of admission, or the removal from Canada, of those persons who have contravened any condition or requirement under the IRPA or who are not respecting their obligations under the IRPA. However, a non-compliance allegation must be coupled with a specific requirement of the IRPA or the IRPR. It should not be considered a standalone allegation.

In other words, there must be a specific requirement elsewhere in the IRPA or IRPR to which the person has failed to comply. Generally, inadmissibility for failure to comply will continue until the person is no longer in non-compliance or leaves Canada. Therefore, a person who works in Canada in violation of their status but who subsequently ceases to work will continue to be in non-compliance during the period of their current stay in Canada.

Inadmissible Family Member

According to Section 42 of the IRPA, **a foreign national**, other than a person granted refugee protection, is inadmissible on grounds of an inadmissible family member if:

a. Their accompanying family member or, in prescribed circumstances, their non-accompanying family member is inadmissible; or

b. They are an accompanying family member of an inadmissible person.

According to Section 23 of the IRPR and for the purposes of Paragraph 42(a) of the IRPA, the prescribed circumstances in which the foreign national is inadmissible on grounds of an inadmissible non-accompanying family member are that:

a. The foreign national has made an application for a permanent resident visa or to remain in Canada as a permanent resident; and

b. The non-accompanying family member is:

i. The spouse of the foreign national, except where the relationship between the spouse and foreign national has broken down in law or in fact,

ii. The common-law partner of the foreign national,

iii. A dependent child of the foreign national and either the foreign national or an accompanying family member of the foreign national has custody of that child or is empowered to act on behalf of that child by virtue of a court order or written agreement or by operation of law, or

iv. A dependent child of a dependent child of the foreign national and the foreign national, a dependent child of the foreign national or any other accompanying family member of the foreign national has custody of that child or is empowered to act on behalf of that child by virtue of a court order or written agreement or by operation of law.

In summary, foreign nationals (but not permanent residents) are inadmissible under this ground if their accompanying family member is inadmissible or they are themselves a family member who accompanies an inadmissible person. Also, in certain prescribed cases (as described in Section 23 of the IRPR) a person will also be inadmissible where a family member who is NOT accompanying them is considered inadmissible. The standard of proof required to establish this allegation is the "balance of probabilities".

Administrative Remedy No. 915650-A2
Part B - Response

This is in response to your Central Office Administrative Remedy Appeal, wherein you state you are entitled to additional presentence custody credit due to being detained in Canada prior to your deportation to the United States. Specifically, you are requesting the restoration of 439 days of prior custody credit previously applied to your sentence computation; from April 3, 2013, through August 7, 2013, and from April 23, 2014, through February 28, 2015. You contend the Bureau of Prisons lacks the authority to modify your sentence computation once it has been computed. In addition, you indicate this time is creditable because, the basis for the Canadian authorities detaining you, was the pending United States charges and the Court's statement in the federal sentencing transcripts that it presumed you would get credit for this time.

A review of your record reveals on August 6, 2010, you were arrested by federal authorities in Maine, pursuant to a federal arrest warrant issued in United States District Court, Middle District of Tennessee in case number 3:10-cr-00250. On September 7, 2010, you were transferred to the custody of federal authorities in Tennessee and remained in custody. On May 22, 2012, United States District Court, Middle District of Tennessee released you on bond.

On April 3, 2013, you and your parents entered Canada, claiming refugee protection on the basis you had been tortured by United States authorities and feared persecution if returned. On April 4, 2013, you were arrested by the Canada Border Services Agency (CBSA) on the grounds that your refugee claim was suspended pending an admissibility hearing. The basis for your detention was on the grounds of being a danger to the public and that you were unlikely to appear for future immigration proceedings. The Court noted that detention was warranted due to the serious nature of your United States offense, allegations of espionage and a history of violating court orders.

On August 7, 2013, Canada Minister of Public Safety and Emergency Preparedness issued a Judgment releasing you on bond, pending the outcome of your admissibility hearing.

On April 23, 2014, your bond was revoked for violating its conditions and you were rearrested by CBSA authorities pending a decision on your request for asylum.

On November 19, 2014, United States District Court, Middle District of Tennessee filed a Superseding Indictment in case number 3:10-cr-00250 and reissued a warrant for your arrest.

On March 1, 2015, Canadian authorities rejected your request for asylum and ordered you to be removed from the country. Based on this order and an active arrest warrant, CBSA authorities released you to the "exclusive" custody of United States authorities, where you remained detained.

On February 22, 2016, you were sentenced in United States District Court, Middle District of Tennessee to a 90-month term of imprisonment for Receipt of Child Pornography and Failure to Appear, in violation of Title 18 U.S.C. § 2252 and 3146.

Pursuant to Title 18 U.S.C. § 3585(b), Credit for prior custody; official detention does not include time spent in custody pursuant to a final determination of deportability. An inmate being held pending a civil deportation determination is not being held in "official" detention pending criminal charges.

The Canadian Court noted that your detention was warranted due to being a danger to the public and that you were unlikely to appear for future immigration proceedings. Your pending charges in the United States were not the basis for your detention.

Title 18 U.S.C. § 3585, Calculation of term of imprisonment; is the statutory authority which provides that the responsibility for the calculation of federal sentences rests with the United States Attorney General, delegated to the Bureau of Prison.

The U.S. Supreme Court ruling in Wilson v. United States, 503 U.S. 329, 112 S. Ct. 1351(1992), upheld that the responsibility for administering sentences was the Bureau of Prisons and not the courts. Therefore, the Bureau of Prisons not only has the authority, it has the responsibility to update your federal sentence computation to ensure it has been has been computed as directed by federal statute, the intent of the sentencing court and Program Statement 5880.28, Sentence Computation Manual (CCCA of 1984).

Administrative Remedy No. 915650-A2
Part B - Response
Page 3

Your sentence has been computed as directed by federal statute, and applicable Bureau of Prisons policy.

Accordingly, your appeal is denied.

3/1/18
Date

Ian Connors, Administrator
National Inmate Appeals

U.S. Department of Justice

Federal Bureau of Prisons

Central Office Administrative Remedy Appeal

Type or use ball-point pen. If attachments are needed, submit four copies. One copy each of the completed BP-DIR-9 and BP-DIR-10, including any attachments must be submitted with this appeal.

From: DeHart, Matthew, P	06813-036	R-Unit	FCI Ashland
LAST NAME, FIRST, MIDDLE INITIAL	REG. NO.	UNIT	INSTITUTION

Part A—REASON FOR APPEAL

The reason for my appeal of the Mid-Atlantic Region Regional Director's response dated November 8, 2017 (ID #: 915650-RL) is as follows:
This response not only fails to redress my grievance in restoring my previously credited 439 days of qualified presentence time (to total 1453 days), it also fails to even address my arguments and concerns especially in how/why the decision was made. These arguments were concisely elucidated in my BP-230 ("BP-10") filing and remain valid in spite of the Regional Director's response. Furthermore, in her response, the Regional Director misstates the facts. She states, "You claim your sentence is not calculated correctly" and that, "You request your sentence be recalculated...". What I, in fact, asked for was the restoration of the time that the BOP had already given me in the certified computation of 3-23-16 to total 1453 days of qualified presentence time (Exhibit 14). (The BOP has never claimed that this computation was erroneous) I have attached another copy of the 3-23-16 certified computation (Exhibit 14) as my permitted one-page extension.
To summarize my arguments once again; I dispute any new finding that these 439 days are not qualified presentence time under 18 U.S.C § 3585(b). More importantly, however, I dispute how and why the BOP is able to recompute jail credit at will. A hearing is required to revoke GCT in smaller increments for disciplinary reasons yet it seems as if 439 days of jail credit have been revoked in my situation without rhyme or reason and without a hearing. 439 days are by no means an insignificant amount of time and their revocation without due process has resulted in actual harm. It appears that this decision has been both arbitrary and capricious (if not retaliatory), not in accordance with policy, and amounts to an abuse of discretion under 18 U.S.C. § 3585(b). Please restore my credit, promptly.

