

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Criminal No. 16-CR-00013(RHK)

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	GOVERNMENT’S POSITION
)	ON SENTENCING
v.)	
)	
ANTON ALEXANDER MARTYNNENKO,)	
)	
Defendant.)	

I. INTRODUCTION

Anton Alexander Martynenko is a “hands-on” sexual predator who tenaciously pursued a years’ long, elaborate scheme to use social media to obtain child pornography from adolescent boys. Martynenko persisted in that scheme even after learning that law enforcement was investigating him. He victimized more than 155 boys. He is the single-largest producer of child pornography ever prosecuted in this District. Martynenko also used social media to advertise and distribute the child pornography he obtained. His stated purpose was to humiliate and embarrass his victims. He also sought to extort sexual relations with his victims. A sentence of 480 months’ imprisonment is fair and just. Most importantly, it is commensurate with Martynenko’s crimes.

II. ARGUMENT AND CITATION OF AUTHORITIES

A. Calculating The Applicable Guidelines Range And Determining The Appropriate Sentence

The Government agrees that the probation officer correctly calculated the Guidelines range in the Presentence Report (“PSR”). Specifically, she calculated a total

offense level of 42, with a criminal history category of I, and a resulting Guidelines imprisonment range of 360 months to life. PSR ¶ 94. That calculation assumed that the Government would be recommending a third point for acceptance of responsibility. PSR ¶ 52. However, based on Martynenko's many unwarranted objections to the PSR, as well as his repeated attempts to minimize his culpability, the Government will not recommend the third point for acceptance of responsibility. Paragraph 7b of the Plea Agreement ("PA") provides that the Government is not required to recommend the third point if Martynenko fails to provide "full, complete, and truthful disclosures to the United States Probation and Pretrial Service Office," or if he undertakes any act "inconsistent with acceptance of responsibility before the time of sentencing." The impact of the Government's position is largely academic, though, as the sentence the Government urges of 480 months' imprisonment is within the Guidelines range of a defendant with a total adjusted offense level of 42.

1. Martynenko Has Failed To Accept Full Responsibility For His Reprehensible Conduct

Throughout his objections to the PSR, Martynenko attempts to minimize his illegal conduct. For example, in his third objection to the Presentence Report, he claims that he did not intend to obtain naked images of persons under 18 – that it was merely a "byproduct of seeking images of young-adult males." This claim is belied by Martynenko's own statements: "my fav is 14-16yo boys ;) mmm!" *See infra* at C1. Furthermore, the fact that he scoured high school athletic rosters to identify potential victims demonstrates that he targeted minors.

Martynenko also disclaims any responsibility for the child pornography images he solicited now circulating on the internet. *See* Martynenko's Objection nos. 8, 9, 20, 23. Pretermitted whether he posted those images to the internet himself, and there is evidence he did so, but for Martynenko's distribution of those images to others, those images would not be in widespread circulation. In fact, those images would not be in circulation at all.

Martynenko disputes that he created the Kasey Akelt Facebook account and that he was the sole user of that account. *See* Martynenko's Objection no. 12. That account was used to advertise and distribute images of the child pornography that Martynenko produced. Martynenko only claims responsibility for 50 advertisements of child pornography. PA ¶ 2i. Martynenko provides no explanation for how someone else obtained access to his collection of child pornography. Likewise, he offers no explanation for how the profile picture for that account was found at his residence on a flashdrive he hid above some ceiling tiles. He likewise disclaims that he used the Kasey Akelt Facebook account to contact young males, some still in high school, to offer to pay them money if they allowed him to perform oral sex on them. However, the available evidence shows that those offers originated from his residence. Further, the Akelt Facebook offers match the language found on "scripts" Martynenko used as part of his scheme. *See infra* B1 and B4. Finally, the record in this case shows that one of Martynenko's goals in pursuing his sextortion scheme was to persuade straight high school boys to allow him to perform oral sex on them.

In Objection no. 14, Martynenko denied that he posed on Twitter as "Jake Sherman" in November 2015, to extort additional images of child pornography from E.D., one of his

many victims. He likewise denied that, posing as Jake Sherman, he offered money in exchange for being able to perform oral sex on E.D. Later, Martynenko acknowledged that he posed as Jake Sherman, but he claimed not to remember the scope of what he did using that account. Martynenko's acknowledgement came only after the Government assembled all the materials showing that Martynenko had posed as Jake Sherman.

In Objection nos. 18 & 26, Martynenko claims that he only threatened to distribute his victims' photographs if the victim promised him additional naked images and failed to follow through. He implies that the victims deserved to have their images distributed because they broke a promise to him. This "blame the victim" scenario highlights the depravity of Martynenko's thought process. Furthermore, it is patently untrue. Martynenko repeatedly threatened his victims with the distribution of their photographs unless they sent him additional pictures.

For all of these reasons, the Government will not recommend at sentencing that Defendant receive the third point for acceptance of responsibility. Accordingly, Martynenko's total adjusted offense level should be 43, with a resulting Guidelines range of Life.

2. Guideline Range And Sentence

The statutorily authorized maximum sentence for Counts One and Three is 30 years (360 months), and for Count Two it is 20 years (240 months), for a total of 960 months, or 80 years. This becomes the Guidelines range. U.S.S.G. §5G1.2(b). Despite that the Guidelines range is 80 years, the Government urges the Court to impose a sentence of 480 months, or 40 years. The Government recommends a below-the-Guidelines sentence for

two reasons: (1) Martynenko agreed to plead to an Information, thus sparing his many victims the ordeal of testifying at trial; and (2) Martynenko provided helpful background information in a separate case.

Under U.S.S.G. §5G1.2(d), to the extent the recommended sentence is above the statutory maximum for the counts of conviction, the sentences imposed should run consecutively “to the extent necessary to produce a combined sentence equal to the total punishment.” Consequently, the Government suggests that the Court sentence Martynenko to 30 years, or 360 months, on both Counts One and Three, to be served concurrently. The Government asks the Court to impose a sentence of 20 years, or 240 months, on Count Two, with 10 years, or 120 months, to run consecutively, for a total sentence of 480 months.

An examination of the 3553(a) factors shows that a sentence of 480 months’ imprisonment is sufficient, but not greater than necessary to comply with the basic purposes of criminal punishment: deterrence, incapacitation, just punishment, and rehabilitation. The 3553(a) factors are discussed below.

B. The Nature And Circumstances Of Martynenko’s Crimes Compel A Sentence Of 480 Months’ Imprisonment

For at least four years, Martynenko engaged in a sophisticated “sextortion” scheme using various social media platforms, including Facebook and Twitter, to solicit child pornography from minor male victims. PSR 6; PA ¶ 2. Martynenko was a tenacious predator who persisted in his scheme even though law enforcement (1) conducted a knock-and-talk at his residence in August 2013 (PSR ¶ 7); and (2) executed search warrants at his residence in July, 2014, and again on October 2, 2015 (PSR ¶¶ 19-21). Not only did

Martynenko scheme to collect child pornography, but he also sought to engage in sexual activity with his minor victims and to humiliate and degrade them.

1. The Modeling Scheme

As part of the initial scheme, Martynenko posed on Facebook as “Cortney Jansgen,” the general manager of a photography agency working to build its portfolio. PSR ¶¶ 6-13; PA ¶¶ 2a-2c. Using the “decoy” female profile account, Martynenko solicited minor males to send him naked photographs. *Id.*; PA ¶¶ 2a-2e.¹ As enticement, Martynenko sent his victims semi-nude or completely nude pictures of “Cortney,” a twenty-something female, in provocative poses. *Id.*; PA ¶¶ 2a-2e. Martynenko also posed as “Jake Hunter,” the owner of the fictitious photography agency. *Id.*; PA ¶¶ 2a-2e. In that instance, Martynenko sent nude photographs of “female models” to his targets and represented that the “models” were available for sexual relations with the targets. *Id.*; PA ¶¶ 2a-2e.

Martynenko kept “scripts” documenting the “sales pitches” he used to solicit minor victims as part of the modeling scheme.² As part of that pitch, Martynenko explained that the photographs were for “broadening” the portfolio of the photography agency and that as part of the modeling contract “no photos are EVER to be shared/released” (emphasis in original). Exhibit A. The scripts specified that the modeling “application pics” should show the following: “one fully clothed, one nude with your hand covering your penis, one fully nude semi-erect, and one fully nude erect. It usually works best in front of a mirror (like a

¹ See also the victim impact statements, PSR ¶ 24, statements of BH, pp. 8-9, GA, pp. 9-12, and LG2, pp. 15-16.

² The scripts contain the names of victims and targets. Accordingly, the scripts will be filed under seal as part of a Sealed Appendix, Exhibit A.

bathroom), to basically show that it is you, the info is accurate [on the application] and you are seriously interested. You need to have face and body in all pictures too, . . .” *Id.* Martynenko even went so far as to prepare a phony modeling contract which he sent to certain victims. PSR ¶ 8; Exhibit 1 attached hereto. Martynenko additionally persuaded some of his minor male victims to record themselves masturbating. PSR ¶ 6; PA ¶ 2b. Martynenko directed his victims to transmit the naked images and masturbation videos to him over the internet to the decoy female profile account or to a specified e-mail account. PSR ¶ 6; PA ¶ 2b.

2. The “Marie” Accounts

In a later twist to the scheme, Martynenko posed as “Marie Samann,” or a similar variation on the name, also a twenty-something female who had recently moved to Minnesota. Martynenko used several decoy female profile accounts for “Marie.” PSR ¶ 6; PA ¶ 2. Using these decoy female profile accounts, Martynenko would “friend” his intended minor male victims and then flatter and cajole them to send naked pictures of themselves.³ PSR ¶¶ 6, 7; PA ¶ 2. For example, on August 10, 2014, Martynenko attempted to initiate a Twitter conversation using the line, “I heard ur [you’re] pretty hunggg . . . ;) ;) . . . we should trade some sexyyyy pics!! ;) ;)” *See* Exhibit 2 attached hereto, portion of Martynenko’s Twitter conversation. As before, Martynenko sent his victims semi-nude or

³ In a measure of his character, Martynenko victimized his own friends as part of the sextortion scheme. For example, he used his decoy accounts to attempt to solicit naked images from several friends. He also used the decoy accounts to offer to distribute “nudes” of several of his friends.

completely nude pictures of the same twenty-something female in provocative poses, claiming that he was the woman in the photographs.

Martynenko was a skilled manipulator of his much younger victims. He would assure the target victim that the victim was handsome and sexy, and that “she” wanted to have sexual relations with him. When one target asked why the “sudden interest,” Martynenko responded, “what u mean? I saw u on fb [Facebook] and thought ur [you’re] cute! then u said ur [you’re] a football star and have such a nice bod [body] and dick! that’s hottt! DUH! ;)” *See* Exhibit 3 attached hereto, portion of Martynenko’s Twitter conversation. Martynenko persisted in asking his victims for photographs showing their erect penises. PSR ¶¶ 6,7; PA ¶ 2. Again, Martynenko directed his victims how to pose – he specifically sought photographs of his victims in front of a mirror with their arms behind their heads or one foot raised on a vanity.⁴ *Id.*; PA ¶ 2b. He also insisted that the victims show their faces. As before, Martynenko persuaded some of his minor male victims to record themselves masturbating. *Id.*; PA ¶ 2b. If a victim expressed reservations about Martynenko sharing the photographs, he would assure the victim that the photographs would not be shared: “no baby I PROMISE! you keep mine private too! ☺ its just between us!! ☺” *See* Exhibit 4 attached hereto, portion of Martynenko’s Twitter conversation.

⁴ Martynenko explained, “nothing hotter than like a hot 15yo boy with a nice cock just getting pit hair and hairy legs ;)” and “I loove like a 14yo with light hair on his legs and pits!;)” *See infra* Exhibit 17, pp. 4, 8.

