NONPRECEDENTIAL DISPOSITION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 March 17, 2025
Decided March 17, 2025

Before

FRANK H. EASTERBROOK, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

CANDACE JACKSON-AKIWUMI, *Circuit Judge*

No. 24-1717

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

BASHIEK STOVALL,
Defendant-Appellant.

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

No. 1:21-CR-00136(1)

Joan H. Lefkow,
Judge.

O R D E R

After a jury trial, Bashiek Stovall was convicted of one count of conspiracy to commit sex trafficking of a minor, 18 U.S.C. § 1594(c); two counts of sex trafficking of a minor, 18 U.S.C. § 1591(a)(1), (b)(2), (c); and one count of transportation of child pornography, 18 U.S.C. § 2252A(a)(1). He was sentenced to 268 months' imprisonment and seven years' supervised release, and he was ordered to pay $225,600 in restitution.

Stovall has appealed, but his appointed counsel asserts that the appeal is frivolous and moves to withdraw. *See Anders v. California*, 386 U.S. 738, 744 (1967). Counsel explains the nature of the case and addresses the potential issues that an

appeal like this could involve. Because the analysis appears thorough, and Stovall has not responded to counsel's motion, *see* CIR. R. 51(b), we limit our review to the subjects that counsel raises, *United States v. Bey*, 748 F.3d 774, 776 (7th Cir. 2014). Mindful of the large number of potential issues, we grant the motion and dismiss the appeal.

Stovall and his daughter, Shawnea Mathews-Stovall, ran a sex-trafficking business in Chicago from 2018 to 2020. Stovall trafficked multiple minors including Janiyah, Lamariyae, Diamond, Janie, Charity, and Angel. The minors sent sexually explicit photos of themselves to Stovall, and he or Shawnea posted the photos online, accompanied by advertisements for sexual services. After customers contacted Stovall for "dates" with the minors, he drove them to the agreed-upon location, waited for them to complete their "dates," and collected payment based on the length of each date.

In 2022, a grand jury issued a superseding indictment. One of the sex-trafficking counts (Count 2) named Minor E (later identified as Lamariyae) as the victim, and another (Count 3) named Minor D (later identified as Janiyah). The indictment also included a forfeiture allegation under 18 U.S.C. § 1594(d)(1) and (2), for a money judgment of $225,600.

Stovall filed pretrial motions. First, he moved to dismiss Counts 1, 2, and 3 under the Due Process Clause of the Fifth Amendment. He argued that the prosecution of these counts depended on whether he had a "reasonable opportunity to observe" the victim; that standard, he thought, was vague and improper. The district court denied the motion. Stovall also moved in limine to bar use of the terms "victim" and "minor" during trial and to exclude any evidence that Stovall trafficked victims not mentioned in the indictment. The court allowed the government to use the terms "victim" and "minor" (because they did not necessarily implicate Stovall) and to offer evidence that Stovall trafficked victims unnamed in the indictment (because the government had charged conspiracy in Count 1, which applied to minors other than those named).

The jury trial came next. FBI agents testified about Stovall's interactions with the minors, the customers, and Shawnea. An agent testified that officers recovered from Stovall's residence phones that contained messages with the minors and postings to a website advertising sexual services. Messages between Stovall and the minors matched the photos or timing of the posts advertising the sexual services. Officers also recovered text messages between Stovall and persons who replied to the advertisements; they showed that Stovall sent pictures of the minors to some of these responders.

The agents also testified about how Stovall trafficked each minor. They explained that Lamariyae, who was then 16 years old, sent sexually explicit photos to Stovall, who in turn posted online advertisements for sexual services using the photos. Next, they testified that Stovall and Lamariyae discussed the "calls" that Stovall had arranged for her. Further, they recited how Stovall posted advertisements for sexual services using photos of Janiyah, who was then 16 years old, in her underwear. On several occasions, they added, Stovall and Janiyah discussed payment for calls, and she sent him more sexually explicit photos. An agent also testified about the attempted sex trafficking of Angel, who was then 12 years old. Stovall sent sexually explicit photos of Angel to Shawnea, and Shawnea replied "Nah" and that "She don't got no shape." The agent testified that the photos of Angel were taken at a room at an inn in Chicago, and Stovall was listed as a guest at the inn on the day that he sent the photos.

Next, an agent testified about Stovall's interactions with Shawnea. Stovall and Shawnea discussed posting advertisements for the victims' sexual services, and Shawnea offered to post advertisements for him. Stovall later sent photos of two different girls to Shawnea, and Stovall and Shawnea also discussed how they could make more money with two cars instead of one.

