NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted December 19, 2024*
Decided January 10, 2025

Before

DIANE S. SYKES, *Chief Judge*

DAVID F. HAMILTON, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

No. 23-1664

UNITED STATES OF AMERICA, *Plaintiff-Appellee*,	Appeal from the United States District Court for the Central District of Illinois.
v.	No. 15-CR-20014-001
SHAWN A. SHANNON, *Defendant-Appellant*.	James E. Shadid, *Judge*.

O R D E R

Shawn Shannon, a federal prisoner, was convicted of 19 counts of sexual exploitation of a child and 1 count of distributing child pornography. *See* 18 U.S.C. §§ 2251(a), (e), 2252A(a)(2)(A), (b)(1). After a remand and resentencing, Shannon filed a notice of appeal, but his appointed lawyer argues that the appeal is frivolous and seeks

* This appeal is successive to case no. 21-1108 and is decided under Operating Procedure 6(b) by the same panel.

to withdraw under *Anders v. California*, 386 U.S. 738, 744 (1967). We grant the motion and dismiss the appeal.

The case against Shannon began when police received a tip from a woman that Shannon was coercing her minor son to pose in sexually explicit photographs and engage in sex acts. The police arrested Shannon after they seized his computer and cell phone, finding multiple images depicting sex acts with that minor and pornographic images and text conversations with other minors. In 2016, a jury found Shannon guilty, and he was sentenced to 60 years in prison and a lifetime of supervised release. Shannon challenged his conviction and sentence in a motion under 28 U.S.C. § 2255. Exercising our supervisory authority in light of some ex parte emails to the sentencing judge, we vacated the sentence and remanded for resentencing before a different district judge. *See Shannon v. United States*, 39 F.4th 868, 888 (7th Cir. 2022).

Before resentencing, the probation officer prepared a presentence report. The officer calculated a guidelines range of life in prison (based on a total offense level of 43 and a criminal history category of I). Under Shannon's statutes of conviction, however, he faced a time-limited prison term: 30 years maximum for each of his 19 convictions for sexual exploitation, 18 U.S.C. § 2251(a), (e), and 20 years maximum for his distribution conviction, *id.* § 2252A(a)(2)(A), (b)(1). By applying the maximum statutory term of each count consecutively, the officer recommended a prison term of 590 years, which was as close as possible to life in prison. *See* U.S.S.G. § 5G1.2(d) (directing sentencing court to impose consecutive sentences "only to the extent necessary to produce a combined sentence equal to the total punishment.").

Shannon did not object to that calculation, but he asked the court for a below-guidelines sentence of 15 years in prison, the mandatory minimum under § 2251. He argued that the recommendation of 590 years overstated the seriousness of his offenses and that a sentence above 15 years would not comport with the rehabilitative goals of sentencing. The government asked for 60 years, the same sentence imposed by the first district judge. After balancing the mitigating and aggravating factors, the court sentenced Shannon, then 46 years old, to a 60-year prison term and a lifetime of supervised release. It concluded that "no reason" justified anything other than the 60-year sentence Shannon had previously received. This appeal followed.

Counsel's *Anders* submission explains the nature of the case and addresses potential issues that an appeal of this kind might be expected to involve. Because counsel's analysis appears sufficient, we limit our review to the subjects that she

examines and that Shannon raises in his response under Circuit Rule 51(b) to counsel's motion. *See United States v. Bey*, 748 F.3d 774, 776 (7th Cir. 2014).

Counsel begins by correctly observing that, because this is an appeal from resentencing, Shannon has no basis for challenging decisions that arose before his resentencing, such as his conviction. *See United States v. Swanson*, 483 F.3d 509, 514–15 (7th Cir. 2007). The law-of-the-case doctrine prohibits a party from raising such challenges during a successive appeal unless "justified by intervening authority, new and previously undiscoverable evidence, or other changed circumstances." *United States v. Sumner*, 325 F.3d 884, 891 (7th Cir. 2003). But Shannon could have challenged his conviction, or the rulings preceding it, during his initial appeal. *See United States v. Whitlow*, 740 F.3d 433, 438 (7th Cir. 2014). And no intervening authority, new evidence, or changed circumstances allow him to raise any such challenges now. *See Sumner*, 325 F.3d at 891–92.

Shannon replies that he seeks to challenge the effectiveness of his trial counsel. But this issue is best left for collateral review, because "[u]nless the issue was raised and a full record developed in the trial court, an appellate court cannot determine on direct appeal whether counsel's assistance was ineffective." *United States v. Cates*, 950 F.3d 453, 457 (7th Cir. 2020); *see also Massaro v. United States*, 538 U.S. 500, 504–05 (2003).

Counsel next addresses and properly rejects potential sentencing arguments, beginning with possible procedural errors. Counsel considers whether the court rightly adopted the guidelines range of 590 years in prison. Because Shannon did not object to that calculation, we would review the court's acceptance of it for plain error. *See United States v. Thomas*, 897 F.3d 807, 816 (7th Cir. 2018).

Shannon cannot plausibly contend that plain error occurred. His total offense level was calculated by taking the greatest adjusted offense level of 42 from his § 2251 offenses, U.S.S.G. §§ 2G2.1(a), (b)(1)(B), (b)(2)(A), (b)(3), (b)(5), 3C1.1, adding a 5-level increase to the combined offense level, *id.* §§ 3D1.2(d), 3D1.4, and a 5-level increase for engaging in a pattern of sexually abusing minors, *id.* § 4B1.5(b)(1). Because Shannon's total offense level of 52 exceeded 43, the top level of the Sentencing Table, the offense level was treated as 43. *Id.* § 5A. Shannon did not incur any criminal history points, thus establishing a criminal history category of I. *Id.* A total offense level of 43 and a criminal history category of I yielded a recommendation of life (which was then capped at 590 years to account for the statutory maximums). Shannon does not identify any plausible argument of plain error in these computations, and we see none.

Counsel also correctly assesses that it would be frivolous to challenge the substantive reasonableness of Shannon's prison term of 60 years relative to the guidelines recommendation of life, capped at 590 years. First, the 60-year term is not greater than the guidelines range of life because "the length of a prisoner's life can't be determined at the time of sentencing." *United States v. McMillian*, 777 F.3d 444, 446 (7th Cir. 2015). Second, the term is also far below the cap of 590 years that the district court reasonably applied using the statutory maximums for each count. Third, even if we assume that, at 46 years old, Shannon effectively faces life in prison with a 60-year term, that term is still no greater than a life term. A prison term that does not exceed a properly calculated guidelines range is presumptively reasonable. *See United States v. Oregon*, 58 F.4th 298, 302 (7th Cir. 2023). And here Shannon could not plausibly rebut that presumption: The district judge reasonably weighed the sentencing factors under 18 U.S.C. § 3553(a) by permissibly balancing the mitigating factors (family support, education, consistent employment, no criminal history) against the troubling aggravating factors (seriousness of the offenses, exploitation of power, lack of remorse, likely recidivism) to arrive at 60 years. *See Oregon*, 58 F.4th at 302–03.

We thus GRANT counsel's motion and DISMISS the appeal.