11-15-17
DATE

11-15-17
SIGNATURE OF REQUESTER

Part B—RESPONSE

(Exhibit 14)

RECEIVED
NOV 22 2017
Administrative Remedy Section
Federal Bureau of Prisons

+ original

RECEIVED
JAN 23 2018
Administrative Remedy Section
Federal Bureau of Prisons

DATE

GENERAL COUNSEL

FIRST COPY: WASHINGTON FILE COPY

CASE NUMBER: 915650-A1,A2

Part C—RECEIPT

CASE NUMBER: _____

Return to: _____ _____ _____ _____
LAST NAME, FIRST, MIDDLE INITIAL | REG. NO. | UNIT | INSTITUTION

SUBJECT: _____

DATE

SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL

SP LVN

Previous editions not usable

BP-231(13)
APRIL 1982

BOPEH * ADMINISTRATIVE REMEDY UPDATE * 03-13-2018
PAGE 001 OF 001 12:37:40

REGNO: 06813-036 NAME: DEHART FNAM: MATTHEW FUNC: DIS
RSP OF...: ASH UNT/LOC/DST: R QTR.: R02-003U RCV OFC: BOP
REMEDY ID: 915650-A2 SUB1: 30AM SUB2: DATE RCV: 01-23-2018
UNT RCV.: R QTR RCV.: R02-003U FACL RCV: ASH
UNT ORG.: R QTR ORG.: R02-003U FACL ORG: ASH
EVT FACL.: ASH ACC LEV: ASH 1 MXR 1 BOP 2 RESP DUE: SAT 03-24-2018
ABSTRACT.: I/M C/O JAIL CREDIT
STATUS DT: 03-01-2018 STATUS CODE: CLD STATUS REASON: DNY
INCRPTNO.: EXT Y/N: Y RCT: P EXT: P DATE ENTD: 02-13-2018
REMARKS..: CLAIMS BOP DOES NOT HAVE AUTHORITY TO CHANGE SENTENC
E COMP. REVIEW SENTENCE PROCEDURE AND ADVISE NOT
ENTITLED TO TIME IN ICE DENTENTION

CURRENT TRACKING DATA

	DATE DUE	DEPARTMENT	TO	DATE ASSN	TRK TYPE	DATE RETURNED
TUE	02-27-2018	DSCC		02-13-2018	INV	02-28-2018
WED	02-28-2018	ADMIN REM	DL	02-28-2018	INV	03-01-2018
THU	03-01-2018	ADMIN REM	IC	03-01-2018	SIG	03-01-2018

G0000 TRANSACTION SUCCESSFULLY COMPLETED

BOPAV * ADMINISTRATIVE REMEDY UPDATE * 02-13-2018
PAGE 001 OF 001 09:21:05

3(1

REGNO: 06813-036 NAME: DEHART FNAM: MATTHEW FUNC: ADD
RSP OF...: ASH UNT/LOC/DST: R QTR.: R02-003U RCV OFC: BOP
REMEDY ID: 915650-A2 SUB1: 30AM SUB2: DATE RCV: 01-23-2018
UNT RCV.: R QTR RCV.: R02-003U FACL RCV: ASH
UNT ORG.: R QTR ORG.: R02-003U FACL ORG: ASH
EVT FACL.: ASH ACC LEV: ASH 1 MXR 1 BOP 2 RESP DUE: SAT 03-24-2018
ABSTRACT.: I/M C/O JAIL CREDIT
STATUS DT: 02-13-2018 STATUS CODE: ACC STATUS REASON:
INCRPTNO.: EXT Y/N: Y RCT: N EXT: N DATE ENTD: 02-13-2018
REMARKS..:

CURRENT TRACKING DATA

DATE DUE	DEPARTMENT	TO	DATE ASSN	TRK TYPE	DATE RETURNED
THU 03-15-2018	DSCC		02-13-2018	INV	

G0000 TRANSACTION SUCCESSFULLY COMPLETED

EXHIBIT 14

ASIHV 540*23 * SENTENCE MONITORING * 07-26-2017
PAGE 002 OF 002 * COMPUTATION DATA * 08:48:02
AS OF 07-26-2017

REGNO..: 06813-036 NAME: DEHART, MATTHEW PAUL

----------CURRENT COMPUTATION NO: 010 ----------

COMPUTATION 010 WAS LAST UPDATED ON 03-22-2016 AT DSC AUTOMATICALLY
COMPUTATION CERTIFIED ON 03-23-2016 BY DESIG/SENTENCE COMPUTATION CTR

THE FOLLOWING JUDGMENTS, WARRANTS AND OBLIGATIONS ARE INCLUDED IN
CURRENT COMPUTATION 010: 010 010

DATE COMPUTATION BEGAN.....: 02-22-2016
TOTAL TERM IN EFFECT.....: 90 MONTHS
TOTAL TERM IN EFFECT CONVERTED..: 7 YEARS 6 MONTHS
EARLIEST DATE OF OFFENSE.....: 05-01-2008

JAIL CREDIT.....:

FROM DATE	THRU DATE
08-06-2010	05-22-2012
04-03-2013	08-07-2013
04-23-2014	02-21-2016

TOTAL PRIOR CREDIT TIME.....: 1453
TOTAL INOPERATIVE TIME.....: 0
TOTAL GCT EARNED AND PROJECTED..: 352
TOTAL GCT EARNED.....: 270
STATUTORY RELEASE DATE PROJECTED: 09-11-2018
EXPIRATION FULL TERM DATE.....: 08-29-2019
TIME SERVED.....: 5 YEARS 4 MONTHS 27 DAYS
PERCENTAGE OF FULL TERM SERVED..: 72.0

PROJECTED SATISFACTION DATE.....: 09-11-2018
PROJECTED SATISFACTION METHOD...: GCT REL

G0000 TRANSACTION SUCCESSFULLY COMPLETED

EXHIBIT 14

ASHHV 540*23 * SENTENCE MONITORING * 07-26-2017
PAGE 002 OF 002 * COMPUTATION DATA * 08:48:02
AS OF 07-26-2017

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JAIL CREDIT.....	FROM DATE	THRU DATE
	08-06-2010	05-22-2012
	04-03-2013	08-07-2013
	04-23-2014	02-21-2016

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EXHIBIT 14

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PAGE 002 OF 002 * COMPUTATION DATA * 08:48:02
AS OF 07-26-2017

REGNO..: 06813-036 NAME: DEHART, MATTHEW PAUL

----------CURRENT COMPUTATION NO: 010 ----------

COMPUTATION 010 WAS LAST UPDATED ON 03-22-2016 AT DSC AUTOMATICALLY
COMPUTATION CERTIFIED ON 03-23-2016 BY DESIG/SENTENCE COMPUTATION CTR

THE FOLLOWING JUDGMENTS, WARRANTS AND OBLIGATIONS ARE INCLUDED IN
CURRENT COMPUTATION 010: 010 010

DATE COMPUTATION BEGAN.....: 02-22-2016
TOTAL TERM IN EFFECT.....: 90 MONTHS
TOTAL TERM IN EFFECT CONVERTED..: 7 YEARS 6 MONTHS
EARLIEST DATE OF OFFENSE.....: 05-01-2008

JAIL CREDIT.....:	FROM DATE	THRU DATE
	08-06-2010	05-22-2012
	04-03-2013	08-07-2013
	04-23-2014	02-21-2016

TOTAL PRIOR CREDIT TIME.....: 1453
TOTAL INOPERATIVE TIME.....: 0
TOTAL GCT EARNED AND PROJECTED..: 352
TOTAL GCT EARNED.....: 270
STATUTORY RELEASE DATE PROJECTED: 09-11-2018
EXPIRATION FULL TERM DATE.....: 08-29-2019
TIME SERVED.....: 5 YEARS 4 MONTHS 27 DAYS
PERCENTAGE OF FULL TERM SERVED..: 72.0

PROJECTED SATISFACTION DATE.....: 09-11-2018
PROJECTED SATISFACTION METHOD...: GCT REL

G0000 TRANSACTION SUCCESSFULLY COMPLETED

EXHIBIT 15

ASHHV 540*23 * SENTENCE MONITORING * 07-26-2017
PAGE 002 OF 002 * COMPUTATION DATA * 08:48:02
AS OF 07-26-2017

REGNO..: 06813-036 NAME: DEHART, MATTHEW PAUL

----------CURRENT COMPUTATION NO: 010 ----------

COMPUTATION 010 WAS LAST UPDATED ON 03-22-2016 AT DSC AUTOMATICALLY
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TOTAL PRIOR CREDIT TIME.....: 1453
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PERCENTAGE OF FULL TERM SERVED..: 72.0

PROJECTED SATISFACTION DATE.....: 09-11-2018
PROJECTED SATISFACTION METHOD...: GCT REL

G0000 TRANSACTION SUCCESSFULLY COMPLETED

REGIONAL ADMINISTRATIVE REMEDY APPEAL
Part B - Response

Date Filed: October 19, 2017 **Remedy ID No.: 915650-R1**

You are appealing the Warden's response to your Administrative Remedy. You claim your sentence is not calculated correctly. You request your sentence be re-calculated to reflect 439 days of jail credit that was removed from your sentence.

