

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

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 UNITED STATES OF AMERICA :
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 -vs- : Case No. 1:17-cr-140
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 FAICAL CHEBBI, :
 Defendant. :
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SENTENCING HEARING

October 20, 2017

Before: Liam O'Grady, USDC Judge

APPEARANCES:

Patricia M. Haynes, Counsel for the United States

Kenneth P. Troccoli and Elsbeth J. Bennett,
Counsel for the Defendant

The Defendant, Faical Chebbi, in person

1 THE CLERK: The Court calls case 1:17-cr-140, the
2 United States of America versus Faical Chebbi for sentencing.

3 May I have the appearances, please, first for the
4 Government.

5 MS. HAYNES: Patricia Haynes on behalf of the United
6 States. Good morning, Your Honor.

7 THE COURT: Good morning, Ms. Haynes.

8 MR. TROCCOLI: Good morning, Your Honor. Ken
9 Troccoli on behalf of Faical Chebbi. And with me, Your Honor,
10 is pro bono co-counsel Elsbeth Bennett from the law firm of
11 Cleary Gottlieb.

12 THE COURT: All right, good morning to you both.

13 Good morning, Ms. Bennett, thank you for joining the
14 Public Defender Service in assisting us.

15 All right, this comes on for sentencing. Are the
16 parties to proceed?

17 MS. HAYNES: Yes, Your Honor.

18 THE COURT: Mr. Troccoli, ready to proceed, sir?

19 MR. TROCCOLI: Yes, Your Honor.

20 THE COURT: All right. Then there does not seem to
21 be a disagreement as to the Guideline range, but there is a
22 disagreement as to whether restitution should be imposed. I
23 have read the parties' positions.

24 Is there anything more, Ms. Haynes, that you want to
25 say at this time?

1 MS. HAYNES: No, Your Honor.

2 THE COURT: Mr. Troccoli?

3 MR. TROCCOLI: Your Honor, are you inquiring about
4 the 3553(a) factors or just restitution?

5 THE COURT: Just restitution.

6 MR. TROCCOLI: I will let Ms. Bennett address that.

7 THE COURT: Sure.

8 MR. TROCCOLI: But the bottom line is, Your Honor, I
9 think we rest on the pleadings. I think it has been well
10 briefed in terms of that aspect of the case.

11 THE COURT: All right. Then did you want to be heard
12 then, Ms. Bennett, or are you just going to echo what Mr.
13 Troccoli just said?

14 MS. BENNETT: We will rest on the papers, Your Honor.

15 THE COURT: All right. Well, I have looked closely
16 at it. I am going to honor the state judge's order that
17 withdraws the \$128,000 of child support due. I think I am
18 required to do that.

19 And that doesn't mean that can't be revisited in the
20 P.G. County Family Court and overturned if that judge believes
21 it's appropriate to do that.

22 So Ms. Barbirou may do that if she feels it's
23 appropriate and she has a legal basis upon which to do so. But
24 that was part of the negotiation for the return of the son.
25 And also, as a state versus federal matter, I think that I am

1 required to honor that order by the P.G. County judge.

2 So I am going to reduce the restitution in the amount
3 of \$128,000.

4 I find that the remaining expenses that Ms. Barbirou
5 has identified that were expended as a result of her children
6 having been illegally abducted and brought to Tunisia are in
7 every respect reasonable. The money that she spent, the
8 housing required, the health insurance that she kept for a
9 period of time thinking that the children were going to be
10 returned, the housing expenses, the flights, the rental fees,
11 the expenses that she had in Tunisia, not only for herself, but
12 to put the children in preschool, every one of those is a
13 reasonable expense caused directly by the unlawful act of Mr.
14 Chebbi.

15 So I am going to order restitution in the amount of
16 \$119,807.42 and allow Ms. Barbirou to pursue that child support
17 on her own in P.G. County. And your exception is noted to
18 that.

19 Mr. Chebbi, have you gone over the presentence
20 report, sir?

21 THE DEFENDANT: Good morning. Good morning, Your
22 Honor.

23 THE COURT: Good morning, sir. Have you gone over
24 the presentence report?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Any additions or corrections -- I know
2 that you dispute the \$11,000 versus the 11,000 in Tunisian
3 money. Other than that, anything else, sir?

4 MR. TROCCOLI: That's the only correction, Your
5 Honor.

6 THE COURT: All right. Is that correct, sir?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: All right. Then have a seat.

