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In the
Supreme Court of the United States

Miguel Angel Sierra-Torreblanca,

Petitioner,

v.

United States of America,

Respondent.

On Petition for a Writ of Certiorari
from the United States Court of
Appeals for the Fifth Circuit
Fifth Circuit Case No. 25-60522

PETITION FOR A WRIT OF CERTIORARI

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INTRODUCTION

This petition presents a straightforward case for certiorari review of whether the Fifth Circuit failed to appropriately explain its affirmance.

This Court should accordingly grant review to reverse the Fifth Circuit's affirmance of the district court's upwardly varied sentence.

QUESTION PRESENTED

The question presented is:

Whether the Fifth Circuit properly reviewed the district court's sentence when it wrote a two paragraph opinion affirming an upwardly varied sentence.

PARTIES TO THE PROCEEDING

Petitioner is Miguel Angel Sierra-Torreblanca, who was the Defendant-Appellant in the court below. Respondent, the United States of America, was the Plaintiff-Appellee in the court below.

COURT PROCEEDINGS

United States v. Miguel Angel Sierra-Torreblanca, 1:25-CR-007 Northern District of Mississippi; Judgment entered on September 24, 2025.

United States v. Miguel Angel Sierra-Torreblanca, No. 25-60522, 2026 WL 851997 (5th Cir. Mar. 27, 2026); Order affirming district court entered on March 27, 2026.

TABLE OF CONTENTS

INTRODUCTION	ii
QUESTION PRESENTED	ii
PARTIES TO THE PROCEEDING	iii
COURT PROCEEDINGS	iii
TABLE OF CONTENTS.....	4
INDEX OF APPENDICES	5
TABLE OF AUTHORITIES	5
PETITION FOR A WRIT OF CERTIORARI.....	7
OPINIONS BELOW	7
CONSTITUTIONAL PROVISION INVOLVED.....	7
STATEMENT OF THE CASE.....	8
REASONS FOR GRANTING THIS PETITION.....	10
I. This Court should grant review because the Fifth Circuit affirmed a substantively unreasonable sentence and provided little explanation.	10
A. Upwardly varying based on the same conduct already taken into account by the guidelines was error.	11
CONCLUSION.....	16

INDEX OF APPENDICES

Appendix A – Fifth Circuit Judgment *United States v. Sierra-Torreblanca*, No. 25-60522, 2026 WL 851997 (5th Cir. Mar. 27, 2026)

Appendix B – United States District Court Judgment (September 24, 2025)

TABLE OF AUTHORITIES

Cases

<i>Gall v. United States</i> , 552 U.S. 38 (2007)	10, 13
<i>United States v. Booker</i> , 543 U.S. 220 (2005)	10
<i>United States v. Campos-Maldonado</i> , 531 F.3d 337 (5th Cir. 2008)	10, 11
<i>United States v. Dean</i> , 414 F.3d 725 (7th Cir. 2005)	13
<i>United States v. Jackson</i> , 408 F.3d 301 (6th Cir. 2005)	13
<i>United States v. Mares</i> , 402 F.3d 511 (5th Cir. 2005)	13
<i>United States v. Sierra-Torreblanca</i> , No. 25-60522, 2026 WL 851997 (5th Cir. Mar. 27, 2026)	7, 12
<i>United States v. Smith</i> , 440 F.3d 704 (5th Cir. 2006)	11, 13, 15

Statutes

18 U.S.C. § 3553(a)	12
28 U.S.C. § 1254(1)	7

Other Authorities

Appendix A	7, 9
https://www.ussc.gov/research/quick-facts/child-pornography	14

United States Sentencing Commission, <i>Child Pornography Quick Facts</i> , https://www.ussc.gov/research/quick-facts/child-pornography (last visited Dec. 9, 2025).....	14
--	----

Rules

Rule 13.1 of the Supreme Court Rules.....	7
---	---

Constitutional Provisions

Eighth Amendment	7, 11
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Sentencing Guidelines

U.S.S.G. § 2G2.2(b)	13
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PETITION FOR A WRIT OF CERTIORARI

Petitioner, Miguel Angel Sierra-Torreblanca, respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit in this case.

