

1 UNITED STATES DISTRICT COURT
 2 SOUTHERN DISTRICT OF IOWA
 3 CENTRAL DIVISION

3 UNITED STATES OF AMERICA,)
 4 Plaintiff,) CASE NO. 4:19-cr-172
 5 vs.) TRANSCRIPT OF
 6 JESSICA RAE REZNICEK,) SENTENCING PROCEEDINGS
 7 Defendant.)
 8

9 COURTROOM 265, SECOND FLOOR
 10 U.S. COURTHOUSE
 11 123 East Walnut Street
 12 Des Moines, Iowa 50309
 13 Wednesday, June 30, 2021
 14 10:23 a.m.

15 BEFORE: THE HONORABLE REBECCA GOODGAME EBINGER, DISTRICT JUDGE

16 APPEARANCES:

17 For the Plaintiff: JASON GRIESS
 18 United States Attorney's Office
 19 U.S. Courthouse Annex
 20 110 East Court Avenue, Suite 286
 21 Des Moines, IA 50309

22 For the Defendant: MELANIE KEIPER
 23 Federal Public Defender's Office
 24 400 Locust Street, Suite 340
 25 Des Moines, IA 50309

WILLIAM QUIGLEY
 Loyola University New Orleans Clinic
 7214 St. Charles Avenue
 Campus Box 902
 New Orleans, LA 70118

Chelsey Wheeler, CSR, RPR, FCRR
 United States Courthouse
 123 East Walnut Street
 Des Moines, IA 50309

	<u>E X H I B I T S</u>			
	<u>GOVERNMENT'S EXHIBITS</u>	<u>OFFERED</u>	<u>RECEIVED</u>	
1				
2				
3	1	Via Pacis Article	8	14
4	2	YouTube Interview	8	14
5	3	Video	8	14
6	4	Facebook - Train Blockage	8	14
7	5	Video	8	14
8	5A	Video	8	14
9	5B	Video	8	14
10	5C	Video	8	14
11	5D	Video	8	14
12	5E	Video	8	14
13	5F	Video	8	14
14	5G	Video	8	14
15	6-1	Video	8	14
16	6-2	Video	8	14
17	6A	Video	8	14
18	6B	Video	8	14
19	6C	Video	8	14
20	6D	Video	8	14
21	6E	Video	8	14
22	7	Video	8	14
23	8-18	Photographs	8	14
24	22-63	Photographs	8	14
25	64	Video	8	14

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

65	Sealed Document	8	14
	<u>DEFENDANT'S EXHIBITS</u>	<u>OFFERED</u>	<u>RECEIVED</u>
A	50 Letters of Support	8	8

P R O C E E D I N G S

(In open court with the defendant present.)

THE COURT: Thank you. Please be seated.

We are here in the matter of the United States of America versus Jessica Rae Reznicek. This is Case No. 4:19-cr-172. This is the time and date set for sentencing in this matter. My name, as you know, is Rebecca Goodgame Ebinger. I'm the district judge presiding.

If counsel would please identify themselves for purposes of the record.

MR. GRIESS: Your Honor, Jason Griess appearing for the United States.

MS. KEIPER: Your Honor, Melanie Keiper and Bill Quigley representing Ms. Reznicek.

THE COURT: Thank you.

Of course, Ms. Reznicek is personally present, and we have with us from the United States Probation Office the author of the presentence investigation report, U.S. Probation Officer Justin T. Rogers.

Ms. Reznicek?

THE DEFENDANT: Yes, Your Honor.

THE COURT: You recall that you were indicted by way of a nine-count indictment filed on September 19, 2019, with a number of charges related to malicious use of fire and conspiracy to damage an energy facility? Do you recall that?

1 THE DEFENDANT: Yes.

2 THE COURT: Initially you entered pleas of not guilty
3 to all of the charges against you, and then on January 6 of
4 2021, you appeared in front of a United States Magistrate Judge
5 and entered a plea of guilty to Count 1.

6 Do you recall that?

7 THE DEFENDANT: Yes.

8 THE COURT: At that time you pleaded guilty to
9 conspiracy to damage an energy facility, in violation of Title
10 18, United States Code, Section 1366(a), as alleged in the
11 indictment.

12 THE DEFENDANT: Yes.

13 THE COURT: At the time of your plea, the
14 United States Magistrate Judge explained to you that the
15 maximum potential penalty associated with that offense is
16 20 years of imprisonment.

17 Do you recall that?

18 THE DEFENDANT: Yes.

19 THE COURT: The United States Magistrate Judge
20 recommended to me that I accept your plea of guilty and
21 adjudicate you guilty, and I did so on February 1 of 2021.

22 Do you understand, Ms. Reznicek, that you are here
23 today for the purpose of being sentenced on that plea of
24 guilty?

25 THE DEFENDANT: Yes. Yes, Your Honor.

1 THE COURT: Do you continue to acknowledge that you
2 are, indeed, guilty of the crime charged in Count 1, conspiracy
3 to damage an energy facility?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Before I proceed further with the hearing,
6 I need to confirm that you're fully able to participate here
7 today.

8 Are you currently under the influence of alcohol?

9 THE DEFENDANT: No.

10 THE COURT: Are you under the influence of any illegal
11 substances?

12 THE DEFENDANT: No.

13 THE COURT: Are you taking any prescription
14 medications?

15 THE DEFENDANT: Yes.

16 THE COURT: Can you please tell me about that.

17 THE DEFENDANT: Sertraline, 25 milligrams -- two
18 25 milligrams one time a day.

19 THE COURT: Is that prescribed by a medical
20 professional with whom you have a treating relationship?

21 THE DEFENDANT: Yes.

22 THE COURT: Are you taking that medication as
23 prescribed?

24 THE DEFENDANT: Yes.

25 THE COURT: Is there anything about your use of that

1 medication that would negatively affect your ability to
2 understand and participate in today's hearing?

3 THE DEFENDANT: No, Your Honor.

4 THE COURT: I note that that medication isn't
5 referenced in the physical condition or mental health sections
6 of the presentence investigation report. The judgment will
7 reflect that medication for the purposes of the record.

8 Any objection to proceeding in that way, Ms. Keiper?

9 MS. KEIPER: No, Your Honor. I do have the doctor's
10 prescription, if the Court would like that.

11 THE COURT: Any objection to the judgment reflecting
12 the medication for purposes of the defendant's physical
13 condition as reflected in 94?

14 MR. GRIESS: No, Your Honor.

15 THE COURT: Would you bring the documentation forward,
16 please. Thank you.

17 Are you suffering from any mental health or physical
18 illness or ailment that would make it difficult for you to
19 understand and participate in today's hearing, Ms. Reznicek?

20 THE DEFENDANT: No, Your Honor.

21 THE COURT: If at any time during this hearing you do
22 not understand something I say or you have a question, would
23 you please stop me and let me know?

24 THE DEFENDANT: Yes.

25 THE COURT: The most important thing is that you

1 understand the proceedings.

2 In anticipation of this hearing, the United States
3 Probation Office prepared a presentence investigation report.
4 I have reviewed that report. I have reviewed the materials
5 related to the plea and the docket as a whole. I have reviewed
6 the Government's sentencing memorandum that was filed, I
7 believe, yesterday, 65 proposed Government exhibits. I have
8 reviewed the defendant's sentencing memorandum and their
9 Exhibit A, which is a collection of 50 letters of support. I
10 also received a separate letter of support that is docketed at
11 document 124 as well.

12 Are there other -- and the Court notes that Exhibit 65
13 is the victim impact statement that was submitted to the Court.

14 Are there any other materials that need to be brought
15 to the Court's attention on behalf of the Government?

16 MR. GRIESS: No other materials, Your Honor.

17 THE COURT: Do you have any objection to Defendant's
18 A?

19 MR. GRIESS: No.

20 THE COURT: Ms. Keiper, any other materials that need
21 to be brought to my attention?

22 MS. KEIPER: No, Your Honor.

23 THE COURT: Any objection to Government's Exhibits 1
24 through 65?

25 MS. KEIPER: Your Honor, we would object to

1 Government's Exhibits 8 through 18, and I don't believe there's
2 Exhibits at 19 through 21. Those are blank. But we would
3 object to Exhibits 8 through 18 as they relate to paragraphs 10
4 through 13.

5 THE COURT: 8 through 18.

6 Mr. Griess, do you agree that there is no 19, 20, and
7 21?

8 MR. GRIESS: Yes, Your Honor.

9 THE COURT: So the Court omits those. What is your
10 intent as to 8 through 18?

11 MR. GRIESS: Your Honor, if I understand correctly,
12 the objections that are made to 8 through 18 relate to damage
13 and incidents that occurred prior to election day. They've
14 objected -- the defense has objected to those because the
15 defendant did not admit to those. We believe they're relevant
16 to the issues before the Court here today as far as sentencing
17 goes and they should be admitted.

18 THE COURT: Are you intending to put evidence on
19 establishing that the defendant is connected to those incidents
20 described in the contested paragraphs?

21 MR. GRIESS: No additional evidence, Your Honor.

22 THE COURT: And is it your position that the
23 presentence investigation report, which indicates in the
24 footnote that the Government intends to establish at the time
25 of sentencing that they are relevant conduct based upon a

1 preponderance of the evidence, that no such record is
2 necessary?

3 MR. GRIESS: Yes, Your Honor. I would additionally
4 say that based upon the similar nature of the conduct in this
5 case and the similar time frame as well as the similar
6 location, that they are relevant for a couple of different
7 things, first of all, in establishing that it is likely, based
8 upon a preponderance of the evidence, that they were involved
9 in those incidents.

10 And, secondly, it goes to the issue of individuals who
11 were inspired and the fact that the conduct here was intended
12 to motivate other people, and this shows that they were either
13 motivated or using this to motivate, so we believe it is
14 relevant for the Court's consideration.

15 THE COURT: Ms. Keiper?

16 MS. KEIPER: Your Honor, with regard to that last
17 point first, these all occurred before November of 2016, so Ms.
18 Reznicek couldn't have been -- or other people couldn't have
19 been inspired by her actions since these actions had taken
20 place prior to November 2016.

21 Secondly, with regard to the dates, specifically with
22 regard to paragraph 13, I believe the date of that offense was
23 October 15, 2016, in PSR paragraph 13. And as the PSR
24 indicates in PSR paragraph 67, Ms. Reznicek was in Lee County
25 in far southeast Iowa and was arrested for disorderly conduct.

