

This list was prepared by Sentencing Resource Counsel. (September 24, 2013)

United States v. Polito, 215 F. App'x 354, 356-57 (5th Cir. 2007) (young, immature defendant who had never before been arrested for any offense; presented no threat to the community or young children; receiving mental health treatment, maintained employment, and avoided any problem with the law, and a term of imprisonment would interrupt mental health treatment); *United States v. Rowan*, 530 F.3d 379 (5th Cir. 2008) (defendant lost career because of case, was progressing in treatment); *United States v. Duhon*, 541 F.3d 391 (5th Cir. 2008) (defendant would benefit from continued psychological treatment with his doctor); *United States v. Prisel*, 316 F. App'x 377 (6th Cir. 2008) (defendant possessed 1,189 images, including those stored on disks and hard drives, and ordered videotapes from overseas, but had undergone mental health treatment, had family responsibilities, and presented no danger to children); *United States v. Stall*, 581 F.3d 276 (6th Cir. 2009) (defendant had no criminal history, was remorseful and undergoing treatment, which was likely to be effective; sentenced to one day in prison followed by 10 years supervised release plus a \$5,000 fine); *United States v. Autery*, 555 F.3d 864 (9th Cir. 2009) (defendant actively solicited illegal images, but could not be accommodated adequately in federal prison and needed outpatient psychiatric monitoring and management); *United States v. Malakoff*, No. 1:09-CR-00051 (D.D.C. 2009) (defendant was sexually abused as a child and suffers from post traumatic stress disorder); *United States v. Wright*, No. 09-CR-311 (D.D.C. 2010) (sentenced to 5 years' probation (where guideline range was 33-41 months) with the special condition that the defendant continue in mental health treatment and perform 600 hours of community service); *United States v. Moreira*, No. 10-CR-002 (D.D.C. 2010) (sentenced to 5 years' probation with victim restitution ordered totaling \$11,600 where clinical evaluations indicated defendant did not present a risk of harm and defendant had family support and strong work history); *United States v. McDonald*, No. 3:08-CR-30031 (D. Mass. 2008) (defendant underwent therapy); *United States v. Helbig*, No. 08-CR-30052 (D. Mass. 2009) (sentenced to 5 years' probation, six months of which in a halfway house and six months on home confinement, based on defendant's immaturity and lack of judgment, deep contrition and understanding of the seriousness of the offense, lack of risk of harm to children, and particularly strong family support); *United States v. Ramos*,

No. 08-CR-30034 (D. Mass. 2010) (sentenced to 4 years' probation, 12 months of which in a halfway house, where defendant had no criminal history and had suffered from major depression over many years); *United States v. Teves*, 11-CR-10351 (D. Mass. 2012) (sentenced to 5 years' probation, the first six months on home confinement with electronic monitoring where defendant's treating physicians reported that he presents no danger and that incarceration would interrupt successful treatment); *United States v. Reardon*, 11-CR-10325 (D. Mass. 2012) (sentenced to 5 years' probation where the defendant was very timid and had a history of bipolar disorder and suicide attempts); *United States v. Proulx*, 11-CR-10274 (D. Mass. 2012) (sentenced to 5 years' probation, the first 6 months on home detention with electronic monitoring, where defendant had no pedophilic interest in children, a strong work history, and strong family support); *United States v. Guismondi*, No. 07-CR-00610 (E.D.N.Y. 2009) (developmentally disabled defendant who was victim of sexual abuse); *United States v. Arzberger*, No. 08-CR-894 (S.D.N.Y. 2010) (sentenced to 5 years' probation where guideline range was 41-51 months); *United States v. Carpenter*, No. 08-CR-06256 (W.D.N.Y. 2009) (defendant possessed several videocassettes containing at least 150 illegal images); *United States v. Waters*, No. 11-CR-98 (D. Vt. 2012) (young, immature defendant, making progress in treatment, vulnerable in prison, little risk of re-offending); *United States v. Graci*, No. 2:09-CR-00131 (E.D. Pa. 2009) (defendant, a former elementary school teacher, purchased access to child pornography websites on three different occasions); *United States v. Butler*, No. 1:07-CR-00466 (M.D. Pa. 2008) (defendant was in his sixties with no prior criminal conduct); *United States v. Rubino*, No. 4:08-CR-00114 (M.D. Pa. 2009) (defendant was a mentally challenged man with prior drug convictions who possessed 25 disks containing child pornography); *United States v. Stewart*, No. 05-CR-242 (D.N.J. Sept. 30, 2005) (sentenced to 3 years' probation with 12 months home confinement where defendant was 87 years old at the time of sentencing); *United States v. Connelly*, No. 07-CR-830 (D.N.J. 2008) (sentenced to 5 years' probation and a \$1000 fine where guideline range was 78-97 months); *United States v. Dulak*, No. 08-CR-490 (D.N.J. 2009) (young, intelligent defendant with documented mental health history); *United States v. Birdsall*, No. 11-CR-134 (D.N.J. 2011) (20-year-old offender who collected more than 1800 images and 74 videos using file-sharing software); *United States*

