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United States Court of Appeals
for the Fifth Circuit

No. 25-10434

United States Court of Appeals
Fifth Circuit

FILED

March 17, 2026

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

NAUTICA BLU HAMILTON,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 5:24-CR-50-1

Before SMITH, WIENER, and HIGGINSON, *Circuit Judges*.

JERRY E. SMITH, *Circuit Judge*:

Nautica Hamilton pleaded guilty of production and attempted production of child pornography. Her plea agreement contained an appeal waiver. At sentencing, the government referenced Hamilton's sex in advocating she receive the statutory maximum. Hamilton did not object to the statements in the district court, which sentenced Hamilton to the statutory maximum but did not reference her sex in its reasoning.

Hamilton appeals, asserting that the appeal waiver does not bar this appeal and that the government's statements violate the Fifth Amendment's

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equal protection guarantee. Because Hamilton cannot show plain or structural error, we affirm.

I.

Employed as a day care worker at the Lubbock YWCA, Hamilton photographed “a close-up of the vulva of an infant with an adult hand spreading the infant’s labia majora to expose the vaginal entrance.” Hamilton distributed the photo on a social media platform. The infant, Jane Doe 1, was about 18 months old at the time.

Per a plea agreement containing an appeal waiver, Hamilton pleaded guilty of one count of production and attempted production of child pornography in violation of 18 U.S.C. § 2251(a). The waiver contained exceptions for a sentence exceeding the statutory maximum punishment, an arithmetic error at sentencing, a challenge to the voluntariness of the plea of guilty or the waiver, or a challenge based on ineffective assistance of counsel. Hamilton’s offense level of 43 and criminal history category of I ordinarily would have corresponded to an advisory guidelines range of life imprisonment, but the statutory maximum limited it to 360 months. *See* U.S.S.G. § 5G1.1(a).

The government advocated the statutory maximum based on (1) the facts of Hamilton’s criminal conduct, including her betrayal of children she was entrusted to protect; (2) the impact on the victims, their families, the YWCA facility, and the Lubbock community; and (3) the fact that the government could have brought additional charges relating to a second victim and Hamilton’s distribution of the first victim’s photograph but did not do so in consideration of Hamilton’s young age and other history and characteristics. At the sentencing hearing, the prosecutor stated those reasons, but also referenced Hamilton’s sex:

But what makes this more shocking—and we discussed this in length at our response to the defendant’s motion for a down-

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ward variance. But as a young female, one can already assume that women probably should have a more nurturing, more protective feeling towards children than maybe men do. I think that's a societal assumption. Whether it's true or not, that is probably why, when people go to daycares or hire daycare workers, they think women may be a safer fit.

Despite being a young female, she had no thought but to attempt to make money somehow by sexually abusing these young female children.

...

While I am not going to try to weigh in on female biology and at what point Ms. Hamilton may or may not be able to have children anymore, but by my calculation, at twenty-one years of age today, a 30-year sentence may be the best way to prevent Ms. Hamilton from being able to have her own children, because if she was willing to do this with two children she was protecting, or supposed to be protecting, in her position as a daycare worker, there's no telling what she would do behind closed doors with her own children.

Hamilton did not object to that statement in the district court.

Citing the nature of the criminal conduct and the impact on the victims, the district court sentenced Hamilton to 360 months, to run concurrently with any sentences imposed in Hamilton's two related state criminal cases that were pending. The district court also imposed 10 years of supervised release and restitution of \$4,282.90. Hamilton appeals.¹

¹ Because this appeal is more easily solved on the merits, we pretermitted the issue regarding the appeal waiver. See *United States v. Thompson*, 54 F.4th 849, 851 (5th Cir. 2022) (per curiam).

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II.

A claim of error at sentencing is generally reviewed under the plain-error standard if no objection was made in the district court. *See Puckett v. United States*, 556 U.S. 129, 134–36 (2009). But if a defendant can show structural error, we reverse “even when the challenge was not preserved.” *United States v. Kirchner*, 161 F.4th 266, 272 (5th Cir. 2025).

III.

