

**IN THE UNITED STATES DISTRICT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,

v.

HEATHER MACK

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Case No. 17 CR 518

Judge Kennelly

DEFENDANT HEATHER MACK’S SENTENCING MEMORANDUM

Defendant, Heather Mack, by and through her undersigned counsel, respectfully submits the following Sentencing Memorandum:

I. OBJECTIONS TO THE PSR

Ms. Mack objects to the PSR at page 13, paragraph 44. Specifically, Ms. Mack objects to the statement contained near the bottom of that page which states: “For instance, she was reportedly officially or unofficially granted weekend furloughs outside of the facility and had her own cellular telephone.” Ms. Mack asserts that this statement is false, in part, because she never received any such furloughs whatsoever. In addition, Ms. Mack, like many of her fellow detainees at the Kerobokan Prison in Indonesia, had the use of a cell phone during certain time periods – however, cell phones were against the rules of that institution. *See* further discussion of cell phone usage below.

Ms. Mack objects to the PSR at page 14 (first full paragraph), paragraph 44. Here, Ms. Mack objects to Agent Richardson’s overall assessment of the nature of her experience as a detainee of the Kerobokan Prison—which grossly misstates the nature of her time there—as well as the veracity of certain specific statements contained therein. First, Ms. Mack asserts that she

never “yelled at the warden.” Furthermore, Ms. Mack maintains that, while her case received heightened attention, this never resulted in preferential treatment, or a privileged “celebrity” status. *See* further discussion of the alleged “celebrity” and related issues below. Quite the contrary is true, as detailed further below. In short, Agent Richardson has absolutely no legitimate basis for his unfounded assertions. Indeed, one need only “Google” the Kerobokan Prison to begin to get a slight picture of the horrendous conditions at that institution. They are also detailed further below. Moreover, Agent Richardson, unlike Ms. Mack, has never spent a day in the custody of that institution.

Ms. Mack objects to the PSR at page 14 (second full paragraph), paragraph 44. The inference drawn from the statements Ms. Mack made during a media interview in 2019 are patently false. As described further below, Ms. Mack was forced to make such statements by Kerobokan Prison officials, including the Warden. Ms. Mack did not bribe prison officials for special treatment, early release, or any other reason – nor did she receive special treatment or early release because of monies paid or favoritism considerations.

Ms. Mack objects to the PSR at page 16, paragraph 54. Ms. Mack made all efforts to return the referenced forms to US Probation.

Ms. Mack proposes a correction to the PSR at page 17, paragraph 57. Ms. Mack respectfully notes that she presently has some contact with her deceased father’s grandchildren, not Deborah Mack’s, as currently indicated.

II. PROCEDURAL BACKGROUND

On June 16, 2023, Ms. Mack pled guilty to Count 2 of the Indictment pursuant to a written Plea Agreement (“Agreement”). Count 2 charged her with conspiracy to kill a United States national, in violation of 18 U.S.C. §1117. *See* Dkt, at No. 108. In short, the Agreement provides, *inter alia*, for a sentence not greater than 28 years, with each party allowed to argue for

the imposition of an appropriate sentence; provided, however, that this Court first accepts the parties' Agreement.

III. PERSONAL BACKGROUND

Ms. Mack's Young Life

Ms. Mack is 28 years old. She was born, raised, and lived most of her life in the Chicago area, primarily in Oak Park. She was the only child of James Mack, an African-American male, and Sheila Von Weise, a Caucasian female. Ms. Von Weise married later in life, and Mr. Mack was significantly older than her. Ms. Mack enjoyed a wonderfully close relationship with her father until his death in 2006, from a pulmonary embolism while the family was on vacation overseas (discussed below).

During her early childhood, Ms. Mack enjoyed a positive relationship with both of her parents. Ms. Von Weise, who had not been blessed with many material possessions as a child, went out of her way to dote on Ms. Mack. Ms. Mack also recalls enjoying many typical childhood activities—playing with dolls, visiting the park, swimming, and ice skating. Ballet was also a great passion of hers. Starting at age two, Ms. Mack diligently practiced for two-hours, three times each week, until she was about seventeen. She was also a Girl Scout and dabbled in acting classes at *Second City*.

Ms. Mack also recalls going out with her parents with some regularity – at least until her father became wheelchair bound. They would see movies at the theater, attend charity events, listen to the symphony, and enjoy opera performances.

When it came to the holidays, Ms. Mack would spend time with her mother's side of the family. Although Ms. Mack has six elder paternal half-siblings, Ms. Von Weise would generally not allow Ms. Mack to have contact with her father's side of the family.

Ms. Mack Suffered Extensive And Ongoing Trauma During Her Childhood

As thoroughly detailed in the PSR and by Dr. Pesanti, Ms. Mack suffered frequent and continuous exposure to domestic abuse and violence. She was also the victim of such abuse and violence at the hands of her mother, as well as her co-Defendant, Tommy Schaefer. *See* PSR, ¶¶ 59-64; *see also* Dr. Pesanti's Report.

Both the Guidelines and the §3553 factors permit this Court to consider the weight of such factors in terms of fashioning Ms. Mack's sentence.

Early Exposure To Domestic Abuse And Violence

Ms. Mack had an indisputably close relationship with her father, whom she describes as her "caregiver and best friend." *See* PSR, ¶55. She recalls many good memories from her childhood, particularly related to her father. Her father retired when she was two and became her primary caregiver. The family of three lived in what Ms. Mack describes as a big house in a nice area, and she was provided with many material possessions as a result of her father's financial success. Sadly, however, a much darker part of her childhood is equally as memorable.

Despite her fond memories of, and good relationship with, her father, Ms. Mack also witnessed him as the aggressor during instances of domestic violence from as far back as she can recall. This included both regular verbal arguments, and physical altercations. For example, Ms. Mack witnessed her father slap her mother, push her down the stairs, and bully her in various ways. She describes her father as having been a large and powerful man, as well as the financial provider in the home – up until the time that he suffered a devastating injury and became wheelchair bound. Consequently, Ms. Mack's mother did not fight back. This troubling dynamic changed, however, after her father suffered that debilitating accident.

While the family was aboard a cruise ship during a family vacation to Greece, Ms. Mack (who was five years old at the time) witnessed her father cut his heel badly. Unfortunately, that

injury caused sepsis, and resulted in James Mack being in a three-week coma. Moreover, ultimately, James Mack was left paralyzed from the waist down. Rather than diminishing the domestic violence in the home, the dynamic just essentially reversed itself.

Although Ms. Von Weise was not physically violent towards James Mack - as he had been to her - she would taunt and abuse him in other ways. For instance, Ms. Mack recalls that her mother would often place her father's wheelchair out of his reach, leaving him unnecessarily bedridden and confined to his room and to other spaces. Her mother was also frequently intoxicated and would neglect her father's needs. That increased after he was diagnosed with colon cancer. Although only a very young child at the time, Ms. Mack increasingly acted as her father's caregiver to make up for her mother's neglect of her father. Ms. Mack also became increasingly verbal about her mother's treatment of her father, which resulted in verbal arguments between Ms. Mack and Ms. Von Weise.

Another tragedy struck James Mack, Ms. Von Weise, and Ms. Mack, a few years after he became wheelchair bound. While on vacation in Greece, James Mack died. He died right in front of young Heather Mack. This was entirely unexpected. Understandably devastated, Ms. Mack, who was ten years old at the time, told her mother that she wanted to return home rather than finish the planned vacation. Ms. Von Weise, however, decided to continue the trip. Ultimately, James Mack's death seemed to substantially aggravate the already strained relationship between Ms. Mack and Ms. Von Weise.

Domestic Abuse And Violence Continued After James Mack's Death

Prior to James Mack's death, Ms. Mack had already suffered from abuse and neglect. Ms. Mack recalls her mother occasionally declaring that she had taken an overdose of pills, and locking herself in her bedroom - sometimes for several days at a time. As a very young child, and

fearing for her mother's safety, Ms. Mack naturally turned to James Mack who would stay with her while she slept outside her mother's room.

Ms. Von Weise was sometimes physically violent towards Ms. Mack. Some of her earliest memories of her mother involve such episodes. Ms. Von Weise would sometimes slap, hit, and shake her violently. At that time, Ms. Mack was too small to, and did not, fight back. As Ms. Mack grew older, this dynamic clearly changed. However, some of their arguments resulted from Ms. Mack's attempts to protect Ms. Von Weise from herself. On various occasions, Ms. Mack hid her mother's alcohol and vehicle keys to prevent her from driving drunk. In response, Ms. Von Weise would lash out at Ms. Mack. Sometimes local law enforcement would intervene, and would typically acknowledge and accept Ms. Von Weise's narrative. Ms. Mack admits that, even on the occasions where she believed that she had been the initial victim of the physical or verbal encounter between the two, she did not tell the Police the full account of the occurrences.

Furthermore, Ms. Von Weise, who was Caucasian, with blonde hair and blue eyes, would frequently denigrate Ms. Mack for looking more like her father, a black man. From as early on as kindergarten, Ms. Mack recalls feeling ashamed for not more resembling her mother. Indeed, Ms. Von Weise once pointed to one of Ms. Mack's first grade classmates—who physically resembled Ms. Mack's mother—and said she wanted a child who looked more like her. Consequently, Ms. Mack often felt her looks were disappointing to her mother, and generally not good enough. When Ms. Von Weise was intoxicated, she would sometimes call Ms. Mack by her father's name because of how much she resembled him. Ms. Von Weise would also call Ms. Mack other names, including the "N-word."

Ms. Mack recalls having frequent bathroom "accidents" as a child, for which she was often bullied by her elementary school peers. Ms. Von Weise caused Ms. Mack to believe that

such “accidents” resulted from a medical condition that required surgery. Because of this, Ms. Von Weise made Ms. Mack wear diapers until she was at least ten years old. Eventually, Ms. Mack realized that she did not have a medical condition and simply stopped wearing diapers, which seemed to anger her mother.¹

Ms. Mack Suffered Abuse And Violence From Tommy Schaefer

Ms. Mack met her co-Defendant, Tommy Schaefer, in high school. They began dating and were eventually engaged. Ms. Von Weise made no secret of the fact that she hated Mr. Schaefer, and that feeling was mutual between those parties. Ms. Mack suffered from abuse and violence during her relationship with Mr. Schaefer. Perhaps because of her own home life experiences, Ms. Mack did not view that type of conduct as particularly unusual. Moreover, because of the nature of her relationship with Ms. Von Weise and because of Ms. Von Weise’s feeling about Mr. Schaefer, Ms. Mack never told her mother of Ms. Schaefer’s conduct.

Mr. Schaefer’s pattern of abuse towards Ms. Mack continued, even after their convictions and imprisonment in Indonesia. At the Kerobokan Prison, male detainees initially had nearly unfettered access to their female counterparts. Receiving no deterrence from the prison staff, apparently largely due to the submissive role that Indonesian women were expected to play, Ms. Schaefer on occasions would punch, choke, slap, or push Ms. Mack around. Some of those occurrences of violence occurred even at times when Ms. Mack was holding her infant daughter. Eventually, the Kerobokan Prison erected a wall, effectively segregating the male and female

¹ Defendant’s expert witness, Dr. Pesanti, interviewed the Counselor, Ms. Conforti, who served the role of jointly providing counseling to Ms. Von Weise and Ms. Mack, in and about Ms. Mack’s high school years. She fully corroborated the unhealthy, toxic, and mutually abusive relationship between Ms. Von Weise and Ms. Mack.

populations. After that, Ms. Mack's in-person negative (and positive) encounters with Mr. Schaefer all but stopped.²

To be clear, however, Ms. Mack does *not* in any way contend that *all* of her in-persons encounters with Mr. Schaefer at the Kerobokan Prison were unwanted, non-consensual, unfriendly, or resulted in abuse or violence.

Mr. Schaefer was also verbally and emotionally manipulative toward Ms. Mack. She was susceptible to this type of behavior because, at the Kerobokan Prison, she initially knew no one other than Mr. Schaefer. Ms. Mack felt exceedingly alone, and vulnerable to a fault. It was only after her in-person interactions with Mr. Schaefer ended that Ms. Mack began to recognize the patterns of abusive behavior that she had witnessed, and was the victim of, throughout her life. She also began, slowly, to understand how those experiences shaped her own choices and conduct – and her own misconduct.

All of that said, Ms. Mack **fully** appreciates her culpability. She likewise **fully** and **genuinely** accepts complete responsibility for the actions that resulted in her being charged criminally, both in Indonesia and before this Court. Her desire to better analyze the nature of the abuse and violence she suffered, and to grow and learn from it, is *not* some attempt to fashion an escape from culpability; but rather to better recognize, and avoid contributing to those same types of patterns with her own daughter, Stella, and in all of her other future relationships. That process will of course likely be a life-long endeavor.

Moreover, there is no question Ms. Mack was deeply troubled during her high school years. *See* also Dr. Pesanti's Report. She takes responsibility for **all** of her conduct during that

² Ms. Mack was even cajoled into making a false video regarding Ms. Schaefer's involvement in the murder of Ms. Von Weise, in which she is seen claiming that he had nothing to do with the whole thing.

time period, including the physically and abusive conduct that she directed at her mother and all of her other misconduct. Ms. Mack painfully regrets the way that she treated her own mother, and of course regrets and is extraordinarily remorseful for her own pivotal role in Ms. Von Weise's murder. Ms. Mack will also make this clear during her allocation at the sentencing hearing.

IV. DEFENDANT'S POSITION REGARDING SENTENCING

The Avoidance of Unwarranted Sentencing Disparities Justifies And Supports The Imposition Of A 15-Year Sentence, Minus The Time That Ms. Mack Already Served In The Kerobokan Prison³

One of the seminal 3553 factors is the avoidance of “unwarranted sentencing disparities.” *See, e.g., United State v. Peters*, No. 22 C 50389, 2023 WL 4665119 (N.D. Ill., July 20, 2023) (quoting *United States v. Oliver*, 873 F.3d 601, 608 (7th Cir. 2017)) (“When imposing a sentence, district judges must consider ‘the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct.’”). Section 3553 does not ban “all disparities; its concern is only with *unwarranted* disparities.” *Id.* (emphasis in original). However, Section 3553 “provides for discretionary comparison and applies to defendants with similar records who have been found guilty of similar conduct.” *United States v. Sanchez*, 989 F.3d 523, 539 (7th Cir. 2021) (quoting *United States v. Durham*, 645 F.3d 883, 897 (7th Cir. 2011)). Thus, the Seventh Circuit has made clear that it remains “open in all cases to an

³ As noted in her prayer for relief (WHEREFORE clause), Ms. Mack seeks a total sentence of 8 *more years* – calculated by her and her counsel's position that a 15-year sentence, but one that then fully takes into account her 7 years served at Kerkoban Prison – is the most appropriate one under all of the circumstances presented. Such an additional 8-year sentence is one that would *not* be greater than necessary to achieve all of the legitimate aims of sentencing, under section 3553 and otherwise.

argument that a defendant's sentence is unreasonable because of a disparity with the sentence of a co-defendant." *Sanchez, supra*, 989 F.3d at 541.

Here, as set forth below, sentencing Ms. Mack to a term of incarceration of more than 15 years, and to a term of incarceration that does *not* also include and credit her (minus) for the time she served in the Kerobokan Prison, would clearly create an unwarranted sentencing disparity in light of the sentencing that has already taken place in this District of one of Ms. Mack's co-conspirators, Robert Bibbs ("Bibbs"). *See United States v. Robert Ryan Justin Bibbs*, No. 15 CR 00578 (N.D. Ill.).

Bibbs is the cousin and close friend of Ms. Mack's co-Defendant in the present case, Mr. Schaefer. *Id.* at Dkt. No. 23, at p. 1, paragraph 1(d). Bibbs was charged by Indictment with the very same offenses as Ms. Mack. *Id.* at Dkt. No. 23. In sum, the Government alleged that Bibbs, Ms. Mack, and Mr. Schaefer worked in tandem to conspire to kill Ms. Von Weise by engaging in actions in the United States and in Indonesia. *Id.* at Dkt. No 23. More specifically, the Indictment against Bibbs alleged that he: 1) provided advice, encouragement, and direction to Ms. Mack, prior to her going to Indonesia, about how to kill Ms. Von Weise; 2) provided advice, encouragement, and direction to Mr. Schaefer on the day prior to Ms. Von Wiese's murder, while Mr. Schaefer was in Indonesia, about how to kill Ms. Von Wiese; 3) provided advice, encouragement, and direction to Mr. Schaefer on the day of Ms. Von Wiese's murder, while Mr. Schaefer was in Indonesia, about how to kill Ms. Von Wiese. *Id.* at Dkt. No. 15, at pp. 2-3, at paragraph 4. In addition, immediately after Ms. Von Wiese's murder, Bibbs and Mr. Schaefer communicated about the murder and Ms. Von Wiese. *See* Bibbs' June 2, 2017 sentencing transcript, submitted herewith as an Exhibit, at pp. 60-61.

Furthermore, Mr. Bibbs admitted in his written Plea Agreement that he played a crucial and instrumental role in the offenses underlying the murder of Ms. Von Wiese. *See* Bibbs' Plea Agreement, submitted herewith as an Exhibit, at pp. 2-6, paragraph 6. That role included, *inter alia*, conversations with Ms. Mack regarding Ms. Von Weise's murder; discussions with Mr. Schaefer regarding Ms. Von Weise's murder; texts with Mr. Schaefer regarding Ms. Von Weise's murder, including advice with respect to how Mr. Schaefer should kill Ms. Von Weise – and how to do so, if there were, or were not, cameras present; communications with Mr. Schaefer while he was in Indonesia, intending to encourage Mr. Schaefer to kill Ms. Von Weise; communications with Mr. Schaefer while he was in Indonesia, which were designed to “reduce the likelihood of [Mr. Schaefer and Ms. Mack] being caught and prosecuted if they followed his advice; and Bibbs' being involved in the plot to kill Ms. Von Weise so that he could “share some of the proceeds” arising out of Ms. Von Weise's murder with Mr. Schaefer and Ms. Mack. *Id.* (brackets added).

Finally, the Government repeatedly emphasized to the Court (Judge Pallmeyer), at Bibbs' sentencing hearing, that Bibbs in fact played a quite crucial role in the murder of Ms. Von Weise, including as follows:

The Defendant's role in the offenses was **significant**. In his filing, **he [Bibbs] says the Government overstates his involvement, but that's not accurate . . . there was no specific plan and no specific action until after the defendant [Bibbs] was involved.**

. . . He [Bibbs] was **deeply involved** in the conversations in which they discussed this specific murder . . . he was **absolutely involved** in hatching this specific plot . . . the plot to do so in Indonesia . . .

Because he [Bibbs] wanted to be rich.

He was their [Schaefer's and Ms. Mack's] coach . . . he was telling them how to do it. He also gave them the 'rah rah' locker room speech. 'It's go time.' He was firing up his cousin [Schaefer] to go commit a murder.

That is what the Court is sentencing the defendant [Bibbs] for, not for just standing on the sideline.

See Bibbs' sentencing transcript hearing, *supra*, at pp. 62-64 (emphasis and brackets added).

Moreover, prior to his sentencing hearing, Bibbs repeatedly violated the terms of his pre-trial release; beat up a witness to his case; and was involved in another (i.e., wholly unrelated to Ms. Mack and Mr. Schaefer) plot to rob and harm someone during the same time period he was involved with Mr. Schaefer and Ms. Mack with respect to Ms. Von Weise's death. *Id.* at pp. pp. 24-28; 32-34; 65.

Bibbs was facing a maximum term of imprisonment of life,⁴ with a sentencing Guidelines range of 210 to 262 months. *Id.* at p. 78. Judge Pallmeyer ultimately sentenced Bibbs to a term of incarceration within the BOP of 9 years (108 months). *Id.* at p. 78.

Based upon all of the foregoing, including Bibbs' crucial role in the murder of Ms. Von Weise, the spirit and purpose of section 3553's explicit admonition to avoid "unwarranted" sentencing disparities would be substantially undermined by the imposition of a sentence *any greater than* 15 years and which does *not* include and account for the time (as a reduction) that Ms. Mack has already served in Indonesia. In fact, even if this Court concludes that Ms. Mack had a more central role in the offense than Bibbs, Ms. Mack has *already* served more time (combining her Kerobokan Prison and Chicago MCC time to-date) than Bibbs will ever serve – by at least a couple of years. Thus, the imposition of a sentence by this Court upon Ms. Mack of 15 years, minus full credit for the time that Ms. Mack has already served at the Kerobokan Prison, would be more than sufficient and "not greater than necessary" to satisfy any and all of

⁴ Pursuant to the terms of Bibb's Plea Agreement, however, his maximum sentence was capped by agreement at 20 years. See Bibbs Dkt. at No. 77, at p. 10, paragraph 11. Here, Ms. Mack's maximum term is capped at 28 years.

the legitimate aims of sentencing. More importantly, it would serve to avoid unwarranted sentencing disparities between the sentence assessed to Bibbs and Ms. Mack's sentence. It would be essentially a sentence that is *double* than what Bibbs will serve. That makes further sense in light of the fact that, as noted above, the Government was comfortable in agreeing to a maximum sentence of 20 years for Bibbs, per his Plea Agreement, and was comfortable in agreeing to a maximum sentence of 28 years for Ms. Mack, per the terms of her Plea Agreement.

A 15-Year Sentence, Minus The Time Ms. Mack Has Already Served In The Kerobokan Prison, Is Consistent With The Trend Of The Courts Nationally In Recognizing That Young Offenders, Like Ms. Mack, Are Less Culpable Based Upon The Compelling Scientific Research Regarding Adolescent Brain Development

Ms. Mack was 18 years old at the time of the offense conduct. Recently, courts, including the United States Supreme Court, have explicitly recognized that youthful offenders like Ms. Mack can, and often must, be treated as *less* culpable - including for purposes of sentencing - based upon the scientific research regarding adolescent brain development. *See, e.g., Graham v. Florida*, 560 U.S. 48 (2010).⁵

One such recent decision, *United States v. Ramsay*, 538 F.Supp.3d 407 (S.D.N.Y. 2021), provides an excellent summary and "state of the law" with respect to the application of these concepts. As the court in *Ramsay* first noted, "**Youth Matters in Sentencing.**" *Id.* (emphasis in original). The *Ramsay* court went to explain that, "[i]n several cases since the 1980s, the Supreme Court has held, based on "the evolving standards of decency that mark the progress of a maturing Society . . . that 'youth matters in sentencing.'" *Id.* at 415 (citing *Roper v. Simmons*,

⁵ In *Graham*, the United States Supreme Court noted that "developments in psychology and brain science continue to show fundamental differences between juvenile and adult minds. For example, parts of the brain involved in behavior control continue to mature through late adolescence." *See Graham*, 560 U.S. at 568 (citing Brief for American Medical Association et al. 16-24; Brief for American Psychological Association et al. 22-27).

543 U.S. 551, 561 (2005), *Trop v. Dulles*, 356 U.S. 86, 100-101 (1958), and *Jones v. Mississippi*, 141 S.Ct. 1307, 1315 (2021).

The *Ramsay* court first noted that, in *Thompson v. Oklahoma*, 487 U.S. 815 (1988), the Supreme Court, among other things, “engaged in its own analysis of the differences between adolescent and adults and concluded that ‘less culpability should attach to a crime committed by a juvenile than to a comparable crime committed by an adult.’” *Ramsay*, 538 F.Supp.3d at 415 (quoting *Thompson*, 487 U.S. at 835).

The *Ramsay* court then explained that, in *Roper v. Simmons*, 543 U.S. 551 (2005), the Supreme Court subsequently “adopted and expanded the view” regarding the difference between youthful and adult defendants by relying “largely on everyday experience to inform its judgments regarding the adolescent brain.” *Id.* The *Ramsay* court further noted that, in *Roper* - in the context of examining the death penalty as applied to youthful offenders - the Supreme Court “again relied on everyday experience, **but it also cited recent developments in the psychological and sociological literature that helped explain adolescent impulsivity and the like.**” *Id.* (emphasis added).

The *Ramsay* court further explained that, in *Graham v. Florida*, 560 U.S. 48 (2010), the Supreme Court - in the context of considering life sentences for youthful offenders without the possibility of parole - relied on “developments in psychology and brain science [that] continue to show fundamental differences between juvenile and adult minds. For example, parts of the brain involved in behavior control continue to mature through late adolescence.” *Id.* (citing *Graham*, 560 U.S. at 68).

Furthermore, the *Ramsay* court, in reviewing the appropriateness of the sentence imposed in the case before it (which was committed by an offender who was 18 years old at the

time), stated that, “this Court, like the Supreme Court, looks not only to the general impressions provided by everyday experience (“common sense”) **but also to the more refined and tested evidence concerning development of the adolescent brain** provided by recent **research and studies in neuroscience, psychology, and sociology.**” *Ramsay*, 538 F.Supp.3d at 417. The *Ramsay* court held that “the developments in neuroscience, psychology, and sociology . . . have sufficient rigor as to render them useful in determining how adolescence should impact sentencing in general.” *Id.*

In granting a sentence reduction, the *Ramsay* court relied upon the fact that, *inter alia*:

. . . the prevailing neuroscientific explanation for adolescents’ immaturity begins with the fact that [t]he frontal lobes, home to key components of the neural circuitry underlying executive functions such as planning, working memory, and impulse control, are among the last areas of the brain to mature; they may not be fully developed until halfway through the third decade of life. Children’s brains have a proliferation of neural connections (dendritic overproduction). Then, beginning around age 11 to 12, rarely used connections are selectively pruned[,] making the brain more efficient. This increase in efficiency progresses from the back to the front of the brain; [e]vidence suggests that, in the prefrontal cortex, the area responsible for executive functions, the process is not complete until the early 20s or later.

. . . When sentencing adolescent offenders . . . courts should bear in mind the adolescent maturity gap.

Ramsay, 538 F.Supp.3d at 417-418.

The *Ramsay* court further relied upon the Supreme Court’s identification of another “broad difference [between juveniles and adults] is that the character of a juvenile is not as well formed as that of an adult. The personality traits of juveniles are more transitory, less fixed. This ‘struggle to define their identity’ decreases the likelihood that even a heinous crime committed by a juvenile is evidence of irretrievably depraved character.” *Id.* at 422 (*citing* *Roper, supra*, 543 U.S. at 570). The *Ramsay* court additionally found that “[r]espected social science

studies support this conclusion.” *Id.* at 422. For these reasons, the Ramsay court stated that, when sentencing adolescent offenders, judges should consider the chance that their youthful “character deficiencies will be reformed.” *Id.*

To be clear, the court’s analysis in *Ramsay* is *not* an aberration; it is illustrative of the trend by federal courts across the country to take into account the accepted science that youthful offenders have markedly different brain development, and thus are found to be less culpable for purposes of determining the duration of a defendant’s sentence. *See, e.g., United States v. Rosario*, No. 99-CR-533, 2018 WL 3785095, at *1-2 (E.D.N.Y., Aug. 9, 2018) (reducing defendant’s sentence based upon the Supreme Court cases cited in *Ramsay*, which “[C]ollectively . . . stand for the proposition that adolescents are different from adults—and must be treated differently by courts . . . based not only on society’s evolving standard of decency,’ but also on our increasing understanding of adolescent brain development”) (emphasis added);⁶ *United States v. Lebaron*, No. H-92-177-05, 2023 WL 7308116 (S.D. Texas,

⁶ The court in *Rosario* further explained:

. . . recent research has established that the areas of the human brain dealing with judgment and decision-making continue to mature well into our 20s. Thus, due to neurobiological immaturity, even older adolescents continue to demonstrate difficulties in exercising self-restraint, controlling impulses, considering future consequences, and making decisions independently from their peers’ . . . These findings, taken together, are of significance in assessing all four of the classic penological justifications of punishment. As *Miller* states, retribution, deterrence, incapacitation, and rehabilitation typically will not justify the harshest sentences for juveniles who commit crimes, even for those who commit truly heinous crimes. In the words of the *Miller* court, quoting *Graham*: because [t]he heart of the retribution rationale relates to an offender’s blameworthiness, the case for retribution is not as strong with a minor as with an adult. Nor can deterrence do the work in this context, because the same characteristics that render juveniles less culpable than adults—their immaturity, recklessness, and impetuosity—make them less likely to consider potential punishment. Similarly, [d]eciding that a juvenile offender forever will be a danger to society would require mak[ing] a judgment that [he] is incorrigible—but incorrigibility is inconsistent with

Sept. 6, 2023) (in ordering a reduced sentence, the court relied upon the United States Supreme Court’s recognition that “youthful offenders are less deserving of harsh punishment because, in comparison to adults, juveniles have a lack of maturity and an underdeveloped sense of responsibility, and **“the advances in scientific research on the development of the adolescent brain”**) (citations omitted and emphasis added); *United States v. Faulkner*, No. 01-457-7, 2023 WL 1971192 at *4 (E.D. Pa., Feb. 13, 2023) (recognizing and relying on the “compelling scientific research regarding adolescent brain development which indicates that **the area of the brain that governs reasoning and impulse control continues to mature into a person’s earl to mid-twenties,**” in granting defendant a reduction in his sentence) (emphasis added); *Harmon v. Secretary, Florida Dept. Corrs.*, No. 3:19-cv-1080-MMH-LLL, 2022 WL 4305920, at *11 (M.D. Fla., Sept. 19, 2022) (“**this Court is aware of the science and has fully and thoughtfully considered the science on adolescent brain development in deciding an appropriate and constitutional sentence . . . Adolescent brain science sheds light on some of the underlying causes of poor judgment and impulsive decision making in youth**”); *United States v. Golding*, 05-cr-538, 2022 WL 2985014 at *3 (S.D.N.Y. July 27, 2022) (citing and recognizing the *Ramsay* court’s “**recent scholarship relating to adolescent brain development**”); *United States v. Cruz*, No. 3:94-CR-112, 2021 WL 1326851 at *7 (D. Conn., April 9, 2021) (granting a reduction in sentence by relying upon the brain differences supported by the “**scientific evidence**” regarding brain development between defendants who are younger than 21 years of age and adult defendants); *United States v. Mazzini*, 487 F.Supp.3d 1170 at 1180 (D. New Mex.)

youth. And, finally, rehabilitation . . . reflects an irrevocable judgment about [an offender’s] value and place in society, at odds with a child’s capacity for change.

See Rosario, 2018 WL 3785095, at *1 (internal quotations and citations omitted).

(court reduced sentence where the defendant was 21 years old at time of the offense and 25 years old at the time of sentencing based upon the “[S]cientific research” which has “**revealed the profound ways in which adolescent brain development can compromise decision-making and contribute to criminal behavior**”) (*citing Graham v. Florida*, 560 U.S. 48, 68-69 (2010)); *United States v. Cheng*, ___ F. Supp. 3d ___, No. 90-CR-1019-11 (E.D.N.Y. 2023) (reducing sentences to time served for three murders committed when the defendant was 21 and 22 years based upon these same concepts); *United States v. Sims*, No. 3:98-cr-45, 2021 WL 1603959 (E.D. Va. April 23, 2021) (reducing mandatory life sentence to time served for a defendant who was 21 at the time he participated in a bank robbery that resulted in a death, based upon the application of these concepts); *United States v. Espino*, No. 03-20051-08-JWL, 2022 WL 4465096 at *5 (D. Kan., Sept. 26, 2022) (applying same concepts and reducing sentence for defendant who was 20 years of age when he committed a murder as part of a drug-trafficking conspiracy); *United States v. Birkett*, No. 90-CR-1063-24, 2023 WL 4274683, at *8 (E.D.N.Y. June 29, 2023) (reducing sentences for offenses involving two murders for a defendant who was 18 at the time of the killings);

Moreover, the Seventh Circuit has already acknowledged the relevancy of the concept of adolescent brain development, albeit in a context outside of the sentencing of a defendant. Indeed, in *Horsley v. Trame*, 808 F.3d 1126 (7th Cir. 2015), the Seventh Circuit reviewed the District Court’s grant of summary judgment against an eighteen-year-old applicant for a FOID card. The plaintiff challenged the State of Illinois’ requirement that an applicant less than 21 years old needed to obtain the written consent of his parents. In upholding the district court’s summary judgment ruling, the Seventh Circuit in *Thame* relied upon “scholarly research on development through early adulthood,” including evidence that “**the brain does not cease to**

mature until the early 20s in those relevant parts that govern impulsivity, judgment, planning for the future, foresight of consequences, and other characteristics that make people morally culpable.” *Id.* at 1133 (emphasis added).⁷

Based upon the above-referenced body of case law, there is a substantial and nationally recognized basis for this Court to take into account the adolescent brain development of Ms. Mack – i.e., the scientifically well-founded lack thereof – at the time of the offense. To ignore that strongly developed case law, which is premised upon scientific research, would be contrary to section 3553, and quite frankly contrary to reality.

The Conditions At The Kerobokan Prison In Indonesia, Which Ms. Mack Was Forced To Endure During Her 7 Years Of Incarceration Strongly Militate Against An Additional Substantial Sentence In The Present Case

The international community has long recognized the extraordinary inhumane conditions of prisons in Indonesia, including Kerobokan Prison. For example, one Human Rights Watch Report found that they violate: 1) essentially all of the minimum rules and standards that apply to prison cells, including with respect to sleeping accommodations, bedding, cleanliness, climatic conditions, cubic content of air, minimum floor space, lighting, heating, and ventilation; and 2) essentially of the conditions where prisoners are required to live and work, including with respect to windows, natural light, and fresh air and air quality. *See* Human Rights Watch (Asia Watch Committee), *Prison Conditions in Indonesia*, (1990).⁸ Indeed, as noted above, the

⁷ Citing, among others: http://www.americanbar.org/content/dam/aba/publishing/criminal_justice_section_newsletter/crimjust_juvjus_Gur_affidavit.authcheckdam.pdf; *see also, e.g.*, Adam Ortiz, *Adolescence, Brain Development, and Legal Culpability*, American Bar Association, Juvenile Justice Center (2004) (collecting studies). *Id.*

⁸ *See* <https://www.hrw.org/reports/pdfs/i/indonesia/indonesi908.pdf>.

materials readily, publicly available on-line and everywhere speak openly of what a notoriously horrendous place Kerobokan Prison is to do time.

Ms. Mack's conditions of confinement and experiences at the Kerobokan Prison in Indonesia were unfortunately entirely consistent with all of those bleak assessments. During the first two years of her stay (after Ms. Mack gave birth to her daughter Stella), Ms. Mack shared a small cell with two other inmates – in addition to her newborn baby. The cell was left open to the outside elements because the “windows” had no glass, only bars. As a result, Ms. Mack's cell was constantly unbearably hot and humid. Moreover, when it rained, as was often, rain poured through the open windows and made moisture and standing water a constant problem. The cell was entirely devoid of even basic plumbing. The “bathroom” consisted of merely a sectioned-off part of the cell with a hole in the ground that served as the “toilet” – along with a bucket of dirty standing water. No soap of any kind was provided; it had to be purchased.

After Ms. Mack's daughter turned two years of age, Ms. Mack was moved out of her small cell into the general female population. The conditions were markedly worse. Although Ms. Mack's cell in general population was slightly larger, she was housed with twenty to twenty-five other inmates. Ms. Mack and her fellow cellmates slept on mats (not beds) - which were laid side-by-side given the overcrowding. Some of the cellmates were forced to sleep in the doorway area because of the overcrowding. But overcrowding was perhaps the least of Ms. Mack's and her fellow detainees' concerns. The Kerobokan Prison was infested with cockroaches, snakes, and rats. The rats would burrow under the pillows of Ms. Mack and the other inmates during the night.

The Kerobokan Prison did not provide Ms. Mack and her fellow detainees with even the most basic items, i.e., clothing, sanitary napkins, soap, etc. All such items had to be purchased or

otherwise obtained. However, even when Ms. Mack could obtain such items, they were regularly stolen. Ms. Mack and the other detainees only had small boxes, without locks, in which to store their belongings.

With respect to “nutrition,” the Kerobokan Prison routinely fed Ms. Mack and her fellow detained a substance that consisted of brown rice with pebbles.

Furthermore, the complete lack of even basic plumbing impacted all other facets of daily life at the Kerobokan Prison. Like her former cell, in her new cell in general population, the inmates were provided a bucket containing dirty standing water with which to bathe. Oftentimes, the water inside the facility would not work at all, and Ms. Mack and the other detainees were expected to use an outdoor hose to bathe. Nor was there any Prison based means that laundered the detainees’ clothes.

In sum, the conditions at the Kerobokan Prison were ridiculously harsh and inhumane. Accordingly, the Government’s position that Ms. Mack should *not* be credited with a reduction to her sentence in the present case based upon the 7 years that Ms. Mack served at that facility is absurd. Moreover, the notion seemingly being floated by the Government and law enforcement in this case to the effect that Ms. Mack “had it easy” at the Kerobokan Prison; or that the conditions were somehow luxurious; or that Ms. Mack has special accommodations while detained within the Kerobokan Prison are all similarly baseless.

Clearly, a just and equitable sentence in the present case should take into account not only the 7 years that Ms. Mack was detained in Kerobokan Prison – but also the extraordinary and inhumane conditions with which she was forced to serve that time. Even if Ms. Mack somehow “deserved” those conditions because of her conduct, it would be entirely unjust - and contrary to

all of the legitimate aims of sentencing - to fail to fully account for those 7 years and those conditions.

This Court Should Strongly Consider Ms. Mack's Good Conduct During Her 7 Years Of Incarceration At The Kerobokan Prison, And During Her Two Years At The Chicago MCC

In virtually any criminal case, whether in this District or anywhere else in the country, a defendant's conduct while detained is always considered keenly relevant. Defendants who engage in a pattern, or even incidents of, materially "bad conduct" or misconduct while detained and prior to sentencing are often "punished" in the sense that courts take such conduct into account when fashioning their sentences. Conversely, defendants who demonstrate consistently "good conduct" and/or who do not violate the guidelines and rules are often rewarded by Judges who take that factor into account at the time of sentencing. These are all common sense concepts.

In the present case, Ms. Mack's consistently good conduct, while incarcerated at the Kerobokan Prison, and while detained at the MCC Chicago during the pendency of the present case, should be strongly considered by this Court in determining Ms. Mack's sentence. Indeed, if Ms. Mack had *not* engaged in that good conduct while incarcerated at the Kerobokan Prison, and/or broken the guidelines and rules during that time period, there is no doubt that the Government in the present case would argue that such behavior merited this Court's attention for purposes of sentencing. Thus, to argue that Ms. Mack's consistent course of good conduct while incarcerated at the Kerobokan Prison - and which resulted in her being released three years early - is somehow *not* relevant to the determination of her sentence defies logic.