3. Graphic Sexual Conversations And Attempts To Corrupt Minors

Martynenko initiated highly sexualized and graphic conversations with his much younger victims. For example, in August 2015, Martynenko, posing as Marie Samann, persuaded a 16-year old victim from Illinois to send a photograph of his erect penis. Martynenko was thirty years old at the time. After receiving the picture, Martynenko suggested that the 16-year old engage in sexual activity with his mother:

- FUCKKKK that's a fat cock!
- i wanna suck it rn [right now] babe!
- u need to show ur [your] mom that cock!!
- mmmmm so hard and bigg!
- Baby how u wanna fuck ur moms pussy??
- soooo thickkkkkk
- mmmm baby let me see the rest of you too!
- i cant believe ur [your] cock is so big and ur [you're] 16!!
- do u want ur [your] moms pussy rn [right now]?
- will u show ur [your] mom ur cock babe?? for me?

Martynenko also encouraged the teenager to ejaculate in “some food or someones drink! . . . mmmmm thatd be hot! so ur [your] mom will drink ur [your] cum. . . . make ur [your] mom taste ur [your] cum babe.” *See Exhibit 5 attached hereto, Skype chat between Martynenko and 16-year old victim.*

Martynenko initiated a similar conversation with a 15-year old victim from Beloit, Wisconsin: “have you thought about fucking ur real mom ever??;)” He told the teenager “incest is hot.” When the teenager confessed an attraction to his step-mother, Martynenko suggested ways to “seduce” her. *See Exhibit 6 attached hereto, portion of Martynenko’s Twitter conversation.* He commented to another victim, “do you have a sister or would you fuck your mom?? that’d be the ultimate!! *See Exhibit 7 attached hereto, portion of*

Martynenko’s Twitter conversation. He encouraged one victim to show his penis to his 14-year old sister and to videotape it: “hot!! baby quick vid just go up to her rock hard and talk and ask her if she thinks its big and if she’ll feel it! say ull leave her alone then!” *See* Exhibit 8 attached hereto, p.8, portion of Martynenko’s Twitter conversation.⁵

Another 16-year old victim admitted to “Marie” that he thought he was bi-sexual. Thereafter, “Marie” steered the conversation to a discussion of the victim’s older brother and whether the victim had ever thought about having sex with him. Martynenko encouraged the activity and remarked “ughhh so hottt! cum in each others asshole??!” *See* Exhibit 9 attached hereto, portion of Martynenko’s Twitter conversation. Martynenko regularly discussed or encouraged incest when communicating with his minor victims.

Martynenko also encouraged classmates and friends of his victims to distribute the child pornography he solicited. Many of these classmates and friends were minors as well. For example, in August 2014, Martynenko, hiding behind a female decoy profile account on Twitter, messaged a 16-year old male high school student encouraging him to distribute nude images of a minor male classmate:

Martynenko	lol [laugh out loud] wanna see mikeys nudes for fun?? itd be funny to show a bunch of ppl [people] and send to everyone at school! lol :P
Martynenko	will u send to a bunch of ppl and tell them to spread it out?! ;)
XXXXXX8979 ⁶	Idk [I don’t know] in kinda friends with him [sic]

⁵ Martynenko posed as “Marie” in this conversation. As happened with many victims, Marie attempted to persuade this victim to receive oral sex from “her” male friend. *See* Exhibit 8.

⁶ The Government has identified the 16-year old. He is identified here with a redacted Twitter identification number.

Martynenko	so itd be so funny! lol think about it! ;) id send more of me too!;)
XXXXXX8979	I'd have to see them! And see how good yours are;))
Martynenko	kk should I send u ones where mikeys cock looks smallest so everyone thinks he has a tiny dick?! or what?? :P
XXXXXX8979	Haga sure [sic]
Martynenko	kk will u text them to a ton of ppl and tell them to send them to everyone too?! ☺

See Exhibit 10 attached hereto, portion of Martynenko's Twitter conversation. Martynenko repeated this scenario numerous times on Twitter and Facebook – making fun of the penis size of his adolescent victims and encouraging others to do so too. *See also* PSR ¶ 24.

Martynenko also encouraged some of his minor victims to produce child pornography of others for him. Posing as “Marie,” he suggested to at least two victims that they surreptitiously record their high school classmates in the shower: “like put ur phone down on record and get all the hot boys naked in the showers! ;).”⁷ “She” promised the victim that she would “fuck” him if he got her a “vid” of his “teammates showering.” Similarly, “Marie” instructed a 16-year old victim to press “record” on his cell phone, put his phone in a gym bag, and then put the gym bag by the showers in order to record his classmates naked. Alternatively, “Marie” suggested that the victim bring the phone near the shower and pretend that he was playing a game on his phone or texting. Martynenko regularly asked his victims about locker room showering practices: “do you guys shower

⁷ Law enforcement found three surreptitious recordings Martynenko made inside his gym's locker room. Those recordings were on flash drives found on October 2, 2015, hidden above ceiling tiles at Martynenko's residence. The recordings show a number of different men in various stages of undress.

together for like gym class to and see each others dicks? lol ;)” “do you guys all shower together and see each others dicks a lot??:P;) are u avg size or bigger on ur team?” “do guys at ur school and teams have big ones you see in the showers??” *See* Exhibit 11 attached hereto, combined portions of Martynenko’s Twitter conversations.

4. The Target Lists

Martynenko was a prolific predator who kept copious notes detailing the names of the individuals he approached to solicit child pornography. *See* Sealed Appendix Exhibit A. It appears from the lists that he approached thousands of individuals. *Id.* In some of his notes, Martynenko documented the person’s name, their school, their likes and dislikes. *Id.* If known, Martynenko documented their penis sizes and personal grooming practices, including whether they shaved their pubic area. *Id.* Throughout his notes Martynenko made notations “guys to try to suck later,” followed by a list of individuals. *Id.* One notation read simply “try to blow [high school name] hockey players.” *Id.*

Included in Martynenko’s notes was the following solicitation:

Hey bro, dont mean to bug ya but I thought Id message you. Im bi and from Minnesota and an athlete. No one knows I like guys at all and I wanna keep it that way. I was wondering if I gave you \$200 cash, could I give you a blowjob? I know youre straight, you don’t have to do anything at all dude. Im 100% SERIOUS, no joke, this isnt spam I swear.

