United States Court of Appeals
For the Eighth Circuit

No. 20-3028

United States of America

Plaintiff - Appellee

v.

Kendall Streb

Defendant - Appellant

Human Trafficking Institute

Amicus on Behalf of Appellee

Appeal from United States District Court
for the Southern District of Iowa - Central

Submitted: October 22, 2021
Filed: June 7, 2022
Revised: July 1, 2022

Before ERICKSON, GRASZ, and STRAS, Circuit Judges.

STRAS, Circuit Judge.

A jury found Kendall Streb guilty of various sex-trafficking, firearm, and drug crimes. Although his

challenges run the gamut from alleged discovery violations to complaints about his sentence, we affirm.

I.

An indictment charged Streb with child sex-trafficking, illegal possession of firearms, and drug possession and distribution. The drug and firearm charges arose out of his line of work: dealing methamphetamine.

Streb also paid for sex, using both cash and drugs. The sexual encounters started with Minor Victim B, but soon involved her friends too. After law enforcement caught wind of his criminal activities, officers searched his home and found firearms in a closet near some drugs that were packaged for sale.

At trial, a jury found Streb guilty of multiple crimes,[1] which earned him a sentence of 268 months in prison. He argues that the district court[2] erred from start to finish, and at nearly every point in between.

---

[1] Sex trafficking of children, 18 U.S.C. § 1591(a)(1), (b)(2); distributing methamphetamine to a minor, 21 U.S.C. §§ 841(a)(1), 859; possessing methamphetamine with intent to distribute it, 21 U.S.C. § 841(a)(1), 841(b)(1)(C); possessing a firearm in furtherance of a drug-trafficking crime, 18 U.S.C. § 924(c)(1)(A)(i); and unlawfully possessing a firearm, 18 U.S.C. §§ 922(g)(3), 924(a)(2).

[2] The Honorable Stephanie M. Rose, then United States District Judge for the Southern District of Iowa, now Chief Judge, United States District Court for the Southern District of Iowa.

II.

Streb's first set of arguments focus on the government's eve-of-trial disclosure about benefits it had provided to several minor victims. The district court denied his motion to dismiss the indictment or, in the alternative, to exclude their testimony. We review this decision for an abuse of discretion. *See United States v. Sandoval-Rodriguez*, 452 F.3d 984, 989 (8th Cir. 2006) (exclusion of testimony); *United States v. DeCoteau*, 186 F.3d 1008, 1009 (8th Cir. 1999) (dismissal of indictment).

A.

Forty-eight hours before Streb's trial was set to begin, the government sent defense counsel a short letter disclosing that state and federal law-enforcement officials, including members of the United States Attorney's Office, had provided basic necessities to Streb's minor victims, including meals, clothing, and personal-hygiene items. After defense counsel objected to the letter's lack of specificity, the district court ordered the government to supplement it.

The government returned later that day with more information. For the lunches it provided, for example, the government disclosed who attended and how much they cost. It also reported giving one of the victims $50 in donated gift cards for the purchase of school supplies.

According to Streb, these tardy disclosures justified one of two remedies: dismissal of the indictment or the complete exclusion of testimony from those who benefited. In the alternative, he was willing to settle for an evidentiary hearing. Despite characterizing the circumstances as "problematic," the district court offered an even more modest solution: a continuance. After consulting with Streb, defense counsel opted to move forward with jury selection instead.

The issue came up again after jury selection. At that point, the district court formally denied Streb's motion because the remedies he requested were too "extreme." Once again, however, the district court proposed alternatives: an appropriate jury instruction and "wide open cross-examination" to explore any potential bias.

B.

Streb argues that the district court abused its discretion by not doing more. If a party has committed a discovery violation, Federal Rule of Criminal Procedure 16(d)(2) provides a menu of options to remedy it: ordering additional discovery, granting "a continuance," excluding the "undisclosed evidence," and entering "any other order that is just under the circumstances." The choice of remedy depends on "whether the government acted in bad faith and the reason(s) for [the] delay in production"; "whether there [was] any prejudice to the defendant"; and "whether any lesser sanction [would have been] appropriate to

secure future [g]overnment compliance." *United States v. Pherigo*, 327 F.3d 690, 694 (8th Cir. 2003).

Notably, Streb has difficulty explaining what rule or order the government violated. There was no constitutional violation because "due process is satisfied if the information is furnished before it is too late for the defendant to use it at trial." *United States v. Almendares*, 397 F.3d 653, 664 (8th Cir. 2005); *see also Brady v. Maryland*, 373 U.S. 83, 87 (1963). Although the disclosure came later than Streb would have liked, the district court offered a continuance to make sure that defense counsel had time to consider its impact on the case. And besides, the information was not furnished "too late for the defendant to use it at trial." *Almendares*, 397 F.3d at 664. Defense counsel *actually* relied on it when cross-examining one of the victims.

Streb fails to identify any other possibility. Indeed, when questioned at oral argument, counsel could only surmise that the government's conduct in this case amounted to "what could be considered an ethical" and "tactical violation."[3] Oral Arg. at 15:10–15:24. But even

[3] In his brief, Streb suggests in passing that the government's practice of providing food, personal-hygiene products, and clothing to minor sex-trafficking victims is bribery. *See* 18 U.S.C. § 201(c)(2). As the Human Trafficking Institute points out in its amicus brief, however, every circuit to have considered this question, including ours, has disagreed. *See United States v. Ihnatenko*, 482 F.3d 1097, 1099–1100 (9th Cir. 2007) (collecting cases from the First, Third, Fourth, Fifth, Seventh, and Eighth Circuits); *United States v. Albanese*, 195 F.3d 389, 394 (8th Cir. 1999) (observing that this court "ha[s] a long history of allowing

if we were to assume what the government did adds up to a discovery violation, we would still conclude that the district court did not abuse its discretion by offering a continuance, a jury instruction, and "wide open cross-examination." *See* Fed. R. Crim. P. 16(d)(2)(B), (D).

C.

Nor was an evidentiary hearing required to explore whether the government acted in bad faith. *See Pherigo*, 327 F.3d at 694. Following jury selection, the district court questioned the government at length about the benefits the witnesses received and the reasons for not disclosing them sooner. *See id.* The court then offered a continuance to Streb, which would have given defense counsel time to investigate the government's conduct, fine-tune his trial strategy, and potentially request additional discovery. The decision to offer a continuance rather than a hearing, particularly given the court's already in-depth questioning of the government, was not an abuse of discretion.