In any event, here Ms. Mack learned, early on, the potential life-threatening risks if she did not acculturate and follow the rules while incarcerated in Indonesia. One incident is particularly illustrative. After Ms. Mack was first arrested in Bali, she was taken to a local police

station, where she subsequently spent four months in custody. One day during the first few weeks of her stay, she observed a man escape from custody after the officer on duty became distracted. Ms. Mack alerted the officer, and the man was subsequently apprehended shortly thereafter. When police returned the man to the station, they shot him in the knee. The officer who shot the man then told Ms. Mack that the same would happen to her if she were not compliant.

Ms. Mack also received no sympathy or special treatment from Indonesian law enforcement or Kerobokan Prison prison staff based on her status as an American. In fact, her initial use of English and her engrained displays of American customs were viewed as non-compliant. This was largely based upon the hostility fueled by a pervasive anti-American sentiment. For example, even Ms. Mack's early simple requests to use the bathroom, uttered in English by her, were ignored. It was only after she began to learn how to make simple requests in the local language that she was even acknowledged. Ms. Mack's need to conform did not stop there.

Ms. Mack was also compelled to adopt the prevailing religious customs in Indonesia. She was expected to routinely cover her head like other Muslim female inmates. She was also expected to participate in religious ceremonies and traditions such as prayers and fasting. Thus, some of the behaviors that the Government cites as examples of Ms. Mack's purportedly "comfortable" and "privileged" experience while incarcerated in Indonesia are actually representative of how much effort Ms. Mack made to conform and comply. Freedom of religion was not a right she enjoyed. The Government apparently mistakenly views Ms. Mack's active participation, which was motivated by a desire to conform, follow the rules, and avoid reprisals, as privileged or voluntary conduct. That was far from the case.

Ms. Mack was also expected to conform to gender role dynamic behavior. For example, female inmates at the Kerobokan Prison had less access and freedom of movement than their male counterparts. Male inmates were also allowed to freely access the female cells, with almost no deterrence from prison staff – at least up until the above-referenced separation “wall” was established at that facility. There was no such thing as a grievance procedure to address such routine occurrence of sexual and gender-based harassment.

Furthermore, Kerobokan Prison officials, including the Warden, pressured Ms. Mack to represent the facility in a positive light. Ms. Mack recalls giving an interview during which she made several objectively positive statements about her experience and time in the Kerobokan Prison. *See also* PSR, at ¶44. However, those statements, like the rest of Ms. Mack’s behavior while incarcerated in Indonesia, were far from voluntary; instead, they were a necessary display of compliance and conformity to the Kerobokan Prison’s expectations and Indonesian cultural norms to ensure her survival.

Ultimately, the degree to which Ms. Mack was successful in conforming to Kerobokan Prison expectations and Indonesian cultural norms—in short, behaving well—certainly contributed to the 3 years of good time credit that she received. Although her Indonesian prison experience offered unique incentives to Ms. Mack to comply, her good-natured conduct is entirely consistent with the time that she has served at the MCC.

While at the MCC, Ms. Mack’s conduct has been exemplary. She has taken advantage of any relevant programs available to her. Moreover, one would be hard-pressed to find anyone, detainee or MCC personnel, who has a bad word to say about Ms. Mack. She has been mature, entirely cooperative, respectful, and someone whom people want to be around.

Ms. Mack Did NOT Enjoy A “Celebrity Status” While Incarcerated In Indonesia

As noted above, the Government attempts to argue that Ms. Mack’s 7 years of incarceration in Indonesia, as well as her good conduct during that 7-year time period, is somehow irrelevant to this Court’s sentencing determination – and should not be factored in as a reduction to the sentence imposed by the Court in the present case. Yet, the Government goes out of its way to attempt to paint Ms. Mack in a negative light by suggesting that she really “had it good” while incarcerated in Indonesia – i.e., so “good” that she had, and was afforded, “celebrity status” during that time period. This is a gross misrepresentation of reality.

Here, it is certainly undisputed that heightened attention was directed at Ms. Mack and her case from the very start. However, this did not, as the Government contends, result in a “celebrity” status that allowed Ms. Mack to avoid the undeniably harsh conditions suffered by her and the other inmates at the Kerobokan Prison. The PSR notes several unsubstantiated, speculative suggestions that Ms. Mack exploited her financial circumstances to “buy” special favor at the prison. *Id.* The reality is that there is absolutely no evidence to support those claims.

For example, as noted in the PSR, Mr. Wiese (Ms. Mack’s maternal Uncle) and Ms. Hellman both reported that Ms. Mack was “officially or unofficially granted weekend furloughs outside the facility and had her own cellphone.” *Id.* What these individuals failed to note is that Ms. Mack was only ever allowed to leave the Kerobokan Prison for medical and dental appointments (when she had the money to pay for care outside the prison), and at all such times was in the company of law enforcement. Once her daughter Stella left the facility, Ms. Mack’s only routine contacts with Stella came about during her once-weekly visits. Ms. Mack was in fact occasionally allowed to leave the facility to accompany her daughter to scheduled medical or

dental appointments. But again, only under circumstances where there was the presence of law enforcement, and Ms. Mack was always immediately returned to the facility the very same day.

On a few occasions, Ms. Mack was also able to schedule her own medical or dental appointments to align with her daughter's birthday. The members of law enforcement escorting her to these appointments would sometimes allow Ms. Mack to meet her daughter for a brief lunch before returning Ms. Mack to the Kerobokan Prison. Those occurrences were always in conjunction with medical or dental appointments, and of course always occurred with the presence of law enforcement. These were definitely **not** "furloughs." They were nothing more than a loving and desperate mother attempting to get some additional time with the daughter that she sorely missed and ached to spend time with. That this is somehow a "negative" or point against Ms. Mack is quite frankly ridiculous.

Similarly, the PSR makes note of the fact that, at some points during her incarceration in Indonesia, Ms. Mack had possession and use of a cell phone. This is again offered as further evidence of Ms. Mack's alleged "celebrity status" and the purported preferential treatment she was allegedly afforded. This assertion is baseless and uninformed. Cell phones were considered contraband at the Kerobokan Prison and possession or use of them was punishable by a period of solitary confinement. Inmates, including Ms. Mack, took a calculated risk in periodically using cell phones. More significantly, unlike virtually any other prison anywhere, the Kerobokan Prison did not provide landline phones for the inmates to make or receive calls. Accordingly, cell phone usage for most inmates was the only means of contact with those outside the Kerobokan Prison.

Even more to the point with respect to Ms. Mack, after her daughter Stella's visitation privileges at the Kerobokan Prison were eliminated as a result of Covid restrictions, Ms. Mack's

use of a cell phone was her only means of maintaining regular contact with Stella during that time period. What kind of mother, or father, would *not* employ or attempt to employ a cell phone to maintain contact with their child under such circumstances? Every single one – regardless of the potential consequences.

Moreover, Ms. Mack was also caught using a cell phone, and as a result, given the same solitary confinement punishment that all other inmates suffered. It is safe to say that any legitimate mother, or father, would risk and accept such punishments as the price to pay in exchange for communicating with the one person in the world they loved most. Furthermore, like all of the other inmates, Ms. Mack's cell phone was often stolen by her fellow inmates and even by prison staff. As a result, Ms. Mack often went long periods of time without a cell phone – and of course with less contact with her daughter during such time periods.

In sum, although Ms. Mack certainly received more attention than her fellow inmates as a result of her case, she did not receive special treatment. More importantly, she experienced and suffered the same indescribable hardships as the other inmates at the Kerobokan Prison. Ms. Mack's time at that prison cannot simply be measured in years, nor should this Court weigh that time in such a limited fashion. During her incarceration in Indonesia, Ms. Mack was just emerging from adolescence herself; she had given birth to her only daughter; she was still suffering from untreated emotional and psychological trauma; she weathered a pandemic while incarcerated; and as a foreign, young female, she was completely at the mercy of the Bali prison staff.

Ms. Mack's Extraordinary Family Circumstances Support The Imposition Of A Sentence Of 15 Years, Minus The Time That She Already Served In The Kerobokan Prison

“Extraordinary family circumstances may constitute a legitimate basis for imposing a below-guidelines sentence, under either guidelines provision 5H1.6 or under section 3553(a). *United States v. Smith*, 860 F.3d 508, 518 (7th Cir. 2017) (citing *United States v. Schroeder*, 536 F.3d 746, 755-756 (7th Cir. 2008)). Accordingly, this Court may appropriately take into account Ms. Mack’s “family circumstances” in fashioning her sentence. See *United States v. Graham*, 915 F.3d 455, 459 (7th Cir. 2019) (“a defendant’s family circumstances may be a legitimate basis for a below-guidelines sentence if the district court finds ‘that a defendant’s family ties and responsibilities . . . are so unusual that they may be characterized as extraordinary.’”) (quoting *United States v. Schroeder*, 536 F.3d 746, 755-756 (7th Cir. 2008)). The rationale for a “downward departure” based upon family circumstances “is not that family circumstances decrease [a defendant’s] culpability, but that we are reluctant to wreak extraordinary destruction on dependents who rely solely on the defendant for their upbringing.” *United States v. Johnson*, 964 F.2d 124, 129 (2nd Cir. 1992) (brackets added) (affirming district court’s 13-level “downward departure” based upon the extraordinary family circumstances presented, i.e., defendant’s role as a mother). As set forth below, such extraordinary family circumstances exist in this case, and thus this Court should consider them in fashioning Ms. Mack’s sentence.

Here, Ms. Mack has one child – her now eight-year-old daughter, “Stella.” Because of Ms. Mack’s detention at the MCC, Stella is currently in the care of Lisa Hellmann, Ms. Mack’s maternal cousin, in Colorado.

Stella was born in March 2015 while Ms. Mack was in custody in Bali, Indonesia. By all accounts, Ms. Mack has been an outstanding, caring, devoted, and loving mother. Since Stella’s

birth, Ms. Mack has made every conceivable effort to maintain a direct, active, and positive role in Stella's life.

Indeed, following her birth, Stella was allowed to live with Ms. Mack on a full-time basis *in* the Kerobokan Prison for the first two years of life. Thus, despite the generally horrendous conditions of the Kerobokan Prison,⁹ Ms. Mack was able to live with and personally care for Stella. Those first two crucial years of Stella's life established the invaluable and everlasting foundational bond between mother and child. Ms. Mack spent every moment with her daughter, providing the best care that she could muster under the conditions – and despite her complete unpreparedness for mothering; her lack of parental role models; and the complete absence of family and friends to assist her with the somewhat overwhelming newness and responsibilities of being a brand-new mother.

After the first two years of Stella's life, the Kerobokan Prison regulations required that Stella no longer live within the prison. As a result, Stella was then placed with someone who was then a friend of Ms. Mack, Oshar Suratama - who lived nearby. During that time period, Ms. Suratama fully supported Ms. Mack in her sustained and continuing efforts to maintain a close relationship with Stella. Ms. Suratama ensured that Stella maintained regular contact with Ms. Mack, and regularly brought Stella to visit Ms. Mack in at the Kerobokan Prison - up until Covid restrictions made those in-person visits impermissible and impossible. However, during the pandemic, Ms. Mack was allowed to continue to maintain a close and loving relationship with Stella through regular telephone and video visits. Following the lifting of Covid restrictions,

⁹ Again, as noted above, the conditions at Kerobokan Prison included, among other things, cockroaches, snakes, and rat infestations; exposure to the outside elements through windows that had bars, but no glass; and use of a "restroom" which consisted of a bucket with water and a hole in the ground.

Stella was again allowed to visit Ms. Mack in-person at the Kerobokan Prison. In sum, during the time period of Ms. Mack's incarceration within the Kerobokan Prison, Ms. Mack and Stella had a tremendous relationship – and Stella adored Ms. Mack and Ms. Mack adored Stella.

Upon her release from custody from the Kerobokan Prison, Ms. Mack made the conscious and intentional decision to return to the United States, with Stella, with the hopes of providing her with a better home environment, quality of life, and future. In so doing, Ms. Mack acted with the knowledge (after being tipped off by Bali officials) that she would face criminal charges in the United States upon her return. Ms. Mack nevertheless chose to return to the United States because she prioritized the benefits to Stella of a life in the United States. Ms. Mack took steps necessary to prepare and execute temporary guardianship paperwork to ensure the continuity of care for Stella in the United States.

Ultimately, DCFS became involved and removed Stella from Ms. Mack's custody. As noted above, Stella presently resides in Colorado pursuant to a guardianship Order that placed her with Ms. Hellmann. Stella also continues to remain the subject of on-going legal proceedings in the Circuit Court of Cook County. Ms. Mack retains her parental rights with respect to Stella, and she is allowed to have weekly contact with Stella. However, Ms. Hellmann has been less supportive of protecting Ms. Mack's parental rights and access to Stella in light of the strained nature of Ms. Mack's relationship with her mother's side of the family. Consequently, Ms. Mack has recently only been able to speak with Stella, at best, once or twice per month – and, per Ms. Hellmann's interventions, Ms. Mack's calls have quite frequently gone unanswered or unreturned. Ms. Mack remains hopeful of maintaining the incredibly close relationship and bond that she has enjoyed with Stella, including if necessary by way of directives from the Circuit Court of Cook County to Ms. Hellmann. Ms. Mack also continues to attempt to work on and

better herself with the goal of strengthening her own capacity to continue to be a healthy, consistent, and positive force in her daughter's life.

The extraordinary nature of Ms. Mack's family circumstances is as relevant as it is undeniable. Those circumstances constitutes a legitimate basis for imposing a sentence that makes it possible for Ms. Mack and Stella to feasibly maintain their all-important mother/daughter relationship.

Indeed, the birth of a first child is both an exceptionally positive and an unexpectedly difficult event for any mother. For Ms. Mack to have experienced the birth of Stella while in prison was immeasurably more challenging – as was caring for Stella while in prison. Moreover, Ms. Mack fully appreciates that her incarceration in Indonesia resulted from her own conduct and choices. However, Ms. Mack's continued incarceration in a United States prison will result in the most harm to an innocent third-party, her daughter Stella. Stella's relationship with Ms. Mack has already been altered by her inability to have a fully normal relationship, for *seven years*, while Ms. Mack was imprisoned in Indonesia. That mother/daughter relationship has now been further strained and undermined by Ms. Mack's continued detention in the United States at the MCC for more than *two more* additional years. There is simply no legitimate reason for Stella to continue to be irreversibly damaged by an additional lengthy term of incarceration imposed upon Ms. Mack. Such a lengthy term of incarceration will have devastating and life-long consequences for Stella.

Finally, to be clear, Ms. Mack is not suggesting that *she* is less culpable for Ms. Von Weise's death because of the birth of Stella; however, the point is that Stella is certainly *not* culpable because of Ms. Mack's actions. Therefore, to the extent possible, and consistent with the aims of sentencing and the 3553 factors, this Court should fashion a sentence that helps

ensure that Ms. Mack and Stella are given the opportunity to forge the best mother/daughter relationship going forward. A limited sentence of incarceration for Ms. Mack will go a long way toward ensuring that Stella is not collaterally damaged. That is particularly the case where, as here, this Court could impose conditions such as house arrest or home detention upon Ms. Mack, which would still allow Ms. Mack and Stella to live and grow together in the closest and next best thing to a full mother/daughter relationship.

The Imposition Of A 15-Year Sentence, Less The Time That Ms. Mack Has Already Served In Indonesian Prison, Is Fully Consistent With, And Meaningfully Takes Into Account, Ms. Mack's Untreated Psychological Condition At The Time Of The Offense

Based upon the protected health information contained within it, Ms. Mack's counsel has filed the expert report of Dr. Pesanti under seal. *See* Pesanti Report. However, in sum, Dr. Pesanti's Report firmly establishes that the traumas that Ms. Mack experienced as an adolescent; her diagnosed but essentially mental health conditions; coupled with her tumultuous relationship with Ms. Von Weise, provide yet another basis of mitigation in favor of Ms. Mack – under section 3553 and otherwise. For those additional reason, the imposition of a sentence of 15 years, minus the time that Ms. Mack has already served in Indonesia, would be clearly sufficient but “not greater than necessary” to achieve all of the legitimate aims of sentencing.

The Extraordinary Harsh Conditions Of Confinement At The MCC Should Also Be Taken Into Account In Imposing A Sentence On Ms. Mack

Here, Ms. Mack and many of her fellow detainees at the MCC were forced to endure near lockdown conditions for virtually the entire pandemic. These conditions were attuned to solitary type confinement, and took an extraordinary toll on Ms. Mack's emotional and psychological condition. Like her fellow MCC detainees, Ms. Mack was housed - for a significant period of time - in a manner that offered essentially no legitimate programming; extremely limited movement; reduced, and extremely limited contact with the outside world. In fact, during that

extended COVIP period, Ms. Mack and her fellow MCC detainees never set foot outside. On top of all that, Ms. Mack had to constantly worry about Covid-19 outbreaks and deaths, and the associated fear of contracting it, if not losing her life to it. In sum, those conditions - for that extended period of time - were truly “extraordinarily harsh.”

Since that time, Ms. Mack and her fellow detainees at the MCC have had to grapple with deaths at the MCC arising out of the fentanyl crisis.

Based upon all of the foregoing, this Court should hold that, pursuant to the 3553 factors, these conditions of confinement were “extraordinarily harsh,” and thus represent merit and necessitate consideration for purposes of Ms. Mack. This Court’s peers within the Northern District have regularly relied upon the conditions at the MCC during COVID as a basis for a sentence reduction, and/or as mitigation. In other words, Judges in this building have already recognized that the conditions of confinement during the pandemic have been extraordinarily harsh because of the pandemic and the detention procedures employed as a direct result – and thus merit consideration under section 3553 and a sentence reduction. *See, e.g.*, as just some examples: *United States v. Dickey*, 16 CR 475 (Judge Ellis) (the Court stated, as part of the sentencing hearing, that it would have given the defendant a substantially greater sentence [in particular, three additional years], but did not do so in light of these very extraordinarily harsh conditions of confinement during the pandemic; *see also United States v. Miller*, Case No. 20 CR 763 (Judge Lee) recognized that same argument in sentencing the defendant in that case.

This Court Should Also Consider Ms. Mack’s Limited Criminal History

A defendant’s Criminal History category is strongly correlated with recidivism. The USSC data demonstrates that offenders with zero criminal history points have the lowest re-arrest rates, i.e., slightly more than one-quarter (26.8%) of offenders with no criminal history

points are re-arrested. Although, as indicated in the PSR, Ms. Mack has *one* criminal history point, she narrowly misses falling within the lowest criminal history category. *See* PSR, at ¶45. Accordingly, Ms. Mack presents with a statistically low likelihood of recidivism. In fact, Ms. Mack's only brushes with the law, apart from the present case, arose during her high school teen years and generally for relatively non-serious conduct.

The Wholly Unnecessary Cost Of Confinement Should Also Be Considered By This Court In Imposing Its Sentence

It would clearly be a waste of public resources to pay hundreds of thousands to millions of dollars to continue to incarcerate Ms. Mack for additional years beyond the minimum sentence available to this Court to impose. This is particularly where, as here, the community does *not* need to be protected from her – and any perceived need for such protection can be fully and adequately addressed and achieved by way of the terms of Supervised Release. Moreover, and more importantly, Ms. Mack has already demonstrated to this Court, by way of her service of her sentence in Indonesia, her service of her sentence at the MCC, and her good conduct while incarcerated in Indonesia and while detained at the MCC, that she is ready, now, to return to the community and to be gainfully employed in such a manner that she can benefit the community, her daughter, and herself. Again, for the taxpayers to incur the hundreds of thousands to millions of dollars to incarcerate Ms. Mack for an extended period of time within the BOP is particularly unnecessary where, as here, this Court could impose conditions such as house arrest or home detention upon Ms. Mack – at virtually no cost to the citizenry, or at costs which could be assessed against and borne by Ms. Mack.