1 She was at the Mississippi Stand by the Mississippi River
2 during the period preceding November 2016.

3 We don't believe that there's any evidence that shows
4 that Ms. Reznicek was involved in anything prior to
5 November 2016. The facts that are listed in the PSR --
6 specifically, PSR paragraph 10 states that an oil filter was
7 found and documented tire impressions. Those did not lead to
8 any indication that Ms. Reznicek was involved.

9 With regard to PSR paragraph 13, it speaks of
10 accelerant-soaked newspapers and diesel fuel. Those were also
11 not the methods in which Ms. Reznicek and Ms. Montoya destroyed
12 the construction equipment in November 2016. Those
13 specifically stated that they used motor oil in coffee cans
14 that were placed inside the cabs of those construction
15 equipment.

16 Further, with regard to the public confession by
17 Ms. Reznicek and Ms. Montoya, they specifically stated that
18 they started their action on November -- election night of
19 November 2016 and then detailed all of the other actions that
20 they did following that. The rest of the PSR paragraphs that
21 describe the relevant conduct in this case are all those
22 paragraphs in which she has admitted to.

23 Prior to November 2016, however, they had nothing to
24 do with those previous incidents in paragraphs 10 through 13,
25 so we believe there isn't sufficient evidence to suggest or to

1 prove that Ms. Reznicek had anything to do with that,
2 particularly given the fact that she was arrested and in Lee
3 County on the date of the last offense.

4 THE COURT: Any responsive argument, Mr. Griess?

5 MR. GRIESS: Just to say, Your Honor, that she --
6 Ms. Reznicek could have inspired or been inspired by that. I'm
7 not necessarily saying she committed these. She didn't admit
8 to it, but they are very similar in nature. This is
9 construction equipment that was being used to build the
10 pipeline on the pipeline in Iowa that was destroyed by fire,
11 the very same thing she was doing.

12 The evidence is relevant to explain the circumstances
13 and the controversy surrounding the building of the pipeline
14 regardless of whether the Court ultimately finds the defendant
15 was responsible for it directly.

16 THE COURT: So for inclusion -- so the exhibits
17 themselves are what's at issue here and the relevance of those
18 exhibits. The rules of evidence do not apply to the sentencing
19 hearing, but relevant evidence is evidence that tends to make a
20 fact in consequence more or less probable.

21 Here relevant conduct principles also have to be
22 applied. 1B1.3 instructs the Court what is relevant conduct.
23 The relevant conduct is all acts and omissions committed,
24 aided, abetted, counseled, commanded, induced, procured, or
25 willfully caused by the defendant.

1 In the case of jointly undertaken criminal activity,
2 those acts and omissions of others are relevant conduct when
3 they are within the scope of jointly undertaken criminal
4 activity in furtherance of the criminal activity and reasonably
5 foreseeable in connection with the criminal activity. They
6 have to have occurred during the commission of the offense of
7 conviction, in preparation for that offense, or in the course
8 of attempting to avoid detection or responsibility for that.

9 Notably absent from that definition are things that
10 inspire someone to commit a crime. That is not relevant
11 conduct. To the extent that the exhibits are offered to show
12 the Court that this was in the context of other acts against
13 the pipeline in Iowa, the Court will admit 8 through 18 for
14 that purpose only in terms of the context, but the Government
15 has not offered any evidence that specifically ties this
16 defendant or her co-defendant to these actions.

17 For example, there are pictures of items that were
18 seized from the defendant's home. None of those the Court has
19 been provided with any type of documentation are related to the
20 events listed in 10, 11, 12, and 13. The modus operandi of
21 those in 10, 11, 12, and 13 are not sufficiently identical to
22 the subsequently conducted and admitted-to conduct by this
23 defendant and her co-defendant to prove by a preponderance that
24 she was engaged in this conduct starting in July of 2016
25 through October of 2016.

1 The Government has not put forth any evidence that
2 links this defendant to these actions beyond the general idea
3 that they are also acts against the Dakota Access Pipeline.
4 The presentence report writer included those paragraphs with a
5 specific footnote indicating that the Government would at the
6 time of sentencing establish this conduct as relevant conduct
7 under 1B1.3, and the Court finds the defendant's objection is
8 well made and overrules the inclusion of 10, 11, 12, and 13 as
9 relevant conduct based upon the Government's failure to
10 establish by a preponderance that this defendant was connected
11 to those offenses.

12 And, for that reason -- we'll talk about that later,
13 but Exhibits 8 through 18 are admitted only for the purpose of,
14 one, because the Court can consider the context in which a
15 crime occurs for purposes of things outside of the guidelines.
16 8 through 18 are admitted for that purpose only. But
17 paragraphs 10, 11, 12, and 13 are not considered as relevant
18 conduct in this case.

19 Any additional record in that regard from the
20 Government?

21 MR. GRIESS: No, Your Honor.

22 THE COURT: From the defense?

23 MS. KEIPER: Your Honor, just a question. Would those
24 be removed, then, from the PSR?

25 THE COURT: They will be in the judgment. It will

1 reflect that the Court does not consider the information
2 contained in 10, 11, 12, and 13 as relevant conduct.

3 We were talking about exhibits and other materials.

4 Ms. Keiper, you indicated you objected to 8 through
5 18. Those objections are overruled with the limiting use of
6 the exhibits for the reasons I have previously stated.

7 Any other materials to be brought to my attention?

8 MS. KEIPER: No, Your Honor.

9 THE COURT: Okay. So that brings us to a discussion
10 of the presentence investigation report. I have just noted
11 that I will not consider as relevant conduct 10, 11, 12, and
12 13.

13 Otherwise, Mr. Griess, have you had the opportunity to
14 review the material contained in the presentence investigation
15 report on behalf of the United States?

16 MR. GRIESS: Yes, Your Honor.

17 THE COURT: And has the Government had the opportunity
18 to determine whether there are any factual objections to the
19 report?

20 MR. GRIESS: Yes.

21 THE COURT: Are there any factual objections?

22 MR. GRIESS: No.

23 THE COURT: Thank you.

24 Ms. Keiper, have you and your client had the
25 opportunity to review the information contained in the

1 presentence investigation report in this case?

2 MS. KEIPER: Yes, Your Honor.

3 THE COURT: Could you make a record as to how you went
4 about reviewing the document with Ms. Reznicek.

5 MS. KEIPER: The report was provided to Ms. Reznicek.
6 We have gone over it -- both I and Mr. Quigley have gone over
7 it with Ms. Reznicek on a number of occasions in person and
8 filed objections.

9 THE COURT: I have just indicated that I am not
10 considering the factual information contained in paragraphs 10,
11 11, 12, and 13 as relevant conduct as to this defendant.

12 Do you have any other factual objections that you
13 maintain at this time?

14 MS. KEIPER: Yes, Your Honor. With regard to
15 paragraph 14, just that the material constituted a destructive
16 device. We don't believe that under the federal definition
17 under 26 U.S.C. 5845 that the coffee canister constituted a
18 destructive device, and we would ask that that portion of
19 paragraph 14 be stricken.

20 THE COURT: Any responsive argument in that regard?

21 MR. GRIESS: No, Your Honor. The Government is not
22 going to introduce evidence on that. The manner in which those
23 items were used is what's important in this case. Whether or
24 not it's defined explicitly as a destructive device is not
25 something the Government is going to support at sentencing.

1 THE COURT: It wasn't charged as a destructive
2 device --

3 MR. GRIESS: That's correct.

4 THE COURT: -- in the indictment.

5 MR. GRIESS: That's correct.

6 THE COURT: So to the extent that that term is used as
7 a term of art in paragraph 14 as it's indicated there, the
8 Court will sustain the objection based upon the lack of
9 evidence supporting that reference in paragraph 14. The
10 judgment will reflect that the Court does not consider the
11 coffee container devices as destructive devices under 26 U.S.C.
12 5845, consistent with the defense's objection.

13 Any other objections with regards to the factual
14 information that remain outstanding?

15 MS. KEIPER: Your Honor, we did have an objection to
16 PSR paragraph 20, just the relevance of that. In addition, we
17 objected -- or clarified, I guess, in PSR paragraph 28 that all
18 of those items, absent the Water is Life sign, were found in
19 Ms. Montoya's room.

20 And then with regard to the loss amount and
21 restitution, I believe we have come to an agreement on that
22 with the Government. I don't know if you want me to --

23 THE COURT: Let's talk about restitution and loss
24 amount separately. Although, is there a factual error that you
25 believe is in the report in that regard?

1 MS. KEIPER: Yes, Your Honor. First, with regard to
2 PSR paragraph 14, the dollar amount which I believe is accurate
3 is \$834,046.03 which I believe should be instead of the
4 approximately 2.5 million that's listed in paragraph 14.

5 THE COURT: Okay. Let's go through these each in
6 turn.

7 Paragraph 20, there's a relevance objection to that
8 information in regards to the defendant's interaction with
9 another individual engaged in activity in Boone County.

10 Does the Government believe that evidence is relevant?

11 MR. GRIESS: I do, Your Honor. It occurred during the
12 course of the conspiracy in this case. I think it is relevant
13 just to establish context for the case.

14 THE COURT: The Court overrules the objection to 20.
15 The information contained in that post is not factually
16 objected to as inaccurate. It reflects another individual,
17 indicating that Defendant met her upon her release from jail
18 for an offense against the Dakota Access Pipeline in Boone
19 County during the course of the conspiracy, and that objection
20 is overruled.

21 As to paragraph 28, you're not objecting to the fact
22 that it's included. You're saying additional information is
23 required?

24 MS. KEIPER: Yes, Your Honor.

25 THE COURT: So the information says all of these items

1 were seized within the residence, and you don't disagree with
2 that. Your objection is that a specific room needs to be
3 indicated?

4 MS. KEIPER: Yes, Your Honor. The Water is Life sign
5 was found in the common room of the home. They were all found
6 in the one home, but all of the items that are pictured and
7 that are in the Government's exhibits other than the sign were
8 found in Ms. Montoya's room.

9 THE COURT: Mr. Griess, do you agree with that
10 recitation of the facts?

11 MR. GRIESS: We do, Your Honor.

12 THE COURT: Any objection to the judgment reflecting
13 that additional information?

14 MR. GRIESS: No, Your Honor.

15 THE COURT: So the judgment will reflect that
16 paragraph 28, the items seized were from co-defendant Montoya's
17 room except the Water is Life sign, which were recovered from
18 common areas.

19 And that leads us to paragraph 14.

20 Mr. Griess, paragraph 14 indicates a loss amount for
21 that incident in November of 2016 as being \$2,500,000.
22 Ms. Keiper has indicated that you've reached an agreement that
23 that amount is in fact \$834,046.03?