III.

Trial brought the next set of objections, this time to three of the district court's evidentiary rulings. Our review is for an abuse of discretion, *United States v. Street*, 531 F.3d 703, 708 (8th Cir. 2008), keeping in

---

the government to compensate witnesses for their participation in criminal investigations").

mind that we will reverse only if an error "affected the defendant's substantial rights or had more than a slight influence on the verdict," *United States v. Picardi*, 739 F.3d 1118, 1124 (8th Cir. 2014) (citation omitted).

A.

The first evidentiary ruling was the district court's refusal to admit sexually explicit advertisements offering Minor Victim B's services as an escort. In addition to promoting sex-for-cash, the ads listed her age as nineteen. Streb's position is that, had the jury seen them, it would have concluded that he could not have known that she was only fifteen, which would have negated the mental-state requirement of the child-sex-trafficking offense. *See* 18 U.S.C. § 1591(a) (requiring knowledge or a "reckless disregard of the fact[] . . . that the person has not attained the age of 18 years"). According to the court, the advertisements were inadmissible because they were "offered to prove that a victim engaged in other sexual behavior," Fed. R. Evid. 412(a), and were substantially more prejudicial than probative, Fed. R. Evid. 403.

We need not decide whether the district court abused its discretion because the ruling had no "influence on" the jury's verdict. *See Picardi*, 739 F.3d at 1124 (citation omitted). According to another provision in the child-sex-trafficking statute, the government did not need to prove that Streb knew or recklessly disregarded Minor Victim B's age if he "had a reasonable

opportunity to observe" her beforehand. 18 U.S.C. § 1591(c).

There is no dispute here that Streb had such an opportunity, which means that the government did not *also* have to prove that he "knew or recklessly disregarded" her age. *See United States v. Zam Lian Mung*, 989 F.3d 639, 643 (8th Cir. 2021) (stating that the government is "relieve[d]" from "proving the 'defendant knew, or recklessly disregarded' " the victim's age "when the facts demonstrate 'the defendant had a reasonable opportunity to observe the person . . . solicited' " (quoting 18 U.S.C. § 1591(c))); *see also United States v. Koech*, 992 F.3d 686, 688 (8th Cir. 2021) (noting that section 1591(c) "alter[s] the mens rea requirement regarding the victim's age"); *United States v. Whyte*, 928 F.3d 1317, 1329–30 (11th Cir. 2019) (explaining that the statute "unambiguously creates an independent basis of liability when the government proves a defendant had a reasonable opportunity to observe the victim"). Missing out on the chance to rebut a point that made no difference to the outcome could not have "influence[d] . . . the verdict." *Picardi*, 739 F.3d at 1124 (citation omitted).

B.

The second evidentiary challenge fares no better than the first. This time, the focus is on the specific charge in Minor Victim B's juvenile-delinquency petition, which was dismissed before the trial in this case

began. Streb's goal was to show that she was testifying to avoid a serious charge of her own.

The district court ruled that this line of questioning was off-limits. First, "juvenile adjudications" have limited admissibility. *See* Fed. R. Evid. 609(d) (providing that "[e]vidence of a juvenile adjudication is admissible under this rule" only if several requirements are met). And second, discussing the specific charge she faced would have been "inflammatory and highly prejudicial," not to mention that it would have "confused the issues before the jury." *See* Fed. R. Evid. 403.

Although Streb once again argues that the district court abused its discretion, any error in cutting off this line of questioning was harmless. Defense counsel was able to impeach Minor Victim B without getting into specifics, including probing her about the fact that she had previously been accused "of some crimes." He was also able to establish during the cross-examination of a detective that there had been a delinquency petition filed against her, which had been dismissed once she began cooperating with the government. Perhaps most importantly, cross-examination established that Minor Victim B understood that she would return to a juvenile-detention center if she refused to testify, which highlighted her possible pro-government bias. Having thoroughly attacked her credibility during cross-examination, defense counsel would have accomplished little more by discussing the specific charge in

the petition.[4] *See United States v. Oakie*, 993 F.3d 1051, 1054 (8th Cir. 2021) (per curiam).

C.

The third evidentiary challenge might be the most straightforward of all. The district court limited defense counsel's ability to impeach two of the minor victims with their past inconsistent statements out of a concern for trial management and the risk of having inadmissible hearsay come in through the back door. *See* Fed. R. Evid. 801(d)(1); *see also* Fed R. Evid. 611(a) ("The court should exercise reasonable control over the mode and order of examining witnesses and presenting evidence so as to . . . make those procedures effective for determining the truth . . . avoid wasting time . . . and . . . protect witnesses from harassment or undue embarrassment."); Fed. R. Evid. 802 (prohibition on hearsay).

Once again, harmless error poses an obstacle for Streb. As the government points out, defense counsel spent hours cross-examining both witnesses, including about their prior statements. For his part, Streb cannot identify a single statement or passage that was closed off by the district court's ruling. With otherwise strong evidence of guilt and no telling what the unspecified

[4] For this reason, to the extent Streb argues that his Confrontation Clause rights were violated, *see Davis v. Alaska*, 415 U.S. 308, 315–16 (1974), any error was harmless beyond a reasonable doubt. *See Delaware v. Van Arsdall*, 475 U.S. 673, 684 (1986).

prior statements might have shown, any error here had, at most, only "a slight influence on the verdict." *Picardi*, 739 F.3d at 1124 (citation omitted).

IV.

Once the government finished presenting its case, Streb moved for an acquittal on the illegal-possession-of-a-firearm count. *See* 18 U.S.C. § 924(c)(1)(A) (possessing a firearm in furtherance of a drug-trafficking crime). He admitted that he possessed a firearm, but claimed that the evidence did not show that he had done so "in furtherance" of a drug-trafficking crime. *Id.* We review the sufficiency of the evidence de novo, viewing the evidence in the light most favorable to the government and drawing all reasonable inferences in favor of the verdict. *See United States v. Maloney*, 466 F.3d 663, 666 (8th Cir. 2006).