OPINIONS BELOW

The Fifth Circuit's opinion was published at *United States v. Sierra-Torreblanca*, No. 25-60522, 2026 WL 851997 (5th Cir. Mar. 27, 2026). *See* Appendix A. No petition for panel rehearing and a petition for rehearing *en banc* was filed.

The district court entered the Judgment sentencing Mr. Sierra-Torreblanca to 180 months' imprisonment on September 24, 2025.

JURISDICTION

This Petition for Writ of Certiorari is filed within 90 days after entry of the Fifth Circuit Judgment. *See* Rule 13.1 of the Supreme Court Rules. The jurisdiction of this Court to review the judgment of the Fifth Circuit is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISION INVOLVED

This petition involves the Eighth Amendment:

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

STATEMENT OF THE CASE

Mr. Sierra-Torreblanca was indicted on January 14, 2025 with two counts: one count of illegal reentry and one count possession of child pornography. ROA.7. He pled guilty to both counts and was sentenced on September 23, 2025. ROA.59, 80.

Prior to sentencing, the prosecution filed a motion for an upward variance due to its belief that the sentencing guidelines range of 87-108 months was too lenient. ROA.84. This request was based on Mr. Sierra-Torreblanca's two prior criminal convictions and three prior removals from the United States. ROA.84. The prosecution stated that the defendant had not been adequately deterred from re-entering the United States and because the prosecution deemed the nature of the current criminal offense horrific. ROA.85. Further, the prosecution argued that Mr. Sierra-Torreblanca was part of a group that shared criminal images, not just music or funny videos. ROA.85.

Defense counsel responded that the only criminal history Mr. Sierra-Torreblanca had was from the two prior convictions for reentry. ROA.86. Nothing violent, drug-related, or anything involving theft or fraud. ROA.86. He is a supportive father who took care of his family and a hard worker who was never late for work. ROA.86. As to the possession offense, there was nothing to distinguish it as unusual from any other child pornography case. ROA.87. Replying to the prosecution's argument that Mr. Sierra-Torreblanca was part of a child pornography chat group, defense counsel admitted Mr. Sierra-Torreblanca was in chat rooms, but was not actively seeking child pornography, even though it was present. ROA.87.

Other members of the chat rooms would post free music, funny pictures, movies, adult pornography, and post child pornography. ROA.87. Mr. Sierra-Torreblanca admitted to looking at the images, but never directly sought it out for himself.

The district court granted the motion for an upwardly varied sentence and imposed 180 months' imprisonment, a significant increase from the original 87-108 months guidelines range. ROA.88. As for its reasons for the variance, the court specifically pointed out "that there is an unspecified threat group involvement, an extreme nature in volume of images possessed by reviewing or looking at the child pornography." ROA.89. In addition, it noted his two prior reentry convictions. ROA.89.

The court further stated that it gave great weight to his membership in the group that was sharing images, considering that the guidelines range did not take into consideration the fact that many of these images showed child sexual abuse toward infants and toddlers. ROA.89.

Defense counsel objected to the reasonableness of the sentence based on the sentencing guidelines range having already taken into account the nature of the offense and Mr. Sierra-Torreblanca's criminal history. ROA.97-98.

A timely notice of appeal was filed. ROA.56.

The Fifth Circuit wrote a two-paragraph opinion consisting of four sentences. *See* Appendix A. The only justification for affirmance was that was the district court did not abuse its discretion in addressing the 18 U.S.C. § 3553(a) factors.

Mr. Sierra-Torreblanca, Petitioner, now seeks review by this Court.

REASONS FOR GRANTING THIS PETITION

I. This Court should grant review because the Fifth Circuit affirmed a substantively unreasonable sentence and provided little explanation.

Analysis of a federal sentence is bifurcated. *Gall v. United States*, 552 U.S. 38, 51 (2007). First examined is whether the district court committed any procedural errors, “such as failing to calculate (or improperly calculating) the Guidelines range, treating the Guidelines as mandatory, failing to consider the [18 U.S.C.] § 3553(a) factors, selecting a sentence based on clearly erroneous facts, or failing to adequately explain the chosen sentence.” *Id.* Mr. Sierra-Torreblanca does not allege the court procedurally erred.

