NONPRECEDENTIAL DISPOSITION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 July 24, 2023
Decided July 26, 2023

Before

ILANA DIAMOND ROVNER, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

No. 22-2180

UNITED STATES OF AMERICA, *Plaintiff-Appellee*,	Appeal from the United States District Court for the Eastern District of Wisconsin.
v.	No. 22-CR-54
ADAN CORONA-FUENTES, *Defendant-Appellant*.	William C. Griesbach, *Judge*.

O R D E R

Adan Corona-Fuentes pleaded guilty to one count of production of child pornography. *See* 18 U.S.C. § 2251(a), (e). The district court sentenced him to 180 months' imprisonment and five years' supervised release, the minimum sentences for his crime. *See id.* Corona-Fuentes 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 explains the nature of the case and discusses the potential issues that an appeal like this would be expected to involve. Because this analysis appears thorough and Corona-Fuentes did not respond to the motion, *see* CIR. R. 51(b), we limit

our review to the potential issues that counsel identifies. *See United States v. Bey*, 748 F.3d 774, 776 (7th Cir. 2014).

Corona-Fuentes was charged with two counts of production of child pornography. *See* 18 U.S.C. § 2251(a), (e). Local police, acting on several tips, seized his cell phones and found multiple images and videos of child pornography. In one video, Corona-Fuentes recorded two children in his care, ages seven and thirteen, enter a bathroom and undress; the thirteen-year-old's breasts and genitals were exposed. On other occasions, Corona-Fuentes represented himself to be a child online and induced children to send him nude images and videos of themselves. Corona-Fuentes pleaded guilty to one count (related to the bathroom recording) in exchange for the government's agreement to move to dismiss the second count.

Corona-Fuentes informs counsel that he would like to challenge his guilty plea, so counsel explores that possibility. *See United States v. Konczak*, 683 F.3d 348, 349 (7th Cir. 2012). Because Corona-Fuentes did not move to withdraw his plea in the district court, we would review the acceptance of the plea only for plain error, *United States v. Davenport*, 719 F.3d 616, 618 (7th Cir. 2013), and this record reveals no such error. The district court substantially complied with Rule 11 of the Federal Rules of Criminal Procedure. Corona-Fuentes informs counsel that he would like to argue that his plea resulted from coercion because his attorney in the district court led him to believe that he would be sentenced to only one or two years in prison. But at his plea hearing, the district court informed Corona-Fuentes of the 15-year minimum sentence, *see* 18 U.S.C. § 2251(e), and Corona-Fuentes confirmed under oath that no one made him any promises (outside of the plea agreement) to convince him to plead guilty. His sworn statements are presumed to be true. *See United States v. Graf*, 827 F.3d 581, 584 (7th Cir. 2016).

Counsel next considers arguing that the plea agreement lacks an adequate factual basis to establish that Corona-Fuentes violated all the elements of 18 U.S.C. § 2251(a). Noting that one element of the offense requires the depiction of a minor engaging in "sexually explicit conduct," counsel asks whether such conduct includes normal bathroom activities of the sort recorded by Corona-Fuentes. Counsel points out that this very issue is pending before us in *United States v. Donoho*, No. 21-2489, though she acknowledges that we have treated such depictions as sexually explicit conduct because they involve the lascivious exhibition of genitals. *See United States v. Miller*, 829 F.3d 519, 525–26 (7th Cir. 2016).

But counsel recognizes that raising this argument brings risks. If the conviction were invalidated, the government would retain the right to reindict Corona-Fuentes on the previously dismissed count (unrelated to the bathroom video), which also carries a 15-year statutory-minimum sentence. Without a plea agreement, his uncharged conduct could result in a higher sentence. After counsel identified this risk, Corona-Fuentes decided that he does not want to pursue that challenge, so she had no duty to raise it. *See United States v. Caviedes-Zuniga*, 948 F.3d 854, 855 (7th Cir. 2020).

Counsel next considers whether Corona-Fuentes's sentence could be challenged as being unreasonable, in violation of law, or the result of an improper application of the Guidelines. But Corona-Fuentes received the statutory-minimum sentence of 180 months, *see* 18 U.S.C. § 2251(e), so any challenge to his sentence on these bases would be frivolous. *See United States v. Richardson*, 60 F.4th 397, 400 (7th Cir. 2023). And any challenge to the supervised-release term and conditions would also be frivolous, given the mandatory nature of the five-year supervised-release term, 18 U.S.C. § 3583(k), and Corona-Fuentes's failure to object to the conditions, *see United States v. Ortiz*, 843 F.3d 294, 297 (7th Cir. 2016).

Finally, Corona-Fuentes informs counsel that he would like to argue that his attorney in the district court rendered ineffective assistance by leading him to think his prison term would be only one or two years. But as counsel points out, that claim would be better addressed on collateral review, where an evidentiary foundation can be developed. *See Massaro v. United States*, 538 U.S. 500, 504 (2003).

Therefore, we GRANT counsel's motion to withdraw and DISMISS the appeal.