

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-11164
Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

BRETT REICHOLD,

a.k.a. Brett Michael Reichold,

Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 8:24-cr-00294-SDM-AAS-1

Before ROSENBAUM, JILL PRYOR, and GRANT, Circuit Judges.

PER CURIAM:

Appellant Brett Reichold pleaded guilty to coercing and enticing a minor to engage in sexual activity, producing child pornography, and possessing child pornography. For these crimes, he received a total sentence of 292 months' imprisonment followed by a 15-year term of supervised release. On appeal, he challenges the substantive reasonableness of his sentence. After careful consideration, we affirm.

I.

The criminal charges in this case arose from Reichold's communications with minors between the ages of 14 and 17. In these communications, he requested and received sexually explicit images and videos of the minors.

Over approximately nine months, Reichold communicated with Victim One, who was 16 years old. He communicated with her by using Snapchat, a social media application, and sending her text messages. He provided Victim One with money, alcohol, and marijuana. In exchange, she sent him images and videos in which she engaged in sexually explicit conduct. For example, Victim One sent Reichold a video in which she touched her exposed genitals, and he sent her ten dollars via Cash App the same day. He regularly sent Victim One small amounts of money, between ten and twenty dollars, through Cash App, over several months. Through these transactions, he sent her more than \$1,000 in total.

Reichold also offered Victim One money in exchange for sex. They met in person, and he paid her between \$600 and \$800. But she ran away before engaging in any sexual activity.

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For more than a year, Reichold also communicated with Victim Two, who was 15 years old, over Snapchat and text messages. He provided her money, alcohol, and marijuana in exchange for images and videos of her engaging in sexually explicit conduct. He delivered items to Victim Two's home four or five times. In one video sent over Snapchat, Victim Two touched her breasts and genitals while nude. As with Victim One, Reichold tried to persuade Victim Two to engage in sexual activity with him. For example, he offered her a vape if she would allow him to touch her breasts.

Reichold communicated with approximately ten other minor girls, offering to give them money, alcohol, and marijuana in exchange for images and videos of sexually explicit conduct. Reichold told some of the victims that he was a high school student in Tampa; in fact, he was an adult over 30 years old. He and all the victims lived in the Middle District of Florida. When law enforcement officers searched Reichold's Snapchat account and cellphone, they recovered approximately 244 images and 65 videos of eight minor girls. Reichold admitted that these images and videos depicted minors engaged in sexual acts or displaying their genitals in a lewd and lascivious manner.

Reichold was charged in federal court with two counts of coercing and enticing a minor to engage in sexual activity, two counts of production of child pornography, and one count of possession of child pornography. He pleaded guilty to all counts.

Before Reichold's sentencing, a probation officer prepared a presentence investigation report ("PSR"). Besides describing the facts of Reichold's criminal conduct, it described his personal characteristics. He had earned a high school diploma, served in the Civil Air Patrol, and worked at a grocery store. During his childhood, Reichold was physically abused by his father and sporadically experienced suicidal ideation. When he was eight years old, he began drinking alcohol. As an adult, he drank heavily. Reichold reported that he was sexually assaulted twice as an adult. Before his arrest, he never sought mental health treatment for his childhood trauma or history of sexual abuse because he did not want to risk losing his right to carry firearms.

The PSR addressed Reichold's guidelines range. It applied various enhancements including an enhancement because he had used a computer. *See* U.S. Sent'g Guidelines Manual § 2G2.1(b)(6)(B)(ii). It also applied a three-point downward adjustment for acceptance of responsibility. The PSR calculated his total offense level as 40. Because he had no criminal history, his criminal history category was I. Based on his total offense level and criminal history category, the PSR calculated Reichold's guidelines range as 292 to 365 months' imprisonment. It also reported that he faced a statutory maximum sentence of life on the two counts of coercing and enticing a minor to engage in sexual activity. *See* 18 U.S.C. § 2422(b).

At the sentencing hearing, the district court adopted the PSR's guidelines calculation. The court then asked the parties to address the sentencing factors in 18 U.S.C. § 3553(a).¹

The government asked the court to impose a sentence within the applicable guidelines range. It pointed to the seriousness of Reichold's conduct. His conduct included messaging underage girls online and sending them money and other items of value in exchange for sexually explicit images and videos. The government emphasized the scope of his conduct, noting that he possessed hundreds of images and dozens of videos from at least eight victims. In addition, he engaged in further serious criminal conduct when he met in person with some of the victims to try to have sex with them. The government acknowledged that Reichold had accepted responsibility early in the criminal case and had no criminal history. But it argued that the "egregious facts" of the case warranted a sentence within, not below, the applicable guidelines range. Doc. 66

¹ Under § 3553(a), a district court is required to impose a sentence that is "sufficient, but not greater than necessary, to comply with the purposes" of the statute. 18 U.S.C. § 3553(a). These purposes include the need to: reflect the seriousness of the offense; promote respect for the law; provide just punishment; deter criminal conduct; protect the public from the defendant's future criminal conduct; and effectively provide the defendant with educational or vocational training, medical care, or other correctional treatment. *Id.* § 3553(a)(2). The court must also consider the nature and circumstances of the offense, the history and characteristics of the defendant, the kinds of sentences available, the applicable guidelines range, the pertinent policy statements of the Sentencing Commission, the need to avoid unwarranted sentencing disparities, and the need to provide restitution to victims. *Id.* § 3553(a)(1), (3)–(7).

at 11.² The government also noted that the father of one victim submitted an impact statement describing how Reichold had robbed the victims of “their youth, their innocence[,] and their healthy relationships.” *Id.* The mother of another victim asked the court to impose a life sentence.