24 MR. GRIESS: Your Honor, so the loss figures that were
25 in the presentence investigation at the time included a lot of

1 different things. It included additional security costs. This
2 is information that was originally received from the company.

3 The parties in this case have come to an agreement
4 with regard to the amount of restitution, so as it pertains to
5 that -- in other words, the damage caused or the amount of
6 money needed to fix the damage that they did -- that number is
7 inflated.

8 With regard to how the company was defining it as to
9 the cost, I think that's accurate. I'm not sure there's any
10 real reason to change individual numbers with regard to
11 restitution. I would just simply agree to clarify that the
12 2.5 million includes things other than what are attainable
13 through a restitution order.

14 THE COURT: Because restitution is defined by statute?

15 MR. GRIESS: That's correct.

16 THE COURT: Ms. Keiper?

17 MS. KEIPER: Your Honor, I would just note that the
18 way the sentence is worded, though, is that damage to the
19 equipment is estimated at approximately \$2,500,000, so that's
20 why we had the objection because they're specifically talking
21 about the damage to the equipment.

22 THE COURT: And it also reads that it's related only
23 to the events on November 8, the way that that paragraph is
24 highlighted.

25 Do you agree with that, Mr. Griess?

1 MR. GRIESS: I do, Your Honor. I think some
2 additional clarification is fine there. I don't have a problem
3 with that.

4 THE COURT: I don't know that this is the location to
5 define restitution as the ultimate issue, but I think that that
6 sentence can be corrected to indicate that Energy Transfer,
7 LLC, estimates that the damage to equipment on this date and
8 others is approximately 2.5 million.

9 Any objection to that?

10 MR. GRIESS: No, Your Honor.

11 THE COURT: Ms. Keiper?

12 MS. KEIPER: No, Your Honor.

13 THE COURT: So that will be what is reflected in the
14 judgment as to paragraph 14.

15 Have I covered all of the factual objections,
16 Ms. Keiper?

17 MS. KEIPER: No, Your Honor. I'm sorry. I stopped
18 when we got to the restitution part.

19 THE COURT: No. I appreciate the attention to detail.

20 MS. KEIPER: Your Honor, with regard to paragraph 85,
21 footnote 9, we just had a distinction with what the Catholic
22 Worker Movement and the Catholic Worker House, that they have a
23 wide variety of purposes, not just activism.

24 THE COURT: The citation that is provided is accurate;
25 correct?

1 MS. KEIPER: Yes, Your Honor.

2 THE COURT: The objection is overruled. The Court has
3 the actual article referenced, and the sentence does not limit
4 in any way what the Catholic Worker community does, but it
5 provides relevant information as to activities in this case as
6 to this defendant.

7 MS. KEIPER: Yes, Your Honor.

8 With regard to paragraph 92, we just clarified that,
9 that the sign that's referenced did not belong to Ms. Reznicek,
10 that she did not put up that sign, and that she took it upon
11 herself to take down that sign, so that sign did not reflect
12 her beliefs. It's a common house where other people lived,
13 so...

14 THE COURT: So the Court has that commentary. Any
15 objection to the Court considering that commentary?

16 MR. GRIESS: No, Your Honor.

17 THE COURT: I don't believe any additional information
18 is needed for the report. The professional statement was made
19 in that regard. The Court accepts that as additional evidence
20 to consider in the course of this sentencing. It does state
21 that the defendant removed the sign, which I think is the
22 operative language.

23 MS. KEIPER: Your Honor, with regard to paragraph 114,
24 we just supplemented that with regard to what Ms. Reznicek did
25 at the Damiano Center for the Kids' Kitchen, just explaining

1 that program a little further for the Court's information.

2 THE COURT: And you have that in your sentencing
3 memorandum?

4 MS. KEIPER: Yes, Your Honor.

5 THE COURT: Any objection to the Court considering
6 that factual assertion as evidence to consider during the
7 sentencing hearing?

8 MR. GRIESS: No, Your Honor.

9 THE COURT: Thank you.

10 MS. KEIPER: Your Honor, with regard to paragraph 115,
11 I understand that that is listed as unverified, the work that
12 she was doing at the Sisters of St. Scholastica, but we ask
13 that given the exhibit, Exhibit A, the letters from all the
14 Sisters there, that that be verified.

15 THE COURT: So the probation office was unable to
16 verify that material. The presentence investigation report is
17 correct in that regard. The letters of support are in the
18 record, and the Court will consider those as part of the
19 record. No change is needed to the report.

20 MS. KEIPER: And then, Your Honor, I believe the final
21 with regard to the factual objections is with regard to
22 paragraph 142(a)(2)(C) where it indicates that Ms. Reznicek has
23 continued to engage in organized acts of active resistance
24 since she's been on pretrial release. We believe there's no
25 evidence to support that, and that is not accurate. While she

1 has moved back to the Catholic Worker House in Des Moines, she
2 has not participated in any kind of active resistance or
3 activism.

4 THE COURT: Mr. Griess?

5 MR. GRIESS: Your Honor, I believe it maintains her
6 connection specifically with regard to her living at the
7 Catholic Worker community house and nothing further.

8 THE COURT: "While on pretrial supervision, the
9 defendant has continued her association with like-minded
10 individuals engaged in organizing acts of active resistance,
11 civil disobedience, and protest."

12 So the objection is overruled. The record includes
13 Government Exhibit 6-1, which is an event on September 29. The
14 defendant was indicted on September 19. Perhaps the indictment
15 was still under seal at that point. She wasn't detained until
16 October 1, 2019.

17 Mr. Griess, what's your understanding?

18 MR. GRIESS: That is correct, Your Honor.

19 THE COURT: So the indictment was still under seal at
20 the time she was speaking to the group in Minneapolis about
21 like-minded activity?

22 MR. GRIESS: If I could have one moment, Your Honor.

23 MS. KEIPER: Your Honor, I believe it was September 29
24 of 2017.

25 THE COURT: 2017? So before the indictment was

1 returned?

2 MS. KEIPER: I believe --

3 THE COURT: That doesn't make sense because the
4 actions --

5 MS. KEIPER: I'm sorry. Not 2017. 2018.

6 THE COURT: -- the actions that occurred occurred from
7 November 8, 2016, to May 2, 2017, is what were admitted, and
8 the search warrant occurred on August 11, 2017, and during
9 those comments, she indicated a month ago the FBI came into her
10 home.

11 So you're suggesting that the 2017 date is the
12 operative date, and the indictment wasn't returned until 2019,
13 so those actions are before she was on supervised release?

14 MS. KEIPER: Correct.

15 THE COURT: I understand that timeline.

16 So, first, to the extent that the section you're
17 considering as part F, factors that may warrant a sentence
18 outside of the advisory guideline system, that's the probation
19 office's assessment. It is not this Court's assessment, and I
20 do not -- the Court will independently review the information
21 contained in the presentence investigation report for
22 determination of all of the 3553(a) factors.

23 To the extent that there's any reference in there to
24 continued association with like-minded individuals, she does
25 continue to reside at the Catholic Worker House, to the Court's

1 knowledge, and that association is not inconsistent with the
2 factual assertion in (a)(2)(C), so no correction is required.

3 Any additional record as to the factual objections to
4 the presentence investigation report, Ms. Keiper?

5 MS. KEIPER: No, Your Honor. Do you want to take up
6 the restitution issue separately?

7 THE COURT: Yes.

8 MS. KEIPER: Okay.

9 THE COURT: Thank you.

10 So, Ms. Reznicek, we've been talking a lot about the
11 presentence investigation report, and Ms. Keiper has
12 highlighted areas where there were things that were wrong or
13 the Court shouldn't consider, and then she's highlighted areas
14 where there was additional information that she wanted me to
15 understand.

16 So, first, I need to make sure that you understand all
17 of the material that's been put together in the report.
18 Ms. Keiper explained to me how she went about reviewing this
19 document with you along with co-counsel.

20 Have you had the opportunity to review the material
21 contained in the presentence investigation report?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: Ms. Keiper has indicated some objections
24 that you had. I have indicated areas where I won't consider
25 some information that's been included in the report, I have

1 indicated some changes that will be reflected in the judgment
2 entered here today, and I have indicated areas where the Court
3 will consider the additional information that Ms. Keiper has
4 provided without alteration to the report.

5 Do you understand that, ma'am?

6 THE DEFENDANT: Yes.

7 THE COURT: Consistent with the record just made by
8 Ms. Keiper, do you believe that the material that has been
9 unobjected to in the report is accurate and correct?

10 THE DEFENDANT: Yes.

11 THE COURT: Thank you.

12 Based upon that record, the Court will rely upon the
13 unobjected to factual information contained in the presentence
14 investigation report for purposes of determining the
15 appropriate sentence to impose in this case.

16 Consistent with the prior record, I will not consider
17 the paragraphs indicated. I will have the alterations
18 necessary included in the judgment and will consider the
19 additional information submitted by the defense in context as
20 indicated.

21 That brings us to a discussion of the advisory
22 guideline calculation. As we know, the United States
23 Sentencing Guidelines are advisory, and the Court treats them
24 as such, but the Court is required to accurately calculate the
25 advisory guideline range and consider them in determining the

1 appropriate sentence to impose in this case.

2 So let's turn our attention to that guideline
3 calculation. I understand there are objections to it. We will
4 set forth the calculation as contained in the presentence
5 investigation report and then have the opportunity to make any
6 record in that regard.

7 So beginning on page 29 at paragraph 35 of the report, the
8 base offense level in this case for a violation of Title 18,
9 United States Code, Section 1366, is governed by 2B1.1.

10 Because the offense involved arson or property damage
11 or use of explosives, there's a cross-reference to the
12 guidelines involving firearms or destructive devices or arson
13 in 2K1.4. At that reference, the base offense level under
14 2K1.4(a)(4), based upon an amount of loss exceeding \$550,000
15 but less than 1.4 million, is a 23.

16 In paragraph 37 there is an adjustment based upon the
17 fact that this was a felony offense that involved or was
18 intended to promote a federal crime of terrorism, so 12 levels
19 are added under 3A1.4(a), resulting in an adjusted offense
20 level of 35.

21 The presentence investigation report scores a
22 two-level reduction for acceptance of responsibility.

23 Does the Government move for the third level?

24 MR. GRIESS: Yes, Your Honor.

25 THE COURT: The Court grants that motion. That

1 results -- in addition to the adjustment to the 12-level
2 increase, the terrorism enhancement also requires the
3 consideration of the defendant as a criminal history category
4 VI. That, combined with the 32 total offense level, results in
5 an advisory guideline range recommended to be between 210 and
6 240 months of imprisonment. Supervised release is recommended
7 between one and three years. The fine is recommended between
8 35,000 and \$250,000.

