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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Government,

DOCKET NO. 1:16-cr-242

vs.

LAWRENCE GERARD NASSAR,

Defendant.

TRANSCRIPT OF FIRST APPEARANCE

BEFORE UNITED STATES MAGISTRATE JUDGE RAYMOND S. KENT

GRAND RAPIDS, MICHIGAN

December 16, 2016

Court Reporter: Glenda Trexler
 Official Court Reporter
 United States District Court
 685 Federal Building
 110 Michigan Street, N.W.
 Grand Rapids, Michigan 49503

Proceedings reported by audio recording, transcript produced by
computer-aided transcription.

1 A P P E A R A N C E S:

2 FOR THE GOVERNMENT:

3 MR. SEAN M. LEWIS
4 UNITED STATES ATTORNEY
5 330 Ionia Avenue, N.W.
6 P.O. Box 208
7 Grand Rapids, Michigan 49501-0208
8 Phone: (616) 456-2404
9 Email: Sean.lewis2@usdoj.gov

10 * * * * *

11 Grand Rapids, Michigan

12 December 16, 2016

13 2:29 p.m.

14 P R O C E E D I N G S

15 *THE COURT:* Dr. Nassar, do you want to come forward
16 when Ms. Colter clears the aisleway?

17 Dr. Nassar, you're also here for an initial
18 appearance. The United States has brought two criminal charges
19 and a civil claim against you. I'm also going to talk to you
20 about these charges, the potential penalties, and some of your
21 rights.

22 Dr. Nassar, just tell me briefly, where did you do
23 your undergraduate work?

24 *THE DEFENDANT:* University of Michigan.

25 *THE COURT:* And then how about your -- are you an
M.D.?

THE DEFENDANT: A D.O. Michigan State University.

1 *THE COURT:* Okay. Dr. Nassar, do you have any
2 physical or mental condition that would make it difficult for
3 you to understand the charges against you or what's happening
4 in court?

5 *THE DEFENDANT:* No, Your Honor.

6 *THE COURT:* In the last 24 hours have you had any
7 drugs, alcohol, or medicine that might impair your ability to
8 understand the charges or follow the procedures?

9 *THE DEFENDANT:* No, Your Honor.

10 *THE COURT:* Dr. Nassar, you have the right to remain
11 silent. You don't have to say anything to me about these
12 charges. You don't have to say anything to Mr. Lewis. You
13 don't have to say anything to any member of law enforcement.
14 But if you talk to anybody other than your lawyer, your
15 statements can be used against you in later court proceedings.

16 Do you understand that?

17 *THE DEFENDANT:* Yes, I do.

18 *THE COURT:* You do have the right to a lawyer.
19 You're always free to hire your own lawyer. If you can't
20 afford a lawyer, I will appoint a lawyer to represent you.

21 I understand that you've had conversations with
22 Officer Hillary suggesting that you're going to hire your own
23 lawyer. Is that right?

24 *THE DEFENDANT:* Yes, please.

25 *THE COURT:* All right. Let me just say, Dr. Nassar,

1 that if for any reason you're unable to hire a private lawyer,
2 you can ask me.

3 *THE DEFENDANT:* Okay.

4 *THE COURT:* And I'll tell you that I have appointed
5 lawyers to represent doctors and lawyers and accountants and
6 CEOs in this court. So it's -- you know, the defense of a
7 federal criminal charge is a costly endeavor, and the bar for
8 getting court-appointed counsel is fairly low.

9 *THE DEFENDANT:* Okay.

10 *THE COURT:* Secondly, even if you end up hiring a
11 lawyer and sometime down the road, for example, you can no
12 longer afford to continue that lawyer, continue paying that
13 lawyer, again, you need only come to me, and I'm going to have
14 you fill out an affidavit and we'll do some inquiry, but if you
15 qualify, I'll give you court-appointed counsel.

16 Do you understand?

17 *THE DEFENDANT:* Yes, sir.

18 *THE COURT:* Dr. Nassar, do you have a copy of the
19 Indictment?

20 *THE DEFENDANT:* Yes, I do.

21 *THE COURT:* Have you read that?

22 *THE DEFENDANT:* Yes, I have.