v. Calderon-Sabalier, No. 06-CR-0122 (D.P.R. 2006); *United States v. Colon-Rodriguez*, No. 07-CR-00481 (D.P.R. 2008); *United States v. Machmer*, No. 04-CR-097 (E.D. Va. 2005) (defendant had significant social skill development issues); *United States v. Simpson*, No. 08-CR-0267 (E.D. Va. 2008) (65-year-old defendant with health problems); *United States v. Teagno*, No. 09-CR-0328 (E.D. Va. 2009); *United States v. Saenz*, No. M-05-CR-877 (S.D. Tex. 2011) (defendant had been abused as a child, served five years of home confinement, and never acted out; he possessed 126 images, including those of boys being raped); *United States v. Boyd*, No. 06-CR-20243 (E.D. Mich. 2005) (defendant with social deficits); *United States v. LaFrance*, No. 02-CR-81048 (E.D. Mich. 2005) (young defendant who went to trial, exchanged images); *United States v. Boyden*, No. 2:06-CR-20243 (E.D. Mich. 2007) (defendant purchased access to three child pornography websites over a number of years and searched for illegal images); *United States v. Cernik*, No. 07-20215, 2008 WL 2940854 (E.D. Mich. 2008) (defendant currently in treatment, employed, and incarceration would increase, not decrease defendant's risk to the public); *United States v. Grosinsky*, No. 08-CR-20090, 2008 WL 5062845 (E.D. Mich. 2008) (sentenced to one day in prison followed by 5 years of supervised release, and 100 hours of community service where probation recommended a variance and where the images were of the defendant and a mature-looking male only 3 months shy of 18 who solicited the defendant, the defendant was in treatment and "displays an understanding of his errant ways, and is unlikely to repeat his wrongful conduct"); *United States v. Colby*, No. 09-CR-20401 (E.D. Mich. 2010) (78-year-old defendant with health issues who distributed, received, and possessed illegal images through file-sharing program); *United States v. Robinson*, No. 09-CR-20091 (E.D. Mich. 2013) (since time of arrest, defendant's severe mental health problems, including suicidal ideation, had much improved through consistent psychiatric treatment and supervision and he had passed four polygraph tests while on release; resentenced to one day in prison followed by ten years' supervised release (which was an increase from one previous sentence of day in prison followed by five years' supervised release, which had been reversed as substantively unreasonable)); *United States v. Young*, No. 09-CR-252 (W.D. Mich. Feb. 5, 2010) (sentenced to one day in prison followed by 7 years of supervised release, and a fine of \$7,000, where defendant was completely

disabled due to multiple sclerosis and suffered severe depression); *United States v. Camiscione*, 04-CR-594 (N.D. Ohio June 24, 2010) (as modified on Aug. 19, 2010) (sentenced to one day in prison followed by 3 years of supervised release with 16 weeks of intermittent confinement, and 6 months of home detention with electronic monitoring where defendant had epileptic seizures and there was no evidence that he presented a risk to children); *United States v. Syzmanski*, No. 08-CR-417 (N.D. Ohio 2011) (sentenced to one day in prison followed by 5 years of supervised release where 54-year-old defendant had strong work record and community support, health problems, and therapist indicated that he presented no risk to children); *United States v. Lang*, No. 09-CR-036 (M.D. Tenn. Nov. 21, 2012) (sentenced to time served (6 days) followed by 7 years of supervised release with the condition that he teach in prison for 40 hours a week for 3 years, plus a \$10,000 fine where defendant had been a professor of sociology for 35 years, had strong family and community support, had only a minimal amount of child pornography, and immediately sought therapy); *United States v. Hall*, No. 12-CR-20119 (W.D. Tenn. Jan. 16, 2013) (as corrected on Feb. 20, 2013) (sentenced to time served (one day) followed by 10 years of supervised release, with 5 years on home confinement, where defendant had been sexually abused as a child, suffered from serious medical problems and depression, and had a long work history); *United States v. Miller*, No. 05-CR-00974 (N.D. Ill. 2006) (defendant possessed five illegal videos and an additional 32 deleted illegal images); *United States v. Manke*, No. 09-CR-172, 2010 U.S. Dist. LEXIS 3757 (E.D. Wis. 2010) (defendant possessed more than 1200 images, chatted with others to obtain more images, made progress in mental health treatment before sentencing); *United States v. DeHaven*, No. 08-CR-31 (N.D. Iowa 2009) (defendant had social anxiety disorder and a strong work history); *United States v. Driskell*, No. 08-CR-641 (E.D. Mo. 2009) (defendant had illegal images available for distribution through file-sharing program, but took steps to delete illegal images, had significant family obligations); *United States v. Smith*, No. 09-CR-0740 (E.D. Mo. 2010) (defendant had strong family and community support); *United States v. Campbell*, No. 09-CR-3023 (D. Neb. 2010) (sentenced to 5 years' probation with 120 days in a halfway house followed by six months of home confinement on electronic monitoring, 100 hours of community service, plus a \$7,500 fine, where images were not as serious as most, defendant had

