

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

United States of America,

No. 15-20522

Plaintiff,

Hon. Avern Cohn

v.

Count Four: Distribution of child
pornography, 18 U.S.C. § 2252A(a)(2)

MATTHEW DAVID KUPPE,

Defendant.

Maximum Penalty:
Not less than 5 years, and up to 20 years

Maximum Fine:
Not to exceed \$250,000

Mandatory Supervised Release:
Not less than 5 years, and up to life

Rule 11 Plea Agreement

Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, Defendant
MATTHEW DAVID KUPPE and the government agree as follows:

1. **Guilty Plea**

A. **Count of Conviction**

Defendant will enter a plea of guilty to Count Four of the Indictment, which
charges him with distribution of child pornography, in violation of 18 U.S.C. §

2252A(a)(2). In consideration for this guilty plea and for other consideration, Defendant and the government agree: (i) Defendant will recommend and seek a sentence of 10 years (120 months); and (ii) the government will recommend and seek a sentence of 10 years (120 months); and (iii) both parties reserve the right to withdraw from this plea agreement and this agreement is null and void if the Court imposes a sentence above or below 10 years (120 months).

B. Elements of Offense

The elements of Count Four, distribution of child pornography, are as follows:

1. Defendant knowingly distributed any child pornography, as defined in 18 U.S.C. § 2256(8); and
2. Defendant knew that the material was child pornography;
3. The child pornography was, using any means or facility of interstate or foreign commerce, shipped or transported in or affecting interstate or foreign commerce by any means, including by computer.

C. Factual Basis for Guilty Plea

The following facts are a sufficient and accurate basis for Defendant's guilty plea:

On August 5, 2015, Defendant posted nine photographs on a Russian photo-sharing website (Website A¹). The photographs depicted a five year-old boy (Minor Victim One, or MV-1) in the locker room of the Jewish Community Center in West Bloomfield, Michigan. In the photographs, MV-1 is completely naked.

On August 6, 2015, Defendant posted six photographs of a six year-old boy (Minor Victim Two, or MV-2) changing out of his clothes and underwear and into his pajamas. Defendant posted two pictures of a five year-old boy (Minor Victim Three, or MV-3). In the photographs of MV-2, the boy is completely nude from the waist down. In one of the photographs of MV-3, the child is urinating into a toilet.

In addition to posting the photographs of MV-1, MV-2 and MV-3 on Website A, Defendant sent the images over email to other internet users.

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3. Sentence

The Court will impose a sentence pursuant to 18 U.S.C. § 3553, and in doing so must consider the sentencing guideline range. In addition, pursuant to this plea agreement between the government and Defendant, the parties have agreed that the sentence of imprisonment in this case may not be less than or exceed 10 years (120 months), or this agreement is null and void and the government is not bound by any promises contained herein.

A. Imprisonment

Except as provided in the next sentence, pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C), the sentence of imprisonment in this case may not exceed the top of the sentencing guideline range as determined by Paragraph 2B. However, the Court must impose a sentence of imprisonment on Count Four of at least 5 years and not more than 20 years. In addition, pursuant to this plea agreement, the parties

have agreed that the sentence of imprisonment in this case may not be less than or exceed 10 years (120 months), or this agreement is null and void and the government is not bound by any promises contained herein.

B. Supervised Release

A term of supervised release follows the term of imprisonment. The Court must impose a term of supervised release, which in this case is 5 years to life. The agreement concerning imprisonment described above in Paragraph 3A does not apply to any term of imprisonment that result from any later revocation of supervised release.

C. Special Assessment

Pursuant to the Justice for Victims of Trafficking Act of 2015, Defendant will pay a special assessment of \$5,000.00. *See* 18 U.S.C. § 3014. However, if the Court finds that Defendant is indigent, he will not be ordered to pay this amount.

D. Fine

There is no agreement as to fines.

E. Restitution

Minor Victim One, Minor Victim Two, and Minor Victim Three are entitled to restitution for the “full amount of [their] losses” under 18 U.S.C. § 2259. There is no agreement concerning the amount of restitution. The Court shall determine the amount of restitution that Defendant must pay to the victims.