Id. Martynenko solicited “blowjobs” throughout the sextortion scheme using different social media accounts, including the Kasey Akelt Facebook account. PSR ¶¶ 15, 18, 21; PA ¶ 2c; Exhibits 8, 12, 13.

5. Organizing His Collection Of Child Pornography

As part of his scheme, Martynenko retained the photographs and recordings received from his minor male victims. PSR ¶ 11; PA ¶ 2c. He catalogued and organized the images he received from his victims by their first name, their last name, as well as their age; he sometimes included their high school name and the victim's penis size. *Id.*; PA ¶ 2c. His victims' files sometimes included innocuous pictures his victims had posted to their Facebook accounts, including prom pictures, vacation pictures, and pictures from sporting events, for example.

While his victims were predominantly from Minnesota, they also hailed from Wisconsin and Illinois. Martynenko stored his child pornography collection, as well as the female decoy photographs he used to solicit that pornography, "on the cloud" so that it was always accessible, even after law enforcement executed a search warrant at his residence on October 2, 2015, and seized his electronic media. This meant that Martynenko could continue to contact new victims and continue to extort old victims. *See infra* B6, including Exhibit 12. All told, Martynenko caused at least 155 minor males to produce and send him child pornography. PSR ¶ 22. Martynenko is the largest producer of child pornography ever prosecuted in this state. Significantly, Commentary Note 6 to U.S.S.G. §2G2.1, authorizes an *upward departure* if the offense involves more than 10 minors. In light of this policy statement, a sentence of 480 months' imprisonment, which is *below* the applicable Guidelines, is appropriate and just under the circumstances present here.

6. The Sextortion Scheme

Despite his promises to his victims to keep the child pornography images “private,” Martynenko routinely advertised and distributed those images to others. PSR ¶¶ 9, 11, 14, 16, 18, 24; PA ¶¶ 2c, 2d, 2g, 2h; Exhibits 12 & 14. This happened hundreds of times. In some instances Martynenko used the images to extort additional images from his victims.⁸ *Id.*; PA ¶ 2c; Exhibits 12 & 14. Specifically, Martynenko would re-initiate communications over the internet with his victims seeking additional naked images. *Id.*; PA ¶ 2c; Exhibits 12 & 14. Of course, he used a decoy profile account so no one would learn his true identity. If his victims refused to send him additional images, Martynenko would threaten to distribute the naked images previously received. *Id.*; PA ¶ 2c; Exhibits 12 & 14. Even when victims sent Martynenko additional images, he would continue to distribute their images. *Id.*; PA ¶ 2c.

A variation on the extortion scheme involved the threat of dissemination of a minor victim’s naked images unless the victim agreed to meet Martynenko and allow him to perform oral sex on the victim. PSR ¶¶ 21, 24 pp. 10-11; PA ¶ 2e. For example, in the days immediately before Martynenko’s arrest, an undercover (“UC”) law enforcement officer assumed the Twitter account of one of Martynenko’s minor victims, E.D.⁹ Martynenko,

⁸ Martynenko acknowledged in a Twitter conversation that he “blackmailed” his victims. *See* Exhibit 15, p. 6.

⁹ In August 2015, E.D. sent “Marie” naked images. E.D. was fifteen years old at the time. In late October 2015, “Marie” contacted E.D., and he sent more pictures. This contact occurred *after* the FBI searched Martynenko’s house on October 2, 2015. Law enforcement learned of this in mid-November of 2015 and received permission from E.D. to take over his Twitter account.

using the alias “Jake Sherman,” contacted the victim/UC on November 20, 2015, and threatened to “tweet” or disseminate the victim’s nude photographs unless the victim agreed to meet with Martynenko for oral sex.

Martynenko	Hey bro if I gave u \$100 could I just suck ur dick?? U don’t have to do anything and no one can know! I’m not out at all
UC	Who is this?
Martynenko	I just saw ur nudes bro ur hot! I wanna suck ur cock! No one will know!
UC	Who sent you my pics?
Martynenko	My friend! I won’t show anyone or post them if I can just suck u off quick I swear
UC	I’m not into guys!
Martynenko	U don’t have to do anything! Just lay there and I’ll suck ur cock quick and it’ll feel good then I’ll swallow and pay u! No one can ever know then I’ll delete ur nudes!
UC	Pay me?!!!
Martynenko	I’ll give u \$100 cash! I just wanna suck u bad!
Martynenko	OK?? Then no one will see ur pics or know!
UC	You wont delete my pics if I did agree
Martynenko	I swear I would and I’d prove it! I haven’t sent them out yet so if u let me suck you I won’t!

See PSR ¶ 21; Exhibit 12, attached hereto, Martynenko Twitter conversation. When the UC attempted to stall Martynenko by saying that he was “in class,” Martynenko persisted and demanded a “time” that the two could meet, “[o]r I’ll tweet them out with ur name so everyone can see like the other guy! And send to ur school too lol. . . . Ok what time tho? If u don’t then I’m exposing!” *Id.*; Exhibit 12.

To prove that he had the victim’s photographs, Martynenko sent one to the UC.

UC	I dont want to do this is there anything else I could do
Martynenko	All ur doing is getting ur dick sucked, u don’t have to do anything else! 10 minutes maybe then it’s over and it’ll feel good and I’ll pay u

Exhibit 12. When the UC did not respond immediately, Martynenko threatened, “In 35 min I’m gonna tweet them out just saying.” *Id.* Martynenko also demanded a new nude full body mirror photograph or he would “tweet” the victim’s nude images “and leave them up so they spread.” *Id.* He added that he wanted “3 good ones . . . then I won’t [retweet] until I suck u tonight.” *Id.* The UC asked Martynenko to wait until he got home at 4:30. *Id.* Martynenko agreed, “Ok deal but if not I’m sending [your pictures] to the gay porn sites and ur school so everyone has ur nudes.” *Id.* Law enforcement arrested Martynenko minutes later, at his residence.