The government also called Dr. Sharon Cooper to testify as an expert in child sexual exploitation. Stovall sought to cross-examine her about a finding that she was a biased witness in a 1995 case in military court. The district court sustained the government's objection to the questioning.

Stovall objected to some proposed jury instructions. Those instructions were either amended to Stovall's satisfaction or removed, except for one instruction about criminal liability. The instruction stated that "[a]n offense may be committed by more than one person. A defendant's guilt may be established without proof that the defendant personally performed every act constituting the crime charged."

The jury found Stovall guilty on all four counts.

Stovall sought a judgment of acquittal under Rule 29 of the Federal Rules of Criminal Procedure. He argued that some victims were not minors because they had visible tattoos, and Illinois law requires that those who receive tattoos be at least 18 years old. The court denied the motion. It concluded that the jury reasonably rejected Stovall's argument about the victims' ages in light of other evidence, including their birth certificates, which it could rely on to find that the victims were minors.

Ahead of sentencing, a probation officer filed a presentence investigation report (PSR). The officer placed the offenses into three groups: Group 1 included the conspiracy (Count 1) and the sex trafficking of Lamariyae (Count 2); Group 2 included the conspiracy (Count 1) and the sex trafficking of Janiyah (Count 3); and Group 3 included the transportation of child pornography (Count 4).

Groups 1 and 2 had the same calculations. After assigning a base offense level of 30, *see* U.S.S.G. § 2G1.3(a)(2), the officer added two levels because Stovall unduly influenced a minor to engage in sex, *see id.* § 2G1.3(b)(2)(B); two levels because the offense involved the use of a computer, *see id.* § 2G1.3(b)(3)(A)–(B); two levels because the offense involved commission of a sex act, *see id.* § 2G1.3(b)(4)(A); two levels because the victims were vulnerable, *see id.* § 3A1.1(b)(1); and two levels based on Stovall's role as an organizer, leader, manager, or supervisor in the offense, *see id.* § 3B1.1(c). The resulting adjusted offense level for Group 1 and Group 2 was 40.

For Group 3, the base offense level was 22. *See id.* § 2G2.2(a)(2). The officer added two levels because Stovall distributed child pornography, *see id.* § 2G2.2(b)(3)(F); five levels because of his pattern of activity involving the sexual abuse or exploitation of a minor, *see id.* § 2G2.2(b)(5); two levels because he used a computer during the offense, *see id.* § 2G2.2(b)(6); and two levels because the offense involved at least ten images, *see id.* § 2G2.2(b)(7). The resulting offense level for Group 3 was 33. The Guideline for multiple-count adjustments yielded a final adjusted offense level of 43. *See id.* § 3D1.4.

With an offense level of 43 and a criminal history category of V (based on 10 history points), Stovall's guidelines range was life in prison. Stovall objected to several offense-level adjustments, but the court adopted the PSR's calculations and overruled Stovall's objections. After weighing the factors under 18 U.S.C. § 3553(a), it imposed 268 months in prison on Counts 1 to 3, 60 months in prison on Count 4 (all concurrent), seven concurrent years of supervised release, and $225,600 in restitution.

1. No nonfrivolous challenge to rulings on pretrial motions

a. Motion to dismiss

Counsel first considers challenges to the rulings on the pretrial motions. Counsel rightly rejects arguing that the court erred by denying Stovall's motion to dismiss the indictment. Stovall argued that 18 U.S.C. § 1591(c) was unconstitutionally vague, but all circuit courts to have reached the issue have held the opposite. *See United States v. Koech*, 992 F.3d 686, 688–91 (8th Cir. 2021); *see also United States v. Whyte*, 928 F.3d 1317, 1331

(11th Cir. 2019). We apply the same "ordinary person" standard as those courts to decide if the statute provides adequate notice, *see United States v. Cook*, 970 F.3d 866, 872 (7th Cir. 2020), and Stovall's challenge to that standard itself is foreclosed by the Supreme Court, *see, e.g.*, *Skilling v. United States*, 561 U.S. 358, 402–03 (2010).

b. Motions in limine

Counsel next considers but rightly rejects any challenge to the rulings in limine, which we would review for abuse of discretion. *See Stegall v. Saul*, 943 F.3d 1124, 1127 (7th Cir. 2019). The court reasonably ruled that the government could say "victim" and "minor" because those terms do not necessarily implicate Stovall; and it could refer to trafficked minors not named in the indictment because the conspiracy count rendered them relevant. Finally, any challenge to the decision to prevent Stovall from questioning the victims would be pointless because they did not testify, and any error would thus be harmless. *See United States v. Medrano*, 83 F.4th 1073, 1077 (7th Cir. 2023).

