

NONPRECEDENTIAL DISPOSITION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 September 26, 2024

Decided January 28, 2026

Before

FRANK H. EASTERBOOK, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

DORIS L. PRYOR, *Circuit Judge*

No. 23-1938

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

NATHAN R. TAUCK,
Defendant-Appellant.

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

No. 3:16-cr-50054-1

Philip G. Reinhard,
Judge.

ORDER

After he pleaded guilty to a single count of sexually exploiting children and one count of transporting child pornography, Nathan R. Tauck was sentenced by the district court to 432 months of imprisonment and a lifetime of supervised release. Tauck now appeals, arguing that the district court committed procedural error and that the sentence is substantively unreasonable. Finding no error, we affirm.

I. BACKGROUND

A. Factual Background

On November 18, 2015, after receiving a tip indicating Tauck possessed and transported child pornography, the Department of Homeland Security executed a search warrant at Tauck's residence and conducted a preliminary search of several of his electronic devices, recovering roughly 600 unique images, approximately 240 of which involved infants and toddlers, and 31 unique videos of child pornography. Not long after the search, law enforcement officials learned that Tauck had left the United States, flying to Denmark and then traveling through Europe and Asia.

In November 2016, a federal grand jury charged Tauck with one count of sexual exploitation of children in violation of 18 U.S.C. § 2251(a) and four counts of transportation of child pornography in violation of 18 U.S.C. § 2252A(a)(1). The charged material included a sexually explicit image of Tauck's four-year-old niece that Tauck photographed and transported electronically to another person in an online chat room. The district court issued a warrant for Tauck's arrest.

In February 2017, a source reported to Homeland Security that Tauck was teaching in China and distributing child pornography there. The source ("Individual A") provided messages she received from Tauck while he was in China, including an image taken from a more than eight-minute video depicting an infant being sexually assaulted to death. One message revealed a conversation wherein Tauck discussed his desire to purchase an infant or toddler from Thailand so that he could rape the child. Individual A informed Tauck of the trouble he could get into for such conduct, and he responded "just watch me do it and then we can enjoy Thailand for a week." Individual A refused, and he told her, "but someone will have sex with that baby either way. If it's me[,] I can be sure it is not hurt. I'll be gentle with it." In additional conversations, Tauck sent Individual A images of child pornography and made disturbing comments regarding brutally raping children and Individual A herself.

On December 15, 2017, Homeland Security was notified that Chinese authorities had detained Tauck and that he would remain detained for one month because his passport was expired. On February 9, 2018, the Chinese Ministry of Public Security released Tauck to the United States where he was arrested on February 10, 2018 by Homeland Security.

B. Procedural History

In November 2022, Tauck pleaded guilty to Counts One and Two of the Indictment and stipulated to the offense conduct alleged in the remaining counts. Count One charged Tauck with persuading or inducing his four-year-old niece to engage in sexually explicit conduct displaying her private area, which he captured in a photo on his iPhone, in violation of 18 U.S.C. § 2251(a). Count Two charged Tauck with transportation of child pornography, in violation of 18 U.S.C. § 2252A(a)(1).

Before sentencing, the United States Probation Office prepared a Presentence Investigation Report (“PSR”). The probation officer who prepared the PSR calculated an adjusted offense level of 39 and criminal history category II, yielding an advisory guideline range of 292 to 360 months’ imprisonment on the sexual exploitation of a child conviction (Count One) and 240 months’ imprisonment on the transportation of child pornography conviction (Count Two).¹ The PSR also explained the statutory range for Tauck’s term of supervised release was five years to life.

The district court sentenced Tauck in May 2023. At the beginning of the sentencing hearing, the district court discussed the facts of the PSR. After ruling on an objection not relevant to this appeal by Tauck’s counsel, the district court adopted the facts of the PSR.² Those facts detailed the offense conduct, including the online messages Tauck sent and descriptions of the videos and images he possessed and transported. The court also adopted the PSR’s calculation of Tauck’s advisory sentencing range and term of supervised release. Neither party objected.

The court then heard argument on the appropriate sentence. The government recommended 50 years’ (600 months’) imprisonment, and Tauck requested a sentence

¹ The PSR originally calculated a guideline imprisonment range of 292 to 365 months. Because of the 30-year mandatory maximum prison term on the 18 U.S.C. § 2251(a) sexual exploitation conviction, the effective sentencing guideline range on Count One was reduced to 292 to 360 months. *See* U.S.S.G. § 5G1.1(c)(1). Also, because 18 U.S.C. § 2252A(a)(1) transportation of child pornography carries a 20-year maximum prison term, the effective sentencing guideline range on Count Two was narrowed to 240 months. *See* U.S.S.G. § 5G1.1(a).

