

United States Court of Appeals
For the Eighth Circuit

No. 12-3503

United States of America

Plaintiff - Appellee

v.

Abimael Castellon-Laureano

Defendant - Appellant

Appeal from United States District Court
for the District of Minnesota - St. Paul

Submitted: June 10, 2013

Filed: August 29, 2013

[Unpublished]

Before LOKEN, BEAM, and BYE, Circuit Judges.

PER CURIAM.

Abimael Castellon-Laureano appeals his sentence of 300 months following his guilty plea to production of child pornography in violation of 18 U.S.C. § 2251. While the calculated United States Sentencing Guidelines range for Castellon-Laureano's offense was life imprisonment, the statutory maximum under § 2251 is thirty years imprisonment, effectively giving Castellon-Laureano a 360-month

Guidelines range for this offense. Pursuant to the plea agreement and under U.S.S.G. § 5K1.1, Castellon-Laureano cooperated with government agents, and the prosecution subsequently recommended a sixty-month reduction from the 360-month Guidelines range. The district court¹ imposed the recommended 300-month sentence, to be served concurrently to his 130-month term of imprisonment in Minnesota state prison for sexual abuse arising out of the same underlying conduct as the instant pornography offense.

On appeal, Castellon-Laureano argues the sentence is substantively unreasonable and within the context of that argument, asserts that the district court should not have afforded deference to the pornography Guidelines. However, on appeal, we will not consider the argument that the district court erred by refusing to disregard the pornography Guidelines on empirical grounds. United States v. Muhlenbruch, 682 F.3d 1096, 1102 (8th Cir. 2012). And, we find that the below-Guidelines range sentence is substantively reasonable. See United States v. McKanry, 628 F.3d 1010, 1022 (8th Cir. 2011) (holding that where a district court has sentenced below the Guidelines range, it is extremely rare to find that an abuse of discretion has occurred). Accordingly, we affirm the sentence imposed.

¹The Honorable David S. Doty, United States District Judge for the District of Minnesota.