IN THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT
CASE NO. 25-7057

UNITED STATES OF AMERICA,
Plaintiff/Appellee,

v.

ASHLIE NICOLE ROSE MARTIN,
Defendant/Appellant.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA,
THE HONORABLE DAVID CLEVELAND JOSEPH, U.S. DISTRICT JUDGE,
PRESIDING
DISTRICT COURT CASE NO. CR-23-59-DCJ

OPENING BRIEF OF DEFENDANT/APPELLANT

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Oral Argument is requested
Attachments electronically filed in native PDF format

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Sentenced to 420 months (Dkt. No. 92)

Juvenile Proceedings:

District Court

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Jane Doe v. United States of America, 22-7753, *cert. denied* Oct. 2, 2023.

JURISDICTIONAL STATEMENT

Although Ashlie Nicole Rose Martin was originally charged as a juvenile in a federal delinquency proceeding, her case was transferred to the district court as an adult offender. On April 13, 2023, she was charged in a four-count indictment with multiple criminal violations of United States law, over which the district court had jurisdiction pursuant to 18 U.S.C. § 1153(a) and § 3231. She entered a plea of guilty to

a single count of conspiracy to murder under 18 U.S.C. § 1117 and the district court sentenced her to a term of 456 months on July 14, 2025. (ROA Vol. I at 61) (Attachment 1). Ms. Martin filed a timely notice of appeal on July 15, 2025. *Id.* at 68. This Court has jurisdiction over Ms. Martin's direct appeal pursuant to 28 U.S.C. § 1291.

ISSUES PRESENTED FOR REVIEW

1. Whether Ashlie Martin's sentence of 456 months was substantively unreasonable;

2. Whether Ashlie Martin's sentence of 456 months was procedurally unreasonable;

3. Whether the procedural sentencing error was plain;

4. Whether the imposition of a two-level "vulnerable victim" enhancement pursuant to U.S.S.G. § 3A1.1(b)(1) was reversible error.

STATEMENT OF THE CASE

A. Ashlie Martin grew up in squalor and was regularly raped by her father, a convicted pedophile.

Ashlie Martin described her childhood as "dysfunctional." (ROA, PSR, Vol. II at 275) This is putting it mildly. She always had to worry about having clean clothes and showering. Her house was never clean. *Id.* She lived in 11 different residences by the time she was 8 years-old. The Oklahoma Department of Human Services

conducted multiple investigations over the years due to complaints of head lice, lack of dental care, and poor school attendance. When Ashlie was only 5 years-old she had a case of head lice so severe that she endured sores and scabs on her scalp. *Id.* Due to her parents' lack of concern, her school was forced to treat her for head lice weekly. *Id.* Ashlie's parents provided no dental care, and she had teeth so rotten that a dentist had to pull them. *Id.* Ashlie's father, Curtis Martin, was an alcoholic who would beat Ashlie and her older brother with electrical cords, sticks, and barbed wire. *Id.*

Curtis Martin was also a pedophile who raped Ashlie countless times during her childhood. (ROA Vol. II at 275, 429-430) He was first convicted of lewd molestation in 1990 for sexually assaulting several female relatives who were between the ages of 6-10. *Id.* at 276. He was sentenced to a 5-year deferred term but never went to prison for his crimes (Choctaw County case no. CF-1990-0155). *Id.*

In 2013, when she was 9 years old, Ashlie was placed in emergency custody based upon allegations that her father sexually abused two of his own children. (ROA Vol. II at 275, 278) Although Curtis Martin had sexually abused Ashlie since she was six, she did not report the abuse because she was afraid. *Id.* In May of 2013, Hannah Dangerfield became her foster parent, since Ashlie's mother, Sherrie Pyron, was unwilling or unable to protect Ashlie from her father. *Id.* Ashlie recalls that the period that she spent with Ms. Dangerfield was the "best time of [her] childhood." *Id.* at 276.

Unfortunately, she was not permitted to stay with Ms. Dangerfield. In March 2015, the court terminated Curtis Martin's parental rights to Ashlie and two of her half-siblings. (ROA Vol. II at 275) Ashlie's parents asked David and Tammy Chadwick to petition for guardianship of Ashlie. *Id.* at 276. The guardianship with the Chadwicks was a ruse designed to terminate a pending DHS investigation. Mr. Chadwick, who was a "drinking buddy" of Curtis Martin, was also a pedophile. In August of 2020, he pleaded guilty to making a lewd proposal to a minor child. (*Id.* at 430) Mr. Chadwick sexually abused Ashlie while staying with the Chadwicks. In any event, the ruse worked, and by 2016, Ashlie Martin was back in her mother's custody.

Curtis Martin went to prison in 2017 for the sexual abuse of Ashlie's half-sisters, who were under the age of 12. (McCurtain County case no. CF-2013-131). They both testified against Curtis Martin at the trial. (ROA Vol. II at 430) Three other witnesses, from 6 to12 years-old, testified that Mr. Martin also sexually abused them. *Id.* The case ended in mistrial. Rather than go to trial a second time, Mr. Martin entered a plea of guilty in exchange for an 18-month prison sentence. He served less than a year. After Curtis Martin's release from prison, his wife Sherrie Pyron continued to permit her husband to have contact with Ashlie. He lived in a trailer that was about 200 feet from the house where Ashlie lived. *Id.* at 14. The house was in deplorable shape:

> The inside of the house was extremely dirty, had spider webs lining the ceiling and walls throughout the house, and had broken furniture. The bathroom was filthy and grimy. The entire condition of the home appeared uninhabitable. The outside of the house had broken appliances, children's toys, and miscellaneous furniture along the front yard. The inside of the camper trailer was extremely dirty and cramped with miscellaneous food, clothing, and appliances. It appeared to have uninhabitable conditions. The outside of the camper trailer had dishes, bottles, and miscellaneous furniture in the yard. It was also wrapped in a tarp.

Id. at 276.

Understandably, Ashlie Martin's upbring negatively affected her mental health. Dr. Kathleen Heide[1], an expert in juvenile homicide and parricide, spent about fourteen hours with Ashlie prior to sentencing and reviewed "at least two to three thousand pages" of records in this case. (ROA Vol. IV at 13) She prepared a detailed report outlining her findings and testified at Ashlie Martin's sentencing hearing. The doctor concluded that Ashlie Martin had experienced eight "Adverse Childhood Experiences" (ACE).[2] (ROA Vol. II at 432) Less than 1% of the population has a reported ACE score of seven or more. *Id.* A high ACE score increases the likelihood

[1] Dr. Heide is a distinguished university professor at the University of South Forida. (ROA Vol. IV at 5) She is also a mental health counselor and the author of approximately 150 professional publications, including five books. *Id.* at 6. Her work has been cited about 6000 times by other scholars and experts. *Id.* This make her one of the most cited experts in her field.

[2] These include: physical abuse, verbal (psychological) abuse, sexual abuse, physical neglect, emotional neglect, alcoholic or substance abusing parent, mother as a victim of domestic violence, and a family member in jail.

of negative outcomes, including chronic disease and behavioral and mental health problems such as depression, violence, suicide, teen pregnancy, substance abuse, and smoking. *Id.* Ashlie suffered from depression and anxiety disorder as early as when she was 10 years-old. *Id.* at 449. She was later diagnosed with Post Traumatic Stress Disorder. *Id.* at 450.

B. The offense

Ashlie martin tried to escape her deplorable home environment on multiple occasions. She attempted to join the military when she was only fifteen. (ROA Vol. II at 275) In 2020, Ashlie Martin was 17 years-old and in the tenth grade when she began dating Bryson Miller. *Id.* at 279. Bryson was 15 years-old. Ashlie's parents did not approve of Bryson. Several months prior to her parents' murder, Ashlie and Bryson ran away to Paris, Texas. The couple had no plan and attempted to survive by scrounging for food while sleeping in an abandoned building until they were picked up by the police and brought home after two weeks. Ashlie even considered suicide as a way out. *Id.* at 277. She posted suicidal thoughts on Facebook in 2020 and her school counselor, Tammy Edwards, believed Ashlie to be "very troubled and suicidal" *Id.* Try as she might, Ashlie was unable to escape on her own.

After his release from prison in 2018, Curtis Martin continued to rape Ashlie whenever he had access to her. (ROA Vol. II at 276) At the time of her parents' death

in December of 2020, Ashlie believed herself to be pregnant based on a pregnancy test she took in the fall of 2020. She did not know whether the child was her boyfriend's or her father's. *Id.* at 410. Her mother had repeatedly told Ashlie that she was "too stupid to have a baby" and that she would not support her. (ROA Vol. IV at 20) Ashlie did not believe that her parents would permit her to raise her child with Bryson. *Id.* at 21. Either the test registered a false positive or the pregnancy spontaneously terminated, because a test after Ashlie's arrest in December of 2020 revealed that she was not pregnant. (ROA Vol. II at 410)

Since running away had not worked for her in the past, Ashlie and Bryson began to talk about killing her parents instead. Ashlie did not believe that she could kill them herself or even assist in the murders. Bryson feared that he would be unable to handle everything on his own, so he asked a neighbor, Chad Voyles, to help. Voyles was 18 years-old. Bryson Miller and Chad Voyles agreed to commit the murders simply because Ashlie asked them to.

Ashlie decided that the evening of December 23, 2020 would be a good time to kill her parents, because they wouldn't be home at the same time. (ROA Vol. II at 17) There was no evidence that either Bryson or Miller made the least bit of effort to dissuade Ashlie, nor did they resist her request in any way. Ashlie Martin was the person who set the plan in motion, but it was not much of a plan. Neither Bryson nor

Chad decided prior to the murders how they were going to kill Ashlie's parents. (ROA Vol. II at 269)

Without direction from Ashlie, Bryson and Chad dug two holes near the house for disposal of the bodies after the murders. Chad brought the tools to dig the graves. (ROA Vol. II at 269) Chad supplied the weapons too, which included bats, knives, a taser, and a compound bow. *Id.* at 266. Bryson and Chad killed Sherrie Pyron first, because Curtis Martin had yet to arrive home, leaving her alone. Ashlie helped Bryson and Chad into the house, where Bryson and Chad beat her with baseball bats and Chad slit her throat. *Id.* at 270. Ashlie Martin remained in the hallway bathroom when this happened and did not participate in the attack. *Id.* After Bryson and Chad buried Ms. Pyron, Ashlie cleaned up the house with her co-conspirators' help and cooked eggs and bacon for breakfast. *Id.* She then retreated to a nearby abandoned home and waited to hear from her co-conspirators. *Id.*

Bryson and Chad waited at the residence for Curtis Martin to come home. When he arrived, Chad shot him with his bow, and Bryson repeatedly hit him with a barbell when he resisted the attack. (ROA Vol. II at 270) This rendered Curtis Martin unconscious but did not immediately kill him. As Mr. Martin lay still on the floor, Chad Voyles decided to use gasoline to set the house on fire. *Id.* Mr. Martin died from thermal burn injuries with smoke and soot inhalation. *Id.* at 269.

Chad went home and Bryson returned to the abandoned house where Ashlie was waiting for him. Bryson and Chad attempted to take Curtis Martin's vehicle, but they wrecked the vehicle while still within walking distance of Ashlie's house. The authorities quickly apprehended Bryson and Ashlie and charged them as juveniles with the murders of Curtis Martin and Sherrie Pyron. Chad Voyles was charged as an adult.

C. The indictment

The government filed a four-count indictment on April 13, 2023, alleging that Ashlie Martin had committed the following offenses: Count One, Conspiracy to Murder in Indian Country in violation of 18 U.S.C. §§ 1117, 1111(a); Count Two, First Degree Murder in violation of 18 U.S.C. § 1111(a); Count Three, First Degree Murder in violation of 18 U.S.C. § 1111(a); and Count Four, Carjacking Resulting in Death, 18 U.S.C. § 2119(3). (ROA Vol. I at 10) Ashlie Martin's co-conspirators were each charged in separate indictments.

D. Plea

On July 26, 2023, Ashlie Martin waived her right to trial and entered a plea of guilty to Conspiracy to Murder as alleged in Count One of the indictment filed on April 13, 2023. (ROA Vol. I at 22) Although there were plea negotiations, the government never extended a formal plea offer. *Id.* at 27.

Ashlie Martin admitted to planning the murders of her parents, but she did not admit to any active role in killing them. (ROA Vol. I at 35) She admitted to the use of her phone to text messages that involved the planning and execution of the murders. *Id.* The magistrate judge accepted her plea of guilty and referred the case to the Probation Office for a Presentence Report. *Id.* at 37-38.

E. Presentence Report

The Presentence Report applied a base offense level of 43 to the conspiracy conviction. (ROA Vol. II at 272) The probation officer recommended the addition of two levels under U.S.S.G. § 3B1.4 for Ashlie Martin's "recruitment" of Bryson Miller in the murder scheme. A multiple-count adjustment raised the total level to 47. The probation officer increased the total to 49 based upon a multiple count adjustment. With three points off for acceptance of responsibility, the adjusted gross offense level was 46, but pursuant to Chapter 5, Part A (comment n.2) the offense level was treated as 43. (ROA Vol. II at 273) Ashlie Martin had no criminal history. The only Sentencing Guidelines option with a Criminal History of I at level 43 was life.