² Tauck objected to a single factual paragraph regarding allegations he had groomed a 13-year-old girl in the United Kingdom. The district court concluded it would not rely on that information in its sentencing decision, and Tauck does not argue the district court departed from its stated intention to exclude that information from its decision.

of 20 years (240 months). The court also reviewed exhibits and heard testimony from a Homeland Security agent who, on direct examination, testified about the messages Tauck sent about his fantasies of sexually assaulting children. With respect to Tauck's conduct in China, the agent testified to government exhibits detailing the images and video Tauck sent Individual A depicting an infant sexually assaulted to death and statements Tauck had made regarding his intent to purchase a child in Thailand. Tauck's cross-examination of the agent pointed out that there was no evidence, such as travel documents or other records, that he actually traveled to Thailand around the time he sent the messages about purchasing a child there.

After argument and confirming that it had read the parties' submissions, the district court pronounced the sentence. Applying the factors outlined in 18 U.S.C. § 3553(a), the district court first noted the aggravated nature and circumstances of Tauck's offense. The court commented on the length of Tauck's crimes which stretched over three years. Next, considering public safety and deterrence, the court stressed the importance of imposing a sentence that would deter others from committing this type of crime and would be long enough to keep children away from Tauck. Finding the need to impose a substantial sentence, the district court remarked on the fact Tauck left the United States upon the crime being discovered. Though it was not a crime for Tauck to flee the country just two weeks after authorities discovered his crimes, the court acknowledged that the Guidelines allowed consideration of such conduct, which was an "added factor" that would affect the court's sentencing decision.

Again, the court returned to the nature of Tauck's conduct explaining:

THE COURT: I find after looking at the submissions, both in briefs and today, the conduct that you engaged in is explicit, it is vile, it is revolting, it is aggressive, and it is repeated, and there are numerous email conversations related to child pornography, and these have been transmitted along these so-called chat rooms. So this is not an isolated one-time or even two-time incident. It takes place over a period of time.

As for his abuse of his niece, the district court relayed it had "never had a case ... where somebody ha[d] actually produced the child pornography and produced it as it relates to a family member." In the court's view, that conduct was "particularly aggravating" and the photos "vile." Furthermore, the court explained the devastating impact Tauck's conduct would have, or had already had, on his niece. The district court did recognize, however, that there was no evidence that Tauck had "acted along the

lines that he said he did” nor was there “proof he engaged in sexual molestation” of his niece or anyone else.

Next, the district court remarked on the “numerous email conversations relating to child pornography.” The court commented that the messages were “awful,” and the court would not “repeat them.” The court also considered the sheer volume of the images and videos Tauck possessed. While the court “could go into more detail” on the nature of the media files, it was “not going to.” Instead, the court noted it had considered the PSR’s description of the conduct and “in general[,] [a] number of images [depicted] infants and toddlers ... in various poses that are awful.”

Finally, the district court recognized the Sentencing Guidelines did not account for Tauck’s conduct in China. The district court opined it “would vary the sentence from the top to give an extra period of time for that conduct and for just the overall extensive, vile, repeated conduct that anyone would, with any sense, find is offensive.” The court did note, however, that no evidence corroborated whether Tauck acted on the “fantasies” he communicated with Individual A regarding his desires to buy an infant to assault in Thailand.

With all of this in mind, and after considering mitigating circumstances, the district court imposed a term of 432 months’ imprisonment, which was 67 months above the top of the guidelines range, followed by a lifetime term of supervised release. The district court ordered the statutory maximum term of imprisonment for both counts. In particular, as to Count One, the court imposed 360 months’ imprisonment. As to Count Two, the district court imposed 240 months’ imprisonment with 72 months to run consecutive to the 360 months’ imprisonment imposed in Count One. Tauck now appeals.

II. DISCUSSION

Tauck argues that the district court procedurally and substantively erred when imposing a sentence that was above the Sentencing Guidelines range. Tauck presents two reasons the district court procedurally erred at sentencing. First, he contests the adequacy of the district court’s explanation to support the upward variance. Second, Tauck challenges the district court’s reliance on his alleged attempt to buy an infant to assault in Thailand in fashioning his sentence. He argues the district court, in discussing that conduct, made clearly erroneous factual findings, resulting in him being sentenced on inaccurate facts. We review *de novo* whether the district court committed any

procedural errors when sentencing Tauck. *United States v. Wilcher*, 91 F.4th 864, 869 (7th Cir. 2024).

Additionally, we interpret some of Tauck's arguments as raising a substantive challenge to his sentence. Tauck seems to argue the district court improperly justified its decision to impose an upward variance by punishing him for his thoughts and fantasies. He also appears to contend that to the extent the district court relied on the video of the infant being sodomized to death, including still images therefrom, it was insufficient to warrant his enhanced sentence. A defendant challenging a sentencing judge's justification for an upward variance raises a substantive challenge to the sentence. *United States v. Jerry*, 55 F.4th 1124, 1133 (7th Cir. 2022). We review the reasonableness of a district court's sentence for abuse of discretion. *United States v. Gates*, 51 F.4th 271, 273 (7th Cir. 2022).