Program Statement 5880.28, Sentence Computation Manual (CCCA of 1984), refers to the request for foreign jail credit are referred to the Operations Section. According to the investigation into the possibility of foreign jail credits in your case, credit is not authorized under Title 18, U.S.C. § 3585(b)

Your appeal is denied. If you are dissatisfied with this response, you may appeal to the General Counsel, Federal Bureau of Prisons, 320 First Street, N.W., Washington, D.C. 20534. Your appeal must be received in the General Counsel's Office within 30 days from the date of this response.

NOV 0 8 2017
Date

Angela P. Dunbar
Regional Director
Mid-Atlantic Region

U.S. Department of Justice

Regional Administrative Remedy Appeal

Federal Bureau of Prisons

Type or use ball-point pen. If attachments are needed, submit four copies. One copy of the completed BP-229(13) including any attachments must be submitted with this appeal.

From:	DeHart, Matthew, P.	06813-036	R-Unit	FCI Ashland
	LAST NAME, FIRST, MIDDLE INITIAL	REG. NO.	UNIT	INSTITUTION

Part A - REASON FOR APPEAL

I am appealing the institutional response to my BP-229 ("BP-9") because my institution (FCI Ashland) was unable or unwilling to fulfill my requested remedy; the restoration of the 439 days of qualified presentence time that the DSCC had previously credited me amounting to a total of 1453 days. My 1453 days of qualified presentence time were reduced to 1014 days of qualified presentence time in what I believe was an arbitrary and capricious manner, not in accordance with proper procedure, an abuse of discretion, as well as being improper. My requested remedy continues to be the restoration of these 439 days in accordance with my original computation of 3-22-16 (certified 3-23-16). Please see the attached BP-229 for the original request. Attached to this BP-230 ("BP-10") is an 8½x11 continuation page permitted by policy (w/ 2 additional copies), 10 new exhibits labeled "A" through "J"(w/ 2 additional copies), the original BP-229 as it was returned to me (Cover, Response, Original form w/ copies) along with the informal remedy (2 copies) and the original 15 numbered exhibits (2 copies). As the continuation page mentions, if this remedy can not be accomplished I request the names of all individuals responsible for initiating and those taking part in the investigation referenced in Mr. Miranda's 8-21-17 memo (Exhibit 11) as well as those involved in the recomputation. I would further request a written explanation as to the procedures followed to revoke my already credited presentence time and the justification/reasons for the recomputation including an explanation why the original computation is no longer valid.

9/29/17
DATE

M DeHart 9/29/17
SIGNATURE OF REQUESTER

Part B - RESPONSE

Received
OCT 19 2017
Bureau of Prisons
MARO Regional Counsel

DATE

REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the General Counsel. Your appeal must be received in the General Counsel's Office within 30 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: 915650-R1

Part C - RECEIPT

CASE NUMBER: _____

Return to: _____ _____ _____ _____
LAST NAME, FIRST, MIDDLE INITIAL | REG. NO. | UNIT | INSTITUTION

SUBJECT: _____

DATE

SIGNATURE, RECIPIENT OF REGIONAL APPEAL

BP-230(13)

Matthew Paul DeHart #06813-036 Attachment to BP-230 ("BP-10")

My complaint obviously involves the revocation of 439 days of previously credited qualified presentence time and both the timing and nature of the decision. My argument concerning this decision is twofold. Whether my Canadian custody amounted to qualified presentence time credit is in dispute and I have provided exhibits supporting my contention and the BOP's original contention that my Canadian incarceration indeed amounts to creditable qualified presentence time. This contention is only secondary to the bigger issue, however; namely that the BOP does not have the statutory authority to recompute sentences at will, especially not in an arbitrary and capricious manner without following an identifiable procedure. I would argue that this recomputation amounts to an abuse of discretion for the following reasons:

Recomputation of my sentence 17 months after my original computation and 13 months prior to my GCT release date upset my expectation of finality in my sentence. "If a defendant has a legitimate expectation of finality, then an increase in that sentence is prohibited..." **United States v. Fogel, 264 U.S. App. D.C. 292, 829 F.2d 77, 87 (D.C. Cir. 1987).** I would have raised objections or appealed my sentence before being time-barred if I had known the BOP was not going to count my Canadian incarceration toward my sentence. The fact that I did receive this presentence credit only to have it later taken away arbitrarily after I could no longer attack my sentence upset my expectation of finality. This argument is constructive nevertheless correct as my sentence of incarceration has been effectively extended beyond my original out date contrary to 18 U.S.C. §3624(a). I recognize that courts have held that under 18 U.S.C. §3585(b) it is the attorney general through the Bureau of Prisons who possesses the sole authority to make credit determinations. This I do not dispute. I dispute the authority to recompute a sentence at will outside of the awarding or revocation of Good Conduct Time stipulated in 18 U.S.C. §3624. The certified DSCC computation of 3-23-16 was never alleged by the BOP to have been calculated erroneously, instead it was "updated" based on false and inaccurate information. There is no precedent supporting the arbitrary (and in this case capricious) recomputation of my sentence. The DSCC was not ignorant of my case when it made its original computation because it was aware of the exact dates of my Canadian custody excluding my release on bond. The fact that I was given neither the time nor opportunity to dispute the recomputation can not possibly be considered "proper procedure".

As for the recomputation itself, it is based on false and inaccurate information (see Exhibit A). I would not have been arrested and detained by Canadian authorities if not for the US federal charges and US bench warrant (see Exhibit G [9],[10] "he was a danger to the public, his charge being a sexual offence"). This clearly fulfills the requirements of 18 U.S.C §3585(b)(1) and (2). The argument in Mr. Miranda's memo (Exhibit 11) that I was detained for seeking asylum is false because my family sought asylum along with myself yet I was the only one arrested or detained due to the US charges and bench warrant (see Exhibit E [4]). This was recognized by my sentencing judge and the BOP's DSCC itself it its original computation (Exhibit 14).

It is for these reasons why I believe the BOP has committed both an abuse of discretion and is in error regarding its recomputation. I am asking for the immediate restoration of the 439 days which were taken away from me by this decision. This is the remedy I request. If this remedy can not be accomplished, I would request the names of all individuals responsible for initiating the investigation referenced in Mr. Miranda's 8-21-17 memo as well as a written explanation of the procedures followed and reasons for making this recomputation.

Institution Response to Administrative Remedy
Federal Correctional Institution
Ashland, Kentucky

Administrative Remedy Number: 915650-F1 Date Receipted: September 15, 2017

This is in response to your Request of Administrative Remedy 915650-F1, wherein you request 439 days of jail credit be restored.

Based on documents contained within official records, you are not authorized credit under 18 U.S.C. §3585(b), for time detained in Canada. You were deported from Canada on March 1, 2015. Additionally, the Presentence Report reflects you were detained by Canadian authorities due to your request for Asylum. The request for Asylum was rejected by Canada and you were subsequently deported to the United States on March 1, 2015. Therefore, because you were deported, the periods of April 3, 2013, through August 7, 2013; and April 23, 2014, through February 28, 2015, are not creditable as qualified presentence time credit.

Based on this information, your request for remedy is denied.

If you are dissatisfied with this response, you may appeal to the Regional Director, Bureau of Prisons, Mid-Atlantic Regional Office, 302 Sentinel Drive, Suite 200, Annapolis Junction, MD 20701. Your appeal must be received in the Regional Office within 20 calendar days of the date of this response.

Thomas B. Smith, Warden

9/22/17
Date

U.S. DEPARTMENT OF JUSTICE
Federal Bureau of Prisons

REQUEST FOR ADMINISTRATIVE REMEDY

DeHart #06813-036 RH-28 (30 A)

Type or use ball-point pen. If attachments are needed, submit four copies. Additional instructions on reverse.