F. Downward Departure and Variance

Ashlie Martin requested a downward departure and variance prior to sentencing. (ROA Vol. II at 372) She requested a downward departure based upon her age pursuant to U.S.S.G. § 5H1.1 and Curtis Martin's conduct pursuant to

U.S.S.G. § 5K2.10. Alternatively, she requested a downward variance to 210 months. *Id.* at 391.

G. Sentencing

At sentencing, the government asked the district court to apply a two-level enhancement for Ashlie's role as a "leader or organizer" pursuant to U.S.S.G. § 3B1.1(c), which the probation officer had not applied in the PSR. (ROA Vol. III at 9) The district court denied the request. *Id.* at 11. The district court sustained defense counsel's objection to the two-level enhancement for use of a minor to commit a crime under U.S.S.G. § 3B1.4. *Id.* at 15. The district court overruled defense counsel's objection to the vulnerable victim enhancement under U.S.S.G. § 3A1.1(b)(1). *Id.* at 16.

The district court's rulings did not change the offense level of 43, which was still the maximum permissible. Unwilling to impose what was believed to be an unlawful sentence of life, the district court granted the downward variance in part, presumably to level 42, for which the range was 360 months to life. The district court denied Ashlie Martin's departure and variance request for a sentence of 210 months and imposed a sentence of 456 months in the custody of the Bureau of Prisons. (ROA Vol. I at 61)

On the same day, the district court sentenced her co-conspirators, both of whom actually killed Ashlie's parents, to shorter prison terms than that received by Ashlie Martin. The district court sentenced Bryson Miller to 300 months in the Bureau of Prisons. (24-CR-0162, Dkt. 63) The district court sentenced Chad Voyles, who was legally an adult, to 420 months in the custody of the Bureau of Prisons. (21-CR-0190, Dkt. 92) Ashlie Martin was assessed $4,594.28 in restitution to the Oklahoma Crime Victims Compensation Board, with $2,580.28 to be paid jointly and severally between Ms. Martin and her co-conspirators. (ROA Vol. I at 67; ROA Vol. III at 47) Finally, the district court ordered Ashlie Martin to pay $2,014.00 for her parents' burial. *Id.*

SUMMARY OF THE ARGUMENT

The district court's sentence of 456 months was both procedurally and substantively unreasonable. Ashlie Martin received the longest sentence of all three co-conspirators. One co-conspirator – Bryson Miller – was also a juvenile at the time that the murders were committed. He received a sentence of 300 months. (24-CR-0162, Dkt. No. 63) The second co-conspirator – Chad Voyles – was an adult at the time of the murders. Mr. Voyles received a sentence of 420 months. (21-CR-0190, Dkt. No. 92). While the murders were Ashlie Martin's idea, they would not have been committed without her co-conspirators, who planned the details of the murders and

carried them out. Thus Ashlie received a longer sentence than an adult who committed the murders and a much longer sentence than the other juvenile co-conspirator.

The district court failed to avoid an unreasonable sentencing disparity between Ashlie and her co-conspirators. It was an abuse of discretion for the district court to designate Ashlie as a manipulator that increased her culpability because she harmed the murder victims and her co-conspirators. Her co-conspirators were not victims. The evidence was that Ashlie Martin asked Bryson Miller to carry out the murders, and he agreed. Since Bryson did not believe that he could carry out the murders by himself, he sought the assistance of Chad Voyles. Neither co-conspirator resisted her request.

Ashlie Martin was a juvenile when the offense was committed. Because the district court started its analysis at an Offense Level of 43, the guideline sentence was life. Ashlie Martin filed a "Motion for Downward Departure and Variance" seeking a sentence of 210 months. (ROA Vol. II at 372) The district court refused to grant the requested variance. The district court should not have relied on a sentencing guideline range that was intended for adult defendants who commit premeditated murder. The district court failed to explicitly state why it denied the requested downward variance to 210 months.

In deciding to sentence Ashlie Martin to 456 months, the district court placed excessive reliance on the nature and circumstances of the offense under 18 U.S.C. § 3553(a). Although guilty of conspiring to murder Curtis Martin and Sherrie Pyron, it was her co-conspirators who killed them (and determined the manner of death) and not Ashlie Martin. The district court placed undue emphasis on Ashlie's supposed ability to influence and control her co-conspirators. This was unreasonable and failed to properly consider that not only was Ashlie a juvenile, but she was immature for her age and had a low IQ. Given her juvenile status at the time of the offense, the district court should have considered her positive prospects for rehabilitation, as verified by expert testimony at sentencing.

Finally, the starting point in the sentencing was also adversely affected by the district court's error in applying a "vulnerable victim" enhancement pursuant to U.S.S.G. § 3A1.1(b)(1). The district court was wrong to conclude that Curtis Martin was a "vulnerable victim" simply because he was not healthy.

I.

The district court abused its discretion by imposing a substantively unreasonable sentence. [3]

A. Standard of Review

"Reasonableness review is a two-step process comprising a procedural and a substantive component." *United States v. Jackson*, 82 F.4th 943, 949 (10th Cir. 2023). The substantive reasonableness inquiry involves whether the length of the sentence is "greater than necessary" or excessive given all the circumstances of the case in light of the factors set forth in 18 U.S.C. § 3553(a). This Court utilizes an abuse of discretion standard, and will reverse only if the district court applied the § 3553(a) factors in a way that was "arbitrary, capricious, whimsical, or manifestly unreasonable." *United States v. Garcia*, 946 F.3d 1191, 1211 (10th Cir. 2020)(quoting *United States v. DeRusse*, 859 F.3d 1232, 1236 (10th Cir. 2017)).

[3] **Record Reference**: Defense counsel filed a "Motion for Downward Departure and Variance" wherein he requested a sentence of 210 months. (ROA Vol. II at 372) After sentencing, counsel orally objected to the sentence on substantive grounds. (ROA Vol. III at 50) (Attachment 3) A defendant "need not object after pronouncement of sentence based on substantive reasonableness." *United States v. Romero,* 491 F.3d 1173, 1177 (10th Cir. 2007); *see also United States v. Garcia,* 757 Fed.Appx. 708, 711 (10th Cir. 2018).

B. This Court has a duty to meaningfully review and correct an unreasonably harsh sentence.

The Supreme Court has recognized that district court judges will sometimes "impose sentences that are unreasonable," and "[c]ircuit courts exist to correct such mistakes when they occur." *Rita v. United States*, 551 U.S. 338, 354 (2007). "To say that a sentence is 'substantively unreasonable' is not to say that 'no reasonable person' would have imposed such a sentence." *United States v. Rigas,* 583 F.3d 108, 123 (2d Cir. 2009). Appellate review for substantive reasonableness "must not be regarded as a rubber stamp." *United States v. Sample,* 901 F.3d 1196, 1199 (10th Cir. 2018).

This Court assesses the reasonableness of a sentence based on seven statutory factors: (1) the nature and circumstances of the offense and the history and characteristics of the defendant, (2) the need for a sentence to reflect the seriousness of the crime, deter future criminal conduct, protect the public, and provide rehabilitation, (3) the legally available sentences, (4) the U.S. Sentencing Guidelines, (5) the Sentencing Commission's policy statements, (6) the need to avoid unwarranted disparities among sentences, and (7) the need for restitution. 18 U.S.C. § 3553(a).

The Sentencing Reform Act provides that "[t]he court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth" in the Act. 18 U.S.C. § 3553(a). The Act requires a court to impose sentences that "reflect the seriousness of the offense, promote respect for the law, provide just

punishment, afford adequate deterrence, [and] protect the public." *United States v. Booker,* 543 U.S. 220, 224 (2005); 18 U.S.C. § 3553(a)(2). However, Congress has directed that a sentence should impose the least suffering demanded by the general welfare – a concept known as the "principle of parsimony." *See e.g., Richard S. Frase, Punishment Purposes,* 58 Stan. L. Rev. 67, 77 & n.24, 78 & n.29 (2005); *United States v. Carey,* 368 F. Supp.2d 891, 895 n.4 (E.D. Wis. 2005) (citing scholarly articles); *United States v. Wilson,* 350 F.Supp.2d 910, 922-23 (D. Utah 2005).

C. The district court failed to adequately consider Ashlie Martin's personal characteristics and prospects for rehabilitation, which resulted in a substantively unreasonable sentence.

18 U.S.C. § 3553(a)(1) requires a sentencing court to consider the "characteristics of the defendant." "It has been uniform and constant in the federal judicial tradition for the sentencing judge to consider every convicted person as an individual and every case as a unique study in the human failings that sometimes mitigate, sometimes magnify, the crime and the punishment to ensue." *Koon v. United States,* 518 U.S. 81, 113 (1996). Underlying this tradition is the principle that "the punishment should fit the offender and not merely the crime." *Williams v. New York,* 337 U.S. 241, 247 (1949).

1. Ashlie Martin was a juvenile during the pendency of the conspiracy.

The requirement that a district court consider a defendant's age when imposing a sentence is magnified when the defendant committed the charged offense as a child. As the Supreme Court has succinctly pronounced: "[C]hildren are different...". *Montgomery v. Louisiana,* 577 U.S. 190, 208 (2016)(In light of children's diminished culpability and heightened capacity for change, appropriate occasions for sentencing juveniles to the harshest penalty possible will be uncommon). Defendants under the age of 18 are to be evaluated differently than a person over the age of 18, even if the juvenile is prosecuted as an adult.

In *Miller v. Alabama,* 567 U.S. 460 (2012), the Supreme Court confirmed that children are *constitutionally* different from adults for the purposes of sentencing. These are considerations independent of, or in addition to, a particular juvenile's personal characteristics. They are characteristic of juveniles as a group:

> Because juveniles have diminished culpability and greater prospects for reform, we explained, "they are less deserving of the most severe punishments." Those cases relied on three significant gaps between juveniles and adults. First, children have a "'lack of maturity and an underdeveloped sense of responsibility,'" leading to recklessness, impulsivity, and heedless risk-taking. Second, children "are more vulnerable ... to negative influences and outside pressures," including from their family and peers; they have limited "contro[l] over their own environment" and lack the ability to extricate themselves from horrific, crime-producing settings. *Ibid.* And third, a child's character is not as "well formed" as an adult's;

> his traits are "less fixed" and his actions less likely to be "evidence of irretrievabl[e] deprav[ity]."

Miller, 567 U.S. at 471 (internal citations omitted).

The *Miller* Court supported its reasoning with scientific evidence. "In *Roper,*[4] we cited studies showing that '[o]nly a relatively small proportion of adolescents' who engage in illegal activity 'develop entrenched patterns of problem behavior.'" *Id.* at 471 (quoting Steinberg & Scott, *Less Guilty by Reason of Adolescence: Developmental Immaturity, Diminished Responsibility, and the Juvenile Death Penalty*, 58 Am. Psychologist 1009, 1014 (2003). There are distinct differences between the brain of an adult and the brain of a child, particularly in the parts of the brain involved in behavior control. *Miller,* 567 U.S. at 472. The Supreme Court noted that "the same characteristics that render juveniles less culpable than adults" – their immaturity, recklessness, and impetuosity – make them less likely to consider potential punishment. *Graham v. Florida,* 560 U.S. 48, 72 (2010)(quoting *Roper v. Simmons,* 543 U.S. 551, 571 (2005)).

Ashlie Martin was 17 years-old when her co-conspirators killed her parents. Almost as an afterthought, after sentencing Ashlie Martin to 456 months, the district court noted that she was a "minor." (ROA Vol. II at 48) When a district court imposes a 38-year prison sentence for a crime committed when the defendant was a

[4] *Roper v. Simmons,* 543 U.S. 551 (2005)(establishing an absolute prohibition against executing juvenile offenders).

juvenile, more is required than a simple acknowledgement that the child was a "minor." "[Y]outh is more than a chronological fact." *Eddings v. Oklahoma,* 455 U.S. 104, 115 (1982). Ashlie was not only young, she was less mature than other children her age. (ROA Vol. IV at 20) Whatever goal would otherwise be served by deterrence is less significant when the crime is committed by a juvenile, and this is particularly true in Ashlie Martin's case.

2. Ashlie Martin is amenable to treatment and rehabilitation.

Closely related to Ashlie Martin's status as a juvenile is the statistical fact that few children are permanently incorrigible or irreparably corrupt. *Miller v. Alabama,* 567 at 472. Before imposing a "throw away the key" sentence such as that imposed herein, a sentencing court must consider the rehabilitation prospects of a juvenile offender. As pointed out in *Roper,* "[i]t is difficult even for expert psychologists to differentiate between the juvenile offender whose crime reflects unfortunate yet transient immaturity, and the rare juvenile offender whose crime reflects irreparable corruption." *Roper,* 543 U.S. at 573. Judges must nonetheless make this evaluation at the time of sentencing, as there is no provision under federal law to formally review a juvenile offender's progress later, after a child matures. The court must make an intelligent and informed decision regarding rehabilitation potential at the time of sentencing.