9 I will order the report filed without other
10 amendment. Find the Guideline calculation is properly arrived
11 at. It results in a Total Offense Level of 14. Mr. Chebbi has
12 no criminal history. And it results in a Guideline range of 15
13 to 21 months and up to one year of supervised release.

14 Ms. Haynes, does the Government want to be heard? Do
15 you have a witness that you wanted to put on?

16 MS. HAYNES: Yes, Your Honor, Ms. Barbirou is here,
17 she would like to speak. And I also have a brief allocution.
18 Which would you like to hear first?

19 THE COURT: I think we'll hear from Ms. Barbirou
20 first.

21 MS. HAYNES: Thank you.

22 THE COURT: Please come forward and come to the
23 podium. Good morning.

24 MS. BARBIROU: Good morning, Your Honor.

25 THE COURT: I have read your written statement, just

1 so you know. And please take your time and tell me whatever
2 else you would like to tell me this morning.

3 MS. BARBIROU: Thank you for the opportunity to
4 speak. I have written my statement, so I am going to read it
5 to you for ease.

6 I have spent the past two weeks knowing that I wanted
7 to stand up and say something to this Court and to Your Honor
8 that would be significant, something that might convey the
9 totality of the harm that the defendant and his crime has
10 caused. And really, I was stumped because I don't like to
11 stand in front of people and expose my emotion and my family's
12 trauma. I am much more comfortable speaking about facts and
13 policy and ideas.

14 On Monday I had the opportunity to review the
15 defense's memorandum in aid of sentencing and found myself
16 being thankful because I finally found the words to share with
17 you today. In order to maintain my composure, I've broken my
18 statement down in a useful manner and will address the Court
19 according to the elements needed for a sentence to reflect the
20 basic aims of sentencing.

21 The first of which is the question of does it reflect
22 the seriousness of the offense? The defense points to the
23 non-violent nature of the offense, claiming that nothing in the
24 defendant's character warrants lengthy confinement because he
25 has never been a danger to society.

1 I remind you that I and my children are members of
2 society. That the defendant does have a violent history
3 directly related to this crime that resulted in a protective
4 order issued against him in 2010, one year prior to the
5 committal of this crime.

6 What was that protective order for? For repeated and
7 elongated threats against my life and threats of abducting my
8 children to Tunisia when I informed the defendant we needed to
9 prepare for divorce. For throwing a television into my
10 daughter's solid wood and thankfully empty crib and cracking
11 the frame while my son and I were watching a movie on that TV
12 just inches away.

13 This snapshot is just that, a snapshot. Do not
14 convince yourself that things were any different in Tunisia or
15 that the violence didn't extend to the children. It's apropos
16 that this hearing falls in the month of October, which is
17 National Domestic Violence Awareness Month.

18 Parental child abduction is child abuse. The days of
19 defense attorneys dismissing the non-physical elements of
20 domestic violence as non-violent are obviously not behind us,
21 but I assure you that a lack of bruising does not equate to
22 non-violence.

23 In fact, it's abhorrent to stand here not as a
24 plaintiff and the legal party to the charges in this case, but
25 as a witness victimized by the criminal actions of the

1 defendant and still find that I am blamed in writing for the
2 victimization that I and my children incurred.

3 And let's talk about the children. The impact that
4 parental kidnapping has on children, has had on my children are
5 severe and life long. Though the facts of this case do not
6 show that either child was physically abused, studies upon
7 studies of children and adults overwhelmingly concur that the
8 traumatic impact of emotional and psychological abuse extends
9 far beyond that of the physical. This is domestic violence.

10 This is not a victimless crime, and it is a violent
11 crime. My children are changed forever. They were and are so
12 innocent, but have endured more than half of their lives
13 through abduction.

14 When a parent kidnaps his or her child, they
15 unilaterally remove nurture, care, and stability from their
16 lives. They subject them to a life on the run, and induce them
17 with lies and dismantle their mental and emotional balance.

18 Attempts to minimize the violence of the
19 psychologically and emotionally abusive nature of parental
20 kidnapping is appalling. I remind you that no matter the
21 length of the sentence imposed on the defendant, he will one
22 day be free of physical imprisonment, but the trauma that I and
23 my children endure will last our lifetimes. And the day that
24 the defendant is released from prison is the day the daily
25 anxiety of where he will pop up and how he will manipulate us

1 begins all over again.