Hamilton alleges that the government improperly considered her sex when formulating a sentencing recommendation, violating the Fifth Amendment’s equal protection guarantee. Because Hamilton did not object to the government’s statements regarding her sex in the district court, she must show plain or structural error. *See Puckett*, 556 U.S. at 134–36; *Kirchner*, 161 F.4th at 272.

A.

To satisfy the plain-error standard, Hamilton must show, among other things, that the error affected her substantial rights. *Puckett*, 556 U.S. at 135 (citation modified). That means that Hamilton must “demonstrate a reasonable probability that, but for the district court’s error, she would have received a lesser sentence.” *United States v. Segura*, 747 F.3d 323, 330 (5th Cir. 2014) (citation modified). Though the government made statements referencing Hamilton’s sex, the district court did not explicitly rely on Hamilton’s sex in sentencing her to the statutory maximum. The district court instead emphasized the seriousness of the offense, Hamilton’s motivation for committing the crime, and the significant abuse of trust considering the vulnerability of the victims.

Because the record does not indicate that the district court would have imposed a lesser sentence without the government’s comments at sentencing, Hamilton cannot show that the sentence affected her substantial rights

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and therefore cannot succeed on plain error review. *See United States v. Trotter*, 157 F.4th 767, 770–71 (5th Cir. 2025) (quoting *United States v. Kirkland*, 851 F.3d 499, 503 (5th Cir. 2017)).

B.

“Structural error is constitutional error that affects the framework within which the trial proceeds, rather than being simply an error in the trial process itself.” *Kirchner*, 161 F.4th at 272 (citation modified). Structural errors “infect the entire trial process” and “necessarily render a trial fundamentally unfair.” *Neder v. United States*, 527 U.S. 1, 8 (1999) (citation modified).

Hamilton asks us to recognize prosecutorial bias as a ground for structural error, citing the Supreme Court’s recognition of structural error for biased judges and juries. *See id.* (collecting cases). But the Court has cautioned lower courts that structural error occurs in only a “very limited class of cases,” and a prosecutor’s allegedly improper statements at sentencing do not “affect[] the framework” in which the sentencing proceeds to the point that they “necessarily render [the sentencing] fundamentally unfair.” *Id.* (citation modified); *see also United States v. Wyly*, 193 F.3d 289, 298–99 (5th Cir. 1999) (subjecting alleged prosecutorial misconduct at trial only to harmless-error review). That is especially true where, as here, the district court did not reference the government’s statements in announcing Hamilton’s sentence. Hamilton cannot show structural error.

AFFIRMED.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

UNITED STATES OF AMERICA,
Government,

VS.

NAUTICA BLU HAMILTON,
Defendant.

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CAUSE NO. 5:24-CR-050-H-BV

SENTENCING HEARING
BEFORE THE HONORABLE JAMES WESLEY HENDRIX
UNITED STATES DISTRICT JUDGE

MARCH 6, 2025
LUBBOCK, TEXAS

A P P E A R A N C E S

FOR THE GOVERNMENT:

UNITED STATES ATTORNEY'S OFFICE
1205 TEXAS AVENUE, SUITE 700
LUBBOCK, TEXAS 79401
BY: CALLIE WOOLAM

FOR THE DEFENDANT:

FEDERAL PUBLIC DEFENDER'S OFFICE
1205 TEXAS AVENUE, SUITE 506
LUBBOCK, TEXAS 79401
BY: SARAH M. GUNTER

FEDERAL OFFICIAL COURT REPORTER: MECHELLE DANIEL, 1205 TEXAS AVENUE, LUBBOCK, TEXAS 79401, (806) 744-7667.

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY; TRANSCRIPT PRODUCED BY COMPUTER-AIDED TRANSCRIPTION.

1 But it's certainly nothing that you did. There's no reason for
2 you to feel guilty. It's not your fault. It happens to a lot
3 of people.

11:23:12 4 And I appreciate you coming and speaking to me. I
5 want you to know you have been heard. Your words matter. And
6 I wish you the best.

11:23:17 7 ZOEY CALL: Thank you, Your Honor.

11:23:31 8 THE COURT: Ms. Woolam, were there any other
9 victims that wish to be heard?

11:23:32 10 MS. WOOLAM: No, Your Honor.

