

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-11896
Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JUSTIN RYAN CULMO,

a.k.a. Avalanche,

a.k.a. TheRealAvalanche,

Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 8:23-cr-00385-VMC-CPT-1

Before JORDAN, ROSENBAUM, and GRANT, Circuit Judges.

PER CURIAM:

Justin Culmo pled guilty to three counts of production of child pornography, one count of distribution of child pornography, one count of possession of child pornography, and one count of production of child pornography that is an adapted or modified depiction of a minor. *See* 18 U.S.C. §§ 2251(a), (e); 2252(a)(2), (b)(1); 2252(a)(4)(B), (b)(2); 2252A(a)(7). He contends that the 75-year sentence imposed by the district court was substantively unreasonable.

For the reasons which follow, we affirm Mr. Culmo’s sentence.

I

When reviewing for substantive reasonableness, we consider the totality of the circumstances under a deferential abuse-of discretion standard. *See Gall v. United States*, 552 U.S. 38, 51 (2007). Mr. Culmo, as the party challenging the sentence, bears the burden of establishing that it is unreasonable based on the facts of the case and the 18 U.S.C. § 3553(a) factors. *See United States v. Tome*, 611 F.3d 1371, 1378 (11th Cir. 2010).

We will vacate a lower court’s sentence 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 to arrive at an unreasonable sentence based on the facts of the case.” *United States v. Boone*, 97 F.4th 1331, 1339 (11th Cir. 2024) (citing *United States v. Irey*, 612 F.3d 1160, 1190 (11th Cir. 2010) (en banc)). “A district court’s sentence need not be the most appropri-

ate one, it need only be a reasonable one.” *United States v. Castaneda*, 997 F.3d 1318, 1331 (11th Cir. 2021) (quoting *Irey*, 612 F.3d at 1191). Even if we find a different sentence was appropriate, that “is insufficient to justify reversal of the district court.” *Gall*, 552 U.S. at 51. Indeed, “it is only the rare sentence that will be substantively unreasonable.” *United States v. Dixon*, 901 F.3d 1322, 1351 (11th Cir. 2018) (quoting *United States v. Rosales-Bruno*, 789 F.3d 1249, 1256 (11th Cir. 2015)).

“A district court abuses its discretion when it (1) fails to afford consideration to relevant factors that were due significant weight, (2) gives significant weight to an improper or irrelevant factor, or (3) commits a clear error of judgment in considering the proper factors.” *Irey*, 612 F.3d at 1189 (quoting *United States v. Campa*, 459 F.3d 1121, 1174 (11th Cir. 2006) (en banc) (Birch, J., dissenting)). The relevant factors set out in § 3553(a) include (1) the nature and circumstances of the offense and history and characteristics of the defendant; (2) the need for the sentence to reflect the seriousness of the offense, to promote respect for the law, to provide just punishment, to afford adequate deterrence, to protect the public, and to provide the defendant with needed care and treatment; (3) the kinds of sentences available; (4) the guideline range; (5) any policy statements; (6) the need to avoid unwarranted sentence disparities; and (7) the need to provide restitution to victims.

Although the sentencing court is required to consider all relevant § 3553(a) factors, “the weight given to each factor is committed to the sound discretion of the district court,” and the court may

attach great weight to one factor over the others. *See United States v. Butler*, 39 F.4th 1349, 1355 (11th Cir. 2022). “A district court’s failure to discuss mitigating evidence does not indicate that the court erroneously ignored or failed to consider the evidence.” *Id.* at 1356 (quotation omitted).

II

A

For over a decade, Mr. Culmo—who was 40 years old at the time of sentencing—uploaded hundreds of child sexual abuse material in several ongoing “series” on the dark web. *See* PSIR at ¶¶ 14–15. He produced a lot of the child pornography by recording himself raping or molesting babies, toddlers, and young children or by using hidden “spy cams” in his bathroom to record his own children or the children of others visiting his house. *See id.* at ¶¶ 14–17, 22–24. He also spoke with other pedophiles detailing the sexual gratification he obtained from sexually abusing children and told stories about almost being caught while sexually abusing children. *See id.* at ¶¶ 20–21.

A forensic review of Mr. Culmo’s electronic devices revealed additional child sexual abuse material that was not distributed online. This material included videos recorded from a spy camera in the bathroom adjacent to his daughter’s bedroom. *See id.* at ¶¶ 22–23.

Mr. Culmo also used artificial intelligence to produce thousands of images of child pornography with the intent to distribute.

See id. at ¶¶ 29–30. At the time of his arrest, he possessed approximately 85,000 images, 800 videos, and 8,500 AI-generated images depicting child sexual abuse. *See id.* at ¶ 32.

According to the PSIR, the advisory Sentencing Guidelines called for a life sentence for Mr. Culmo (based on an offense level of 43 and a criminal history category of I). *See id.* at ¶ 137. But because the statutorily authorized maximum sentences (15-30 years for Counts 1, 3, and 4, 5 to 20 years for Count 2, up to 20 years for Count 5, and up to 15 years for Count 6) were less than the minimum guideline range, the guideline term became the combined statutory maximum for the Counts of conviction, i.e., 1,740 months’ imprisonment. *See id.* No one objected to the PSIR’s calculations.