2 The next question is does it promote respect for the
3 law? The defense argues with the Government's pointing to the
4 case of Shabban, indicating that the cases are quite different,
5 citing in part that in Shabban the defendant committed perjury
6 and there was prior evidence of extensive planning, insinuating
7 that these do not reflect the defendant in this case.

8 Primarily, respect for the law requires that one come
9 before a court of law in truth. Although I did not speak to
10 the Virginia State Police until November 15 of 2011, four days
11 after the kidnapping, and a warrant was not issued until
12 November 17, six days after the kidnapping, the defendant
13 claims that after two days, this is a quote, "I learned along
14 with my family that I was a fugitive for kidnapping my own kids
15 and I was on the news and the FBI looking for me."

16 He also states that he never intended to stay in
17 Tunisia or keep the children there. The defense also claims
18 that the defendant left his entire life behind because the
19 kidnapping was not a planned event.

20 The three houses mentioned were all in foreclosure
21 months prior to the kidnapping, one having foreclosed years
22 prior. And the two remaining homes, I learned too late, were
23 in our names, but financially placed in my name only. And
24 those homes were incorporated into the bankruptcy filings I was
25 forced to undertake in 2010, shortly after I learned the

1 devastating financial circumstances the defendant had placed me
2 in.

3 Regarding his two businesses, he did not operate
4 Airport Access Limousine for at least a year prior to the
5 kidnapping. In fact, he worked for Carey Limousine as a
6 contractor driver, only using his tow truck company, the second
7 business, for transporting cars to Canada on special occasions.

8 Additionally, the defendant emptied his bank accounts
9 and also shipped all of the furniture and belongings from our
10 foreclosed home where he resided without payment by container
11 to Tunisia prior to the kidnapping. The items shipped also
12 included a white stretch limousine that arrived into Tunis
13 around December of 2011 that the defendant used to start his
14 car service company there, West Wind Limousine Tunisia.

15 Finally, the defendant obtained Tunisian passports
16 for the children in September of 2011 and purchased four
17 tickets four days in advance of departing the United States,
18 knowing that he had no legal right to remove either child from
19 the country. He also immediately enrolled the children in
20 Tunisian school and filed for temporary custody there.

21 Perjury and extensive planning. I have provided
22 extensive information to the Court in advance of today's
23 hearing that illuminate the level of contempt the defendant has
24 for the law. A sentence that minimizes the severity of this
25 offense will have the effect of having allowed the defendant to

1 game the American justice system and affirm for future
2 offenders that crimes against your family carry little to no
3 repercussions.

4 The next question, does it provide just punishment
5 for the offense? The defense points to the defendant leaving
6 his virtual immunity in Tunisia as a reason for leniency and
7 that his length of sentence will harm his job and income
8 prospects. Yet the defendant also attested to his keen
9 entrepreneurial skills and the ability to start his own
10 successful business in less than six months of having been
11 homeless. Therefore, the length of the sentence is not likely
12 to unjustly impact the defendant in this manner.

13 However, any sentence less than what I am requesting
14 of 24 months would not provide just punishment for the
15 kidnapping of our children. The defense would like to paint
16 the image of a loving father acting out of fear. Yet the
17 reality is that he and his actions were planned and intended to
18 induce fear, manipulation, and control. The impact of this I
19 shared in writing and won't address here.

20 At the end, as defense says, he chose to return to
21 the U.S. and make amends. Yet for months he held the arrears
22 of child support as ransom for my son's return, for which I
23 have had to make unthinkable decisions under duress.

24 Add to my existing trauma that of the dangling hope
25 of my child, my baby, coming home. It is unfathomable the

1 distress and the disgusting manipulation that I was submitted
2 to.

3 Had the defendant been a stranger and not a father,
4 there would be no hesitation toward determining the just
5 punishment for this offense. But he is a father, and that
6 should warrant a stronger, not a lesser judgment.

7 Does it deter criminal conduct? When other parents
8 see our courts taking the crime of parental kidnapping
9 seriously, justly punishing the offenders, this is deterrence.
10 Parental child abduction is the number one reason for
11 involuntary child disappearance in the United States. Why?
12 One reason is because most people don't even know it's a crime.
13 Why? Because offenders are constantly given lenient sentences,
14 if any at all.

15 This case and this defendant require a higher
16 sentence as a deterrent. As stated before, a sentence that
17 minimizes the severity of this offense will have the effect of
18 having allowed the defendant to game the American justice
19 system and affirm for future offenders that crimes against
20 one's family carry little to no repercussions.