Reichold requested that the court impose a sentence below the applicable guidelines range. He argued that a downward variance was appropriate because he had remorse, accepted responsibility, and “did not force a trial where any of these victims would have had to testify in open court.” *Id.* at 6. He also asked the court to consider his lack of criminal history and his mental health. In addition, Reichold’s friends and family wrote letters to the court on his behalf.

In requesting a downward variance, Reichold also pointed out that he had received an enhancement for using a computer to commit the offenses. *See* U.S.S.G. § 2G2.1(b)(6)(B)(ii). He argued that there was “widespread recognition” that this enhancement was “outdated and redundant” in the “modern digital age” when “virtually all cases” involved the use of a computer. Doc. 49 at 20. He urged the court to grant a downward variance “to mitigate the excessive impact of this enhancement.” *Id.*

After hearing from the parties and considering the § 3553(a) factors, the district court imposed a total sentence of 292 months’ imprisonment followed by a 15-year term of supervised release.

² “Doc.” numbers refer to the district court’s docket entries.

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The court stated that it had considered the nature of the offense, noting that Reichold's crimes involved "someone in their 30s engaging in predatory activity—sexual activity directed towards teenagers." Doc. 66 at 13. The court also discussed Reichold's history and characteristics, acknowledging that he had "some difficulties and troubles and setbacks" in his life and that he had the support of his family. *Id.* at 14. It indicated that it also considered the need to promote respect for the law, the need to protect the community, the need to avoid unwarranted sentencing disparities, and the need for deterrence.

This is Reichold's appeal.

II.

We review the substantive reasonableness of a sentence under a deferential abuse-of-discretion standard. *Gall v. United States*, 552 U.S. 38, 51 (2007).

III.

On appeal, Reichold challenges the substantive reasonableness of his sentence. We will vacate a sentence as substantively unreasonable "only if[] we are left with the definite and firm conviction that the district court committed a clear error of judgment in weighing the § 3553(a) factors by arriving at a sentence that lies outside the range of reasonable sentences dictated by the facts of the case." *United States v. Irely*, 612 F.3d 1160, 1190 (11th Cir. 2010) (en banc) (citation modified). Importantly, "the weight given to any specific § 3553(a) factor is committed to the sound discretion of the district court." *United States v. Croteau*, 819 F.3d 1293, 1310 (11th Cir.

2016). Although there is no presumption of reasonableness, “[w]e ordinarily expect that a sentence falling within the guideline range will be reasonable, and a sentence imposed well below the statutory maximum penalty indicates reasonableness.” *United States v. Woodson*, 30 F.4th 1295, 1308 (11th Cir. 2022) (citation modified). The party challenging the sentence bears the burden of showing that it is substantively unreasonable. *United States v. Boone*, 97 F.4th 1331, 1338–39 (11th Cir. 2024).

Reichold argues that his sentence, which was at the bottom of the applicable guidelines range, was unreasonable. He says that the district court should have granted his request for a downward variance.

We conclude that the district court had the discretion to weigh the § 3553(a) factors as it did and impose a sentence within the guidelines range. Reichold’s criminal conduct was serious. He communicated with underage girls online and persuaded at least eight of them to send him sexually explicit images and videos. And his actions extended beyond communicating with the minors from afar and receiving images with them. He met at least one of the victims in person and offered her several hundred dollars to engage in sexual activity with him.

On appeal, Reichold argues that the district court should have given less weight to the seriousness of the offense and greater weight to other § 3553(a) factors. He points out that he lacked a criminal history, accepted responsibility for his crimes, felt remorse for his conduct, avoided a trial by pleading guilty and thereby saved

judicial resources, and maintained his sobriety since his arrest.³ He says that the district court also should have granted a downward variance given the “obsolescence and redundancy” of the sentencing enhancement for using a computer. Appellant’s Br. 7.

Certainly, these considerations potentially could have supported a shorter sentence. But it was up to the district court to decide how to weigh the various § 3553(a) factors. *See Croteau*, 819 F.3d at 1310. And we see no abuse of discretion in how it weighed the factors. In addition, Reichold’s sentence was within the applicable advisory guidelines range and well below the statutory maximum of life that he faced, which further supports the conclusion that the sentence was reasonable. *See Woodson*, 30 F.4th at 1308. Given the record in this case, we are not left with a definite and firm conviction that the district court committed a clear error of judgment when it imposed a 292-month total sentence. Accordingly, we affirm.

AFFIRMED.

³ For the first time on appeal, Reichold argues that his sentence created an unwarranted sentencing disparity. One of the relevant § 3553(a) factors is the “need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct.” 18 U.S.C. § 3553(a)(6). We have recognized that “[a] well-founded claim of disparity” requires that “apples are being compared to apples.” *United States v. Docampo*, 573 F.3d 1091, 1101 (11th Cir. 2009) (citation modified). Although Reichold makes a blanket assertion that his sentence created an unwarranted disparity, he does not identify any comparator. Given the total absence of any comparator evidence, Reichold has not shown that his sentence created an unwarranted sentencing disparity.