11:23:34 11 THE COURT: All right. You may proceed.

11:23:36 12 MS. WOOLAM: Thank you, Your Honor.

11:23:38 13 Your Honor, there is no appropriate sentence in
14 this case other than the statutory maximum of 360 months,
15 followed by a lengthy term of supervised release.

11:23:49 16 When I think about this case, I think of the
17 phrase, "depraved indifference to human life." And it stood
18 out to me that Ms. Hamilton today essentially said that same
19 thing when she said she did this because she was just thinking
20 about herself. She sexually abused two 18-month-old children
21 because she was thinking about herself, children that she was
22 entrusted to protect through her job as a baby-sitter at the
23 YWCA.

11:24:24 24 I know it's been graphically detailed, but I have
25 seen the image that she distributed. And Ms. Hamilton admitted

1 that she took similar images of that one with another child.
2 And what this is, is a close-up image of the vaginal area of an
3 18-month-old child that she fully disrobed and used her fingers
4 to spread apart the vaginal lips of, I guess to make it more
5 sexually appealing in her mind.

11:24:57 6 The facts of this case are deplorable. It is one
7 of the most shocking cases that I think I've seen. And as this
8 Court is aware, I do a lot of the child exploitation cases in
9 this division. And the reason it's so shocking, I would argue,
10 makes it more aggravating and not less. Of course, the actual
11 facts of what Ms. Hamilton did are horrific. That is shocking
12 alone, that somebody would take two 18-month-olds; two young,
13 young children that she was entrusted to protect; sexually
14 assault them and then distribute a photo of one in hopes of
15 receiving money, a photo that will now exist on the internet
16 forever, and no telling how many people have shared and
17 distributed it further.

11:25:54 18 That's shocking enough. But what makes this more
19 shocking--and we discussed this in length at our response to
20 the defendant's motion for a downward variance. But as a young
21 female, one can already assume that women probably should have
22 a more nurturing, more protective feeling towards children than
23 maybe men do. I think that's a societal assumption. Whether
24 it's true or not, that is probably why, when people go to
25 daycares or hire daycare workers, they think women may be a

1 safer fit.

11:26:29 2 Despite being a young female, she had no thought
3 but to attempt to make money somehow by sexually abusing these
4 young female children. She was apparently abused herself,
5 something that, again, the research and literature would say
6 makes most abuse victims more protective of children, and more
7 cautious. And despite that, she caused what will probably be
8 life-long issues and implications for these two young children,
9 as well as their families.

11:27:09 10 And Ms. Hamilton is somebody that grew up--even
11 though she was adopted, she spent most of her life in what
12 would be perceived as probably a very nurturing, caring, and
13 educated family. Her adoptive mother works for Child
14 Protective Services. Her adoptive father was a retired drug
15 counselor at the time of the offense. These are educated
16 individuals that work in the world of helping and caring for
17 others. And again, despite that, Ms. Hamilton had this
18 completely depraved indifference to the human life of these two
19 infants.

11:27:54 20 The facts of this case speak for themselves. These
21 families are devastated. These children--one can only hope
22 that they won't remember or know, but that's just a hope and a
23 prayer, because the truth is, the photo of at least one of them
24 will exist forever.

11:28:14 25 And while it may seem absolutely insignificant

1 compared to the actual abuse of these children, it's worth
2 noting that Ms. Hamilton's actions have just devastated the
3 reputation and abilities of the YWCA, an organization that does
4 so much good for the community.

11:28:36 5 The 3553(a) factors in this case warrant a sentence
6 of 360 months. Her history and characteristics, as described
7 in the defendant's motion for a downward variance, are sad, but
8 they do not outweigh the damage that's been done, the
9 seriousness of her actions, and the need for a just punishment
10 of 360 months.

11:29:02 11 The seriousness of this offense is clearly spelled
12 out by the advisory guideline range, which is life, Your Honor.
13 Her offense characteristics are so significant that her
14 advisory guideline range is life imprisonment. It's capped at
15 360 months because that's the statutory maximum for the charge.