21 Finally, does it protect the public from further
22 criminal conduct by the defendant? As a member of the public
23 who has been directly impacted by the criminal conduct of this
24 defendant, I can assure you that I feel very protected by his
25 incarceration.

1 The defendant has threatened my life, abducted my
2 children, defamed me, and had me sentenced to a year in prison
3 in his own country for a crime I did not commit. He has
4 stalked me and my children and continues to use his family and
5 friends to influence us to this day.

6 Yes, Your Honor, I affirm and reaffirm that a
7 sentence of no less than 24 months protects my family as
8 members of the public from further criminal conduct by this
9 defendant.

10 I thank you for your time and consideration and the
11 space to address the Court as a mother who has been victimized
12 by the defendant and this crime.

13 THE COURT: All right. Thank you, Ms. Barbirou.

14 All right, Ms. Haynes.

15 MS. HAYNES: Thank you, Your Honor. There is little
16 I can add to that. But the Government submits that a sentence
17 at the low end of the Guideline range, as we agreed to ask for,
18 is well warranted in this case.

19 This defendant stole five-and-a-half years from
20 Edeanna Barbirou and her children. Five-and-a-half years when
21 they should have been living together as one family here in
22 America.

23 The defendant may claim that he is sorry and that he
24 takes responsibility, but that's a charade. And we know that
25 because he lied to you in his letter. To try to lessen his

1 crime, he tries to claim that he took his children to Tunisia
2 only because he learned that his father was seriously ill. Yet
3 he never mentioned a sick father in conversations that he had
4 Ms. Barbirou and her family, conversations the very next day
5 after he left. What he did say in that conversation, Your
6 Honor, is that he was never coming back.

7 The defendant argues that in none of the cases cited
8 by the Government did a defendant voluntarily turn himself in
9 and admit guilt. Well, this defendant did that only after
10 five-and-a-half years of fighting for custody in Tunisia and
11 repeatedly losing. Only after filing charges against Ms.
12 Barbirou in Tunisia, and only after telling NBC News in a video
13 that he was free and that hell, no, he wasn't coming back.
14 There was nothing gratuitous in this defendant's conduct, he
15 had lost and it was over.

16 Your Honor, in his memo the defendant cites the case
17 of U.S. versus Shahani-Jahromi. That was a case before Judge
18 Ellis where the defendant, despite keeping his child in Iran
19 for seven years, received five years of supervised probation
20 and 30 weekends in jail. I am personally familiar with that
21 case. And in that case, Your Honor the mother, for her own
22 reasons, wrote a letter to Judge Ellis specifically asking for
23 probation. But that has not happened here.

24 Your Honor, one key fact that does set this defendant
25 apart from the cases that are cited by both sides is that only

1 this defendant committed an extortion by refusing to return his
2 son until Ms. Barbirou had asked Fairfax County to eliminate
3 the \$128,000 of back child support. It was only after she did
4 that that the defendant returned her son home.

5 And, Your Honor, because international parental
6 kidnappings are committed by one of the parents, society does
7 tend to mitigate the crime. But it is still a kidnapping and,
8 as Ms. Barbirou stated, it's also child abuse.

9 Your Honor, in addition to asking you to consider
10 what this defendant has wrought on the lives of Edeanna
11 Barbirou and her son and her daughter over the last
12 five-and-a-half years, we ask you to consider what is best for
13 society. And as long as parents who are contemplating this
14 think that they can get away with it or suffer little
15 punishment, they will continue to do it.

16 But finally, Your Honor, even with a significant
17 sentence, this defendant will spend nowhere near as much time
18 in jail as he forced his children to spend away from their
19 mother and from each other and from the benefits and advantages
20 of growing up the United States.

21 Thank you.

22 THE COURT: All right. Thank you, Ms. Haynes.

23 All right.

24 MR. TROCCOLI: Your Honor, may I have a moment?

25 THE COURT: Yes.

1 NOTE: A discussion is had between the defendant and
2 his counsel.

3 MR. TROCCOLI: Thank you, Your Honor.

4 THE COURT: Yes, sir.

5 Please, go ahead.

6 MS. BENNETT: Thank you, Your Honor. Good morning.
7 My name is Elsbeth Bennett on behalf of the defendant.

8 Your Honor, we are here today because Mr. Chebbi has
9 pled guilty to international parental kidnapping. That is the
10 only reason we're here.