2. No nonfrivolous challenge to conviction

a. Sufficiency of evidence

We agree with counsel that any argument that the evidence was insufficient to convict would be frivolous. We reverse only if no rational jury could have found the defendant guilty beyond a reasonable doubt. *United States v. Johnson*, 874 F.3d 990, 998 (7th Cir. 2017). But the government introduced sufficient evidence: Shawnea and Stovall discussed money, customers, transporting the victims, and advertising their services (Count 1); Stovall posted sexually explicit photos that he received from Lamariyae and Janiyah—who he knew were minors—on a site advertising sexual services, discussed prices with customers, and transported the two victims to dates (Counts 2 and 3); and he sent sexually explicit photos of Angel—who he knew was a minor—to Shawnea (Count 4).

b. Jury instructions

Counsel next discusses a potential challenge to the jury instructions but correctly concludes that it would be pointless. Stovall withdrew his objections to all jury instructions except for one. And that instruction mirrored the pattern jury instruction on joint ventures, *see* Pattern Criminal Jury Instructions of the Seventh Circuit § 5.05 (2023), and we presume that pattern jury instructions accurately state the law,

see United States v. Freed, 921 F.3d 716, 721 (7th Cir. 2019). Counsel does not see any ground for rebutting that presumption, nor do we.

c. Confrontation Clause

Counsel tells us that Stovall proposes to argue that the government's decision not to call the victims to testify violated the Confrontation Clause, which generally bars the testimonial statements of witnesses who do not appear at trial. *United States v. Graham*, 47 F.4th 561, 566 (7th Cir. 2022) (citing *Crawford v. Washington*, 541 U.S. 36, 53–54 (2004)). But counsel correctly observes that the only statements from the victims admitted at trial were phone messages that Stovall received from them. Because those messages were not admitted for the truth of the matter asserted, they are not hearsay, *see United States v. Lewisbey*, 843 F.3d 653, 658 (7th Cir. 2016), and their admission does not implicate Stovall's confrontation right, *see Graham*, 47 F.4th at 567. Counsel thus correctly concludes that any argument to the contrary would be frivolous.

d. Cross-examination about previous finding of Dr. Cooper's bias

Counsel also considers but rightly rejects any challenge to bar cross-examination about the finding that Dr. Cooper was biased in a 1995 case. Although evidence of a witness's bias is typically relevant, *see United States v. Ozuna*, 674 F.3d 677, 682 (7th Cir. 2012), a court has "wide latitude to impose reasonable limitations on cross-examination based on concerns about harassment, prejudice, confusion of the issues or interrogation that is only marginally relevant," *United States v. Saunders*, 166 F.3d 907, 920 (7th Cir. 1999). We agree with counsel that it would be frivolous to challenge a discretionary ruling to bar cross-examination about a 30-year-old finding of bias in a different case.

e. No other nonfrivolous challenges to conviction

Counsel mentions that Stovall would like to argue that his trial attorneys were ineffective but correctly notes that any challenge to Stovall's criminal judgment based on ineffective assistance of counsel is best saved for collateral review, where a record can be fully developed. *See Massaro v. United States*, 538 U.S. 500, 503–05 (2003).

3. No nonfrivolous challenge to sentence

a. Calculation of guidelines range

Counsel next correctly concludes that the district court properly calculated the guidelines range. The court correctly calculated a base offense level of 30 and an

adjusted offense level of 40 for Groups 1 and 2. *See* U.S.S.G. § 2G1.3(a)(2). The court correctly added two levels because Stovall unduly influenced a minor to engage in sexual conduct. *See id.* § 2G1.3(b)(2)(B). The Guidelines create a rebuttable presumption that the adjustment applies if the defendant, like Stovall, was more than 10 years older than the victims, *see id.* § 2G1.3 cmt. n.3(B), and Stovall failed to rebut it. The court correctly added two levels for the use of a computer, *see id.* § 2G1.3(b)(3)(A)–(B), because Stovall used the internet to post photos and advertisements for the victims' sexual services. Further, the court properly added two levels because the offense involved the commission of a sex act. *See id.* § 2G1.3(b)(4)(A). Stovall argued that he was unable to have sex because of his health conditions. But the Guidelines do not require that Stovall needed to have sex himself, and ample evidence showed that Stovall led the victims to engage in sex. *See id.* § 2G1.3 cmt. n.1 (adopting definition of "sexual act" under 18 U.S.C. § 2246(2)). The court also correctly added two levels because Stovall knew or should have known that the victims were vulnerable based on their ages and unstable homes. *See id.* § 3A1.1(b)(1) & cmt. n.2 (defining "vulnerable victim").

