
No. _____

IN THE SUPREME COURT OF THE UNITED STATES

DEREK HAHN,
PETITIONER,

V.

UNITED STATES OF AMERICA,
RESPONDANT.

*ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT*

PETITION FOR A WRIT OF CERTIORARI

APPENDIX

United States v. Derek Hahn, ____ F. 4d ____ (6th Cir. 2026)
(opinion affirming district court judgment)

United States v. Derek Hahn, No. 5:25-cr-020 (E.D. Kentucky, July 29th, 2025)

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QUESTIONS PRESENTED

- I. THE DISTRICT COURT ERRED BY SENTENCING MR. HAHN EXCESSIVELY BASED ON THE STATUTORY CONSIDERATIONS IN 18 U.S.C. §3553(a)**

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I. LIST OF PARTIES AND OPINIONS BELOW

Mr. Derek Hahn is the Petitioner in this matter and the United States of America is the Respondent. The reported opinion of the Court of Appeals for the Sixth Circuit and the Judgment of the District Court are attached to this petition as the Appendix.

II. JURISDICTION

The judgment of the Court of Appeals for the Sixth Circuit was entered on March 5th, 2026. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1), the petitioner having asserted below and asserting in this petition the deprivation of rights secured by the United States Constitution.

III. STATUTORY PROVISIONS INVOLVED

This matter involves violations of the United States Code, specifically, 18 U.S.C. §§ 18 U.S. 2251(a).

IV. STATEMENT OF THE CASE

A. Procedural Background

On March 5th, 2025, Mr. Hahn was arraigned and entered a plea of guilty to Count 1 of a criminal information designated as case 5:25-CR-20 in the Eastern District of Kentucky to the offense of Use of a Minor to Engage in Sexually Explicit Conduct for the Purpose of Producing Visual Depictions for Use in Interstate Commerce in violation of 18 U.S.C. § 2251(a). (R. 20, Plea Agreement¹) After a sentencing hearing held on July 29th, 2025, Mr. Hahn was sentenced by the Court to

¹ The plea agreement was filed on March 7th, 2025, by the District Court

a term of 330 months for stated offenses and a Life time term of supervised release to follow his custodial sentence². (R. 50, Judgement) Mr. Hahn timely filed his notice of appeal on August 5th, 2025. (R. 54, Notice of Appeal) After briefing, the Sixth Circuit issued an Opinion on March 5th, 2026, denying all relief and Mr. Hahn now applies to this Court for relief.

B. Statement of Facts

Mr. Hahn agreed to the statement of facts as recounted in his change of plea hearing by the attorney for the Government wherein it described his offensive conduct. (R. 20, Plea Agreement) These facts stated that in October of 2024, an alert was received by law enforcement that someone was uploading Child Sexual Abuse Material (CSAM) to a monitored website which led law enforcement to seek a subpoena for the IP addresses used for the upload which were connected to Derek Hahn. (R. 20, Plea Agreement, Page ID#96) After Mr. Hahn's arrest, two phones were seized and examined, after the issuance of a warrant for each, and the searches revealed CSAM³ which Mr. Hahn admitted to obtaining via the internet. (R. 20, Plea Agreement, Page ID#96) Additionally, one of Mr. Hahn's phones contained numerous videos created in 2023 and 2024 by someone using Mr. Hahn's iPhone depicting a nude minor in various states of undress including fully nude videos wherein the minor did not appear to realize he was being recorded. (R. 20, Plea Agreement, Page

² Mr. Hahn was also assessed restitution in the amount totaling \$50,500.00 by agreement most of which went to identifiable victims of the items of child pornography he possessed as uncharged conduct.

³ Pursuant to the Information Agreement reached with the Government, Mr. Hahn was not charged with possession of these items.

ID#96) Mr. Hahn admitted to using the minor to create videos that constituted “sexually explicit conduct”. (R. 20, Plea Agreement, Page ID#96)

At the sentencing hearing, Mr. Hahn expressed remorse for his criminal actions, highlighted his long history of public service as a firefighter and apologized to the victim as well as the rest of Mr. Hahn’s family for creating the circumstances that split his family apart and further informed the District Court of the actions he had taken and will take in the future to prevent any relapse into the same type of behavior in the future after his incarceration ended. (R. 38, Sentencing Hearing, Page ID#230-235)