The district court failed to consider the evidence of Ashlie Martin's prospects for self-improvement. Defense counsel presented expert testimony that Ashlie Martin was amenable to treatment and had good prospects for rehabilitation. Dr. Kathleen Heide, a Ph.D. who specializes in parricide, testified as an expert witness at sentencing. (ROA Vol. IV at 4) Dr. Heide spent approximately 14 hours with Ashlie Martin, conducted extensive testing, and concluded that Ashlie was amenable to rehabilitation. *Id.* at 13, 22. Ashlie Martin has already expressed a desire to better herself while in prison and earn her G.E.D. *Id.* at 29. Dr. Heide concluded that Ashlie "is motivated to change further, is interested in therapy, wants an education, and desires to get a job in which she can help people." (ROA Vol. II at 445)

As Ashlie Martin matures over the coming years, she *will* change. There is no evidence that the judge considered this. In a juvenile case, the prospect of change in a defendant as she matures should matter a great deal. Ashlie's childhood was marred by constant neglect and abuse by her parents, including being raped by her father. Her mother devoted more effort to protecting Curtis Martin and caring for their dogs than she did protecting her own daughter. In many ways, Ashlie's present environment – prison – is superior to the environment she was forced to deal with her entire childhood and more conducive to positive change. While Ashlie obviously regrets committing the crime she was convicted of, she finds incarceration to be better than

living with her parents. She only "wishes that she could have been locked up for another reason." (ROA Vol. II at 446)

3. Ashlie Martin was an immature child with limited intelligence.

In his explanation of Ashlie Martin's 456-month sentence, the sentencing judge never acknowledged that he was sentencing a low IQ, immature person with an undeveloped prefrontal cortex, nor did the court address the psychological or physiological implications of her youth. (ROA Vol. III at 42-43) The district court did not have to agree with the expert testimony of Dr. Kathleen Heide, but he should have at least acknowledged it.

As early as age ten, Ashlie Martin was diagnosed with "General Anxiety Disorder." (ROA Vol. II at 413) Her social abilities as a young child were described as "inept." *Id.* As measured by the Woodstock Johnson III test, her present IQ was measured at 78. *Id.* at 408. On the Wechsler Adult Intelligence Scale, she scored even lower, at 76. *Id.* at 448. Her verbal skills – an essential tool for the manipulation imagined by the district court – was in the low range when compared to other children her age. *Id.*

Like all juvenile offenders, Ashlie's brain was not fully developed. (ROA Vol. II at 447) The last area of the brain to develop is the pre-frontal cortex, which is associated with critical thinking, deliberation, and judgment. *Id.* Ashlie's school

records indicated that while she had made it to the eleventh grade, she had been performing several years below her grade level "for many years." *Id.* at 448. Dr. Heide considered Ashlie to be very immature at the time of the murders. When Dr. Heide interviewed twenty-year-old Ashlie Martin in December of 2020, she "presented at times as a young teenager rather than a young adult…" *Id.* at 447. The idea that Ashlie Martin exerted some kind of "Svengali" mind control over her co-conspirators lacks any basis in reality.

4. Ashlie Martin experienced a horrific childhood at the hands of her parents.

Dr. Heide conducted numerous tests and came to important conclusions about how Ashlie Martin's past affected her. Ashlie's "Adverse Childhood Experience" (ACE) score was 8, with 6 corroborated. (ROA Vol. II at 432) This includes adverse experiences such as physical or sexual abuse, emotional neglect, substance abuse or domestic violence in the home. Less than 10% the population report a score of 7 or more. *Id.* Dr. Heide administered many different tests, including five that corroborated Ashlie's responses. *Id.* at 434. Dr. Heide also relied upon previous testing by Dr. Kathy LaFortune. *Id.* at 435.

Ashlie exhibited Post Traumatic Stress Disorder (PTSD) symptoms. (ROA Vol. II at 438) She did not test high on scales that specifically measure delinquent attitudes and perceptions. *Id.* at 440. Ashlie did not display a pattern of "negativistic,

hostile, and defiant behavior" associated with Oppositional Defiant Disorder. *Id.* "[Ashlie] is less criminally-oriented than juveniles with different behavioral subtypes." *Id.* Dr. Heide administered the Youth Level of Supervision/Case Management Inventory, which is designed to assess risk and needs in several areas, including personality, employment and relationships. Her risk level was low. *Id.*

Dr. Heide administered tests designed to measure psychopathic traits, including the Psychopathy Checklist Revised (PCL-R). She tested low. (ROA Vol. II at 443). She also tested low in antisocial behavior. *Id.* at 443, 447. Ashlie does not present a continuing danger to society. *Id.* at 442, 444. Ultimately, Dr. Heide identified at least 33 factors in mitigation for the district court to consider. These are listed as Attachment 2 to this brief.

While the district court mentioned factors such as the neglect Ashlie Martin experienced, her "likely" sexual abuse, and deplorable home conditions, the court failed to address how these mitigation factors warranted a sentence substantially longer than her co-conspirators. (ROA Vol. III at 43) The court simply acknowledged that "the applicable state and tribal child welfare agencies failed her" by not addressing these obvious issues. *Id.*

D. The district court created an unwarranted sentencing disparity when it sentenced Ashlie Martin to a longer term of imprisonment than the two people who committed the murders, one of whom was an adult.

18 U.S.C. § 3553(a)(6) mandates that a sentencing court consider the need to avoid unwarranted sentencing disparities. This is "a critical sentencing factor." *United States v. Crosby,* 119 F.4th 1239, 1251 (10th Cir. 2024), citing to (*United States v. Lente,* 647 F.3d 1021, 1039 (10th Cir. 2011). In *Crosby,* this Court stated that "[l]ike all other statutorily required considerations in sentencing, for this Court to properly review the consideration afforded to avoiding unwarranted sentencing disparities, the district court must explain its reasoning in light of all the § 3553(a) factors." *Id.* 18 U.S.C. § 3553(a)(6) requires a district court to consider – and avoid – unwarranted sentencing disparities among defendants with similar records who have been found guilty of similar conduct. A sentence that creates unwarranted disparities further supports a finding that it is substantively unreasonable. *See, e.g., United States v. Perez-Rordriguez,* 960 F.3d 748, 756 (6th Cir. 2020)(sentence reversed as substantively unreasonable because "disparities in sentencing must be warranted," and "the district court failed to address sentencing disparities").

Ashlie Martin did not kill anyone. While the murders were Ashlie's idea, she did not carry out the crimes. Ashlie did not plan any of the details of the crimes that her co-conspirators committed. She did not specify how the killings were to take place

The murders never would have happened without the willing participation of her co-conspirators. All murders are brutal in a sense, but any brutality particular to these killings was due to the decisions and actions of Ashlie Martin's co-conspirators.

One of the co-conspirators – Bryson Miller – was a juvenile. He was sentenced to serve 300 months. (24-CR-0162, Dkt. No. 63) The other co-conspirator – Chad Voyles – was 18 and therefore an adult. He was sentenced to serve 420 months. (21-CR-0190, Dkt. No. 92) They were the ones who killed Ashlie's parents. Ashlie Martin, who *talked* about killing her parents, was sentenced to serve 456 months, which was 36 months longer than the only adult co-conspirator. Because he was a juvenile, Bryson Miller's sentence was 120 months less than Chad Voyles. There was a disparity of 156 months (13 years) between the sentences of the two juveniles in this case, and the juvenile who committed the murder received the much shorter sentence. Ashlie Martin had no criminal history or other factors that would justify the disparate sentences.

There is little data on juveniles sentenced as adults for federal conspiracy to commit murder. The PSR identified 67 defendants with a primary guideline of § 2A1.1 with a final offense level of 43 and a Criminal History Category of I. For these *adult* defendants, the average length of imprisonment was 416 months and the median length was 470 months. (ROA Vol. II at 280) Ashlie Martin's sentence was longer that

the average sentence of an adult convicted of murder and sentenced under U.S.S.G. § 2A1.1.

In Ashlie Martin's case there were three defendants involved in the conspiracy. One was a juvenile who was younger than Ashlie, the other was an adult. Given that the adult's sentence was 30 months less than Ashlie's sentence, the district court improperly used an adult's sentence as a stepping stone to prop up a juvenile sentence for the same statutory violation. In *United States v. Tom,* 327 Fed.Appx. 93, *5 (10th Cir. 2009)(unpublished), the court held that while acknowledging that district courts may typically consider sentencing disparities between co-defendants, "comparing the sentence of an adult defendant to that of a juvenile would be of limited utility given that the two are not similarly situated." *Id.* at *5.

II.

The district court abused its discretion by imposing a procedurally unreasonable sentence.[5]

A. Standard of Review

Procedural sentencing error is reviewed for an abuse of discretion. *Gall v. United States,* 552 U.S. 38, 51 (2007)(quotation marks omitted). This Court first reviews

[5] **Record Reference**: Ashlie Martin objected to the sentence as procedurally unreasonable. (ROA Vol. III at 51-52) (Attachment 3)

procedural reasonableness by asking "whether the district court committed any error in calculating or explaining the sentence." *Id.* A district court commits procedural error by "failing to calculate (or improperly calculating) the Guidelines range, treating the Guidelines as mandatory, failing to consider the § 3553(a) factors, selecting a sentence based on clearly erroneous facts, or failing to adequately explain the chosen sentence." *Id.* This Court has acknowledged a blurring of the line between procedural and substantive reasonableness when it comes to the district court's explanation for a given sentence. *United States v. Barnes,* 890 F.3d 910, 917 (10th Cir. 2018).

This Court "review[s] *de novo* the district court's legal conclusions regarding the [G]uidelines and review[s] its factual findings for clear error." *United States v. Gantt,* 679 F.3d 1240, 1246 (10th Cir. 2012). If this Court finds the error to not be sufficiently preserved, it can review for plain error. *United States v. Romero,* 491 F.3d 1173 (10th Cir. 2007).

B. The district court applied the sentencing guidelines incorrectly.

1. The district court improperly anchored its analysis to a guideline range that was intended to implement a life sentence for an adult rather than a juvenile.

"As a matter of administration and to secure nationwide consistency, the Guidelines should be the starting point and the initial benchmark." *Gall v. United States,* 552 U.S. 38, 49 (2007). Generally, "a district court should begin all sentencing

proceedings by correctly calculating the applicable Guidelines range." *United States v. Ray,* 704 F.3d 1307, 1315 (10th Cir. 2013) *cert. denied* 569 U.S. 1036 (internal quotation marks omitted). "The district court must then consider the arguments of the parties and the factors set forth in 18 U.S.C. § 3553(a)." *Peugh v. United States,* 569 U.S. 530, 536 (2013). In Ashlie Martin's case, the district court adopted the PSR Offense Level of 43, which only had one option: a life sentence. (ROA Vol. III at 15).

Federal juvenile cases are rare. Ashlie's juvenile status during the conspiracy takes this case out of typical cases where adults commit the offense of conspiracy to murder in Indian country. The applicable guideline in a conspiracy to murder in Indian country case begins with U.S.S.G. § 2A1.5. When a death results from the conspiracy, a cross-reference to the first degree murder guideline applies. The first degree murder guidelines were written with the assumption that a statutory mandatory life without parole sentence would apply, because that is the sentence an adult would receive. *See* 18 U.S.C. § 1111. This is not true for juveniles. As addressed in *Miller v. Alabama,* 567 U.S. 460 (2012), a mandatory life sentence for a juvenile offender would violate the Eighth Amendment.

Miller v. Alabama, 567 U.S. 460 (2012) announced a substantive rule of constitutional law. Sentencing a child to life without parole is excessive under the Eighth Amendment for all but "the rare juvenile offender whose crime reflects irreparable corruption." *Miller* at 479-80 (quoting *Roper,* 543 U.S. 551, 573 (2005).

Although Ashlie Martin was not sentenced to a life without parole sentence, the court began its analysis at the *adult* offense level of 43 before considering a variance. (ROA Vol. III at 15) As the district court began its analysis with what was tantamount to an unconstitutional life sentence if mandatory, the court committed procedural error that requires resentencing.

"[W]hen the starting point for the § 3553(a) analysis is incorrect, the end point, i.e., the resulting sentence, can rarely be shown to be unaffected." *United States v. Rosales-Miranda,* 755 F.3d 1253, 1259-60 (10th Cir. 2014), quoting *United States v. Langford,* 516 F.3d 205, 217 (3rd Cir. 2008). That a district court may ultimately sentence a given defendant outside the guidelines range does not deprive the guidelines of force as the framework for sentencing. *Rosales-Miranda,* 755 F.3d at 1259-60 ("Put another way, the Guidelines baseline from which the district court ultimately determined Mr. Rosales-Miranda's sentence and decided to vary downward was significantly higher than it should have been, which strongly suggests that there is a reasonable probability that Mr. Rosales-Miranda was prejudiced by the sentencing error that produced this false baseline.").