The in-furtherance element required the government to establish a "nexus" between Streb's possession of a firearm and a drug crime. *United States v. Sanchez-Garcia*, 461 F.3d 939, 946 (8th Cir. 2006) (citation omitted). The former must "further[], advanc[e] or help[] forward" the latter. *Id.* (citation omitted). "[A] jury can draw this inference if the firearm is kept in close proximity to the drugs, it is quickly accessible, and there is expert testimony regarding the use of firearms in connection with drug trafficking." *United States v. White*, 962 F.3d 1052, 1056 (8th Cir. 2020) (quotation marks omitted).

The government's evidence followed this formula exactly. A search uncovered two firearms and three extra magazines in his bedroom closet, which was just a few feet away from packaged methamphetamine. It also revealed ammunition in his truck, which he used to move the drugs. Finally, expert testimony established a connection between guns and drug trafficking. Taken together, the evidence was sufficient for the jury to conclude that Streb kept firearms at his home and in his truck to protect the drugs he distributed. *See id.* (involving similar facts); *Sanchez-Garcia*, 461 F.3d at 947 (same).

V.

Sentencing also produced its own share of challenges. Leaving no stone unturned, Streb asks us to review three enhancements, the criminal-history calculation, and the substantive reasonableness of the sentence.

A.

Multiple enhancements went into determining Streb's total offense level of 43. He complains about three of them: (1) a two-level enhancement for "unduly influenc[ing] a minor to engage in prohibited sexual conduct," U.S.S.G. § 2G1.3(b)(2)(B); (2) a two-level enhancement for using "a computer," *id.* § 2G1.3(b)(3); and (3) a five-level enhancement for "engag[ing] in a pattern of activity involving prohibited sexual conduct," *id.* § 4B1.5(b)(1). In evaluating each, we review

"the district court's construction and application of the sentencing guidelines de novo and its factual findings for clear error." *United States v. Hagen*, 641 F.3d 268, 270 (8th Cir. 2011) (italics omitted).

1.

The undue-influence enhancement focuses on the "voluntariness of the minor's behavior." U.S.S.G. § 2G1.3 cmt. n.3(B). Streb's position is that the minors consented to the "prohibited sexual conduct," which takes the enhancement off the table. *See id.* § 2G1.3(b)(2)(B).

The problem with Streb's argument is that it does not account for the "rebuttable presumption that" the enhancement applies when the defendant "is at least 10 years older than the minor." *Id.* § 2G1.3 cmt. n.3(B). Streb was more than 30 years older than each of his victims, and he often exchanged drugs for sex with cash-strapped and methamphetamine-addicted minors. On this record, Streb came nowhere close to rebutting the presumption of undue influence.

2.

The evidence also established that Streb used his cellphone to arrange the "prohibited" sexual encounters. U.S.S.G. § 2G1.3(b)(3). A two-level enhancement is available if the "offense involved the use of a computer . . . to . . . facilitate the travel of . . . the minor to engage in prohibited sexual conduct." *Id.* We have

already held that a cellphone is a "computer," at least under the "broad" statutory definition that applies here. *United States v. Kramer*, 631 F.3d 900, 903 (8th Cir. 2011); *see also* U.S.S.G. § 2G1.3(b)(3) cmt. n.1 (explaining that "'[c]omputer' has the meaning given that term in 18 U.S.C. § 1030(e)(1)" (citation omitted)).

3.

We can also make quick work of Streb's objection to the five-level enhancement for "engag[ing] in a pattern of activity involving prohibited sexual conduct." U.S.S.G. § 4B1.5(b)(1). "[A]t least two separate occasions" makes out a pattern, *id.* § 4B1.5(b)(1) cmt. n.4(B)(i), and here, the district court found that Streb paid *three* minors for sex, two on multiple occasions. *See id.* § 4B1.5 cmt. n.2 (listing Streb's offenses as "covered sex crimes"). More than enough to form a pattern.

B.

Streb does not fare any better with the challenge to his criminal-history score. There are two main considerations: the number of "prior sentence[s] of imprisonment" that a defendant has served and the length of each one. U.S.S.G. § 4A1.1. In limited situations, multiple sentences can be treated as one, but only if they "resulted from offenses contained in the same charging instrument" or "were imposed on the same day." *Id.* § 4A1.2(a)(2).

Streb seeks to avail himself of one of these exceptions for two "prior sentences" he served for passing bad checks. *Id.* § 4A1.1. The problem is that the criminal acts were committed in different counties, meaning that they were not prosecuted under "the same charging instrument," *id.* § 4A1.2(a)(2), and the sentences were not "imposed on the same day," *id.* Under these circumstances, his criminal-history score stands.

C.

Finally, we conclude that Streb's 268-month sentence, a substantial downward variance from the recommendation of life imprisonment, is substantively reasonable. *See United States v. McKanry*, 628 F.3d 1010, 1022 (8th Cir. 2011) ("[I]t is nearly inconceivable" that once a district court has varied downward, it "abuse[s] its discretion in not varying downward [even] further." (quotation marks omitted)); *see also* U.S.S.G. Part A (setting a range of life for someone with an offense level of 43). The record establishes that the district court sufficiently considered the statutory sentencing factors, 18 U.S.C. § 3553(a), and did not rely on an improper factor or commit a clear error of judgment. *See United States v. Feemster*, 572 F.3d 455, 461 (8th Cir. 2009) (en banc).

VI.

We accordingly affirm the judgment of the district court.

United States Court of Appeals
For the Eighth Circuit

No. 20-3028

United States of America

Plaintiff - Appellee

v.

Kendall Streb

Defendant - Appellant

Human Trafficking Institute

Amicus on Behalf of Appellee

Appeal from United States District Court
for the Southern District of Iowa - Central

Submitted: October 22, 2021
Filed: June 7, 2022

Before ERICKSON, GRASZ, and STRAS, Circuit Judges.

STRAS, Circuit Judge.

A jury found Kendall Streb guilty of various sex-trafficking, firearm, and drug crimes. Although his

challenges run the gamut from alleged discovery violations to complaints about his sentence, we affirm.

I.

An indictment charged Streb with child sex-trafficking, illegal possession of firearms, and drug possession and distribution. The drug and firearm charges arose out of his line of work: dealing methamphetamine.

Streb also paid for sex, using both cash and drugs. The sexual encounters started with Minor Victim B, but soon involved her friends too. After law enforcement caught wind of his criminal activities, officers searched his home and found firearms in a closet near some drugs that were packaged for sale.

