

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-11441
Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CHRISTOPHER DAVID CLARK,

Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 8:24-cr-00441-JSM-NHA-1

No. 25-11466
Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CHRISTOPHER DAVID CLARK,

Defendant-Appellant.

Appeal from the United States District Court
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D.C. Docket No. 8:24-cr-00441-JSM-NHA-1

Before NEWSOM, BRASHER, and ABUDU, Circuit Judges.

PER CURIAM:

Christopher David Clark appeals the restitution component of his sentence, which the district court imposed following his convictions for child pornography offenses, under 18 U.S.C. § 2252(a)(2), (a)(4)(B), (b)(1), & (b)(2). Clark raises two issues on appeal, but he concedes that each are foreclosed by binding precedent. After careful review, we affirm.

Under our prior panel precedent rule, we are bound to follow our own prior binding precedent until it is overruled by the Supreme Court or this Court sitting *en banc*. *United States v. White*, 837 F.3d 1225, 1228 (11th Cir. 2016); *United States v. Lee*, 886 F.3d 1161, 1163 n.3 (11th Cir. 2018). “To constitute an ‘overruling’ for the purposes of this prior panel precedent rule, the Supreme Court decision ‘must be clearly on point.’” *United States v. Kaley*, 579 F.3d 1246, 1255 (11th Cir. 2009) (quoting *Garrett v. Univ. of Ala. at Birmingham Bd. of Trs.*, 344 F.3d 1288, 1292 (11th Cir. 2003)). “Even if the reasoning of an intervening high court decision is at odds with

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a prior appellate court decision, that does not provide the appellate court with a basis for departing from its prior decision.” *United States v. Vega-Castillo*, 540 F.3d 1235, 1237 (11th Cir. 2008).

Clark’s first argument is that the district court’s imposition of restitution was based on judicial factfinding, rather than jury factfinding, and that this procedure violated his Fifth and Sixth Amendment rights. He concedes that this argument is foreclosed by *United States v. Kluge*, 147 F.4th 1291, 1301–03 (11th Cir. 2025). His concession is correct. In *Kluge*, we held that restitution orders under 18 U.S.C. § 2259 are not criminal penalties and rejected a similar argument based on the Supreme Court’s Fifth and Sixth Amendment jurisprudence. *Kluge*, 147 F.4th at 1301–03. Thus, under our prior precedent rule, we are bound to apply *Kluge*, reject Clark’s first argument, and affirm on this issue. *White*, 837 F.3d at 1228; *Lee*, 886 F.3d at 1163 n.3.¹

Clark’s second argument is that the district court’s imposition of \$14,500.00 in restitution was grossly disproportionate to the gravity of his offenses and, therefore, violated the Eighth Amendment’s prohibition against excessive fines. He concedes that our decision in *United States v. Sotelo*, 130 F.4th 1229, 1250 n.9 (11th Cir.

¹ In his reply brief, Clark asserts that *Kluge* may be inconsistent with the Supreme Court’s recent decision in *Ellingburg v. United States*, 146 S. Ct. 564 (2026). However, “[e]ven if the reasoning of *Ellingburg* ‘is at odds with’ *Kluge*, ‘that does not [us] with a basis for departing from’ *Kluge*, *Vega-Castillo*, 540 F.3d at 1237, because *Ellingburg* addressed a different question than *Kluge* did, see *Kaley*, 579 F.3d at 1255.

2025), forecloses this issue.² In *Sotelo*, we held that the \$3,000 mandatory minimum restitution sum in 18 U.S.C. § 2259(b)(2)(B) was not grossly disproportionate to the gravity of possessing child pornography. *Id.* at 1250 n.9. Accordingly, Clark’s concession on this point is also proper, and we must affirm on this issue as well.

For the reasons we have explained, our prior precedents foreclose Clark’s arguments on appeal. Accordingly, we affirm.

AFFIRMED.

² As a technical matter, we reviewed this issue only for plain error in *Sotelo*. See 130 F.4th at 1250 n.9. Nonetheless, Clark is correct that the language of the *Sotelo* opinion directly forecloses his challenge. See *id.* (“[I]n any event, a \$3,000 minimum amount for restitution is not grossly disproportionate to the gravity of possessing child pornography.”).