V. STANDARD OF REVIEW

This Court reviews the District Court’s sentencing decisions for abuse of discretion. See *Gall v. United States*, 552 U.S. 38, 49 (2007). Sentences imposed by the District Court are reviewed for reasonableness and only a procedurally erroneous or substantively unreasonable sentence will be set aside. See *Gall*, 552 U.S. at 46; *Rita v. United States*, 551 U.S. 338, 351 (2007). The substantive reasonableness of a sentence is reviewed under an abuse-of-discretion standard. *United States v. Curry*, 536 F.3d 571, 573 (6th Cir. 2008). A sentence may be substantively unreasonable if the sentencing court “imposed a sentence arbitrarily, based on impermissible factors, or unreasonably weighed a pertinent factor.” *United States v. Coppenger*, 775 F.3d 799, 803 (6th Cir. 2015). “Sentences within a defendant’s Guidelines range are presumptively substantively reasonable[.]” *United States v. Pirosko*, 787 F.3d 358, 374 (6th Cir. 2015). The District Court must sufficiently explain the sentence to

permit meaningful appellate review. *United States v. Carty*, 520 F.3d 984, 992 (9th Cir. 2008) (en banc).

VI. SUMMARY OF ARGUMENT

The District Court erred when it failed to adequately account for the sentencing factors outlined in 18 U.S.C. §3553(a) when crafting Mr. Hahn's individual sentence.

VII. ARGUMENT

I. THE DISTRICT COURT ERRED BY SENTENCING MR. HAHN EXCESSIVELY BASED ON THE STATUTORY CONSIDERATIONS IN 18 U.S.C. §3553(a).

A sentence may be substantively unreasonable if the sentencing court “imposed a sentence arbitrarily, based on impermissible factors, or unreasonably weighed a pertinent factor.” *Coppenger*, 775 F.3d at 803. “Sentences within a defendant’s Guidelines range are presumptively substantively reasonable[.]” *Pirosko*, 787 F.3d at 374. Once a sentence is selected, the district court must sufficiently explain the sentence to permit meaningful appellate review. *Carty*, 520 F.3d at 992.

Notwithstanding the fact that Mr. Hahn’s sentence of 330 months was 30 months lower than his calculated guideline range of 360 months to Life, the sentence was still substantively unreasonable as outlined below. It failed to account for any of the mitigating information supplied by Mr. Hahn, it failed to adequately consider his

lack of a prior criminal record when crafting the sentence and it failed to impose a sentence that bore the requirement to prevent sentences for similarly situated individuals from being disparate in mind.

U.S.C. 18 § 3553 provides the District Court with guidance when sentencing a defendant. Specifically, §3553(a) instructs the District Court that, when crafting a sentence, it “shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection”. The Code goes further in §3553 to promulgate the following factors for determining a just sentence, stating:

The court, in determining the particular sentence to be imposed, shall consider-

(1) the nature and circumstances of the offense and the history and characteristics of the defendant;

(2) the need for the sentence imposed-

(A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;

(B) to afford adequate deterrence to criminal conduct;

(C) to protect the public from further crimes of the defendant; and

(D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.

In addition to the above considerations listed, the District Court must also take into account, when making its sentencing determinations pursuant to §3553, “any pertinent policy statement” that is in effect at the time of the sentencing. Further, the District Court must be aware of “the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct” when arriving at a decision on a sentence for a particular defendant. The District Court should use the appropriate range of the offense and

the appropriate category of defendant as defined by the sentencing guidelines, but the District Court may depart from the specified guidelines if and when:

[T]he court finds that there exists an aggravating or mitigating circumstance of a kind, or to a degree, not adequately taken into consideration by the Sentencing Commission in formulating the guidelines that should result in a sentence different from that described. In determining whether a circumstance was adequately taken into consideration, the court shall consider only the sentencing guidelines, policy statements, and official commentary of the Sentencing Commission

Once the District Court has arrived at a sentence for a particular defendant, the court must “at the time of sentencing..... state in open court the reasons for its imposition of the particular sentence” so the parties will know the court’s reasoning behind the decision reached. Similarly, if the District Court crafts a sentence that “is not of the kind, or is outside the range, described in subsection (a)(4)” the court must state “the specific reason for the imposition of a sentence different from that described, which reasons must also be stated with specificity”.

