

married in 2017, divorced him shortly after his arrest. Both of his parents are deceased and he has been long estranged from his sole living sibling.

Since his incarceration, he has had essentially no contact with the outside world except through counsel. He has no friends or relatives to provide him support or assist with commissary. He is alone in this world.

The guidelines in these cases quickly ratchet up the sentence of offenders often for similar or redundant conduct. For instance, the offense itself inherently requires the defendant to have custody of the minor to “transport” them but then adds an additional 2 levels for having the minor in their “custody, care, or supervisory control”. Mr. Low was not a teacher, day care worker, or babysitter as envisioned by the statute however the application notes indicate it is to have a “broad application” and include instances when a minor is “entrusted” to the defendant. The “use of computer” enhancement which adds another 2 levels applies in essentially all cases of this nature and is not unique to the facts of this case.

Mr. Low is also given a 2 level enhancement because the offense involved the commission of a sex act or sexual contact. The government has requested, and the defense has objected, to an additional 5 level enhancement because the sexual act or contact occurred more than once over a 24-36 hour period. This enhancement in this case greatly stretches the meaning of “pattern of activity” when it involves the same victim, in the same location, occurring over a two day period. This single enhancement also increases his guidelines range from a low end of 135 months to a low end of 235 months. The guideline §4B1.5 lists the rationale for the enhancements

under “Background” indicating the enhanced penalties provide increased penalties for repeat sex offenders and are designed to “ensure lengthy incarceration for offenders who engage in a pattern of activity involving the sexual abuse or exploitation of minors”. The plural of “minor” is used in the justification for these enhancements. Mr. Low acknowledges that his conduct in this case was illegal. He has not objected to the 2 level enhancement for sexual contact which raises his guidelines above the mandatory minimum sentence of 120 months. Mr. Low’s conduct in this case reflects an otherwise aberrant act in a lifetime of lawful conduct.

As this Court knows well, his punishment will not end upon his release from incarceration. He will be placed on a lifetime of supervision and be required to live as a registered sex offender for the remainder of his life with the many conditions and limitations that go along with that designation. His choice of residence, employment, and even his leisure activities will be forever limited based on the decisions he made in this case. A sentence of 135 months is sufficient but not greater than necessary.

Respectfully submitted,

/s/ Diane L. Dragan
DIANE L. DRAGAN, #73591MO
Assistant Federal Public Defender
1010 Market Street, Suite 200
St. Louis, Missouri 63101
Telephone: (314) 241-1255
Fax: (314) 421-3177
E-mail: Diane_Dragan@fd.org

ATTORNEY FOR MR. LOW

CERTIFICATE OF SERVICE

I hereby certify that on November 3, 2022, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon Jillian Anderson, Assistant United States Attorney.

/s/ Diane L. Dragan
DIANE L. DRAGAN, #73591MO
Assistant Federal Public Defender