Jones v. Mississippi, 593 U.S. 98 (2021) states that the Eighth Amendment only prohibits a mandatory life without parole sentence for a juvenile offender; nothing more and nothing less. Ashlie Martin was convicted of conspiracy to murder, which does not carry a mandatory life sentence. 18 U.S.C. § 1117. However, it was error for

the district court to anchor its sentencing analysis on a guideline provision that was intended to sentence *adult* defendants who commit premeditated murder to a life without parole sentence. (ROA Vol. III at 51)

2. The harm suffered by Ashlie Martin's co-conspirators because they agreed to murder her parents is not an appropriate sentencing factor under 18 U.S.C. § 3553.

It was procedural error for the district court to base a sentence on a factor not within the categories set forth in 18 U.S.C. § 3553(a). *United States v. Smart,* 518 F.3d 800, 803 (10th Cir. 2008). Harm to co-conspirators who chose to participate in a conspiracy to kill two people is not properly attributable to Ashlie Martin as a sentencing factor under 18 U.S.C. § 3553(a). Section 3553(a) mandates consideration of its enumerated factors and implicitly forbids consideration of factors outside its scope. *See* § 3553(a) "The court, in determining the particular sentence to be imposed, shall consider [the listed factors]." 18 U.S.C. § 3553(a). *See also United States v. Roberson,* 517 F.3d 990, 993 (8th Cir. 2008)[6] (procedural sentencing error includes "giving significant weight to an irrelevant or improper factor").

The district court improperly viewed Ashlie Martin's co-conspirators as her victims. (ROA Vol. III at 43). The district court identified Ashlie Martin's "instigating and manipulative roles" in the crimes, adding that "not only is she responsible for the

[6] Cited in *United States v. Smart,* 518 F.3d 800 (10th Cir. 2008).

death of her parents, but her actions also severely damaged many other lives, including her co-conspirators, Chad Voyles and Brian Miller." *Id.* Of course, the actions of all three co-conspirators affected the same people outside of the conspiracy. This fails to distinguish Ashlie Martin's conduct from that of her co-conspirators.

The district court's assumptions about Ashlie Martin have more in common with cultural tropes than the evidence in this case. Eve tempted Adam with forbidden fruit, Salome danced for the head of John the Baptist, and Lady Macbeth encouraged her husband to kill good King Duncan. Jezebel convinced her husband, King Ahab, to abandon the Hebrew God and worship other deities. But there was no evidence that Ashlie Martin presented any undue influence to bear on either of her co-conspirators. Yes, she asked them to kill her parents. All the co-conspirators had to do was respond by saying "no." Instead, they gathered up shovels, baseball bats and a bow and arrow and set out to do as she asked. It is error to consider "harm" to the co-conspirators under 18 U.S.C § 3553(a) as though they were Ashlie's victims in this case. They were not.

Defense counsel objected to the Guideline enhancements and made a procedural objection to the district court's sentence. (ROA Vol. III at 50) Should this Court view defense counsel's objection as inadequate, it can still review for plain error. *See United States v. Mendiola,* 696 F.3d 1033, 1036 (10th Cir. 2012). Under that

standard, this Court will reverse only if Ms. Martin "demonstrates (1) error (2) that is plain, (3) that prejudices [her] substantial rights, and (4) that seriously affects the fairness, integrity, or public reputation of judicial proceedings." *Id.*

The error is plain, as Section 3553(a) mandates consideration of its enumerated factors, and implicitly forbids consideration of factors outside its scope. *United States v. Smart,* 518 F.3d 800, 803 (10th Cir. 2008), citing to *United States v. Robertson,* 517 F.3d 990, 993, 2008 WL 323223, at *1 (8th Cir. Feb. 7, 2008)(procedural sentencing error includes "giving significant weight to an irrelevant or improper factor"). Ms. Martin must also demonstrate that the error affected her substantial rights. An error affects substantial rights if there is "a reasonable probability that, but for the error, the outcome of the proceeding would have been different." *Molina-Martinez v. United States,* 578 U.S. 189 (2016)(internal quotes omitted). This case must be remanded for resentencing, as this Court "cannot guess what sentence the district court may have imposed had it used a correct analysis; we will allow the court to tell us itself." *United States v. Farley,* 36 F.4th 1245, 1254 (10th Cir. 2022).

The final question in plain error analysis is whether the procedural unreasonableness of Ashlie Martin's sentence seriously affects the fairness, integrity, or public reputation of the judicial proceedings. *United States v. Wolfname,* 835 F.3d 1214, 1217 (10th 2016). A court's excusing "obvious errors …that threaten to require individuals to linger longer in federal prison than the law demands" is likely to

diminish the public's view of the judicial process and its integrity." *United States v. Farley,* 36 F.4th 1245, 1254 (10th Cir. 2022).

Whether reviewing for an abuse of discretion or plain error, this case must be remanded for resentencing.

3. The district court's sentence was procedurally unreasonable in its entirety because the court failed to state why it refused to grant the requested variance.[7]

In reviewing for procedural adequacy, this Court must ensure that the district court "adequately explain[ed] the chosen sentence—including an explanation for any deviation from the Guidelines range." *Gall,* 552 U.S. at 51. For example, just as a court's consideration of the § 3553(a) factors is a procedural requirement, so, too, is its explanation of how those factors apply. *United States v. Barnes,* 890 F.3d 910, 917 (10th Cir. 2018) (the court's explanation serves both procedural and substantive functions). The district court must explain its reasons for imposing a particular sentence under 18 U.S.C. § 3553(c).

Defense counsel filed a motion for "Downward Departure and Variance," asking that the district court impose a sentence of 210 months. (ROA Vol. II at 372) The district court sentenced Ashlie Martin to 456 months. The district court refused

[7] Defense counsel made a general procedural objection to the sentence. (ROA Vol. III at 50)

to grant the requested downward variance. The PSR calculated the Guideline offense level at 43, where the only option was a life term. The sentence that the district court imposed – 456 months – was within the Offense Level 42 Guideline range, which was 360 to life.

Importantly, this Court has identified an additional "procedural requirement" for courts presented with a "non-frivolous" request for a variance. *United States v. Sanchez-Juarez,* 446 F.3d 1109, 1117 (10th Cir. 2006). When a defendant makes such a request, "a district court must state [the] reasons for its rejection of [the] party's [request]." *Id.* And, where a defendant has raised a non-frivolous argument that the § 3553(a) factors warrant a below-Guidelines sentence and has expressly requested such a sentence," the judge must explain, on-the-record, that "the Guidelines sentence actually conforms, in the circumstances, to the statutory factors." *Sanchez-Juarez,* 446 F.3d at 1117 (citing *United States v. Cunningham,* 429 F.3d 673, 676 (7th Cir. 2005)) As the Seventh Circuit Court of Appeals has explained, in a case quoted favorably by the *Sanchez-Juarez* court, this requirement helps avoid "the temptation to a busy judge to impose the Guidelines sentence and be done with it, without wading into the vague and prolix statutory factors." *Cunningham,* 429 F.3d at 679.

The district court failed to explain its refusal to grant the requested variance by behaving as though the request had been granted, when it had not been granted in any meaningful sense. (ROA Vol. III at 48) The district court stated:

> In determining the sentence, I am granting the Defendant's Motion, Document 64, for a Variance. I have considered the nature and circumstances of the offense, as well as the defendant's personal characteristics, lack of criminal history, and the Defendant's motion.

Id.

Defense counsel did not specifically object to the district court's failure to provide an adequate explanation as to why it refused to sentence Ashlie Martin anywhere near the same ballpark as the variance request. To establish plain error, Ms. Martin must demonstrate that "(1) an error occurred; (2) the error was plain; (3) the error affected …substantial rights; and (4) the error seriously affected the fairness, integrity, or public reputation of a judicial proceeding." *Wolfname,* 835 F.3d at 1217 (internal quotations omitted).

The error is plain because the law is well-established that a district court must explain its reasons for imposing a particular sentence on a particular defendant. *See Sanchez-Juarez,* 446 F.3d at 1117. As stated in *United States v. Clark,* 981 F.3d 1154, 1170 (10th Cir. 2020): "[I]n the rare circumstances presented here - where there is no applicable Guidelines provision, no advisory Guidelines sentencing range, and a statutory maximum sentence of life – a district court's failure to explain how it arrived at its sentence leaves both the defendant and the appellate court without any indication at all of how the sentence was arrived at, in turn, whether the sentence is fair and just." *Cf. United States v. Rose,* 185 F.3d 1108, 1112 (10th Cir. 1999).

An error affects substantial rights if there is "a reasonable probability that, but for the error, the outcome of the proceeding would have been different." *Molina-Martinez v. United States,* 578 U.S. 189 (2016) (internal quotation marks omitted). This case must be remanded for resentencing, as this Court "cannot guess what sentence the district court may have imposed had it used a correct analysis; we will allow the court to tell us itself." *United States v. Farley,* 36 F.4th 1245, 1254 (10th Cir. 2022). *See also Clark* 981 F.3d at 1170 (under these unique circumstances the plain error necessarily affects the defendant's substantial rights and no other showing is required to satisfy the third prong of the plain error test).

The final question in plain error analysis is whether the procedural unreasonableness of Ms. Martin's sentence seriously affects the fairness, integrity, or public reputation of judicial proceedings. *Wolfname,* 835 F.3d at 1217. A court's excusing "obvious errors …that threaten to require individuals to linger longer in federal prison than the law demands" is likely to diminish the public's "view of the judicial process and its integrity." *Farley,* 36 F.4th at 1254.

The district court listed more mitigation than aggravation at the sentencing hearing, because there *was* more mitigation than aggravation. The court mentioned factors such as the neglect Ashlie Martin experienced, her "likely" sexual abuse, and deplorable home conditions, but the court failed to address how these mitigation factors warranted a sentence substantially longer than her co-conspirators. (ROA Vol.

III at 43) The court simply acknowledged that "the applicable state and tribal child welfare agencies failed her" by not addressing these obvious issues. *Id.* Now, the federal court system has failed her. The district court's failure to adequately explain the reasons for the court's refusal to grant the variance to the extent requested must be corrected by remanding the case to the district court for resentencing, which must include a "complete explanation" of the sentence ultimately imposed. *Chavez-Meza v. United States*, 585 U.S. 109, 116 (2018).

4. Imposing a sentence greater than the adult conspirator who actually committed the murders created an unwarranted sentence disparity between the co-conspirators in this case.[8]

The district court found Ashlie Martin to be deserving of a sentence 36 months longer than that of co-conspirator Chad Voyles, an adult who supplied the weapons and actually committed the murders. (21-CR-0190, Dkt. No. 92) Her sentence was 156 months longer than Bryson Miller, the juvenile who committed the murders with Chad Voyles. (24-CR-0162, Dkt. No. 63) This is despite the "horrific and depraved nature of this crime" planned and carried out by Chad Voyles and Bryson Miller. (ROA Vol. III at 42) Bryson Miller also recruited Chad Voyles, because he did not believe he could carry out the murders on his own. This is exactly what Ashlie did

[8] Defense counsel objected to the district court's failure to avoid sentencing disparities. (ROA Vol. III at 51).

when she "recruited" Bryson Miller. In *United States v. Tom,* 327 Fed.Appx. 93, *5 (10th Cir. 2009)(unpublished), this Court acknowledged that district courts may typically consider sentencing disparities between co-defendants, as "comparing the sentence of an adult defendant to that of a juvenile would be of limited utility given that the two are not similarly situated." *Id.* at *5.

Ashlie Martin filed a comprehensive "Motion for Downward Departure and Variance" in which she argued that a sentence of 210 months was appropriate and necessary – in part – to avoid unwarranted sentencing disparities. (ROA Vol. II at 392) Ashlie Martin pointed out that there is little data on juveniles sentenced as adults for conspiracy to commit murder in the federal system. The PSR identified 67 defendants with a primary guideline of § 2A1.1 with a final offense level of 43 and a Criminal History Category of I. For these *adult* defendants, the average length of imprisonment was 416 months and the median length was 470 months. (ROA Vol. II at 280) At 456 months, Ashlie Martin was sentenced squarely with adults convicted of murder who were sentenced under U.S.S.G. § 2A1.1. It is reasonable to assume that she would have received the same sentence had she been an adult at the time of the offense.

Defense counsel objected to the disparity again after the district court sentenced Ashlie Martin. (ROA Vol. III at 51) In *United States v. Lente,* 647 F.3d 1021, 1034 (10th Cir. 2011), this Court determined that "even if Ms. Lente had not raised a

specific argument on the sentencing-disparity issue, a sentencing court must consider the seven § 3553(a) factors." "One factor that a district court must consider in imposing an appropriate sentence is 'the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct….'" *United States v. Martinez,* 610 F.3d 1216, 1228 (10th Cir.) *cert. denied,* 131 S.Ct. 543 (2010). As in *Lente*, there was no real discussion of the apparent disparity between Ashlie and her co-conspirators. Ashlie Martin received the longest sentence; even longer than the *adult* co-defendant who actually committed the murders. Although *Lente* involved an above-guideline sentence, under the facts presented, the case supports Ms. Martin's argument that the district court's failure to address the disparity issue constitutes procedural error.

Sentencing disparities between co-conspirators "are permissible when the disparity is explicable by the facts of the particular case." *United States v. Alapizco-Valenzuela*, 546 F.3d 1208, 1223 (10th Cir. 2008), citing to *United States v. Haley,* 529 F.3d 1308, 1312 (10th Cir. 2008). Bryson Miller and Chad Voyles carried out the killings and had full control over the details of how the murders would be committed. The mere fact that Ashlie Martin hatched the idea to kill her abusive parents does not render her more culpable than her juvenile or adult co-conspirators. All Mr. Voyles and Mr. Miller had to say was "no" and no one would have been killed.

III.

The imposition of a two-level "vulnerable victim" enhancement pursuant to U.S.S.G. § 3A1.1(b)(1) was reversible error.[9]

A. Standard of Review

This Court applies a de novo standard of review in questions of interpretation and application of the Guidelines. *See United States v. Hershberger,* 962 F.2d 1548, 1550 (10th Cir. 1992). The district court's factual findings underlying a vulnerable victim enhancement are reviewed under a clearly erroneous standard. *See United States v. Tissnolthtos,* 115 F.3d 759, 761 (10th Cir. 1997).

B. It was an abuse of discretion for the district court to designate Curtis Martin as a vulnerable victim under U.S.S.G. § 3A1.1(b)(1).

The district court found Curtis Martin to be a "vulnerable victim" under U.S.S.G. § 3A1.1(b)(1), which provides:

> If the defendant knew or should have known that a victim of the offense was a vulnerable victim, increase by 2 levels.

---

[9] **Record reference:** The district court overruled defense counsel's vulnerable victim objection. (ROA Vol. III at 15-16).

Defense counsel also objected in writing and orally after sentencing. (ROA Vol. II at 304-306); (ROA Vol. III at 52)(Attachment 3).

The Application Notes in the Commentary defines a "vulnerable victim" in paragraph two:

> For the purposes of subsection (b), "vulnerable victim" means a person (A) who is a victim of the offense of conviction and any conduct for which the defendant is accountable under §1B1.3 (Relevant Conduct); and (B) who is unusually vulnerable due to age, physical or mental condition, or who is otherwise particularly susceptible to the criminal conduct.

The Application Notes restrict the application of the enhancement to one who is *unusually* vulnerable or *particularly* susceptible to the specific criminal conduct in a given case. This is important. The Application Notes to § 3A1.1 limit the definition of a "vulnerable victim" to one particularly susceptible to *the* criminal conduct. The definition is not broad enough to include *any* criminal conduct.

For example, the Guidelines provide that "[a] victim's elderly status, without more, is insufficient to justify a vulnerable victim enhancement." *Tissnolthtos,* 115 F.3d at 761. The nature of the offense is an important consideration. The same elderly victim may warrant a "vulnerable victim" enhancement in a fraud case, due to dementia or other cognitive infirmity. However, in a case such as Ms. Martin's, a heavy barbell crashing down on a victim's head makes the victim's mental condition irrelevant. In Ms. Martin's case, Curtis Martin's physical infirmities did not make him any more susceptible to the injury he received from the barbell. A head injury serious enough to render a person unconscious is going to knock a person out whether he is

healthy or not. Mr. Martin was not particularly susceptible to *the* criminal conduct in this case.

"In order to classify a victim as 'vulnerable,' 'the sentencing court must make particularized findings of vulnerability.'" *United States v. Brunson,* 54 F.3d 673, 676 (10th Cir. 1995)(citations omitted). In addressing defense counsel's objection in Ashlie Martin's case, the district court stated:

> I have reviewed both the Presentence Report and the accompanying support for that. We have a situation where the victim, C.L.M., Mr. Martin, was – had severe health problems. He was grossly overweight. He used a walker to walk around. He had heart and lung issues. And to the government's point in responding to this objection, the facts of the murder showed a lack of ability to avoid his murder by the victim, Mr. Martin. He was unable to escape the situation, even though in this case there may have been, for a normal adult, the opportunity to avoid it. I think his condition maybe …I think the preponderance of the evidence showed his condition precluded that. So I will overrule the Defendant's objections to the vulnerable victim enhancement.
>
> (ROA Vol. III at 16)

This information came primarily from single paragraph in the PSR indicating that Curtis Martin used oxygen and a walker. (ROA Vol. II at 270) Mr. Martin was overweight, along with about two-thirds of adults in this country. The oxygen and walker information came from Mr. Martin's sister, Toni Strickland, during an interview with the FBI on May 31, 2023, over two years after the murder. Defense counsel objected to her account as unreliable and unsupported by any physical

evidence. (ROA Vol. II at 303) There was no walker or an oxygen tank in the house where Mr. Martin was killed.

There was no evidence that a "normal adult" would have had the ability to avoid the attack that Ashlie Martin's co-conspirators orchestrated when they killed Curtis Martin. In fact, there was evidence to the contrary. Sherrie Pyron, in the words of the district court, was a normal adult who suffered an attack by the same co-conspirators. Yet she was also "unable to avoid" the attack. Every victim of murder – normal adult or not – was unable to avoid being killed. Given the evidence of a second "normal" adult in Ashlie Martin's case who could *not* fend off the attack, the district court's speculation that Curtis Martin was less able to fend off an attack than his wife was clearly erroneous.

The description of the events leading up to Curtis Martin's death suggest that he was able to put up a strong fight before getting knocked out by the barbell. (ROA Vol. II at 270) He stood his ground and fought his attackers rather than attempt escape. Chad Voyles shot Mr. Martin with an arrow, which missed its target. Curtis Martin was able to catch or deflect the arrow and use it as a weapon against Chad Voyles. *Id.* at 266. Both co-conspirators agreed that it was not easy to subdue Curtis Martin; neither one of them would have been able to do it on their own. After Mr. Martin avoided Chad Voyles' bow and arrow attack, Byson Miller ran up behind Mr. Martin and threw him to the ground. *Id.* Chad, apparently out of arrows, started

punching Mr. Martin while Bryson struck him repeatedly with a baseball bat. *Id.* Still, this attack failed to incapacitate Mr. Martin. *Id.* Mr. Martin did not stop moving until after Bryson struck him in the head multiple times with a 25-pound barbell. *Id.* Just about anyone would be rendered unconscious after such an attack.

There is nothing about the attack that suggests that Curtis Martin was any more "vulnerable" than anyone else, at least at the time of the assault. It wasn't until after Bryson Miller struck Curtis Martin multiple times on the head with a 25-pound barbell that Mr. Martin stopped moving. He was still breathing when Chad Voyles set the house on fire. His cause of death was due to "thermal burn injuries with smoke and soot inhalation." (ROA Vol. II at 324) Bryson Miller likely thought that he had killed Curtis Martin with the barbell because Mr. Martin was immobilized by the attack. (ROA Vol. II at 267) It was the barbell that left Curtis Martin unable to escape; not his poor health.

Once again, Ashlie Martin was a *juvenile.* This should have been considered in the vulnerability analysis. "[I]nformation about a defendant may be relevant in assessing a victim's vulnerability." *United States v. Tissnolthtos,* 115 F.3d 759, 761-62 (10th Cir. 1997). It is appropriate for a court to consider the totality of the circumstances in determining whether the victim was particularly susceptible to criminal conduct. *United States v. Checora,* 175 F.3d 782, 789 (10th Cir. 1999).

Neither party was able find a case supporting the imposition of a § 3A1.1(b)(1) enhancement on a juvenile. There is a good reason for this. Federal law is far more concerned with the protection of children than it is seeing their sentences maximized. Simply because defendants are younger and more agile than the victim of an assault does not support the application of the vulnerable victim enhancement.

Curtis Martin was not chosen as a victim because he would be easier to overcome than someone else. Ashlie Martin did not seek out a victim from a group of people, only to settle on a person who might be easier to kill. Curtis Martin was chosen because he had physically and sexually victimized Ashlie over her whole life, and she believed herself to be pregnant. Her parents were the only two people whose elimination would ensure her freedom to have her baby with Bryson Miller. To accomplish her goal, in her mind, she had to kill them. Any "vulnerability" of her father was incidental to her goal.

Ashlie Martin's case is far more like the examples given in the Application Notes where the enhancement would *not* apply:

> But [the enhancement] would not apply in a case in which the defendant sold fraudulent securities by mail to the general public and one of the victims happened to be senile. Similarly, for example, a bank teller is not an unusually vulnerable victim solely by virtue of the teller's position in bank.

U.S.S.G. § 3A1.1(b)(1), Application Note 2.

While Curtis Martin was not in the best of health, this did not make him a "vulnerable victim" as contemplated by U.S.S.G. § 3A1.1(b)(1).

CONCLUSION

Ashlie Martin's conviction should be remanded to the district court for resentencing.

Respectfully submitted,

OFFICE OF THE FEDERAL PUBLIC DEFENDER
Scott A. Graham, Interim Federal Public Defender

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STATEMENT REGARDING ORAL ARGUMENT

Oral argument would assist this Court in addressing issues presented that are either novel or raise important questions of law.

CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMIT

1. This document complies with the type-volume limitation of Fed. R. App. P. 32 because, excluding the parts of the document exempted by Fed. R. App. P. 32(f), it contains 10,908 words.
2. This document complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because it has been prepared in a proportionally spaced typeface using Word 2016 in 13 or 14 point Garamond.

Date: January 16, 2026.

s/ *Stuart W. Southerland*

CERTIFICATE OF DIGITAL SUBMISSION AND PRIVACY REDACTION

I hereby certify that the digital version of this brief and attachments is an exact copy of any paper copy required to be submitted to the court. It has been scanned by the most recent version of Apex One Trend Micro Security and according to the program is free of viruses.

All required privacy redactions have been made.

s/ *Stuart W. Southerland*

CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of January 2026, I electronically filed this brief, with attachments, in the Tenth Circuit using the ECF System, which transmitted a Notice of Docket Activity to the following ECF registrants:

Linda Epperley – Assistant United States Attorney

Benjamin Traster – Assistant United States Attorney

s/ *Stuart W. Southerland*

Attachment Number One

Judgment in a Criminal Case

Judgment Imposed July 14, 2025

UNITED STATES DISTRICT COURT

Eastern District of Oklahoma

UNITED STATES OF AMERICA
v.
ASHLIE NICOLE ROSE MARTIN

JUDGMENT IN A CRIMINAL CASE

Case Number: CR-23-00059-001-DCJ

USM Number: 41019-509

Douglas G. Smith, II, AFPD
Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) 1 of the Indictment

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

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

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18:1117, 1111(a), 1151 & 1153	Conspiracy to Murder in Indian Country	December 23, 2020	1

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

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

☒ Count(s) 2-4 of the Indictment ☐ is ☒ are dismissed on the motion of the United States.

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

July 14, 2025
Date of Imposition of Judgment

David C. Joseph
United States District Judge

July 15, 2025
Date

DEFENDANT: Ashlie Nicole Rose Martin
CASE NUMBER: CR-23-00059-001-DCJ

IMPRISONMENT

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

456 months on Count 1 of the Indictment.

☒ The court makes the following recommendations to the Bureau of Prisons:

That the Bureau of Prisons evaluate the defendant and determine if the defendant is a suitable candidate for the Intensive Drug Treatment Program. Should the defendant be allowed to participate in the program, it is further recommended that the defendant be afforded the benefits prescribed and set out in 18 U.S.C. § 3621(e) and according to Bureau of Prisons' policy.

That the defendant be placed in a federal facility that can help with her mental health needs, trauma, counseling, and for vocational opportunities related to training dogs.

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

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

☐ at _____ ☐ a.m. ☐ p.m. on _____ .

☐ as notified by the United States Marshal.

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

☐ before 2 p.m. on _____ .

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____ , with a certified copy of this judgment.

_____
UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Ashlie Nicole Rose Martin
CASE NUMBER: CR-23-00059-001-DCJ

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of :
5 years on Count 1 of the Indictment.

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, not to exceed eight (8) drug tests per month.
   ☐ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. ☒ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. ☒ You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. ☐ You must participate in an approved program for domestic violence. *(check if applicable)*

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

DEFENDANT: Ashlie Nicole Rose Martin
CASE NUMBER: CR-23-00059-001-DCJ

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer, after obtaining Court approval, may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature _____ Date _____

DEFENDANT: Ashlie Nicole Rose Martin
CASE NUMBER: CR-23-00059-001-DCJ

SPECIAL CONDITIONS OF SUPERVISION

1. The defendant shall participate in a program approved by the probation office for treating narcotic addiction, drug dependency, as well as, alcohol dependency, which will include testing.

2. The defendant shall successfully participate in a program of mental health treatment and follow the rules of the program. The probation officer, in consultation with the treatment provider, will determine the treatment modality, location, and treatment schedule. The defendant shall waive any right of confidentiality in any records for mental health treatment to allow the probation officer to review the course of treatment and progress. The defendant must pay the costs of the program to the extent the defendant is financially able to do so.

3. The defendant shall submit to a search conducted by a United States Probation Officer of her person, communication device, residence, vehicle, office and/or business at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation alone.

