

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

May 13, 2013

Lyle W. Cayce
Clerk

No. 12-30873

Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

MATTHEW MCKEE, also known as Fantom, also known as Fantomg, also known as B.J. Hunnicutt,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 5:11-CR-62-8

Before JOLLY, BENAVIDES and DENNIS, Circuit Judges.

PER CURIAM:*

Matthew McKee pleaded guilty to a single count of engaging in a child exploitation enterprise, and he was sentenced in the middle of the guidelines range (240 to 293 months) to a 265-month term of imprisonment and to a period of supervised release of life. In this appeal, McKee contends that his sentence is substantively unreasonable because it exceeded the statutory minimum

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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sentence by 25 months and because the Sentencing Guidelines did not account sufficiently for his minimal criminal history.

Because this question was not preserved in the district court, this court's review of the substantive reasonableness of the sentence is for plain error. *See Puckett v. United States*, 556 U.S. 129, 134-35 (2009); *see also United States v. Whitelaw*, 580 F.3d 256, 259-60 (5th Cir. 2009). To show plain error, an appellant must show a forfeited error that is clear or obvious and that affects his substantial rights. *Puckett*, 556 U.S. at 135. If he makes such a showing, this court has the discretion to correct the error but only if it seriously affects the fairness, integrity, or public reputation of judicial proceedings. *Id.*

On the record before us, McKee has not rebutted the presumption of reasonableness that applies to within-guidelines sentences. *See United States v. Alonzo*, 435 F.3d 551, 553-54 (5th Cir. 2006). No error has been shown, plain or otherwise. The judgment is AFFIRMED.