23 *THE COURT:* Are you in fact the Lawrence Gerard
24 Nassar named in the Indictment?

25 *THE DEFENDANT:* Yes, I am.

1 *THE COURT:* Is your name spelled correctly there?

2 *THE DEFENDANT:* Yes, it is.

3 *THE COURT:* Dr. Nassar, the United States has brought
4 two criminal charges against you. In Count 1 the government
5 charge is receipt and attempted receipt of child pornography.
6 The government claims that between September and December of
7 2004 -- and, Mr. Lewis, is that -- are those the correct dates?

8 *MR. LEWIS:* Those are the correct dates.

9 *THE COURT:* All right. -- in Ingham County here in
10 the Western District of Michigan you knowingly received child
11 pornography that had been transported in interstate foreign
12 commerce by means of a computer. Including particularly six
13 computer files which are identified and listed in the count.

14 Do you understand what you're charged with in
15 Count 1?

16 *THE DEFENDANT:* Yes, Your Honor.

17 *THE COURT:* Count 2 charges possession of child
18 pornography and claims that between February of 2003 and
19 September of this year, also in Ingham County, you knowingly
20 possessed one or more computer disks, files, and other
21 materials containing thousands of images of child pornography,
22 10 of which are specifically identified in the Indictment.

23 Further, that such images had been shipped or
24 transported by computer in interstate commerce and were
25 produced using materials that had also been shipped or

1 transported in interstate commerce, including an AcomData
2 hard drive. The images that you possessed included images of
3 minors who had not yet attained the age of 12 years.

4 Do you understand what you've been charged with in
5 Count 2?

6 *THE DEFENDANT:* Yes, Your Honor.

7 *THE COURT:* All right. Well, if you have a question,
8 you can ask me.

9 *THE DEFENDANT:* I don't understand "and were
10 produced"?

11 *THE COURT:* Well, in order to get federal
12 jurisdiction over these crimes, there has to be some impact on
13 interstate commerce. That impact can be as simple as that an
14 image was transmitted across a state line using a computer.

15 *THE DEFENDANT:* Okay.

16 *THE COURT:* And they are also -- the government is
17 also claiming that there's an interstate component to this in
18 that this hard drive which the government claims -- and
19 obviously I don't know if it's true or not -- but claims
20 contains some of these images, the AcomData hard drive, was
21 manufactured outside of Michigan and thus by definition must
22 have traveled in interstate commerce to get here and be in your
23 possession.

24 *THE DEFENDANT:* Okay.

25 *THE COURT:* But the nut of the charge in Count 2 is

1 that you possessed these images of child pornography.

2 So do you understand what you're charged with in
3 Count 2?

4 *THE DEFENDANT:* I understand.

5 *THE COURT:* All right. The government is also
6 bringing forfeiture allegations. The government is asking that
7 it be allowed to keep any property including this hard drive
8 and I assume any other digital devices that it may have seized
9 from you or will seize from you during this investigation which
10 constitute either gross profits or proceeds, which I doubt
11 there are any such proceeds in this case, but that's what the
12 statute reads.

13 *THE DEFENDANT:* Okay.

14 *THE COURT:* Or any such property that was used in the
15 commission of the offense. So any device that was used to
16 download images from the internet or wherever they came from
17 would fall within the purview of this forfeiture allegation.

18 Do you understand the forfeiture allegations?

19 *THE DEFENDANT:* Yes, Your Honor.

20 *THE COURT:* Mr. Lewis, if you cover for
21 Ms. Hessmiller and Ms. Colter on Wednesday, can you remind me,
22 I did not go through the forfeiture allegation with her, and I
23 would like to make sure I circle back and do that. Okay?

24 *MR. LEWIS:* Will do. And I'll make a note on the
25 file.

1 *THE COURT:* Thank you.

2 Dr. Nassar, if you were to be convicted of either of
3 the two criminal charges, there are certain maximum penalties
4 which could apply. On Count 1 the receipt and attempted
5 receipt count, the maximum term of imprisonment is not less
6 than five or more than 20 years. There's a fine of not more
7 than \$250,000. A period of supervised release of not less than
8 five years and up to life.

9 Supervised release is a period of time following your
10 release from any prison or jail term you might have to serve
11 during which you'll remain under the supervision of
12 Judge Janet Neff. Judge Neff is the trial judge in your case,
13 the judge who will sentence you if you're convicted of anything
14 in this court.

15 Judge Neff will impose conditions on your supervised
16 release. You know, some of which would be obvious. You not
17 commit a crime. Some less obvious. But they will all be
18 explained in great detail if you're put on supervised release.

19 If you were to violate any of those conditions,
20 Judge Neff could send you back to prison for all or part of
21 whatever supervised release term she gives you.

22 There's also a court cost or special assessment of
23 \$100. And you may be ordered to pay restitution to any of the
24 victims of this crime that come forward. And the victims would
25 be, generally speaking, the minors who are depicted in these

1 images. And some of those victims have been very aggressive
2 about coming forward in cases all over the United States and
3 asking for restitution for the physical, mental, emotional pain
4 and suffering which they have suffered as a result of their
5 images being distributed and shared in this way. So there's no
6 way to tell on the front end whether or not such claims will be
7 made in your case if you were to be convicted, but it's a
8 possibility.

9 Do you understand the maximum penalties on Count 1?

10 *THE DEFENDANT:* Yes, Your Honor.

11 *THE COURT:* Count 2 carries a term of imprisonment of
12 not more than 20 years, a fine of up to \$250,000, supervised
13 release of not less than five years and up to life, a special
14 assessment of \$100, an additional assessment under the Justice
15 for Victims of Trafficking Act of \$5,000, and again you may be
16 required to pay restitution to the victims.

17 Do you understand the maximum penalties on Count 2?

18 *THE DEFENDANT:* Yes, Your Honor.

19 *THE COURT:* Mr. Lewis, what's the government's
20 position on bond for Dr. Nassar?

21 *MR. LEWIS:* We're also seeking detention pending
22 trial and ask for the three days to prepare for that hearing.

23 *THE COURT:* All right. Dr. Nassar, the United States
24 is asking that you be held in custody while the case is over.

25 *THE DEFENDANT:* Yes.

1 *THE COURT:* Or until the case is over. The
2 government is entitled to a hearing on that issue and to up to
3 three business days to prepare. They have asked for it. I'm
4 going to grant their request. And so we'll come back here on
5 Wednesday at what time, Jennifer?

6 *THE CLERK:* 1:30.

7 *THE COURT:* 1:30. And there will be three
8 proceedings. I'm going to give you a chance to ask questions,
9 okay? So don't think I'm not. But just hang in there for a
10 minute. There will be three proceedings scheduled. The first
11 will be an arraignment. It's going to sound almost identical
12 to what we've just done. I'm going to ask you some of the
13 exact same questions. Your lawyer will need to be here, all
14 right? And your lawyer will enter a plea on your behalf to
15 these two criminal charges against you.

16 And I didn't do the forfeiture allegations again, did
17 I?

18 *MR. LEWIS:* We did.

19 *THE COURT:* Did I?

20 *MR. LEWIS:* I believe we did cover the Acom and you
21 did explain it to the defendant.

22 *THE COURT:* Okay. All right. There will also be an
23 initial pretrial conference at which Mr. Lewis, or
24 Ms. Hessmiller who is the lead lawyer on this case, will file a
25 form laying out much of the evidence that they have against

1 you. I'll go through that with you and your lawyer. It's just
2 an overview. Your lawyer will review the evidence in detail
3 and report to you on that in the days and weeks to come. And
4 then finally we'll take up the question of whether you'll be
5 released on bond or held in custody while the case is pending.

6 Mr. Lewis, anything else on Dr. Nassar's case?

7 *MR. LEWIS:* No, thank you, Your Honor.

8 *THE COURT:* Dr. Nassar, I have one more question for
9 you before you can ask me your question, and that is did you
10 understand everything that happened in court here this
11 afternoon?

12 *THE DEFENDANT:* Yes, I believe so.

13 *THE COURT:* All right. So now is the time to ask me
14 any question you have.

15 *THE DEFENDANT:* I would like to be able to be
16 released until the court date. You said the tether that I'm
17 already functioning under and have been very good with, and you
18 could check that out and show that to basically -- you know,
19 I've been at home, you know what I mean?

20 *THE COURT:* Yes.

21 *THE DEFENDANT:* Even to the point of house arrest,
22 you know what I mean? Just so that I can be home and I can
23 confer with my attorney too. But, you know, because I think my
24 track record, you know, without any prior issues until now, and
25 then my tether showing that I've been compliant, okay, and that

1 I would not be a flight risk. And, you know, my driver's
2 license turned in. My passport turned in. You know what I
3 mean, that I would be sincere or available -- you know, I would
4 attend the thing. You know, the hearing. I'm not a flight
5 risk is what I'm trying to say.

6 *THE COURT:* And, Dr. Nassar, I will take all of those
7 factors into consideration at the time of the hearing on
8 Wednesday.

9 *THE DEFENDANT:* All right.

10 *THE COURT:* But until then, until I've made a ruling,
11 you know, I'm going to keep you in custody. I mean, the
12 government is entitled to its hearing on that.

13 *THE DEFENDANT:* I know.

14 *THE COURT:* And to keep you in custody until such
15 time as we hold that hearing. So you'll be in custody. You'll
16 undoubtedly be in the Newaygo County Jail.

17 Have you made contact with anybody?

18 *THE DEFENDANT:* I've not been allowed to make a phone
19 call.

20 *THE COURT:* All right. Who is your lawyer?

21 *THE DEFENDANT:* If -- I have met with and retained
22 for my prior case that I'm working on a James -- I have a
23 problem saying his name.

24 *MR. LEWIS:* James -- I asked him the same question
25 earlier just so I could just try to reach out. It's

1 James Burdick?

2 *THE DEFENDANT:* Burdick, yes. James Burdick.

3 *MR. LEWIS:* Apparently out of Bloomfield Hills,
4 Michigan.

5 *THE DEFENDANT:* Yes, Bloomfield Hills.

6 *MR. LEWIS:* On Tele --

7 *THE DEFENDANT:* Telegraph Road.

8 *MR. LEWIS:* -- Telegraph Road.

9 *THE COURT:* Mr. Lewis, do you have a phone number for
10 Mr. Burdick?

11 *MR. LEWIS:* If I may consult my phone, I believe
12 it's --

13 *THE COURT:* I'm going to put the burden on you,
14 Mr. Lewis. I would like you to make contact with Mr. Burdick
15 today and advise him that Dr. Nassar appeared for his initial
16 appearance and that he's been detained temporarily --

17 *MR. LEWIS:* Certainly.

18 *THE COURT:* -- and that we have scheduled a bond
19 hearing, arraignment, and pretrial conference for Wednesday of
20 next week at 1:30.

21 *MR. LEWIS:* I'll do that.

22 *THE COURT:* All right. Thank you.

23 All right. Any other questions, Dr. Nassar?

24 *THE DEFENDANT:* Will I be able to make a phone call?
25 Please?

1 *THE COURT:* When you get to Newaygo County Jail,
2 you'll have access to a telephone. And you certainly at the
3 very least would be able to call the Federal Public Defenders
4 Office. Now, it's Friday at 3:00, so you probably won't be
5 back there in time to make contact with anybody. But you can
6 call the Federal Defenders Office for free.

7 *THE DEFENDANT:* Uh-huh.

8 *THE COURT:* And I'm going to alert them to the fact
9 of your case, tell them that you're intending to hire private
10 counsel, but they will be alert to your situation and will take
11 your call if you were to call them.

12 *THE DEFENDANT:* Okay.

13 *THE COURT:* All right. We'll be adjourned.

14 *THE CLERK:* All rise. Court is adjourned.

15 *(Proceeding concluded at 2:44 p.m.)*

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CERTIFICATE

I certify that the foregoing is a transcript from the Liberty Court Recording System digital recording of the proceedings in the above-entitled matter, transcribed to the best of my ability.

I further certify that the transcript fees and format comply with those prescribed by the court and the Judicial Conference of the United States.

December 23, 2016

/s/ Glenda Trexler
Glenda Trexler, CSR-1436, RPR, CRR