The government filed victim impact statements describing the emotional trauma Mr. Culmo had caused victims and their families. Parents described their lives split “[i]nto before and after,” feeling unsafe with new people and environments, and feeling guilty for not being able to protect their children. *See* D.E. 102 at 12–13. Some noticed a drastic change in their child’s demeanor, saying that “the lights in their eyes have dimmed,” that “[t]hey wake up in the night crying,” and they “ask questions no child should ever have to ask.” *Id.* at 16. Parents said Mr. Culmo’s crime produced a heavy financial burden for the victims, as the costs of therapy, medical treatment, and missed work have reached thousands of dollars for individual families. *See id.* at 17, 31. The last two statements were from victims. *See id.* at 37–39. One victim

said she tried to change everything about her appearance so nothing he liked about her remained. *See id.* at 37. She explained that she was just a kid and that Mr. Culmo’s actions made her distrust others. *See id.* at 37–38. Another victim said she suspected she was a victim, but it felt real when she spoke to the detective. *See id.* at 38. She watched her family lose a spark that would never come back. *See id.* at 39.

Mr. Culmo filed a sentencing memorandum requesting a downward variance from the guideline range. *See generally* D.E. 88. He pointed to mitigating information and evidence in the record supporting his request. For example, he (1) had a father who was abusive to his mother; (2) was diagnosed with ADHD and obstinate defiant behavior as a child; (3) was on the autism spectrum; (4) was in an “average risk” category to reoffend; (5) spent time in a residential mental health facility while growing up; (6) graduated with a bachelor’s degree in mechanical engineering but suffered from anxiety and depression; (7) pled guilty and thereby saved the victims the trauma of testifying; and (8) tried to cooperate with the government through a proffer session.

B

Mr. Culmo argues that his sentence was substantively unreasonable because the district court focused “single-mindedly” on his offense conduct, thus effectively ignoring some mitigating factors and unreasonably weighing others. We reject his argument.

The district court explained at sentencing that it had reviewed Mr. Culmo's memorandum. *See* D.E. 102 at 4. The government ultimately advocated for a sentence of 100 years or more. Mr. Culmo requested a sentence of 30 years. *See id.* at 67, 72, 73.

At the sentencing hearing, the district court commented that there were aggravating factors that made the crimes "excruciatingly evil," like producing child pornography by abusing his own children and his friends' and neighbors' children. *See id.* at 44-45. It viewed Mr. Culmo's abuse of his stepdaughter "the most heart-breaking" because his then-wife trusted him to be a good father for her daughter. *See id.* at 45.

After hearing from the parties, the district court said it had reviewed the PSIR and sentenced Mr. Culmo to 900 months' imprisonment, consisting of concurrent 360-month terms on Counts 1, 3, and 4, a consecutive 240-month term on Count 2, a consecutive 120-month term on Count 5, and a consecutive 180-month term on Count 6, followed by a total supervised release term of life. *See id.* at 74-75. In imposing the sentence, the court stated it had considered all the factors raised and found that the 900-month sentence and lifetime of supervised release was the appropriate balance given its concerns while providing Mr. Culmo sufficient credit for his attempted cooperation. *See id.* at 75, 81. The court said it had considered the Guidelines and all the 18 U.S.C. § 3553(a) factors and found the sentence sufficient but not greater than necessary to comply with the statutory purposes of sentencing. *See id.* at 81. It

stated that it would have imposed a life sentence if it could but also tried to be fair because Mr. Culmo had pled guilty. *See id.*

Mr. Culmo was involved in the production (and not merely the possession) of child pornography for a long period of time. We have upheld lengthy sentences in cases involving the production of child pornography. *See, e.g., United States v. Sarras*, 575 F.3d 1191, 1196, 1220–21 (11th Cir. 2009) (affirming 100-year sentence for defendant who (1) persuaded his minor stepdaughter to engage in sexually explicit conduct for the purpose of producing photos of such conduct, and (2) possessed child pornography); *United States v. Johnson*, 451 F.3d 1239, 1240–41, 1244 (11th Cir. 2006) (affirming 140-year sentence for defendant who abused and photographed three boys aged 8-16). We see no abuse of discretion by the district court here given Mr. Culmo’s conduct and the time span involved.

In addition, a sentence like this one, imposed “well below the statutory maximum penalty,” is an indicator of reasonableness. *See United States v. Dougherty*, 754 F.3d 1353, 1362 (11th Cir. 2014). Though we do not automatically presume that a sentence within the guidelines range is reasonable, “we ordinarily . . . expect a sentence within the [Sentencing] Guidelines range to be reasonable.” *United States v. Hunt*, 526 F.3d 739, 746 (11th Cir. 2008) (quotation marks omitted) (ellipsis in original). That is the case here. The district court varied downward from the advisory range produced by application of the Sentencing Guidelines, and on this record its decision to not vary more was a proper exercise of its discretion.

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Opinion of the Court

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III

We affirm Mr. Culmo's sentence.

AFFIRMED.