At trial, a jury found Streb guilty of multiple crimes,[1] which earned him a sentence of 268 months in prison. He argues that the district court[2] erred from start to finish, and at nearly every point in between.

---

[1] Sex trafficking of children, 18 U.S.C. § 1591(a)(1), (b)(2); distributing methamphetamine to a minor, 21 U.S.C. §§ 841(a)(1), 859; possessing methamphetamine with intent to distribute it, 21 U.S.C. § 841(a)(1), 841(b)(1)(C); possessing a firearm in furtherance of a drug-trafficking crime, 18 U.S.C. § 924(c)(1)(A)(i); and unlawfully possessing a firearm, 18 U.S.C. §§ 922(g)(3), 924(a)(2).

[2] The Honorable Stephanie M. Rose, then United States District Judge for the Southern District of Iowa, now Chief Judge, United States District Court for the Southern District of Iowa.

II.

Streb's first set of arguments focus on the government's eve-of-trial disclosure about benefits it had provided to several minor victims. The district court denied his motion to dismiss the indictment or, in the alternative, to exclude their testimony. We review this decision for an abuse of discretion. *See United States v. Sandoval-Rodriguez*, 452 F.3d 984, 989 (8th Cir. 2006) (exclusion of testimony); *United States v. DeCoteau*, 186 F.3d 1008, 1009 (8th Cir. 1999) (dismissal of indictment).

A.

Forty-eight hours before Streb's trial was set to begin, the government sent defense counsel a short letter disclosing that state and federal law-enforcement officials, including members of the United States Attorney's Office, had provided basic necessities to Streb's minor victims, including meals, clothing, and personal-hygiene items. After defense counsel objected to the letter's lack of specificity, the district court ordered the government to supplement it.

The government returned later that day with more information. For the lunches it provided, for example, the government disclosed who attended and how much they cost. It also reported giving one of the victims $50 in donated gift cards for the purchase of school supplies.

According to Streb, these tardy disclosures justified one of two remedies: dismissal of the indictment or the complete exclusion of testimony from those who benefited. In the alternative, he was willing to settle for an evidentiary hearing. Despite characterizing the circumstances as "problematic," the district court offered an even more modest solution: a continuance. After consulting with Streb, defense counsel opted to move forward with jury selection instead.

The issue came up again after jury selection. At that point, the district court formally denied Streb's motion because the remedies he requested were too "extreme." Once again, however, the district court proposed alternatives: an appropriate jury instruction and "wide open cross-examination" to explore any potential bias.

B.

Streb argues that the district court abused its discretion by not doing more. If a party has committed a discovery violation, Federal Rule of Criminal Procedure 16(d)(2) provides a menu of options to remedy it: ordering additional discovery, granting "a continuance," excluding the "undisclosed evidence," and entering "any other order that is just under the circumstances." The choice of remedy depends on "whether the government acted in bad faith and the reason(s) for [the] delay in production"; "whether there [was] any prejudice to the defendant"; and "whether any lesser sanction [would have been] appropriate to

secure future [g]overnment compliance." *United States v. Pherigo*, 327 F.3d 690, 694 (8th Cir. 2003).

Notably, Streb has difficulty explaining what rule or order the government violated. There was no constitutional violation because "due process is satisfied if the information is furnished before it is too late for the defendant to use it at trial." *United States v. Almendares*, 397 F.3d 653, 664 (8th Cir. 2005); *see also Brady v. Maryland*, 373 U.S. 83, 87 (1963). Although the disclosure came later than Streb would have liked, the district court offered a continuance to make sure that defense counsel had time to consider its impact on the case. And besides, the information was not furnished "too late for the defendant to use it at trial." *Almendares*, 397 F.3d at 664. Defense counsel *actually* relied on it when cross-examining one of the victims.

Streb fails to identify any other possibility. Indeed, when questioned at oral argument, counsel could only surmise that the government's conduct in this case amounted to "what could be considered an ethical" and "tactical violation."[3] Oral Arg. at 15:10-15:24. But even

---

[3] In his brief, Streb suggests in passing that the government's practice of providing food, personal-hygiene products, and clothing to minor sex-trafficking victims is bribery. *See* 18 U.S.C. § 201(c)(2). As the Human Trafficking Institute points out in its amicus brief, however, every circuit to have considered this question, including ours, has disagreed. *See United States v. Ihnatenko*, 482 F.3d 1097, 1099-1100 (9th Cir. 2007) (collecting cases from the First, Third, Fourth, Fifth, Seventh, and Eighth Circuits); *United States v. Albanese*, 195 F.3d 389, 394 (8th Cir. 1999) (observing that this court "ha[s] a long history of allowing

if we were to assume what the government did adds up to a discovery violation, we would still conclude that the district court did not abuse its discretion by offering a continuance, a jury instruction, and "wide open cross-examination." *See* Fed. R. Crim. P. 16(d)(2)(B), (D).

C.

Nor was an evidentiary hearing required to explore whether the government acted in bad faith. *See Pherigo*, 327 F.3d at 694. Following jury selection, the district court questioned the government at length about the benefits the witnesses received and the reasons for not disclosing them sooner. *See id.* The court then offered a continuance to Streb, which would have given defense counsel time to investigate the government's conduct, fine-tune his trial strategy, and potentially request additional discovery. The decision to offer a continuance rather than a hearing, particularly given the court's already in-depth questioning of the government, was not an abuse of discretion.

III.

Trial brought the next set of objections, this time to three of the district court's evidentiary rulings. Our review is for an abuse of discretion, *United States v. Street*, 531 F.3d 703, 708 (8th Cir. 2008), keeping in

---

the government to compensate witnesses for their participation in criminal investigations").

mind that we will reverse only if an error "affected the defendant's substantial rights or had more than a slight influence on the verdict," *United States v. Picardi*, 739 F.3d 1118, 1124 (8th Cir. 2014) (citation omitted).

A.

The first evidentiary ruling was the district court's refusal to admit sexually explicit advertisements offering Minor Victim B's services as an escort. In addition to promoting sex-for-cash, the ads listed her age as nineteen. Streb's position is that, had the jury seen them, it would have concluded that he could not have known that she was only fifteen, which would have negated the mental-state requirement of the child-sex-trafficking offense. *See* 18 U.S.C. § 1591(a) (requiring knowledge or a "reckless disregard of the fact[] . . . that the person has not attained the age of 18 years"). According to the court, the advertisements were inadmissible because they were "offered to prove that a victim engaged in other sexual behavior," Fed. R. Evid. 412(a), and were substantially more prejudicial than probative, Fed. R. Evid. 403.

