NONPRECEDENTIAL DISPOSITION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

Argued February 4, 2025
Decided February 20, 2025

Before

DIANE S. SYKES, *Chief Judge*

FRANK H. EASTERBROOK, *Circuit Judge*

DORIS L. PRYOR, *Circuit Judge*

No. 24-1278

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

MARQUESE CANNON,
Defendant-Appellant.

Appeal from the United States District Court for the Northern District of Illinois, Western Division.

No. 3:22-CR-50030(1)

Iain D. Johnston,
Judge.

O R D E R

Marquese Cannon pleaded guilty to producing child pornography in violation of 18 U.S.C. § 2251(a).The district judge sentenced him to a prison term of 300 months, and a lifetime of supervised release. On appeal, Cannon challenges the supervised release term contending that the district judge believed such a term needed to be mandatory. Because the sentencing transcript—when read as a whole—demonstrates that the district court properly understood the applicable statutory penalties, we affirm.

From February to April 2022, Cannon used social media to convince a twelve-year-old girl to send him images and videos of herself engaging in sexual conduct. On his cellphone, he also possessed over 160 images and 238 videos of child pornography.

Cannon eventually pleaded guilty, on October 5, 2023, to production of child pornography, in violation of 18 U.S.C. § 2251(a). In his plea agreement, he also stipulated to conduct constituting possession of child pornography. *See* § 2252A(a)(5). At the change-of-plea hearing, the judge informed Cannon that at minimum his supervised release term would be five years, and the maximum would be life.

A probation officer prepared a presentence investigation report and calculated Cannon's guidelines range of imprisonment at 324–405 months (based on a total offense level of 41 and criminal history category of I), which the officer then reduced to 324–360 months because of the 30-year statutory maximum. *See* U.S.S.G. Ch. 5, Pt. A; § 5G1.1(c)(1); 18 U.S.C. § 2251(e). The probation officer also calculated Cannon's term of supervised release at five years to life, *see* 18 U.S.C. § 3583(k); U.S.S.G. § 5D1.2(b)(2), (c), though the officer highlighted the policy statement in § 5D1.2(b) recommending that the maximum lifetime term of supervised release be imposed in sex offense cases (like Cannon's).

At sentencing, the government advocated for a within-guidelines sentence and a lifetime term of supervised release. Cannon objected to the application of the five-level increase for a pattern of prohibited sexual conduct, *see* U.S.S.G. § 4B1.5(b)(1), and the application of the two-level increase for sexual contact with a minor, *see* U.S.S.G. § 2G2.1(b)(2)(A). He also sought the statutory minimum prison term of 15 years, pointing to his history of mental health issues and young age.

The district judge overruled Cannon's objections and sentenced him to a below guideline sentence of 300 months' imprisonment. The district judge explained the sentence with reference to the factors under 18 U.S.C. § 3553(a), emphasizing the serious nature of production and possession of child pornography; Cannon's "horrific upbringing" as a victim of child sexual abuse; his lack of treatment for his mental health issues; his willingness to stop his abuse only when caught; his targeting and grooming of a "vulnerable person"; and his efforts at rehabilitation while detained in jail. The judge also imposed forfeiture of Cannon's cellphone, a $100 special assessment, and restitution in the amount of $34,000.

The judge next addressed supervised release. He stated, "[a]s to a term of supervised release, it has got to be life. So the term of supervised release will be life." The district judge then asked Cannon's counsel if there were any procedural errors. Defense counsel responded by asking the judge to further address Cannon's arguments that age and mental health were mitigating factors. The judge did so, and after addressing some other administrative matters, he asked Cannon's counsel if there was "[a]nything else." Counsel responded "no."

Cannon now appeals, arguing that the district judge's comment that the term of supervised release "has got to be life" reflects an erroneous belief that a lifetime term of supervised release was mandatory. Cannon contends that the judge committed plain error by failing to recognize the court's discretion to impose a lower term of supervised release.

We begin by mentioning the parties' disagreement over the standard of review. Cannon argues that he merely forfeited the argument because he accidentally failed to object to the error, and that this Court's review should be for plain error. The government counters that Cannon waived his challenge because he deliberately chose not to object to the term of supervised release. But both parties are mistaken. Cannon did not have to object to preserve de novo review of his challenge to the district judge's rationale for its imposition of a lifetime of supervised release. *See United States v. Wilcher*, 91 F.4th 864, 870 (7th Cir. 2024); *United States v. Williams*, 106 F.4th 639, 655 (7th Cir. 2024); *United States v. Martin*, 122 F.4th 286, 289–90 (7th Cir. 2024) (discussing FED. R. CRIM. P. 51(a)).

Having taken our own fresh and independent look at the sentencing proceeding in the district court—as de novo review requires us to do—we find no error. From the context of the sentencing hearing, it is clear that the district judge made his "has got to be life" ruling in reference to the § 3553(a) factors. The judge explained that a lifetime of supervised release was justified by the need to provide Cannon with continued sex offender treatment and deter him from committing further sex crimes; the need for rehabilitation, given that Cannon stopped only after being confronted by the victim's guardian; the seriousness of the offense—grooming a minor with diminished capacity; and the incomprehensible, lasting consequences that pornography has on child victims. *See United States v. Manyfield*, 961 F.3d 993, 997 (7th Cir. 2020). Additionally, the judge seemed to acknowledge earlier in the sentencing hearing that he could impose a term less than life explaining: "Okay. We will get to the conditions of supervised release, and obviously there will be a term of supervised release because there will be a term of

incarceration, and there is a minimum as to the term of supervised release." For these reasons, we find no error.

AFFIRMED