

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA

v.

NICHOLAS ANTHONY,

Defendant.

CRIMINAL ACTION NO.

1:25-cr-500-01-TRJ-CMS

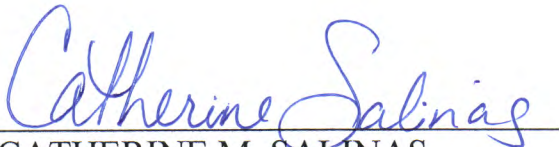
SUPPLEMENT TO FINAL REPORT AND RECOMMENDATION
DATED MARCH 24, 2026¹

In his reply brief, Anthony argues that the Michigan Supreme Court has found that a conviction under MCG § 750.520g(1) does not require “the existence of an aggravating circumstance or that the assault is made with an improper sexual purpose or intent.” [Doc. 34 at 5 (emphasis omitted) (quoting *Nickens*, 685 N.W.2d at 661)]. According to Anthony, “the ‘least of the acts’ criminalized under § 750.520g(1) for purposes of a categorical approach analysis involves a verbal

¹ On March 24, 2026, I issued a Final Report and Recommendation in this case. [Doc. 36]. The next day, Anthony’s counsel contacted my courtroom deputy, raising concerns about whether I had reviewed Anthony’s reply brief in support of his Motion to Dismiss Indictment for Failure to State an Offense. To address this concern, and in the interest of providing a complete record for the district judge, I am supplementing my Final Report and Recommendation with the following language that had been included as a footnote in an earlier draft of the Final Report and Recommendation, but which I had deleted from the final version.

threat made without an improper sexual purpose or intent, in which the recipient of the threat may perceive such a purpose or intent.” [Id. at 6]. Anthony reads *Nickens* too narrowly. Indeed, just before the language that Anthony quotes, the Michigan Supreme Court held that “the elements of assault with intent to commit [criminal sexual conduct] involving penetration are simply (1) an assault, and (2) an intent to commit [criminal sexual conduct] involving sexual penetration.” *Nickens*, 685 N.W.2d at 661. A conviction under MCL § 750.520g(1) thus clearly involves a sexual act or sexual conduct. *Id.* Anthony’s argument in his reply regarding the lack of “an improper sexual purpose or intent” is irrelevant.

This the 26th day of March, 2026.


CATHERINE M. SALINAS
UNITED STATES MAGISTRATE JUDGE