From:			
DeHart, Matthew P.	06813-036	R-Unit	FCI Ashland
LAST NAME, FIRST, MIDDLE INITIAL	REG. NO.	UNIT	INSTITUTION

Part A- INMATE REQUEST

With only 13 months left in my sentence and having already made pre-release preparations along with my family, 439 days of qualified presentence time credit were uncredited to me, reducing my presentence time credit from 1453 days (computed on 3-22-16 and valid as of 7-26-17 see Exhibit 14) to 1014 days as of 8-21-17 (made known to me on 8-24-17 see Exhibit 15). This was credit already afforded to me then withdrawn without due process. I was given neither the time nor the opportunity to submit supporting documentation or consult with my legal team before a decision was rendered evidently noting my failure to respond. Furthermore, the recomputation took place under the false pretense that I, Matthew Paul DeHart was asking for credit when in fact I was already satisfied with my original 1453 day computation certified on 3-23-16. (see Exhibits 12, 13). Additionally, the memo (Exhibit 11) from David Miranda, DSCC Operations Manager references a request for an investigation. I made no such request. I believe the timing and nature of this action is both arbitrary and capricious as well as amounting to an abuse of discretion. I also believe this decision to revoke 439 days of qualified presentence time was rendered without the observance of procedure required by law. The result has adversely affected myself and my family. Accordingly, I request the immediate restoration of the 439 days of presentence credit to amount to a total of 1453 or 1452 days (accounting for my 4-4-13 arrest). I reserve the right to provide supplementary information as it arrives from my legal team. Consider the attached informal resolution (front and back) as my additional 8½x11 attachment. Consider the response page to said attachment to be an unnumbered exhibit. Fifteen (15) numbered exhibits are also attached.

9/14/17 — DATE

9-14-17 — SIGNATURE OF REQUESTER

Part B- RESPONSE

DATE — WARDEN OR REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the Regional Director. Your appeal must be received in the Regional Office within 20 calendar days of the date of this response.

SECOND COPY: RETURN TO INMATE — CASE NUMBER: 915650-T1

CASE NUMBER: 915650-T1

Part C- RECEIPT

Return to: _____ (LAST NAME, FIRST, MIDDLE INITIAL) _____ (REG. NO.) _____ (UNIT) _____ (INSTITUTION)

SUBJECT: _____

DATE — RECIPIENT'S SIGNATURE (STAFF MEMBER)

BP-229(13)
APRIL 1982

EXHIBIT A

Subject: Matthew P. DeHart - Inmate # 06813-036 - Sentence Time Calculation
From: Fred Jennings <[redacted]
Date: 17-09-14 10:52 AM
To: gra-dsc/teambravo@bop.gov
CC: "Tor Ekeland P.C" [redacted]

Dear GRA-DSC / Team Bravo,

I represent Matthew DeHart, an inmate at FCI Ashland (BoP # 06813-036). Yesterday, I spoke with an operations manager at FCI Ashland regarding Mr. DeHart's recent time re-calculation. I believe Mr. DeHart has also lodged complaints and requests for reconsideration of the recalculation.

We believe, based on review of U.S. and Canadian court filings, that the original calculation was accurate, and the recent recalculation is in error. Mr. DeHart's time imprisoned in Canada was due to the U.S. charges, and should be credited. The operations manager suggested I sent documents reflecting this to your email address, and to Mr. DeHart. Attached are the two most relevant documents: a Canadian court decision summarizing the history of Mr. DeHart's detention there, and the sentencing transcript from his U.S. case, which shows Judge Trauger recognizing that the Canadian detention time should receive credit on that basis.

Judge Trauger's statement can be found on page 16 of the Feb. 22, 2016 transcript.

The Canadian court's August 28, 2013 decision describes Mr. DeHart's detention on pages 4-6, paragraphs 10-17. As grounds for the detention decision,and for the numerous hearings upholding it, the Canadian court cites the sexual offense charges pending in the United States, and the danger to the public implicated by those charges, as well as flight risk concerns related to those pending charges.

For your convenience, I also attached Mr. DeHart's written affidavit and his excerpt from the Sentencing Computation Manual, both of which I believe were previously submitted by Mr. DeHart in his written opposition to this recalculation decision.

If any additional documents would be of help, please do not hesitate to ask. I am happy to provide as much as I am able to.

Sincerely,

- Fred Jennings
Associate | Tor Ekeland Law, PLLC
195 Montague Street, 14th Floor
Brooklyn, NY 11201
(718) 737-7264
fred@torekeland.com

Attachments:

DeHart Feb. 22 2016 Sentencing Transcript.pdf	78.1 KB
DeHart Canada court decision 8-28-2013.pdf	204 KB
DeHart Affidavit and Sentence Comp Manual Excerpt 08-24-17.pdf	4.1 MB

EXHIBIT C

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET:	IMM-5277-13
STYLE OF CAUSE:	CANADA (MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS) v. MATTHEW PAUL DEHART
PLACE OF HEARING:	Toronto, Ontario
DATE OF HEARING:	August 28, 2013
REASONS FOR JUDGMENT:	HENEGHAN J.
DATED:	September 5, 2013

APPEARANCES:

Gregory G. George Jane Stewart	FOR THE APPLICANT
Lily Tekle	FOR THE RESPONDENT

SOLICITORS OF RECORD:

William F. Pentney Deputy Attorney General of Canada Toronto, Ontario	FOR THE APPLICANT
Law Office of Larry Butkowsky Toronto, Ontario	FOR THE RESPONDENT

EXHIBIT D

Federal Court Cour fédérale

Date: 20130905

Docket: IMM-5277-13

Citation: 2013 FC 936

BETWEEN:

CANADA (MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS)

Applicant

and

MATTHEW PAUL DEHART

Respondent

REASONS FOR JUDGMENT

HENEGHAN J.

[1] The Minister of Public Safety and Emergency Preparedness (the "Applicant") seeks judicial review of the decision of K. Henrique of the Immigration Division of the Immigration and Refugee Board (the "Board") dated August 7, 2013. In that decision, the Board ordered that Matthew Paul DeHart (the "Respondent") be released from detention on terms and conditions pending the outcome of his admissibility hearing under section 44 of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27 (the "Act").

EXHIBIT E

[2] At the request of the parties, a Judgment was issued on September 3, 2013, indicating that Reasons would follow.

[3] Although a Confidentiality Order was issued by Justice Zinn on August 15, 2013, upon the hearing of a motion to stay the release of the Respondent, that Order was lifted upon the hearing of this application for judicial review. Counsel for both parties were invited to make submissions on the point. Although Counsel for the Applicant requested that it remain in place, Counsel for the Respondent expressed the view that it was not necessary. The interests of the Respondent are more persuasive that those of the Applicant and in keeping with the general principle that court proceedings in Canada take place in public, in the exercise of my discretion, the Confidentiality Order was vacated.

Background

[4] The Respondent is a citizen of the United States who entered Canada with his parents, Paul and LeeAnn DeHart on April 3, 2013. All three claimed refugee protection upon their entry to Canada on the basis that the Respondent had been tortured by authorities in the United States and feared persecution if returned.

[5] On October 6, 2010, the Respondent was indicted in Tennessee for production and transportation of child pornography. The Applicant's home had been searched and his computer seized on January 25, 2010. He was stopped and detained on August 6, 2010, by American officials when he was crossing from Canada to the United States at Calais, Maine. He alleges he was

EXHIBIT F

drugged, subjected to psychological torture and questioned by FBI agents in relation to national security matters.

[6] During his detention the Respondent was diagnosed with a psychotic break and has since exhibited signs of Post Traumatic Stress Disorder. He claims that this was a result of the torture he experienced.

[7] The Respondent was detained in Maine until October 2010. He was ultimately released from custody in Tennessee on May 22, 2012, subject to conditions with his parents posting as security for his release two automobiles that they owned and his grandmother posting equity in her house in Indiana. He remained on pre-trial release until April 4, 2013, when he failed to appear for a status conference and detention review hearing related to his case. A bench warrant issued for his arrest after the Respondent left the United States and entered Canada.

[8] The Respondent alleges that he has been a member of the online hacker group Anonymous since it was founded. As a result, he was privy to what he believes is a leaked government document relating to the national security of the United States. He claims that the child pornography investigation is a cover for the United States government to attempt to retrieve this document from him and investigate him for espionage. This is the basis for his fear of persecution; he believes this was the reason for his interrogation and torture in August 2010.

EXHIBIT G

[9] On April 4, 2013, the Respondent was arrested by Canada Border Services Agency on the grounds that his refugee claim was suspended pending an admissibility hearing under subparagraphs 34(1)(a) and 36(1)(c) of the Act.

