

NONPRECEDENTIAL DISPOSITION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 September 2, 2025

Decided September 3, 2025

*Before*FRANK H. EASTERBROOK, *Circuit Judge*THOMAS L. KIRSCH II, *Circuit Judge*DORIS L. PRYOR, *Circuit Judge*

No. 24-1255

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

DARYL S. ARNOLD,
Defendant-Appellant.

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

No. 1:18-CR-00206(1)

Jorge L. Alonso,
Judge.

ORDER

Daryl Arnold pleaded guilty to sex trafficking of a minor and was sentenced to 288 months in prison. He appeals, 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's brief details the nature of the case and discusses issues that an appeal of this kind might be expected to involve. Because the analysis appears thorough, we limit our review to the subjects that counsel discusses and that Arnold raises in his response under Circuit Rule 51(b). *See United States v. Bey*, 748 F.3d 774, 776 (7th Cir. 2014).

In 2017, Arnold engaged in sex trafficking of four minors aged 15 to 17. Arnold organized paid sexual encounters between clients and the minors via email and transported the minors around Chicago for the sexual encounters. Arnold kept half of their earnings. He was charged with four counts of sex trafficking of a minor under 18 U.S.C. § 1591(a)(1), (b)(2), and (c).

Arnold pleaded guilty to all four counts. In the plea agreement, Arnold waived all appellate issues except challenges to the validity of his plea and the sentence imposed. The district court conducted the change-of-plea hearing, and Arnold confirmed under oath that he understood the charge, the minimum and maximum penalties (imprisonment for 10 years to life, a term of supervised release of 5 years to life, a maximum fine of \$1,000,000, a special assessment of \$400, restitution, and registering as a sex offender), and the trial rights he was waiving. After finding that Arnold was competent, that the plea was knowing and voluntary, and that there was an adequate factual basis establishing Arnold's guilt, the court accepted his guilty plea.

In the presentence investigation report (PSR), the probation officer calculated a total offense level of 42 under the Sentencing Guidelines. From a base level of 30, *see* U.S.S.G. § 2G1.3(a)(2), the officer applied special offense characteristics to increase the offense level: by two for unduly influencing a minor to participate in prohibited sexual conduct, *see* § 2G1.3(b)(2)(B); by two for the use of a computer, *see* § 2G1.3(b)(3)(B); and by two for involving the commission of a sex act, *see* § 2G1.3(b)(4)(A). The officer also applied a four-level increase based on a multiple-count adjustment, *see* § 3D1.4(a), and an enhancement of five because the offense of conviction is a covered sex crime and he engaged in a pattern of activity involving prohibited sexual conduct, *see* § 4B1.5(b)(1). Finally, the officer decreased the offense level by three for acceptance of responsibility. *See* § 3E1.1(a), (b). The officer calculated Arnold's criminal history score as eight based on two prior convictions (three points for each) and two additional status points because Arnold was serving a sentence at the time he committed this offense. *See* § 4A1.1(d). This resulted in a criminal history category of IV.

Arnold raised objections to each of the increases. He argued that (1) he did not unduly influence the minors to engage in commercial sex acts; (2) the court should not apply the increase for use of a computer; (3) he did not engage in sex acts with any of the minors and any increase for an offense involving the commission of a sex act would impermissibly double count the facts already incorporated in his base offense level; (4) the multiple-count adjustment should not apply because the counts should be

grouped; and (5) the five-level enhancement should not apply because he does not meet the definition of a repeat and dangerous sex offender against minors. The district court overruled each of these objections. With the government's agreement, the court sustained Arnold's objection to the calculation of his criminal history category because the Guidelines no longer included additional status points under § 4A1.1(d). The court additionally overruled the government's objection and concluded that Arnold accepted responsibility for his offense because he pleaded guilty, *see* § 3E1.1(a), although the court noted it was a close call and that Arnold tried to minimize his role in the conduct.

The district court explained that Arnold had a total offense level of 42 and a criminal history category of III, which results in a guidelines range of 360 months to life. It also found by a preponderance of the evidence that Arnold, who was 41 years old at the time of the offense, had sex with three of the minors. After hearing arguments from both sides, as well as Arnold's allocution, the court sentenced Arnold to 288 months' imprisonment on each of the four counts, to be served concurrently. The court also sentenced Arnold to 10 years' supervised release and ordered him to pay a special assessment of \$400. Finally, the court overruled Arnold's objection to the government's requested restitution and ordered that Arnold pay \$136,700 in restitution.

In her brief, counsel first states that she consulted with Arnold and confirmed that he does not wish to withdraw the guilty plea, so counsel properly omits discussion of potential arguments related to the guilty plea or plea colloquy. *See United States v. Larry*, 104 F.4th 1020, 1022 (7th Cir. 2024).

Counsel rightly concludes that Arnold could not raise any nonfrivolous argument that the district court clearly erred in finding that Arnold had sex with three of the minors. We would review the district court's finding of fact for clear error, *United States v. Shehadeh*, 127 F.4th 1058, 1064 (7th Cir. 2025), and would affirm so long as the finding is plausible in light of the entire record, *United States v. McGraw*, 571 F.3d 624, 629 (7th Cir. 2009) (quoting *United States v. Raibley*, 243 F.3d 1069, 1076 (7th Cir. 2001)). Here, the government offered evidence that two minors testified before the grand jury that they had sex with Arnold and that Arnold admitted in his pro se sentencing memo that he had sex with another minor. Considering this evidence, Arnold could not show that the district court's finding was clearly erroneous.

Next, counsel correctly concludes that Arnold could not plausibly challenge his sentence on procedural grounds. We would review the district court's application of the Guidelines de novo. *Shehadeh*, 127 F.4th at 1064. Counsel considers whether Arnold

could plausibly revive on appeal any of his objections to the offense-level increases, but we agree that such challenges would be frivolous.