successfully passed a polygraph, and forensic evaluations indicated that he presented little risk of recidivism); *United States v. Applequist*, No. 09-CR-120 (D. Alaska 2010) (sentenced to 5 years' probation plus a \$12,500 fine where 76-year-old defendant was bed-ridden with Parkinson's disease and chronic obstructive pulmonary disease); *United States v. Horton*, No. 06-1880 (D. Ariz. 2007) (defendant was old and had health problems, possessed more than 600 images); *United States v. Noel*, No. 09-CR-00701 (C.D. Cal. 2010) (socially and emotionally underdeveloped 24-year-old defendant had become addicted to viewing child pornography at age 14 while recuperating from major surgery, which left him physically disabled, and was now in counseling; sentenced to 5 years' probation (down from guideline range of 78-97 months), with the first six months to be served in a "jail-type facility"); *United States v. Shore*, No. 06-CR-00335 (E.D. Cal. 2007) (defendant was victim of molestation, possessed over 4,500 images, and shared images); *United States v. Morrison*, No. 08-CR-167 (E.D. Cal. July 18, 2011) (defendant was 70 years old, government agreed to sentence); *United States v. Teays*, No. 09-CR-532 (E.D. Cal. 2012) (sentenced to 5 years' probation where defendant had been the victim of sexual abuse as a child, was socially withdrawn, and had been undergoing successful counseling); *United States v. Fulkerson*, No. 10-CR-0526 (S.D. Cal. 2010) (defendant had significant medical problems); *United States v. Gonzalez*, No. 07-CR-328 (W.D. Wash. 2009) (where guideline range was 87-108 months, defendant had never abused children, was cooperative and presented a low risk of re-offending, and the government agreed that a "substantial variance" was warranted (in part because the defendant had not been involved in producing child pornography), sentenced to one day in prison followed by 10 years of supervised release); *United States v. Hansen*, No. 08-CR-5090 (W.D. Wash. 2008) (sentenced to one day in prison followed by 30 years of supervised release to include 80 hours of community service, and a fine of \$5,000 where defendant was mildly mentally retarded, had never touched a child, presented limited risk to children, and the government agreed that a "long period of supervised release, combined with electronic home monitoring, will adequately punish [the defendant] and protect the public"); *United States v. Victor*, No. 08-CR-5821 (W.D. Wash. 2010) (where guideline range was 121-151 months, sentenced to one day in prison followed by 10 years of supervised release with the first 6 months on home confinement with

electronic monitoring plus 100 hours of community service, where defendant had been in active military duty, was successfully undergoing treatment, was cooperating, presented little risk of harm to children, and the government recommended a downward variance to a guideline range of 27-33 months); *United States v. Flores*, No. 09-CR-60100 (D. Or. 2010) (defendant a 23-year military veteran, lost \$1.9 million in retirement benefits as a result of conviction, scrubbed computer to eliminate evidence); *United States v. Pustis*, No. 10-CR-60038 (D. Or. 2010) (sentenced to five years' probation (where guideline range was 87-108 months) and \$20,000 fine, where defendant was over 50 years old, had engaged in extensive therapy since his arrest, passed a polygraph, and presented little risk of committing further crimes); *United States v. Van Dusen*, No. 08-CR-60136 (D. Or. 2010) (sentenced to one day in prison plus up to one year in a residential reentry center and 10 years of supervised release where defendant was mentally and physically frail and defendant presented expert on the Bureau of Prisons stating that the Bureau was not able to address his medical problems very well and that the defendant would be susceptible to extortion and assault); *United States v. Rausch*, 570 F. Supp. 2d 1295 (D. Colo. 2008) (defendant had multiple health problems); *United States v. Meillier*, 650 F. Supp. 2d 887 (D. Minn. 2009) (defendant was mentally disabled and had been the victim of sexual abuse); *United States v. Huffman*, No. 09-CR-20073 (D. Kan. 2010) (defendant was young and attending treatment); *United States v. Rhoads*, No. 12-CR-40078 (D. Kan. 2013) (sentenced to 5 years' probation (guideline range of 97-121 months) where defendant was 18-19 years old at the time of the offense, was a victim of childhood abuse, and was successfully undergoing outpatient sex offender treatment); *United States v. Jones*, No. 04-CR-1840 (D.N.M. 2004) (defendant had Asperger's syndrome and family obligations); *United States v. Hill*, No. 08-CR-00208 (W.D. Okla. 2009) (defendant had been sexually abused, obtained and shared images through file-sharing); *United States v. Angel*, No. 09-CR-00401 (M.D. Fla. 2011) (defendant was 75-year-old with medical needs); *United States v. Tucker*, No. 11-CR-00252 (M.D. Fla. 2012) (sentenced to time served (one day) followed by 15 years of supervised release, with 18 months in home detention with electronic monitoring); *United States v. Bender*, 12-CR-128 (M.D. Fla. 2013) (sentenced to time served (one day) followed by 10 years of supervised release with two years on home confinement where

defendant was young, suffered from depression, was vulnerable to abuse in prison, presented a low risk of harm to others, and was doing well in treatment).