IV. DEFENDANT'S POSITION REGARDING SUPERVISED RELEASE

Ms. Mack's Limited Objections To The Proposed Terms Of Supervised Release

Discretionary Condition No. 6 (PSR, at p. 33): Ms. Mack objects, in part. In light of the fact that Mr. Schaefer is the father of Ms. Mack's child, it seems unnecessary and unrealistic that she never have contact with him. Likewise, although she has no plans to have contact with Bibbs, there does not seem to be any compelling reason to bar her from ever communicating with him.

Discretionary Condition No. 9 (PSR, at p. 33): Ms. Mack objects, in part. Based upon Ms. Mack's history, there does not appear to be a reason for her to be in a substance abuse program after the service of any term of incarceration.

Discretionary Condition No. 16 (PSR, at p. 34): There is no legitimate reason for US Probation to visit Ms. Mack at her place of employment. Employment can be verified in many ways, and such visits only serve to jeopardize the employment of former offenders.

Special Condition No. 13 (PSR, at p. 37): Ms. Mack objects to this condition. Ms. Mack's counsel objects to the ability, capability, expertise, and competence of US Probation to make any such "risk" determinations in the first instance, and to a requirement that such "risk" determination then be communicated to third parties.

WHEREFORE, Ms. Mack, by and through her undersigned counsel, respectfully requests that this Court sentence her to a sentence of 8 additional years, and for such other and further relief as is appropriate.

Respectfully submitted,

By: /s/MICHAEL I. LEONARD
One of the Attorney for Heather Mack

LEONARD TRIAL LAWYERS

Michael I. Leonard
Matthew A. Chivari
120 North LaSalle, Suite 2000
Chicago, Illinois 60602
(312)380-6559 (phone)
(312)264-9671 (fax)
mleonard@leonardtriallawyers.com

JEFFRY N. STEINBACK, LLC

Jeffrey Bruce Steinback
8351 Snaresbrook Rd
Roscoe, IL 61073
(847)624-9600 (phone)
jbsteinbacklaw@aol.com

CERTIFICATE OF SERVICE

The undersigned states that, on January 8, 2024, he EFILED by way of this Court's ECF filing system, the above Defendant's Sentencing Memorandum and therefore served it upon all counsel of record.

By:/s/ Michael I. Leonard
Counsel for Ms. Mack

LEONARD TRIAL LAWYERS
Michael I. Leonard
120 North LaSalle, Suite 2000
Chicago, Illinois 60602
(312)380-6559 (phone)
(312)264-9671 (fax)
mleonard@leonardtriallawyers.com

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 15 CR 00578
)	
ROBERT RYAN JUSTIN BIBBS,)	Chicago, Illinois
)	June 2, 2017
Defendant.)	10:12 a.m.

TRANSCRIPT OF PROCEEDINGS - Sentencing hearing
BEFORE THE HONORABLE REBECCA R. PALLMEYER

APPEARANCES:

For the Plaintiff:	HON. JOHN R. LAUSCH, JR. United States Attorney BY: MR. BOLLING W. HAXALL Assistant United States Attorney 219 South Dearborn Street, Suite 500 Chicago, Illinois 60604 (312) 353-5300
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MS. CHRISTINE L. DUEY U.S. Department of Justice 1301 New York Avenue, NW, Suite 200 Washington, D.C. 20530 (202) 550-0153
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For the Defendant:	FOLEY AND FOLEY BY: MS. DONNA A. FOLEY 9644 South Hamilton Avenue Chicago, Illinois 60643 (773) 881-3800 dhfoleylaw@gmail.com
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ALSO PRESENT:	MS. DANIELLE STERN, United States Probation Office
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Court Reporter:	Judith A. Walsh, CSR, RDR, F/CRR Official Court Reporter 219 South Dearborn Street, Room 2118 Chicago, Illinois 60604 (312) 702-8865 judith_walsh@ilnd.uscourts.gov
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1 (Proceedings heard in open court:)

2 THE CLERK: 15 CR 578, United States versus Robert
3 Ryan Justin Bibbs for sentencing.

4 MR. HAXALL: Good morning, your Honor. Bolling
5 Haxall on behalf of the United States. And walking in will be
6 Christine Duey as well on behalf of the United States.

7 THE COURT: Good morning, Mr. Haxall.

8 MS. FOLEY: Good morning, your Honor. Donna Foley,
9 F-o-l-e-y, on behalf of Robert Bibbs who's present in court.

10 THE COURT: Good morning, Ms. Foley.

11 And good morning, Mr. Bibbs.

12 THE PROBATION OFFICER: Good morning, your Honor.
13 Danielle Stern on behalf of Probation.

14 THE COURT: Good morning.

15 We're here for sentencing. And I believe I've
16 reviewed everything that's been submitted. Let me just ask
17 and make sure that, Mr. Bibbs, you've seen the presentence
18 report. You've seen it?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: And you've had a chance to review it?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: All right. And I know that there are a
23 lot of other materials that are before me from the parties and
24 from a number of individuals who wrote letters on your behalf,
25 and we've also heard from -- with respect to the victims.

1 Will there be more victim testimony this morning?

2 MR. HAXALL: Your Honor, the government's expectation
3 is we are going to ask to present the testimony of two
4 witnesses. One is one of the primary case agents. He should
5 be about 15 minutes on direct. Then also one lay witness for
6 probably about five minutes on direct. And then there are two
7 family members and a close friend. So the victim's siblings
8 and a close friend would like to present statements to the
9 Court as well.

10 THE COURT: That's fine. All right. Why don't we
11 begin with those statements.

12 And then just so you're clear, I would expect that
13 I'll hear a statement from the government about what sentence
14 you believe is appropriate, and I'll certainly hear from
15 Ms. Foley.

16 And, Mr. Bibbs, you also are entitled to make a
17 statement before sentence is imposed.

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: But we can have a seat right now while we
20 hear from the witnesses. Mr. Haxall?

21 MR. HAXALL: And, Judge, I do have a binder for the
22 Court of the exhibits.

23 THE COURT: Thank you.

24 MR. HAXALL: Your Honor, the government calls Special
25 Agent Michael Vahidtari.

1 THE COURT: Sir, can I ask you to step forward,
2 please?

3 MR. HAXALL: And, Judge, as is customary, I expect
4 FBI Special Agent Laura Richardson will be asking to sit at
5 counsel table. I don't believe there's an objection.

6 THE COURT: Can I ask you to raise your right hand?
7 (Witness sworn.)

8 THE WITNESS: Yes.

9 THE COURT: You may be seated.

10 MR. HAXALL: May I proceed?

11 THE COURT: You may proceed, Mr. Haxall.

12 MICHAEL VAHIDTARI, GOVERNMENT'S WITNESS, SWORN

13 DIRECT EXAMINATION

14 BY MR. HAXALL:

15 Q. Sir, could you please state your full name and spell your
16 last name for the record?

17 A. Michael Vahidtari, V-a-h-i-d-t-a-r-i.

18 Q. Sir, how are you currently employed?

19 A. As a special agent with the FBI.

20 Q. How long have you been with the FBI?

21 A. Since 2010.

22 Q. And what is your current assignment within the FBI?

23 A. I work counterterrorism investigations.

24 Q. Prior to joining a counterterrorism squad, what was your
25 assignment?

1 A. Violent crimes.

2 Q. And what kinds of cases did you investigate?

3 A. Bank robberies, fugitives, kidnappings, murder-for-hires,
4 extortion, and in this case, international murder.

5 Q. Were you one of the case agents in the investigation that
6 led to the charges in this case?

7 A. Yes.

8 Q. Approximately when were you first assigned to the
9 investigation?

10 A. In August 2014.

11 Q. In general terms, what were you initially told about the
12 case?

13 A. I was told that there was a murder of a U.S. citizen in
14 Bali, Indonesia, and that the subjects were two U.S. citizens
15 and that all three individuals were from the Chicagoland area.

16 Q. Were you provided the identity of the victim in the case?

17 A. Yes.

18 Q. And what was that?

19 A. Sheila Von Wiese Mack.

20 MR. HAXALL: Sir -- Judge, I'd ask if the monitor
21 before the witness could be activated if it's not already. I
22 have it on my monitor out here.

23 THE COURT: Oh, it's not. Hold on. I thought it
24 was. Mine is -- and the --

25 MR. HAXALL: It says it's searching for HDMI. Mine

1 was on before.

2 THE COURT: Is it up now?

3 MR. HAXALL: No, now it's --

4 THE COURT: I've clicked it a couple of times. It
5 keeps going out.

6 MR. HAXALL: Mine is back up. Judge, if you have
7 yours --

8 THE WITNESS: It is up.

9 THE COURT: All right.

10 MR. HAXALL: Thank you.

11 THE COURT: Sure.

12 BY MR. HAXALL:

13 Q. Sir, did you have the opportunity to meet with family
14 members of Sheila prior to coming to court this morning?

15 A. Yes.

16 Q. And did they provide you a recent photograph of Sheila and
17 the siblings?

18 A. Yes.

19 Q. Is this a true and -- true and accurate copy of that
20 photograph on the screen in front of you?

21 A. Yes, it is.

22 MR. HAXALL: Your Honor, the government would ask
23 leave to admit Government Exhibit SVW Photo into evidence.

24 MS. FOLEY: No objection.

25 THE COURT: It will be admitted.

1 (Government Exhibit SVW Photo received in evidence.)

2 BY MR. HAXALL:

3 Q. And calling your attention, Agent Vahidtari, to the
4 photograph of the three individuals in the picture, which one
5 is the victim in this case?

6 A. The one on the far left.

7 Q. Now, were you also provided information that Indonesian
8 law enforcement had made arrests in this case?

9 A. Yes.

10 Q. And who was it that had been arrested?

11 A. Tommy Schaefer and Heather Mack.

12 Q. Could you please just generally describe the FBI's
13 investigative activities between your assignment to the case
14 in approximately mid-October of 2014?

15 A. So the FBI was charged with collecting evidence, reviewing
16 information provided by the Indonesians, search warrants,
17 several interviews.

18 Q. And in mid-October of 2014, what steps did you take in
19 furtherance of the investigation?

20 A. Then I went to Bali, Indonesia.

21 Q. And while in Indonesia, in general terms, what were you
22 doing?

23 A. Gathering more evidence, coordinating with Indonesian
24 national police, discussing the case, collecting photographs,
25 just furthering the investigation.

1 Q. And did Indonesian authorities provide you copies of
2 photographs they had taken?

3 A. Yes.

4 Q. Calling your attention to the tabs in front of you,
5 Government Exhibit Photos 1, 2, and 3, are those true and
6 accurate copies of photographs provided to FBI agents by
7 Indonesian law enforcement?

8 A. Yes.

9 MR. HAXALL: Your Honor, the government seeks to
10 admit those photos. I'm not asking to publish them quite yet,
11 however.

12 THE COURT: They will be admitted.

13 (Government Exhibits Photos 1, 2, and 3 received in
14 evidence.)

15 BY MR. HAXALL:

16 Q. Now, while you were in Indonesia, did law enforcement
17 there make any requests of the FBI?

18 A. Yes.

19 Q. What was the nature of their request?

20 A. They asked us to try to extract information or data from
21 telephones that were recovered from the subjects, Tommy and
22 Heather.

23 Q. And what did FBI do in response to that request?

24 A. We flew out a subject matter expert who was then able to
25 analyze the telephones.

1 Q. And did you receive a copy of the texts retrieved from
2 Mr. Schaefer's phones?

3 A. Yes.

4 Q. Calling your attention to Government Exhibit TS Texts, are
5 those true and accurate copies of a report, a forensic report
6 generated from the review of Mr. Schaefer's phone?

7 A. Yes.

8 Q. Now, in reviewing those records, did they inform the FBI
9 that the defendant was involved in this case?

10 A. Yes.

11 Q. Prior to getting to Indonesia, was the FBI aware of his
12 involvement?

13 A. No.

14 Q. You were the affiant in the criminal complaint; is that
15 correct?

16 A. Yes.

17 Q. Does that criminal complaint truly and accurately set
18 forth many of the text messages that are contained in the
19 exhibit we just talked about?

20 A. Yes.

21 MR. HAXALL: Your Honor, I'd ask the Court take
22 judicial notice of the complaint.

23 THE COURT: Any objection?

24 The Court will take judicial notice.

25 BY MR. HAXALL:

1 Q. Now, in reviewing those messages, other than Ms. Mack, who
2 was the last person Mr. Schaefer communicated with prior to
3 the murder?

4 A. The defendant.

5 Q. In 2016, did you make a return trip to Indonesia?

6 A. Yes.

7 Q. Why was that?

8 A. The Indonesians had finished their investigation. Both
9 Tommy and Heather had been sentenced. And we went to retrieve
10 evidence, to interview witnesses, and to further conduct our
11 investigation.

12 Q. And did Indonesian law enforcement subsequently provide
13 the FBI with evidence relevant to the prosecution of the
14 defendant?

15 A. Yes.

16 Q. Sir, I'd like to call your attention to the gallery in
17 front. Do you see the item labeled Government Exhibit
18 Suitcase?

19 A. Yes.

20 Q. What is that?

21 A. That is the suitcase that the victim was placed inside.

22 Q. Okay. So ultimately, the victim's body was placed inside
23 Government Exhibit Suitcase; is that correct?

24 A. Yes.

25 Q. Did you have the opportunity to speak to the forensic

1 pathologist in Indonesia when you went there the second time?

2 A. Yes.

3 Q. And according to the autopsy, approximately how tall was
4 Sheila?

5 A. Approximately 5, 6; 5, 7.

6 Q. Sir, calling your attention --

7 MR. HAXALL: I'll ask -- Judge, if it's okay, I'll
8 bring it up and place it up there.

9 BY MR. HAXALL:

10 Q. I call your attention to Government Exhibit Fruit Stand.
11 Are you familiar with that item?

12 A. Yes.

13 Q. What is that?

14 A. That's the murder weapon.

15 Q. And how is it that you know that's the murder weapon?

16 A. Tommy admitted as much. Both Tommy and Heather stated it.
17 We have photos of Tommy taking that to the victim's
18 residence -- or to the victim's room, and a piece of the fruit
19 stand was actually found in the suitcase with the victim.

20 MR. HAXALL: Your Honor, at this time the
21 government's first going to ask leave to publish Government
22 Exhibit Photo. And just for the gallery, I know this is going
23 to be one of the first photos taken from the autopsy.

24 THE COURT: Any objection?

25 MS. FOLEY: No objection.

1 BY MR. HAXALL:

2 Q. Agent Vahidtari, calling your attention to Government
3 Exhibit Photo 1, what is that a photograph of?

4 A. That is a photo of the victim stuffed inside the suitcase.

5 Q. Now, returning back to the murder weapon, you indicated
6 that you knew it was the murder weapon, as you just explained.
7 And were there -- was there a photograph on Mr. Schaefer's
8 phone of him holding that weapon?

9 A. Yes.

10 MR. HAXALL: Your Honor, the government seeks leave
11 to admit and publish Government Exhibit TS Photo.

12 MS. FOLEY: No objection.

13 THE COURT: That will be admitted.

14 (Government Exhibit TS Photo received in evidence.)

15 BY MR. HAXALL:

16 Q. And is that, in your -- based on your investigation, a
17 photograph of the same item that's sitting on the bench at
18 this time?

19 A. Yes.

20 MR. HAXALL: Your Honor, at this time the government
21 is going to ask leave to publish Government Exhibit Photo 2
22 which again is an autopsy photo.

23 MS. FOLEY: No objection.

24 BY MR. HAXALL:

25 Q. Special Agent Vahidtari, calling your attention to what's

1 depicted in Photo 2, specifically the bruising and injuries to
2 Sheila's left arm, did you ask the pathologist about those
3 injuries?

4 A. Yes.

5 Q. What did the pathologist tell you?

6 A. The pathologist stated that those were defense wounds from
7 the victim trying to shield herself from the attack.

8 MR. HAXALL: The government seeks leave to publish
9 Photo 3, your Honor, which again is one more autopsy
10 photograph.

11 MS. FOLEY: No objection.

12 BY MR. HAXALL:

13 Q. Sir, calling your attention to Photo 3, what is depicted
14 in this?

15 A. That is a picture of the victim and the wounds that she
16 sustained from the beating.

17 Q. Now, did you ask the pathologist whether or not the fruit
18 stand that's on the bench, the injuries the victim sustained
19 were consistent with being repeatedly struck by that item?

20 A. Yes.

21 Q. What was his response?

22 A. He said that that was consistent.

23 Q. Based on your conversations with the pathologist and your
24 review of his autopsy report, what was the cause of Sheila's
25 death?

1 A. She died through asphyxiation, or she -- suffocation,
2 basically.

3 Q. And that was a result of the injuries she received?

4 A. Yes, sir, as a result of the beating.

5 Q. And are you aware that an additional autopsy was completed
6 in the United States subsequent to the Indonesian autopsy?

7 A. Yes.

8 Q. Were the results of the U.S. autopsy consistent with those
9 of the Indonesian?

10 A. Yes, they were.

11 Q. Agent Vahidtari, are you aware that Mr. Schaefer and
12 Ms. Mack claimed that the murder was the result of a dispute
13 after informing Sheila that Heather was pregnant?

14 A. Yes.

15 Q. Now, did you in the course of your investigation see any
16 evidence to refute that claim?

17 A. Yes.

18 Q. And where did you get that information from?

19 A. From emails recovered.

20 Q. From who?

21 A. From Sheila.

22 Q. Okay. So is it fair to say the FBI received a search
23 warrant for the victim's email account and recovered emails?

24 A. Yes.

25 Q. Calling your attention to Government Exhibit SVW Emails,

1 are those copies of two emails identified subsequent to that
2 search warrant?

3 A. Yes.

4 Q. Calling your attention --

5 MR. HAXALL: Judge, the government seeks leave to
6 admit Government Exhibit SVW Emails.

7 MS. FOLEY: No objection.

8 THE COURT: Those will be admitted.

9 (Government Exhibit SVW Emails received in evidence.)

10 BY MR. HAXALL:

11 Q. Agent Vahiditari, calling your attention to the first
12 one -- and I know much of it is redacted -- can you read the
13 one sentence in the text that is not?

14 A. Yes. It's, "Discovered that she is pregnant once again."

15 Q. And who was that email from?

16 A. From Sheila Von Wiese.

17 Q. And what was the date of that email?

18 A. Wednesday, July 30th, 2014.

19 Q. So approximately two weeks before Sheila was murdered?

20 A. Yes.

21 Q. Calling your attention to the second page, moving kind of
22 ahead to the third-to-last sentence starting with, "She told
23 me," can you read that, please?

24 A. "She told me that she is eight weeks pregnant, the third
25 time in her young life, and I have no way of knowing if this

1 is true or not. Her stomach is a bit big, though, we may --
2 which may be a real telling sign."

3 Q. And who was that email from?

4 A. From Sheila.

5 Q. And what is the date on that email?

6 A. August 6th, 2014.

7 Q. So again, still several days before the murder in this
8 case; is that correct?

9 A. Yes.

10 Q. Now, you indicated before that the last person to
11 communicate with Mr. Schaefer other than Ms. Mack was the
12 defendant; is that correct?

13 A. Yes.

14 Q. Calling your attention to the screen in front of you, was
15 this the final message sent from the defendant to
16 Mr. Schaefer?