If the district court’s decision is procedurally sound, the substantive reasonableness of the sentence is then considered in the light of the § 3553(a) factors. *Id.* Substantive reasonableness is reviewed for abuse of discretion. *Id.* Under *United States v. Booker*, this Court ultimately reviews a sentence for “unreasonableness.” 543 U.S. 220, 261 (2005). Though flexible, the reasonableness standard is not unbounded. Both a district court’s post-*Booker* sentencing discretion and the reasonableness inquiry on appeal must be guided by the sentencing considerations set forth in 18 U.S.C. § 3553(a). *Booker*, 543 U.S. 262. Appellate review of the substantive reasonableness of a sentence is “highly deferential.” *United States v. Campos-Maldonado*, 531 F.3d 337, 339 (5th Cir. 2008).

Mr. Sierra-Torreblanca challenged the substantive reasonableness of the sentence in the Fifth Circuit. The Fifth Circuit responded with two paragraphs, consisting of four sentences, and asks this Court to review the Fifth Circuit’s lack of

explanation for affirmance and a violation of the Eighth Amendment as the statutory maximum sentence was cruel and unusual.

A. Upwardly varying based on the same conduct already taken into account by the guidelines was error.

Post-*Booker* case law has recognized three different types of sentences under the advisory Guidelines regime:

1. imposition of a sentence within a properly calculated Guidelines range.
2. imposition of a sentence that includes an upward or downward departure as allowed by the Guidelines.
3. imposition of a non-Guidelines sentence—a sentence either higher or lower than the relevant Guideline sentence.

United States v. Smith, 440 F.3d 704, 706-07 (5th Cir. 2006). This is the third type of case.

Where, as here, the district court imposed a non-Guidelines, upwardly varied sentence, this court must determine whether the sentence “unreasonably fails to reflect” the § 3553(a) sentencing factors. *Id.* at 708. An above-guidelines sentence is unreasonable if it “(1) does not account for a factor that should have received significant weight, (2) gives significant weight to an irrelevant or improper factor, or (3) represents a clear error of judgment in balancing the sentencing factors.” *Id.* In fashioning a sentence to meet these purposes, the courts are directed to consider a broad range of factors, including the nature and circumstances of the offense and the history and characteristics of the defendant:

(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[.]

18 U.S.C. § 3553(a)(1)-(2)¹.

It is undisputed the district court did everything it was procedurally supposed to do: it reviewed the PSR thoroughly, looked at the factors, and said everything it was required to say on the record. ROA.88-90. However, the Fifth Circuit failed to appropriately explain its affirmance of the district court's decision. *Sierra-Torreblanca*, 2026 WL 851997 at 1.

As for a substantive challenge, Mr. Sierra-Torreblanca disputes the district court's judgment in balancing the sentencing factors which placed a significant emphasis on factors already taken into account by the guidelines, specifically his prior reentry convictions and the facts of the offense for which he already received enhancements. ROA.89.

¹ Other considerations are “the kinds of sentences available,” § 3553(a)(3); the Guidelines, § 3553(a)(4); “any pertinent policy statement” issued by the Sentencing Commission, § 3553(a)(5); “the need to avoid unwarranted sentence disparities,” § 3553(a)(6); and “the need to provide restitution to any victims,” § 3553(a)(7).

If a court imposes a non-Guidelines sentence, then the district court must articulate its reasons more thoroughly than when it imposes a within Guidelines sentence. *United States v. Mares*, 402 F.3d 511, 519 (5th Cir. 2005). These reasons should be fact-specific and consistent with the sentencing factors enumerated in section 3553(a). *Id.* Most importantly, the farther a sentence varies from the applicable Guideline sentence, “the more compelling the justification based on factors in section 3553(a)” must be. *Smith, Id.* at 707 (citing *United States v. Dean*, 414 F.3d 725, 729 (7th Cir. 2005); see *United States v. Jackson*, 408 F.3d 301, 305 (6th Cir. 2005). *Gall* noted that it is “uncontroversial that a major departure should be supported by a more significant justification than a minor one.” 552 U.S. at 49-50.