9 Does the Government have any objection to that
10 calculation?

11 MR. GRIESS: No, Your Honor.

12 THE COURT: And I know the defense does.

13 MS. KEIPER: Yes, Your Honor.

14 THE COURT: You object to the scoring of the
15 enhancement for the terrorism under 3A1.4(a)?

16 MS. KEIPER: Yes, Your Honor.

17 THE COURT: Thank you.

18 Any other objections to the calculation?

19 MS. KEIPER: Your Honor, we did have an objection to
20 the criminal history point that was attributed in PSR paragraph
21 71. That would not change her criminal history category. If
22 it's not a VI, it would still be a II. But we objected to a
23 point being scored because 71, we believe, is relevant conduct
24 to this offense.

25 THE COURT: I agree with that assessment. The Court

1 will not consider the criminal history point in 71 because I do
2 believe that the conduct described there is relevant conduct to
3 the issues at hand, and 71 will not be scored the point. But
4 as you indicated, even without that point, she's a II if she's
5 not a VI; correct, Ms. Keiper?

6 MR. GRIESS: Correct, Your Honor.

7 THE COURT: So the objection to the scoring of one
8 point at paragraph 71 is sustained. No point will be reflected
9 in that, which results in the criminal history score of two,
10 which remains in criminal history category II if she was not
11 otherwise increased to a VI under 3A1.4(b).

12 The Government bears the burden of establishing the
13 adjustment by a preponderance of the evidence. Does the
14 Government wish to present any additional evidence in regards
15 to the applicability of the adjustment?

16 MR. GRIESS: No additional evidence, Your Honor.

17 THE COURT: Would you like to be heard by way of
18 argument?

19 MR. GRIESS: Briefly, Your Honor. We would rely
20 primarily on the sentencing memorandum we filed in this case.

21 But, clearly, Your Honor, under the facts of this
22 case, 3A1.4 does, in fact, apply, and this is a factual matter.
23 The defendant's conduct in this case was clearly designed, as
24 indicated by their own words, to influence, affect, intimidate,
25 coerce, or retaliate against government conduct. Over and over

1 again in their written statements -- written statement and
2 spoken statement, they indicate as much. And that, again, is
3 set forth in great detail in the sentencing memorandum and the
4 Government's exhibits here.

5 I think also relevant is the fact that they made those
6 statements in front of the Iowa Utilities Board, not in front
7 of the private oil company, but at the Iowa Utilities Board,
8 again, designed -- and then proceeded to vandalize the sign
9 because they're trying to influence, affect, or retaliate
10 against the government in this case.

11 Oil pipelines, as the Court is well aware and is a
12 matter of public record, are highly regulated activities. A
13 private company is not capable of just building an
14 international or across-state-lines pipeline without government
15 permission. That permission was granted in this case. It was
16 granted after litigation. It was granted in accordance with
17 the rule of law.

18 The defendants didn't like that, and so they sought
19 out to retaliate against that government conduct and to attempt
20 to influence or affect future government conduct in addition to
21 stopping the pipeline. And, again, this is not the Government
22 extrapolating based upon circumstances. This is based upon
23 evidence in their own words, not just words made that day,
24 words made on tape at other times and words in other articles
25 specifically mentioned in the Government's sentencing

1 memorandum.

2 They don't just mention the government. They mention
3 the government, the federal government, and courts repeatedly
4 and over and over again. Based upon the facts and
5 circumstances of this case, this guideline clearly applies, and
6 we would ask the Court to apply it.

7 THE COURT: Responsive argument?

8 Well, first, any evidence in regards to this issue?

9 MS. KEIPER: No, Your Honor.

10 THE COURT: Would you like to be heard by way of
11 argument?

12 MS. KEIPER: Yes, Your Honor.

13 Your Honor, the actions taken by Ms. Reznicek and
14 Ms. Montoya in publicly confessing at the Iowa Utilities Board
15 was to get attention for the actions that they took, the
16 criminal actions that they took. Those actions they took were
17 not against the government. They were against the Dakota
18 Access Pipeline, Energy Transfer Partners. That's the victim
19 in this case that the Government has identified.

20 That is who they specifically stated in PSR paragraph
21 27 in their statement that day that they were to fight a
22 private corporation. They later say, "Our goal was to push
23 this corporation beyond their means to eventually abandon the
24 project." Certainly they mentioned the federal government, the
25 government, the local government, the state government

1 throughout that time because they had been protesting,
2 petitioning, going to meetings throughout that time to try and
3 stop the pipeline before it was started. However, those
4 efforts failed, so then they took their actions against the
5 private corporation.

6 We believe, Your Honor, and as I briefed, first, that
7 the standard should be by clear and convincing evidence
8 given --

9 THE COURT: You acknowledge the Eighth Circuit hasn't
10 adopted that standard?

11 MS. KEIPER: Correct, Your Honor. But it is our
12 argument that given the gravity of this enhancement and the
13 fact that it not only increases exponentially her base offense
14 level -- or her total offense level but also the criminal
15 history category.

16 Also, Your Honor, with regard to the cases that have
17 stated that the defendant must have the specific intent to
18 commit the offense to influence or coerce the government, and I
19 don't believe that the evidence that the Government has
20 presented here shows that that was their specific intent when
21 they --

22 THE COURT: Does it say it has to be their only
23 intent, Counsel?

24 MS. KEIPER: Your Honor, it says those actions are
25 their specific intent. So I believe --

1 THE COURT: It doesn't mean you can't have more than
2 one intent; right?

3 MS. KEIPER: It could be, Your Honor.

4 THE COURT: Thank you.

5 MS. KEIPER: But I believe the specific intent which
6 they stated and which their actions showed was to stop the
7 Dakota Access Pipeline, that private corporation. And I
8 believe the case law indicates it's not the subjective intent
9 but that their sole target here was Energy Transfer Partners.

10 With regard to the Ninth Circuit case that I cited
11 with regard to *Jordan* with regard to the magnified effect of
12 this terrorism enhancement for Ms. Reznicek, it increases, as I
13 indicated, her base offense level by more than four levels, and
14 the guideline range is more than quintupled by this enhancement
15 by both the base offense level and the criminal history
16 category, and we believe that is a disproportionate impact in
17 this case.

18 For the enhancement to apply, the conduct retaliated
19 against must objectively be government conduct, and we don't
20 believe that the evidence has shown that in this case.
21 Specifically, when looking at the Ninth Circuit case law, which
22 I believe is the only case law that is analogous to the
23 offenses that Ms. Reznicek committed in this case, the Ninth
24 Circuit found that in the case of *Tankersley* that the
25 enhancement didn't apply because it was a private corporation

1 but then upwardly departed because there were a number of
2 defendants. Some had committed the offenses against government
3 entities, some had committed the offense against private
4 corporations, but they were all involved in one group targeting
5 these different areas.

6 The difference between *Tankersley* and those cases and
7 Ms. Reznicek is that they specifically stated they were trying
8 to frighten, intimidate, and coerce the private individuals.
9 They issued communiques threatening these individuals, these
10 corporations, these government entities, stating they would do
11 it again and they were retaliating for X, Y, and Z and that
12 their actions potentially were dangerous to human life in
13 destroying buildings, specifically that it was retribution, it
14 was payback, and it was a warning that they would continue.

15 Nothing like that occurred in this case. Ms. Reznicek
16 made statements after she committed these offenses and
17 continued to make statements, but it was not to target the
18 government. And we don't believe that given the fact that
19 their purpose was to stop the oil from flowing through the
20 pipeline, them not threatening other members, them not trying
21 to take that action against the government, that this
22 enhancement should apply.

23 As I also indicated, there are a number of recent
24 cases which had specific targets against the police and
25 government buildings in which the terrorism enhancement was not

1 applied.

2 THE COURT: You have the benefit of the federal public
3 defender's network or otherwise. The Court was unable to find
4 many of the facts that you assert in those cases in your
5 parentheticals by -- they were all sealed, even to the Court in
6 looking for those documents, and I wasn't provided them by the
7 defense either.

8 Do you have any of those materials with you here
9 today?

10 MS. KEIPER: Not -- I could for Your Honor. I don't
11 have them here today, no, Your Honor.

12 Your Honor, and, finally, just with regard to the
13 repercussions that I indicated in my memo, being labeled a
14 terrorist doesn't just affect Ms. Reznicek with regard to these
15 guidelines. It would also reflect on any imprisonment that she
16 would see in the Bureau of Prisons.

17 The Bureau of Prisons takes the word "terrorist" at
18 its word in a presentence report and can then label her to be
19 very restricted in the communication management units within
20 the prison and not allowed to have communications with most of
21 the people that she would normally communicate with, including
22 the Sisters in Duluth.

23 THE COURT: Thank you.

24 So this is a factual and a legal argument. The
25 standard that applies, generally speaking, to adjustments under

1 the guidelines is a preponderance of the evidence standard.
2 The Ninth Circuit has suggested that extreme disproportionate
3 effects under a guideline requires clear and convincing
4 evidence. The Tenth Circuit has not specifically commented on
5 that in their consideration of similar issues. They have not
6 needed to determine, for example, in *Ansberry*, 976 F.3d 1108,
7 whether or not a preponderance of the evidence or a clear and
8 convincing evidence standard was to be applied because of the
9 fact that the issue there was a legal argument and there were
10 no facts in dispute.

11 They suggest that the Supreme Court has left open the
12 possibility that a heightened standard of proof may be
13 appropriate when sentencing factual determinations that
14 dramatically increase the sentence, citing to *Watts* in footnote
15 8.

16 But, again, that is not -- other than the Ninth
17 Circuit in their opinions cited by the defense and this lack of
18 need to determine the issue in the Tenth Circuit, the Court is
19 not aware -- and the defense cites other discussion of that in
20 their materials. But the Court is not aware of the Eighth
21 Circuit having adopted that, and, of course, that is the
22 binding precedent that this Court must apply.

23 The issue here is under 3A1.4(a) whether the terrorism
24 upward adjustment should be applied. The definition of
25 terrorism as applied in that guideline is provided in the

1 United States Code, 18, United States Code, Section
2 2332b(g) (5). That is the legal standard that this Court must
3 apply in determining whether or not the adjustment is
4 appropriate.