The District Court is no longer bound by the guidelines produced by the Sentencing Commission when making a sentencing determination. *United States v. Booker*, 543 U.S. 220, 245-246 (2005). Nonetheless, the District court must consider the sentencing guidelines and the principles outlined therein when crafting a sentence for an individual defendant even if the court then chooses to deviate from the guidelines. *Gall v. United States*, 552 U.S. 38 (2007). The guidelines should be viewed as “one factor among several” that must be considered in imposing an appropriate sentence under § 3553(a). *Nelson v United States*, 555 U.S. 350, 352 (2009). When reviewing the District Court’s application of the § 3553(a) factors, “there is no requirement ... that the district court engage in a ritualistic incantation

to establish consideration of a legal issue,” or that it “make specific findings related to each of the factors considered.” *Id.* at 580. Nonetheless, in order for a sentence to be procedurally reasonable, “the record must contain the District Court’s rationale for concluding that the ‘sentence imposed is sufficient but not greater than necessary, to comply with the purposes’ of sentencing set forth in 18 U.S.C. § 3553(a).” *Id.* at 580.

When reviewing a sentence for substantive reasonableness, this Court is required to conduct an “inquiry into ... the length of the sentence and the factors evaluated ... by the district court in reaching its sentencing determination.” *United States v. Herrera-Zuniga*, 571 F.3d 568, 581 (6th Cir. 2009) This Court should bear in mind the statutory mandate that a sentence is adequate, but not “‘greater than necessary’ to accomplish the sentencing goals identified by Congress in 18 U.S.C. § 3553(a).” *Id.* at 590; see also *United States v. Tristan-Madrigal*, 601 F.3d 629, 632-33 (6th Cir. 2010). (“The essence of a substantive-reasonableness claim is whether the length of the sentence is ‘greater than necessary’ to achieve the sentencing goals set forth in 18 U.S.C. § 3553(a).”) “A sentence may be considered substantively unreasonable when the district court selects a sentence arbitrarily, bases the sentence on impermissible factors, or gives an unreasonable amount of weight to any pertinent factor.” *United States v. Conatser*, 514 F.3d 508, 520 (6th Cir. 2008). This Court must “take into account the totality of the circumstances, including the extent of any variance from the Guidelines range.” *United States v. Bolds*, 511 F.3d 568, 581 (6th Cir. 2007) (quoting *Gall*, 552 U.S. at 51, 128 S.Ct. 586).

In the instant case, the District Court erred in the imposition of its sentence with regards to Mr. Hahn as the sentence crafted was greater than necessary to achieve the goals of sentencing outlined above. As cited above, when determining a sentence, the District Court must consider, pursuant to §3553(a)(1), “the history and characteristics of the defendant” when tailoring a sentence to a specific defendant. Additionally, the sentence the District Court imposes must be designed “to promote respect for the law.....to provide just punishment for the offense” and “to protect the public from further crimes of the defendant”. §3553(a)(2).

When a District Court elects to vary the sentence for an individual defendant outside the calculated and adjusted guidelines range, the sentencing court must offer some support for why the particular case and defendant fall outside the typical case for a similarly situated defendant rather than a case that lies in the “‘heartland’ to which the Commission intends individual Guidelines to apply.” *Kimbrough v. United States*, 552 U.S. 85, 109, 128 S.Ct. 558, 169 L.Ed.2d 481 (2007) (quoting *Rita*, 551 U.S. at 351, 127 S.Ct. 2456); *United States v. Perez-Rodriguez*, 960 F.3d 748, 754 (6th Cir. 2020) In order to prevent unfair disparities with the typical case, the appellate court reviews the degree of the variance in a typical case more closely. *Kimbrough*, 552 U.S. at 109. “[I]n those cases that fall outside the Guidelines’ ‘heartland,’ the district court’s decision to deviate from the advisory range is entitled to the ‘greatest respect,’ whereas a sentence that departs from the advisory range in a ‘mine-run case’ warrants ‘closer review’” of the district court’s justifications for variance. *United*

States v. Herrera-Zuniga, 571 F.3d 568, 582 (6th Cir. 2009) (quoting *Kimbrough*, 552 U.S. at 109, 128 S.Ct. 558)

Though the criminal severity of the conduct Mr. Hahn engaged in should not be and cannot be diminished, the District Court was still obligated to impose a sentence that was not disparate from similarly situated defendants and represented a considered approach to a sentence particularly crafted to the degree and extent of that criminal conduct. Despite the guideline calculation, the evidence presented failed to support the 330 month period of incarceration the District Court imposed on Mr. Hahn.