In this instance, based on the PSR, Mr. Sierra-Torreblanca faced a guidelines range of 87-108 months. ROA.88. The prosecution filed the motion for upwards variance which the district court granted. ROA.90. The district court imposed a sentence of 180 months’ imprisonment. ROA.90. Specifically, the prosecution and court relied on the age of the victims and the sadistic nature of the videos and pictures. ROA.84-85, 89.

The PSR, however, enhanced Mr. Sierra-Torreblanca for both of those factors. Section 2G2.2(b)(2) enhanced the offense two levels if the offense includes prepubescent minors. See PSR ¶ 40. Section 2G2.2(b)(4) enhanced the offense four-levels if the offense included sadistic or masochistic conduct. See PSR ¶ 41.

The sentencing guidelines calculated without the above-mentioned enhancements set the range at 46-57 months’ imprisonment based on a total offense

level of 22 and a criminal history category II. The additional six total levels from the enhancements raise this from 46-57 months' to 87-108 months' imprisonment, nearly double the range without the enhancements. *See* PSR 88. The district court's imposed sentence of 180 months' imprisonment was more than double the low end of his calculated guidelines range. ROA.88-90.

The court emphasized varying upwards due to the allegation that Mr. Sierra-Torreblanca was a member of a group that shared child pornography, an issue raised by the prosecution in its motion. ROA.89. There was no evidence presented that he joined the chatroom to share child pornography. Mr. Sierra-Torreblanca admitted being part of the chatroom and that child pornography was shared by other members. However, he joined the group to chat, search for free music, and watch video clips. *See* DE 29. He further admitted to looking at the illegal videos because they were posted in the group, but was not actively seeking it out. *Id.*

All of this to say that the defendant's conduct in this case was not so dissimilar to other *possession* of child pornography related cases that it stood out as unique. ROA.87. Based on the prosecution's motion for an upwards variance and the court's remarks about the group involvement, Mr. Sierra-Torreblanca was essentially sentenced as though he *distributed* the pornography rather than just possessing it. ROA.85, 88-89. The 180 months' imposed is more similar to trafficking child pornography rather than simply possessing child pornography².

² *See* United States Sentencing Commission, *Child Pornography Quick Facts*, <https://www.ussc.gov/research/quick-facts/child-pornography> (last visited Dec. 9, 2025).

Because the upwardly varied sentence was more than twice the low end of the guidelines range, the district court was required to provide significant justification for the increase other than repeating what was stated in the prosecution's request. ROA.85. There was no significant justification. The district court merely relied on the same facts that formed the basis of the offense. ROA.89. Without giving the Fifth Circuit court a chance at meaningful appellate review, the district court imposed a substantively unreasonable sentence of 180 months' imprisonment by "representing a clear error of judgment in balancing the sentencing factors." ROA.57-60; *see Smith*, 440 F.3d at 708.

Finally, one of the main tenants of § 3553(a) is that "the court shall impose a sentence sufficient, but not greater than necessary." 18 U.S.C. § 3553(a). Here, the sentence was greater than reasonably necessary. Mr. Sierra-Torreblanca has been punished for conduct that the guidelines already covered and increased the range based on the same factors already taken into consideration by the guidelines in violation of *Smith*. 440 F.3d at 706-07. Mr. Sierra-Torreblanca respectfully asks this Court to grant certiorari and review the case as a violation of the Eighth Amendment's protection against cruel and unusual punishment.

Here, the Fifth Circuit failed to give appropriate reasoning behind its affirmance and to protect the record for this Court's review. Other than saying the district court did not abuse its discretion, nothing else was discussed. The Fifth Circuit failed to sufficiently explain its decision. Mr. Sierra-Torreblanca deserved a more thorough explanation since he was given an upwardly varied sentence.

The Eighth Amendment protects against cruel and unusual punishment. A sentence of 180 months, or 15 years, and little to no explanation from the appellate court on justifying that sentence

CONCLUSION

For the foregoing reasons, Petitioner prays that a Writ of Certiorari issue to review the judgment of the United States Court of Appeals for the Fifth Circuit and allow him to proceed with briefing on the merits and oral argument.

Dated: June 29, 2026

Respectfully submitted,

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