17 A. Yes, it is.

18 Q. And can you please read it?

19 A. "Done. It's go time. 100 emoticon."

20 Q. Now, after the murder, who was the first person other than
21 Ms. Mack that Mr. Schaefer reached out to?

22 A. The defendant.

23 Q. And did you have the opportunity to review the messages
24 between Mr. Schaefer and the defendant after the murder?

25 A. Yes.

1 Q. Calling your attention again to the screen in front of
2 you, is it fair to say that the messages from Mr. Schaefer are
3 on the left-hand portion of the screen under "Schaefer," and
4 the defendant's statements are on the right hand under
5 "Bibbs"?

6 A. Yes.

7 Q. What was Mr. Schaefer's first statements to the defendant
8 following the murder?

9 A. "Lord, forgive me. Sweet Jesus. Our father."

10 Q. What was the defendant's response?

11 A. He put two emoticons and then, "Holy shit. What's good."

12 Q. And what was Mr. Schaefer's reply to that?

13 A. "Had to. B everywhere."

14 Q. Now, what does "B everywhere" mean to you based on your
15 investigation?

16 A. Blood.

17 Q. What was Mr. Schaefer's next statement?

18 A. "Need yo help, bro. I'm Gucci but for some reason, I
19 don't feel bad."

20 Q. What does "I'm Gucci" mean to you?

21 A. It means "I'm good."

22 Q. And after Mr. Schaefer said, "For some reason, I don't
23 feel bad," what was the defendant's response?

24 A. "She wasn't a good person. There wasn't any positive
25 energy released from her body."

1 Q. Now, moving ahead, what was Mr. -- what was the
2 defendant's next statement to Mr. Schaefer?

3 A. "John Wall got cut from the USA team. Emoticon, sad. I
4 guess I'm overlooked again."

5 Q. About how long after the previous message about "she was
6 not a good person" was this message sent by the defendant?

7 A. Within minutes.

8 Q. Do you know who John Wall is?

9 A. Yes.

10 Q. Who is he?

11 A. He's a basketball player.

12 Q. And did the government later find the article to which
13 this is a reference?

14 A. Yes.

15 Q. Your Honor, the government -- well, actually, I call your
16 attention to Government Exhibit GE Wall. Is that an article
17 referring to John Wall, the NBA player, being cut from the
18 U.S. national men's basketball team?

19 A. Yes.

20 Q. And based on your review of this message, is this the
21 reference the defendant was talking about?

22 A. Yes.

23 Q. So is it fair to say that within a few minutes of learning
24 that his cousin had murdered Sheila, the defendant was talking
25 hoops?

1 A. Yes.

2 Q. And did that conversation continue?

3 A. Yes, it did.

4 Q. What did Mr. Schaefer respond?

5 A. "Too Hollywood. LOL," or laugh out loud. And "G,"
6 referencing Mr. Bibbs, "why don't I feel bad. I don't cuz at
7 all. LMAO," laughing my ass off. "Sorry, ass, he too
8 Hollywood."

9 Q. So is it fair to say that Mr. Schaefer was again
10 discussing the men's basketball team and in the middle again
11 referenced that he doesn't feel bad about Sheila's murder?

12 A. Yes.

13 Q. And what was the defendant's response?

14 A. "Is he better than D Rose, Steph Curry, Kyrie Irving, or
15 Damian Lillard?" Those are all basketball players.

16 Q. So again, he continues talking hoops?

17 A. Correct. "Nah, he just athletic."

18 Q. And then did the two continue talking about the men's
19 basketball team?

20 A. Yes, just more references to basketball talk.

21 Q. Agent Vahiditari, in December of 2014, did you attempt to
22 interview the defendant?

23 A. Yes.

24 Q. Where did you go to do so?

25 A. At his residence.

1 Q. And in general terms, can you describe the house?

2 A. Yes. It was a multiunit residence on the south side of
3 Chicago.

4 Q. And upon arriving at the defendant's home, who did you
5 first meet with?

6 A. Jocelyn Stultz.

7 Q. And is that S-t-u-l-t-z?

8 A. Yes.

9 Q. Did Ms. Stultz indicate her relationship to the defendant?

10 A. Yes. They were friends or...

11 Q. Now, was the defendant present at that time?

12 A. No.

13 Q. How did he come to be present?

14 A. While we were speaking with Ms. Stultz, we asked that she
15 call the defendant. She then called him, said that he was at
16 the store and on his way back.

17 Q. Okay. So the FBI asked Ms. Stultz to have the defendant
18 come home for the interview; is that fair to say?

19 A. Fair.

20 Q. Did Mr. Bibbs then arrive?

21 A. Yes.

22 Q. Did you conduct an interview of him?

23 A. Yes, we did.

24 Q. Who was present for that interview?

25 A. So at the residence was Ms. Stultz, and then Mr. Bibbs

1 came back with another individual. We then, myself and
2 Special Agent Sean Burke, took Mr. Bibbs to a side room to
3 conduct the interview away from both Mrs. Stultz and the other
4 individual that Mr. Bibbs was with.

5 Q. The person you interviewed in December of 2014, do you see
6 him present in court?

7 A. Yes.

8 Q. Can you please point to that person and describe an
9 article of clothing that person is wearing?

10 A. Yeah, he's sitting to my right. He's wearing the orange
11 jumpsuit --

12 MS. FOLEY: Your Honor, we'll stipulate the agent has
13 identified Mr. Bibbs.

14 THE COURT: So noted.

15 BY MR. HAXALL:

16 Q. Now, when you first began the interview of Mr. Bibbs, what
17 did he say his involvement was in this case?

18 A. He said he had no involvement.

19 Q. Did you confront Mr. Bibbs with some of the messages we've
20 talked about here and some of the other evidence you developed
21 in the investigation?

22 A. Yes.

23 Q. What happened then?

24 A. He then admitted that he had sent those text messages and
25 that he had communicated with Tommy Schaefer.

1 Q. About how long did that interview last?

2 A. We were at the residence for approximately three hours.

3 Q. And of that, certainly the whole time wasn't the
4 interview; is that correct?

5 A. No, it was not, correct.

6 Q. Now, how did the defendant describe his relationship with
7 Mr. Schaefer?

8 A. They were close. They were cousins, family.

9 Q. Did the defendant indicate whether or not he had ever met
10 Sheila?

11 A. He had not met Sheila.

12 Q. In fact, is it true that during the first part of the
13 interview, he denied even knowing her name?

14 A. Correct.

15 Q. During your interview, did the defendant express that he
16 was angry or appear upset to you?

17 A. No. He was very respectful, polite.

18 Q. When you went to conduct the interview, did you also have
19 a search warrant for the defendant's phone?

20 A. Yes.

21 Q. And were you able to retrieve messages from that phone?

22 A. Eventually, yes, we were.

23 Q. Calling your attention to Government Exhibit RB Texts 1
24 and then RB Texts 2, are those true and accurate copies of
25 text messages recovered from the defendant's telephone by the

1 FBI?

2 A. Yes.

3 MR. HAXALL: The government seeks leave to admit
4 those two exhibits, your Honor, Government Exhibit RB Texts 1
5 and Government Exhibit RB Texts 2.

6 MS. FOLEY: No objection.

7 THE COURT: Those will be admitted.

8 (Government Exhibits RB Texts 1 and 2 received in
9 evidence.)

10 BY MR. HAXALL:

11 Q. So Agent Vahiditari, I'm going to put the first one up in
12 front of you from June 28th of 2014. And just to clarify,
13 there's a date and time. Is that when the message was sent or
14 received?

15 A. Yes.

16 Q. And the green arrow on the far left, what does that mean?

17 A. That means outgoing from Mr. Bibbs' phone.

18 Q. And you and I have talked about this before today; is that
19 correct?

20 A. Yes, we have.

21 Q. And we've blocked out the number, redacted it. But whose
22 telephone number was the defendant communicating with?

23 A. Jocelyn Stultz.

24 Q. So green arrow means it was sent from the defendant's
25 phone; is that correct?

1 A. Correct.

2 Q. And what is this --

3 THE COURT: I'm sorry. He was -- what -- who was he
4 communicating with?

5 THE WITNESS: Jocelyn Stultz.

6 THE COURT: Stultz. Okay. I'm sorry.

7 BY MR. HAXALL:

8 Q. And the green arrow, so this message was sent from the
9 defendant's phone to Ms. Stultz's phone?

10 A. Correct.

11 Q. And what does this message say?

12 A. "You got fired?"

13 Q. And did Ms. Stultz reply that she had indeed been fired
14 from her -- from her nanny position?

15 A. Yes.

16 Q. And the red arrow indicates that it's from Ms. Stultz's
17 phone to the defendant's phone?

18 A. Correct, incoming to Mr. Bibbs' phone.

19 Q. So this is June 28th, 2014; is that correct?

20 A. Yes.

21 Q. And what was the defendant's response to that?

22 A. "Let's rob they ass and mail the keys."

23 Q. What does that mean to you?

24 A. He wanted to rob them and then send them the keys in the
25 mail.

1 Q. Meaning Ms. Stultz's former employer; is that correct?

2 A. Yes.

3 Q. Did the defendant continue to discuss this idea?

4 A. Yes.

5 Q. What did the defendant say at 9:23?

6 A. "They got a lot of nice stuff?"

7 Q. And another message?

8 A. "I want jewelry and electronics."

9 Q. Continuing on.

10 A. "Gold and diamonds. Please don't back out. Or you can do
11 it yourself so they can't say they saw a big black guy."

12 Q. So all these messages were the defendant sending messages
13 to Ms. Stultz about burglarizing her former employer; is that
14 correct?

15 A. Yes.

16 Q. Now, moving ahead to 9:33, what did the defendant say?

17 A. "We just need a couple thousand. It's an easy stain."

18 Q. What is a stain?

19 A. A good job, the burglary.

20 Q. Now, did Ms. Stultz send a reply back to the defendant?

21 A. Yes.

22 Q. And in general terms, she indicated being upset about
23 being fired; is that right?

24 A. Yes.

25 Q. What was the defendant's response to that?

1 A. "Fuck them."

2 Q. So that was at 9:47. So continuing on later that morning,
3 what did the defendant send to Ms. Stultz?

4 A. "And I really want to stain them, but only if you allow
5 it."

6 Q. And moving ahead about an hour later.

7 A. "Oh, babe, I'm excited. I never hit a stain before."

8 Q. So again, still talking about the burglary?

9 A. Correct.

10 Q. And now Ms. Stultz indicated that she'd be the first
11 suspect; is that fair to say?

12 A. Yes.

13 Q. And what was the defendant's response?

14 A. "You forget they rich. They got some valuable shit. What
15 if we get like 10,000."

16 Q. And then the defendant continued.

17 A. Yes. "Let's fuck some shit up. They know you have a key,
18 so if everything is still clean and untouched, that points at
19 you. Make it look like forced entry."

20 Q. So what's the defendant indicating here?

21 A. That he wanted to mess the house up so bad, Ms. Stultz
22 would not be the first subject, and so it would look like a
23 random robbery.

24 Q. Now, at the conclusion of the interview, obviously, agents
25 left the defendant's house; is that correct?

1 A. Yes.

2 Q. Can you please describe what you heard and what happened
3 after you left?

4 A. Yes. So I was recording the interview. And so myself,
5 Special Agent Sean Burke, and we actually had a TFO with us
6 who was going to extract the phone and --

7 Q. A TFO is --

8 A. Sorry. A task force officer, another member of law
9 enforcement. The three of us left the residence. I stayed in
10 the foyer of the building to turn off the microphone while the
11 other two individuals left the actual unit, the whole
12 residency.

13 Q. So you're outside of Mr. -- the defendant's apartment, but
14 you're still within the building?

15 A. Correct, yes, sir. And the other two were completely
16 outside the building.

17 I then heard yelling from Ms. Stultz saying, "Don't
18 touch me. Get your hands off of me."

19 Mr. Bibbs said, "I would never let anybody in your
20 house," more screaming, loud voices.

21 I then got the attention of the two other law
22 enforcement that were outside. The three of us then started
23 to proceed up the stairs towards the specific unit. As we
24 were doing that, the door came open -- well, first, heard a
25 loud noise on the ground.

1 Q. What did it sound like to you?

2 A. It sounded like somebody hitting the ground.

3 Q. What happened next?

4 A. More screaming, saw the door open as we were walking up
5 the stairs and then saw Mr. Bibbs dragging Ms. Stultz out of
6 the unit.

7 Q. When you say "dragging," was she standing up, or was she
8 on the ground?

9 A. No, she was on the ground. He was dragging her.

10 Q. How was he dragging her?

11 A. So from her back, so pulling her. He was pulling her.
12 While he stood behind her, she was on the ground, and he was
13 pulling her.

14 Q. What happened when the defendant saw you?

15 A. He let his hands up, said, "I was helping her up," same,
16 you know, very composed. Stood up, said, "Hey, I was just
17 helping her up." He backed away from her. We then cleared
18 the unit again to make sure nobody else was there.

19 Q. Hold on one second. So what was -- how did Ms. Stultz
20 appear to you at that point?

21 A. She was very shaken up, very emotional.

22 MS. FOLEY: Objection to the characterization.

23 THE COURT: Overruled. You may describe her -- how
24 she appeared physically.

25 THE WITNESS: Yes. She appeared distressed.

1 BY MR. HAXALL:

2 Q. And were you able to clear the scene at that point?

3 A. Yes, cleared the scene, separated them, and told
4 Ms. Stultz to get her belongings, that she was no longer
5 allowed to stay.

6 Q. So you removed her -- you asked her to leave the
7 residence?

8 A. Yes.

9 MR. HAXALL: No additional questions, your Honor.

10 THE COURT: Cross-examination, Ms. Foley?

11 MS. FOLEY: Just briefly, your Honor.

12 CROSS-EXAMINATION

13 BY MS. FOLEY:

14 Q. Agent, you indicated that law enforcement wasn't even
15 aware of Mr. Bibbs' presence in this matter until the October
16 trip to Bali; is that correct?

17 A. Yes, ma'am.

18 Q. And, in fact, you weren't aware of Mr. Bibbs' presence in
19 this matter until you had an opportunity to examine the cell
20 phone of Tommy Schaefer; is that correct?

21 A. While we were meeting with Indonesian law enforcement,
22 they kept on asking us who Ryan was. They kept using the term
23 "Ryan." Ryan had not come on our radar at that point.
24 That's -- whenever they said that they had the texts, they
25 were able to recover some of them but not all of them.

1 We then did some research on who this Ryan could have
2 been, a close associate of Tommy, and we were able to find
3 Mr. Bibbs' Facebook page. However, we weren't -- we didn't
4 know the involvement of it until we were able to actually
5 examine the phone and analyze it.

6 Q. Thank you. Now, you've spoken a lot about or testified a
7 lot about the series of text messages with Ms. Stultz with
8 regard to a discussion of a burglary, correct?

9 A. Yes, ma'am.

10 Q. However, you have no evidence that it ever moved beyond
11 words; is that correct?

12 A. That's correct.

13 Q. And you've indicated that at the time that you went to
14 Mr. Bibbs' residence and you encountered Ms. Stultz there. Is
15 that correct?

16 A. Yes.

17 Q. And Ms. Stultz did not live at that residence; is that
18 correct?

19 A. No.

20 Q. Now, you described hearing yelling after you had left, but
21 I assume you're still in the building; is that correct?

22 A. Yes, ma'am.

23 Q. Okay. And you heard yelling from Ms. Stultz?

24 A. Ms. Stultz and Mr. Bibbs.

25 Q. And Mr. Bibbs?

1 A. Yes.

2 Q. And you've never reported, though, what Mr. Bibbs was
3 saying, have you?

4 A. Mr. Bibbs said, "I would never let anybody in your house."

5 MS. FOLEY: Okay. All right. I have nothing
6 further.

7 Thank you, your Honor.

8 MR. HAXALL: No redirect, your Honor.

9 THE COURT: The witness may step down.

10 (Witness excused.)

11 MS. DUEY: Good morning, your Honor. The
12 government's next witness is Jocelyn Stultz.

13 THE COURT: Ms. Stultz, can I ask you to step
14 forward, please? Would you raise your right hand?

15 (Witness sworn.)

16 THE WITNESS: Yes.

17 THE COURT: You may be seated.

18 You may proceed, counsel.

19 JOCELYN STULTZ, GOVERNMENT'S WITNESS, SWORN

20 DIRECT EXAMINATION

21 BY MS. DUEY:

22 Q. Good morning, ma'am. Can you please state your full name
23 for the record?

24 A. Jocelyn Stultz.

25 Q. Can you please spell your last name?

1 A. S-t-u-l-t-z.

2 Q. How old are you, ma'am?

3 A. 25.

4 THE COURT: I'm sorry?

5 THE WITNESS: 25.

6 BY MS. DUEY:

7 Q. I'd like to ask you a series of questions about your
8 relationship with the defendant, Ryan Bibbs. Can you please
9 explain to the Court when you first met the defendant?

10 A. In real life or through phone?

11 Q. Sure. You can -- when was your first contact with the
12 defendant?

13 A. I believe it was June of 2012, '13.

14 Q. Approximately how long did you date the defendant?

15 A. A year and a half.

16 Q. And during that time, was it a dating, romantic
17 relationship that you had with the defendant?

18 A. Sure, yeah.

19 Q. And during that time, were you employed?

20 A. Uh-huh, yes.

21 Q. What was your job?

22 A. Nanny.

23 Q. And was the defendant employed?

24 A. No.

25 Q. How -- did you provide support for the defendant during

1 the time of your relationship?

2 A. Yes.

3 Q. What type of support did you provide the defendant?

4 A. Financial.

5 Q. In what way?

6 A. By giving him money.

7 Q. Did you pay certain bills, provide him with clothing, that
8 type of thing?

9 A. Yeah.

10 Q. Did there come a time during your relationship that you
11 lost your job as a nanny?

12 A. No.

13 Q. Were you ever fired by a family for -- did a family ever
14 let you go from being their nanny?

15 I might have used the wrong term, "fired." Were you
16 a nanny for a family that at one point decided that they
17 didn't need your services any longer?

18 A. Yeah.

19 Q. Approximately what timeframe was that?

20 A. That was in the summer of 2014.

21 Q. Okay. And did you -- and that was during the relationship
22 that you had with the defendant, correct?

23 A. Yeah.

24 Q. And did you tell the defendant about what had happened --

25 A. Yeah.

1 Q. -- with that family?

2 Were you sad about what had happened?

3 A. Yes.

4 Q. And how did the defendant respond when you told him that
5 the family had let you go?

6 A. That we should rob them.

7 Q. And did he give you some specific ideas about what he
8 wanted to have you take from the house?

9 A. Yeah.

10 Q. And was he -- did he tell you things, specific items like
11 gold and jewelry and money that --

12 MS. FOLEY: Your Honor, I'm going to object to the
13 leading.

14 THE COURT: Sustained as to form.

15 BY MS. DUEY:

16 Q. Well, could you tell us some of the things that he asked
17 you to take from the house?

18 A. Electronics, I think, jewelry, I think, yeah.

19 Q. How -- what was your response when he told you these
20 things?

21 A. My exact response?

22 Q. You don't have to give us your exact words, but did you
23 have text exchanges with him --

24 A. Yeah.

25 Q. -- about this?

1 A. Uh-huh.

2 Q. Were you concerned about being a suspect --

3 A. Yeah.

4 Q. -- in the event that that happened?

5 A. Uh-huh.

6 Q. Did he continue to ask you to perform the burglary?

7 A. Yeah.

8 Q. After these texts that you exchanged with him, did you
9 also talk about the burglary sort of the next time that you
10 saw him?