DEFENDANT: Ashlie Nicole Rose Martin
CASE NUMBER: CR-23-00059-001-DCJ

CRIMINAL MONETARY PENALTIES

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

	Assessment	Restitution	Fine	AVAA Assessment*	JVTA Assessment**
TOTALS	$ 100.00	$ 4,594.28	$ 0.00	$ 0.00	$ 0.00

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

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

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

Name of Payee	Total Loss***	Restitution Ordered	Priority or Percentage
Oklahoma Crime Victims Compensation Board 421 NW 13th St, Ste #290 Oklahoma City, OK 73103 (Claim #052421-461)	$2,580.28	$2,580.28	
Oklahoma Crime Victims Compensation Board 421 NW 13th St, Ste #290 Oklahoma City, OK 73103 (Claim #040421-10121)	$2,014.00	$2,014.00	

TOTALS	$ 4,594.28	$ 4,594.28

☐ Restitution amount ordered pursuant to plea agreement $ _____

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

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

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

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

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.
** Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.
*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Ashlie Nicole Rose Martin
CASE NUMBER: CR-23-00059-001-DCJ

SCHEDULE OF PAYMENTS

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

A ☐ Lump sum payment of $ _____ due immediately, balance due

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

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

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

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

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

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

Said special assessment of $100 and said restitution of $4,594.28 shall be paid through the United States Court Clerk for the Eastern District of Oklahoma, P.O. Box 607, Muskogee, OK 74402, and is due immediately.

If the defendant's financial condition does not allow for immediate payment, the restitution is to be paid in monthly installments of not less than $50, beginning sixty days from the defendant's release from custody. Notwithstanding establishment of a payment schedule, nothing shall prohibit the United States from executing or levying upon the defendant's non-exempt property discovered before or after the date of this judgment. In the event the defendant receives any tax refund at any time after the judgment is entered, she shall pay 100% of that towards the restitution. The Court has determined to waive any interest pending payment in full.

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

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

☒ Joint and Several

Case Number Defendant and Co-Defendant Names *(including defendant number)*	Total Amount	Joint and Several Amount	Corresponding Payee, if appropriate
CR-21-00190-001-DCJ Chad Jon'Dale Voyles	$2,580.28	$2,580.28	Oklahoma Crime Victims Compensation Board
CR-24-00162-001-DCJ Bryson Noel Miller	$2,580.28	$2,580.28	Oklahoma Crime Victims Compensation Board

☐ The defendant shall pay the cost of prosecution.

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

☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTA assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

Attachment Number Two

List of Mitigating Factors

ROA Vol. II at 447-455

KATHEEN M. HEIDE, Ph.D. LIST OF MITIGATING FACTORS

ROA Vol. II at 447 – 455

Ashlie Martin's age, maturity, intellectual capacity, and mental and emotional health at the time of the offense.

1. Ashlie was 17 at the time of the incident.
2. Ashlie was a very immature juvenile at the time of the incident.
3. Ashlie's intellectual ability was low compared to other juveniles her age with an IQ of 78.
4. Ashlie was diagnosed with ADHD.
5. Ashlie had significant academic difficulties.
6. Ashlie had long-standing documented mental and emotional difficulties.
7. Ashlie was diagnosed as having an Anxiety Disorder at age 10.
8. Ashlie was diagnosed as suffering from Depression at age 13.
9. Ashlie believed that she was pregnant a the time of the incident, dramatically increasing her anxiety level.
10. Ashlie was diagnosed with having PTSD.
11. Ashlie was unable to deal effectively and adaptively with the anxiety, stress, fear, and upset she was experiencing.

Ashlie Martin's background, including her family, home, and community environment.

12. Ashlie was living in a home with a father who drank to excess and was explosively violent.
13. Ashlie experienced multiple types of childhood maltreatment.

14. Ashlie was removed from a foster care home where she felt safe and subsequently placed in homes where caretakers abused and neglected her.

15. Ashlie experienced at least six Adverse Childhood Experiences.

16. Ashlie's life after she returned to live with or near her parents in 2016 was mired in poverty.

17. Ashley lived in a community with one of the highest ACE scores in the state of Oklahoma.

18. Ashlie had very few developmental assets.

19. At the time of the incident, Ashlie was living alone in the Strickland home, without guidance.

20. Ashlie moved frequently, with 14 residences over the course of her childhood.

The effect, if any, of immaturity, impetuosity, or failure to appreciate risks and consequences on Ashlie Martin's participation in the offense.

21. Ashlie's participation in the incident was clearly a result of her immaturity and failure to appreciate the risks and consequences of her behavior.

The extent of Ashlie Martin's participation in the offense.

22. Although the murders were Ashlie's idea, she neither planned the details of the murders, nor did she participate in the murders.

The effect, if any, of familial pressure or peer pressure.

23. Peer influence was a factor in the killings.

The nature and extent of Ashlie Martin's prior criminal history.

24. Ashlie had no prior criminal history.

The effect, if any, or characteristics attributable to Ashlie Martin's youth on her judgment.

25. The effect of the above factors is cumulative.

The possibility of rehabilitation.

26. Ashlie is amenable to treatment.

27. Ashlie is remorseful.

28. Ashley is not an angry person.

29. Ashley does not have a history of engaging in violent behavior or encouraging others to do so.

30. Ashlie is not criminally oriented.

31. Ashlie does not have a current substance abuse problem.

32. Ashlie presents a low to moderate risk of reoffending.

33. Ashlie does not represent a continuing threat to the community.

(ROA Vol. II at 447-455)

Attachment Number Three

Excerpts from Sentencing

July 14, 2025

ROA Vol. III at 3 - 53

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	
	)	
VS.	)	NO. CR-23-00059-DCJ
	)	
ASHLIE NICOLE ROSE MARTIN,	)	
Defendant.	)	

SENTENCING HEARING PROCEEDINGS

BEFORE THE HONORABLE DAVID C. JOSEPH

UNITED STATES DISTRICT JUDGE

JULY 14, 2025

A P E A R A N C E S:

FOR THE PLAINTIFF: MR. BENJAMIN D. TRASTER, Assistant U.S. Attorney, 520 Denison Ave., Muskogee, Oklahoma 74401

FOR THE DEFENDANT: MR. DOUGLAS G. SMITH, II, Federal Public Defender- Muskogee, 112 North 7th Street, Muskogee, Oklahoma 74401

COURT REPORTER: KARLA McWHORTER
U. S. COURT REPORTER

THE COURT: Okay. There is. . .they are called the standard conditions of supervised release and they are listed in the Probation Office website here in the Eastern District.

Mr. Smith, did you have enough opportunity to review and discuss the Presentence Report with the Probation Office in this district?

MR. SMITH: Yes, I did.

THE COURT: Okay. And are you satisfied with their responsiveness?

MR. SMITH: Yes.

THE COURT: Okay. And did you have any problems communicating that report with your client, Ms. Martin?

MR. SMITH: No.

THE COURT: All right. I have reviewed the Presentence Report and I note for the record that the government has filed three objections to the Presentence Report, one of which has been resolved by stipulation of the defense counsel and the Probation Office, but two are still pending.

The Defendant has filed two objections to the Presentence Report.

The government's objection that was resolved was that because the count to which the Defendant pled

guilty was a conspiracy count that both of the homicides in this case should have been taken into account in the Presentence Report.

MR. SMITH: Correct.

THE COURT: Mr. Smith, do you agree with that objection?

MR. SMITH: I do.

THE COURT: And the Final Presentence Report reflects that change, correct?

MR. SMITH: Correct.

THE COURT: All right. And I agree with that based on the count to which Ms. Martin has pled guilty.

The second objection to the -- by the government was to the fact that the two-level enhancement for an aggravating role under Section 3B1.1(c) was not applied in the Presentence Report. The government argues that this enhancement applies because of Ms. Martin's central role in recruiting the other two defendants into this scheme.

Would you like to further address your objection, Mr. Traster?

MR. TRASTER: Your Honor, I don't really have anything additional. I think that the -- really anything additional other than what I wrote. I believe. . . I think that – just to paraphrase and summarize -- that

it has to do with essentially the leadership role that this Defendant played. And I put this in my objections where I tried to be thorough in writing out -- in discussing the fact that the Court can consider an aggravating role, including the recruitment of accomplices that claim a right to a large share of the fruits of the crime and the degree of control and authority exercised over others to name a few.

I think that speaks and directly describes the Defendant's role in this offense. She was the one who earned the fruits of this. It was her desire to be rld of her parents. They were pissing her off. They were interfering with her ability to potentially have and raise a child. It was she that was going to bear the benefit of these murders. So as a result, she looked for help.

I can't say that in looking for help from Bryson Miller that Bryson Miller didn't turn and then the two of them potentially recruited Chad Voyles. That's my understanding of the chronology of what exactly happened, but in essence she was the triggering mechanism. It was her desire to be rid of her parents. That is clear from the evidence. That is clear from the documentary evidence and I think that that applies to the aggravating role, which is why we made that objection.

THE COURT: Right, and you address the

fact or the predicate that you are speaking of extensively in your Sentencing Memorandum as well.

I read your response as well, Mr. Smith. Would you like to further address your response?

MR. SMITH: Briefly, Your Honor. We agree that Ashlie had the idea. That is not enough to make her the leader/organizer and for this enhancement to apply. This was clearly a joint effort. In the government's exhibit there are times when Ashlie gives direction to Chad. There are times when Chad gives direction to Ashlie in those text messages. It was a joint effort.

THE COURT: Okay. And I think this is a close call. You know, I will note, first of all, the sentencing guidelines in the federal system normally apply to adults. In this case we are dealing with two of the three defendants who were juveniles. Clearly the motive was with Ms. Martin for what happened and that she initiated it. But I can't say. . .I can't say that her role was such that it was what this enhancement contemplates.

Some of the factors in the sentencing guideline 3B1.1 favor an applied enhancement and some of them do not. According to the Presentence Report some of the details of what happened were not directed by Ms. Martin. They were directed by the other participants, although clearly the objective of it was. And as to the

fruits of the crime, of course Mr. Miller and Ms. Martin both thought they had something to gain from it in some sort of way that they believed at that time.

The degree of participation, again if you look at the actual actions of carrying out the offense, the other two defendants have more responsibility, but if you look at the planning of the crime, then Ms. Martin has more responsibility.

They each had their own role in the murders and I know what those roles are and I will consider that in the sentence for this case, but I will not apply that enhancement. Therefore, I am overruling the government's objection number 2, and that's based on the totality of the circumstances. I find that whereas there were different roles and different culpability, I don't think it rises to the level of applying this enhancement.

The government's third objection is that the guidelines did not include a two-level enhancement pursuant to 3B1.4 for using a minor to commit a crime. The government argues that the Defendant not only recruited but manipulated her 15 year-old boyfriend, a co-conspirator, into committing two premeditated murders to get rid of her parents.

Would you like to further address that objection, Mr. Traster? I think this one is. . again, we are faced

with a similar dilemma that the guidelines contemplate adult defendants.

MR. TRASTER: I think that the language however doesn't -- yes, I think that is correct. The guidelines contemplate adult defendants. So no matter what, we are going to be, you know, in an unusual circumstance where we have a defendant who was 17 and a half at the time that this occurred, but the language, the text of the guideline, the adjustment here is that the Defendant used or attempted to use a person less than 18 years of age to commit the offense or assist in avoiding detection or apprehension for the offense. And I guess what I would just note is that there was a difference in age and a considerable difference in age and frankly intellectual ability. I think this Court has had the opportunity to hear from Mr. Miller today. And so I think that both the language applies, but frankly also the spirit, that it was his affection that she was playing off of. That he would, in essence, do whatever she wanted and she knew that. And so she asked him, the Defendant asked Mr. Miller to assist in achieving this goal. She wanted to be rid of her parents. She wanted to have this child and raise it on its own -- raise the child on their own. So I think that both the language and the spirit of this enhancement applies.

THE COURT: Okay. Thank you, Mr. Traster.

Response, Mr. Smith?

MR. SMITH: When it comes to the spirit of this enhancement, one of the cases that I've cited in my response is *US versus Vicky Baker* from the Sixth Circuit where they looked at the 1994 crime bill that directed the sentencing commission to promulgate guidelines to provide that a defendant 12 years of age or older receives an enhancement. That was Congress's original spirit of this. That is not how the wording in the guidelines ended up.

THE COURT: It was taken out by the sentencing commission at some point --

MR. SMITH: Correct.

THE COURT: -- after that, correct?

MR. SMITH: Correct. And the Tenth Circuit, when they've looked at this, has said that that enhancement can apply to 18 year-olds and older. I'm not aware of anytime that it is ever applied to a juvenile, and I think that is important because of the whole line of Supreme Court cases about how we punish juveniles. They've repeatedly said that youth does not weigh in favor of harsher sentences.

In *Rooker v Simmons,* the prosecutor in that trial argued that the defendant's youth was an aggravating

factor, and that was something that the Supreme Court highlighted, that that argument is an overreach and exactly one of the reasons why the death penalty should be abolished for juveniles because there was a danger that juries might agree with that. And in this case it just doesn't make sense to have two juveniles who are in a joint effort. . .both should have higher sentences, higher offense levels because of their youth? With a whole line of cases saying that juveniles are less capable than adults. I don't know if this enhancement was applied to Bryson Miller. Certainly if one were to apply it to one, it should be applied to both. They were both juveniles at the --

THE COURT: You mean Chad Voyles, correct?