[10] At the first detention review hearing on April 8, 2013, the Respondent was ordered detained pursuant to subparagraphs 58(1)(a) and 58(1)(b) of the Act, namely on the grounds that he was a danger to the public, his charge being a sexual offence falling under subsection 246(f) of the *Immigration and Refugee Protection Regulations*, S.O.R. 2002-227 (the "Regulations") and that he was unlikely to appear for future immigration proceedings. The Board noted that detention was warranted as he was a danger to the public due to the serious nature of the child pornography offences and the allegations of espionage, and his history of violating court orders. It also found that the Respondent had not presented an alternative to detention nor was there any indication that he faced a lengthy detention.

[11] A second detention review hearing was held on April 15, 2013. The Respondent requested that he be released on his own recognizance pending his admissibility hearing. The Board rejected this as an alternative to detention, stating that the Applicant posed a danger to the public and was unlikely to appear for further proceedings. It noted that the Respondent's case was recent and the Minister of Citizenship and Immigration (the "Minister") ought to be given a reasonable amount of time to prepare its case against him, and given his failure to appear in the United States, detention was a better option than release at this time.

EXHIBIT H

AFFIDAVIT OF TRUTH

I Matthew Paul DeHart #06813036, an inmate at FCI Ashland in Summit Kentucky do solemnly affirm under the penalties of perjury that the following facts are true to the best of my knowledge and beliefs:

1.) On August 16, 2017 I was made aware of a 0900 "Call-Out" to speak with my case manager, Mr. Guthrie the following day (8-17-17).

2.) I met with Mr. Guthrie in his office in H-Unit at approximately 0900.

3.) Upon arriving in Mr. Guthrie's office, Mr Guthrie drew my attention to a form on his desk which he then provided to me. The form's title is "Foreign Jail Credit Questionnaire".

4.) Mr Guthrie requested that I fill out this form and return it to him the same day (8-17-17).

5.) I took the form back to my unit then read it. I noted that it stated that "The above inmate has requested credit for time spent in custody in a foreign country."

6.) As I had already received pre-sentence credit for my custody in Canada, I took the form back to Mr. Guthrie and questioned him as to the form's nature. Along with me, I brought a copy of my computation sheet printed on 7-26-17 which counted my Canadian custody. This occurred at approximately 1025 (8-17-17).

7.) I informed Mr. Guthrie that I had already received jail credit and was not asking for more but nevertheless I would send a copy of the form to my attorney because I did not have the prerequisite information with which to complete the form.

8.) Mr. Guthrie then informed me that since I had already received credit, "there shouldn't be a problem but they might want to revisit it", after which I left his office without further words.

EXHIBIT 1

9.) I had further misgivings about the form (Foreign Jail Credit Questionnaire) because it was not an actual questionnaire but in fact of list of questions for Mr. Guthrie to ask me in interview format. Nevertheless, I sent the copy of the form to my lawyer the next day (8-18-17).

10.) I have never requested more jail credit than that which was already afforded to me as of the 3-22-16 (Certified 3-23-16) computation by the Designation and Sentence Computation Center (DSCC) which included my Canadian custody as qualified pre-sentence credit.

11.) I never requested an investigation into the "possibility of foreign jail credits" as I had already received such credit in reality as noted on the 3-22-16 (Certified 3-23-16) computation sheet.

12.) On 8-24-17 at approximately 1030, Mr. Guthrie handed me a memorandum from David Miranda, Operations Manager at the Designation and Sentence Computation Center with my name and Reg. No. as the subject line. This memorandum purports to be a response to an "investigation into the possibility of foreign jail credit".

13.) As this memorandum notes a new computation, denying me Canadian jail credit, I requested an administrative remedy form "BP-8" from Mr. Guthrie on 8-24-17.

14.) Mr. Guthrie informed me that he did not have any of the remedy ("BP-8") forms and that I should see (acting) counselor, Mr. Boggs to obtain one.

15.) I was able to meet Mr. Boggs in his office on 8-24-17 and request a "BP-8" form.

16.) Mr. Boggs first questioned me as to why I needed an administrative remedy form and asked me if I thought I really had a "chance". I informed him that I did, "absolutely".

17.) Instead of providing me with a "BP-8", Mr. Boggs handed me a "FCI Ashland, Kentucky Informal Resolution Attempt" (ASH-1330.18A).

EXHIBIT J

18.) I took the the ASH-1330.18A form from Mr. Boggs and on my way out of his office he told me "if you make my time hard, I will make yours hard".

19.) I took Mr. Boggs' statement about making my time hard as a threat of retaliation should I file a formal administrative remedy.

Further says the affiant not.

Signed this 24th day of August by,

Matthew Paul DeHart #06813-036

Matthew Paul DeHart #06813-036
FCI Ashland
Federal Correctional Institution
PO Box 6001
Ashland, KY 41105

U.S. DEPARTMENT OF JUSTICE
Federal Bureau of Prisons

REQUEST FOR ADMINISTRATIVE REMEDY

DeHart #06813-036 R14-28

Type or use ball-point pen. If attachments are needed, submit four copies. Additional instructions on reverse.

From:	LAST NAME, FIRST, MIDDLE INITIAL	REG. NO.	UNIT	INSTITUTION
	DeHart, Matthew P.	06813-036	R-Unit	FCI Ashland

Part A- INMATE REQUEST

With only 13 months left in my sentence and having already made pre-release preparations along with my family, 439 days of qualified presentence time credit were uncredited to me, reducing my presentence time credit from 1453 days (computed on 3-22-16 and valid as of 7-26-17 see Exhibit 14) to 1014 days as of 8-21-17 (made known to me on 8-24-17 see Exhibit 15). This was credit already afforded to me then withdrawn without due process. I was given neither the time nor the opportunity to submit supporting documentation or consult with my legal team before a decision was rendered evidently noting my failure to respond. Furthermore, the recomputation took place under the false pretense that I, Matthew Paul DeHart was asking for credit when in fact I was already satisfied with my original 1453 day computation certified on 3-23-16. (see Exhibits 12, 13). Additionally, the memo (Exhibit 11) from David Miranda, DSCC Operations Manager references a request for an investigation. I made no such request. I believe the timing and nature of this action is both arbitrary and capricious as well as amounting to an abuse of discretion. I also believe this decision to revoke 439 days of qualified presentence time was rendered without the observance of procedure required by law. The result has adversely affected myself and my family. Accordingly, I request the immediate restoration of the 439 days of presentence credit to amount to a total of 1453 or 1452 days (accounting for my 4-4-13 arrest). I reserve the right to provide supplementary information as it arrives from my legal team. Consider the attached informal resolution (front and back) as my additional 8½x11 attachment. Consider the response page to said attachment to be an unnumbered exhibit. Fifteen (15) numbered exhibits are also attached.

DATE _____ SIGNATURE OF REQUESTER _____

Part B- RESPONSE

DATE _____ WARDEN OR REGIONAL DIRECTOR _____

If dissatisfied with this response, you may appeal to the Regional Director. Your appeal must be received in the Regional Office within 20 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE CASE NUMBER: _____

CASE NUMBER: _____

Part C- RECEIPT

Return to:	LAST NAME, FIRST, MIDDLE INITIAL	REG. NO.	UNIT	INSTITUTION

SUBJECT: _____

DATE _____ RECIPIENT'S SIGNATURE (STAFF MEMBER) _____

BP-229(13)

FCI ASHLAND, KENTUCKY
INFORMAL RESOLUTION ATTEMPT

DATE INFORMAL RESOLUTION COMMENCES: _____

INMATE: Matthew Paul DeHart REG. NO. 06813-036 UNIT: R

DATE OF THE INCIDENT THAT IS THE BASIS OF THIS COMPLAINT: 8/24/17, 9/11/17, ongoing

NATURE OF THE COMPLAINT: On 8/24/17 I was made aware via the attached memo (ex11) that my previously credited jail time (439 days out of 1453) had been taken away. This was done under questionable circumstances which did not allow me time to obtain documentation or the assistance of counsel. Moreover, it took place under the false pretense that I requested a re-calculation of credit already given (see ex12). I made no such request and I was satisfied with the original computation. CONTINUED ON REVERSE

PROPOSED RESOLUTION: The remedy I desire is the prompt restoration of the taken 439 days of jail credit returning the total prior credit time to 1453 days (or 1452 days [accounting for my 4-4-13 arrest]). If this is refused, I need an indefinite albeit reasonable extension for filing a form BP-229 (BP-9") until my supporting documentation and information arrives from my legal team. Some of this material originates in a foreign jurisdiction. I reserve the right to provide/file supplementary information as it arrives.

