UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA	)	
	)	No. 24 CR 424-1
v.	)	
	)	Judge Jeremy C. Daniel
FRANCESCO DISTEFANO	)	

GOVERNMENT'S RESPONSE TO DEFENDANT'S OBJECTIONS TO THE PSR, SENTENCING SUBMISSION AND REQUEST FOR A BELOW GUIDELINES SENTENCE

Now comes the United States of America, by its attorney, ANDREW S. BOUTROS, United States Attorney for the Northern District of Illinois, and in response to defendant FRANCESCO DISTEFANO's Objections to the PSR, Sentencing Submission and Request for a Below Guidelines Sentence (hereinafter, "Memorandum"), respectfully states as follows:

I. DEFENDANT'S "FACTUAL CONCERNS" WITH THE PSR

A. Defendant's Post-Indictment Fraud Scheme

While this case was pending defendant engaged in a identity theft scheme wherein defendant enrolled "customers" for merchant processing services without their knowledge or permission. *See* PSR, ¶ 57; GV at 18-20; GX 2-A; GX 2-B; Supp GV at 1; GX 4 (reports of interview with four "customers" who are unaware of All In One Swype). The scheme generates funds for defendant's business (presently, All In One Swipe) in the form of "commissions" or "residuals" paid by the payment processing company.[1] From May 2025 through October 2025, one such payment

[1] Defendant's business is essentially a sales entity that, at least theoretically, receives its revenues from the payment processor.

processor, Fiserv Inc., paid commissions to All In One Swipe of approximately $136,389. Second Supp. GV at 1; GX 9. There is cause to believe that All In One Swype continues to receive funds on account of "customers" previously signed up for services. *See* GX 10 (Victim BB has continued to incur fraudulent charges as recently as February 3, 2026, when a $514.49 recurring charge hit his account.)

In objecting to the PSR, defendant attempts to minimize the scale of this latest scheme, suggesting that the PSR should reflect only that defendant told Probation that he received residuals of $5,000 to $7,000 per month and that his December 2025 and January 2026 bank statements showed residual deposits of only $343.99 and $12.59, respectively.[2] Def. Memorandum at 4. The inherent flaw in this approach is that Fiserv was paying residuals into All In One Swipe accounts at Thread Bank, not defendant's personal account at Green State Bank.[3]

The All In One Swipe scheme is separate and apart from the PPP/EIDL fraud scheme that defendant is being sentenced for. However, that defendant engaged in a new fraud scheme while this case was pending is relevant to determining the sentence in this case as it is probative of the need for specific deterrence, among other things.

[2] In support of this suggestion, defendant attaches two months of statements for his personal checking account at Green State Bank. *Id.*; *see also*, DX 2.

[3] The government does not presently possess current statements for the Thread Bank accounts, but as of August 2025, the Fiserv payments were going to accounts at that institution.

B. Defendant's Threat to Shoot Victim M.K.

Defendant objects to the PSR's reference to the allegation that defendant threatened to kill Victim MK. Def. Memorandum at 4-5. This allegation—that defendant, while on house arrest in the Northern District of Illinois, called Victim M.K. by telephone on July 16, 2025, while Victim MK was in St. Tropaz, France, and threatened to shoot Victim M.K., and thus violated 18 U.S.C. § 875(c)—was one of two bases cited by the government in its motion seeking revocation of defendant's pretrial release. Defendant is correct that the Court did not find "probable cause based on the record in front of" it on July 23, 2025, to sustain the allegation. *See* Dkt. 109, 7/23/25 Transcript at 25. However, at the time of that hearing, Victim M.K. was still in Europe and unavailable to testify. Victim M.K. will be available to testify at defendant's sentencing hearing about the events that occurred in mid-July 2025. Should the government present further evidence, and should the Court determine that probable cause exists and sustain the government's allegation, then the conduct will be relevant to consideration of the factors set forth in 18 U.S.C. § 3553(a).

C. Defendant's Nonconsensual Creation and Distribution of a Sex Video with Victim KP

Defendant objects to the PSR for "call[ing] into question whether Francesco engaged in non-consensual sex in 2022 with his then girlfriend." Def. Memorandum at 5. Defendant points out that he was charged with and pled guilty to the nonconsensual dissemination of a sexual image. *Id*. The issue is that the image (a video) depicts Victim KP, who, by her own account, is not conscious in the recording defendant *created* and *disseminated* without her consent. *See* Second Supp. GV at 2; GX 11 (videorecorded interview of Victim KP). Since Victim KP was not conscious and alert when defendant filmed his sexual encounter with her, it is not clear how the encounter could have been consensual.