A. Adequacy of the Explanation

District courts enjoy wide discretion in sentencing, and "[w]e uphold a sentence so long as the judge offers an adequate statement of his reasons consistent with the sentencing factors enumerated in 18 U.S.C. § 3553(a)." *United States v. Porraz*, 943 F.3d 1099, 1104 (7th Cir. 2019). The touchpoint for determining whether the district court procedurally erred in explaining a sentence is whether the district court adequately explained its chosen sentence. *Gall v. United States*, 552 U.S. 38, 51 (2007). A district court adequately explains a sentence when it thoroughly documents its reasoning. *United States v. Cook*, 108 F.4th 574, 583 (7th Cir. 2024). When evaluating the procedural soundness of a sentence, we focus on "whether the record reveal[s] the district court's reasons for imposing the sentence." *Id.* (quoting *Jerry*, 55 F.4th at 1132) (alteration in original).

Tauck argues the district court did not sufficiently explain its sentence. Tauck contends the court failed to explain what "certain conduct that occurred in China" justified the upward variance.

We disagree. For starters, the court explained its sentence was based on Tauck's conduct in China, given it was not considered in the Sentencing Guidelines calculation, and "for just the overall extensive, vile, repeated conduct that anyone would, with any sense, find is offensive." The district court found several aspects of Tauck's conduct considered as a whole warranted the sentence it imposed—not just those stemming from his time in China. The uncontested facts in the PSR, which the court adopted, as well as the Homeland Security agent's testimony, formed the basis of the district court's sentence. Those facts included over three years of detailed accounts of Tauck's

“numerous email conversations relating to child pornography ... transmitted” in online “chat rooms,” “vile” messages and statements, “awful” images and videos of child sexual abuse and child pornography, and “particularly aggravating” child pornography Tauck produced of his four-year-old niece. The PSR also referenced a video Tauck sent to Individual A, while he was in China, which depicted an infant being sexually assaulted to death. In sum, the district court understandably concluded the facts painted a picture of “very aggravating” “crime[s],” demanding the sentence it imposed.

To be sure, the district court, arguably for good reason, did not read into the record any messages or descriptions of the horrid videos and images. But it did not have to for its sentence to survive our review. Instead, the district court needed to create a record sufficient to permit us “to discern the considerations which motivated [its] sentencing decision.” *United States v. Clayborne*, 105 F.4th 965, 969 (7th Cir. 2024) (quoting *United States v. Garcia-Oliveros*, 639 F.3d 380, 382 (7th Cir. 2011)). This record makes clear what considerations drove the district court’s sentence. See, e.g., *United States v. Dickerson*, 42 F.4th 799, 806–07 (7th Cir. 2022) (affirming an upward variance when the district court’s statement of reasons discussed the severity of the crime, defendant’s criminal history points, defendant’s almost uninterrupted pattern of criminal conduct, and lack of deterrent effect of prior punishments). And those “well thought-out, compelling justifications” detailed above support the district court’s sentence. *United States v. Ballard*, 12 F.4th 734, 741 (7th Cir. 2021).

In any event, any potential error in the district court’s sentence in not identifying the specific conduct in China was harmless. *Wilcher*, 91 F.4th at 869–70. An error is harmless “when the government has proved that the district court’s sentencing error did not affect the defendant’s substantial rights.” *United States v. Clark*, 906 F.3d 667, 671 (7th Cir. 2018) (quoting *United States v. Abbas*, 560 F.3d 660, 667 (7th Cir. 2009)). The government has met that burden here as the record amply shows the district court relied on other § 3553(a) factors to justify its sentence apart from Tauck’s conduct in China. The court pointed to the child pornography Tauck possessed and transported while in the United States and the aggravating nature of such conduct. It also highlighted the sexually explicit images of Tauck’s niece, and the need for the sentence to keep Tauck away from children and deter others from committing similar crimes. Consequently, we see no harmful error here. *United States v. Salgado*, 917 F.3d 966, 970 (7th Cir. 2019) (noting “the district court provided the sort of detailed analysis under § 3553” rendering any procedural error harmless).

B. Clearly Erroneous Factual Findings

Tauck argues the district court based the upward variance on an erroneous factual finding that he attempted to buy an infant for sexual purposes. Thus, in his view, he was sentenced on inaccurate information requiring resentencing. We, again, disagree.