We need not decide whether the district court abused its discretion because the ruling had no "influence on" the jury's verdict. *See Picardi*, 739 F.3d at 1124 (citation omitted). According to another provision in the child-sex-trafficking statute, the government did not need to prove that Streb knew or recklessly disregarded Minor Victim B's age if he "had a reasonable

opportunity to observe" her beforehand. 18 U.S.C. § 1591(c).

There is no dispute here that Streb had such an opportunity, which means that the government did not *also* have to prove that he "knew or recklessly disregarded" her age. *See United States v. Zam Lian Mung*, 989 F.3d 639, 643 (8th Cir. 2021) (stating that the government is "relieve[d]" from "proving the 'defendant knew, or recklessly disregarded'" the victim's age "when the facts demonstrate 'the defendant had a reasonable opportunity to observe the person . . . solicited'" (quoting 18 U.S.C. § 1591(c))); *see also United States v. Koech*, 992 F.3d 686, 688 (8th Cir. 2021) (noting that section 1591(c) "alter[s] the mens rea requirement regarding the victim's age"); *United States v. Whyte*, 928 F.3d 1317, 1329–30 (11th Cir. 2019) (explaining that the statute "unambiguously creates an independent basis of liability when the government proves a defendant had a reasonable opportunity to observe the victim"). Missing out on the chance to rebut a point that made no difference to the outcome could not have "influence[d] . . . the verdict." *Picardi*, 739 F.3d at 1124 (citation omitted).

B.

The second evidentiary challenge fares no better than the first. This time, the focus is on the specific charge in Minor Victim B's juvenile-delinquency petition, which was dismissed before the trial in this case

began. Streb's goal was to show that she was testifying to avoid a serious charge of her own.

The district court ruled that this line of questioning was off-limits. First, "juvenile adjudications" have limited admissibility. *See* Fed. R. Evid. 609(d) (providing that "[e]vidence of a juvenile adjudication is admissible under this rule" only if several requirements are met). And second, discussing the specific charge she faced would have been "inflammatory and highly prejudicial," not to mention that it would have "confused the issues before the jury." *See* Fed. R. Evid. 403.

Although Streb once again argues that the district court abused its discretion, any error in cutting off this line of questioning was harmless. Defense counsel was able to impeach Minor Victim B without getting into specifics, including probing her about the fact that she had previously been accused "of some crimes." He was also able to establish during the cross-examination of a detective that there had been a delinquency petition filed against her, which had been dismissed once she began cooperating with the government. Perhaps most importantly, cross-examination established that Minor Victim B understood that she would return to a juvenile-detention center if she refused to testify, which highlighted her possible pro-government bias. Having thoroughly attacked her credibility during cross-examination, defense counsel would have accomplished little more by discussing the specific charge in

the petition.[4] *See United States v. Oakie*, 993 F.3d 1051, 1054 (8th Cir. 2021) (per curiam).

C.

The third evidentiary challenge might be the most straightforward of all. The district court limited defense counsel's ability to impeach two of the minor victims with their past inconsistent statements out of a concern for trial management and the risk of having inadmissible hearsay come in through the back door. *See* Fed. R. Evid. 801(d)(1); *see also* Fed R. Evid. 611(a) ("The court should exercise reasonable control over the mode and order of examining witnesses and presenting evidence so as to . . . make those procedures effective for determining the truth . . . avoid wasting time . . . and . . . protect witnesses from harassment or undue embarrassment."); Fed. R. Evid. 802 (prohibition on hearsay).

Once again, harmless error poses an obstacle for Streb. As the government points out, defense counsel spent hours cross-examining both witnesses, including about their prior statements. For his part, Streb cannot identify a single statement or passage that was closed off by the district court's ruling. With otherwise strong evidence of guilt and no telling what the unspecified

[4] For this reason, to the extent Streb argues that his Confrontation Clause rights were violated, *see Davis v. Alaska*, 415 U.S. 308, 315–16 (1974), any error was harmless beyond a reasonable doubt. *See Delaware v. Van Arsdall*, 475 U.S. 673, 684 (1986).

prior statements might have shown, any error here had, at most, only "a slight influence on the verdict." *Picardi*, 739 F.3d at 1124 (citation omitted).

IV.

Once the government finished presenting its case, Streb moved for an acquittal on the illegal-possession-of-a-firearm count. *See* 18 U.S.C. § 924(c)(1)(A) (possessing a firearm in furtherance of a drug-trafficking crime). He admitted that he possessed a firearm, but claimed that the evidence did not show that he had done so "in furtherance" of a drug-trafficking crime. *Id.* We review the sufficiency of the evidence de novo, viewing the evidence in the light most favorable to the government and drawing all reasonable inferences in favor of the verdict. *See United States v. Maloney*, 466 F.3d 663, 666 (8th Cir. 2006).

The in-furtherance element required the government to establish a "nexus" between Streb's possession of a firearm and a drug crime. *United States v. Sanchez-Garcia*, 461 F.3d 939, 946 (8th Cir. 2006) (citation omitted). The former must "further[], advanc[e] or help[] forward" the latter. *Id.* (citation omitted). "[A] jury can draw this inference if the firearm is kept in close proximity to the drugs, it is quickly accessible, and there is expert testimony regarding the use of firearms in connection with drug trafficking." *United States v. White*, 962 F.3d 1052, 1056 (8th Cir. 2020) (quotation marks omitted).

The government's evidence followed this formula exactly. A search uncovered two firearms and three extra magazines in his bedroom closet, which was just a few feet away from packaged methamphetamine. It also revealed a firearm in his truck, which he used to move the drugs. Finally, expert testimony established a connection between guns and drug trafficking. Taken together, the evidence was sufficient for the jury to conclude that Streb kept firearms at his home and in his truck to protect the drugs he distributed. *See id.* (involving similar facts); *Sanchez-Garcia*, 461 F.3d at 947 (same).

V.

Sentencing also produced its own share of challenges. Leaving no stone unturned, Streb asks us to review three enhancements, the criminal-history calculation, and the substantive reasonableness of the sentence.