11 We've heard a lot today about family issues that have
12 been heard in state court with varying and different outcomes
13 and different views on what happened. We're here today to
14 punish Mr. Chebbi for taking his son to Tunisia.

15 And it's true, it's true that he took his children to
16 Tunisia in November of 2011. It's true that his daughter was
17 there until about three years ago. And that his son was there
18 until June of this year.

19 And it is true, he is guilty of the charged offense.
20 But, Your Honor, it's also true that Mr. Chebbi admitted to his
21 crime, voluntarily returned to the United States, and
22 surrendered himself to U.S. authorities for punishment.

23 These facts are particularly important in this case
24 where there is no extradition agreement between the United
25 States and Tunisia. And the only reason that Mr. Chebbi is

1 here today before you for sentencing is because he has taken
2 the responsibility for his crime.

3 When Mr. Chebbi came back to the United States in
4 June of this year, he essentially walked off the plane into
5 jail. He knew that would happen. He understands. He
6 understands what he did was wrong. He is sorry. He is doing
7 what he can now to correct for that. He has reunited the
8 children with their mother and with each other.

9 And at this point he will serve the sentence Your
10 Honor imposes. And after that, he hopes to move on to rebuild
11 his life here in the United States where he will be a father to
12 his children and hopefully a positive influence on their lives
13 going forward.

14 As Your Honor knows, the Court must impose a sentence
15 that is sufficient but not greater than necessary to achieve
16 the aims of sentencing. And in imposing the sentence, the
17 Court must consider the advisory Guideline range. Which in
18 this case, as you know, is 15 to 21 months, followed by one
19 year of supervised release.

20 And the Government has said and agreed in the plea
21 agreement not to oppose a sentence above the low end of the
22 range, which is 15 months.

23 But, Your Honor, we submit that given the
24 circumstances of this case, a shorter sentence of 12 months and
25 one day of imprisonment, followed by one year of supervised

1 release, is not greater than necessary to serve the aims of
2 sentencing.

3 Any sentence imposed must account for the seriousness
4 of the offense, provide just punishment, and sufficiently deter
5 others from committing the same crime. As the cases cited in
6 our brief demonstrate, other courts have determined that a
7 sentence of 12 months or thereabouts is sufficient to keep
8 these three aims of sentencing in this type of case.

9 Additionally, a sentence must promote respect for the
10 rule of law. But Mr. Chebbi's actions in this case demonstrate
11 his strong respect for the rule of law. It might be a little
12 bit late, but he does, he came back. And no further punishment
13 is necessary to achieve this particular aim of sentencing.

14 Moreover, as a matter of public policy, the system
15 really ought to promote and recognize cooperation with
16 authorities, especially in situations where the authorities
17 really have no other recourse.

18 Finally, a sentence must sufficiently deter the
19 individual defendant from committing further criminal conduct.
20 And in this case it is not an issue. Mr. Chebbi has no
21 propensity toward criminal conduct. He has no criminal record.
22 And the crime in this case was born out of a very specific
23 emotional family divorce that is unlikely to repeat.

24 Mr. Chebbi is fully aware that a state court will
25 determine his custody and/or visitation rights with his

1 children. He knows that order is coming, he knows he must
2 comply with it. And as I mentioned, his goal and his intent
3 here is to serve his punishment and rebuild his life.

4 He has a wife and a daughter in Tunisia that he does
5 intend to bring to the United States after completing his
6 sentence, and he intends to be a father to all of his children
7 here in the United States and respect the law.

8 And in short, Your Honor, this is not a crime of
9 violence. Mr. Chebbi has no criminal history. And he
10 undertook the extraordinary step of leaving a country where he
11 was immune from penal punishment and coming back here to tell
12 everyone that he is sorry, to accept responsibility for his
13 crime.

14 Nothing further, Your Honor.

15 THE COURT: Thank you, Ms. Bennett.

16 All right, Mr. Chebbi, this is your opportunity to
17 tell me anything you would like to before I sentence you. And
18 please remain there when you are done at the podium.

19 THE DEFENDANT: Thank you, Your Honor.

20 I just heard my ex-wife talking. I want to say I'm
21 sorry. I apologize. I hope you accept my apology.

22 I would like, Your Honor, to express my sincere
23 remorse and regret, deep regret for what I did. I am here
24 today to apologize to my ex-wife, our children, and all my
25 family for the pain and grief I caused.