The Government knows of at least three minor boys who met with Martynenko and engaged in sexual activity.¹⁰ Notwithstanding that the boys did not report Martynenko to law enforcement, the encounters cannot be considered consensual, as Martynenko urges, because they were the product of deceit and manipulation, if not coercion. For example, the record is clear that R.B. allowed Martynenko to perform oral sex on him only after repeated threats from “Marie” that R.B.’s pictures would be distributed on the internet. R.B. told “Marie” that he did not want to meet with her “bi-sexual” friend for oral sex and that by insisting, she was “dehumanizing” him. R.B. pleaded with “Marie,” “I seriously don’t want to do that with him....Please I don’t.” (ellipsis in original). “Marie” ignored

¹⁰ Martynenko does not admit to engaging in sexual activity with the third victim who is identified here as Twitter user 9423. The Twitter conversation between the two is attached hereto as Exhibit 13. That conversation shows that Twitter user 9423 met Martynenko at his house on two separate occasions, July 12, 2015, and again on August 9, 2015. *See* Exhibit 13, pp. 21-24, 51, 56-58. On both occasions Martynenko performed oral sex on the victim, who was 17 years old. Martynenko was 30 years old.

R.B.'s pleas, repeatedly threatening to disseminate R.B.'s pictures unless R.B. allowed her "friend" to "blow" him. When R.B. finally relented, "Marie" insisted that R.B. take a picture of himself ejaculating in Martynenko's mouth. It appears from the messages between "Marie" and R.B. that the victim acceded to "Marie's" demands and took pictures and a video of his sexual encounter with Martynenko. Following the encounter, "Marie" assured R.B. that she had deleted all of his images and the images/video of R.B. with Martynenko. However, some five months later R.B. learned his naked images were once again circulating on the internet when his friends reported that they had received unsolicited images. Not coincidentally, "Marie" contacted R.B. again and demanded that he meet Martynenko again and "fuck him," otherwise his pictures would be sent to more people. R.B. begged "Marie" to stop and asked why she was intent on hurting him. The entire conversation between Martynenko and R.B. is attached hereto as Exhibit 14.¹¹ It is a measure of Martynenko's depravity that he insists that any encounters he had with the high school victims in this case were consensual.

7. Humiliating And Embarrassing His Victims

In numerous instances Martynenko distributed as sport the child pornography images he had collected. Martynenko's purpose was to humiliate and embarrass his victims. In June of 2015, Martynenko, using the Marie94mn Twitter account, suggested to

¹¹Martynenko did something similar to the third victim, Twitter user 9423. Martynenko attempted to contact this victim on five separate occasions after the August 9, 2015, encounter. When the victim failed to respond, Martynenko threatened, "im sending ur nudes out to everyone at [HIGHSCHOOL NAME] then . . . bye." Exhibit 13, p. 58. Like R.B., Twitter user 9423 begged Martynenko to stop, "[i]f my school finds my nudes im killing myself i already have no friends." *Id.* p. 59.

a high school student that “it’d be funny to send [minor name]’s nudes to ppl [people] from ur [your] school lol [laugh out loud] :D” The student responded, “Nah I’m not that type of person.” Martynenko persisted: “itd be funny if everyone knew how tiny his dick is! like he’s tall and athletic but such a small cock! Lol [laugh out loud] ;)” *See* Exhibit 14, attached hereto, portion of Martynenko Twitter conversation. In one Twitter chat Martynenko boasted, “I think its hot exposing guys so everyone can see their nudes and know who they are! ;)” *See* Exhibit 16 p. 2, portion of Martynenko Twitter conversation.

Indeed, Martynenko used the Kasey Akelt Facebook account primarily to advertise and distribute the images of child pornography he produced and collected. Martynenko, posing as Akelt, would initiate a Facebook message to an individual and offer to send that individual the nude images of his previous victims. The individual was typically a classmate or friend of the victim. This happened hundreds of times. Martynenko would copy and paste the same message and send it to multiple individuals. For example, one message he sent to six different people read “hey do u know [NAME REMOVED]?? wanna see nude pics of him for fun? his dick is tinyyyy! lol [laugh out loud] ;) :D” He sent another message to nine different people that same day offering to provide nude photographs of nineteen different people.¹²

Martynenko’s victims learned from their friends and acquaintances about the dissemination of their photographs. *See* PSR ¶ 24. The victims were humiliated and embarrassed. *Id.* They describe in their victim-impact statements how scared and ashamed

¹² These solicitations contain victim names. Accordingly, this exhibit is filed under seal as Exhibit B, part of the “Sealed Appendix.”

they were to go to school and see their friends and classmates, not knowing who had seen their images. *Id.* They all describe being ridiculed by their friends and acquaintances. *Id.* One victim wrote that he “just wanted to crawl up into a ball in a lonely dark room and never see anyone again.” *See* PSR ¶ 24, p. 12. As the United States Supreme Court recognized in *New York v. Ferber*, 458 U.S. 747 (1982), “pornography poses an even greater threat to the child victim than does sexual abuse or prostitution,” because a child pornography victim must “go through life knowing that the recording is circulating within the mass distribution system for child pornography.” *Id.* at 759, n.10 (citations omitted). The images Martynenko disseminated over the internet cannot be retrieved. As one victim recognized in his victim-impact statement, Martynenko’s crime will be “looming over [his victims] for many years to come.” PSR ¶ 24, p. 14.

When the victims pleaded with Martynenko to stop, he responded with “taunts and ridicule.” *See* PSR ¶ 24, p. 12. He delighted in his victims’ pain. At least two victims of Martynenko’s scheme committed suicide. It is not known what role, if any, his scheme had in their deaths. However, one can easily imagine the embarrassment and sense of hopelessness that Martynenko inflicted on his victims, including the two suicide victims. Indeed, a number of the victims write in their victim-impact statements how they considered suicide because they felt so humiliated and ashamed by Martynenko’s widespread distribution of their images. PSR ¶ 24. The depravity of Martynenko’s crimes warrant a sentence of 480 months’ imprisonment. Such a sentence is necessary to reflect the seriousness of the offense and to provide just punishment.

C. Martynenko's History And Characteristics Compel A Sentence Of 480 Months' Imprisonment

Unlike many defendants before this Court, Defendant grew up in a loving, middle-class household. PSR ¶¶ 65, 66. He graduated from high school and college with solid grades. PSR ¶ 67. He double-majored in Marketing and Sports Management, and parlayed his Bachelor of Science degree into several marketing and promotional jobs. PSR ¶¶ 67, 83-87. Ultimately, Martynenko found success as a mortgage broker. PSR ¶¶ 84, 85. By any standard, he had a bright future.

Martynenko, though, hid a secret. He is a sexual predator who is attracted to adolescent boys. He devised an elaborate, years' long sextortion scheme to solicit and collect child pornography depicting adolescent boys. Martynenko was not content to merely collect child pornography and fantasize about sex with teenagers. Rather, Martynenko sought to engage in sexual relations with them and to degrade and humiliate his victims. Martynenko is a depraved, "hands-on" sex offender whose actions have earned him every day of a 480-month sentence.

1. Martynenko Is Sexually Attracted To Adolescent Boys

Martynenko's sexual preference is for 14-16 year old boys. In numerous Twitter conversations using the @NotMaddieRichter ("@NMR") account Martynenko expressed that interest: "my fav boys are like 14-16yo [years old] ;) . . . nothing hotter than a hot 15yo boy with a nice cock just getting pit hair and hairy legs ;) . . . i wanna get group fucked by a whole team in the locker room! ;) . . . my fav is 14-16yo boys ;) mmm! . . . i think 14-16yo boys are hottest . . . I like 14-16yo boys best ;) lol . . ." Those statements are attached

hereto collectively as Exhibit 17. Consequently, Martynenko targeted this age group when soliciting pornographic images. He regularly scoured internet sites devoted to high school athletes to locate his targets – Minnesota hockey hub, Minnesota football hub, and various high school athletic sites. This is why there are more than 155 identified minor victims in this case. Martynenko was sexually aroused by the photographs he collected, as he admits that he “would masturbate to many of the pictures well over 100 times.” Report of Dr. Paul Reitman, p. 5.

2. Martynenko Is A Sexual Predator

As detailed above, Martynenko kept copious notes about his scheme, including target lists. *See supra* B4, B5, Exhibit A. Throughout those lists, Martynenko made notations of “guys to try to suck later,” followed by names of individuals, including an entire high school hockey team. *See* Exhibit A. He repeatedly asked his victims to identify classmates they had seen in the locker room with “big cocks,” presumably so that he could add their names to his target list. *See* PSR ¶ 24, pp. 14-15; Exhibit 13 pp. 33-37.

Over the years, Martynenko sought to perfect his scheme. Martynenko used the @NMR account to “sharpen his skills” by comparing notes with other like-minded individuals who had a sexual interest in teenage boys. Martynenko asked Twitter user XXXXX2781 “. . . tell me how u do it and what u do! u say u suck off a lot of straight guys?” Exhibit 18, p. 2. Martynenko asked numerous questions. Twitter user XXXXX2781 explained how he pursued straight males in his quest to perform oral sex on them. In return, Twitter user XXXXX2781 asked Martynenko to explain how he “catfish[ed] the boys” whose images he obtained. *Id.* Martynenko responded, “I think we can both help each other

out get boys but idk [I don't know] how u get to suck so many and so many young ones! jealous!" *Id.* p. 10. Martynenko pressed Twitter user XXXXX2781 to "tell me about some of the younger boy experiences!" *Id.* p. 11. Twitter user XXXXX2781 told Martynenko that he was "thinking" about setting up a "sex-related profile" like @NMR because "Your pics have inspired me." *Id.* p. 3. To Twitter user XXXXX7776, who boasted that he had had sex with a 16-year old, Martynenko asked "hotttt! ;) how do u get boys that young?" Exhibit 19, p. 2. He similarly asked Twitter user XXXXX0057, "how do u get young boys w/o getting in trouble?" Exhibit 20, p. 2.

3. Martynenko Actively Recruited Others, Including Minors, To Assist In The Dissemination of Child Pornography

As set forth above, Martynenko actively solicited friends and classmates of his victims to distribute the child pornography he obtained. In other words, he knowingly persuaded minors to break the law. Repeatedly.

Martynenko also recruited like-minded adults. Martynenko used the @NMR Twitter account primarily to communicate with others who shared his sexual interest in teenage boys and who were willing to assist him in disseminating the child pornography he produced and collected. Martynenko referred to it as "exposing" his victims. *See* Exhibits 16, 18-20. In one chat on the @NMR account, Twitter user XXXXX5904 asked Martynenko his "secret" for obtaining nude images. Exhibit 16 p. 1. Martynenko told the user that he would send him more images if the user helped Martynenko "expose" his victims: "ok! If u help me expose them and send their names and twitter handles out ;) its sexyyyy!" *Id.* Martynenko "explained" his mindset, "ok I think its hot exposing guys so

everyone can see their nudes and know who they are! ;)” *Id.* During the chat, it appears that Twitter user XXXXX5904 posted child pornography pictures that Martynenko sent him to Tumblr, another social media site. Martynenko responded, “god that’s hot! they’ll be so exposed and everyone can see! ;)” *Id.*, p. 6.¹³ Martynenko suggested that Twitter user “expose” one of Martynenko’s victims to the victim’s girlfriend, friends, and teammates. *Id.* p. 8. Martynenko gloated that one victim’s “whole high school has his nudes.” *Id.* p. 18.