A.

Multiple enhancements went into determining Streb's total offense level of 43. He complains about three of them: (1) a two-level enhancement for "unduly influenc[ing] a minor to engage in prohibited sexual conduct," U.S.S.G. § 2G1.3(b)(2)(B); (2) a two-level enhancement for using "a computer," *id.* § 2G1.3(b)(3); and (3) a five-level enhancement for "engag[ing] in a pattern of activity involving prohibited sexual conduct," *id.* § 4B1.5(b)(1). In evaluating each, we review

"the district court's construction and application of the sentencing guidelines de novo and its factual findings for clear error." *United States v. Hagen*, 641 F.3d 268, 270 (8th Cir. 2011) (italics omitted).

1.

The undue-influence enhancement focuses on the "voluntariness of the minor's behavior." U.S.S.G. § 2G1.3 cmt. n.3(B). Streb's position is that the minors consented to the "prohibited sexual conduct," which takes the enhancement off the table. *See id.* § 2G1.3(b)(2)(B).

The problem with Streb's argument is that it does not account for the "rebuttable presumption that" the enhancement applies when the defendant "is at least 10 years older than the minor." *Id.* § 2G1.3 cmt. n.3(B). Streb was more than 30 years older than each of his victims, and he often exchanged drugs for sex with cash-strapped and methamphetamine-addicted minors. On this record, Streb came nowhere close to rebutting the presumption of undue influence.

2.

The evidence also established that Streb used his cellphone to arrange the "prohibited" sexual encounters. U.S.S.G. § 2G1.3(b)(3). A two-level enhancement is available if the "offense involved the use of a computer . . . to . . . facilitate the travel of . . . the minor to engage in prohibited sexual conduct." *Id.* We have

already held that a cellphone is a "computer," at least under the "broad" statutory definition that applies here. *United States v. Kramer*, 631 F.3d 900, 903 (8th Cir. 2011); *see also* U.S.S.G. § 2G1.3(b)(3) cmt. n.1 (explaining that "'[c]omputer' has the meaning given that term in 18 U.S.C. § 1030(e)(1)" (citation omitted)).

3.

We can also make quick work of Streb's objection to the five-level enhancement for "engag[ing] in a pattern of activity involving prohibited sexual conduct." U.S.S.G. § 4B1.5(b)(1). "[A]t least two separate occasions" makes out a pattern, *id.* § 4B1.5(b)(1) cmt. n.4(B)(i), and here, the district court found that Streb paid *three* minors for sex, two on multiple occasions. *See id.* § 4B1.5 cmt. n.2 (listing Streb's offenses as "covered sex crimes"). More than enough to form a pattern.

B.

Streb does not fare any better with the challenge to his criminal-history score. There are two main considerations: the number of "prior sentence[s] of imprisonment" that a defendant has served and the length of each one. U.S.S.G. § 4A1.1. In limited situations, multiple sentences can be treated as one, but only if they "resulted from offenses contained in the same charging instrument" or "were imposed on the same day." *Id.* § 4A1.2(a)(2).

Streb seeks to avail himself of one of these exceptions for two "prior sentences" he served for passing bad checks. *Id.* § 4A1.1. The problem is that the criminal acts were committed in different counties, meaning that they were not prosecuted under "the same charging instrument," *id.* § 4A1.2(a)(2), and the sentences were not "imposed on the same day," *id.* Under these circumstances, his criminal-history score stands.

C.

Finally, we conclude that Streb's 268-month sentence, a substantial downward variance from the recommendation of life imprisonment, is substantively reasonable. *See United States v. McKanry*, 628 F.3d 1010, 1022 (8th Cir. 2011) ("[I]t is nearly inconceivable" that once a district court has varied downward, it "abuse[s] its discretion in not varying downward [even] further." (quotation marks omitted)); *see also* U.S.S.G. Part A (setting a range of life for someone with an offense level of 43). The record establishes that the district court sufficiently considered the statutory sentencing factors, 18 U.S.C. § 3553(a), and did not rely on an improper factor or commit a clear error of judgment. *See United States v. Feemster*, 572 F.3d 455, 461 (8th Cir. 2009) (en banc).

VI.

We accordingly affirm the judgment of the district court.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA

V.

Kendall Andrew Streb

Date of Original Judgment: 9/24/2020
(Or Date of Last Amended Judgment)

Reason for Amendment:

- ☐ Correction of Sentence on Remand (18 U.S.C. 3742(f)(1) and (2))
- ☐ Reduction of Sentence for Changed Circumstances (Fed. R. Crim. P. 35(b))
- ☐ Correction of Sentence by Sentencing Court (Fed. R. Crim. P. 35(a))
- ☑ Correction of Sentence for Clerical Mistake (Fed. R. Crim. P. 36)

AMENDED JUDGMENT IN A CRIMINAL CASE

Case Number: 4:19-CR-00076-003

USM Number: 19099-030

Alfredo G. Parrish, Gina Messamer, and Jessica Donels

Defendant's Attorney

- ☐ Modification of Supervision Conditions (18 U.S.C. §§ 3563(c) or 3583(e))
- ☐ Modification of Imposed Term of Imprisonment for Extraordinary and Compelling Reasons (18 U.S.C. § 3582(c)(1))
- ☐ Modification of Imposed Term of Imprisonment for Retroactive Amendment(s) to the Sentencing Guidelines (18 U.S.C. § 3582(c)(2))
- ☐ Direct Motion to District Court Pursuant ☐ 28 U.S.C. § 2255 or ☐ 18 U.S.C. § 3559(c)(7)
- ☐ Modification of Restitution Order (18 U.S.C. § 3664)

THE DEFENDANT:

☐ pleaded guilty to count(s) _____

☐ pleaded nolo contendere to count(s) _____ which was accepted by the court.

☑ was found guilty on count(s) 12, 14, 16, 17, 18, 19, 26, and 32 of the Third Superseding Indictment filed on August 13, 2019.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18 U.S.C. § 1591(a)(1), 1591(b)(2)	Sex Trafficking of a Child	12/29/2018	12ss
18 U.S.C. § 1591(a)(1), 1591(b)(2)	Sex Trafficking of a Child	02/2019	14ss

☑ See additional count(s) on page 2

The defendant is sentenced as provided in pages 3 through 10 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☑ The defendant has been found not guilty on count(s) 13ss.