4. SORNA/Adam Walsh Act

Defendant understands that by pleading guilty in this case, he will be required to register as a sex offender, under both federal and state registration requirements. As a condition of his release from prison on supervised release in this case, Defendant will be obligated to promptly register under the federal sex offender registry. Defendant may also be required to register under the law of the state in which he resides, as well as any state where he has significant contacts (including any state where he resides, works, attends school or otherwise has significant contacts). Defendant further understands that he will be required to maintain and update his registration for at least twenty years, and potentially for the rest of his life.

5. Other Charges

If the Court accepts this agreement, the government will dismiss all remaining charges in this case. The government will not bring any additional charges based upon the evidence currently in its possession.

6. Each Party's Right to Withdraw from This Agreement

The government may withdraw from this agreement if the Court finds the correct guideline range to be different than is determined by Paragraph 2B.

Defendant may withdraw from this agreement, and may withdraw his guilty plea, if the Court decides to impose a sentence higher than the maximum allowed

by Paragraph 3. This is the only reason for which Defendant may withdraw from this agreement. The Court shall advise Defendant that if he does not withdraw his guilty plea under this circumstance, the Court may impose a sentence greater than the maximum allowed by Paragraph 3.

7. Appeal Waiver

Defendant waives any right he may have to appeal his conviction on any grounds. Defendant's guideline range is the statutory maximum. As a result, Defendant also waives any right he may have to appeal his sentence on any grounds. Nothing in this waiver bars a claim of ineffective assistance of counsel on appeal or by collateral relief under 28 U.S.C. § 2255.

8. Consequences of Withdrawal of Guilty Plea or Vacation of Conviction

If Defendant is allowed to withdraw his guilty plea or if any conviction entered pursuant to this agreement is vacated, the Court shall, on the government's request, reinstate any charges that were dismissed as part of this agreement. If additional charges are filed against Defendant within six months after the date the order vacating Defendant's conviction or allowing him to withdraw his guilty plea becomes final, which charges relate directly or indirectly to the conduct underlying the guilty plea or to any conduct reflected in the attached worksheets, Defendant waives his right to challenge the additional charges on the ground that they were not

filed in a timely manner, including any claim that they were filed after the limitations period expired.

9. Parties to Plea Agreement

Unless otherwise indicated, this agreement does not bind any government agency except the United States Attorney's Office for the Eastern District of Michigan.

10. Scope of Plea Agreement

This agreement, which includes all documents that it explicitly incorporates, is the complete agreement between the parties. This agreement supersedes all other promises, representations, understandings and agreements between the parties concerning the subject matter of this plea agreement that were made at any time before the guilty plea is entered in court. Thus, no oral or written promises made by the government to Defendant or to the attorney for Defendant at any time before Defendant pleads guilty are binding except to the extent they have been explicitly incorporated into this agreement.

Notwithstanding the previous paragraph, if Defendant has entered into a proffer agreement in writing or a cooperation agreement in writing with the government, this plea agreement does not supersede or abrogate the terms of any such prior written agreement.


11. Acceptance of Agreement by Defendant

This plea offer expires unless it has been received, fully signed, in the Office of the United States Attorney by 5:00 P.M. on July 12, 2016. The government reserves the right to modify or revoke this offer at any time before Defendant pleads guilty.

Barbara L. McQuade
United States Attorney



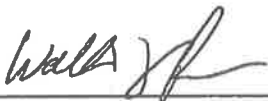
Mark Chutkow
Criminal Chief



Sara D. Woodward
Assistant United States Attorney

Date: 07/12/16

By signing below, Defendant acknowledges that he has read (or been read) this entire document, understands it, and agrees to its terms. He also acknowledges that he is satisfied with his attorney's advice and representation. Defendant agrees that he has had a full and complete opportunity to confer with his lawyer, and has had all of his questions answered by his lawyer.



Walter J. Piszczatowski
Attorney for Defendant

8/4/16

Date



Matthew David Kuppe
Defendant

8/4/16

Date