II. DEFENDANT'S GUIDELINES' ARGUMENTS

A. Loss Amount

Defendant notes that "[i]n December 2025, the United States Sentencing Commission proposed an amendment to §2B1.1's economic loss table to adjust for inflation" and goes on to suggest that the amendment "*would result in a two point decrease* to Francesco's sentence if he were sentenced after November 2026." Def. Memorandum at 6 (emphasis added). While defendant is correct that there is a proposed amendment to the economic loss table, he is mistaken in suggesting that it would have any impact on the guideline calculation here. If the proposed amendment is adopted, the threshold for the 18-level increase of Section 2B1.1(b)(1)(J) will be $5,000,000 (versus the $3,500,000 threshold currently in effect). Because the loss amount in this case is approximately $6.8 million for Guidelines' purposes, there will be no impact on the offense-level calculation if the proposed amendment is adopted.

B. Acceptance of Responsibility

Defendant contends that he is entitled to acceptance of responsibility notwithstanding his conduct over the past 8 months. The government disagrees. While defendant admitted his conduct and agreed to entry of judgment in the then-pending civil forfeiture proceeding,[4] he immediately returned to criminal and fraudulent behavior while on pretrial release. As noted in the government's sentencing memorandum, courts have denied defendants' acceptance under § 3E1.1(a) for continuing criminality. *See United States v. McDonald*, 22 F.3d 139, 141 (7th Cir. 1994) (collecting cases).

Defendant's contention that he has evidenced his acceptance by "payment of losses to individuals involved in the conduct occurring after his release on bond" (Def. Memorandum at 10) is revelatory. Defendant paid *one* victim: Molly Maids. And he did this when he was lying to the Glendale Heights Police Department about the fraudulent nature of the check (defendant falsely claimed that he had stopped payment on a valid check because he was unsatisfied with cleaning services) and trying to avoid consequences.

[4] Elsewhere in his sentencing memorandum, defendant suggests that co-defendant Urumieh sold the real property purchased with scheme proceeds in Glendale, California in August 2025 and that "[t]he government did not seize or forfeit any of the proceeds Urumieh received." Def. Memorandum at 3. Defendant is incorrect. Urumieh did not sell the property in 2025; a grantee who took title to the property from Urumieh several years earlier sold it in 2025. And the government required that grantee, who the government believes was not a *bona fide* purchaser for value in its acquisition of the property from Urumieh, to deposit $312,421.88 (the amount of PPP proceeds that could be traced to Urumieh's purchase of the property) into an escrow account as substitute *res* in order for the sale to proceed. Those funds will be the subject of future litigation and are referenced in Paragraph 19.a. of Urumieh's plea agreement filed at Dkt. 107.

III. Conditions of Supervised Release

A. Special Condition 14 (Sex Offender Assessment)

As discussed in the government's sentencing memorandum, a sex offender assessment is an import condition of release to promote the policy goals of protecting the public and defendant's rehabilitation. *See* Gov. Memorandum at 33. Multiple women have accused defendant of creating and disseminating sexual videos of them without consent. And, in at least two of the instances, the victims state that they were not fully conscious when defendant created the images. *See* GX 7 at 37, ¶ 6; GX 11. A narrowly drawn condition requiring defendant to undergo a sex offender evaluation is a "modest special condition [that will] not deprive [defendant] of more liberty than reasonably necessary." *United States v. Russell*, 81 F.4th 726, 730 (7th Cir. 2023).

IV. Defendant's Cooperation

Defendant's cooperation in this case did not assist in any investigation or prosecution. Defendant did tell the government that a particular individual was in the country unlawfully. Def. Memorandum at 24. Defendant advises that individual has now been removed from the country. *Id*. That may very well be correct. However, the information defendant provided was not used for an immigration removal proceeding.

The government entered into a cooperation agreement with defendant with the expectation that defendant would be available to testify against his codefendant Sargis Urumieh. When defendant resumed committing fraud on pretrial release, his value as a cooperating witness was destroyed.

V. CONCLUSION

For the reasons set forth in the government's sentencing memorandum, the government respectfully submits that a sentence of 108 months' incarceration followed by three years of supervised release is warranted in this case.

RESPECTFULLY SUBMITTED,

ANDREW S. BOUTROS
UNITED STATES ATTORNEY

Dated: March 3, 2026

By: *<u>/s/ Jeffrey S. Snell</u>*

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