☐ Count(s) ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

October 13, 2020
Date of Imposition of Judgment

/s/ Stephanie M. Rose
Signature of Judge

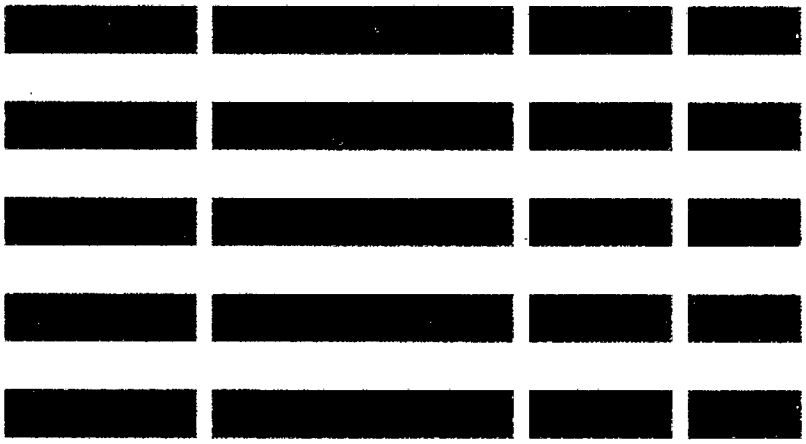
Stephanie M. Rose, U.S. District Judge
Name of Judge Title of Judge

October 13, 2020
Date

ADDITIONAL COUNTS OF CONVICTION

Title & Section	**Nature of Offense**	**Offense Ended**	**Count**
21 U.S.C. §§ 841(a)(1), 841(b)(1)(C), 859	Distribution of a Mixture and Substance Containing a Detectable Amount of Methamphetamine to a Person Under the Age of 21	02/2019	16ss

21 U.S.C. §§ 841(a)(1), 841(b)(1)(C)	Possession with Intent to Distribute a Mixture and Substance Containing Methamphetamine	03/26/2019	17ss
18 U.S.C. § 924(c)(1)(A)(i)	Possession of a Firearm in Furtherance of a Drug Trafficking Crime	03/26/2019	18ss
18 U.S.C. §§ 922(g)(3), 924(a)(2)	Unlawful User in Possession of a Firearm	03/26/2019	19ss
18 U.S.C. § 1591(a)(1), 1591(b)(2)	Sex Trafficking of a Child	02/2019	26ss
21 U.S.C. §§ 841(a)(1), 841(b)(1)(C), 859	Distribution of a Mixture and Substance Containing a Detectable Amount of Methamphetamine to a Person Under the Age of 21	01/19/2019	32ss



IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

268 months, consisting of 208 months as to each of Counts 12, 14, 16, 17, 26, and 32; and 120 months as to Count 19; all to be served concurrently with one another and consecutively to 60 months as to Count 18 of the Third Superseding Indictment filed on August 13, 2019.

☑ The court makes the following recommendations to the Bureau of Prisons:

That the defendant be placed at FMC Rochester, or if not available, FCI Oxford, if commensurate with his security and classification needs. If neither facility is available, the Court recommends the defendant be placed as close to Iowa as possible. The Court further

recommends that the defendant be made eligible to participate in the 500-hour Residential Drug Abuse Treatment Program (RDAP). Additionally, the Court recommends that the defendant participate in sex offender treatment.

☑ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____.

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before on _____.

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

_____
UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of :

6 years as to each of Counts 12, 14, 16, 17, 26, and 32; 5 years as to Count 18; and 3 years as to Count 19 of the Third Superseding Indictment filed on August 13, 2019, with all counts to be served concurrently.

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

   ☐ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check, if applicable)*

4. ☑ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. ☑ You must cooperate in the collection of DNA as directed by the probation officer. *(check, if applicable)*

6. ☑ You must comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check, if applicable)*

7. ☐ You must participate in an approved program for domestic violence. *(check, if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.

2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your

work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.

8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.

9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.

10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).

11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.

12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.

13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions,* available at: www.uscourts.gov.

Defendant's Signature _____ Date _____

SPECIAL CONDITIONS OF SUPERVISION

You must participate in a sex offender treatment program, to include psychological testing and polygraph examinations, as directed by the U.S. Probation Officer. You must also abide by all supplemental conditions of sex offender treatment, to include abstaining from alcohol. Participation may include inpatient/outpatient treatment, if deemed necessary by the treatment provider. You must contribute to the costs of services rendered (co-payment) based on ability to pay or availability of third party payment. Sex offender assessments and treatment shall be conducted by therapists and polygraph examiners approved by the U.S. Probation Office, who shall release all reports to the U.S. Probation Office. The results of polygraph examinations will not be used for the purpose of revocation of supervised release or probation. If disclosure is required by mandatory reporting laws, polygraph results will be

reported to appropriate treatment personnel, law enforcement, and related agencies with the approval of the Court. If polygraph results reveal possible new criminal behavior, this will be reported to the appropriate law enforcement and related agencies after obtaining approval from the Court.

You must comply with all sex offender laws for the state in which you reside and must register with the local sheriff's office within the applicable time frame.

You must refrain from associating with anyone engaged in the exploitation of minors whether known or unknown to local, state, or federal law enforcement.

You must not associate with any prostitute or anyone you should reasonably know to be a prostitute or places where prostitution is a known activity.

You must not frequent a hotel, motel, or other commercial establishment that offers temporary lodging without the prior written permission of the U.S. Probation Officer.

You must not have any direct contact (personal, electronic, mail, or otherwise) with any female child you know or reasonably should know to be under the age of 18, including in employment, without the prior approval of the U.S. Probation Officer. If contact is approved, you must comply with any conditions or limitations on this contact, as set forth by the U.S. Probation Officer. Any unapproved direct contact must be reported to the U.S. Probation Officer within 24 hours.

Direct contact does not include incidental contact during ordinary daily activities in public places.

You must not contact the victim(s), nor the victim's family without prior permission from the U.S. Probation Officer.

You must participate in a cognitive behavioral treatment program, which may include journaling and other curriculum requirements, as directed by the U.S. Probation Officer.

You must submit to a mental health evaluation. If treatment is recommended, you must participate in an approved treatment program and abide by all supplemental conditions of treatment. Participation may include inpatient/outpatient treatment and/or compliance with a medication regimen. You will contribute to the costs of services rendered (co-payment) based on ability to pay or availability of third party payment.