“A convicted defendant has a due process right to be sentenced based on accurate information.” *United States v. Propst*, 959 F.3d 298, 304 (7th Cir. 2020) (citing *Townsend v. Burke*, 334 U.S. 736 (1948)). To succeed on this type of procedural attack, Tauck must show that the sentencing judge relied on false information to impose his sentence. *Id.* “A court demonstrates ‘actual reliance on misinformation’ when sentencing ‘if the court gives explicit attention to it, founds its sentence at least in part on it, or gives specific consideration to the misinformation before imposing sentence.’” *Id.* (quoting *United States v. Chatman*, 805 F.3d 840, 844 (7th Cir. 2015)).

At sentencing, the district court concurred with Tauck and found that there was no evidence he actually attempted to buy a child to assault in Thailand. As such, there were no disputes for the court to resolve. Instead, the PSR included the fact that he “discussed” with Individual A his attempts to purchase an infant from Thailand for his own sexual gratification. On review of the record, we see no error in the district court’s reliance on *that* uncontested fact for its sentencing decision.

Undeterred, Tauck insists the district court erred under Federal Rule of Criminal Procedure 32 by failing to rule on the parties’ competing characterizations regarding what actually happened in China (*i.e.*, whether Tauck actually wanted to purchase an infant and brutalize it or was merely fantasizing about such). But Rule 32 places a minimal burden on district courts to resolve *factual disputes*. *United States v. Brown*, 716 F.3d 988, 994–95 (7th Cir. 2013). And “[a]t sentencing, the court may accept any undisputed portion of the [PSR] as a finding of fact.” FED. R. CRIM. P. 32(i)(3)(A). The district court properly relied on the undisputed portions of the PSR as findings of fact regarding the messages Tauck sent about his desire to purchase an infant and sexually abuse it. In other words, the district court’s statements “made after hearing the evidence and prior to imposing the sentence[,] clearly indicated [its] acceptance of the version of the facts in the PSR and provided this [C]ourt with a sufficient record to engage in effective appellate review.” *Brown*, 716 F.3d at 995. Tauck concedes the messages were sent and does not dispute their content. It is further undisputed that the government

submitted no evidence that Tauck ever acted on his thoughts as detailed in the messages. As such, we see no error.

C. Substantive Reasonableness

“[W]hen a defendant claims that the district court’s justification for a sentence was grounded in an inappropriate consideration, he challenges the substantive reasonableness of the sentence.” *Jerry*, 55 F.4th at 1133. An above-guidelines sentence does not carry a presumption of unreasonableness, and we defer to carefully explained variances. *Gates*, 51 F.4th at 273. In other words, for sentences “above the Guidelines range, we ‘must consider the extent of the deviation and ensure that the justification is sufficiently compelling to support the degree of variance.’” *Jerry*, 55 F.4th at 1130.

Tauck makes two arguments that we interpret as challenging the substantive reasonableness of his sentence. First, he contends the district court imposed the variance on an insufficient basis, namely, the “thoughts” and “fantasies” his messages purportedly described. Second, he submits that even if the district court based its variance on the video he sent to Individual A of someone raping an infant to death, that justification is similarly insufficient.

We see no abuse of discretion in the district court’s above-guidelines sentence. *Cf. United States v. Jones*, 962 F.3d 956, 960 (7th Cir. 2020) (collecting cases of upward variances significantly more substantial than that present here). Even though Tauck argues some of the messages he sent to Individual A while in China were mere “fantasies” and “thoughts,” those messages evinced dangerousness towards children. *See, e.g., United States v. Lickers*, 928 F.3d 609, 621 (7th Cir. 2019). And the district court’s sentence sought to “keep[] children away from” him—not punish Tauck for his thoughts. The district court also reasoned a longer sentence was necessary because of the aggravating factors concerning the nature and circumstances of the offense conduct, the sexual exploitation of a young family member, Tauck’s encouragement of others to rape young children, and the need to deter others from committing these disturbing crimes.

Tauck’s argument regarding the video he sent while in China similarly misapprehends the district court’s reasoning for its increased sentence. As described above, the district court stated it “would vary the sentence from the top” of the guidelines range for his conduct in China, such as possessing the video and sending images from the video to others, and for his “offensive” conduct as a whole. Thus, there was no single reason for his increased sentence. Instead, Tauck’s possession of the video

and distribution of images from it depicting an infant being sodomized to death was only one such basis for the court's upward variance. And we see no abuse of discretion in the court's consideration of "certain aggravating factors," like the brutal nature of the child pornography Tauck possessed, not captured by his guidelines range. *United States v. Turnipseed*, 47 F.4th 608, 618 (7th Cir. 2022).

III. CONCLUSION

For the foregoing reasons, the district court did not procedurally or substantively err in imposing Tauck's sentence. We have considered his remaining arguments and find them without merit. Accordingly, we AFFIRM Tauck's sentence.