

United States Court of Appeals for the Fifth Circuit

No. 24-20262
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

May 15, 2025

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

OSCAR BARRIOS,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:22-CR-565-1

Before HIGGINBOTHAM, JONES, and OLDHAM, *Circuit Judges*.

PER CURIAM:*

Oscar Barrios pleaded guilty to three counts of distribution, receipt, and possession of child pornography. He now appeals his convictions and sentences on the receipt and possession counts, arguing for the first time that his convictions and sentences for both possession of child pornography and receipt of child pornography violate the Double Jeopardy Clause of the Fifth

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

Amendment. Because Barrios did not object to the indictment in the district court, “we review only the validity of his sentences, not his convictions.” *United States v. Barton*, 879 F.3d 595, 599 (5th Cir. 2018).

Reviewing the unpreserved argument for plain error in light of the record as a whole, Barrios cannot show the district court committed clear or obvious error due to the lack of binding authority as to the issue whether possession of child pornography is a lesser-included offense of receipt of child pornography. *See United States v. Evans*, 587 F.3d 667, 671 (5th Cir. 2009); *United States v. Gonzalez*, 792 F.3d 534, 538 (5th Cir. 2015). Accordingly, the judgment of the district court is AFFIRMED.