

2023 WL 5821785

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United States Court of Appeals, Fifth Circuit.

UNITED STATES of America, Plaintiff—Appellee,

v.

Matthew Steven HACKNEY, Defendant—Appellant.

No. 23-20127

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Summary Calendar

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FILED September 8, 2023

Appeal from the United States District Court for the Southern
District of Texas, USDC No. 4:20-CR-219-1

Attorneys and Law Firms

Eileen K. Wilson, Carmen Castillo Mitchell, Assistant U.S.
Attorneys, U.S. Attorney's Office, Houston, TX, for Plaintiff
—Appellee.

Marjorie A. Meyers, Federal Public Defender, Michael Lance
Herman, Assistant Federal Public Defender, Federal Public
Defender's Office, Houston, TX, for Defendant—Appellant.

Before King, Haynes, and Graves, Circuit Judges.

Opinion

Per Curiam: *

*1 Matthew Steven Hackney pleaded guilty to four
child pornography offenses and now appeals two of those

convictions for production of child pornography under 18
U.S.C. § 2251(a) and possession of child pornography under
18 U.S.C. § 2252A(a)(5)(B). Relying on published and
unpublished authority from this court, he concedes that relief
on the issues he asserts is foreclosed, and he raises the issues
to preserve them for further review. We dispense with further
briefing and affirm.

First, Hackney asserts that the factual basis supporting his
guilty pleas to those two counts is insufficient under *Federal
Rule of Criminal Procedure* 11 because he did not admit facts
establishing the interstate commerce elements of 18 U.S.C. § 2251(a)
and 18 U.S.C. § 2252A(a)(5)(B) as he contends those statutes should
be construed based on *Bond v. United States*, 572 U.S.
844 (2014). Alternatively, he raises a constitutional argument
based on *National Federation of Independent Business v.
Sebelius*, 567 U.S. 519 (2012). Reviewing only for plain error,
see *United States v. Trejo*, 610 F.3d 308, 313 (5th Cir.
2010), Hackney's arguments with respect to his convictions
under both statutes are unavailing, see *United States v. Bailey*,
924 F.3d 1289, 1290 (5th Cir. 2019).

In light of the foregoing, the Government's motions for
summary affirmance and, alternatively, for an extension of
time to file an appellate brief are DENIED. See *United States
v. Coleman*, 817 F.3d 907, 909 (5th Cir. 2016). The judgment
of the district court is AFFIRMED.

All Citations

Not Reported in Fed. Rptr., 2023 WL 5821785

Footnotes

* This opinion is not designated for publication. See 5th Cir. R. 47.5.