

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>UNITED STATES OF AMERICA</b>  v.  <b>JOSEPH TORRENCE</b>	<b>CRIMINAL ACTION</b>  <b>NO. 15-538</b>
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**MEMORANDUM AND ORDER**

Defendant has filed a Motion for Post Conviction relief under 28 U.S.C. § 2255, following an entry of an open guilty plea to Count One of an Indictment charging the conspiracy to employ a child to engage in sexually-explicit conduct for the purpose of creating images of such conduct, in violation of 18 U.S.X. § 2251(e), and to Counts Two and Three charging aiding and abetting, and Counts Eight and Nine, which charge receipt of child pornography. Defendant was sentenced to a prison term of 324 months plus other provisions. Defendant's Petition for Relief asserts that Congress had no power to make the conduct in which the Defendant engaged criminal, and that this Court had no jurisdiction. The Government's response (ECF 87), contains a thorough discussion of the ability of Congress to enact criminal laws, including laws that prohibit the conduct which the Defendant admits. The Court adopts these principles.

Congress enacted 18 U.S.C. § 3231, giving district courts original jurisdiction over all offenses against the laws of the United States. Interstate commerce is obviously very affected by the online receipt and transfer of child pornography, and the interstate nexus of the Defendant's conduct was well established on the record.

As the Government's Change of Plea memorandum recites, the interstate aspects of this case were established by the use of both Defendants (Defendant and and co-defendant, Steven Locks, Jr.), by their use of cell phones and the receipt and distribution of sexually explicit

images. The cell phones were manufactured outside of Pennsylvania, were used to access the internet, to send the messages and photos. The Government would have been able to introduce evidence taken from the Defendants' cell phones and subscriber records for each phone would have been admitted to prove the ownership use of the cell phones.

For these reasons, the Petition will be **DENIED**.

There are no grounds for a certificate of appealability.

**BY THE COURT:**

*/s/ Michael M. Baylson*

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**MICHAEL M. BAYLSON, U.S.D.J.**

**December 2, 2019**