Also, the court correctly added two levels for Stovall's role as an organizer, leader, manager, or supervisor in the offense. *See id.* § 3B1.1(c). Stovall had opposed the adjustment, arguing that Shawnea was not a criminally responsible participant. *See id.* § 3B1.1 cmt. n.2 (defining "participant"). But the government produced evidence that she knowingly aided the enterprise, which suffices. *See United States v. Tate*, 97 F.4th 541, 550–51 (7th Cir. 2024).

As for Group 3, counsel correctly concludes that the court accurately calculated the guidelines range. It properly calculated a base offense level of 22. *See* U.S.S.G. § 2G2.2(a)(2). It rightly added two levels for distributing child pornography because Stovall sent the images he took of Angel to Shawnea. *See id.* § 2G2.2(b)(3)(F). The court next correctly added five levels because Stovall transported minors to engage in sex on two or more separate occasions. *See id.* § 2G2.2(b)(5) & cmt. n.1. It correctly added two levels for using a computer because Stovall used his phone to send the photos of Angel to his daughter, *see id.* § 2G2.2(b)(6), and two levels because the offense involved at least ten images, *see id.* § 2G2.2(b)(7). We thus agree with counsel that any challenge to the adjusted offense level of 33 for Group 3, or to the multiple-count-adjustment Guideline, *see id.* § 3D1.4, that yielded final offense level of 43, would be frivolous.

Counsel next considers challenging the use of the criminal history category of V, but Stovall rightly received three points for each of three convictions—armed robbery in 2003, theft in 2017, and burglary in 2017. For each conviction, Stovall was (1) sentenced

to more than a year and a month in prison and (2) incarcerated within 15 years of the current offense. *See id.* §§ 4A1.1(a), 4A1.2(k)(1). The court also correctly added one more point (for a total of 10) because Stovall received seven or more criminal history points and committed the instant offense while on probation. *See id.* § 4A1.1(e).

b. Substantive reasonableness

We also agree with counsel that any challenge to the substantive reasonableness of Stovall's below-guidelines sentence would be frivolous. The district court adequately justified the 268-month prison term based on the sentencing factors in 18 U.S.C. § 3553(a). *See United States v. Cook*, 108 F.4th 574, 580 (7th Cir. 2024). The court reasonably balanced Stovall's personal history and characteristics (observing his extensive criminal history and difficult upbringing), the seriousness of the offense (noting Stovall's shocking and horrifying conduct), and mitigating factors (Stovall's age and poor health). *See* 18 U.S.C. § 3553(a). Therefore, Stovall could not overcome the presumption that his below-guidelines sentence was reasonable. *See United States v. Holder*, 94 F.4th 695, 700 (7th Cir. 2024).

c. Forfeiture allegations

Counsel next tells us that Stovall would like to argue on appeal that he was entitled to a jury trial on the forfeiture allegations in this case. As counsel points out, the district court entered a preliminary forfeiture order but did not enter a final judgment of forfeiture against Stovall or impose forfeiture at sentencing. Therefore, any argument about a final judgment of forfeiture would be frivolous.

d. Restitution

Counsel next considers but correctly rejects any challenge to Stovall's restitution order for $225,600. Restitution was mandatory, *see* 18 U.S.C. § 1593, and Stovall did not object to its imposition. Further, as counsel explains, it would be frivolous to argue that the district court abused its discretion by imposing a mandatory restitution order that relied on the government's calculations. *See United States v. Dickey*, 52 F.4th 680, 687 (7th Cir. 2022) (district courts have broad discretion in calculating restitution).

e. Supervised release

Finally, counsel considers whether Stovall could make a nonfrivolous challenge to the conditions of supervised release. Counsel correctly rejects any argument that the district court erred in imposing concurrent seven-year terms of supervised release on

each count. The court's reasons for imposing the term of imprisonment are sufficient to justify the term of supervised release. *See United States v. Bloch*, 825 F.3d 862, 869–70 (7th Cir. 2016). And counsel correctly concludes that Stovall waived any appellate challenge to the conditions of probation because he told the district court that he had no objections to them. *See United States v. Flores*, 929 F.3d 443, 449 (7th Cir. 2019).

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