

UNITED STATES OF AMERICA, Plaintiff - Appellee, v. BRANDON FRANK STRICKER, Defendant - Appellant.
UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT
2025 U.S. App. LEXIS 20828; 2025 LX 350303
No. 24-5955
August 13, 2025, Submitted, Anchorage, Alaska**

August 15, 2025, Filed

Notice:

PLEASE REFER TO FEDERAL RULES OF APPELLATE PROCEDURE RULE 32.1 GOVERNING THE CITATION TO UNPUBLISHED OPINIONS.

Editorial Information: Prior History

{2025 U.S. App. LEXIS 1}Appeal from the United States District Court for the District of Montana. D.C. No. 1:20-cr-00046-DLC-1. Dana L. Christensen, District Judge, Presiding. United States v. Stricker, 2021 U.S. Dist. LEXIS 36626 (D. Mont., Feb. 10, 2021)

Disposition:

AFFIRMED.

Counsel

For UNITED STATES OF AMERICA, Plaintiff - Appellee: Mr. Zeno Benjamin Baucus, Mr. Tim Tatarka, Office of the U.S. Attorney, Billings, MT; Karla Painter, Assistant U.S. Attorney, USAO, Missoula, MT.

For BRANDON FRANK STRICKER, Defendant - Appellant: Mr. Ryan Ward Aikin, Aikin Law Office, PLLC, Missoula, MT.

Judges: Before: GRABER, OWENS, and R. NELSON, Circuit Judges.

Opinion

MEMORANDUM*

Brandon Frank Stricker appeals from his conviction for receiving child pornography in violation of 18 U.S.C. § 2252(a)(2). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

"When a defendant fails to object to an alleged [Federal Rule of Criminal Procedure] 11 violation during the plea colloquy, we review for plain error." *United States v. David*, 36 F.4th 1214, 1217 (9th Cir. 2022). Here, the district court did not plainly err under Rule 11 in accepting Stricker's guilty plea.

First, we reject Stricker's contention that there was no factual basis for his plea. It is undisputed Jane Doe 1, a minor, sent Stricker two videos of child pornography via Facebook. Stricker also admitted that he received sexually explicit videos from someone he knew was a minor and, upon receipt, he responded, "Holy hell{2025 U.S. App. LEXIS 2} that's hot." See *United States v. Olander*, 572 F.3d 764, 769 (9th Cir. 2009) ("If one receives child pornography, one necessarily possesses it, at least for a short time."). His admission of receipt and knowledge provides "sufficient evidence to support the conclusion that [Stricker] is guilty." *United States v. Covian-Sandoval*, 462 F.3d 1090, 1093 (9th Cir. 2006) (citation omitted).

A09CASES

1

18013046

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

OCT 30 2025

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

BRANDON FRANK STRICKER,

Defendant - Appellant.

No. 24-5955

D.C. No.

1:20-cr-00046-DLC-1

District of Montana,

Billings

ORDER

Before: GRABER, OWENS, and R. NELSON, Circuit Judges.

The panel has voted to accept Appellant's motions to stay the mandate, petition for panel rehearing, and petition for rehearing en banc (Dkt. No. 32).

The panel has voted to deny the motion to stay the mandate (Dkt. No. 30).

The panel has voted to deny the petition for panel rehearing (Dkt. No. 31).

Judges Owens and Nelson voted to deny the petition for rehearing en banc (Dkt. No. 31), and Judge Graber so recommends.

The full court has been advised of the suggestion for rehearing en banc, and no judge has requested a vote on whether to rehear the matter en banc. Fed. R. App. P. 40.

The motion to stay the mandate, the petition for panel rehearing, and the petition for rehearing en banc are therefore DENIED.

**Additional material
from this filing is
available in the
Clerk's Office.**