First, as counsel explains, the district court correctly applied the two-level increase for unduly influencing the minors. *See* § 2G1.3(b)(2)(B). The court relied on the Application Note to the Guideline, which sets forth a rebuttable presumption that the increase applies when the defendant is at least 10 years older than the minor. § 2G1.3(b)(2) cmt. n.3(B). Here, as the court noted, the age difference between Arnold and the minors was more than 20 years, so the presumption applied. The court further explained that Arnold’s “finesse” approach—that he did not use violence or force to coerce the minors to engage in commercial sex—was insufficient to rebut the presumption. *See United States v. Miller*, 601 F.3d 734, 737–38 (7th Cir. 2010). Arnold asserts in his response that the court erred by failing to consider the minors’ behavior. But this argument is frivolous because the court properly applied the standard for the increase, which is to consider the effect of Arnold’s conduct on the minors, and determined that Arnold unduly influenced them to participate in prohibited sexual conduct. *See id.* at 738.

Second, counsel correctly concludes that a challenge to the two-level increase for the use of a computer would be frivolous. *See* § 2G1.3(b)(3)(B). In the plea agreement, Arnold agreed that he used an email account to set up encounters between the minors and paying clients and that he communicated with the minors during and after the encounters via smartphone. As such, there is no nonfrivolous basis on which to challenge the two-level increase. *See United States v. McMillian*, 777 F.3d 444, 449–50 (7th Cir. 2015).

Third, counsel considers, and appropriately rejects, an argument that the court erred in applying the two-level increase for commission of a sex act. *See* § 2G1.3(b)(4)(A). Arnold asserts in his response, as he did in the district court, that his base offense level already incorporates the commission of a sex act and that applying the increase would double count his conduct. But, as the district court recognized, “double counting is generally permissible unless the text of the guidelines expressly prohibits it.” *United States v. Vizcarra*, 668 F.3d 516, 519 (7th Cir. 2012); *see also* § 2G1.3(b)(4)(A).

Fourth, we agree with counsel that Arnold could not raise any nonfrivolous argument that the multiple-count adjustment was improper because his counts should have been grouped. *See* § 3D1.4(a). The court correctly determined that his counts did not group because they involved more than one minor, *see* § 2G1.3(d)(1) cmt. n.6, and it

properly added a four-level increase reflecting four equally serious counts, *see* § 3D1.4(a); *see also* *McMillian*, 777 F.3d at 449.

Fifth, counsel properly concludes that Arnold could not bring a nonfrivolous challenge to the five-level enhancement for a repeat and dangerous sex offender against minors. *See* § 4B1.5(b)(1). The five-level enhancement applies when the defendant's offense of conviction is a covered sex crime and the defendant engaged in a pattern of activity involving prohibited sexual conduct. § 4B1.5(b). The court correctly determined that Arnold's offense of conviction is a covered sex crime. *See* § 4B1.5 cmt. n.2(A)(iv). Arnold argues in his response, as he did in the district court, that the conduct for which he was convicted cannot also establish a pattern of activity involving prohibited sexual conduct. But the Application Note to the Guideline clarifies that Arnold's offense of conviction qualifies. *See* § 4B1.5(b) cmt. n.4(A), (B)(i). Regardless, the court also determined there was credible evidence that Arnold had sex with three of the minors, which is sufficient to establish a pattern of activity. *See United States v. Norwood*, 982 F.3d 1032, 1059 (7th Cir. 2020).

As for substantive reasonableness, we agree with counsel that any challenge to Arnold's below-guidelines sentence would be frivolous. A below-guidelines sentence is presumptively reasonable, and Arnold bears "a particularly onerous burden" to rebut that presumption by showing that the sentence is unreasonably high in light of the factors in 18 U.S.C. § 3553(a). *United States v. Moore*, 851 F.3d 666, 674 (7th Cir. 2017). Here, the court highlighted the "obvious extreme seriousness" of the offense and Arnold's lack of remorse for his actions. Balancing these factors against his difficult childhood, the court settled on the below-guidelines sentence of 288 months. We do not reweigh a sentencing court's assessment of the aggravating and mitigating factors, and that is all an appellate argument could ask us to do. *See United States v. Abriz-Villa*, 28 F.4th 786, 791–92 (7th Cir. 2022).

Counsel also correctly concludes that Arnold could not bring a nonfrivolous challenge to his conditions of supervised release. Arnold objected to two conditions of supervised release imposed by the district court. The court has wide discretion in determining conditions of supervised release and must justify the conditions by stating reasons that are reasonably related to the § 3553(a) factors. *United States v. Kappes*, 782 F.3d 828, 838, 845 (7th Cir. 2015). Here, the court explained its reasons for overruling Arnold's objections with reference to Arnold's offense conduct and the need for the probation office to verify his employment during his supervised release.

Finally, Arnold raises a challenge to the district court's order of restitution, but such a challenge would also be frivolous. Restitution was mandatory, *see* 18 U.S.C. § 1593, and the district court has broad discretion in calculating the amount of restitution owed, *see United States v. Dickey*, 52 F.4th 680, 687 (7th Cir. 2022). Arnold asserts in his response, as he did in the district court, that the government's proposed figures for restitution are speculative and untethered to the facts of Arnold's offense. But prospective figures often are uncertain, which does not make them wrong. *Id.* And the government connected its requested amount to the estimated cost of child sexual abuse for victims. It would be frivolous to argue that the court's order of restitution, which was based on the government's evidence and was a conservative figure compared to the estimated cost of child sexual abuse, was an abuse of the court's discretion. *See United States v. Sainz*, 827 F.3d 602, 604–06 (7th Cir. 2016).

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