11:29:30 16 Ms. Hamilton needs to be sentenced to a significant
17 amount of prison time that it will not only afford an adequate
18 deterrence to her and promote respect for the law, but, most
19 importantly, that it would protect the public and children from
20 Ms. Hamilton.

11:29:53 21 while I am not going to try to weigh in on female
22 biology and at what point Ms. Hamilton may or may not be able
23 to have children anymore, but by my calculation, at twenty-one
24 years of age today, a 30-year sentence may be the best way to
25 prevent Ms. Hamilton from being able to have her own children,

1 because if she was willing to do this with two children she was
2 protecting, or supposed to be protecting, in her position as a
3 daycare worker, there's no telling what she would do behind
4 closed doors with her own children.

11:30:25 5 Your Honor, for all of these reasons, the
6 United States asks for a sentence at the statutory maximum of
7 360 months, followed by a lengthy term of supervised release.
8 Thank you, Your Honor.

11:30:35 9 THE COURT: All right. Thank you, Ms. Woolam.

11:30:55 10 Ms. Woolam, one question, just to make sure I
11 haven't overlooked something. I'm not aware of any evidence in
12 the record or any indication that the abusive boyfriend
13 specifically mentioned this conduct as a way to make money and,
14 you know, either coerced or forced or pushed on her to do this,
15 that it was his idea one way or another. I just--I don't think
16 there's anything in the record on that. There's the argument
17 in the motion that she's in an abusive relationship, he took
18 her money, and she was trying to make money. That's the
19 argument. Is there anything in the record that he said, go do
20 this?

11:31:42 21 MS. WOOLAM: No, Your Honor, there is not. And in
22 light of Ms. Hamilton's attempts to lie and deflect this
23 conduct through a series of statements minimizing--or basically
24 lying to law enforcement in the beginning when she was first
25 interviewed, I can only imagine that, through those multiple

1 different variations of lies and statements, if there was any
2 way that she could have blamed another person for this action,
3 she likely would have done so. And Ms. Hamilton has never said
4 that anybody else was involved but herself and the person she
5 potentially distributed the material to. That's never come up
6 in anything that the government is aware of.

11:32:22 7 THE COURT: Okay. Would you like to be heard on
8 that?

11:32:24 9 MS. GUNTER: No, Your Honor. If I had that
10 evidence, I would gladly produce it.

11:32:27 11 THE COURT: Okay. But there is no such evidence.
12 Correct?

11:32:28 13 MS. GUNTER: That is correct, Your Honor.

11:32:30 14 THE COURT: Okay. All right.

11:32:33 15 Okay. Thank you, Ms. Woolam. Ms. Woolam, do you
16 know any reason why the Court cannot lawfully impose sentence
17 at this time?

11:32:37 18 MS. WOOLAM: No, Your Honor.

11:32:38 19 THE COURT: Ms. Gunter?

11:32:39 20 MS. GUNTER: No, Your Honor.

11:32:41 21 THE COURT: I've carefully reviewed the presentence
22 report and its addendum. I inform the defendant that the plea
23 agreement is finally accepted. Judgment and sentence will be
24 consistent with it.

11:32:54 25 I am required by statute, Ms. Hamilton, to impose a

1 sentence that is sufficient, but not greater than necessary, to
2 comply with the purposes of sentencing set forth in
3 Section 3553(a)(2), and to consider all of the sentencing
4 factors in that statute, which I have done.

11:33:11 5 I have considered here the nature and circumstances
6 of your offense, what you did. And we've heard enough about
7 that. I will note, following up on my question and the
8 Assistant United States Attorney's response, that a detective
9 did speak with you in May of '24 after finding you through your
10 IP address. You denied initially using "X" at all.
11 Eventually, you admitted that was a lie; "Yeah, I use "X." You
12 admitted that you sent the photograph, but you told the
13 detective that the photograph was of yourself and not of a
14 child. But upon further questioning, eventually you do admit
15 that you had taken the photograph of the child and you tried to
16 sell it for money. And you admitted to taking similar
17 photographs of another child, but you were unsure if you
18 distributed those. So there was, at first, an attempt to
19 deceive investigators, but your attempt wasn't focused on, "He
20 made me do it"; it was on, "I didn't do it," essentially.