The first and primary twin goals of the District Court in sentencing Mr. Hahn, general and specific deterrence, would have been accomplished with a far lower sentence. Mr. Hahn, as a thirty-seven year old man at the time of sentencing, could reasonably expect to spend the majority of the remainder of his life incarcerated, certainly an effective deterrent as to his future conduct. Likewise, any sentence imposed by the District Court would be for multiple decades and would have a strong effect on the public deterrence for conduct involving sexual abuse of minors. With that in mind, a much larger variance downward than the thirty months the District Court granted to Mr. Hahn would not have negated the significant general and specific deterrence value of the sentence ultimately imposed and would have been more appropriate for his specific circumstances.

Additionally, Mr. Hahn provided the District Court specific information about his own life and characteristics that supported a decision to vary downward farther

than it did based on identifiable §3553 factors. Mr. Hahn presented the District Court with evidence of his lengthy and meritorious public service as a firefighter for over sixteen years. (R. 24, Defense Sentencing Memorandum, PageID#134-135 & R. 38, Sentencing Hearing Transcript, Page ID#233-234) He expressed sincere and substantial remorse for the wrongfulness of his actions in court stating “I feel now, after I had messed up, committed my crimes which involved my stepson, that I’m not that father everyone thought I was. And I would take it all back, change it if I could. I love my boys with all my heart and soul, and I pray God heals any hurt and that they have the best childhood going for them.” (R. 38, Sentencing Hearing Transcript, Page ID#232:11-16) Mr. Hahn went further to state that he was sorry to have disappointed his mother and sister with his behavior and that he knew the situation he created would make their lives more difficult as well. (R. 38, Sentencing Hearing Transcript, Page ID#232-233) Mr. Hahn also provided the District Court with numerous letters from family and friends supporting him and attesting to the positive qualities he had as an employee, a citizen, but primarily as a loving father whose conviction behavior was shockingly out of character for him based on the rest of his life. (R. 24, Defense Sentencing Memorandum, PageID#145-150) Mr. Hahn also provided the District Court with a plan for his further rehabilitation both during his incarceration and after, specifically requesting a Bureau of Prisons facility that could provide better classes for sex offenders and other transitional training that would help him when he reintegrated into society in the future. (R. 38, Sentencing Hearing Transcript, Page ID#234-235&250) All of this provided the District Court with a firm

and ample basis to vary downward from his guideline recommended sentence substantially.

The District Court acknowledged the strength of this information presented by Mr. Hahn, credited the veracity of his testimony as well as the information supplied by his family and friends, and stated “I think you are in some ways that person. You are a person who held a job. You are a person who had many good qualities in terms of your family and your relationships and instincts that were actually very positive instincts, sadly overcome by the decisions you made and the instincts and the issues you struggled with that have led to your criminal conduct here today.” (R. 38, Sentencing Hearing Transcript, Page ID#241:13-19) However, the District Court then elected to give Mr. Hahn only a minor downward variance in his actual sentence, ultimately arriving at a three hundred thirty month sentence, thirty months below a guideline sentence of three hundred sixty month which was the statutory maximum for the conviction offense. The District Court claimed that this sentence comported with §3553 as it was “sufficient but not greater” than necessary. (R. 38, Sentencing Hearing Transcript, Page ID#244)

The two currents run counter to one another. The District Court recognized that the information raised by Mr. Hahn was compelling and painted a picture that warranted leniency, but the two and one-half year downward departure from a three decade sentence did not represent that leniency. The District Court did vary downward, but it was an arbitrary variance that failed to account for the information Mr. Hahn presented in an adequate way. Due to the arbitrariness of the sentence

crafted, the District Court created a sentence that is substantively unreasonable because the sentence is greater than necessary to achieve the purposes of sentencing. Mr. Hahn is entitled to relief from his sentence and this matter should be remanded to the District Court for resentencing.

CONCLUSION

For the aforementioned reasons, Mr. Hahn prays that this Honorable Court will grant his request for a writ of certiorari in order to review the question presented relating to the improper application of 18 U.S. § 3553(a) factors. It is necessary to provide guidance on this issue to other lower courts and warrants review by this Court.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that the foregoing petition motion to proceed *in forma pauperis* has been served via first-class mail upon counsel for the Respondent Mr. Charles Wisdom and Ms. Erin Roth, United States Attorney's Office for the Eastern District of Kentucky at Lexington, 260 W. Vine Street, Suite 300, Lexington, KY 40507-1612; and Mr. Dean John Sauer, Solicitor General of the United States, Room 5614, Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530-0001, this 22nd day of June, 2026.

/s/ Manuel B. Russ
Manuel B. Russ