INMATE SIGNATURE VERIFYING COMPLAINT: [signature] 9.12.17

(CONTINUED REVERSE SIDE)

Nature of the complaint continued:

As the form I was asked to fill out (ex 12, 13 "Foreign Jail Credit Questionnaire") contained both false information "The above inmate has requested..." and was not an identifiably official form, I requested to have it sent to my lawyer. I obtained this form on 8/17/17 and mailed it to my lawyer the very next day, 8/18/17. (8/18/17 was a Friday.) According to the DSCC memo dated 8/21/17 (ex 11) which I received on 8/24/17, the decision was made on 8-21-17 or before. The form (ex 12, 13) didn't even have a chance to reach my lawyer's office before a decision was rendered. Even if the form had been proper and contained no false information, there was no possibility of me being able to complete it in that time frame. Furthermore, to properly complete the form I require supporting documentation which my lawyer is in possession of. I was told by staff to contact the DSCC which my lawyers were to do on 9/11/17

Accordingly, I have two issues:

1.) 439 previously credited days were "uncredited", and

2.) This decision was rendered under false pretenses.

I believe the timing and nature of this action is both arbitrary and capricious as well as amounting to an abuse of discretion. Furthermore, I believe a decision was rendered without the observance of procedure required by law.

Arguments and supporting information are attached in exhibits 1-15. I reserve the right to provide/file supplementary information as it arrives.

COUNSELOR'S COMMENTS: In response to have your jail credit restored, it was determined that specific dates are not creditable as qualified presentence time credit.

UNIT MANAGER'S COMMENTS TO INMATE: Met Mr. Case with Counselor regarding your jail credit was determined that specific dates are not creditable as qualified presentence time credit

COUNSELOR'S SIGNATURE: C R Bledsoe DATE: 9-12-17

UNIT MANAGER'S SIGNATURE: _____ DATE: 9/12/17

Completion of all sections of this form are required before a BP-229(13) can be issued. This form supersedes all previous forms.

EXHIBIT 1

TRULINCS 06813036 - DEHART, MATTHEW PAUL - Unit: ASH-R-A

FROM: 06813036
TO: CMC
SUBJECT: ***Request to Staff*** DEHART, MATTHEW, Reg# 06813036, ASH-R-A
DATE: 08/25/2017 07:17:35 PM

To: CMC
Inmate Work Assignment: ED-Clerk

Subject: Recalculation of presentence jail credit

I am submitting this COP-OUT in order to make the following complaint:

As of August 21, 2017 and made known to me on August 24, 2017 my sentence computation was recalculated to exclude 439 days of presentence jail credit which I had previously been credited (see 7-27-2017 computation print-out which I can provide). I am concerned by the way this occurred and how I was denied both counsel and due process. I became aware of the recalculation on August 24, 2017 via a memo from the Operations Manager at the Designation and Sentence Computation Center (DSCC) delivered to my case manager, Mr. Guthrie. The memo begins with the following:

"This is in response to your request for an investigation into the possibility of foreign jail credits in the case of the above subject."

I was already concerned about the questionnaire Mr. Guthrie provided to me on 8-17-17. After his request that I fill it out and return it to him the same day, I read the form and noted that it said "The above inmate has requested credit for time spent in custody in a foreign country". I returned to Mr. Guthrie and informed him that I had already received credit for my time in foreign custody to which he replied that "there shouldn't be a problem but they might want to revisit the issue". I then told him that I would need to send the form to my legal team (which I did the following day) because I did not have ready access to the information needed to complete the form. In no way did I refuse to fill out the form, I simply expressed that I would need to send it to my lawyers. Additionally, this form stated that I was requesting something which I was not. Moreover, the form had no section for me to sign or date so I wanted additional legal advice concerning it.

Evidently in the period between 8-17-17 and 8-21-17 there was an investigation which resulted in a recalculation of my time without my input. The problem is that this investigation allowed for no input from my lawyers or myself and this took place so quickly as to deny me the time to communicate with my lawyers. I never requested such an investigation but if I had been able to receive a reply from my lawyers and obtain supporting documents, there would have been a different outcome. Of this I am convinced. I surrendered to Canadian authorities on 4-3-2013 but I was not physically taken into custody until the issuance of the US bench warrant on 4-4-2013, the next day. I was held in jail custody based on the US bench warrant and US charges and I have copious documentation to prove such. I was not permitted to submit this documentation nor receive reply from my counsel.

I would request that my foreign jail credit be promptly restored so that I may continue in my pre-release planning and re-integration into the community.

Thank you,

Respectfully,

Matthew Paul DeHart

TRULINCS 06813036 - DEHART, MATTHEW PAUL - Unit: ASH-R-A

FROM: 06813036
TO: CMC
SUBJECT: ***Request to Staff*** DEHART, MATTHEW, Reg# 06813036, ASH-R-A
DATE: 08/25/2017 10:06:11 PM

To: CMC
Inmate Work Assignment: ED-Clerk

Subject: Recalculation of presentence jail credit part 2

The Memorandum mentioned in my first request reads as follows (formatting is not preserved):

"
August 21, 2017

MEMORANDUM FOR FILE

FROM: David Miranda, Operations Manager
Designation and Sentence Computation Center

SUBJECT: Dehart, Matthew Paul
Reg. No. 06813-036

This is is response to your request for an investigation into the possibility of foreign jail credits in the case of the above subject.

Based on the documents contained in the official records, inmate Dehart is not authorized credit under 18 U.S.C. S3585(b), for time detained in Canada. The Office of International Affairs has verified that he was deported from Canada on March 1, 2015. Additionally, the Presentence Report shows that he was detained by Canadian authorities because he was requesting Asylum. The request for Asylum was rejected by Canada and he was deported to the United States on March 1, 2015. Therefore, because he was deported, the periods of April 3, 2013 through August 7, 2013, and April 23, 2014, through February 28, 2015, is not creditable as qualified presentence time credit.

Please place this memorandum in the Judgment and Commitment file for documentation.

If you have any questions, please contact the Designation and Sentence Computation Center at (972) 595-3187.

"
(full ASCII text not available on this terminal so "S" substituted in statute)
(The Memorandum was digitally signed by David Miranda on 2017.08.21 at 13:03:12 -5 hrs UDT)

This memorandum contains inaccurate information.

I was not detained because I was "requesting Asylum". I was detained because I was accused of criminality based on the US bench warrant issued on 4-4-13 as well as "criminality" stemming from the US charges. The Immigration and Refugee board of Canada noted this in its proceedings against me. Moreover, the Minister of Public Safety intervened in my asylum claim because of "US Criminality".

18 U.S.C. S3585(b) stipulates that "A defendant shall be given credit toward the service of a term of imprisonment for any time he has spent in official detention prior to the date the sentence commences--

(1) as a result of the offense for which the sentence was imposed; or

(2) as a result of any other charge for which the defendant was arrested after the commission of the offense for which the sentence was imposed;
that has not been credited against another sentence"

The BOP program statement on sentence calculation defines "In Custody" as :

"...physical incarceration in a jail-type institution or facility"

EXHIBIT 3

TRULINCS 06813036 - DEHART, MATTHEW PAUL - Unit: ASH-R-A

It goes on to say:

" ""In custody"" also does not include time held by Immigration authorities solely for the purpose of a pending deportation hearing."

The operant word is "solely". I was held in custody pending an asylum hearing but my custody was as a result of my US charges and the US bench warrant. Ontario, Canada has a dedicated facility for holding immigration detainees in Rexdale. I was never held in the immigration detention facility. I spent my entire time in Canadian custody in jails or "jail-type institutions". I had an OTIS number assigned to me which is a number assigned to inmates in Ontario jails, not immigration detention centers.

My time spent in Canada is by the BOP's own definition "Constructive federal custody" because the underlying basis of the custody was the federal warrant (4-4-13 MDTN federal bench warrant). Constructive federal custody by the BOP's own definition amounts to qualified presentence time credit. I was already credited this time properly during the first computation yet this information was modified with false information to deny me 439 days of credit. Again, I request that this time be promptly restored.

