

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA §
 §
V. § CRIMINAL NO. H-16-155
 §
BRAD CARROLL §

REPORT AND RECOMMENDATION

Before the court, by referral pursuant to 28 U.S.C. §636(b), is the matter of the re-arraignment of Brad Carroll, the defendant in this action. The court, having addressed Defendant personally in open court, now submits its Report and Recommendation.

On November 4, 2016, Defendant, Brad Carroll, appeared with counsel before the undersigned magistrate judge for the purpose of entering a guilty plea to Counts 1 and 2 of the Indictment charging him with receipt of child pornography, in violation of 18 U.S.C. § 2252A(a)(2)(B)(Count 1), and possession of child pornography, in violation of 18 U.S.C. § 2252A(a)(5)(B)(Count 2).

Defendant, Brad Carroll, consented in writing to plead guilty before a United States Magistrate Judge. After conducting said proceeding in the form and manner prescribed by Rule 11 of the Federal Rules of Criminal Procedure, this court makes the following findings of fact:

1. Defendant, Brad Carroll, after consultation with counsel of record and with the approval of the government, has knowingly and voluntarily consented to be advised of his rights and to enter a plea of guilty before a U.S. Magistrate Judge subject to

final approval and imposition of sentence by United States District Judge Lee Rosenthal. Defendant, Brad Carroll, also acknowledged that he is waiving his right to appeal his conviction and/or sentence, but reserves his right to appeal the court's ruling on his motion to suppress.

2. Defendant, Brad Carroll, is fully competent and capable of entering an informed plea, he is aware of the nature of the charges, the maximum punishment range, and the consequences of his plea. Defendant acknowledged that, pursuant to his plea of guilty, he is waiving certain valuable rights, and that the sentencing judge is not bound by any recommendation on sentencing made by either counsel for the government or his counsel, that if the recommendation on sentencing is not followed by Judge Rosenthal, Defendant may not withdraw his plea of guilty, and that his plea of guilty is a knowing and voluntary plea supported by an independent basis in fact containing each of the essential elements of the offenses charged in Counts 1 and 2 of the Indictment.

Based upon the foregoing findings, it is the **RECOMMENDATION** of the undersigned that the guilty plea of Defendant Brad Carroll to Counts 1 and 2 of the Indictment be **ACCEPTED** by the court and that Brad Carroll be adjudged guilty of the offenses alleged in Counts 1 and 2 of the Indictment, to wit: receipt of child pornography, in violation of 18 U.S.C. § 2252A(a)(2)(B)(Count 1), and possession of child pornography, in violation of 18 U.S.C. § 2252A(a)(5)(B)(Count 2).

The Clerk shall send copies of this Report and Recommendation to the respective parties who have fourteen (14) days from the receipt thereof to file written objections thereto pursuant to Federal Rule of Civil Procedure 72(b) and General Order 2002-13.

Failure to file written objections within the time period mentioned shall bar an aggrieved party from attacking the factual findings and legal conclusions on appeal.

The original of any written objections shall be filed with the United States District Clerk electronically. Copies of such objections shall be mailed to opposing parties and to the chambers of the undersigned, 515 Rusk, Suite 7019, Houston, Texas 77002.

SIGNED at Houston, Texas, this 4th day of November, 2016.



U.S. MAGISTRATE JUDGE