Martynenko’s conversation on January 4-5, 2015, with Twitter user XXXXX5904 went on for more than eight hours. *Id.* pp. 1-14. Martynenko chatted with other like-minded users at the same time. *See* Exhibit 18 pp. 1-11. In other words, he spent an entire day on-line discussing and distributing child pornography. *Cf.* Exhibits 16 & 18. The logs from Martynenko’s known social media accounts reflect that this was not uncommon. He spent hours at a time producing, collecting, or distributing child pornography. Using various social media accounts, Martynenko repeated this scenario numerous times with other Twitter users, minors and adults. The net effect, of course, was the widespread distribution of the child pornography Martynenko had solicited. Of course, this also meant that Martynenko achieved his goal – the humiliation and embarrassment of his victims. *See* PSR ¶ 24.

¹³ Martynenko solicited Twitter user XXXXX5904 to “expose” his victims for a 3-month period, from January 4, 2015, through March 29, 2015. *See* Exhibit 16.

4. Martynenko Took Pleasure In Hurting Others

In a measure of his character, Martynenko delighted in the humiliation, embarrassment, and potential negative consequences his actions caused his victims. Martynenko was particularly obsessed with L.G., a frequent target of his distribution scheme. In several chats on the @NMR account, Martynenko repeatedly discussed L.G. with Twitter user XXXXX2781, whom Martynenko persuaded to distribute L.G.'s nudes: “[L.G.] is a hockey star, captain of his hs [high school]! probs [probably] play in college too or *at least until now* . . . [ellipses in original] lol [laugh out loud],” “really need to get [minor name] nudes out there, its hot having a star athlete exposed like that ;) to know everyone has access to their nudes. . . . itd be great for everyone at his hs [high school] to have his nudes lol [laugh out loud] imagine going to school everyday ;)” (emphasis added). *See* Exhibit 18, pp. 8, 12.

Martynenko did ruin this victim's college hockey prospects. As L.G. wrote:

I am a hockey player, and was a standout athlete in high school. I had many colleges talking to me and had a bright future ahead of me. Soon all the college looks ended when these photos were leaked. Colleges stopped talking to me, and the college letters in the mail soon disappeared. Another way this affected my hockey career was when we played Roseville in a tournament in Blaine. I remember the game like it was yesterday. The whole game the players on the other team would say “nice dick,” “loser,” “saw you on Twitter,” and many other humiliating things. I was the captain of the team that no one looked up to anymore because my nudes were everywhere on Twitter. You just don't look at someone the same once you see them naked and know they sent nude photos. The point is that Anton ruined my hockey career, ruined many relationships with friends, and ruined a kid's dream; which was to play Division I hockey.

PSR ¶ 24, pp. 15-16.

5. Martynenko Is A Hands-On Sex Offender Who Regularly Sought to Extort Sex Acts From His Victims

Martynenko regularly tried to extort sex acts from his victims. Specifically, he threatened his victims with the further distribution of their images unless they allowed him to perform oral sex on them. *See B6 supra*, including Exhibits 12-14. This happened repeatedly. In May 2015 Martynenko, using the Kasey Akelt Facebook account, contacted one of his previous victims and offered “to blow” him for \$300.¹⁴ When the victim declined the offer, Martynenko sent him two pictures showing the victim’s face and erect penis. The victim asked Martynenko to “please delete those and stop.” Martynenko replied that he would send the images to other people unless the victim allowed him to “suck that huge cock for like 5 min!!” The victim begged Martynenko to stop. Over the next several days, Martynenko proceeded to contact approximately 89 people who either “went to [the victim’s] school or were fb [Facebook] friends with him!” Unsolicited, Martynenko sent the victim’s nude images to more than three dozen people. The chats between Martynenko and the victim are included in the Sealed Appendix as Exhibit C. The offers are included as well.

As mentioned, the Government is aware of three minor boys who engaged in sexual activity with Martynenko. He claims those encounters were “consensual.” Such a claim highlights the depravity of Martynenko’s thinking. The teenagers met him as a result of an

¹⁴ This victim was 18 years old when he sent the images to Martynenko. Nonetheless, what happened to this victim is illustrative of what so many minor victims reported happened to them. Furthermore, Martynenko’s conduct violated 18 U.S.C. § 875(d), which prohibits any attempt to extort a thing of value by transmitting an internet communication containing threats to injure a person’s reputation.

illegal scheme based on manipulation and deceit. Martynenko is a sexual predator who is attracted to adolescent boys half his age. He cannot control himself; as discussed below, he either would not or could not stop his child exploitation scheme, even though he knew that he was under investigation. A sentence of 480 months' imprisonment is just punishment for this "hands-on," depraved sex offender.

D. A Sentence Of 480 Months' Imprisonment Is Necessary To Protect The Public

In sentencing Martynenko, the Court must weigh the need to protect the public from his future crimes. *See* 18 U.S.C. § 3553(a)(2)(C). In considering his likelihood of recidivism, "a court may take into account any evidence of obvious incorrigibility . . ." *United States v. Gant*, 663 F.3d 1023, 1030 (8th Cir. 2011) (quoting *United States v. Walking Eagle*, 553 F.3d 654, 657 (8th Cir. 2009)). The investigative history of this case, as well as the depravity of Martynenko's behavior, shows a substantial risk of recidivism. As detailed, Martynenko's scheme went on for at least four years, with various law enforcement agencies investigating complaints from his many victims. PSR ¶¶ 6-22; PA ¶ 2a. In August 2013, Egan Police conducted a "knock-and-talk" with Martynenko at his residence. PSR ¶ 7. Martynenko lied and disclaimed any knowledge of illegal activity and claimed that a friend had changed his wi-fi settings and left the wi-fi open. *Id.* No action was taken, and Martynenko continued to engage in his scheme to exploit children. *Id.*

In July 2014, the City of Chaska Police Department executed a search warrant at Martynenko's residence. PSR ¶ 8. Nonetheless, even though Martynenko knew that he was again the focus of a police investigation, he continued to engage in his scheme to exploit children. PA ¶ 2a.