Thank you,

Respectfully,

Matthew Paul DeHart

EXHIBIT 4

TRULINCS 06813036 - DEHART, MATTHEW PAUL - Unit: ASH-R-A

FROM: 06813036
TO: CMC
SUBJECT: ***Request to Staff*** DEHART, MATTHEW, Reg# 06813036, ASH-R-A
DATE: 08/27/2017 01:27:27 PM

To: CMC
Inmate Work Assignment: ED-Clerk

Subject: Recalculation of presentence jail credit part 3

An additional legal argument in support of my previous 2 requests is based on the Failure to Appear portion of my sentence.

It is a known fact that the United States District Court for the Middle District of Tennessee issued a bench warrant for Failure to Appear at an April 4, 2013 hearing.

It is also a known fact that count (3) of my sentence is for Failure to Appear which added a consecutive 18 months to my sentence.

The BOP Sentence Computation Manual states the following:

"(3) The date of offense for a person who commits the offense of Failure to Appear (also termed Bail Jumping), as a result of absconding, and who is arrested by a federal agency, will be the date on which the absconder is apprehended, regardless of whether the apprehension was for absconding or for another federal offense. (In the unlikely event that a person avoids detection as an absconder after arrest on another federal charge and is released from that charge without being taken into federal custody as an absconder, then the date of offense will not be the date on which the arrest occurred.)

If a Failure to Appear absconder is arrested by a non-federal agency, the date of offense will be the date on which the absconder is apprehended for the non-federal offense, regardless of the date on which federal authorities learn that the absconder was in non-federal custody, provided the knowledge is gained while the absconder is still in non-federal custody."

The manual continues to say

"If the person is subsequently convicted and sentenced for Failure to Appear, then the date of apprehension as an absconder will be the date of offense for the sentence imposed as a result of the Failure to Appear offense. Any time spent in non-federal official detention for which the non-federal agency gave no time credit after the date of the offense (18 U.S.C. S3585(b) (2)) shall be given on the Failure to Appear sentence."

As I was arrested by Canadian Border Services Agency (CBSA) officials on April 4th, 2013 AFTER the issuance of the bench warrant for my arrest and for that specific reason ALONG with the reason of the original 2010 US indictment, I am entitled to credit under 18 U.S.C. S3585(b)(2).

Additionally,

It appears as if the BOP is arguing that my detention in Canada was entirely unrelated to my US charges and the US bench warrant. The BOP is part of the Department of Justice which forwarded both my indictment and the US bench warrant information to the Canadian authorities, information which they used to keep me detained for "criminality". I had no criminal record upon entering Canada so the only "criminality" was my US charges and the bench warrant for absconding.

Again, I ask for my full jail credit to be promptly restored before it begins to infringe on my liberty interests.

Thank you,

Respectfully,

Matthew Paul DeHart

EXHIBIT 5

OPI: CPD
NUMBER: 5880.28
DATE: 7/19/99
SUBJECT: Sentence Computation Manual (CCA of 1984)

U.S. Department of Justice

Federal Bureau of Prisons

pro

EXHIBIT 6

(3) **The date of offense for a person who commits the offense of Failure to Appear (also termed Bail Jumping), as a result of absconding,** and who is arrested by a federal agency, will be the date on which the absconder is apprehended, regardless of whether the apprehension was for absconding or for another federal offense. (In the unlikely event that a person avoids detection as an absconder after arrest on another federal charge and is released from that charge without being taken into federal custody as an absconder, then the date of offense will not be the date on which the arrest occurred.)

If a **Failure to Appear** absconder is arrested by a **non-federal agency,** the **date of offense will be the date on which the absconder is apprehended** for the non-federal offense, regardless of the date on which federal authorities learn that the absconder was in non-federal custody, provided the knowledge is gained while the absconder is still in non-federal custody.

Page 1 - 14E

Verification that federal authorities had knowledge that the absconder was in non-federal custody can be substantiated if a U.S. Marshal filed a detainer or if the U.S. Marshal takes custody of the person immediately upon release from the non-federal agency.

If the person is subsequently convicted and sentenced for **Failure to Appear,** then the date of apprehension as an absconder will be the date of offense for the sentence imposed as a result of the **Failure to Appear** offense. Any time spent in non-federal official detention for which the non-federal agency gave **no** time credit after the date of the offense (18 U.S.C. § 3585(b)(2)) shall be given on the **Failure to Appear** sentence. Any time spent in federal official detention after the date of offense shall, of course, be given under the provisions of 18

pro

EXHIBIT 7

U.S.C. § 3585(b)(1).

pro

Statutory Authority: Prior custody time credit is controlled by 18 U.S.C. § 3585(b), and states, "A defendant shall be given credit toward the service of a term of imprisonment for any time he has spent in official detention prior to the date the sentence commences--

(1) as a result of the offense for which the sentence was imposed; or

(2) as a result of any other charge for which the defendant was arrested after the commission of the offense for which the sentence was imposed;

that has not been credited against another sentence."

pro|

EXHIBIT 9

VI PRESENTENCE TIME CREDIT

1. Presentence time credit statute and explanation. Presentence time credit (often referred to as "jail time") is that period of time to which an individual is entitled pursuant to **18 U.S.C § 3568**. If inoperative time (Chapter V) occurs, then presentence time credits are applied to a sentence after the inoperative time has been applied. **18**

U.S.C. § 3568 states in the first paragraph that,

"The Attorney General shall give any such person credit toward service of his sentence for any days spent in custody (emphasis added) **in connection with the offense or act for which sentence was imposed."**

2. "In Custody" defined. "In custody" is defined, for the purposes of this program statement, as **physical** incarceration in a jail-type institution or facility. It does not include time that may be considered custody for habeas corpus jurisdiction purposes as in Hensley v. Municipal Court, 411 U.S. 345 (1973). (Also see Cochran v. U.S., 489 F.2d 691 (5th Cir. 1974) and Villaume v. U.S., 804 F.2d 498 (8th Cir. 1986) (per curiam), cert. denied, 481 U.S. 1022 (1987).)

"In custody" also does not include time held by Immigration authorities solely for the purpose of a pending **deportation** hearing.

proj

(a) No credit shall be given based solely on documents or information received from a prisoner, a defense attorney, or other person or organization acting on the behalf of the inmate. Information from such sources shall be thoroughly investigated and verified before credit may be given. The verification effort will consist of one communication (with written documentation that contact was made, either in the form

of a copy of the letter, fax, or teletype message, or by documenting the phone call) and one following communication if no response is received. If the follow-up communication produces no

response, the matter should be referred to the appropriate

Regional Inmate Systems Administrator.

proj

EXHIBIT 11

U.S. Department of Justice

Federal Bureau of Prisons

Designation and Sentence Computation Center

U.S. Armed Forces Reserve Complex

346 Marine Forces Drive

Grand Prairie, Texas 75051-2412

August 21, 2017

MEMORANDUM FOR FILE

DAVID MIRANDA

FROM: David Miranda, Operations Manager
Designation and Sentence Computation Center

SUBJECT: Dehart, Matthew Paul
Reg. No. 06813-036

This is in response to your request for an investigation into the possibility of foreign jail credits in the case of the above subject.

Based on documents contained in the official records, inmate Dehart is not authorized credit under 18 U.S.C. §3585(b), for time detained in Canada. The Office of International Affairs has verified that he was deported from Canada on March 1, 2015. Additionally, the Presentence Report shows that he was detained by Canadian authorities because he was requesting Asylum. The request for Asylum was rejected by Canada and he was deported to the United States on March 1, 2015. Therefore, because he was deported, the periods of April 3, 2013 through August 7, 2013, and April 23, 2014, through February 28, 2015, is not creditable as qualified presentence time credit.

Please place this memorandum in the Judgment and Commitment file for documentation.

If you have any questions, please contact the Designation and Sentence Computation Center at (972) 595-3187.

EXHIBIT 12

Attachment A

Foreign Jail Credit Questionnaire

Inmate Name: [Insert]

Inmate Register Number: [Insert]

The above inmate has requested credit for time spent in custody in a foreign country. In order to process this request, please interview the inmate and obtain answers to the following questions:

1. Were you deported from the foreign country?
(If yes, credit would not normally be available)

2. Were you arrested on any local charges? If so, how were those charges resolved (e.g., dismissed, convicted with a sentence imposed of ...., etc.)?

