

APPENDIX

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United States Court of Appeals
for the Fifth Circuit

No. 25-20230

United States Court of Appeals
Fifth Circuit

FILED

July 7, 2026

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

AURELIO QUINTANILLA, JR.,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:24-CR-434-1

Before SMITH, WILLETT, and RAMIREZ, *Circuit Judges.*

DON R. WILLETT, *Circuit Judge:*

Aurelio Quintanilla pleaded guilty to transporting child pornography in violation of 18 U.S.C. § 2252A(a)(1), (b)(1). In exchange for the dismissal of two related charges, he waived his right to appeal his conviction and sentence, except for claims of ineffective assistance of counsel. He nevertheless argues that the district court misled him about his appellate rights and miscalculated restitution. The waiver forecloses his challenges to the terms of imprisonment and supervised release. His restitution challenge fares no better: the record shows a completed causation inquiry and, in any event, no plain error. We AFFIRM.

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I

Aurelio Quintanilla pleaded guilty to transporting child pornography.¹ We need not recount the underlying conduct in detail. Under his written plea agreement, the Government agreed to dismiss charges of sexual exploitation of a minor and possession of child pornography—offenses carrying maximum terms of thirty and twenty years, respectively.² In exchange, Quintanilla admitted that he was guilty of transporting child pornography.

Three plea-agreement terms matter here. First, the agreement contains a standard appellate waiver: Quintanilla may not challenge his conviction or sentence, except through an ineffective-assistance claim. The waiver states:

Defendant knowingly and voluntarily waives the right to appeal or “collaterally attack” the conviction and sentence, except that Defendant does not waive the right to raise a claim of ineffective assistance of counsel on direct appeal, if otherwise permitted, or on collateral review in a motion under Title 28, United States Code, Section 2255. In the event Defendant files a notice of appeal following imposition of the sentence or later collaterally attacks his conviction or sentence, the United States will assert its rights under this agreement and seek specific performance of these waivers.

Second, Quintanilla acknowledged that the offense carried a maximum of 240 months’ imprisonment and a lifetime of supervised release—and that “the Court ha[d] the authority to impose any sentence up to and including

¹ See 18 U.S.C. §§ 2252A(a)(1), (b)(1).

² See *id.* §§ 2251(a), (e); *id.* §§ 2252A(a)(5)(B), (b)(2); *see also* FED. R. CRIM. P. 11(c)(1)(A) (providing that a “plea agreement may specify that an attorney for the government will . . . not bring, or will move to dismiss, other charges[.]”).

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the statutory maximum.”³ Third, he acknowledged that the law required restitution of at least \$3,000 to each identifiable victim.⁴ The agreement left sentencing to “the sole discretion of the sentencing judge after the Court ha[d] consulted the applicable Sentencing Guidelines.”⁵ Finally, Quintanilla confirmed that he had “read and carefully reviewed every part of [the] plea agreement,” understood it, and “voluntarily agree[d] to its terms.”

At the change-of-plea hearing, Quintanilla confirmed the material terms of his bargain. He understood the charge, the factual basis for his plea, and the maximum penalty. He waived his trial rights. The court also explained that, “under some circumstances,” Quintanilla or the Government “may have the right to appeal any sentence . . . impose[d].”⁶ Quintanilla then testified that he had read and understood the plea agreement. The court accepted his guilty plea as knowing, voluntary, and supported by an adequate factual basis.

Before sentencing, the United States Probation Office (USPO) attributed 3,092 images of child pornography to Quintanilla.⁷ After applying

³ See 18 U.S.C. § 2252A(b)(1); *id.* § 3583(k).

⁴ See *id.* § 2259(b)(2).

⁵ See *id.* § 3553(a).

⁶ The district court conducted a joint change-of-plea hearing for Quintanilla and an unrelated defendant. In explaining appellate rights, the court advised both defendants at once that, “under some circumstances[,] you or the Government may have the right to appeal any sentence . . . impose[d].” Each defendant separately confirmed that he understood. The court then separately reviewed each defendant’s plea agreement. Quintanilla does not argue that this collective advisement failed to satisfy Federal Rule of Criminal Procedure 11(b)(1)(N)’s requirement that the court “address the defendant personally in open court.”

⁷ According to his presentence report, Quintanilla is accountable for 242 images and 38 videos of child pornography. Under the Federal Sentencing Guidelines, each video counts as 75 images. See U.S.S.G. § 2G2.2 n.6. Thus, Quintanilla’s 38 videos convert to

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several offense-specific enhancements and a three-level reduction for acceptance of responsibility,⁸ the PSR calculated a total offense level of 42.

With a total offense level of 42 and a criminal-history category of I, Quintanilla's Guidelines range was 360 months to life. Because the statutory maximum was 240 months,⁹ that maximum became the Guidelines sentence.¹⁰ Restitution was mandatory because Quintanilla had been "convicted of trafficking in child pornography."¹¹ The PSR was supplemented with two victim restitution requests: one for \$10,000 and one for \$7,500.

At sentencing, Quintanilla requested the sixty-month mandatory minimum, while the Government recommended 216 months. After considering the parties' arguments and the § 3553(a) factors, the district court imposed 240 months' imprisonment and a lifetime term of supervised release.¹² It also considered the victim-impact statements and ordered \$17,500 in combined restitution: \$10,000 to one victim and \$7,500 to the other. Each component of the sentence fell within the ranges Quintanilla acknowledged in his plea agreement.

2,850 images. He was therefore held responsible for a total 3,092 images depicting child pornography.

⁸ See generally *id.* § 2G2.2(b)(1)–(7) (providing sentencing enhancements for child pornography offenses), § 3E1.1(a), (b) (providing acceptance-of-responsibility reduction).

⁹ See 18 U.S.C. § 2252A(b)(1).

¹⁰ See U.S.S.G. § 5G1.1(a) ("Where the statutorily authorized maximum sentence is less than the minimum of the applicable guideline range, the statutorily authorized maximum sentence shall be the guideline sentence.").

¹¹ 18 U.S.C. § 2259(b)(2).

¹² See 18 U.S.C. § 3553(a); *id.* § 2252A(b)(1); *id.* § 3583(k).

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On appeal, Quintanilla argues that the district court: (1) affirmatively misled him about his appellate rights; (2) imposed a substantively unreasonable prison term; (3) procedurally erred by disregarding mitigation, treating the Guidelines as binding, and inadequately explaining the sentence; (4) imposed an unreasonable lifetime term of supervised release; and (5) failed to conduct the causation and apportionment analysis required for restitution. He seeks vacatur and resentencing.

II

Each claim fails. The Rule 11 colloquy did not undo Quintanilla's knowing and voluntary waiver of most of his appellate rights. The waiver therefore bars his challenges to imprisonment and supervised release. His restitution challenge also fails: the sentencing record reflects a completed causation inquiry and, in any event, no plain error. We AFFIRM the district court's judgment.

A

Quintanilla first argues that the district court affirmatively misled him about his appellate rights. He says the court contradicted the written waiver when it advised him that, "under some circumstances," he "may have the right to appeal any sentence." That generic advisement did not misstate the law or expand the appeal rights Quintanilla had waived.

We review *de novo* whether an appellate waiver is enforceable.¹³ Because Quintanilla did not object during his change-of-plea colloquy, we review the colloquy itself for plain error.¹⁴ He must show a "clear or obvious" error affecting "substantial rights"—and even then, relief is discretionary

¹³ *United States v. Jacobs*, 635 F.3d 778, 780–81 (5th Cir. 2011) (citation omitted).

¹⁴ *United States v. Oliver*, 630 F.3d 397, 411 (5th Cir. 2011) (citations omitted).

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and reserved for an error that “seriously affects the fairness, integrity or public reputation of judicial proceedings.”¹⁵ To obtain relief, Quintanilla “must show a reasonable probability that, but for the error, he would not have entered the plea.”¹⁶

Quintanilla’s appellate waiver is enforceable. “The right to appeal a conviction and sentence is a statutory right, not a constitutional one, and a defendant may waive it as part of a plea agreement.”¹⁷ The waiver is valid when it is knowing and voluntary, and, by its plain terms, applies to the circumstances at hand.¹⁸ Quintanilla has not shown that his waiver was uninformed and involuntary.¹⁹

The written agreement squarely resolves the question. Quintanilla “knowingly and voluntarily waive[d] the right to appeal or ‘collaterally attack’ the conviction and sentence,” preserving only “a claim of ineffective assistance of counsel.” He further represented that he had “read and carefully reviewed every part of the plea agreement,” understood its meaning, and “voluntarily agree[d] to its terms.” Those representations establish a knowing and voluntary waiver.

The plea colloquy confirms that conclusion. The court’s statement that appellate rights might exist “under *some* circumstances,” was not, as Quintanilla suggests, a “categorical assurance of appellate rights.” It

¹⁵ See *Puckett v. United States*, 556 U.S. 129, 135 (2009) (alterations and citations omitted).

¹⁶ See *United States v. Dominguez Benitez*, 542 U.S. 74, 83 (2004).

¹⁷ *United States v. Baymon*, 312 F.3d 725, 727 (5th Cir. 2002) (citation omitted).

¹⁸ See *United States v. Rodriguez-Estrada*, 741 F.3d 648, 650 (5th Cir. 2014) (citation omitted).

¹⁹ See *United States v. Cuevas-Andrade*, 232 F.3d 440, 446 (5th Cir. 2000).

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accurately recognized that the plea agreement left some appellate avenues open—including an ineffective-assistance claim—and that other rights might arise in circumstances the waiver did not reach. Nothing in the statement suggested that Quintanilla could appeal every aspect of his conviction or sentence despite his written waiver.

The record contains no sign of confusion. Quintanilla confirmed that he had read and understood the agreement. He and counsel had an opportunity to raise questions before the court accepted the plea, and the court found him competent to enter it. The written agreement and the colloquy tell us the same story: Quintanilla understood the bargain he made.

The district court therefore did not err—much less plainly. Quintanilla accepted responsibility for one offense in exchange for dismissal of two others. He may not now disclaim the waiver that was central to that bargain.

B

Because the waiver is valid and encompasses challenges to Quintanilla’s “conviction and sentence,” it bars his claims attacking the prison term and lifetime of supervised release. We do not reach the merits of those challenges.²⁰

²⁰ See, e.g., *United States v. Tata*, No. 22-50383, 2023 WL 3818381, at *1 (5th Cir. June 5, 2023) (per curiam) (unpublished) (“Tata’s challenges to the reasonableness of his sentence are barred by the valid appeal waiver.” (citing *United States v. Bond*, 414 F.3d 542, 544, 546 (5th Cir. 2005))); *United States v. Lozano*, 757 F. App’x 348, 351 (5th Cir. 2018) (per curiam) (“Because Lozano waived his right to collaterally attack his sentence, any challenge to the terms of supervised release is barred by a valid appeal waiver.” (citing *United States v. Crain*, 877 F.3d 637, 650 (5th Cir. 2017))).

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C

Quintanilla separately challenges the restitution award. He argues that the district court failed to conduct the proximate-cause and apportionment inquiry required by *Paroline v. United States*.²¹ The record does not bear that out.

An appellate waiver ordinarily forecloses a restitution challenge because restitution is part of the defendant's sentence.²² Quintanilla concedes that general point,²³ but he raises an exception. Relying on *Paroline v. United States*, he argues that the court's restitution order exceeds the

²¹ 572 U.S. 434, 448 (2014) (holding that restitution is proper "only to the extent the defendant's offense proximately caused a victim's losses").

²² See *United States v. Alfred*, 60 F.4th 979, 981–82 (5th Cir. 2023).

²³ Quintanilla concedes that restitution is part of, rather than distinct from, a defendant's sentence. See 18 U.S.C. § 3663A(a)(1) ("[W]hen sentencing a defendant convicted of an offense described in subsection (c), the court shall order . . . that the defendant make restitution to the victim of the offense . . ."); *id.* § 3664(o) ("A sentence that imposes an order of restitution is a final judgment. . ."). Other courts have so held. See, e.g., *United States v. Faella*, 819 F. App'x 844, 848 (11th Cir. 2020) (per curiam) ("Restitution is part of a sentence and a challenge to a restitution amount can be waived by a valid appeal waiver." (citing *United States v. Johnson*, 541 F.3d 1064, 1066 (11th Cir. 2008))); *United States v. Hankins*, 858 F.3d 1273, 1276 (9th Cir. 2017) ("This restitution order is part of a convicted defendant's criminal sentence."); *United States v. Feast*, 614 F. App'x 195, 195 (5th Cir. 2015) (per curiam) ("As part of her sentence, the district court imposed restitution . . ."); *United States v. Winans*, 748 F.3d 268, 271 (6th Cir. 2014) ("Because restitution is a part of Winans's sentence, and Winans waived 'any right he may have to appeal his sentence,' the waiver extinguished Winans's right to appeal the restitution order."); *United States v. Monzel*, 641 F.3d 528, 541 (D.C. Cir. 2011) ("Amy is asking the court to revisit her restitution award, which is part of Monzel's sentence." (footnote omitted)); *United States v. Cohen*, 459 F.3d 490, 496 (4th Cir. 2006) ("[R]estitution is . . . part of the criminal defendant's sentence."); *United States v. Simon*, No. 04-cr-43, 2005 WL 3541133, at *3 (E.D. La. Oct. 3, 2005); *United States v. Acosta*, 303 F.3d 78, 87 (1st Cir. 2002) ("It is undisputed that restitution is part of a sentence."); *United States v. Syme*, 276 F.3d 131, 159 (3d Cir. 2002) ("Restitution orders have long been treated as part of the sentence for the offense of conviction . . .").

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statutory maximum sentence.²⁴ As we have held in applying *Paroline*, “if a court orders a defendant to pay restitution under § 2259 without determining that the defendant’s conduct proximately caused the victim’s claimed losses, the amount of restitution necessarily exceeds the statutory maximum.”²⁵ And “[c]laims that a sentence exceeds the statutory maximum are not barred by a waiver of appeal.”²⁶ The crucial distinction, however, is between a court that fails to conduct the required inquiry and a defendant who merely disputes the result of an inquiry the court actually conducted.

Quintanilla did not object to the restitution below, so any unwaived merits challenges are reviewed for plain error.²⁷ As outlined above, that standard requires a clear or obvious error affecting an “appellant’s substantial rights” and “seriously affect[ing] the fairness, integrity or public reputation of judicial proceedings.”²⁸ If those conditions are met, then the court of appeals may—at its discretion—remedy the error.²⁹ We have previously recognized that a court’s “failure to conduct a *Paroline* proximate-cause analysis” reflects “clear and obvious error[] not subject to reasonable dispute.”³⁰ Binding precedent also indicates that “a restitution order . . . in an amount greater than the loss caused” affects an appellant’s substantial

²⁴ 572 U.S. 434 (2014).

²⁵ *United States v. Winchel*, 896 F.3d 387, 389 (5th Cir. 2018) (collecting cases).

²⁶ *United States v. Swarner*, 168 F.4th 309, 311 (5th Cir. 2026) (citation omitted).

²⁷ See *United States v. West*, 137 F.4th 395, 401 (5th Cir. 2025) (citations omitted); FED. R. CRIM. P. 52(b) (“A plain error that affects substantial rights may be considered even though it was not brought to the court’s attention.”).

²⁸ See *Winchel*, 896 F.3d at 389 (quotation omitted).

²⁹ See *id.*

³⁰ See *West*, 137 F.4th at 402.

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rights, as well as the fairness, integrity, or public reputation of judicial proceedings.³¹ But the district court conducted the required inquiry here.

Paroline recognizes that tracing a particular offender's role in a victim's losses is difficult.³² It therefore gives district courts "discretion in fashioning a restitution order,"³³ directing them to "assess as best [they] can from available evidence the significance of the individual defendant's conduct in light of the broader causal process that produced the victim's losses."³⁴ The inquiry has "rough guideposts"—not a "precise algorithm"—including:

- "The number of past criminal defendants found to have contributed to the victim's general losses";
- "Reasonable predictions of the number of future offenders likely to be caught and convicted for crimes contributing to the victim's general losses";
- "Any available and reasonably reliable estimate of the broader number of offenders involved (most of whom will, of course, never be caught or convicted)";
- "Whether the defendant reproduced or distributed images of the victim";
- "Whether the defendant had any connection to the initial production of the images";

³¹ See *id.* (citations omitted); see also *Rosales-Mireles v. United States*, 585 U.S. 129, 141 (2018) ("[T]he public legitimacy of our justice system relies on procedures that are 'neutral, accurate, consistent, trustworthy, and fair,' and that 'provide opportunities for error correction.'" (quotation omitted)).

³² See *Paroline*, 572 U.S. at 449.

³³ See *id.* at 459 (quoting 18 U.S.C. § 3664(a)).

³⁴ *Id.*

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- “How many images of the victim the defendant possessed”;
- “And other facts relevant to the defendant’s relative causal role.”³⁵

The sentencing record satisfies that flexible inquiry. The district court specifically considered each victim’s restitution report. Those reports estimated losses of \$3,610,878.88 for one victim, and \$1,980,793.67 for the other. The court ordered \$10,000 and \$7,500, respectively—amounts that, in each case, represent about 0.3% of each victim’s reported losses.

The court also considered that Quintanilla did not simply view pornography involving the victims: he *downloaded* the pornographic videos and images. Then, the court read aloud portions of one victim’s impact statement that described the lifelong injuries Quintanilla inflicted. After considering the PSR, restitution reports, and victim-impact statements, the court imposed a modest \$17,500 award. The court was not required to recite every *Paroline* guidepost or supply a mathematically exact apportionment. This is a disagreement with the outcome of a completed causation inquiry, not a claim that the court conducted none. The waiver therefore bars Quintanilla’s restitution challenge; in any event, the record reveals no error, much less plain error.³⁶

³⁵ See *id.* at 459–60 (capitalization altered).

³⁶ See *West*, 137 F.4th at 401. Even if Quintanilla *had* shown that the sentencing court plainly erred in calculating restitution, we would decline to exercise our discretion to reverse his conviction or sentence because the alleged error does not “*seriously* affect the fairness, integrity or public reputation of judicial proceedings.” See *Winchel*, 896 F.3d at 389 (citation modified).

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* * *

We AFFIRM.

ENTERED

June 03, 2025

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
Holding Session in Houston

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

v.

AURELIO QUINTANILLA, JR.

CASE NUMBER: 4:24CR00434-001

USM NUMBER: 12201-506

Natalie Jihad Awad, AFPD

Defendant's Attorney

THE DEFENDANT:

- ☒ pleaded guilty to count(s) 2 on January 17, 2025.
- ☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.
- ☐ was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. § 2252A(a)(1) and (b)(1)	Transportation of child pornography	07/22/2024	2

- ☐ See Additional Counts of Conviction.

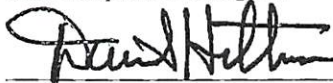
The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- ☐ The defendant has been found not guilty on count(s) _____
- ☒ Count(s) remaining are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

May 22, 2025

Date of Imposition of Judgment



Signature of Judge

DAVID HITTNER

SENIOR UNITED STATES DISTRICT JUDGE

Name and Title of Judge

6/3/25

Date

25-20230.68

AO 245B (Rev. 09/19) Judgment in a Criminal Case
Sheet 2 – Imprisonment

Judgment — Page 2 of 6

DEFENDANT: **AURELIO QUINTANILLA, JR.**
CASE NUMBER: **4:24CR00434-001**

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of: 240 months.

This term consists of TWO HUNDRED FORTY (240) MONTHS as to Count 2.

- ☐ See Additional Imprisonment Terms.
- ☒ The court makes the following recommendations to the Bureau of Prisons:
The defendant be designated to a facility as close to Houston, Texas, as possible.
- ☒ The defendant is remanded to the custody of the United States Marshal.