On October 2, 2015, federal and local law enforcement authorities, including the Federal Bureau of Investigation (“FBI”), executed a federal search warrant at Martynenko’s residence. PSR ¶ 19. Law enforcement found child pornography on various electronic items hidden above the ceiling tiles in a living area of the residence. PSR ¶¶ 19, 20. Investigators also found a broken laptop computer hidden behind the washer and dryer in the laundry room. PSR ¶ 19. The laptop was wet and broken in two pieces, although everything else in the area was dry. *Id.* Law enforcement found child pornography on the laptop too. PSR ¶ 20. Law enforcement encountered Martynenko just outside the laundry room. The Government believes that Martynenko tried to destroy the computer when he realized that law enforcement had arrived. Law enforcement officers spoke with Martynenko at the scene and advised him of their investigation. Again, Martynenko lied and disclaimed any knowledge of illegal activity. He was not arrested.

Despite these encounters with law enforcement, and despite knowing that the FBI had joined the investigation, Martynenko persisted in his scheme to produce and distribute child pornography. *See, e.g. supra* B6. He also persisted in his scheme to coerce minor males to engage in sexual activity with him. *See, e.g., B6 supra.* Accordingly, law enforcement obtained a federal arrest warrant and a no-knock search warrant for Martynenko’s residence. PSR ¶ 21. When law enforcement executed those warrants, Martynenko did not come to the door; law enforcement located him in a locked bathroom. *Id.* When he would not open the bathroom door, law enforcement broke in. *Id.* Martynenko dropped his smart phone in a feces-filled toilet. *Id.*

A forensic review of the toilet-phone revealed that Martynenko had been using it to continue his sextortion scheme. Law enforcement found numerous images and videos of naked adolescent males, including many of the victims previously identified in the investigation. Among other things, law enforcement determined that the toilet phone had been used to (1) access various Twitter accounts; (2) search for information on various high school athletic programs, including rosters; and (3) search for nude images of Martynenko's previous victims. Martynenko either would not or could not stop his scheme to produce and distribute child pornography, even though he knew that he was under investigation by the FBI. Martynenko's compulsion to exploit children was stronger than any fear he had of being arrested and charged with a crime. Martynenko also twice tried to destroy evidence.

Finally, and perhaps most troubling, Martynenko maintains that the sexual activities he engaged in with the three known victims of his scheme were consensual. Martynenko is a sick man who is likely to reoffend precisely because he denies that his sexual activities with minors were wrong. A lengthy sentence of 480 months is necessary to protect the public from further crimes of this Defendant.¹⁵

E. A Sentence of 480 Months' Imprisonment Is Necessary To Avoid Unwarranted Sentencing Disparities

To avoid unwarranted sentencing disparities, a sentencing court must also consider

¹⁵ The sentence the Government urges is also important as a general deterrent. "Congress has specifically made general deterrence an appropriate consideration under 3553(a)(2)(B), [it is] one of the key purposes of sentencing." *Ferguson v. United States*, 623 F.3d 627, 631-32 (8th Cir. 2010).

sentences imposed in other sextortion cases where defendants are similarly situated. Here, an examination of sentences imposed in other similar cases demonstrates that a sentence of 480 months' imprisonment would avoid unwarranted sentencing disparities. Indeed, a sentence of 480 months *is less than* sentences imposed in many sextortion cases. For example, in *United States v. Lucas Michael Chansler*, case no. 3:10-CR-100-J-34PDB (MDFL), the district court sentenced the defendant, who was 31 years old, to 105 years in prison, followed by 5 years of supervised release. The defendant in that case used social media sites like MySpace and Stickam to obtain photographs and webcam videos from approximately 350 minor female victims exposing themselves and engaging in sexually explicit conduct.

In *United States v. Patrick Killen, Jr.*, case no. 15-20106-CR-KMM (SDFL), the district court sentenced the defendant, who was 22 years old, to 139 years in prison, followed by a lifetime of supervised release. Like Martynenko, the defendant posed as a female using various social media accounts to obtain sexually explicit images and videos from teenage boys, generally between 11-14 years of age. That case involved approximately 250 victims.

In *United States v. Christopher Patrick Gunn*, case no. 2:12-CR-064-MEF-CSC (M.D. Ala. 2012), the district court sentenced the defendant, who was 31 years old, to 420 months in prison. Like Martynenko, the defendant used various fake Facebook accounts to obtain nude and partially nude photos and videos from his minor victims. That case involved approximately 27 victims, much lower than the 155+ victims identified here.

In *United States of America v. Dennis Whitt*, case no. 5:14-CR-00318-GTS (NDNY 2015), the district court sentenced the defendant, who was 41 years old to 60 years in prison. In that case the defendant posed on the internet as a 16-year old boy to obtain images and videos of child pornography from teenage girls. Law enforcement identified 35 victims in that case, again much lower than the 155+ victims identified here.

In *United States v. Joseph Ostrowski*, case nos. 3:12-CR-131, 3:12-CR-239, and 3:CR-318 (MD Pa. 2012), the district court sentenced a 28-year-old to a 25-year prison sentence and lifetime supervised release under Fed.R.Crim.P. 11(c)(1)(C). Law enforcement identified more than 60 victims in that case, mainly 16 and 17-year old boys. In that case, the defendant posed either as a female in their age group or a college alumni claiming to recruit them as athletes. Like Martynenko, the defendant persuaded his victims to masturbate on webcam and then he would extort additional photographs.

There are no mitigating factors not adequately considered by the Sentencing Commission that would remove this case from the “mine-run” of similar cases in considering Guidelines sentences, *see Rita v. United States*, 551 U.S. 338, 352 (2007). Martynenko suggests that a sentence of 17 years’ imprisonment is appropriate. Clearly, such a sentence would result in an unwarranted sentencing disparity. A sentence of 480 months’ imprisonment is in line with the sentences imposed in other similar cases across the country.

III. CONCLUSION

For the reasons set forth above, the Government asks the Court to sentence Martynenko to 480 months’ imprisonment, followed by a lifetime term of Supervised

Release. The requested sentence is commensurate with Martynenko's criminal conduct and consistent with the Section 3553(a) factors. Most importantly, under all the facts and circumstances of this case, it is also fair and just.

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Respectfully Submitted,

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