IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v. **CRIMINAL NO. 1:17CR71-03**
(Judge Keeley)

NAUDI REYES FERNANDEZ,

Defendant.

ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION CONCERNING PLEA OF GUILTY IN FELONY CASE (DKT. NO. 192), ACCEPTING GUILTY PLEA, AND SCHEDULING SENTENCING HEARING

On June 4, 2018, the defendant, Naudi Reyes Fernandez ("Fernandez"), appeared before United States Magistrate Judge Michael J. Aloi and moved for permission to enter a plea of GUILTY to Counts One and Two of the Indictment. After Fernandez stated that he understood that the magistrate judge is not a United States district judge, he consented to tendering his plea before the magistrate judge. Previously, this Court had referred the guilty plea to the magistrate judge for the purposes of administering the allocution pursuant to Federal Rule of Criminal Procedure 11, making a finding as to whether the plea was knowingly and voluntarily entered, and recommending to this Court whether the plea should be accepted.

Based upon Fernandez's statements during the plea hearing and the testimony of Jason Weber, Special Agent, Cyber Crimes Task Force, Federal Bureau of Investigation, the magistrate judge found

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that Fernandez was competent to enter a plea, that the plea was freely and voluntarily given, that he was aware of the nature of the charges against him and the consequences of his plea, and that a factual basis existed for the tendered plea. On June 5, 2018, the magistrate judge entered a Report and Recommendation Concerning Plea of Guilty in Felony Case ("R&R") (dkt. no. 192) finding a factual basis for the plea and recommending that this Court accept Fernandez's plea of guilty to Counts One and Two of the Indictment.

The magistrate judge also directed the parties to file any written objections to the R&R within fourteen (14) days after service of the R&R. He further advised that failure to file objections would result in a waiver of the right to appeal from a judgment of this Court based on the R&R. The parties did not file any objections to the R&R.

Accordingly, this Court **ADOPTS** the magistrate judge's R&R, **ACCEPTS** Fernandez's guilty plea, and **ADJUGES** him **GUILTY** of the crime charged in Counts One and Two of the Indictment.

Pursuant to U.S.S.G. § 6A1 et seq., the Court **ORDERS** as follows:

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1. The Probation Officer shall undertake a presentence investigation of Fernandez, and prepare a presentence report for the Court;

2. The Government and Fernandez shall provide their versions of the offense to the probation officer by **June 27, 2018**;

3. The presentence report shall be disclosed to Fernandez, defense counsel, and the United States on or before **August 27, 2018**; however, the Probation Officer shall not disclose any sentencing recommendations made pursuant to Fed. R. Crim. P. 32(e)(3);

4. Counsel may file written objections to the presentence report on or before **September 10, 2018;**

5. The Office of Probation shall submit the presentence report with addendum to the Court on or before **September 19, 2018**; and

6. Counsel may file any written sentencing statements and motions for departure from the Sentencing Guidelines, including the factual basis from the statements or motions, on or before **September 19, 2018.**

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The magistrate judge remanded Fernandez to the custody of the United States Marshal Service.

The Court will conduct the sentencing hearing for the defendant on **Wednesday, October 3, 2018** at **11:30 A.M.** at the **Clarksburg, West Virginia** point of holding court.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to counsel of record; Johnnie Benningfield, Court Certified Interpreter; and all appropriate agencies.

DATED: June 19, 2018

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE