

NONPRECEDENTIAL DISPOSITION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 June 2, 2026
Decided August 27, 2026

Before

CANDACE JACKSON AKIWUMI, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

REBECCA TAIBLESON, *Circuit Judge*

No. 24-3022

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

JOSE SANCHEZ,
Defendant-Appellant.

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

No. 1:18-CR-00606(1)

Virginia M. Kendall,
Chief Judge.

ORDER

Jose Sanchez pleaded guilty to receipt and possession of child pornography. *See* 18 U.S.C. § 2252A(a)(2)(A), (a)(5)(B). At sentencing, the district court applied an enhanced offense level under U.S.S.G. § 2G2.2(c)(1) because it found that Sanchez enticed a minor to create sexually explicit material. On appeal, Sanchez objects to the application of § 2G2.2(c)(1), arguing that the evidence did not support the conclusion that he actually enticed a minor to create sexually explicit material. Because sufficient

evidence supported the application of § 2G2.2(c)(1) and Sanchez's sentence was procedurally and substantively reasonable, we affirm.

I

Sanchez engaged in sexually explicit conversations with minors on several occasions on the online video chat application Omegle. Omegle randomly pairs users together to engage in video conversations. In 2014, Sanchez posed as a 17-year-old girl and communicated with someone who represented that she was an 11-year-old girl ("Victim A"). Sanchez requested that Victim A send him naked images, and he told her that he would like to "see [her] boobies." Victim A sent defendant a series of images of her naked body, including images of Victim A's exposed genitalia. Sanchez saved screen captures of these images. In another incident, Sanchez, again pretending to be a young girl, engaged in an internet-based chat with two people who indicated that they were brother and sister, aged 17 and 11, respectively. Sanchez asked the boy to have his sister "suck [his] cock."

In 2015, the FBI searched Sanchez's home after a nationwide investigation into child pornography had revealed his online conversations. Officers found a hard drive where Sanchez stored at least 50 image files and 35 video files that depicted real children under the age of 18 years old engaged in sexual activity, including images of prepubescent children.

In 2018, Sanchez was indicted for receipt and possession of child pornography in violation of 18 U.S.C. § 2252A(a)(2)(A), (a)(5)(B). Sanchez pleaded guilty to both charges. In his plea agreement, Sanchez reserved his right to appeal his sentence.

The probation office prepared a presentence investigation report ahead of sentencing. When calculating Sanchez's guidelines range, the presentence investigation report applied the cross-reference specified under U.S.S.G. § 2G2.2(c)(1), which provides:

If the offense involved causing, transporting, permitting, or offering or seeking by notice or advertisement, a minor to engage in sexually explicit conduct for the purpose of producing a visual depiction of such conduct or for the purpose of transmitting a live visual depiction of such conduct, apply § 2G2.1 (Sexually Exploiting a Minor by Production of Sexually Explicit Visual or Printed Material; Custodian Permitting Minor to Engage

in Sexually Explicit Conduct; Advertisement for Minors to Engage in Production), if the resulting offense level is greater than that determined above.

U.S.S.G. § 2G2.2(c)(1). Ultimately, the PSR calculated a guidelines range of 168 to 210 months' imprisonment.

Sanchez objected to the application of the cross-reference provision, arguing that the images shared during the live stream with Victim A may have been prerecorded, and thus there was no evidence that Sanchez solicited the images he received of Victim A. The government countered that Sanchez actively solicited the production of child pornography regardless of whether the images were actually produced during the conversation. In response, Sanchez argued that the government had not produced enough evidence to show he had actually communicated with Victim A (who had been verified as a minor) rather than an adult presenting themselves as Victim A.

Sanchez also argued for a lower sentence of 57 to 71 months based on his lack of criminal history, his decision to take ownership of his actions, his rehabilitation efforts through voluntary counseling, and the fact that he had not attempted actual sexual contact with a minor. *See* 18 U.S.C. § 3553(a). The government recommended a sentence of 188 months based on the seriousness of the crime.

At the sentencing hearing, the district court overruled Sanchez's objection to the application of U.S.S.G. § 2G2.2(c)(1), finding that Sanchez had sought out and received photos from a minor. The court also weighed the sentencing factors under 18 U.S.C. § 3553(a), highlighting the seriousness of the crime and impact on the victims, while recognizing the efforts Sanchez had taken through counseling. The court sentenced Sanchez to 175 months' imprisonment and imposed restitution of \$41,000 to the victims.

II

On appeal, Sanchez first raises several challenges to the district court's application of § 2G2.2(c)(1). To start, he turns to *United States v. Nicoson*, 793 F.3d 761 (7th Cir. 2015), for the proposition that the government must establish the "live" nature of his online conversation. But Sanchez's reliance on *Nicoson* is misplaced. There, the defendant insisted that the government prove he had interacted live with the victim because that was the only available mechanism to show he had actually *solicited* the photographs rather than merely possessed them. *See id.* at 763. *Nicoson* did not hold that

a live video or audio feed is an element of inducement. Here, by contrast, the government presented evidence that Sanchez actively sought out the images by specifically asking to see various body parts and sexual acts.

Sanchez also turns to other language in *Nicoson* suggesting that for § 2G2.2(c)(1) to apply, a defendant needs to “have enticed or sought to entice a minor to pose for a video or camera shot *while* the minor was engaged in sexually explicit conduct.” *Id.* (emphasis added). But Sanchez misinterprets this proposition. In this phrase “while” attaches the temporal element to the act of capturing the images, not to the enticement itself. Accepting Sanchez’s interpretation would require enticement to be concurrent with the sexually explicit conduct, but enticement inherently occurs prior to the sexual act it prompts. Sanchez’s interpretation is not only illogical, it also conflicts with the instruction that § 2G2.2(c)(1) “be construed broadly.” *United States v. Geary*, 952 F.3d 911, 913 (7th Cir. 2020) (quoting U.S.S.G. § 2G2.2 cmt. n.7).

Sanchez next argues that the district court erred in applying § 2G2.2(c)(1) because it did not conclusively determine that the person he spoke with in his online conversation was actually Victim A. But Sanchez acknowledged in his plea agreement that he “engaged in communication with Victim A” and that he “knew Victim A was a minor.” These admissions are conclusive even considering his objections during the sentencing hearing. *See United States v. Robinson*, 964 F.3d 632, 640 (7th Cir. 2020); *see also United States v. Newman*, 148 F.3d 871, 876 (7th Cir. 1998) (although defendant objected at sentencing to conduct described in the presentence report and the resulting loss calculation, “[b]y stipulating to the conduct listed in [his] plea agreement, [the defendant] conclusively admitted those facts and waived any subsequent challenge to them.”).

Sanchez raises two additional arguments against the application of § 2G2.2(c)(1) but neither has merit. He contends that the evidence was insufficient to establish, first, that he sought explicit imagery by “notice or advertisement” or, second, that his messages actually requested “lascivious exhibition” by the minors. Both arguments rest on his overarching theory that he may have been viewing prerecorded footage from an adult posing as a minor rather than engaging in a live video conversation with an actual minor. But as noted above, Sanchez conceded that he engaged in communication with Victim A and that Victim A was a minor. He has waived this argument because it rests on facts inconsistent with his plea agreement. *See Robinson*, 964 F.3d at 640.

Sanchez next argues that the district court committed procedural error by failing to meaningfully engage with his principal mitigation arguments. “A district court commits procedural error when it fails to address a defendant’s mitigating arguments that are not so weak as not to merit discussion.” *United States v. Hendrix*, 74 F.4th 859, 868 (7th Cir. 2023) (internal quotation omitted); *see also United States v. Cunningham*, 429 F.3d 673, 679 (7th Cir. 2005). Sanchez maintains that the district court should have addressed the character letters written on his behalf, but his sentencing submission suggested only that the letters “merit consideration” and counsel did not discuss them at the sentencing hearing. It was not a “fully developed” argument that triggered a duty under *Cunningham*. *See United States v. Lee*, 897 F.3d 870, 872 (7th Cir. 2018). Next, he claims that the district court overlooked expert testimony that his activity on Playpen was minimal. But that activity was not the conduct of which Sanchez was convicted—it merely led investigators to search his personal computer, where a much greater number of images and videos were discovered. In the absence of a “compelling factual basis,” *United States v. Jackson*, 547 F.3d 786, 795 (7th Cir. 2008), the court was permitted to pass over this issue in silence. Finally, Sanchez notes that he is a first-time offender, and explains that the district court could have given him a more lenient sentence had it agreed with him that the Sentencing Guidelines should not exclude child-pornography offenses from the zero-point criminal history category ordinarily applicable to first-time offenders. But arguments about lack of criminal history are the kind of “stock arguments” district courts are free to pass over without comment. *United States v. Graham*, 915 F.3d 456, 459 (7th Cir. 2019) (citing *United States v. Martinez*, 520 F.3d 749, 753 (7th Cir. 2008)). And policy disagreements with the Sentencing Guidelines are as well. *United States v. Stephens*, 986 F.3d 1004, 1010 (7th Cir. 2021) (noting “[w]e have rejected appellate arguments based on a district court’s failure to address policy disagreements with the child-pornography guidelines” and collecting authority). We discern no procedural error in the district court’s consideration of Sanchez’s arguments in mitigation.

Finally, Sanchez contends that his 175-month sentence was substantively unreasonable because the district court overweighed the gravity of the offense while giving insufficient consideration to his mitigating circumstances. He emphasizes that he accepted responsibility for his actions and self-enrolled in counseling. But we consistently decline to second-guess the district court’s weighing of the information at its disposal, *Hendrix*, 74 F.4th at 872, and review of the sentencing transcript shows the court adequately explained why the seriousness of the offense outweighed Sanchez’s arguments in mitigation.

AFFIRMED