5 The standard is whether or not the offense is
6 calculated to influence or affect the conduct of government by
7 intimidation or coercion or to retaliate against government
8 conduct. So there are two different ways that the conduct can
9 qualify as terrorism under that definition, either because it's
10 calculated to influence or affect conduct or because it is to
11 retaliate against government conduct.

12 The second required standard is that it is one of the
13 enumerated offenses. That is not at issue because 1366(a) is a
14 specifically enumerated offense in the definition here.

15 So the question for the Court is whether the
16 Government has established by a preponderance of the evidence
17 that the crime that the defendant committed, conspiracy to
18 damage an energy facility, was calculated to influence or
19 affect the conduct of government or to retaliate against
20 government conduct.

21 The Court notes that "government conduct" is not
22 specifically defined. I have read the cases provided by the
23 defense in terms of what government conduct means. I agree
24 that it has to be conduct that is objectively government
25 conduct, that it's being retaliated against.

1 The government, as used in that provision, is not
2 limited to the United States Government. It's any government,
3 foreign or domestic. It's not -- again, the term "government"
4 isn't defined, but the Court finds that the *Ansberry* opinion at
5 footnote 11 and a well-reasoned opinion in the Southern
6 District of Texas at 406 F. Supp. 2d 408 in 2005 provide
7 guidance as to what the term "government" means and that it is,
8 in fact, any governmental entity, including the federal
9 government, but not limited to the federal government,
10 including state government as well.

11 So question is whether the defendant's conduct in
12 committing this offense was intended to either influence or
13 affect the conduct of government or to retaliate against
14 government conduct, and the Court finds both.

15 The evidence here is not only established by a
16 preponderance but would also meet the clear and convincing
17 evidence standard.

18 The statements the defendant made are indicative of
19 her intent in committing the offense, both the statement made
20 at the time of the announcement in front of the public
21 utilities board on July 24 of 2017 and statements made
22 subsequently as to why the offenses were committed and the
23 intent of those actions.

24 Notably, there is no requirement that the only intent
25 be to affect government conduct, to influence or retaliate

1 against government conduct. In this case, there can be and
2 there were multiple intents, both to stop the flow of oil in
3 the pipeline and to both retaliate against the government for
4 what the defendant saw as insufficiently serving the public and
5 to affect future action by the government to influence or
6 affect by intimidation or coercion.

7 The evidence includes the statements made by the
8 defendant at the time of her public announcement. "We, as
9 civilians, have seen the repeated failures of the government,
10 and it is our duty to act with responsibility and integrity,
11 risking our own liberty for the sovereignty of us all."

12 In that instance, the defendant is stating what the
13 intent was when she took the actions against the pipeline, and
14 that is to respond to the repeated failures of government as
15 viewed by the defendant.

16 Also, the statements made subsequent to the public
17 statement in talking about why the actions occurred, as
18 evidenced in Government's Exhibits 5 and 6, are also supportive
19 of the conclusion that not only the flow of oil but also the
20 government's response to that was the target of this continued
21 action, both to retaliate against the shortcomings that the
22 defendant saw and to prevent similar approvals in the future.

23 Probative evidence of this also includes the timing of
24 the actions. The defendant admitted that the first act that
25 she engaged in was on the evening of the election in 2016.

1 That, of course, has no bearing on a company but has bearing on
2 the working of the government.

3 Similarly, the location of the statement as at the
4 Iowa Utilities Board directed at the Iowa Utilities Board and
5 their actions in attacking the sign at the Iowa Utilities Board
6 further heightens the evidence of the intent to influence the
7 government, not just by their statements, but by the actions
8 they were describing and the actions that they took.

9 The statement, which is included in full in paragraph
10 27, includes language that indicates, again, that the intent of
11 the actions were to affect the federal government and Energy
12 Transfer Partners. The statement included the language, "For
13 some reason, the courts and the ruling government value
14 corporate property and profit over our inherent human rights to
15 clean water and land."

16 The references to the federal government, both at the
17 time of the statement and subsequently in describing the
18 actions taken, the intent of those actions included an intent
19 to both retaliate against and influence through intimidation or
20 coercion the conduct of government. And, for that reason, the
21 objection to the adjustment under 3A1.4(a) is overruled.

22 The remaining arguments that the defendant makes in
23 terms of the impact of that on the overall sentence to be
24 imposed can be considered under Rule 3553(a) factors, but the
25 legal standard here has been met both by a preponderance of the

1 evidence and clear and convincing evidence that this adjustment
2 is appropriately and correctly applied.

3 Any additional record in that regard from the
4 Government?

5 MR. GRIESS: No, Your Honor.

6 THE COURT: From the defense?

7 MR. GRIESS: No, Your Honor.

8 THE COURT: So the Court will look to that advisory
9 guideline range as previously stated as the applicable
10 guideline range in this case.

11 That brings me to the question of traditional
12 departures. I don't believe any party sought a traditional
13 departure.

14 MR. GRIESS: That's correct, Your Honor.

15 MS. KEIPER: Your Honor, actually, I did mention a
16 downward departure under 5K2.0.

17 THE COURT: You may be heard.

18 MS. KEIPER: Your Honor, it's a combination of either
19 a departure or variance. Would you like me to bifurcate those
20 or --

21 THE COURT: Under your 5K2.0, you are simply saying
22 that this is not something that is in the heartland of the
23 cases otherwise accounted for in the guidelines; correct?

24 MS. KEIPER: Yes, Your Honor.

25 THE COURT: So the Court will consider those arguments

1 as part of your variance argument, and you can make those
2 combined jointly.

3 MS. KEIPER: Thank you, Your Honor.

4 With regard to that --

5 THE COURT: Before you do that, because I will ask you
6 to make your record as to the arguments on the entirety of the
7 case and the appropriate disposition, but I do need to see
8 whether or not there's any evidence that you wanted to be
9 issued separately from what the Court has already reviewed. I
10 should note that I have watched all of the videos in full, I
11 have read all of the materials that have been provided by the
12 parties.

13 Any other evidence that the Government wishes to show
14 at this time?

15 MR. GRIESS: No, Your Honor.

16 THE COURT: Any evidence that the defense wishes to
17 present at this time?

18 MS. KEIPER: No, Your Honor.

19 THE COURT: There's a victim in this case.

20 Does the victim wish to be orally heard at this time,
21 as is their right under the applicable statutory structure?

22 MR. GRIESS: Not orally, Your Honor. The Government
23 has presented and the Court has already noted the victim impact
24 statement. That is the way in which they wish to be heard.

25 THE COURT: With that, does the defense wish to be

1 heard as to the appropriate disposition?

2 MS. KEIPER: Yes, Your Honor.

3 THE COURT: You may proceed.

4 MS. KEIPER: Your Honor, given the Court's ruling we
5 are asking for substantial either departure under 5K2.0(a)(3)
6 or a substantial downward variance.

7 First, with regard to a departure or a variance, we
8 believe this is outside of the heartland of cases in which a
9 terrorism enhancement under 3A1.4 is provided, and I would just
10 cite the Court to page 8 of our memorandum where we indicate
11 some of the instances and the facts underlying them in which
12 the terrorism enhancement has been applied, including
13 kidnapping 16 civilians, firebombing City Hall, attacking a
14 federal building with the target being the federal agents,
15 taking a hostage to overthrow the Columbian government,
16 attempted murder of a federal corrections officer, conspiracy
17 to commit murder and kidnapping, conspiracy to murder a
18 district court judge, and using a Molotov cocktail to burn a
19 government building containing evidence against the defendant's
20 father.

21 We believe those cases illustrate why this case is
22 outside of the heartland of a terrorism case and why
23 Ms. Reznicek should be sentenced below -- substantially below
24 her guideline range.

25 As indicated by all the evidence that Your Honor has

1 seen in this case, both in the PSR and the Government's and
2 defense's exhibits, there's no dispute that Ms. Reznicek has
3 been an activist for most of her life. She has done this
4 throughout her life. That's why her criminal history shows
5 that she repeatedly has either trespassing or disorderly
6 conduct convictions.

7 Since the age of 30, those have solely been what her
8 convictions are related to, disorderly, civil disobedience,
9 those kinds of conduct, in furtherance of her mission for the
10 environment, for clean water, for social justice actions.

11 Since late 2017, which is almost four years that she
12 has committed this conduct, admitted this conduct, and then, as
13 you saw in the Government's exhibits, spoke to others about the
14 conduct they committed, she has decidedly changed her life.
15 That is evidenced in many, many, many of the letters that were
16 presented in Defense Exhibit A.

17 While she lived at the Catholic Worker House when she
18 committed these offenses, she changed her life by moving to
19 Duluth to live with the Sisters of the St. Scholastica
20 Monastery. She engaged in no social activism, only helping the
21 Sisters in the monastery as well as the children at the Damiano
22 Center.

23 And she would have stayed there pending the sentencing
24 hearing but not for COVID. Because of COVID and the situation
25 with the elderly population of the Sisters, she needed to leave

1 there in order for them to be safe, as she couldn't come and go
2 from the monastery. So she did return to the Catholic Worker
3 House here, but in a wholly different capacity. Her capacity
4 at the Catholic Worker House here has been to feed the
5 homeless, and that is evidenced -- and to take care of those
6 people. And that is evidenced by the letters from the
7 individuals who have known her.

8 There is no one that the Government can bring to court
9 here to say that she has been an activist. As you can see,
10 there are a number of people, these 30 people here in the
11 courtroom today, who are also supporting Ms. Reznicek in
12 addition to the 50 people who wrote letters on her behalf.

13 Nothing excuses the conduct that she committed in
14 committing this offense, but for a sentence to be just in this
15 case, looking at the rehabilitative efforts that she had taken
16 even before she was charged in this case -- she was not
17 indicted until 2019. She had changed her life before 2019, and
18 she has continued that progress up until 2021.

19 As indicated by the Sisters, the level of support that
20 she has both here in the courtroom and through the letters that
21 were provided in Exhibit A, is almost unprecedented for
22 someone. Surely she's had a media presence, but these are
23 people who have seen her before this time, after this time, and
24 particularly the people in Duluth that have known her and seen
25 what she is at her nature, which is a nurturing and caring

1 person.

2 These are people that have known her since she
3 committed this offense, and they single out that both the
4 Sisters and the Des Moines community, homeless community, are
5 desperate and in continuous need of the services that she
6 provides to the community.

7 As I indicated, with regard to her criminal history,
8 obviously, we believe that a criminal history category VI is
9 vastly overstated given the conduct in this case, and there's
10 no reason to believe that -- between 2016 to 2017, I believe
11 she committed maybe ten or eleven offenses. I don't have the
12 number right in front of me. I wrote it down somewhere.