11 MS. FOLEY: Your Honor, again I'm going to object to
12 the leading.

13 THE COURT: Sustained.

14 BY MS. DUEY:

15 Q. Did you -- well, can you tell the judge whether or not you
16 had any conversations other than the text conversations about
17 the burglary?

18 A. Well, first off, it was not -- I was not serious. I
19 didn't think he was serious. So the next time that I saw him,
20 he asked me, he said, "So you -- you weren't serious about
21 that, were you?"

22 And I told him, "No."

23 Q. And, in fact, you never did --

24 A. No.

25 Q. -- that burglary?

1 So in the summer of 2014, had you been dating the
2 defendant for about a year?

3 A. Yeah.

4 Q. And I'd like to direct your attention to sort of the July,
5 early August timeframe --

6 A. Uh-huh.

7 Q. -- of 2014.

8 Can you explain to us a conversation that you had
9 with the defendant about Tommy Schaefer going to Indonesia?

10 A. Yeah. Ryan told me that Tommy was going to Indonesia to
11 kill the girl's mother.

12 Q. And when you say "the girl's," do you mean Heather?

13 A. Yeah.

14 Q. Heather Mack?

15 And what specifically did he say about that?

16 A. He said that she was evil. That was his justification.

17 Q. And when you say "she," you mean --

18 A. The mother.

19 Q. -- the victim.

20 A. Yeah.

21 Q. Did you get in an argument --

22 A. Yeah.

23 Q. -- with the defendant about that?

24 A. Uh-huh.

25 Q. Can you tell us about that argument?

1 A. I told him that you can't kill someone because you think
2 they're evil. And he basically told me to shut up.

3 Q. And this was before Tommy Schaefer had traveled to
4 Indonesia; is that correct?

5 A. Yeah.

6 Q. Did you have a conversation with the defendant after Tommy
7 had already traveled to Indonesia?

8 A. Uh-huh.

9 THE COURT: That's a yes?

10 MS. DUEY: Can you --

11 THE WITNESS: Yes.

12 BY MS. DUEY:

13 Q. Can you tell us about that conversation?

14 A. The morning after it happened, he texted me that Tommy
15 was -- I don't remember the exact text but that --

16 MS. FOLEY: Your Honor, I'm going to object at this
17 point. The witness has said she doesn't remember.

18 BY MS. DUEY:

19 Q. It's okay if you don't remember the exact words in the
20 text.

21 A. Uh-huh.

22 Q. But can you tell us generally speaking what the
23 conversation was about that you had with the defendant?

24 A. Basically, that Tommy had been involved in the murder and
25 he got caught. And he was worried that he was going to be in

1 trouble as well because of text messages between him and
2 Tommy. And I asked him what -- how would he be in trouble.
3 And he said because of the content of the text messages. And
4 I asked him what did he tell Tommy. And he didn't tell me,
5 but he was -- yeah.

6 Q. So he was concerned about some text messages that he, the
7 defendant, had sent to Tommy; is that correct?

8 A. Yes.

9 Q. Was he concerned about the fact that the victim had been
10 murdered?

11 A. No.

12 MS. FOLEY: Objection.

13 BY MS. DUEY:

14 Q. Did you observe any remorse?

15 A. No.

16 MS. FOLEY: Objection.

17 THE COURT: The objection to the previous question I
18 assume was leading, and that would be sustained. There's
19 another -- the next question, I'll allow. You may proceed.

20 BY MS. DUEY:

21 Q. I'd like now to shift your attention to the end of 2014,
22 the December 2014 timeframe.

23 A. Uh-huh.

24 Q. Can you tell us when it was that your relationship with
25 the defendant ended?

1 A. Around that day basically. I saw him a couple of times
2 after that, but that was basically the end of it after that
3 night.

4 Q. And when you say "that night," what night are you
5 referring to?

6 A. The day that the agents came to his place.

7 Q. Can you explain to the judge what happened after the
8 agents left the apartment that day?

9 A. He was really upset. And he was telling me that it's my
10 fault if he gets in trouble. And I didn't understand why it
11 would be my fault, and I was -- and I was trying to talk to
12 him about it, but he was really upset. And we started
13 fighting and he -- yeah, so we started fighting and he knocked
14 me to the ground.

15 And he was trying to drag me out of the house, out of
16 his apartment. And that is when -- when he dragged me to the
17 door, that's when the agents came back in.

18 Q. How did you get to the floor?

19 A. He knocked me down.

20 Q. Can you describe the -- to the best of your recollection,
21 the type of -- how did he touch you?

22 A. Violently, like he was upset, like -- yeah.

23 Q. Did he use any parts of his body to strike you?

24 A. His -- well, to push me down, yes, he used his hands.

25 Q. What about his legs?

1 A. When we -- when -- as soon as -- right before the agents
2 walked into the room, he -- he did something. I don't
3 remember. I remember them walking in and me holding my
4 stomach because I think he kicked me.

5 MS. FOLEY: Objection to "I think."

6 THE COURT: I assume this is the witness' perception.
7 Let's ask another question.

8 BY MS. DUEY:

9 Q. Where were you exactly when the agents entered the
10 apartment?

11 A. At the door on the floor.

12 Q. Is that when you were holding your stomach?

13 A. Yeah.

14 MS. DUEY: One moment, your Honor.

15 Your Honor, we don't have any further questions.

16 THE COURT: Cross-examination, Ms. Foley?

17 MS. FOLEY: If I may have a moment, your Honor.

18 THE COURT: Sure.

19 (Pause.)

20 CROSS-EXAMINATION

21 BY MS. FOLEY:

22 Q. Ms. Stultz, after this last incident that you just
23 testified to, did you ever go to the police to report a
24 battery?

25 A. No. They -- the agents --

1 Q. Just yes or no.

2 A. No.

3 MS. FOLEY: Thank you. Nothing further.

4 MS. DUEY: Nothing further, your Honor.

5 THE COURT: Ms. Stultz, you may step down.

6 (Witness excused.)

7 MR. HAXALL: Your Honor, as I indicated, the
8 government has three witnesses who would like to provide
9 statements to the Court.

10 THE COURT: All right.

11 MR. HAXALL: The first is Diane Ettleman.

12 MS. ETTLEMAN: Good morning, your Honor. I
13 appreciate the opportunity to review the impacts of my dear
14 friend's death. Sheila and I were friends for approximately
15 25 years. During that time, I found her warm, loving, kind,
16 intelligent, full of life and energy. She brought a bright,
17 shining spark to any room. Her smile and kindness were
18 heartwarming. She wasn't capable of harming anyone.

19 Some of my impacts surrounding her murder include, I
20 still shake and often tear up or cry when thinking, hearing,
21 or talking about her death. Every time the news displays some
22 recently discovered horror, I start shaking and crying.

23 Greeting people is often sad instead of joyous as we
24 shared many mutual friends and acquaintances. In addition to
25 our friendship and party attendance, Sheila and I served

1 together as church acolytes. She also regularly performed
2 usher and lay Eucharistic ministry duties. Vesting is no
3 longer the happy service preparation, congenial caring,
4 dousing the candles, remembering what we'd forgotten, loving
5 post-service chatter, and coffee hour pleasantries. It was
6 and remains tragically sad.

7 Walking into the sacristy is always sad. I'm often
8 stressed and must force happy thoughts. It's not just the
9 same anymore. We will no longer share communion and
10 altar pew, laughs, hopes, dreams, and so many wonderful
11 moments. Serving at the altar just isn't the same.

12 We took care of each other in quiet, loving ways.
13 We'd share a laugh at the service, at coffee hours, parties,
14 and special events. I miss our care and friendship that is
15 now irretrievably gone.

16 Our last conversation occurred in the sacristy
17 immediately before her trip. Whenever I enter to vest, I
18 remember her distress worrying about her daughter and not
19 knowing what to do. She was worried for her daughter's
20 future. I can almost hear the anguish in her voice or see the
21 strain on her face as she prepared for her trip and facing the
22 future knowing the situation. If anyone stands in the last
23 place I saw her, I think, "That's the last place Sheila
24 stood," and I want them to move from the spot.

25 Her shocking death experience is as fresh as the day

1 it happened. Whenever we see someone with similar looks or
2 news splashes about Sheila, we all look at each other, and the
3 tears form. I smile through the service, but the sadness is
4 always present as I look for Sheila, and I know she's never
5 coming back.

6 Listening to classical music remains difficult as
7 does seeing beautiful art, glancing at literature, thinking
8 about attending a performance. I know how much my dear friend
9 enjoyed music, opera, plays, books, and art. Walking by her
10 final home always brings an emotional response. Not a day
11 passes when I don't miss my friend. Not a day passes when I
12 think about how else I could have protected her and know I
13 couldn't have done anything.

14 I regularly question and berate myself for not doing
15 something more but not knowing what more I could have done.
16 Now realizing it wasn't just her daughter plotting against
17 her, others were involved, breaks my heart.

18 I often arrange the columbarium flowers that rest
19 beneath her marker. I always tear up when I see her name and
20 remember her laugh and kindness. It's those gentle moments
21 like schoolgirls trying not to giggle during a solemn time I
22 miss so very much.

23 She is discussed by someone at every sermon and every
24 service and mentioned during most church activities. We all
25 become terribly sad. I can't even look at the vestings

1 closet's right side because that's where her alb, cassock, and
2 surplice hung with her nametags. It remains heartbreaking to
3 know she's never returning and will never again review
4 procession changes, prepare the holy service, light or
5 extinguish candles, enjoy a party or performance, or share a
6 warm hug or conversation or anything.

7 It's part of life's experience in loved one's deaths.
8 It's quite another to experience this heinous act. When I
9 read the text messages from Mr. Bibbs to both Heather Mack and
10 Tommy Schaefer, I cry again and again thinking of them
11 treating her life as if she was only worth some money, lying
12 about her while playing a deadly texting game, planning a
13 brutal murder, and then stuffing her up like a discarded piece
14 of clothing, thinking of kind Sheila in her last moments
15 desperately fighting for her life is beyond stressful.

16 I watch her family and friends suffer through this
17 horror show. It is heartbreaking. They are all wonderful,
18 decent, hardworking, kind people. Sheila didn't deserve any
19 of this and neither did they.

20 Mr. Bibbs had many chances to tell his cousin not to
21 go forward, to contact authorities, tell his family, tell
22 Heather that murder wasn't the correct solution, to somehow
23 intervene and stop the tragedy. Instead, he directed a
24 horrible act of violence against someone unknown to him. He
25 helped murder someone who wouldn't hurt anyone and often

1 helped many.

2 He plotted and provided murderous pathways for their
3 actions and escape. He knew Tommy Schaefer traveled to Bali
4 to participate in murder. He encouraged and orchestrated
5 their behavior during the murder as if he was giving
6 directions to the beach. He could have nodded to humanity and
7 simply stopped the ultimate horror. He could have texted,
8 "No, don't do it."

9 Our words are prayers, and our words are magic.
10 Mr. Bibbs' words were prayers of destruction and bad magic
11 that negatively impacted so many and directed the violent
12 death of one so dear. Instead of healing and earning his own
13 way in life and helping others, Mr. Bibbs chose direct -- to
14 direct and joke about taking that which wasn't his: Someone
15 else's life and their money. He plunged us all into a
16 nightmare and a seemingly never-ending spectacle.

17 Shortly, Mr. Bibbs will face a hell on earth of his
18 own creation. Judge, I don't envy your decision. Perhaps
19 Mr. Bibbs is sorry for his actions. Life gives us
20 opportunities to make choices. His choice was devoid of any
21 concern for human life. Regardless of your decision about his
22 sentence length, I thank you for ensuring that the rest of us
23 are safe from people who do such despicable acts for as long
24 as humanly possible. Thank you.

25 THE COURT: Thank you.

1 MR. HAXALL: Your Honor, Sheila's brother and sister
2 are both here. They'd like to approach together.

3 THE COURT: That's fine.

4 MR. HAXALL: Thank you.

5 MS. CURRAN: Good morning, your Honor. My name is
6 Debbie Curran, and I'm Sheila's younger sister. I did not
7 just lose my beloved sister Sheila to a horrific murder, but I
8 lost my very best friend. We're two years apart, and my first
9 memories of life are when I was in kindergarten, age five.

10 Sheila was always there for me. We were almost
11 inseparable and had a bond that was unbreakable. We shared
12 secret talks, shopping trips, trips to the beach, walks in the
13 neighborhood, late-night movies, hugs and tears. My life was
14 so threaded together with Sheila's life from the time I was
15 age five through August 12th, 2014, when Sheila's life from --
16 when Sheila was brutally murdered, beaten to her death, her
17 beautiful face and head bludgeoned and her half-naked bloody
18 body stuffed into a suitcase.

19 She was only 62 years old, the age I am now, and her
20 life was senselessly ended in the most horrific way possible.
21 Sheila and I are 5, foot 7 and about the same weight. I can't
22 look at a suitcase without thinking of my beautiful sister's
23 half-naked body somehow stuffed into a suitcase, for God's
24 sakes. I still travel, which I love to do, but a suitcase
25 will forever create those horrific images in my mind, and it's

1 impossible to erase those images.

2 I have lost many loved ones. On May 11th, 1995, I
3 lost my beloved mother, Lois Wiese, when she was only 64 years
4 old to Lou Gehrig's disease. On August 6th, 2006, I lost my
5 beloved brother-in-law, James Mack, when he was 77 years old
6 to a pulmonary aneurysm. On February 27, 2008, I lost my
7 beloved husband, Bill Curran, when he was only 58 years old to
8 a heart attack. On January 8th, 2009, I lost my
9 beloved father, Norton Wiese, when he was 86 years old when he
10 died peacefully in his sleep.

11 All of these deaths of my loved ones were very
12 difficult for me, but these deaths were due to illness and
13 age, and somehow that made these deaths something I could come
14 to terms with and accept, but nothing in my wildest dreams
15 could have ever prepared me for the phone call I received on
16 Wednesday, August 13th, 2014, on my way to work.

17 I work at a father/son law firm in St. Louis. My
18 hours are 8:00 to 5:00. It was about 7:45 in the morning when
19 I received a call on my cell phone, and the area code was 312,
20 which I knew was a Chicago area code, but not in my contacts
21 so as always in that situation, I didn't answer the phone.

22 The person did leave a voice message, so I listened
23 to it when I got to my parking garage. It was one of Sheila's
24 girlfriends, Merle, and she just said, "Hi, Debbie, it's Merle
25 from Chicago. Just call me back when you get a chance." I

1 thought nothing of it and I thought, "I'll call Merle on my
2 lunch hour" which is from noon to 1:00.

3 I knew Sheila and Heather were in Bali because Sheila
4 always gave me her itinerary for any trip she was going on.
5 At about 8:50, my cell phone, which I keep on my desk, rang
6 and it stated, "Paula and Jack" who live in Chicago and are
7 some of Sheila's closest friends and who became my friends
8 because Sheila knew them for 25-plus years. And every time I
9 came to Chicago to visit, Sheila would invite her friends to
10 these get-togethers.

11 The second I saw "Paula and Jack" on my phone, I knew
12 in my heart something was terribly wrong. I answered saying,
13 "Paula, what's wrong?"

14 Paula said, "Debbie, are you sitting down?"

15 I said, "Paula, I'm at work and sitting down at my
16 desk. What is wrong, Paula?" I could feel my whole body
17 tense up. I just knew in my heart something terrible had
18 happened in Bali.

19 Paula said, "Debbie, Sheila was murdered in Bali, and
20 her body was stuffed into a suitcase. And they've arrested
21 Heather and Tommy for the murder."

22 I said, "Paula, no. No, this can't have happened.
23 Tommy was not on the trip. Oh, my God, no. This couldn't
24 have happened." I was crying and my body was shaking.

25 And Paula said, "Are you at your computer?"

1 And I said, "Yeah."

2 And Paula said, "Google 'Chicago woman murdered in
3 Bali.'" And I Googled it, and there was the picture of the
4 bloodied silver heart suitcase and the article that went with
5 it.

6 I was crying and shaking. And I told Paula, "I have
7 to hang up." I read the article, and it already stated in the
8 article that Heather and her boyfriend Tommy were arrested in
9 a hotel about six miles away from the St. Regis where Sheila
10 and Heather were staying. The article stated that Heather and
11 Tommy told the police that an armed gang came into the
12 St. Regis and killed Heather's mother, and Heather and Tommy
13 were able to escape. The article said Heather and Tommy had
14 been charged with the murder.

15 I got up from my desk crying and shaking. My one
16 boss was in his office with the door closed with a potential
17 client, and my other boss was not in the office yet. I
18 somehow opened my office door to the hallway to walk to the
19 ladies room, and I felt like I was going to faint. And I was
20 praying to God to give me the strength to walk the short
21 distance, which seemed like a mile, to the ladies room.

22 I made it to a stall and got sick. My heart was
23 pounding, and I was shaking and crying for I don't know how
24 long. Even though I was praying to God, "Please, please,
25 please don't let this be true," I knew in my heart the article

1 I read on my computer with the picture of the bloodied
2 suitcase was true and that my beautiful sister and best
3 friend, Sheila, had been brutally murdered by her own daughter
4 Heather and Tommy Schaefer. And after they horrifically
5 bludgeoned her to death, they stuffed her broken, half-naked
6 bloody body into a suitcase. A suitcase, for God's sakes.

7 This will haunt me for the rest of my life. How
8 could any human being do that to another human being,
9 especially your own mother who gave birth to you. I didn't
10 find out until much later that defendant Bibbs was involved in
11 this brutal premeditated murder of my sister Sheila. This
12 ripped me apart again, and I realized that defendant Bibbs was
13 as demented as the other two, Heather and Tommy.

14 Bibbs told Schaefer in a text, "Go sit on her face
15 with a pillow, then suffocate the victim."

16 After Schaefer texted to Bibbs, "Blood everywhere,
17 need your help, bro; I'm Gucci, but for some reason I don't
18 feel bad," Bibbs then texted to Schaefer, "She wasn't a good
19 person. There wasn't any positive energy released from her
20 body."

21 Then Bibbs and Schaefer exchanged text messages about
22 the U.S. men's basketball team. It was as if Sheila's life
23 meant nothing. Sheila had been deleted. My beautiful and
24 beloved sister Sheila so full of life, happiness, and love had
25 been brutally murdered and her half naked bloody body stuffed

1 into a suitcase. And the defendant Bibbs helped plan this
2 murder because he wanted a portion of Sheila's money.

3 I miss my Sheila so very much, and I think of her
4 every day. Ever since I received that telephone call on
5 Wednesday, August 13th, 2014, at 8:50 a.m. from Paula, when I
6 get up for work and get in the shower, when I'm rinsing the
7 shampoo out of my hair and my eyes are closed, I have the
8 image in my mind of my sweet sister Sheila's face and how much
9 she was beaten around her head and beautiful face.

10 On my lunch hour from noon to 1:00, I love to walk,
11 and many times I would talk to Sheila because she knew I was
12 free to talk during the day. Now on my lunch hour walks, I
13 look up at the beautiful sky and heaven and I talk to Sheila.
14 I ache for Sheila's voice. I ache to hold Sheila. I ache to
15 laugh with Sheila. I ache to cry with Sheila. I ache for my
16 beautiful, beloved sister Sheila.