MR. SMITH: Well, that as well, but also Bryson, who pled guilty to murder. He used a juvenile as a part of that. If we are going to apply this enhancement, it ought to apply to him as well.

THE COURT: Under textual (sic) approaches, as advocated by Mr. Traster, you are saying that it should apply equally, correct?

MR. SMITH: It should and it equally makes no sense in both cases.

THE COURT: Okay, all right And the final PSR actually -- the Probation Office agreed with the

government's objection and included that two-point enhancement in the Final Presentence Report.

I think this is a close call and it goes into policy of the sentencing commission and as pointed out by Mr. Smith, also Congress and the '94 crime bill.

I do not think that is a scenario that was envisioned by either of those bodies. Therefore, I will overrule the government's objection; I will grant the Defendant's objection, and I will amend the Presentence Report to remove that two-level enhancement for use of a minor. And that is under sentencing guideline 3B1.4.

I don't think that my granting of the Defendant's objection changes the ultimate offense level, correct?

MR. SMITH: Correct.

THE COURT: It still remains at 43 because that is the highest that it can go.

MR. TRASTER: That's correct. It is actually still adjusted downward from 44 to 43.

THE COURT: Right. Okay, so the offense level in the Presentence Report will remain the same, but the Presentence Report will be amended in accordance with my ruling.

All right. The Defendant -- well, first, there are two objections that I am going to address. The first one is the Defendant objects to the fact that the vulnerable

victim enhancement was applied in the Presentence Report under Sentencing Guideline 3A1.1.

I have reviewed both the Presentence Report and the accompanying support for that. We have a situation where the victim, C.L.M., Mr. Martin, was -- had severe health problems. He was grossly overweight. He used a walker to walk around. He had heart and lung issues. And to the government's point in responding to this objection, the facts of the murder showed a lack of ability to avoid his murder by the victim, Mr. Martin. He was unable to escape the situation, even though in this case there may have been, for a normal adult, the opportunity to avoid it. I think his condition maybe. . .I think the preponderance of the evidence showed his condition precluded that. So I will overrule the Defendant's objections to the vulnerable victim enhancement. And that's

MR. SMITH: Judge?

THE COURT: Go ahead.

MR. SMITH: One more thing that I didn't include in my written filings on this.

THE COURT: Okay.

MR. SMITH: I think it is significant to contrast Mr. Martin with Ashlie's mom. There is nothing or any suggestion that she was a vulnerable victim, and I don't believe she was. Yet, it was also clear from the

communication between the three of them that they were more concerned about the threat posed to them by Mr. Martin than they were from her mother. That, to me, indicates that Mr. Martin was not vulnerable.

THE COURT: Okay. Well, the mother was asleep on the couch and there may have been a thought to the fact that she was a female and not a male as well. So I think when you look at his condition that is supported in the Presentence Report, I think he classifies as a vulnerable victim.

Is that all of the objections? Did I address all of them? I believe I have.

MR. SMITH: The other objection regarded some of the language --

THE COURT: Oh, that's correct, but that doesn't impact the guidelines, correct?

MR. SMITH: Correct.

THE COURT: Okay. You can go ahead and address that.

MR. SMITH: I don't know that I have anything to add from what I filed.

THE COURT: Okay.

MR. SMITH: I believe that the contents of this statement in some regards were not true. I don't dispute that, that this individual said these things.

THE COURT: Okay. And I invite you to argue that, Mr. Smith, about your client. You are welcome to argue that when I determine the sentence in this case.

MR. SMITH: Yes.

THE COURT: And you don't have to do that now, but. . .

MR. SMITH: I understand.

THE COURT: All right. But I have considered your objection as well. With that caveat and with the Court's modification of the Presentence Report removing the two-point enhancement for use of a juvenile, I will accept the Presentence Investigation Report and adopt it and it will form the factual basis for my sentence today.

Ms. Martin, what you just heard from me and counsel for the government and your counsel was a discussion of the sentencing guidelines that was included in your Presentence Report. The sentencing guidelines in the federal system are an important component of determining an appropriate sentence for you in your case.

In this case based on the offense to which you pled guilty, the specific offense characteristics at issue here, which are listed in the Presentence Report, and a three-point adjustment for your acceptance of responsibility, including the Court granting the government's motion for an additional one-point reduction in Document 49, which I

do now, your total offense level is 43, your criminal history category is I.

Although the statutory sentence for the count of conviction, Murder in the First Degree, is Life, pursuant to the Supreme Court –

MR. SMITH: Judge?

THE COURT: Go ahead.

MR. SMITH: The count that she pled guilty to was --

THE COURT: Oh, conspiracy.

MR. SMITH: -- conspiracy.

THE COURT: Conspiracy, right. And the statutory sentence for that is –

MR. SMITH: Any term of years up to Life.

THE COURT: Okay, all right. In any event, the applicable guideline range is Life, correct?

MR. SMITH: Yes.

THE COURT: Under the guidelines.

MR. SMITH: Yes.

THE COURT: But there is no statutory limit, both because of the offense to which she pled guilty, as well as the precedent of *Miller versus Alabama*.

MR. SMITH: Yes.

THE COURT: All right. The applicable sentencing range for supervised release is two to five

years.

And thank you, Mr. Smith.

The applicable guideline provision for a fine is between $50,000.00 and $250,000.00.

The plea of guilty to Count 1 was made without a written plea agreement; is that correct?

MR. SMITH: Correct.

THE COURT: All right. So, Ms. Martin that is the first component of sentencing. The second component is that I consider the relevant factors set out by Congress in 18, USC, 3553(a) that are designed to ensure that the sentence that I impose is sufficient, but not greater than necessary to comply with the purposes of sentencing.

I have reviewed the government's sentencing memorandum and the exhibits to that, Documents 58 and 63.

Mr. Traster, does the government wish to be heard about the application of these factors or any other matters as it pertains to this sentencing?

MR. TRASTER: Yes, Your Honor. It is my understanding that counsel intends to call a witness to testify. And if that's the case or if that is still the case, I would ask the Court for an opportunity to hear the witness's testimony and to cross examine the witness and then provide my argument to the Court following

that testimony, or both.

THE COURT: Okay. I wasn't apprised of that.

Mr. Smith, is it your intention to call a witness, and for what purpose?

MR. SMITH: Yes, Judge. I intend to call Dr. Heidi who wrote the evaluation that was provided to the Court --

THE COURT: Okay.

MR. SMITH: -- to address the sentencing factors.

THE COURT: Okay. And will you wish that testimony to be under seal? It deals with health information of your client. I think that evaluation report is under seal.

MR. SMITH: I agree. I would like to do that.

THE COURT: I am not suggesting that. I am just --

MR. SMITH: I think that is a wise idea.

THE COURT: Mr. Traster, what's the government's position on that?

MR. TRASTER: I would defer to the Court. I do agree with the Court that there is -- the exhibit that we would be discussing is under seal and that we would be talking about it, although I will then note that I don't know whether that limits our ability to argue regarding the

sealed document. The Court has reviewed it. The Court can review the evidence and --

THE COURT: I've reviewed the document that you are referring to. And certainly the government will have a chance to ask questions of the witness on cross examination or in follow-up questions or elucidate any information that you think needs to be brought to bear, I do think because we are discussing health information, that contrary to the normal protocol in a sentencing, that I will seal the courtroom, but only for that limited portion. And I am not going to restrict counsel's argument based on that testimony. If it needs to be addressed, I would just ask that it be addressed in general terms and not specific health information. Okay? Does that make sense?

MR. TRASTER: Yes, Your Honor.

MR. SMITH: Yes, thank you, Your Honor.

THE COURT: All right. Then what we will do is we will call the witness and then I will allow you to speak after that, Mr. Traster. Does that work?

MR. TRASTER: Yes, sir.

THE COURT: All right. I will ask the Marshal to please seal the courtroom at this time.

If you don't have a role in the case, would you please leave the courtroom.

MR. SMITH: Judge, can Ms. Martin return to the table for this portion?

THE COURT: Yes, yes. Ms. Martin, you can return to counsel table.

(COMPLIED)

(1:27 p.m.)

(THE TESTIMONY OF DR. KATHLEEN HEIDE IS CONTAINED IN VOLUME II OF THE SEALED TRANSCRIPT)

* * *

started out. I hope that you make something of yourself one day. I hope that you find -- when you get out, that you find someone to stay with because it ain't going to be me or my family, but I hope that you get on your own feet. I hope you answer to the stuff that you have done. I hope that you make your life right with God because he's the one that matters. This life doesn't matter as much as your next.

And I'm saying goodbye, Ash.

THE COURT: All right. Thank you, ma'am.

All right. Mr. Smith, will you and your client please approach the podium again?

(COMPLIED)

THE COURT: All right. Mr. Smith, would you like to make a statement on behalf of your client?

MR. SMITH: Yes, Judge. Ashlie was sexually, physically, and emotionally abused for as long as she could remember. There were only two extended times in her life when Ashlie's father was not raping her. The first was when DHS removed her from her parents and placed her in foster care. They removed her because they concluded that her parents were a danger to her. But after she was placed in a caring foster care family, DHS took her away again. Curtis's ex-wife and her new husband, who was later -- who later pled guilty to

solicitation of a minor -- they coordinated with Ashlie's mom and got the Choctaw Nation to assert jurisdiction after Ashlie. DHS took her away from the foster family and they closed their case and the Choctaw Nation placed Ashlie with the Chadrick's, where she was continued to be sexually abused.

Soon after that, Ashlie's mom pressured Ashlie to come home to her again, to her and her abusive husband. And when Ashlie went home, her father began raping her again.

The second time that the sexual abuse of Ashlie was paused was when her father was locked up for sexually abusing Ashlie's half-sister. And the government is suggesting that Ashlie should have asked for help, and maybe she should have. She should have. It is almost impossible to imagine how difficult that would have been.

What happened to Curtis and to Sherrie was not fair to them. That's not the right outcome. Ashlie acknowledges that. That's why she pled guilty to conspiracy. She takes responsibility for that, but if those convictions that Curtis received -- was a member of the Choctaw Nation -- if they had been in federal court, he would have been looking at a mandatory minimum of 30 years. And with the pattern of repeated behavior, his guidelines would have been life. And if that had happened, he

wouldn't have been there to resume the sexual abuse of Ashlie. That's not fair to Ashlie.

All of the people and all of the institutions who had an obligation to protect her from her parents, their sexual, physical, and emotion abuse, they all failed to protect her. The State of Oklahoma, DHS, the Choctaw Nation, her extended her mother, they all failed to protect her. And now in their sentencing memo, the government is asking this Court to inflict the harshest punishment allowed by law on Ashlie. But the Court has the opportunity now to protect her. You can protect her while still punishing her, while still showing that the Court doesn't condone the behavior that Ashlie has pled guilty to, that she has accepted responsibility for. Two hundred and ten months is a significant punishment. It as long as she was alive when she entered the conspiracy that resulted in the murder of her parents. A sentence that would be longer than her entire life at the time of the crime would be excessive.

One of the sentencing factors is that the sentence needs to promote respect for the law. And often in the court that's discussed as a reason to make sure that the sentence is harsh enough, but it works the other direction as well. An excessive sentence promotes disrespect for the law. A life without parole sentence,

which is what the government asks for in their filings, would promote disrespect for the law if it was applied to a juvenile who had been sexually abused by her father, the victim of her crime, for as long as she could remember. And that would require the Court to find her to be incorrigible, to be incapable of reform.

In *Grand versus Florida*, the Supreme Court talks about that concept. And the juvenile in that case had committed a series of burglaries and robberies, some after he had been adjudicated in Florida's juvenile system and then he continued to offend. And the Supreme Court said in that situation, while that juvenile deserved to be separated from society for a time to prevent the escalating pattern of criminal conduct, the Supreme Court said it doesn't follow that he would be a risk to society for the rest of his life. And Ashlie is not like Mr. Grand. There was no series of escalating crimes. And so if the Supreme Court says it doesn't follow that *Grand* would be a risk to society for the rest of his life, it can't be that Ashlie would be a risk to society for the rest of her life. And the government doesn't offer any evidence that she would be a risk to society when she is 80 years old or when she's 60 or when she's 40. It is just an assertion.

The only evidence in this case about Ashlie's

continuing risk to society comes from our country's leading expert in parricide, Dr. Heide. She based that conclusion not just on what Ashlie told her, but she based it on objective testing that she conducted, the research that she has done, the evaluation that another professional did several years ago to see how things were different or whether or not the two different independent testing that the two experts did agreed, or if they contrasted. And what she found was that Ashlie shows introspection, compassion, remorse, awareness of consequences. She has a realistic appraisal of herself. And the government's response is that some arguments that I made in the PSR about whether Curtis Martin needed to use oxygen or not, when there is no evidence that he needed to use oxygen -- that does not show that Ashlie has a lack of remorse.

Ashlie has changed over the past couple of years. The maturation that she has shown is because she is finally safe.

Being in a jail is the safest place she has been since the Choctaw Nation took her away from her foster family. If that doesn't speak volumes about her home life, I don't know what could.

