

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 06-3917

United States of America,	*
	*
Plaintiff - Appellee,	*
	* Appeal from the United States
v.	* District Court for the
	* District of North Dakota.
James Russell Jackson,	*
	* [UNPUBLISHED]
Defendant - Appellant.	*

Submitted: September 28, 2007
Filed: October 2, 2007

Before LOKEN, Chief Judge, WOLLMAN and RILEY, Circuit Judges.

PER CURIAM.

On January 13, 2005, James Russell Jackson e-mailed three sexually explicit images of children to an undercover FBI agent in the Innocent Images Unit. A subsequent warrant search of Jackson's computer and compact disc storage devices uncovered approximately 1,500 child pornography images and 265 child pornography movie files, including pictures and film files portraying adult males sexually assaulting prepubescent children and infants. Jackson pleaded guilty to distributing and possessing materials involving the sexual exploitation of minors in violation of 18 U.S.C. §§ 2252(a)(2), (b)(1), (a)(4)(B), and (b)(2). The Presentence Investigation Report (PSR) computed a total offense level of thirty-seven and a criminal history category of I, resulting in an advisory guidelines sentencing range of 210-262 months.

At sentencing, Jackson did not object to the PSR's fact recitations and guidelines range computation but requested a downward departure. The district court¹ declined to depart and sentenced Jackson to 210 months in prison followed by a lifetime of supervised release. Jackson appeals the sentence.

Jackson argues that the district court failed to sufficiently explain the necessity of a 210-month sentence as required by 18 U.S.C. § 3553(a), erroneously relied upon disputed fact allegations by the government concerning the extent to which Jackson traded pornographic materials, and abused its discretion in denying his motion for a downward departure. After careful review of the sentencing transcript and the PSR, we conclude that the district court fully considered the § 3553(a) factors and did not rely on fact allegations by the prosecutor not fairly supported by the PSR. The court understood it had the authority to depart, so its decision not to depart downward is not reviewable on appeal.

A sentence at the bottom of the advisory guidelines range is presumptively reasonable. Jackson has not overcome the presumption. Accordingly, the judgment of the district court is affirmed.

¹The HONORABLE RALPH R. ERICKSON, United States District Judge for the District of North Dakota.