NONPRECEDENTIAL DISPOSITION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 13, 2022*
Decided December 14, 2022

Before

FRANK H. EASTERBROOK, *Circuit Judge*

DIANE P. WOOD, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

No. 22-1649

UNITED STATES OF AMERICA, *Plaintiff-Appellee*,	Appeal from the United States District Court for the Central District of Illinois.
v.	No. 20-CR-20062-001
CHARLES L. HOWARD, *Defendant-Appellant*.	Michael M. Mihm, *Judge*.

O R D E R

Charles Howard, who pleaded guilty to multiple offenses involving the sexual exploitation of a child, challenges the district court's application of a sentencing enhancement based on his prior convictions under an Illinois statutory-rape statute. He argues that because the state's definition of the offense is not categorically similar to a

* We granted the parties' joint motion to waive oral argument and have agreed to decide the case on the briefs and the record. FED. R. APP. P. 34(f).

federal offense, the convictions cannot serve as predicates for the sentencing enhancement. Because our precedent forecloses Howard's argument, and he presents no reason why we should overrule it, we affirm.

Beginning in 2019, Howard sexually molested his 16-year-old stepdaughter multiple times over about a year, and he took photographs and videos of some of the sexual acts on his cell phone. He was charged with sexual exploitation of a minor in violation of 18 U.S.C. § 2251(a) and (e), possession of child pornography in violation of 18 U.S.C. § 2252A(b)(2), and committing a felony offense against a minor while being required to register as a sex offender, 18 U.S.C. § 2260A. Without a plea agreement, he pleaded guilty to all three counts in the indictment.

In the presentence investigation report, a probation officer calculated a total offense level of 37 and a criminal history score of V. Various statutory minimum penalties and recidivism enhancements applied as well. As relevant here, at ages 17 and 19, Howard was convicted of misdemeanor violations of Illinois' criminal sexual-abuse law, which criminalizes sexual conduct when the victim is between 13 and 16 years old and is less than five years younger than the defendant. *See* 720 ILCS 5/12-15(c) (2000). This triggered the 25-year minimum that 18 U.S.C. § 2251(e) requires when a defendant has a prior conviction under a state law "relating to" sexual abuse.

At the sentencing hearing, Howard objected to the application of the statutory sentencing enhancement for the sexual-exploitation count, although he acknowledged that his argument was contrary to circuit precedent. The district court denied his objection based on our holdings in *United States v. Kraemer*, 933 F.3d 675 (7th Cir. 2019), and *United States v. Kaufmann*, 940 F.3d 377 (7th Cir. 2019). The court then sentenced him to a total of 480 months in prison, consisting of concurrent terms of 360 months and 240 months on Counts 1 and 2, a consecutive 120 months on Count 3, and a lifetime term of supervised release.

Howard appeals, challenging only the application of the 25-year minimum sentencing enhancement under 18 U.S.C. § 2251(e). Applying the categorical approach, he argues that his prior convictions under the Illinois statutory-rape law should not trigger the enhancement because the state statute criminalizes a broader range of conduct than the corresponding federal statute defining statutory rape. The federal offense delineates "victims" as minors between the ages of 12 and 15, *see* 18 U.S.C. § 2243(a), as compared to ages 13 and 16 under the Illinois law. *See* 720 ILCS 5/12-15(c)

(2000). We review de novo whether Howard's state conviction qualifies as a predicate offense for the § 2251(e) enhancement. *See Kraemer*, 933 F.3d at 679.

As Howard readily admits, our precedent forecloses his argument. Section 2251(e) requires a minimum sentence of 25 years in prison if the defendant was previously convicted under a state law "*relating to* aggravated sexual abuse, sexual abuse, abusive sexual contact involving a minor or ward, or sex trafficking of children[]." 18 U.S.C. § 2251(e) (emphasis added). Interpreting the identical language in the parallel provision of § 2252(b)(2), we directed sentencing judges to forgo the categorial approach and read the "relating to" language "expansively." *See Kraemer*, 933 F.3d at 679–80 (citing *Lamar, Archer & Cofrin, LLP v. Appling*, 138 S.Ct. 1752, 1760 (2018)); *Kaufmann*, 940 F.3d at 378, 380. This is because Congress provided specific interpretive direction in § 2251(e) by using the phrase "relating to" and then listing the relevant types of offenses. *See Kraemer*, 933 F.3d at 679. For a state conviction to qualify as a predicate for the statutory minimum, it need only "bear[] a connection" to a topic enumerated in § 2251(e) or fall within the "heartland" of those types of offenses. *Kaufmann*, 940 F.3d at 380–81. If it does, a state conviction triggers the enhancement regardless of whether the state statute criminalizes a different swath of conduct than the analogous federal law. *Id.* at 380.

Howard does not dispute that the Illinois sexual-abuse statute bears a connection to a topic enumerated in § 2251(e): "abusive sexual contact involving a minor." The Illinois statute criminalizes certain sexual conduct involving minors and addresses the same harm—sexual exploitation of minors—that § 2251(e) targets. *See* 720 ILCS 5/12-15(c) (2000). It is immaterial that the state and federal crimes do not completely overlap. *See Kraemer*, 933 F.3d at 682; *Kaufmann*, 940 F.3d at 380.

Stuck with this precedent, Howard argues that *Kraemer* and *Kaufmann* were wrongly decided. (Alternatively, he seeks to preserve his argument for further review, and we can confirm that he has done so.) He contends that our expansive reading of the statute unjustly penalizes him for his consensual sexual conduct as a teenager and extends the "relating to" language in § 2251(e) too far. He cites the decision in *Mellouli v. Lynch*, 575 U.S. 798 (2015), as an example of the Supreme Court taking a narrower view of the phrase "relating to."

But we do not overturn circuit precedent without a compelling justification. *See United States v. Reyes-Hernandez*, 624 F.3d 405, 412 (7th Cir. 2010). This can be when: (1) our circuit is an outlier, and we can save work for Congress and the Supreme Court by

eliminating a conflict; (2) overruling could supply a new line of argument that may encourage other circuits to change their positions; or (3) "when prevailing doctrine works a substantial injury." *United States v. Thomas*, 27 F.4th 556, 559 (7th Cir. 2022) (internal citation omitted).

Despite urging us to overrule two cases, however, Howard does not identify a "compelling reason" to do so; he primarily contends that a consensual sexual relationship between teenagers is unrelated to any of the serious kinds of sexual abuse listed in the statute. But his assertions that the previous cases were wrongly decided and that the categorical approach must apply do not implicate the concerns that justify jettisoning *stare decisis*. Nor does he persuade us that the *Mellouli* decision, which concerned immigration law, should control how we interpret "relating to" here. In that case, the Court expressly based its interpretation on the specific "text and history" of the removal statute. *Mellouli*, 575 U.S. at 813. Further, our circuit is not an outlier in how we interpret "relating to" in § 2251(e) and § 2252(b): the Second, Fifth, Sixth, and Eighth Circuits have adopted similarly broad interpretations of the language. *See United States v. Barker*, 723 F.3d 315, 324 (2d Cir. 2013); *United States v. Hubbard*, 480 F.3d 341, 347 (5th Cir. 2007); *United States v. Mateen*, 806 F.3d 857, 861 (6th Cir. 2015); *United States v. Box*, 960 F.3d 1025, 1027 (8th Cir. 2020).

Because Howard provides no compelling reason to abandon our precedent, we conclude that his prior convictions under the Illinois sexual-abuse law "relat[e] to … abusive sexual contact involving a minor" and require the application of the § 2251(e) sentencing enhancement. *See Kaufmann*, 940 F.3d at 380.

AFFIRMED