



3. In the course of representing the Defendant, undersigned counsel has examined the government's case file and the investigative reports contained therein. In addition to the federal charge to which the Defendant has entered his plea, the North Carolina Department of Social Services is engaged in its own separate investigation of the Defendant for alleged sexual misconduct.

4. The Defendant wishes to participate in the proposed psychological/psychosexual evaluation. Further, he understands that any meaningful evaluation can only take place with the full disclosure of his thoughts and feelings together with the accurate recitation of historical events. However, the Defendant also understands that such candor might subject him to greater punishment and/or additional charges.

5. In Mitchell v. United States, 526 U.S. 314, 316 (1999), the Supreme Court was unanimous in its holding that a federal criminal defendant maintains her Fifth Amendment right against self-incrimination despite a plea of guilty. A majority of the Court further held that the sentencing judge cannot thereafter draw a negative inference from a defendant's invocation of that right. Id. at 331.

6. As matters presently stand, Defendant would be willing to fully comply with any evaluation the Court may order. However, without any protection from further prosecution or punishment, he

would invoke his Fifth Amendment right to silence and thus not be able to provide any meaningful information to address the issues of treatment or supervision.

WHEREFORE, the Defendant requests this Honorable Court to enter an order protecting him from further prosecution or punishment based upon any disclosures he makes in the context of any psychological/psychosexual evaluation ordered by the court.

Respectfully submitted this \_\_\_\_\_ day of March, 2011.

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#### CERTIFICATE OF SERVICE

This is to certify that I have served a copy of the foregoing upon \_\_\_\_\_, Assistant United States Attorney for the Middle District of North Carolina, Post Office Box 1858, Greensboro, NC, 27402, by faxing, by hand delivering, or by mailing a copy of the same.

This the \_\_\_\_\_ day of March, 2011.