17 I was with Sheila and Heather in Chicago two weeks
18 before they left for Bali. Rick and I had a wedding in
19 Chicago, and we stayed at Sheila's condo. We arrived Friday,
20 July 18th, 2014, at about 6:00 p.m. Since the wedding was
21 Saturday night, I took Sheila, Heather, and Rick out for a
22 lunch at Carmine's, one of Sheila's favorite restaurants. We
23 had a lovely lunch outside on the patio.

24 Sheila and Heather were talking about the wonderful
25 vacation to Bali they were planning to take in two weeks.

1 Heather seemed happy and acted totally normal and looking
2 forward to another exciting vacation with her mom. Little did
3 I know that the weekend of July 18th, 2014, would be the last
4 time I would see my beloved sister and best friend Sheila.
5 Little did I know that as we sat there eating our lunch on the
6 patio at Carmine's on July 19, 2014, that Heather, Tommy
7 Schaefer, and the man that sits in this very courtroom today,
8 defendant Robert Ryan Bibbs, had already for months planned,
9 plotted, and premeditated the murder of my beloved sister and
10 best friend Sheila to happen in Bali and that the defendant
11 helped plan this murder because he wanted a portion of
12 Sheila's money.

13 Thank you, your Honor.

14 THE COURT: Thank you.

15 MR. WIESE: Good morning your Honor, and I thank you
16 for allowing me to speak. My name is Bill Wiese, and I am
17 Sheila's younger brother. I want to thank the FBI and the
18 federal prosecutors for their diligent, unwavering search for
19 truth surrounding this ruthless, premeditated murder. I
20 thought we might never discover the real truth considering
21 Heather's history of lying and twisting facts and the lies
22 coming out of Bali after the murder. The incredible efforts
23 and talent of the FBI and federal prosecutors have allowed us
24 some semblance of peace in knowing what truly happened in Bali
25 and during the months leading up to the trip. At times, we

1 thought we would never learn the truth, so having that truth
2 does provide us with some semblance of peace.

3 With the intense press coverage that this case has
4 generated, the victim of the crime, our dear sister Sheila, is
5 too often forgotten. The defendant in this case exchanged
6 unthinkable text messages with Tommy and Heather about how to
7 murder Sheila, and once the murder was completed, they started
8 chatting about basketball as if the murder were a mere
9 footnote in history, like Sheila's murder was nothing more
10 than hitting the "delete" button on an email or text message.
11 A caring, loving, and incredible human being was brutally
12 murdered and taken from us. This was a real life, not some
13 character in a video game.

14 The other victims of this murder are Sheila's
15 granddaughter, Stella, as well as my sister Debbie and me.
16 Debbie and I have to live with Sheila's death every single
17 day. I am truly haunted by the text messages between the
18 defendant and Tommy where they justify their actions by
19 writing after the brutal murder that Sheila had no positive
20 energy. That statement could be not -- could not be further
21 from the truth. Sheila was filled with positive energy,
22 incredible warmth, and love of life, and it is reflected in
23 every manner of her life. I will give a few examples.

24 Sheila was always very friendly, warm, and open to
25 everyone she met. She was quick to extend a hand and a hug.

1 Sheila opened her home to dinner parties, recitals, and other
2 gatherings for friends, family, and others. She genuinely
3 learned, enjoyed learning about their lives and conversing
4 about their ideas. She loved the arts and everything Chicago
5 had to offer. She lived in many cities throughout her life,
6 but Chicago felt like her real home. Sheila supported the
7 arts and struggling artists and invited them to perform at her
8 home to help make them contacts. Sheila enjoyed volunteering
9 at her church. She always offered a hand to friends and
10 others who were going through tough times.

11 Sheila so valued education and learning. She started
12 as a young girl reading books in our tree in the backyard, and
13 she never stopped her quest to learn more. She had many
14 graduate degrees but continued to take classes throughout her
15 adult life -- adult life to expand her mind and knowledge.
16 Some years, she dropped Heather off at school and then went to
17 the University of Chicago to listen to a great lecture.
18 Sheila loved learning for the sake of learning.

19 Sheila was a loving and wonderful mother and always
20 wanted the best for her daughter. Sheila tried her best to
21 impart the love of education and learning to Heather from a
22 young age and give her daughter unlimited love and support.
23 It wasn't easy, and she relied on Deb and me for support, but
24 she never, ever gave up on Heather and never gave up trying to
25 guide her in the right direction.

1 Sheila loved to have fun taking family vacations with
2 her husband and Heather, going on vacations with family, and
3 getting together with close friends. I have so many memories
4 of fun times with Sheila skiing at Keystone in Colorado and
5 enjoying the beach in Mexico. Those precious memories are
6 what helped me get through these dark times.

7 Sheila so loved her nieces and nephews and always
8 wanted to hear about them and their lives. I don't think she
9 ever missed sending them little presents for birthdays and
10 graduations. When we were cleaning her condo after she was
11 murdered, I was delighted to see the high school photos of all
12 her nieces and nephews on her refrigerator.

13 She cared deeply for her friends and family. She
14 purposefully placed pictures around her condo of everyone who
15 was special to her. She loved to surround herself with love
16 and happiness. Sheila always sent handwritten letters to me
17 and our kids. She preferred the more personal touch over
18 emails or text messages. She loved putting creative photo
19 books together and giving them to us as gifts. She could not
20 have been a more thoughtful sister or better aunt to our
21 children.

22 Sheila had such a wonderful and quick sense of humor.
23 I always like sharing this particular story about when she
24 worked in a big ad agency who had the Chrysler account when
25 Lee Iacocca was CEO. Sheila was working late one evening and

1 was waiting for the elevator. When it opened, Lee Iacocca
2 walked off, looked at Sheila and said, "I see the secretaries
3 are working late." Without missing a beat, Sheila said back
4 to him, "I see the mail boys are too." I so miss that sense
5 of humor that will always be missing from family gatherings.

6 There are many more examples of Sheila's incredible,
7 positive energy, warmth, and love of life. That text message
8 that I can never get out of my mind about "no positive energy"
9 couldn't be further from the truth and was just one more lie
10 in a parade of lies that led to the brutal murder of my
11 sister.

12 I deeply miss Sheila and think of her every day. Her
13 murder has left such a void in my life and the life of our
14 family members. Deb and I lost our mother in her 60s to ALS.
15 Our dad died when he was 86. When he died, Sheila, Deb, and I
16 talked about how we were the only ones left in our core
17 family. We became closer than we were before and were there
18 for each other unconditionally. To have Sheila taken from us
19 in this gruesome murder leaves such a huge void that can never
20 be repaired. Deb and I still have each other, but we were
21 robbed of Sheila who should still be with us. Sheila was my
22 big sister, always looking out for her little brother. She
23 always wanted the best for me. I only wish that I could have
24 protected her from this brutal murder. The defendant took
25 Sheila away from us, but he cannot take away my love for her

1 and my incredible memories of her.

2 Next week would be Sheila's 65th birthday. Sheila
3 would be planning a great get-together and invite everyone to
4 her home to commemorate another year of friendship. My sister
5 Debbie would have already arranged to take off work to come to
6 Chicago to spend a few extra days with Sheila. I, too, would
7 have been convinced by my sisters to fly out to all be
8 together. I would have looked at the weather forecast and
9 smiled because Debbie, Sheila, and I would be able to walk for
10 hours along the lakeshore as the warm Chicago sun shone upon
11 us. Our parents would be proud that we were continuing the
12 tradition of celebrating family. I only wish that were the
13 reason I was in Chicago today.

14 Thank you, your Honor.

15 MS. CURRAN: Thank you, your Honor.

16 MR. HAXALL: Your Honor, the government has no more
17 witnesses or evidence.

18 THE COURT: All right. Why don't we hear then from
19 the government what sentence you believe is appropriate, and
20 I'd like to hear from Ms. Foley and from Mr. Bibbs as well.

21 MR. HAXALL: Your Honor, just more as a housekeeping
22 matter, the government agrees with the guidelines calculations
23 set forth in the PSR.

24 THE COURT: I believe Ms. Foley's submission makes
25 the same -- reaches the same conclusion.

1 MS. FOLEY: That's correct.

2 MR. HAXALL: Again, a few of the more minor issues,
3 your Honor. As we indicated in our filing, based on our
4 communications with the family, we are not seeking restitution
5 in this case. We are seeking instead a fine of \$20,000 which
6 I believe is roughly what would -- the restitution would have
7 been if the defendant obviously receives a benefit of not
8 having to pay the restitution. Therefore, we think a fine is
9 appropriate.

10 We set forth in the sentencing memorandum the reason
11 for not seeking restitution. Most significantly, Sheila's
12 estate is still being litigated, and there is a potential that
13 Ms. Mack would actually receive those funds. And certainly,
14 we don't want the defendant paying restitution that will
15 trickle down to Ms. Mack.

16 Again, more as a housekeeping matter, your Honor, the
17 government suggested some very minor modifications to the
18 conditions of supervised release. I won't dwell on those
19 because obviously, the more significant issue is the sentence
20 the Court should impose.

21 It's the government's position that a sentence of
22 imprisonment of nine to 11 years is the appropriate sentence
23 in this case. I know Ms. Foley in her filing objected to the
24 consideration of not only the domestic situation but the --
25 but the text about the burglary, it's the government's

1 position that these are appropriate considerations as they
2 pertain to the defendant's history and characteristics that
3 the defendant was able to essentially put on an act for the
4 FBI agents for a couple of hours, hide that anger, and then
5 lash out violently at Ms. Stultz as soon as the agents left, I
6 think, is telling. The agents heard the screaming. They
7 heard a thud, and they observed the defendant dragging
8 Ms. Stultz out of the apartment. That certainly is a
9 consideration the Court should consider.

10 With respect to the residential burglary, the
11 defendant's response to her being fired is, "Let's burglarize
12 them." Now, again, Ms. Foley in her filing indicates that
13 this was just a joke, but considering the timing of these
14 messages in light of the subsequent involvement in the
15 murder -- this is approximately a month beforehand -- it's
16 hardly farfetched to think that the defendant would have
17 participated in a burglary considering a month later he was
18 participating in conversations about a murder. And he was
19 doing so really for one reason, and that was to get the
20 victim's estate. I've put on the screen really the
21 defendant's motivation throughout this. He thought he was
22 going to get rich.

23 The government's sentence, your Honor, is appropriate
24 concerning all the factors in this case. I know the defendant
25 asked the Court to really consider one comparison, and that's

1 Ms. Mack's sentence. That's really an apples to oranges, your
2 Honor. That was imposed by a foreign court. We don't know
3 the considerations that went into their sentence. We don't
4 know that the considerations are those that we share.

5 Just as an example, I know that there are many
6 countries, the Republic of Indonesia included, in which
7 narcotics offenses can result in the death penalty. If this
8 were a narcotics conspiracy and that was the punishment
9 imposed in another country, certainly the Court would not say,
10 well, therefore, we should impose a similar sentence here.
11 These are just not similar circumstances.

12 I think more useful is to look at the rules that
13 apply here. In the state of Illinois, first-degree murder
14 carries a sentence of 20 to 60 years and must be served at 100
15 percent. Even more appropriate is to look at the guidelines
16 as the Court is required to do. That's why we have them, to
17 provide these guideposts.

18 The Supreme Court reiterated this last year in the
19 *Molina-Martinez* case, 136 S.Ct. 1338, noting that the courts
20 must remain cognizant of the guidelines throughout the
21 sentencing process; that they are the framework for sentencing
22 and anchor the district court's discretion.

23 The defendant seeks to untether the Court's sentence
24 from the guidelines, but it's noteworthy that the guidelines
25 state, "In the case of premeditated killing, life imprisonment

1 is the appropriate sentence if a sentence of death is not
2 imposed." It's also noteworthy that the defendant's role in
3 this offense has already been accounted for with a three-level
4 decrease. But what's most striking in this case, your Honor,
5 is the defendant's minimization of his conduct and the
6 callousness he showed to this woman who you've now had a
7 chance to hear about, to put a face to the name of the victim,
8 to hear about who she really was.

9 When the defendant was first told that
10 Mr. Schaefer -- by Mr. Schaefer that Ms. Mack wanted to kill
11 her mother, his first response was to send a text that said,
12 "LOL," laugh out loud. When the defendant had conversations
13 with Ms. Stultz, he justified Sheila's murder. When
14 Mr. Schaefer was in Indonesia, the defendant again sent
15 messages in which he said, "Go sit on her face." She asked if
16 Sheila could swim, a reference to drowning her. After
17 learning that Sheila was brutally murdered with blood
18 everywhere, the defendant's response is, "She was not a good
19 person."

20 The defendant never once considered Sheila as a human
21 being, and his response to direct the conversation to
22 basketball is chilling. He just learned that his cousin,
23 somebody he referred to as akin to his brother, murdered a
24 woman, and all he cares about is the basketball team.

25 When he was arrested, he was interviewed, and the

1 agents asked him, "What would you do differently," his
2 response was not that, "I would save this woman's life," it
3 was, "I would ask to be kept out of it. I would tell
4 Mr. Schaefer not to do it," not to save Sheila but because
5 Mr. Schaefer got in trouble.

6 Even when he stood before you at the change of plea,
7 he started making excuses. "Well, I wasn't sure they were
8 serious." When your Honor reviews these text messages, this
9 was definitely serious, and he knew it. That's what he was
10 banking on so he could be rich.

11 His written statement to the Court provides some more
12 insight into this. His first concern is apologizing to the
13 Court for his -- for his dirty drops. For the first time, he
14 actually acknowledges the victim's family, but at no point
15 does he acknowledge Sheila. The defendant understands and has
16 admitted what he did was illegal, but it's unclear that he
17 realizes it was wrong.

18 The defendant's role in the offense was significant.
19 In his filing, he says the government overstates his
20 involvement, but that's not accurate. He complains that the
21 government said he hatched or he was part of the plot when it
22 was hatched. Now, what's clear is Ms. Mack wanted her mother
23 killed. There's no doubt about that. She asked Tommy to do
24 so. She asked the defendant to do so. But there was no
25 specific plan and no specific action until after the defendant

1 was involved.

2 The defendant discussed poisoning her. As the record
3 before the Court shows, Ms. Mack tried that. She just failed.
4 She tried to do what the defendant suggested. There's also
5 the communications with Mr. Schaefer upon learning that the
6 plot to poison Sheila failed.

7 Mr. Schaefer says, "You were right."

8 The defendant says, "I told you." He was deeply
9 involved in the conversations in which they discussed this
10 specific murder. Now, later, they went a different path.
11 There's no doubt about that. But he was absolutely involved
12 in hatching this specific plot, not the idea to kill Sheila,
13 but the plot to do so in Indonesia.

14 In his filing, the defendant also notes or claims
15 that there's no message from Schaefer asking the defendant
16 whether he should commit the murder or later whether he should
17 go through with it. First of all, there shouldn't have to be.
18 This is the defendant's younger cousin, the one who again the
19 defendant in his filing referred to akin to brothers.

20 If a person's brother is involved in a plot to murder
21 someone, you stop them. You tell them, don't do it. You
22 intervene. The defendant did none of that. The defendant's
23 aware that his, quote, brother is dating a woman who wants her
24 mom murdered. The defendant's response was not, "Get away
25 from her." It was, "Love that girl like a best friend, and

1 she will never leave." Why? Because he wanted to be rich.
2 This was his cousin's girlfriend's mother. This was going to
3 be the grandmother to his cousin's child, and all the
4 defendant cared about is that the murder go forward.

5 And second, it's simply untrue, Mr. Schaefer did ask
6 for his advice as he stood there immediately before the
7 murder. He said to the defendant, "What would you do?" The
8 defendant's response was, "If there's no cameras, okay."

9 He calls himself in his filing a pathetic
10 cheerleader. The defendant was not just standing on the
11 sidelines clapping. He was providing, in his own words,
12 advice, how to do it, planning it. Under his analogy, he
13 wasn't a cheerleader. He was their coach. He may not have
14 been on the court for the game-winning shot, but he was
15 telling them how to do it. He also gave them the "rah-rah"
16 locker room speech: "It's 'go' time." He was firing up his
17 cousin to go commit a murder.

18 That is what the Court is sentencing the defendant
19 for, not for just standing on the sideline. Time after time
20 after time after time, the defendant was faced with a choice.
21 He was armed with information that his cousin and his
22 girlfriend were going to commit a murder. The defendant could
23 have contacted law enforcement. That absolutely would have
24 saved Sheila's life.

25 If he didn't want to involve his cousin, he certainly

1 could say, "Hey, this woman Heather is offering me money to
2 kill the mother."

3 He could have discouraged them. "Hey, cousin, that's
4 crazy. You can't do this." He could have simply said
5 nothing. Whether or not that would have prevented the murder,
6 we'll never know, but we do know what he did, and that was to
7 add fuel to the fire, to give them ideas on carrying out the
8 murder, to defend it, to encourage it, to tell them it was
9 okay.

10 The Court also has the opportunity in this case to
11 provide general deterrence. This is a case that has really
12 captured some public attention, and the Court can say very
13 clearly that sending messages encouraging criminal behavior is
14 not acceptable, it's illegal, and you will be held
15 accountable.

16 Given the defendant's repeated violations of pretrial
17 release, the evidence of his other misconduct including the
18 domestic, and most importantly his role in the offense in the
19 brutal murder of Sheila, the prison sentence of nine to 11
20 years is the appropriate sentence in this case looking at the
21 guidelines, looking at his conduct.

22 The government's recommendation is significantly
23 lower than the guideline range that already counts for a
24 reduced role. It is the appropriate sentence in this case,
25 and we'd ask the Court to enter that order. Thank you.

1 THE COURT: Thank you, Mr. Haxall.

2 Ms. Foley?

3 MS. FOLEY: Thank you, your Honor. I would ask the
4 Court to rely on my memo, but I would like to mention a few
5 points.

6 THE COURT: Sure.

7 MS. FOLEY: Your Honor, Heather Mack wanted her
8 mother to die, and that is why we are all here today. And she
9 indicated this as early as, as far as we're aware, February of
10 2014. She kept this idea in her head, working on it, planning
11 it, not giving up on it through -- all the way through into
12 the summer of 2014.

13 Heather Mack was the instigator. Heather Mack
14 planned her -- on her mother dying. And as late as July of
15 2014, Tommy Schaefer is telling defendant that she really is
16 serious, she really wants to do this. And at the time that
17 Mr. Bibbs becomes a presence in this -- in this plot,
18 Mr. Bibbs is offered by Heather, "Do you know anybody who
19 would kill my mother for \$50,000?"

20 The defendant doesn't accept the offer. He doesn't
21 say, "I'll do it. \$50,000 is a lot more money than I've ever
22 had in my life." He doesn't offer to find someone to do it.
23 He knows that his cousin whom he is extremely close to,
24 they're almost like brothers, is bent on doing this, but he
25 doesn't go with his cousin to Bali.

1 The sad fact about this case is that whether or not
2 Robert Ryan Bibbs existed at all in this plot or not, that
3 Ms. Von Wiese would still have died. It's hard to
4 characterize exactly what Robert Bibbs did in this other than
5 to call it comfort or -- I can't call it moral support. It's
6 immoral support. But the sad fact is that Schaefer and Mack
7 were bent on doing this, and it would have happened.

8 The government has alluded to the fact that there are
9 text messages indicating that Mr. Bibbs expected to receive
10 money from this -- this act, but I would submit, your Honor,
11 that if you look at the text messages, it wasn't because
12 Mr. Bibbs thought, "If I participate in this, I will receive
13 something," but rather that, "I am family" to Tommy Schaefer,
14 and Tommy Schaefer is going to share with his family. And
15 that's really what the text messages show.