3. Did you serve a sentence in the foreign country? When did you finish that foreign sentence?

4. Were you held in a foreign prison? If so, what was the name and location of the prison?

5. What dates were you held in custody?

EXHIBIT 13

6. Did you use any other name in that country? If so, what was it?

_____

_____

_____

7. Were you assigned a prisoner number? If so, what was it?

_____

_____

_____

8. Were you ever released on any type of bond? If so, what dates were you released on bond?

_____

_____

_____

9. Any other questions that are indicated by the answers to the above.

_____

_____

_____

Once you have completed this form, please scan this form and e-mail it to DSCC staff member **[Insert name]** at **[Insert Groupwise mailbox address]**.

EXHIBIT 14

ASHHV 540*23 * SENTENCE MONITORING * 07-26-2017
PAGE 002 OF 002** COMPUTATION DATA * 08:48:02
AS OF 07-26-2017

REGNO..: 06813-036 NAME: DEHART, MATTHEW PAUL

----------CURRENT COMPUTATION NO: 010 ----------

COMPUTATION 010 WAS LAST UPDATED ON 03-22-2016 AT DSC AUTOMATICALLY
COMPUTATION CERTIFIED ON 03-23-2016 BY DESIG/SENTENCE COMPUTATION CTR

THE FOLLOWING JUDGMENTS, WARRANTS AND OBLIGATIONS ARE INCLUDED IN
CURRENT COMPUTATION 010: 010 010

DATE COMPUTATION BEGAN.....: 02-22-2016
TOTAL TERM IN EFFECT.....: 90 MONTHS
TOTAL TERM IN EFFECT CONVERTED..: 7 YEARS 6 MONTHS
EARLIEST DATE OF OFFENSE.....: 05-01-2008

JAIL CREDIT.....	FROM DATE	THRU DATE
	08-06-2010	05-22-2012
	04-03-2013	08-07-2013
	04-23-2014	02-21-2016

TOTAL PRIOR CREDIT TIME.....: 1453
TOTAL INOPERATIVE TIME.....: 0
TOTAL GCT EARNED AND PROJECTED..: 352
TOTAL GCT EARNED.....: 270
STATUTORY RELEASE DATE PROJECTED: 09-11-2018
EXPIRATION FULL TERM DATE.....: 08-29-2019
TIME SERVED.....: 5 YEARS 4 MONTHS 27 DAYS
PERCENTAGE OF FULL TERM SERVED..: 72.0

PROJECTED SATISFACTION DATE.....: 09-11-2018
PROJECTED SATISFACTION METHOD...: GCT REL

G0000 TRANSACTION SUCCESSFULLY COMPLETED

EXHIBIT #5

ASHHV 540*23 * SENTENCE MONITORING * 08-24-2017
PAGE 002 OF 002 * COMPUTATION DATA * 10:39:30
AS OF 08-24-2017

REGNO..: 06813-036 NAME: DEHART, MATTHEW PAUL

----------CURRENT COMPUTATION NO: 010 ----------

COMPUTATION 010 WAS LAST UPDATED ON 08-21-2017 AT DSC AUTOMATICALLY
COMPUTATION CERTIFIED ON 08-22-2017 BY DESIG/SENTENCE COMPUTATION CTR

THE FOLLOWING JUDGMENTS, WARRANTS AND OBLIGATIONS ARE INCLUDED IN
CURRENT COMPUTATION 010: 010 010

DATE COMPUTATION BEGAN.....: 02-22-2016
TOTAL TERM IN EFFECT.....: 90 MONTHS
TOTAL TERM IN EFFECT CONVERTED..: 7 YEARS 6 MONTHS
EARLIEST DATE OF OFFENSE.....: 05-01-2008

JAIL CREDIT.....	FROM DATE	THRU DATE
	08-06-2010	05-22-2012
	03-01-2015	02-21-2016

TOTAL PRIOR CREDIT TIME.....: 1014
TOTAL INOPERATIVE TIME.....: 0
TOTAL GCT EARNED AND PROJECTED..: 352
TOTAL GCT EARNED.....: 216
STATUTORY RELEASE DATE PROJECTED: 11-24-2019
EXPIRATION FULL TERM DATE.....: 11-10-2020
TIME SERVED.....: 4 YEARS 3 MONTHS 13 DAYS
PERCENTAGE OF FULL TERM SERVED..: 57.1

PROJECTED SATISFACTION DATE.....: 11-24-2019
PROJECTED SATISFACTION METHOD...: GCT REL

REMARKS.....: 8-21-17 JAIL CREDIT UPDATED BASED ON FJC RESPONSE.B/JMS

G0000 TRANSACTION SUCCESSFULLY COMPLETED

Remedy ID No.: 915650-R1

Central Office Administrative Remedy Appeal Cover Sheet

Matthew Paul DeHart #06813-036

November 15, 2017

To:

Office of General Counsel
Federal Bureau of Prisons
320 First St. NW
Washington, D.C. 20534

From:

Matthew Paul DeHart #06813-036
FCI Ashland
Federal Correctional Institution
PO Box 6001
Ashland, KY 41105

Contents:

(1) Central Office Administrative Remedy Appeal form BP-231(13)

(3) Continuation Pages of Exhibit 14 attached to BP-231(13)
- These are three copies of a one-page continuation

(1) Original Regional Administrative Remedy Appeal form BP-230(13)

(1) Original Regional Administrative Remedy Appeal Response

(3) Copies of BP-230(13) Continuation Page

(3) Copies of Exhibits A - J [10 pages per copy]

(3) Copies of Exhibits 1 - 15 [15 pages per copy]

(3) Copies of BP-229(13) attached to Exhibits 1 - 15 + original

(3) Copies of ASH-1330.18A Informal Remedy attached to Exhibits 1 - 15

(3) Copies of ASH-1330.18A Response

REJECTION NOTICE - ADMINISTRATIVE REMEDY

DATE: DECEMBER 19, 2017

FROM: ADMINISTRATIVE REMEDY COORDINATOR
CENTRAL OFFICE

TO : MATTHEW PAUL DEHART, 06813-036

[redacted]

FOR THE REASONS LISTED BELOW, THIS CENTRAL OFFICE APPEAL IS BEING REJECTED AND RETURNED TO YOU. YOU SHOULD INCLUDE A COPY OF THIS NOTICE WITH ANY FUTURE CORRESPONDENCE REGARDING THE REJECTION.

REMEDY ID : 915650-A1 CENTRAL OFFICE APPEAL
DATE RECEIVED : NOVEMBER 22, 2017
SUBJECT 1 : CREDIT FOR TIME SPENT IN JAIL
SUBJECT 2 :
INCIDENT RPT NO:

REJECT REASON 1: YOU DID NOT SUBMIT PROPER NUMBER OF CONTINUATION PAGES WITH YOUR REQUEST/APPEAL. 2 - WARDEN'S LEVEL; 3 - REGIONAL LEVEL; AND 4 - CENTRAL OFFICE LEVEL. THE NUMBER CITED INCLUDES YOUR ORIGINAL. (Exhibit 14)

REJECT REASON 2: YOU MAY RESUBMIT YOUR APPEAL IN PROPER FORM WITHIN 15 DAYS OF THE DATE OF THIS REJECTION NOTICE.

REJECT REASON 3: SEE REMARKS.

REMARKS : NEED 4 COPIES OF EXHIBIT 14 REFERENCED IN THE BODY OF YOUR BP-11 REQUEST. SUPPLY ONE COPY FOR EACH ORIGINAL BP-11 FORM.

U.S. Department of Justice

Federal Bureau of Prisons

Designation and Sentence Computation Center

U.S. Armed Forces Reserve Complex
346 Marine Forces Drive
Grand Prairie, Texas 75051-2412

August 21, 2017

MEMORANDUM FOR FILE

FROM: David Miranda, Operations Manager
Designation and Sentence Computation Center

SUBJECT: Dehart, Matthew Paul
Reg. No. 06813-036

This is in response to your request for an investigation into the possibility of foreign jail credits in the case of the above subject.

Based on documents contained in the official records, inmate Dehart is not authorized credit under 18 U.S.C. §3585(b), for time detained in Canada. The Office of International Affairs has verified that he was deported from Canada on March 1, 2015. Additionally, the Presentence Report shows that he was detained by Canadian authorities because he was requesting Asylum. The request for Asylum was rejected by Canada and he was deported to the United States on March 1, 2015. Therefore, because he was deported, the periods of April 3, 2013 through August 7, 2013, and April 23, 2014, through February 28, 2015, is not creditable as qualified presentence time credit.

Please place this memorandum in the Judgment and Commitment file for documentation.

If you have any questions, please contact the Designation and Sentence Computation Center at (972) 595-3187.