1 I take complete responsibility for my actions and the
2 offense I commit. I should not have done this. This is wrong
3 to begin with. It's not right. I knew it.

4 I surrendered myself to the U.S. authority in June
5 and I brought back my son with me to be reunited with his
6 sister and with his mom and to be back to U.S.

7 I'm here, Your Honor, today ready to move forward and
8 start new page in our kids' lives. I want to make sure they
9 get the best education out there because I believe in
10 education. And I want them to live a happy life with both
11 parents around.

12 Thank you. I'm sorry.

13 Today has been more than four years I did not see my
14 daughter. I am sorry. She is already nine years old. Four
15 years I didn't see her, I didn't hug her. I'm sorry. I miss
16 her dearly, and I am sure she does as well.

17 Also, I want to be a role model for my kids. I want
18 to be with them in their future and live a life of high moral
19 values and integrity.

20 Your Honor, I have a wife and a 19-month-old daughter
21 in Tunisia that they are waiting for me. I want to reunite my
22 daughter with her brother here and her sister as well. I
23 reunited my kids here with their mother, and I want to reunite
24 the whole family here and live in the United States for good
25 and happy.

1 I am looking forward, Your Honor, to be a free man
2 again as soon as possible, to give my kids support and guidance
3 for their future with both parents around, and give them the
4 counseling they need because they are kids.

5 I strongly believe, Your Honor, this is not about me.
6 It's about the best interests of our kids and their well-being.
7 I would love to put back a big smile in their faces, and I am
8 wishing and I am praying that the Court will help me with that.

9 Your Honor, I apologize again for my offense that I
10 did. And I learned a lot the last five months since I was
11 incarcerated in jail. And it was a hardship, but I learned a
12 lot from this experience.

13 After all, I am a human, make mistakes. And I am
14 promising you today and promising everybody today this will be
15 the first and the last and you will never see me in any court.

16 At the end, I would like to ask you politely, Your
17 Honor, for forgiveness and I can be reunited with my kids as
18 soon as possible.

19 Also --excuse me, I'm sorry. Also, I want to take
20 this opportunity to thank my FBI agent, Mr. Dick DeLahood who
21 gave me the guidance to be here. I owe him a lot because he
22 was part of this reunion of my kids with their mother and my
23 son with his sister. He showed me my rights and he introduced
24 me to my lawyers.

25 And I want to thank them as well for the great job

1 they did, and they help me.

2 At the end, I want to thank the Court, I want to
3 thank you, Your Honor. And I am praying to help a decent
4 family to be reunited again for good.

5 I thank you.

6 THE COURT: Well -- please stay there. You know,
7 this is not about anybody but you and the actions that you took
8 over the last six years. And you had the power at any time to
9 change the landscape and make decisions to adhere to the lawful
10 order that you agreed to at the time of your divorce regarding
11 the custody of your children. You had the opportunity to do
12 that after the Tunisian courts began their process of telling
13 you repeatedly that you needed to honor the lawful order of the
14 U.S. courts. And you did nothing but thumb your nose at the
15 judicial system here in the United States and in Tunisia.

16 And to charge the mother of your children with a
17 crime in Tunisia and have her held responsible and sentenced to
18 a year in jail in absentia was just the crowning achievement of
19 your utter contempt for the judicial system.

20 For a person of your intelligence to continually do
21 what you did over the last six years is -- well, it tells me
22 all I need to know about you. And that's that you have utter
23 contempt for anybody else's views other than your own. And you
24 perpetrated that on a daily basis.

25 It's extraordinary that Ms. Barbirou went to Tunisia

1 and lived there, left her home, left her job, left security,
2 left everything to be with her children. And you did cooperate
3 in part in allowing her to share in their lives in Tunisia.
4 But what, as I said, an extraordinary move on her part. And
5 you have made things as difficult as you could for her.

6 And for what? You ultimately decided that you had to
7 come back here, I'm sure, whether it's because you lost all
8 hope of succeeding in your legal battles in Tunisia or whether
9 you realized that being on the Most Wanted posters by the FBI
10 was ultimately going to result in your arrest in a third-party
11 country or maybe just force your return by the Tunisian
12 government even if we did not have a reciprocal agreement with
13 them.

14 But you did come back, and I give you credit for
15 returning here to face what you knew was going to be a clear
16 term of incarceration.