You must participate in a program of testing and/or treatment for substance abuse, as directed by the Probation Officer, until such time as the defendant is released from the program by the Probation Office. At the direction of the probation office, you must receive a substance abuse evaluation and participate in inpatient and/or outpatient treatment, as recommended. Participation may also include compliance with a medication regimen. You will contribute to the costs of services rendered (co-payment) based on ability to pay or availability of third party payment. You must not use alcohol and/or other intoxicants during the course of supervision.

ADDITIONAL SPECIAL CONDITIONS OF SUPERVISION

You must pay restitution in the total amount of $80,286. You will cooperate with the U.S. Probation Officer in developing a monthly payment plan consistent with a schedule of allowable expenses provided by the U.S. Probation Office. You may be required to participate in an IRS Offset Program and/or Treasury Offset Program which may include the garnishment of wages or seizure of all or part of any income tax refund and/or any government payment to be applied toward the restitution balance.

Until restitution and the JVTA are paid, you must not apply for, solicit, or incur any further debt, included but not limited to loans, lines of credit, or credit card charges, either as a principal or cosigner, as an individual, or through any corporate entity, without first obtaining written permission from the U.S. Probation Officer.

Until restitution and the JVTA are paid, you must provide complete access to financial information, including disclosure of all business and personal finances, to the U.S. Probation Officer.

You will submit to a search of your person, property, residence, adjacent structures, office, vehicle, papers, computers (as defined in 18 U.S.C. § 1&30(e)(1)), and other electronic communications or data storage devices or media, conducted by a U.S. Probation Officer. Failure to submit to a search may be grounds for

revocation. You must warn any other residents or occupants that the premises and/or vehicle may be subject to searches pursuant to this condition. An officer may conduct a search pursuant to this condition only when reasonable suspicion exists that you have violated a condition of your release and/or that the area(s) or item(s) to be searched contain evidence of this violation or contain contraband. Any search must be conducted at a reasonable time and in a reasonable manner. This condition may be invoked with or without the assistance of law enforcement, including the U.S. Marshals Service.

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

☐ Pursuant to 18 U.S.C. § 3573, upon the motion of the government, the Court hereby remits the defendant's Special Penalty Assessment; the fee is waived and no payment is required.

	Assessment	Restitution	Fine
TOTALS	$ 800.00	$80,286.00	$ 0.00

AVAA Assessment*	JVTA Assessment**
$ 0.00	$ 15,000.00

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal*

---

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.

** Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

Case (AO 245C) will be entered after such determination.

☑ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

Name of Payee	Total Loss***	Restitution Ordered	Priority or Percentage
See Sealed Victim List		$80,286.00	
TOTALS	$0.00	$80,286.00	

*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Tide 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

☐ Restitution amount ordered pursuant to plea agreement $ _____

☐ The defendant must pay interest on restitution and a fine of more than $2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☑ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☑ the interest requirement is waived for the ☐ fine ☑ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

A ☑ Lump sum payment of $ 96,086.00 due immediately, balance due

☐ not later than _____, or

☑ in accordance ☐ C, ☐ D, ☐ E, or ☑ F below; or

B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or

C ☐ Payment in equal _____ *(e.g., weekly, monthly, quarterly)* installments of $_____ over a period of _____ *(e.g., months or years)*, to

commence _____ *(e.g., 30 or 60 days)* after the date of this judgment; or

D ☐ Payment in equal _____ *(e.g., weekly, monthly, quarterly)* installments of $ _____ over a period of _____ *(e.g., months or years)*, to commence _____ *(e.g., 30 or 60 days)* after release from imprisonment to a term of supervision; or

E ☐ Payment during the term of supervised release will commence within _____ *(e.g., 30 or 60 days)* after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or

F ☑ Special instructions regarding the payment of criminal monetary penalties:

All criminal monetary payments are to be made to the Clerk's Office, U.S. District Court, P.O. Box 9344, Des Moines, IA. 50306-9344.

While on supervised release, you shall cooperate with the Probation Officer in developing a monthly payment plan consistent with a schedule of allowable expenses provided by the Probation Office.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☑ Joint and Several -See Next Page

Case Number Defendant and Co-Defendant Names *(including defendant number)*	Total Amount	Joint and Several Amount	Corresponding Payee, if appropriate
4:19-CR-00076-003 Kendall Andrew Streb	23,470.00	23,470.00	
4:19-CR-00076-002 Albert Kelly Price			

☐ The defendant shall pay the cost of prosecution.

☐ The defendant shall pay the following court cost(s):

☑ The defendant shall forfeit the defendant's interest in the following property to the United States:

Approximately $1,414 in U.S. currency seized from the defendant's person on or about April 19, 2019; a loaded, Taunts, Model PT709 Slim, nine-millimeter pistol (Serial Number DR73973) and ammunition; a Ruger, Model LC9S, nine-millimeter pistol (Serial Number 452-86001) and ammunition; and a 2017 GMC Canyon track (Vehicle Identification Number 1GTG6CEN3H1176047), as outlined in the Preliminary Order of Forfeiture filed on February 3, 2020.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTA assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

ADDITIONAL DEFENDANTS AND CO-DEFENDANTS HELD JOINT AND SEVERAL

Case Number Defendant and Co-Defendant Names (including defendant number)	**Total Amount**	**Joint and Several Amount**	**Corresponding Payee, if appropriate**
4:19-CR-00076-003 Kendall Andrew Streb 4:19-CR-00076-002 Albert Kelly Price 4:19-CR-00076-004 Tommy Tate Collins	$40,800.00	$40,800.00	$40,800 to Minor Victim B-Joint and Several between Kendall Andrew Streb, Albert Kelly Price, Tommy Tate Collins, Isaiah Devon Patterson and Arrion Marcus West, Jr

4:19-CR-00076-
005 Isaiah
Devon Patterson

4:19-CR-00076- 001 Arrion Marcus West, Jr.			

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No: 20-3028

United States of America

Appellee

v.

Kendall Streb

Appellant

Human Trafficking Institute

Amicus on Behalf of Appellee(s)

Appeal from U.S. District Court for the
Southern District of Iowa - Central
(4:19-cr-00076-SMR-3)

ORDER

The petition for rehearing by the panel is denied.

July 01, 2022

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans