

United States Court of Appeals For the First Circuit

No. 25-1606

UNITED STATES,

Appellee,

v.

TRAVIS BESSEY,

Defendant - Appellant.

Before

Rikelman, Aframe, and Dunlap,
Circuit Judges.

JUDGMENT

Entered: August 31, 2026

Defendant-appellant Travis Bessey appeals his conviction and within-guidelines sentence for two counts of sexual exploitation of a minor in violation of 18 U.S.C. § 2251(a), (e). In particular, he challenges the validity of his guilty plea and the substantive reasonableness of his sentence to 60 years' incarceration. After careful review and consideration of the parties' arguments and the record below, we affirm both.

First, we assume in Bessey's favor that the appeal-waiver provision contained in the plea agreement does not apply to either of his claims because he nevertheless cannot succeed on the merits. See United States v. Umeh, 132 F.4th 573, 580 (1st Cir.) (no need to determine "whether or not [defendant's] appellate waiver is unenforceable" because the appellate "challenge founders on its merits"), cert. denied, 146 S. Ct. 231 (2025); see also United States v. Ramos-Mejía, 721 F.3d 12, 14 (1st Cir. 2013) ("Where, as here, an appeal challenges the validity of the plea itself, a waiver-of-appeal provision lacks force.").

With respect to Bessey's claim that his guilty plea is invalid based on the process of the change-of-plea hearing, we first reject Bessey's contention that the alleged error was structural and excused his failure to object below. See United States v. Lara, 970 F.3d 68, 86–87 (1st Cir. 2020)

(explaining that "[t]he plain error standard of review applies, however, even to challenges to structural errors if they were not raised below" and addressing appellant's structural error argument within prong three of its plain error analysis). Accordingly, we review his claim under plain error. See United States v. Tanco-Pizarro, 873 F.3d 61, 64 (1st Cir. 2017). Bessey has failed to demonstrate that the district court plainly erred in conducting the change-of-plea hearing. See United States v. Figueroa-Ocasio, 805 F.3d 360, 367–68 (1st Cir. 2015) ("To show plain error, a defendant must demonstrate (1) error, (2) that is plain, and (3) that affects substantial rights. If all three conditions are met, an appellate court may then exercise its discretion to notice a forfeited error, but only if (4) the error seriously affects the fairness, integrity, or public reputation of judicial proceedings." (cleaned up) (internal quotation marks and citations omitted)). Even assuming Bessey can establish that the district court erred, he has failed to show that any such error was "contrary to existing law" and thus plain. United States v. Rabb, 5 F.4th 95, 101 (1st Cir. 2021). Thus, he cannot succeed under plain error review.

Furthermore, the record provides no basis to conclude that the district court abused its discretion in sentencing Bessey. See United States v. Melendez-Hiraldo, 82 F.4th 48, 56 (2023) (where defendant argued for a shorter sentence, substantive reasonableness of sentence is reviewed for abuse of discretion). Bessey has not identified anything to suggest that the court erred in balancing the 18 U.S.C. § 3553(a) factors or that the court's sentence was not supported by a plausible rationale or was not a defensible result. See Melendez-Hiraldo, 82 F.4th at 56. The district court provided a thorough, measured explanation as to how it was balancing each factor, ultimately determining that the seriousness of the offense conduct, the importance of promoting respect for the law, specific and general deterrence, and protecting the public, children in particular, from further crimes all counseled strongly in consecutive terms at the statutory maximum. See 18 U.S.C. § 2251 (a), (e) (providing a mandatory minimum of fifteen years and a maximum term of thirty years for a sexual exploitation of a minor conviction). Bessey did not entitle himself to a shorter sentence simply by presenting mitigating factors at sentencing. See United States v. Madera-Ortiz, 637 F.3d 26, 32 (1st Cir. 2011) ("a defendant does not ensure himself a reduced sentence simply by identifying potentially mitigating factors"). Accordingly, Bessey has not demonstrated that the district court erred in sentencing him to thirty years' incarceration for each count, to run consecutively.

Affirmed. See 1st Cir. R. 27.0(c).

By the Court:

Anastasia Dubrovsky, Clerk

cc:

Steven Alan Feldman
Joel B. Casey
Andrew McCormack
Lindsay Feinberg
Brian Scott Kleinbord