17 But the reasons that I consider in sentencing your
18 crime is just -- you did a terrible thing to your children and
19 your family. And I have heard repeatedly that these children
20 are going to be traumatized forever. I hope that's not the
21 case. And it will in significant part be determined by how you
22 act when you are released, whether it is 24 months or 15 months
23 or 12 months or 21 months. I wish I had the authority to put
24 you on supervised release for the rest of your life because I
25 would very much like that kind of a sentence being held over

1 you because I don't trust you to do the right thing. I hope
2 you will for the sake of your children, but this track record
3 demonstrates a complete lack of confidence that you will.

4 I hope that this time you have been incarcerated has
5 awakened you and you understand that even if you don't want to,
6 you need to for the sake of your children and for your own
7 freedom, obey the laws regarding your children and try and
8 nurture their life moving forward.

9 They lived with you for three and six years, and they
10 were significant times, significant bonds. And hopefully the
11 positives from that can come forward and the children will have
12 ultimately not been traumatized forever and they can build on
13 where they are today moving forward.

14 And as I said, that in large part is going to be
15 dependent on what you do in the future, and also what Ms.
16 Barbirou does. Your children are so fortunate to have somebody
17 as level headed and as loving as she is. Her presentation here
18 today and her letter demonstrate a person who loves her
19 children greatly and wants what's best for them. And I think
20 that moving forward she is going to realize that you are their
21 father, but I don't expect that she is every going to trust
22 anything that you do, nor should she in the future. But there
23 will be sufficient court monitoring, I hope, that you will have
24 some confidence that your children are safe.

25 There is a real need to deter you from this kind of

1 conduct again, and as well to deter others from victimizing
2 their children and families through these abductions.

3 I'm going to sentence you to 21 months in the
4 penitentiary. One year of supervised release. A \$100 special
5 assessment.

6 I will not impose a fine or costs of incarceration
7 because I find you cannot afford them.

8 As special conditions of your supervised release, I
9 will order the restitution in the amount that I have already
10 identified.

11 I will order that you pay for the support of the
12 children in the amount ordered by any social service agency or
13 court of competent jurisdiction.

14 That you identify any moneys received through your
15 income and turn over any financial information requested by the
16 Probation Office so that they may track what income you have,
17 and that it result in restitution being paid to not only to Ms.
18 Barbirou, but also to the Victim Assistance Fund.

19 That you not incur new credit card charges without
20 the permission of the Probation officer.

21 That any tax returns or any other funds that are
22 received outside of your occupation be identified and used for
23 the payment of restitution.

24 That you not obtain any travel documents for you or
25 your children without the permission of the Probation Office.

1 I will credit you with time served awaiting
2 sentencing.

3 Did you have a designation that you wanted to
4 recommend?

5 MR. TROCCOLI: As close to the D.C. metropolitan area
6 as possible, Your Honor.

7 THE COURT: All right, I will make that
8 recommendation.

9 Ms. Haynes.

10 MS. HAYNES: Your Honor, did you state a schedule for
11 the restitution payments?

12 THE COURT: I am sorry?

13 MS. HAYNES: Did you state a schedule for the
14 restitution payments?

15 THE COURT: I am sorry, I didn't. Thank you. \$100 a
16 month, or as designated by the Probation Office once your
17 financial status is better understood.

18 It's up to you. You're not a victim. I mean, I
19 realize you've moved on, you've got a new family. Your life
20 right now is a mess, and you obviously realize that, and this
21 is why you're feeling as sorry for yourself as you are here
22 today, but you are not a victim. And there isn't a reason in
23 the world why you should feel sorry for yourself.

24 It's really up to you whether you stand up on your
25 own two feet moving forward and do what you know you need to do

1 moving forward, respect your community, respect your children,
2 and adapt. You can do it if you want to, you're a powerful
3 person.

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Powerful personality. You can do that
6 for right, you can do it for wrong. I hope that this term of
7 incarceration will convince you that you need to do it for the
8 right reasons. All right?

9 THE DEFENDANT: Thank you.

10 THE COURT: All right. Anything else?

11 MR. TROCCOLI: No, Your Honor.

12 THE COURT: All right. We're going to take a brief
13 recess and then come back with our civil docket.

14 We're in recess.

15 -----
16 HEARING CONCLUDED

17
18
19
20 I certify that the foregoing is a true and
21 accurate transcription of my stenographic notes.

22
23
24 /s/ Norman B. Linnell
25 Norman B. Linnell, RPR, CM, VCE, FCRR