- ☐ The defendant shall surrender to the United States Marshal for this district:
- ☐ at _____ on _____
- ☐ as notified by the United States Marshal.
- ☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
- ☐ before 2 p.m. on _____
- ☐ as notified by the United States Marshal.
- ☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

25-20230.69

DEFENDANT: AURELIO QUINTANILLA, JR.
CASE NUMBER: 4:24CR00434-001

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of: life

This term consists of LIFE as to Count 2.

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
 - ☐ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. ☒ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. ☒ You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. ☒ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. ☐ You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- ☒ See Special Conditions of Supervision.

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.
14. If restitution is ordered, the defendant must make restitution as ordered by the Judge and in accordance with the applicable provisions of 18 U.S.C. §§ 2248, 2259, 2264, 2327, 3663A and/or 3664. The defendant must also pay the assessment imposed in accordance with 18 U.S.C. § 3013.
15. The defendant must notify the U.S. Probation Office of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution, fines, or special assessments.

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DEFENDANT: AURELIO QUINTANILLA, JR.
CASE NUMBER: 4:24CR00434-001

SPECIAL CONDITIONS OF SUPERVISION

You must participate in a sex offense-specific treatment program and follow the rules and regulations of that program. The probation officer will supervise your participation in the program (provider, location, modality, duration, intensity, etc.). You must pay the costs of the program if financially able.

You must not view or possess any visual depiction (as defined in 18 U.S.C. § 2256), including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct (as defined in 18 U.S.C. § 2256).

You must not possess and/or use computers or other electronic communications or data storage devices or media, without the prior approval of the probation officer. If approved, you shall consent to the ongoing monitoring of all devices. To ensure compliance with the computer monitoring, you must allow the probation officer to conduct initial and periodic unannounced searches of any computers (as defined in 18 U.S.C. § 1030(e)(1)) subject to computer monitoring. These searches shall be conducted for the purposes of determining whether the computer contains any prohibited data prior to installation of the monitoring software; to determine whether the monitoring software is functioning effectively after its installation; and to determine whether there have been attempts to circumvent the monitoring software after its installation.

You must warn any other people who use these computers that the computers may be subject to searches pursuant to this condition. You agree to pay the cost of the hardware and/or software monitoring system, including any ongoing monthly service costs, in accordance with your ability to pay, as determined by the probation officer.

You shall not subscribe to any computer online service, nor shall you access any Internet service during the length of your supervision, unless approved in advance in writing by the United States Probation Officer.

You must not have direct contact with any child you know or reasonably should know to be under the age of 18, without the permission of the probation officer. If you do have any direct contact with any child, you know or reasonably should know to be under the age of 18, without the permission of the probation officer, you must report this contact to the probation officer within 24 hours. Direct contact includes written communication, in-person communication, or physical contact. Direct contact does not include incidental contact during ordinary daily activities in public places.

You must not date or cohabitate with anyone who has children under the age of 18, unless approved in advance in writing by the United States Probation Officer.

You must not reside, work, access, or loiter within 100 feet of school yards, playgrounds, arcades, or other places primarily used by children under the age of 18, or where children may frequently congregate, unless approved in advance in writing by the United States Probation Officer.

You must not seek or maintain employment, supervise, volunteer, or participate in any program and/or activity where minors under the age of 18 would congregate, without prior written approval of the United States Probation Officer. This would include athletic, religious, volunteer, civic, or cultural activities designed for minors under the age of 18.

You must participate in a mental-health treatment program and follow the rules and regulations of that program. The probation officer, in consultation with the treatment provider, will supervise your participation in the program, including the provider, location, modality, duration, and intensity. You must pay the cost of the program, if financially able.

You must take all mental-health medications that are prescribed by your treating physician. You must pay the costs of the medication, if financially able.

You must provide the probation officer with access to any requested financial information and authorize the release of any financial information. The probation office may share financial information with the U.S. Attorney's Office.

You must not incur new credit charges or open additional lines of credit without the approval of the probation officer.

You must have no contact with Minor Victim 1 or Minor Victim 2.