Ashlie pled to conspiracy to commit two murders. Part of the reason for pleading to that count is because

that count clearly avoided the legal problems that come with her pleading to Murder in the First Degree, which has -- which the only possible punishment is one that is not constitutionally applied to Ashlie.

The other thing that that did is she accepted responsibility for the murder of both her father and her mother by pleading guilty to the conspiracy count. She is the only defendant in this case who has accepted responsibility for both murders. Neither one of the co-defendants did that.

The government's argument boils down to these murders were brutal, so Ashlie deserves to die in prison. And a big part of that is because they think that her Facebook messages provide the most insight into what Ashlie was really thinking and what her motivations were. Mr. Traster talks about that provides an unfiltered view. That has certainly not been my experience with social media, that people on social media give their full and complete expression of who they are. In this case she used a pseudonym when she was on Facebook.

Chad, Chad Voyles, did a proffer session with Mr. Traster, And in that proffer session he told Mr. Traster that Ashlie told him why she wanted him and Bryson to get involved in these murders. So what he told Mr. Traster was that Ashlie said her father touched

her and sexually abused her all of her life, and that her mother wanted her to get rid of the baby.

The Facebook messages did not tell the whole story, which is what anyone would expect from Facebook messages. She was -- she told the boys about the sexual abuse at the time before she had a lawyer.

Ashlie acknowledges that the murder that the boys carried out and that she set in motion was brutal. She doesn't deny that. That's not what makes the murders unique. The most unique aspect of the murders is that one of the victims was a pedophile and the Defendant is one of that pedophiles many victims. That does not call for the harshest penalty by law.

The sentence in this case should be fair to Ashlie. The government has acknowledged that the first 210 months of Ashlie's life was full of abuse. They haven't disputed, although they maybe called somewhat into question that it involved sexual abuse. And they don't dispute that she did try to escape, that she tried to run away and that she was brought back, but they still think it's fair for her to spend the rest of her life in prison, that she should die in prison. That's not fair.

Ashlie was sexually, physically, and emotionally abused for as long as she could remember. Those who should have protected her failed her. A 210 month

sentence strikes the balance between being significantly long enough to address the seriousness of the crime while also protecting Ashlie by giving her the opportunity to rehabilitate and a chance at a life free of trauma and abuse. Thank you.

THE COURT: Thank you, Mr. Smith.

Ms. Martin, understanding you are still under oath, would you like to make a statement at this time?

THE DEFENDANT: I know what I did was wrong and I am extremely sorry for my role in the crime that I've committed. And if I could take it back, I would. (Pause) I can't. . .(Pause) That's it. Thank you.

MR. SMITH: That's all. Thank you, Judge.

THE COURT: All right. The Court agrees with defense counsel and I think the prosecutor as well that this case, as a whole, Ms. Martin, Mr. Voyles, and Mr. Miller, represent a failure, an abject failure of our society on every level to address this before it came to what happened in this case.

I've given a lot of thought to this case and to Ms. Martin's sentence specifically. In crafting her sentence I have considered and given great weight to the horrific and depraved nature of this crime; and the terrible impact on Ms. Martin's family and community.

I've also considered, among other things, the

Defendant's neglect and likely sexual abuse during her childhood, her persistent unstable home situation, the deplorable home conditions in which she lived, and notable mental, educational and intellectual deficits. In this regard, again I believe that the applicable state and tribal child welfare agencies failed her.

The Court also considers the Defendant's instigating and manipulative roles in perpetuating these crimes. Not only is she responsible for the death of her parents, but her actions also severely damaged many other lives, including her co-conspirators, Chad Voyles and Brian Miller. She directly caused much damage to many people.

Ashlie Nicole Rose Martin, you appear before the Court today for the purpose of sentencing, having previously entered a plea of guilty to Count 1 of the Indictment, charging you with Conspiracy to Murder Indian Country, in violation of Title 18, United States Code, Sections 1117, 1111(a), 1151, and 1153. In accordance with Title 18, Section 33553(a) of the Federal Criminal Code, and in considering the Defendant's motion, as well as the factors articulated by the Court, and all of the 3553(a) factors, it is the judgment of the Court that you, Ashlie Martin, are committed to the custody of the Bureau of Prisons to

be imprisoned for a term of 456 months.

The Court recommends that the Bureau of Prisons evaluate Ms. Martin to determine if she is a suitable candidate for the Intensive Drug Treatment Program – the RDAP program. Should she be allowed to participate in that program, it is further recommended that she be afforded the benefits set out in 18, USC, Section 3621(e) and in accordance with BOP policy.

Mr. Smith, is there a placement request?

MR. SMITH: Judge, there is not a geographic request. Ms. Martin would like to be placed in a facility where they can address her mental health needs, trauma, counseling, as well as a place where there are vocational opportunities related to learning to train dogs. And I believe there are several different female facilities that have that type of programming.

THE COURT: Okay. I will make that recommendation, again based on the information in the Presentence Report and this Defendant's history and special needs.

Ms. Martin, upon release from imprisonment you should be placed on a term of supervised release for five years. Should that term be revoked, an additional term of imprisonment up to the full term of supervised release may be imposed at revocation.

While on supervised release, you must comply with the following mandatory conditions of supervision:

You must not commit another federal, state, or local crime.

You must not possess a controlled substance.

You must refrain from any unlawful use of controlled substances.

I am also ordering mandatory drug testing.

You must submit to one drug test within 15 days of release from imprisonment; and at least two periodic drug tests thereafter, not to exceed eight per month, as directed by the Probation Office.

You must make restitution in accordance with 18, USC, Section 3663A.

You must submit a DNA sample to the Combined DNA Index System.

You must also comply with the standard conditions, which you've gone over with your attorney, and which are posted on the Eastern District website and which will be set out in the judgment adopted by this Court, as well as the other conditions attached to the judgment. These conditions are imposed because they establish the basic expectations for your behavior while you are on supervision and identify the minimum tools needed by the Probation Office to keep informed, report to the Court,

and bring about improvements to your conduct and condition.

Based on the information provided in the Presentence Report regarding the nature of the instant offense, substance abuse history, and mental health concerns, the Court is also ordering the following special conditions of supervision:

You shall participate in a program approved by the Probation Office for treating narcotic addiction and drug dependency, as well as alcohol dependency, which will include testing.

You shall successfully participate in a program of mental health treatment and follow the rules of that program. The probation officer, in consultation with your treatment provider, will determine the treatment modality, location, and treatment schedule. You shall waive any right to confidentiality of any records for mental health treatment to allow the probation officer and this Court to review the course of your treatment and your progress. You must pay for the costs of that program to the extent you are financially able to do so.

You shall submit to a search conducted by the probation officer of your person, communication device, residence, vehicle, office and/or business at a reasonable time and in a reasonable manner based upon reasonable

suspicion of contraband or evidence of a violation of a condition of release. Failure to submit to a search may be grounds for revocation alone.

The Court finds that the Defendant does not have the ability to pay a fine; therefore, I am not imposing a fine.

The Court is ordering the Defendant to pay restitution in the amount of $4,594.28 to the Oklahoma Crime Victims Compensation Board; $2,580.28 is to be paid jointly and severally between yourself and the co-conspirators, Mr. Voyles and Ms. Miller.

And $2,014.00 is to be ordered to be paid in full by Defendant Ashlie Martin.

And this is based on the Crime Victims Compensation Board here in Oklahoma for payment of funeral expenses for Mr. Martin's and your mother's burial.

Restitution is set out in paragraph number 87 of the Presentence Report and it is payable to the Clerk of the Court here in the Eastern District of Oklahoma.

If your financial condition does not allow for the immediate payment of restitution, it is to be paid in monthly installments of not less than $50.00 beginning not less than 60 days after your release from incarceration. Notwithstanding establishment of a payment schedule, nothing shall prohibit the United

States from executing or levying upon your non-exempt property discovered before or after the date of this judgment.

In the event you receive any tax refunds at anytime after the judgment is entered, you shall pay a 100% of that towards restitution. I have determined to waive any interest pending final payment in full.

It is furthered ordered that you shall pay a special assessment of $100.00 to the Eastern District of Oklahoma for a special assessment as required by law.

The Court recognizes that the Sentencing Guidelines are advisory, and not mandatory, but I have considered the sentencing guidelines and the guideline calculations contained in the Presentence Report, along with all the factors set forth in 18, USC, 3553(a), along with the Defendant's Motion for a Variance and Departure, to reach an appropriate sentence in this case, and along, of course, with the status of the Defendant as being a minor at the time of the commission of this offense.

In determining the sentence, I am granting the Defendant's Motion, Document 64, for a Variance. I have considered the nature and circumstances of the offense, as well as the Defendant's personal characteristics, lack of criminal history, and the Defendant's motion.

I would also note that the Defendant's sentence would remain the same even if there is an error in the calculation of the sentencing guidelines.

Ms. Martin, I have a duty to advise you that you have the right to appeal this sentence which has been imposed. Any appeal must be filed within 14-days of the judgment. Mr. Smith will remain your counsel during this time period.

I have a motion by the government for a dismissal. Although there is not a plea agreement, I understand the government moves to dismiss Counts 2, 3, and 4 of the Indictment. Is that correct, Mr. Traster?

MR. TRASTER: Yes, Your Honor.

THE COURT: I will sign that order dismissing Count 2, 3, and 4 of the Indictment, which are the remaining counts of the pending Indictment against Ms. Martin.

Is there anything further from the government, Mr. Traster?

MR. TRASTER: No, Your Honor.

THE COURT: Mr. Smith, anything further from defense counsel?

MR. SMITH: Yes. May I have a moment?

THE COURT: Yes.

(PAUSE)

MR. VAN DALSEM: Your Honor, Neil Van Dalsem. The Tenth Circuit is adamant that after sentence is pronounced that the objections be made to the sentence imposed for preservation. In light of that requirement, we object to this sentence being imposed generally as being substantively and procedurally unreasonable. Some specific reasons for that is in this case the ultimate basis for the -- the starring point, I think, for determining the sentence is the guidelines. And the Court announced earlier that that is a very important component of the calculation of the sentence. In this case the guideline is 2A1.5, but if a death results from a conspiracy to commit murder, it cross-references to the first-degree murder guideline. And that guideline is written to impose a life sentence because that is the mandatory sentence. We have a minor defendant in this case and the guidelines are telling us to start with the starting point of a life sentence. And in light of *Miller versus Alabama* and other cases that we've cited in our filing, we don't think it is legally appropriate or substantively reasonable to start with that despite the guidelines indicating that as the base offense level for the case.

THE COURT: So where do you think I should have started?

MR. VAN DALSEM: I don't think in this case that the guidelines are nearly as relevant as -- or really not relevant given that they are telling you the starting point would be unconstitutional if it were mandatory.

THE COURT: Okay, which is exactly why I granted your client's request for a variance from the guidelines.

MR. VAN DALSEM: That's true. And my point is though that the analysis starts at that level. It all has to be coming from that starting point. And we referenced this problem in our sentencing motion that was filed.

One of the statutory sentencing factors is to avoid sentencing disparities and I don't believe you specifically listed them off but in the prior sentencing in this court you pointed out. . .well, we have also got three defendants and I need to be aware of sentencing disparities between all three. And we would point out that Mr. Voyles was sentenced as an adult. And so his sentence, even though there is not a huge difference in age, legally that puts him in a different category. it is a different sentencing system effectively.

We cited *United States versus Tong*. It is not a published case, but that speaks to the idea of it is inappropriate for a sentencing court to consider adult

sentences when sentencing a juvenile. We contend that played a role in the analysis that the Court used to reach its sentence in this case and we object to that as being procedurally and substantively unreasonable.

We again object to the vulnerable victim enhancement. It did not directly impact the guideline calculation for reasons already discussed, but we object to the notion that the victim in this case was vulnerable. And to the extent that that played in role in the Court's ultimate sentence, we object to that as procedurally and substantively unreasonable.

We object to the sentence being substantively unreasonable for all reasons that were set forth in our prior filing. We contend that the sentence imposed does not sufficiently take into account the victim's role in the sense that -- I think everyone agrees that Ms. Martin was raised in a very abusive and neglectful household. We don't think that it is substantively reasonable given the Defendant's age and intellectual development. We don't think it is substantively reasonable in that it does not fully account for lack of dangerousness that the Defendant imposes. And the sentence imposed is not a life sentence, but it's a very long sentence, and our position is that it is too high. And we understand that the Court went down from the

guideline sentence, but again the guideline sentence is intended to set sentences for adults. And I don't have anything further.

THE COURT: Okay. Thank you, Counselor.

Ms. Martin, you are remanded to the custody of the Marshal's Service to begin your sentence.

Court is adjourned.

(END OF PROCEEDINGS)

C E R T I F I C A T E

I, KARLA McWHORTER, Certified Shorthand Reporter and Registered Professional Reporter, do hereby certify that the foregoing is a true and accurate transcription of my stenographic notes and is a true record of the proceedings held in the above captioned case.

I further certify that I am not employed by nor related to any party in this action, and that I am in no way interested in the outcome of this matter.

Certified this 14th day of September 2025.

/s/KARLA McWHORTER

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