

United States Court of Appeals for the Fifth Circuit

No. 25-11300
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

September 28, 2026

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JOHNNIE CHRISTOPHER RUIZ,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 1:24-CR-65-1

Before HAYNES, GRAVES, and RAMIREZ, *Circuit Judges*.

PER CURIAM:*

Johnnie Christopher Ruiz pleaded guilty to two counts of production of child pornography in violation of 18 U.S.C. § 2251(a). The parties entered a plea agreement pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C) in which they agreed to a sentence of 360 months of imprisonment. The plea agreement was rejected on the ground that the sentence, which was 360 months below the guidelines range, was unduly lenient. Ruiz later entered a

* This opinion is not designated for publication. See 5TH CIR. R. 47.5.

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guilty plea pursuant to a plea agreement without a sentencing provision and was sentenced within the guidelines range to 720 months in prison.

Ruiz challenges the rejection of the Rule 11(c)(1)(C) plea agreement. However, the district court—which gave case-specific reasons for its finding that the agreed-upon sentence would not comply with the goals of sentencing and that acceptance of the agreement would not be justifiable—did not abuse its discretion in rejecting the plea agreement based on its conclusion that the 360-month sentence would be too light. *See United States v. Smith*, 417 F.3d 483, 487 (5th Cir. 2005); *United States v. Crowell*, 60 F.3d 199, 205 (5th Cir. 1995); *see also* U.S.S.G. § 6B1.2(c), p.s. Although Ruiz disputes the relevance that the district court attached to certain factors in reaching that conclusion, Ruiz fails to show that the district court abused its discretion in its evaluation of the plea agreement or in its determination that the facts and circumstances of the case did not warrant the agreed-upon sentence. *See Smith*, 417 F.3d at 487; *Crowell*, 60 F.3d at 205. The district court did not go beyond explaining why it rejected the plea agreement and did not comment on potential plea agreements that it would or would not accept. *See United States v. Jeter*, 315 F.3d 445, 449 (5th Cir. 2002). Further, Ruiz has not shown that the district court erred by considering un rebutted information in the presentence report, *see United States v. Fuentes*, 775 F.3d 213, 219 (5th Cir. 2014); *Smith*, 417 F.3d at 487, or violated the Confrontation Clause in doing so, *see United States v. Mitchell*, 484 F.3d 762, 776 (5th Cir. 2007).

Additionally, Ruiz argues that the district court impermissibly double counted his wrongful conduct in its determination of his guidelines range. He asserts that the improper double counting took place when the district court applied both a two-level enhancement pursuant to U.S.S.G. § 3D1.4, as well as a five-level enhancement pursuant to U.S.S.G. § 4B1.5(b)(1). His double-counting argument is reviewed de novo. *See United States v. Jones*, 145 F.3d 736, 737 (5th Cir. 1998).

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His claim is unavailing. Double counting is impermissible only if the guidelines at issue specifically forbid it. *See United States v. Johnson*, 990 F.3d 392, 403 (5th Cir. 2021). However, nothing in § 3D1.4 or § 4B1.5 expressly precludes application of both enhancements, and there is no indication that the guidelines were not meant to apply cumulatively. *See* U.S.S.G. §§ 3D1.4, 4B1.5. In fact, § 4B1.5(b)(1) states that it is to be assessed in addition to any adjustment in Chapter Three. *See* U.S.S.G. § 4B1.5(b)(1). To the extent that Ruiz asserts that he should not have received a two-level increase under § 3D1.4 because his crimes that involved separate minor victims should not have been treated as separate groups, his claim lacks merit. *See* U.S.S.G. § 2G2.1(d)(1) & comment. (n.7); *see also* U.S.S.G. §§ 3D1.1(a), 3D1.2.

AFFIRMED.