11:34:18 21 I've also considered the need to reflect your--
22 impose a sentence that takes into account your history and your
23 characteristics; both your personal history, which is detailed
24 in your presentence report and your attorney's filing. I've
25 also heard you today. And I will take all that into account.

11:34:38 1 Your lack of criminal history, I'll also take into
2 account. That's built into your advisory guideline range. But
3 you have no prior convictions, and I do understand that.

11:34:46 4 I must impose a sentence that reflects the
5 seriousness of the offense, promotes respect for the law,
6 provides a just punishment, affords adequate deterrence, and
7 protects the public from further crimes. All of those factors
8 do weigh heavily here.

11:35:05 9 This is a highly unusual case. I understand your
10 attorney's arguments and filing that you suffered trauma as a
11 child, that you were also in an abusive relationship. And
12 those things are mitigating to a degree, but not to any
13 material degree to overcome or outweigh what happened here.
14 And what happened here is inconceivable.

11:35:33 15 Abusive relationship or not, trauma or not, the--
16 and the thought of and, therefore, I'm going to abuse two
17 children and produce child sexual abuse material that will harm
18 them for the rest of their lives, is unspeakable. I understand
19 the filings and the attachments about the need for treatment
20 and rehabilitation. No doubt, that is true. We, of course, as
21 a society, weigh a lot more than just rehabilitation in
22 imposing sentence. If the goal was just rehabilitation, we
23 would be in a very different world. That world existed decades
24 ago, and the people made a choice to make a change. I consider
25 the need for treatment and rehabilitation, but I also consider

1 everything else that I have mentioned today, including just the
2 need to impose a just punishment for what has happened. And
3 what has happened here is incredibly, incredibly bad and
4 serious that will have lasting impacts on your victims.

11:36:33

5 I wish you would have asked for help. I wish that
6 you would have gotten out of this relationship. And, for
7 whatever reason, I wish you'd have thought of another way--if
8 you felt like you couldn't ask for help and couldn't get out--
9 to make money. I know you feel the same. I just owe you an
10 explanation for what I'm going to do today.

11:36:54

11 But I can't recall a circumstance, other than a
12 person who was trafficking children, a pimp essentially, who
13 says, my back is against the wall; I've got to get money for
14 whatever reason; and, therefore, I'm going to produce child
15 pornography with an 18-month-old multiple times and then try to
16 distribute it. That is very hard to understand, is incredibly
17 serious, and I must take it into account.

11:37:21

18 So although I recognize your difficulty, your
19 childhood, your abuse, that background just does not mitigate
20 your heinous choices here. Those choices did harm two
21 18-month-old children, perhaps for life. The trauma imposed on
22 those children is immeasurable.

11:37:43

23 That you did it for financial gain, even if it was
24 because you felt pressured to do that, is also concerning.

11:37:50

25 And that, finally, you were entrusted to care for

1 these children at a place where a lot of people take their
2 children because they just can't take them anywhere else, and
3 you abused that trust and sexually assaulted those children.

11:38:10 4 So all of the 3553(a) factors weigh very heavily
5 here. For all those reasons, I'm going to deny the motion for
6 a downward variance or a downward departure.

11:38:22 7 Given the advisory guideline range, given all of
8 the 3553(a) factors here, given the purposes of sentencing and
9 the parties' arguments and all the parties' filings, and just
10 the lasting trauma and the incredibly unusual circumstances
11 that--under which they were abused that are aggravating, I have
12 determined that a sentence--a guideline sentence of 360 months
13 is sufficient, but not greater than necessary.

11:38:51 14 I believe that the guideline calculations that I
15 have announced were correct, but, to the extent they were
16 incorrectly calculated, I would have imposed the same sentence
17 without regard to that range, and I would have done so for the
18 same reasons, in light of the 3553(a) factors.

11:39:09 19 This sentence is going to run concurrently with any
20 sentence imposed in 2024-CR-1404 and 2024-CR-1407.

11:39:20 21 Upon release from imprisonment, you're going to be
22 on supervised release for a term of 10 years. While on
23 release, you shall comply with the mandatory conditions of
24 release listed in your presentence report and in
25 Section 3583(d).