13 But since that time, she's had no criminal history,
14 and that's before she was even indicted in this case. So it's
15 not just that she changed her tune because she got indicted in
16 this case. There's absolutely no reason to believe that
17 Ms. Reznicek will ever commit another offense, and that's
18 evidenced by the significant changes she's made in her life
19 since 2017.

20 As I believe one of the letter writers wrote, the
21 activism that she had participated in her whole life, she had
22 finally seen it could go no further. There was no benefit.
23 She couldn't have lasting change. And, instead, she's ended up
24 with a federal conviction from that, so she did have to find a
25 new way of life, and she found that in a turning point through

1 the Sisters in Duluth.

2 Letter after letter talks about how she has changed
3 and, in particular, that the actions that Ms. Reznicek
4 committed before belong to a different person than they saw at
5 their monastery, that she's become more measured, more
6 deliberate, and more at peace with herself.

7 This has been a transformative process with regard to
8 Ms. Reznicek's life, and her desire and the desire for those
9 who know her is that she may live a quiet life of solitude and
10 service to her community.

11 Service to her community is something that
12 Ms. Reznicek has done her entire life. She just wants to do
13 that in the manner in which she has in the last few years.
14 This is the next logical step in her journey, and we believe
15 that there's no reason to believe that Ms. Reznicek has not
16 been rehabilitated and that she needs to spend a considerable
17 amount of time in prison.

18 The rehabilitative effects that have occurred in her
19 time at the monastery are illustrated in the letters from the
20 Sisters. We believe that that and the support that she has
21 shows that she can be punished, but she does not have to be
22 punished with a lengthy term of imprisonment, that those goals
23 and the community, most specifically, will not be served by
24 Ms. Reznicek spending a lengthy amount of time in prison.

25 I would note the Government's sentencing memorandum in

1 their caption indicates 70 months in prison and in the body
2 indicates 180 months of prison. We would submit either of
3 those are too lengthy amounts of time for Ms. Reznicek to be
4 incarcerated given the facts and circumstances of the case but,
5 most particularly, given her rehabilitation and the services
6 that she provides to the community.

7 THE COURT: Thank you, Ms. Keiper.

8 Ms. Reznicek, now is the time during the hearing where
9 you have the opportunity to speak. You do not have to say
10 anything, but if you would like to, the Court will consider it.

11 Is there anything you would like to say, ma'am?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Thank you. You may proceed.

14 THE DEFENDANT: Thank you, Your Honor.

15 I am here because of my concern for clean drinking
16 water. The actions I have taken did not, obviously, result in
17 the restoration of our waterways. I am human. I'm not
18 perfect. I will not and would not do this again. I would like
19 to give you context about why I did what I did.

20 From the very beginning, I have been honest with the
21 public and the courts. I admit what I did. My actions have
22 consequences. I understand that. I'm here today to face those
23 consequences, which includes restitution for the rest of my
24 life.

25 I have had a special and strong relationship with

1 water since I was a young child. I used to go to the Raccoon
2 River to find peace, beauty, comfort, joy, and clean water.
3 Things have dramatically and tragically changed over the years.
4 The Des Moines and Raccoon Rivers are two of the city's water
5 sources that are both contaminated.

6 Water department officials have notified the public
7 that the Des Moines River tap water poses the greatest threat
8 to the health of infants and toddlers. Toxicity levels in the
9 Raccoon River are so high and rising that by late summer it is
10 unlikely that this river will meet federal safety standards
11 also. This is happening right here in the city I was born in,
12 right here in the rivers I grew up swimming in. This is a very
13 personal issue for me.

14 As a community, we are witnessing our children
15 suffering from lack of access to adequate drinking water. My
16 heart grieves at the thought of this, and my heart does not
17 just break for the children of Des Moines but the children of
18 the world because all of creation is connected.

19 The toxins we empty into our waterways here in Iowa
20 flow into the Mississippi which flow into the Gulf. This
21 concern brought me to the Dakota Access Pipeline, an Energy
22 Transfer crude oil pipeline. In 2017 the two pipelines which
23 make up the Bakken system leaked at least eight times resulting
24 in the spilling of 5,543 gallons of crude oil into our nation's
25 natural resources. One of those eight leaks happened right

1 here in Iowa. That is why I took the actions I did. Going to
2 this extreme was out of character for me, as I was acting out
3 of desperation. But now what I desire most is to move on into
4 a quiet, peaceful life of prayer and service.

5 My record with the probation office is spotless, and
6 it will continue to be so. I have not been involved in any
7 form of activism in almost four years. Instead, I have deeply
8 immersed myself in service and have grown in my prayer life.
9 My service in the past four years includes the Sisters of a
10 religious community, underprivileged children in Duluth, the
11 homeless and working poor in Des Moines, as well as providing
12 mentorship for young volunteers in my community who are
13 concerned for the common good of all.

14 Learning there was a different kind of life of service
15 without activism with the Sisters of Duluth was absolutely
16 life-changing for me. It is my wish to return to Duluth where
17 there is waiting for me a supportive community that I intend to
18 serve and to learn and to grow from. In Duluth I will continue
19 to make a positive difference in people's lives in order that
20 there will be a better equity in individual lives, families,
21 and society.

22 I am simply a person who cares deeply about an
23 extremely basic human right that's under threat: Water.
24 Indigenous tradition teaches us that water is life. Scripture
25 teaches that in the beginning God created the waters and the

1 Earth and that it was good. And even though -- even with these
2 strongly held beliefs, I will repeat to you again that going
3 forward I will not repeat my prior actions.

4 THE COURT: Thank you, Ms. Reznicek.

5 Mr. Griess on behalf of the United States.

6 MR. GRIESS: Thank you, Your Honor.

7 To be clear, it is not the defendant's activism that
8 brings her to court today. It's her criminal behavior. And
9 based upon that criminal behavior, the Government believes that
10 a sentence of 180 months in prison is sufficient but not
11 greater than necessary to serve the ends of sentencing that are
12 set forth in 3553.

13 THE COURT: The 70 months referenced in the --

14 MR. GRIESS: That's a mistake, Your Honor. I
15 apologize for that. As I indicated previously, the Government
16 is recommending 180 months in prison, and there are two of the
17 factors, I think, that support this, at least two. There are
18 others as well, but the two primary are the seriousness of the
19 offense and the need to afford adequate deterrence.

20 It's very difficult to downplay the seriousness of
21 this offense. This is incredibly dangerous conduct. The
22 defendant used fire by way of arson. They used acetylene
23 torches, they used accelerants in order to set fire to
24 construction equipment, to the pipeline, not knowing what was
25 in that pipeline, not knowing what the surroundings were. They

1 just went to those locations and did as much damage as they
2 could, which was their intent. They stated that repeatedly.

3 That is incredibly dangerous, and there is no thought
4 there whatsoever at all for anyone else other than herself and
5 her opinions about whether or not that pipeline was a good or a
6 bad thing.

7 It endangered anybody who happened to be nearby.
8 These were rural areas, but when fires of this magnitude occur,
9 there are first responders, there are firefighters, there are
10 people that respond to those, and they were put in danger by
11 the defendant's conduct here. It is just impossible to
12 undermine how serious this offense was and how dangerous it
13 was.

14 THE COURT: Mr. Griess?

15 MR. GRIESS: Yes, ma'am.

16 THE COURT: How many incidences are recounted in the
17 presentence investigation report during the time period of the
18 conspiracy?

19 MR. GRIESS: Your Honor, I apologize. I don't know
20 that number. I have recounted them in -- they're recounted
21 both in the presentence investigation and in the sentencing
22 memorandum, but there were many, many. At many of the
23 locations, there were multiple areas set on fire, there were
24 multiple apparatus or vehicles that were set on fire. The case
25 agent indicates he believes at least 11. That seems low to me,

1 but certainly there were a significant number of different
2 fires and different incidents that occurred during the course
3 of this conspiracy.

4 And those damages, which were extensive, can clearly
5 be seen both in the presentence investigation and in the
6 Government's exhibits that are contained in Government's
7 Exhibits 8 through 50. There was extensive damage here.

8 The second factor that goes to the serious nature of
9 this offense is the significant loss to the victim company
10 here, Energy Transfer Partners. The definition of restitution,
11 as the Court has already referred to, is different than loss,
12 and the parties in this case have agreed that the restitution
13 figure that they agree to and recommend the Court apply jointly
14 and severally in this case is \$3,198,512.70, and that is
15 strictly to repair the damage and to compensate the company for
16 the actual damage that occurred, both to the equipment and to
17 the pipeline.

18 But I think, as is made clear by the various estimates
19 the Court has seen, there was much, much more loss that the
20 victim company, Energy Transfer Partners, suffered in this
21 case. The fact that this is a workforce that didn't know what
22 they were going to encounter when they went to work, whether
23 there were other hazards waiting for them as they did their
24 work, so there was that uncertainty.

25 There is the security costs that were absolutely

1 significant in trying to mitigate this damage that was
2 occurring on a regular basis. These are areas in rural Iowa
3 and rural South Dakota that it's very difficult to put up
4 cameras and to adequately monitor, and the company had to do
5 that at significant cost.

6 What I'm trying to communicate to the Court is those
7 numbers are not reflected in the agreed upon restitution, and
8 it goes to the serious nature of this offense. The victim
9 company suffered greatly, not to mention the public statements
10 and the vilification that occurred by the defendant and people
11 that supported their cause.

12 There was also -- I think it's incredibly important
13 for the Court to understand, both as to seriousness and the
14 need to afford adequate deterrence here, there was potential
15 danger that was involved in their conduct, and that
16 specifically is referring to the lengths they went in
17 attempting to inspire other people to commit similar conduct.

18 As is reflected in the Government's exhibits and the
19 Government's sentencing memorandum, after the conspiracy was
20 complete and after they made their public statements in front
21 of the Iowa Utilities Board, they went on a bit of a speaking
22 tour where they entertained large crowds, both in Iowa City and
23 Minneapolis, and spoke to them about what they had done and
24 attempted to encourage them to do the same. One of their
25 mantras was: We got away with it; you can too.

1 And, in fact, there is evidence that on at least one
2 other occasion -- and this is reflected in Government Exhibit
3 4, a Facebook post -- that they did inspire another group to
4 act, and that was a train blockade that apparently occurred
5 here in the United States.

