

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

No. 14-60036
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

November 18, 2014

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

LARRY L. MCLENDON,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Mississippi
USDC No. 1:13-CR-95-1

Before DeMOSS, DENNIS, and CLEMENT, Circuit Judges.

PER CURIAM:*

Larry L. McLendon appeals the within-guidelines sentence imposed following his guilty plea conviction of possession of child pornography. He argues that the district court procedurally erred by applying U.S.S.G. § 2G2.2(b)(2) and that the district court failed to properly consider the sentencing factors set forth at 18 U.S.C. § 3553(a).

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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McLendon's arguments are insufficient to establish that the district court's finding that the images involved prepubescent minors or minors who had not yet reached 12 years of age was not plausible in light of the record as a whole. *See United States v. Cisneros-Gutierrez*, 517 F.3d 751, 764 (5th Cir. 2008). Additionally, the record is sufficient to demonstrate that McLendon either intended to possess such images or that he had a reckless disregard for the age of the performers. *See United States v. Perez*, 484 F.3d 735, 745 (5th Cir. 2007). Accordingly, the district court did not err by applying § 2G2.2(b)(2).

McLendon's argument that the district court procedurally erred by failing to consider the § 3553(a) factors is belied by the record. His remaining arguments regarding the reasonableness of the sentence do not show clear error of judgment on the district court's part in balancing those factors; instead, they constitute a mere disagreement with the weighing of the § 3553(a) factors. *See United States v. Cooks*, 589 F.3d 173, 186 (5th Cir. 2009); *United States v. Mejia-Huerta*, 480 F.3d 713, 720 & n.17 (5th Cir. 2007). This court will not reweigh the § 3553(a) factors. *Gall v. United States*, 552 U.S. 38, 51 (2007). McLendon has failed to rebut the presumption of reasonableness applicable to his within-guidelines sentence. *See Cooks*, 589 F.3d at 186.

The judgment is AFFIRMED.