

NONPRECEDENTIAL DISPOSITION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 3, 2025

Decided December 4, 2025

Before

DAVID F. HAMILTON, *Circuit Judge*

CANDACE JACKSON-AKIWUMI, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

No. 25-1831

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

ROBERT R. RODRIGUEZ,
Defendant-Appellant.

Appeal from the United States District
Court for the Southern District of
Illinois.

No. 4:23-CR-40024-SMY-1

Staci M. Yandle,
Judge.

ORDER

Robert Rodriguez was convicted by a jury of attempting to entice a minor to engage in sexual activity and soliciting an obscene visual depiction of a minor. He was sentenced to 121 months' imprisonment. Rodriguez appealed, but his appointed counsel asserts 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 of this kind could involve. Because the analysis appears

thorough, we limit our review to the subjects that counsel discusses. *See United States v. Bey*, 748 F.3d 774, 776 (7th Cir. 2014). We grant the motion and dismiss the appeal.

Background

Rodriguez was indicted for one count of attempting to entice a minor and one count of soliciting an obscene visual depiction of a minor. 18 U.S.C. §§ 2422(b), 2252A(a)(3)(B)(i). He pleaded not guilty to both counts.

The government presented the following evidence at trial. In May 2023, Rodriguez messaged a Reddit user who posted about seeking “taboo fun.” The user was an undercover FBI agent who told Rodriguez he was sexually abusing his nine-year-old stepdaughter and offered to let Rodriguez have “play time” with her. Rodriguez said that he would like to have oral and vaginal sex with the girl and asked for pictures of her. The agent sent Rodriguez a picture of a purported child wearing only a tank top and underwear. The two then arranged for Rodriguez to meet the girl the next day at a parking lot in Marion, Illinois, and to sexually abuse her in a nearby hotel. The agent asked Rodriguez to bring gummy bears for the girl. Rodriguez requested an “explicit” picture of the girl to verify that he was not being set up by law enforcement, and the agent sent back a picture he said depicted the girl, which showed the purported child’s bare chest (the agent later testified the photo did not depict an actual child). The next day, FBI agents arrested Rodriguez when he arrived at the parking lot as arranged. The agents found condoms, “male enhancement” pills, and gummy bears in his vehicle. After being read his *Miranda* warnings, Rodriguez admitted to sending the messages.

After the government rested its case, Rodriguez moved for a judgment of acquittal based on insufficiency of the evidence, which the court denied. *See* FED. R. CRIM. P. 29(a). Rodriguez testified that he believed the exchange with the Reddit user was a sexual fantasy and that he never believed a real child was involved. Following his testimony, Rodriguez renewed his motion for a judgment of acquittal, which the court again denied. Over Rodriguez’s objection, the court instructed the jury that adult-to-adult communications can constitute an attempted enticement of a minor. The court also declined to give an instruction Rodriguez proposed explaining what constitutes obscene material. The jury convicted him of both counts.

At the sentencing hearing, the district court calculated a guidelines range of 292 to 365 months’ imprisonment for the enticement count, based on an offense level of 40 and the lowest criminal history category, and an effective guideline of 240 months’

imprisonment for the solicitation count, based on the statutory maximum, *see* 18 U.S.C. § 2252A(b)(1). After considering the § 3553(a) factors and discussing two sentencing enhancements applicable to Rodriguez, the court imposed a below-guidelines sentence of 121 months' imprisonment.

Analysis

A. Sufficiency of Evidence

Counsel first considers challenging the sufficiency of the evidence to convict Rodriguez. But counsel rightly declines to argue that the evidence, viewed in the light most favorable to the verdict, would not allow a reasonable jury to convict on both charges. *See United States v. Coley*, 137 F.4th 874, 880 (7th Cir. 2025). For the attempted enticement charge, 18 U.S.C. § 2422(b), the government presented evidence that Rodriguez sent online messages expressing his desire to sexually abuse a nine-year-old girl and appeared at an agreed place to meet the girl with condoms, "male enhancement" pills, and gummy bears. *See United States v. Baird*, 70 F.4th 390, 394 (7th Cir. 2023) (deeming similar evidence sufficient to convict under § 2422(b)). For the solicitation charge, 18 U.S.C. § 2252A(a)(3)(B)(i), the government presented evidence that Rodriguez sent online messages requesting "explicit" pictures of a nine-year-old girl. It would be frivolous to argue that no reasonable jury could have convicted Rodriguez on this evidence.

B. Jury Instructions

Counsel next rightly declines to challenge the district court's rulings on two proposed jury instructions. First, counsel considers an instruction about adult-to-adult communications that the court gave over Rodriguez's objection. The government proposed an instruction explaining that § 2422(b) extends to adult-to-adult communications designed to entice a minor to engage in sexual activity. *See United States v. McMillan*, 744 F.3d 1033, 1036 (7th Cir. 2014). Because the instruction was legally accurate and the record contained adult-to-adult communications between Rodriguez and the agent, counsel correctly concludes it would be frivolous to argue the instruction misled the jury or prejudiced Rodriguez. *See United States v. McLain*, 146 F.4th 602, 614 (7th Cir. 2025).

Next, counsel considers an instruction relating to the solicitation charge that Rodriguez proposed and the court declined to give. Rodriguez proposed instructing the jury that material is obscene if the average person would find it (1) appeals to the

prurient interest, (2) depicts or describes sexual conduct in an obviously offensive way, and (3) lacks serious literary, artistic, political, or scientific value. *See Miller v. California*, 413 U.S. 15, 24 (1973). The district court reasoned that this instruction would be appropriate to help the jury evaluate material that was actually received but that it was overly specific for hypothetical material that was only solicited. The district court determined the obscenity instruction would confuse the jury, and counsel correctly concludes it would be frivolous to argue the refusal to give this instruction denied Rodriguez a fair trial. *See United States v. Morales*, 145 F.4th 792, 799 (7th Cir. 2025).

C. Sentencing

We also agree with counsel that any challenge to the substantive reasonableness of Rodriguez's sentence would be frivolous. Rodriguez was sentenced to 121 months' imprisonment, which is well below the guidelines range of 292 to 365 months. A below-guidelines sentence is subject to a nearly irrebuttable presumption of reasonableness. *United States v. Holder*, 94 F.4th 695, 700 (7th Cir. 2024). The court appropriately balanced the seriousness of the offense with Rodriguez's lack of criminal history and other aspects of his history and characteristics. *See* 18 U.S.C. § 3553(a). It would be frivolous for Rodriguez to argue that a sentence of less than half the lower end of the guidelines range was unreasonable.

D. Ineffective Assistance of Counsel

Finally, counsel correctly declines to argue that Rodriguez received ineffective assistance. That argument is best saved for collateral review, where the record can be more fully developed. *See United States v. Cates*, 950 F.3d 453, 456–57 (7th Cir. 2020) (citing *Massaro v. United States*, 538 U.S. 500, 504–05 (2003)).

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