6 The point is they weren't just -- they didn't just do
7 the damage themselves. Their intent was to inspire other
8 people to do the same thing, and that increases the
9 dangerousness, increases the significance of their conduct, and
10 it creates a need for the Court to be really concerned about
11 making sure the sentence it imposes today affords adequate
12 deterrence for other individual.

13 There are people that are watching to see, clearly,
14 what is going to happen in this case. And they have been out
15 there saying, we got away with it, you can too, so we would ask
16 the Court to take that into consideration in arriving at an
17 appropriate sentence in this case.

18 The bottom line is they need to be held accountable
19 for their actions. These are incredibly serious actions both
20 financially and in terms of the dangerousness that occurred
21 here.

22 We have recommended a variance from the top end of the
23 guideline range, which amounts to a full fourth off, 60 months
24 down from the top of the range. We believe that's appropriate
25 based upon her relative lack of criminal history and, as

1 Ms. Keiper pointed out, the impact of the terrorism enhancement
2 on this case.

3 But this isn't Ms. Reznicek's first time doing this.
4 She has many other arrests, which, again, are part of her
5 legitimate protests, some of them, but she was also cited for
6 damaging a business involved in government contracting in the
7 Omaha, Nebraska, area just right before this. And the
8 Government believes her actions as opposed to her words are the
9 best indicator of where Ms. Reznicek is headed in this case in
10 her life, and so we believe a sentence of 180 months is
11 sufficient but not greater than necessary.

12 THE COURT: Thank you, Mr. Griess.

13 The Court is required to consider a number of factors
14 before deciding on an appropriate sentence in this and every
15 case, and those factors are set forth in Title 18, United
16 States Code, Section 3553(a). They include the defendant's
17 history and characteristics and the nature and circumstances of
18 this offense.

19 The Court must also consider the need for the sentence
20 imposed to reflect the seriousness of the offense, to promote
21 respect for the law, to provide just punishment, and to
22 adequately deter future criminal conduct, both for this
23 defendant and for others who might contemplate committing such
24 an offense in the future.

25 The Court has to consider the need for the sentence

1 imposed to protect the public and to provide the defendant with
2 needed educational training or other needs in the most
3 effective manner.

4 The Court has to consider the sentencing guidelines
5 and the advice they provide as well as the need to avoid
6 unwarranted sentencing disparities among defendants with
7 similar records who have been found guilty of similar conduct.

8 The Court must also consider the need to provide
9 restitution, which I will address separately.

10 I may not speak about each one of the statutory
11 considerations specifically in articulating the reasoning for
12 my sentence, but in determining the appropriate sentence to
13 impose, I have considered each and every one of them.

14 Ultimately, the sentence the Court imposes must be
15 sufficient but not greater than necessary to serve the purposes
16 of sentencing.

17 In this instance, we have very serious criminal
18 conduct, and the defendant knew that. The defendant's
19 statements made after the incidents, the attacks on the
20 pipeline, are indicative of the fact that she knew that these
21 were very serious offenses.

22 The presentence investigation report sets forth the
23 various actions that the defendant took and admitted taking
24 across the state of Iowa and into South Dakota in regards to
25 the pipeline. Again, the motivations are not at issue. The

1 concern for clean water is a laudable goal, but that is not why
2 the defendant is here. The defendant is not here simply
3 because she is a person who cares deeply about clean drinking
4 water. The defendant is here because of the actions that were
5 taken, and those actions were extraordinarily dangerous and
6 created a risk of harm not only to property but to the rural
7 communities in which they occurred, to the first responders who
8 reported to those incidences and to the workers who are earning
9 their livelihood by servicing this project.

10 The unobjected to factual information contained in the
11 presentence investigation report includes the start of this
12 activity on November 8 of 2016 on election night in Buena Vista
13 County, and that damage caused a fire, using an accelerant and
14 motor oil poured into a plastic coffee can, placed in the cab
15 or around the equipment.

16 The pictures that are introduced both in the
17 presentence investigation report and the exhibits that have
18 been admitted here today show the extensive damage that that
19 caused. The Mahaska County incident that's reflected in
20 paragraph 15 in March of 2017 shows the damage caused to the
21 pipeline through the use of fire.

22 The defendant spoke specifically about the means that
23 she used to cause this damage in the statement made in front of
24 the Iowa Utilities Board in July of 2017, and those means were
25 dangerous, and they included the torches used to cut holes into

1 the pipelines without the ability to know what was inside those
2 pipelines at that time.

3 The course of conduct was for a considerable period of
4 time. The actions were from November 8, 2016, to May 2 of
5 2017. The locations were varied, Wapello County, Buena Vista
6 County, across the state in different locations, in Minnehaha
7 County in South Dakota. These were actions taken to cause harm
8 to this pipeline to make a political statement, and it created
9 a grave risk to others, so the seriousness of the offense has
10 to be reflected in the sentence that the Court imposes.

11 The exhibits that the Government introduced in terms
12 of the statements the defendant made not at that public
13 announcement as to the criminal conduct but subsequently in the
14 Iowa City Public Library, in a library in Minnesota,
15 demonstrates that deterrence has to be at the forefront of the
16 Court's mind.

17 The statements made in August of 2017 in Exhibit 5 is
18 instructive to others and includes statements -- this one by
19 Ms. Montoya -- "You can do it and not get caught." And Ms.
20 Reznicek joins in in that statement, the idea that property
21 damage is not violent and the idea that if you need any help,
22 call me.

23 In the comments made at the Iowa City Public Library,
24 the defendant is encouraging direct action of this type. It
25 says, "Think creatively of ways to stop the flowing pipeline."

1 There's a disclaimer that I'm not encouraging violence but I'm
2 encouraging peaceful shutdowns, and if you need help, call me.
3 Discussion of sharing tactics, taking risks, and, again,
4 emphasizing that they didn't get caught.

5 In September in Minnesota, again, going back to the
6 influence on the government, talking about they have exhausted
7 all other aspects of protests in petitioning the state and this
8 was a new or practical or simple approach that they were able
9 to do, talking about considering -- specifically in Exhibit 6A,
10 consider property destruction as a viable alternative.

11 In 6D, Exhibit 6D, an instruction to mask up because
12 they've installed sensor cameras at valve sites. Now, this
13 conversation occurs far before any of us were wearing masks as
14 part of the pandemic, and the implication of that "mask up"
15 statement can only be to encourage others to engage in this
16 conduct and to hide themselves while doing so. In 6E, "It's
17 just common sense to burn the machines."

18 There's a discussion of doing these things regardless
19 of the consequences. In each of those presentations,
20 Ms. Montoya and Ms. Reznicek are presenting as advocating
21 others to do the same types of actions that they did regardless
22 of the consequences and emphasizing that they didn't get
23 caught, that the government is watching them now, and that they
24 don't care.

25 Exhibit 7, an interview, Ms. Reznicek says that

1 obviously the reason why she is engaging in this public
2 discussion of her tactics is to encourage others to follow
3 suit. Those types of statements made in the aftermath of
4 the -- in the case of the Minnesota -- in both of these, after
5 a search warrant was executed at their home in August 11 of
6 2017, that those are the statements being made indicate that
7 deterrence, general deterrence and specific deterrence, are
8 necessarily at the forefront of the Court's mind in determining
9 the appropriate sentence to impose.

10 There are mitigating factors here, and the Court
11 recognizes that. The mitigating factors include the tremendous
12 community support that has been demonstrated for Ms. Reznicek
13 based upon her post-offense rehabilitation. Clearly the
14 services that she has provided to the Sisters in Duluth and to
15 the Catholic Worker House here in Des Moines is laudable and
16 should be commended. That is a factor the Court considers.

17 The Court recognizes the effect of the terrorism
18 enhancement affects both the offense level and the criminal
19 history by operation of the guidelines. The Court notes that
20 had the defendant not had the terrorism adjustment at all,
21 meaning a category II criminal history, the total offense level
22 would be a 20, and the recommended range would be a 37- to
23 46-month sentence.

24 If the Court simply declined to increase the criminal
25 history category and leave her at a criminal history category

1 II and a total offense level of 32, the range would be
2 recommended between 135 and 168 months.

3 Those ranges would apply to someone who conspired to
4 affect an energy entity one time. That is not the case that we
5 have here.

6 Counsel, do you know of any legal reason why the Court
7 should not impose sentence at this time?

8 MR. GRIESS: No, Your Honor.

9 MS. KEIPER: No, Your Honor.

10 THE COURT: Then based upon the Court's review of the
11 criteria set forth in Title 18, United States Code, Section
12 3553(a), and the circumstances of this case and for the reasons
13 I have explained, it is the judgment of the Court that the
14 defendant, Jessica Rae Reznicek, is sentenced to 96 months of
15 imprisonment.

16 That sentence is outside of the advisory guideline
17 range and is imposed for the reasons I have previously stated.
18 I have varied downward from the applicable range, which, as was
19 previously noted, is 210 to 240 months.

20 I have varied downward to account for the defendant's
21 post-sentence rehabilitation, particularly that that was
22 undertaken with the Sisters and reflected in the unobjected to
23 factual information contained in the presentence investigation
24 report.

25 The Court is also considering in that downward

1 variance the laudable, though ultimately misguided, motivations
2 in terms of a desire to help clean water. This had no impact
3 on clean water and created a danger to others, but in
4 recognition of the contemplation of the defendant in terms of
5 the concerns for the environment generally.

6 The Court is not departing under 5K2.0 and instead --
7 in structuring this as a variance, but I do agree that the
8 guidance for the terrorism adjustment overstates the
9 recommended sentence in this case, and so a variance is
10 appropriate because this case is outside of the heartland of
11 the typical terrorism case.

12 I recognize my authority to vary downward further to a
13 probationary sentence, as advocated for by the defense;
14 anywhere within the statutory range, which is zero to 20 years;
15 and having considered all of the statutory sentencing options
16 available to me, I have concluded that that 96-month sentence
17 is sufficient but not greater than necessary to serve the
18 purposes of sentencing.

19 That sentence is approximately twice the high end of
20 what would have applied without the terrorism adjustment, it is
21 less than what would apply if the Court did not increase to a
22 category VI and instead left the total offense level at 32 and
23 a criminal history category of II, and is imposed because under
24 all of the facts and circumstances of this case and considering
25 all of the 3553(a) factors, a significant term of imprisonment

1 is required to reflect the seriousness of the offense and to
2 provide both specific deterrence and general deterrence.

3 I note that the sentence I have imposed of 96 months
4 is sentenced taking into consideration both the applicable
5 guideline range without the terrorism adjustment and with the
6 terrorism adjustment and would be the same sentence imposed if
7 the Court did not apply the terrorism adjustment in this case
8 because of the applicable 3553(a) factors.