16 And the reason that I bring that up, Judge, is
17 because it does -- it's such a unique set of facts here. You
18 have an individual that you are about to sentence who has no
19 criminal history. I submit the government had to work really
20 hard to try to create the impression that he is a bad person,
21 that he would commit other offenses, but I ask you to keep
22 this in perspective because the -- let me put it this way.

23 In the last hour or so, there has been a lot of
24 emotion expressed in this courtroom. I heard a lot of pain
25 that will never heal from this family. It was more than

1 evident, and it's something that no family should have to go
2 through. But again, I ask your Honor to keep this in
3 perspective. The parties agreed that Mr. Bibbs' participation
4 in this, while more than minor, was less than minimal and --

5 THE COURT: Less than -- more than minimal, less than
6 minor.

7 MS. FOLEY: Oh, I'm sorry if I misstated it. Thank
8 you.

9 THE COURT: That's all right.

10 MS. FOLEY: That -- that means that Mr. Bibbs is
11 substantially less culpable than the other participants in the
12 offense. And I bring that to the point here that Heather Mack
13 received 10 years for what she did to her mother and the fact
14 that she made a murderer out of Tommy Schaefer. And to
15 sentence defendant to nine to 11 years is to put him at the
16 same level as Heather Mack -- who plotted this since the
17 beginning of 2014, kept it going, financed the murderer,
18 planned it out -- is simply not on that level.

19 I do take issue with one of the statements the
20 government said, that Mr. Bibbs suggested to Heather that she
21 use barbiturates and she tried and failed. At least that's my
22 understanding of what the government has said. And I don't
23 believe there's any evidence of that. He may have indicated
24 barbiturates, but it doesn't mean that he instructed Heather
25 Mack to use them or that Heather Mack actually did.

1 Your Honor, again, Mr. Bibbs is substantially less
2 culpable than the other two participants in this offense. I
3 would ask the Court to sentence him to something less than the
4 nine to 11 years that the government is requesting. Thank
5 you.

6 THE COURT: Thank you, Ms. Foley.

7 Mr. Bibbs, you are entitled to make a statement if
8 you'd like to do so before sentence is imposed.

9 THE DEFENDANT: I wrote something.

10 THE COURT: I'm sorry?

11 THE DEFENDANT: I wrote something.

12 THE COURT: Okay. Why don't you step up. If you
13 want to hand that to me, that's fine, or you can read it,
14 either one.

15 THE DEFENDANT: Before I read this, I would like to
16 reiterate on what Jocelyn was saying. When the cops left my
17 house, I never one time put my hand on her. I asked her to
18 leave multiple times, and she refused multiple times. And my
19 own friend that was there can tell you that because he was
20 sitting there right next to her.

21 She refused to leave. I asked her multiple times to
22 the point where I had to scream at her to leave, which she
23 didn't. So as she was sitting on my couch, I did grab her
24 hand and tried to pull her up, and she collapsed to the ground
25 on her own -- her own strength.

1 THE COURT: Why did you want her to leave, Mr. Bibbs?

2 THE DEFENDANT: One, because I was already, like,
3 tired of being around her because she kind of brought me --
4 she didn't make me happy. That has nothing to do with this.
5 But it just seems as though maybe she could have waited until
6 I got home to let them in. The way they came in, it was just
7 like they were blaming me for everything, like this is all my
8 fault.

9 I was wrong, again, but I just want to make it known
10 that not once did I kick her in her stomach. Not once did I
11 throw her to the ground or fighting under any right. It did
12 not happen. I picked her hand up. I tried to pull her off
13 the couch. And she literally collapsed to the ground as if
14 she was trying to make someone believe that we were fighting.

15 So as she was on the ground, I asked her again,
16 "Could you please leave?" I was loud, yes. I screamed at
17 her, "Could you please leave?" And she wouldn't. She
18 wouldn't even get off the ground. So yes, I did go to drag
19 her by her arm to the door so she could leave, which was
20 wrong. And I understand that I guess that counts as a
21 domestic, but I don't know why.

22 Again, she refused to leave. And as they came in the
23 door, I backed -- I backed off because I felt like I was wrong
24 for pulling her to the door as she was on the ground. That
25 was wrong of me, and that's not how I -- that's not anything

1 of how I live. I never put my hands on women or anything of
2 that nature. So I would just like to say that first.

3 And now I will read what I wrote.

4 THE COURT: All right. Thank you.

5 THE DEFENDANT: First and foremost, I would like to
6 express my deepest and sincerest apologies to the Von Wiese
7 and Mack families and to the friends of Ms. Von Wiese. I'm
8 also sorry to my family but most of all my mom and dad because
9 they raised me to be a better man than the situation shows me.

10 I accept full responsibility for my part, which is my
11 reason for taking this plea in the first place. No one should
12 have to lose their life at the hands of another. We as humans
13 have no right to play the role of God under any circumstances.

14 I've embarrassed myself along with everyone who knows
15 and loves me. I've always strived to be a model citizen in
16 life and have done so for the majority of my life. Regardless
17 of what has happened, I never wish ill intent on anyone
18 because I know what it's like to lose someone that's close to
19 you. All I can say of my actions is during the years of 2013
20 and '14, I was lost as a man. I was depressed. I was in a
21 state where I don't even drink, but I was drinking,
22 unfortunately.

23 I had suffered a number of significant problems, and
24 it made me not see clearly. Along with the fact I was fed
25 stories of Ms. Von Wiese, heard things she would say

1 personally over the phone to her daughter while Tommy would be
2 talking to her unfortunately, and it all compiled into a lapse
3 of judgment that I've regretted dearly since that day.

4 To this day, I don't recognize the person in those
5 messages. I refuse to try and assassinate the character that
6 Ms. Von Wiese is because I'm sure to her friends, she was a
7 great person, yet no mother and daughter should have such
8 deeply rooted issues to where she would plan for a significant
9 amount of time the murder of her own mom which I never
10 understood. There were many factors that clouded my judgment,
11 but that is no excuse.

12 Although this is a huge mistake, it's my first one
13 ever. And at the mercy of you, your Honor, and the Court, I
14 pray that you understand that this was just that on my behalf,
15 a mistake. We all have made mistakes to where we wish for
16 second chances because no one is perfect. This isn't how I
17 live my life. I don't do wrong behind closed doors. I wish
18 everyone well, to be treated fairly, and to be blessed; even
19 more so now that I recently found out that I might be the
20 father of a one-year-old daughter.

21 Despite those messages, I never expected them to do
22 something so horrific. Please understand that. I understand
23 that in the eyes of the law that I'm wrong and deserve to be
24 punished, but no extended amount of time could make me feel
25 any worse for this terrible incident. Everyone who knows me

1 knows I mean well and knows that this isn't me. I hope my
2 background and my compliance proves just that.

3 And the fact that my cousin was dragged into the
4 situation which unfortunately made me feel like I had to do
5 something because they were so bent on doing this, it made me
6 feel obligated to -- yes, I could have called the cops or made
7 it seem like he shouldn't have been involved, but regardless,
8 he was in it because of -- mostly because she was pregnant
9 with his child.

10 And she, Ms. Von Wiese, expressed on numerous
11 occasions over the phone that she didn't want him to have
12 her -- she didn't want her to have his baby. And I don't want
13 to repeat things I've heard personally because that's not
14 right, and I don't -- I'm not a racist person. I don't
15 condone racism. But it drove a very unfair mental state upon
16 me that I had to hear those type of things from a woman being
17 that her -- I'm sorry, being that her husband was black. It
18 really rubbed me in a very, very wrong way. And again, I'm
19 wrong but -- thank you. That's all.

20 THE COURT: Thank you, Mr. Bibbs.

21 I want to thank everyone who came forward today to
22 make statements and present information that's relevant to the
23 Court's consideration in imposing a sentence on this very
24 troubling set of circumstances. Those of you who aren't in
25 federal court regularly may not know that we rarely face

1 violent crime. It's much more often things like drug deals
2 and fraud and public corruption. We judges don't need to look
3 at photographs of bloody bodies very often, and it's a
4 chilling and disturbing scene.

5 The pain that this episode causes in the lives of not
6 only Ms. Mack's brother and sister but so many others whose
7 lives she touched, it's no secret to me. I received this
8 material, and I have reviewed it carefully.

9 At first blush, it's hard to picture such a serious
10 offense for some -- such a serious sentence as being requested
11 for somebody like Mr. Bibbs who, as he and his lawyer notes,
12 was not the -- not the wielder of the murder weapon, wasn't
13 even present at the time. There is substantial evidence that
14 Ms. Mack's daughter plotted to kill her and intended to kill
15 her for months before it happened. It may even be fair to say
16 that it would have happened regardless of Mr. Bibbs, but I
17 don't know that that's the case and, in fact, there's at least
18 a basis to conclude otherwise.

19 It was Mr. Schaefer who was involved directly, and
20 that's Mr. Bibbs' brother, brother at least in his mind,
21 cousin officially. Mr. Schaefer communicated with Mr. Bibbs.
22 He was the last person with whom Schaefer communicated before
23 the murder was carried out. Mr. Bibbs was well aware of the
24 intentions of Mr. Schaefer and Heather Mack. Heather Mack
25 had, in fact, solicited Mr. Bibbs and perhaps others, I don't

1 know, to carry out this murder, and it was very clear this was
2 her intention. It was very clear it was Mr. Schaefer's
3 intention.

4 Mr. Bibbs now tells us that his cousin was dragged
5 into the situation. I don't find that particularly
6 compelling. It's one thing to be dragged into, you know,
7 going for dinner after work or being dragged into a long
8 conversation with somebody that you don't want to be involved
9 in, but nobody gets dragged into a murder.

10 The human impulse is not to take a life. The human
11 impulse is not to take a life. The human impulse is to reach
12 out even to strangers who are in danger and save them as we
13 see that over and over. And Mr. Schaefer wasn't dragged into
14 this. He participated, so far as I can tell, willingly and
15 actually solicited advice and assistance. He wanted advice,
16 and Mr. Bibbs was available to provide it. Mr. Bibbs made
17 suggestions.

18 And Mr. Bibbs' central concern, at least after the
19 murder, putting aside the references to basketball, putting
20 that apparent callous response aside, was that if it were
21 supposed to happen that he hoped his cousin would do it in a
22 clean way and would do it in a way in which he wouldn't be
23 detected. In other words, Mr. Mack had concern for another.
24 He was concerned about his cousin. He was concerned about
25 whether his cousin would be charged and whether the evidence

1 would support a charge against the cousin. He even made
2 references to security cameras to that end.

3 We've heard some evidence today about this episode
4 involving Ms. Stultz that occurred, I think, some -- at some
5 point after the murder. Is that right? And Mr. Bibbs has
6 acknowledged to me today that he was angry with Ms. Stultz
7 because she had allowed law enforcement to enter his
8 apartment, and he felt she should have done that somehow
9 differently or things should have been different.

10 He said a moment ago that that counts as a domestic
11 but he doesn't know why. Of course, it counts as a domestic,
12 you put your hands on a woman, you put your hands on a woman
13 and she's -- and she falls to the ground. That's not the
14 conduct -- that's not the conduct of a loving adult male, and
15 it's wrong to do that.

16 The fact that Ms. Von Wiese had what Mr. Bibbs refers
17 to as deeply rooted issues between herself and her daughter
18 is -- the fact that she, according to Mr. Bibbs, apparently
19 had what he characterizes as racist attitudes, if any of those
20 things are true, is simply irrelevant to the concern that one
21 does not take another life. One does not take another life.

22 The statement that Ms. Von Wiese wasn't a good person
23 and didn't have good energy, Mr. Bibbs -- I'm sorry, Ms. Von
24 Wiese's brother has told us that nothing could be further from
25 the truth. And the communications we got from people who love

1 Ms. Von Wiese confirm that, but it doesn't make any
2 difference. Whether she had good energy, bad energy, a good
3 person, a bad person, it's not right to take a life.

4 To advocate that the murderer suffocate -- the
5 murderer suffocate the victim, to suggest that they should do
6 it smart somehow, the references to potentially recovering a
7 share of the victim's money, all of it is -- it's chilling.
8 It's -- it's horrifying that someone who had every opportunity
9 to step in, prevent, maybe prevent a violent murder, in fact,
10 did nothing of the kind.

11 And when he learned from the cousin, when Mr. Bibbs
12 learned from the cousin that the deed was done, he didn't so
13 much as say, "Are you sure? Any chance she'll survive?" It
14 seemed there was a disappointment about the fact, about the
15 fact that a previous attempt had been a failure. No
16 suggestion at all that Mr. Bibbs believed that this was the
17 wrong thing to do.

18 Very often, people before me will refer to their
19 wrongdoing as a mistake. I understand the need to
20 characterize what one has done as a mistake, but a mistake, in
21 my mind, is leaving your keys in your car and locking it or
22 leaving the house without locking it. That's a mistake. A
23 mistake is not something like standing by, encouraging,
24 counseling, and advising a bloody, horrible, unjustified
25 murder. That's not a mistake. That is morally wrong and

1 legally wrong, and that's what we're here for today.

2 The parties have agreed that the total offense level
3 in this case is 37. They agree further that Mr. Bibbs, with
4 no criminal history, is at the criminal history category I.
5 And the guideline range here is 210 to 262 months. The
6 government recognizes 3553 factors and pursuant to those
7 factors has recommended to the Court that it impose a sentence
8 of nine to 11 years in custody.

9 I am fully aware that authorities other than the
10 United States have sentenced the person apparently most
11 responsible or at least significantly responsible to just 10
12 years in custody. I'm very aware of that. The obligation
13 imposed by sentencing to avoid sentencing disparities is
14 important to me, but I know that that obligation ordinarily
15 refers to analysis of one offense versus another offense, not
16 the analysis of two individuals involved in the same offense.

17 With all of the considerations before me including
18 not only the information that I heard today from the victim's
19 family members and others but also the many heartfelt letters
20 and communications I received from Mr. Bibbs' own family
21 members and friends, many of whom he's been an important force
22 for good for, I believe that the government's recommendation
23 is appropriate, and I will impose a sentence of nine years in
24 custody. I believe that's 108 months.

25 I need to talk with Mr. Bibbs about the conditions of

1 supervised release, and I will do that right now. As I
2 explained at the time of -- at the time of the plea,
3 Mr. Bibbs, after a period in custody, you will be placed on
4 supervised release. In this case, it will be for four years.

5 And the conditions of supervised release are that you
6 not commit another offense of any kind; that you not
7 unlawfully possess a controlled substance; that you cooperate
8 in the collection of a DNA sample if required by the law; and
9 that you refrain from any unlawful use of controlled
10 substances and submit to drug testing at the direction of the
11 probation officer. Those conditions are mandatory.

12 I'm going to talk now about the discretionary
13 conditions as well. We will direct that Mr. Bibbs provide
14 financial support to his dependents including this child that
15 he referred to a moment ago and make restitution in an amount
16 to be determined by the Court. The Court here declines to
17 impose restitution for the reasons that Mr. Haxall identified.
18 The possibility that Ms. Mack would somehow benefit from
19 Ms. Von Wiese's estate is completely unacceptable, but if that
20 is a possibility, I think it's appropriate that we not require
21 Mr. Bibbs to be a part of that.

22 We will direct that he work conscientiously at lawful
23 employment or pursue a course of study to equip him for
24 employment; that he refrain from any excessive use of alcohol;
25 refrain from possession of a weapon of any kind; and

1 participate in substance abuse testing and treatment if that's
2 appropriate at the direction of the probation officer.

3 Are there any objections to those conditions?

4 MS. FOLEY: No, your Honor.

5 MR. HAXALL: Your Honor, the government's only
6 suggestion was adding "knowingly" to condition 8, it's
7 currently not in there, and "ammunition" which is required by
8 statute. And also, I don't know if you're indicating
9 discretionary condition No. 6 would not be included. If it
10 is --

11 THE COURT: I am not imposing discretionary condition
12 6 which would ordinarily direct that Mr. Bibbs have no contact
13 with persons whom he knows to be engaged in criminal activity
14 because I don't know that there's any indication in the record
15 of this activity other than this very episode.

16 We will direct that Mr. Bibbs report to a probation
17 officer -- remain within the jurisdiction of supervision;
18 report to the probation officer; and permit the probation
19 officer to visit at any reasonable time, at home, work,
20 school, or community -- in a community service location; and
21 permit the confiscation of any contraband.

22 Any objection to those conditions?

23 MS. FOLEY: No, your Honor.

24 THE COURT: Mr. Bibbs will notify the probation
25 officer promptly within 72 hours of any change in his

1 residence or contact from law enforcement and shall
2 participate in a job skill training program at the direction
3 of the probation officer. If during any 60 days of his
4 supervision he is unemployed, we'll direct that he perform 20
5 hours of community service per week at the direction of the
6 probation office.

7 And the final condition that Mr. Bibbs not enter into
8 an agreement to act as an informant, I will not impose that
9 condition because I don't think it's necessary.

10 Are there any other matters that I haven't -- oh, I
11 did not discuss the matter of a fine. Mr. Bibbs' financial
12 circumstances are such that the Court will not impose a fine,
13 but there is a special assessment of \$100 to be paid
14 immediately.

15 Are there other matters that I haven't addressed?

16 THE PROBATION OFFICER: No, your Honor.

17 MR. HAXALL: Just briefly, your Honor, I don't
18 believe the Court indicated a cap to the community service. I
19 think we --

20 THE COURT: 20 hours per week.

21 MR. HAXALL: Up to a certain --

22 THE COURT: I'm sorry. You're right. Up to 200
23 hours.

24 MR. HAXALL: Thank you, your Honor.

25 THE COURT: Thank you.

1 MR. HAXALL: And there is an appellate waiver but --

2 THE COURT: There is an appellate waiver. That
3 means, Mr. Bibbs, that you've waived most of your appeal
4 rights, but what I'm going to do is point out that there's an
5 exception that you would have -- be able to argue on appeal
6 that you did not have the effective assistance of counsel in
7 your other -- in the end of your other appeal rights.

8 With that restriction, the Court will direct that --
9 will remind you that your notice of appeal would have to be
10 filed within 14 days. If you're unable to file a notice of
11 appeal, the court clerk would do that at your request.

12 Are there any other issues this morning?

13 MS. FOLEY: Your Honor, I would ask if the Court
14 would consider a recommendation for Mr. Bibbs to be able to
15 participate in drug and alcohol counseling at the BOP if they
16 find him so --

17 THE COURT: I will make that recommendation. I'll
18 recommend that Mr. Bibbs be placed in a facility where he can
19 have access to RDAP.

20 MS. FOLEY: And also if the Court would consider
21 recommending a facility close to the Chicago area, possibly
22 Oxford, so the family can visit.

23 THE COURT: I will make that recommendation as well.

24 MS. FOLEY: Thank you.

25 THE COURT: Anything further?

1 MR. HAXALL: I don't believe so.

2 THE COURT: Thank you. We're adjourned.

3 (Proceedings adjourned at 12:00 p.m.)

4 * * * * *

5 C E R T I F I C A T E

6 I, Judith A. Walsh, do hereby certify that the
7 foregoing is a complete, true, and accurate transcript of the
8 proceedings had in the above-entitled case before the
9 Honorable REBECCA R. PALLMEYER, one of the judges of said
10 court, at Chicago, Illinois, on June 2, 2017.

11

12 */s/ Judith A. Walsh, CSR, RDR, F/CRR* August 25, 2022

13 Official Court Reporter

14 United States District Court

15 Northern District of Illinois

16 Eastern Division

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