9 In the materials that the Court has been provided,
10 there is limited information about the defendant's ability to
11 pay a fine. I noted in the video that I watched from Iowa City
12 there was a collection effort for individuals to help pay for
13 the defense. In light of the restitution that's being sought
14 in this case, is the Government seeking a fine?

15 MR. GRIESS: No, Your Honor.

16 THE COURT: So the Court will not impose a fine,
17 finding that any monetary assets available to the defendant are
18 better placed towards restitution.

19 Ms. Keiper, you indicated that the Government and the
20 defense had reached an agreement as to restitution. Mr. Griess
21 put forth a number that indicated what you believe is the
22 appropriate statutorily required restitution in this mandatory
23 restitution case.

24 Is that number correct?

25 MS. KEIPER: Yes, Your Honor.

1 THE COURT: \$3,198,512.70?

2 MR. GRIESS: Yes, Your Honor.

3 THE COURT: Thank you.

4 The Court will order restitution in that amount to
5 Energy Transfer, LLC. The Court waives interest as to that
6 restitution.

7 MS. KEIPER: Your Honor, is that joint and several as
8 well?

9 THE COURT: Yes. Thank you for noting that. There is
10 a co-defendant in this case, and that amount will be joint and
11 several with Ms. Montoya, who is yet to be sentenced by this
12 Court.

13 As required, the Court also imposes a \$100 special
14 assessment due and payable immediately without interest to the
15 United States Clerk of Court for the Southern District of Iowa.

16 In this case the maximum term of supervised release
17 authorized under the statute is three years, and the Court does
18 find that that maximum amount of time is appropriate,
19 particularly in light of the amount of restitution that is at
20 issue here.

21 Ms. Reznicek, within 72 hours of your release from the
22 custody of the Bureau of Prisons, you'll be required to report
23 in person to the probation office in the district to which you
24 are released.

25 While on supervised release, you shall not commit

1 another state, federal, or local crime; you shall not
2 unlawfully possess a controlled substance; and you shall not
3 unlawfully use a controlled substance.

4 You'll be subject to at least one drug test within
5 15 days of your release and at least two more thereafter, and
6 you must cooperate in the collection of DNA.

7 You are a felon. You cannot possess a firearm,
8 destructive device, or ammunition either during your term of
9 supervised release or at any time thereafter.

10 You'll be required to abide by the standard conditions
11 of supervised release as set forth by the United States
12 Sentencing Commission, and those will be reflected in the
13 written judgment entered here today, as well as the special
14 conditions of supervised release that were proposed in the
15 presentence investigation report and were unobjected to by the
16 defense.

17 I will briefly summarize those conditions for you now.
18 You should note that they will be implemented and enforced in
19 full as written. They are set forth in part G beginning at
20 paragraph 143, and I will paraphrase them.

21 You must pay restitution in the amount that I have
22 just articulated, that 3.19 million specific number that I just
23 indicated.

24 You'll need to cooperate with the probation office in
25 developing a payment plan consistent with allowable expenses.

1 You must not apply for, solicit, or incur any further
2 debt without first obtaining permission from the U.S. Probation
3 Office, and that is in furtherance of recovering that
4 restitution.

5 Similarly, you must provide complete financial
6 information to the probation office and access to your
7 financial information so that they can ensure that restitution
8 is paid in a timely way.

9 You must maintain full-time, legitimate employment
10 while you are on supervision, and you must obtain prior
11 approval from the probation office for any form of
12 self-employment.

13 You'll be subject to a search condition as well, and
14 that search condition can be effectuated with or without the
15 assistance of law enforcement, including the United States
16 Marshals Service.

17 Both the length of the term of supervision and the
18 conditions I have imposed are based upon an individualized
19 assessment of this defendant's supervision needs after
20 reviewing and considering each of the relevant factors under
21 18, United States Code, Sections 3553(a) and 3563(b).

22 Ms. Keiper, any requests as to designation or
23 programming?

24 MS. KEIPER: Yes, Your Honor. She would request
25 Waseca, and if they have the -- I don't know if they have the

1 dog program, but she would request -- I don't know if it's
2 called PAWS.

3 THE COURT: PAWS.

4 MS. KEIPER: I don't remember if that's what it's
5 called, but...

6 Your Honor, we would also request direct report,
7 self-surrender. Given Probation's report and how well
8 Ms. Reznicek has done, we believe that she should be offered
9 self-surrender.

10 THE COURT: The Bureau of Prisons indicates that the
11 PAWS program, Prisoners Assisting With Service Dogs, is
12 available at Waseca. The Court will include the recommendation
13 that the defendant be designated to Waseca and that she have
14 the opportunity to participate in the Prisoners Assisting With
15 Service Dogs program.

16 Mr. Griess, what's the Government's position on
17 self-surrender?

18 MR. GRIESS: Your Honor, the Government acknowledges
19 the defendant's conduct on pretrial release as well as the
20 probation office's recommendation based upon that conduct;
21 however, for the same reasons set forth in our sentencing
22 arguments, we believe the conduct in this case is just too
23 serious and that she should be remanded today.

24 THE COURT: Is that the standard the Court applies,
25 Mr. Griess?

1 MR. GRIESS: I think the Court has discretion,
2 Your Honor, and that's the Government's argument.

3 THE COURT: Thank you.

4 Any other requests in terms of the designation or
5 programming?

6 MS. KEIPER: One moment, Your Honor.

7 THE COURT: The Court is going to -- the defendant is
8 going to have to maintain employment after she is released.
9 The PAWS program is an excellent program, but there are
10 vocational training opportunities available at Waseca and other
11 institutions that may afford her the opportunity to find
12 employment upon release.

13 MS. KEIPER: Your Honor, I'm not certain how many
14 medical-related -- I know there's a dental assistant program,
15 but anything medical related, and we would also request the
16 RDAP program.

17 THE COURT: So the Court will recommend the RDAP
18 program, and I will just broadly state any available vocational
19 programming.

20 Is that acceptable to the defense?

21 MS. KEIPER: Yes, Your Honor.

22 THE COURT: So the question in regards to
23 self-surrender or detention is one that is up to the Court's
24 discretion.

25 I need to talk to you about that, Ms. Reznicek. You

1 have performed well on pretrial release. You have complied
2 with all terms and conditions, and the probation office has
3 recommended that you remain in the community pending
4 designation to a Bureau of Prisons facility.

5 I have recommended to the Bureau of Prisons that you
6 be designated to FCI Waseca. It may be that you are designated
7 to a facility in Texas or California or Maine.

8 Do you understand that the designation does not
9 matter, that you will be responsible for getting yourself to
10 that location if you are allowed to remain in the community?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: Do you understand that the terms and
13 conditions that have previously been imposed will continue to
14 be applicable to you? All of your pretrial conditions,
15 including home confinement, electronic monitoring, will
16 continue to be applicable to you while you await designation
17 from the United States Marshals Service.

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: Do you understand that if you violate any
20 of those conditions, that you can be immediately detained and
21 then transported by the United States Marshals Service to the
22 designated Bureau of Prisons facility?

23 THE DEFENDANT: Yes.

24 THE COURT: A failure to report to the Bureau of
25 Prisons at the designated time and location could result in

1 additional charges against you and could result in additional
2 terms of incarceration should you be prosecuted for that
3 failure to report in a separate prosecution.

4 Do you understand that?

5 THE DEFENDANT: Yes.

6 THE COURT: Knowing all of that, is it your request to
7 have the privilege of self-report in this case?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: As I have indicated in my rulings here
10 today and in articulating the reasoning for a significant term
11 of imprisonment, this is a very serious offense, but based upon
12 the defendant's performance on supervision, the Court concludes
13 that she does not demonstrate a risk of flight or danger to the
14 community. Her positive performance on supervision is
15 consistent with that.

16 The statutes do not require her detention at this
17 time, and the Court will allow the defendant the opportunity to
18 report to the designated Bureau of Prisons facility at the
19 appropriate time.

20 I note that counsel should ensure that Ms. Reznicek
21 goes to the United States Marshals Service office after this
22 hearing to ensure that they have adequate and accurate contact
23 information for her.

24 I don't believe there is any forfeiture at issue here?

25 MR. GRIESS: No forfeiture, Your Honor.

1 THE COURT: Counts to be dismissed?

2 MR. GRIESS: Indeed, Your Honor. The Government moves
3 to dismiss Counts 2 through 9.

4 THE COURT: And those are dismissed at the
5 Government's motion at this time.

6 Ms. Reznicek, you do have the right to appeal the
7 sentence that I just imposed. If you wish to pursue an appeal,
8 you must file a written notice of appeal within 14 days of the
9 entry of judgment.

10 Do you understand the time limit for filing a notice
11 of appeal, ma'am?

12 THE DEFENDANT: Yes.

13 THE COURT: In addition, if you wish to pursue an
14 appeal and you cannot afford an attorney, one can be appointed
15 to represent you. You can also have transcripts of this or any
16 other relevant proceedings made at no cost to you in
17 furtherance of your appeal if you qualify financially.

18 Do you understand your appeal rights, ma'am?

19 THE DEFENDANT: Yes.

20 THE COURT: Anything that the Court has failed to
21 address?

22 MR. GRIESS: No, Your Honor.

23 MS. KEIPER: No, Your Honor.

24 THE COURT: Anything further on behalf of the
25 Government?

1 MR. GRIESS: No, Your Honor.

2 THE COURT: On behalf of the defense?

3 MS. KEIPER: No, Your Honor.

4 THE COURT: The defendant is released to continue on
5 terms and conditions.

6 Ms. Reznicek, I wish you the best moving forward,
7 ma'am.

8 That will conclude the hearing.

9 (The sentencing concluded at 12:17 p.m.)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CERTIFICATE

1
2 I, Chelsey Wheeler, a Certified Shorthand Reporter of
3 the State of Iowa and Federal Official Realtime Court Reporter
4 in and for the United States District Court for the Southern
5 District of Iowa, do hereby certify, pursuant to Title 28,
6 United States Code, Section 753, that the foregoing is a true
7 and correct transcript of the stenographically reported
8 proceedings held in the above-titled matter and that the
9 transcript page format is in conformance with the regulation of
10 the Judicial Conference of the United States.

11 DATED this 23rd day of July, 2021.

12
13 /s/ Chelsey Wheeler

14 Chelsey Wheeler
15 Certified Shorthand Reporter
16
17
18
19
20
21
22
23
24
25