25-20230.71

AO 245B (Rev. 09/19) Judgment in a Criminal Case
Sheet 5 -- Criminal Monetary PenaltiesJudgment — Page 5 of 6DEFENDANT: AURELIO QUINTANILLA, JR.
CASE NUMBER: 4:24CR00434-001**CRIMINAL MONETARY PENALTIES**

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment¹</u>	<u>JVTA Assessment²</u>
TOTALS	\$100	\$17,500	\$	\$	\$

Based upon a finding of indigency, the Court waives the additional special assessment under the Amy, Vicky, Andy Act of 2018, pursuant to 18 U.S.C. § 2259A, and the \$5,000 additional special assessment required under the Justice for Victims of Trafficking Act of 2015, pursuant to 18 U.S.C. § 3014.

- ☐ See Additional Terms for Criminal Monetary Penalties.
- ☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.
- ☒ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss³</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
Aprilblonde Series (April)	\$	\$10,000	
Sweet White Sugar Series (Pia)		\$7,500	

- ☐ See Additional Restitution Payees.

TOTALS	\$	<u>\$17,500</u>
---------------	----	-----------------

- ☐ Restitution amount ordered pursuant to plea agreement \$ _____
- ☒ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- ☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:
- ☐ the interest requirement is waived for the ☐ fine ☐ restitution.
- ☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:
- ☐ Based on the Government's motion, the Court finds that reasonable efforts to collect the special assessment are not likely to be effective. Therefore, the assessment is hereby remitted.

¹ Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.

² Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

³ Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

25-20230.72

DEFENDANT: AURELIO QUINTANILLA, JR.
CASE NUMBER: 4:24CR00434-001**SCHEDULE OF PAYMENTS**

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A ☐ Lump sum payment of \$ _____ due immediately, balance due
☐ not later than _____, or
☐ in accordance with ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☒ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☒ F below); or
- C ☐ Payment in equal _____ installments of \$ _____ over a period of _____, to commence _____ after the date of this judgment; or
- D ☐ Payment in equal _____ installments of \$ _____ over a period of _____, to commence _____ after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:

Payable to: Clerk, U.S. District Court
 Attn: Finance
 P.O. Box 61010
 Houston, TX 77208

Any unpaid balance due in payments of the greater of \$25 per quarter or 50% of any wages earned while imprisoned. The defendant will receive credit for any payments made through the Bureau of Prisons' inmate Financial Responsibility Program. Any balance remaining after release from imprisonment shall be paid in monthly installments of \$25 to commence 60 days after release to a term of supervision.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Case Number

Defendant and Co-Defendant Names
(including defendant number)

Total Amount

Joint and Several
Amount

Corresponding Payee,
if appropriate

- ☐ See Additional Defendants and Co-Defendants Held Joint and Several.
- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):

- ☒ The defendant shall forfeit the defendant's interest in the following property to the United States:
 As set forth in the Order of Forfeiture at Sentencing.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVT A assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

25-20230.73

United States Court of Appeals
for the Fifth Circuit

No. 25-20230

United States Court of Appeals
Fifth Circuit

FILED

August 4, 2026

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

AURELIO QUINTANILLA, JR.,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:24-CR-434-1

ON PETITION FOR REHEARING
AND REHEARING EN BANC

Before SMITH, WILLETT, and RAMIREZ, *Circuit Judges*.

PER CURIAM:

The petition for panel rehearing is DENIED. Because no member of the panel or judge in regular active service requested that the court be polled on rehearing en banc (FED. R. APP. P. 35 and 5TH CIR. R. 35), the petition for rehearing en banc is DENIED.*

* JUDGE HO did not participate in the consideration of rehearing en banc.

1 UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF TEXAS

3 HOUSTON DIVISION

4 UNITED STATES OF AMERICA

5 VERSUS

6 AURELIO QUINTANILLA, JR.,

7 Defendant.

. Criminal Action
. No. H-24-CR-434-1
. Houston, Texas
. May 22, 2025
. 2:11 p.m.
.

9 TRANSCRIPT OF PROCEEDINGS

10 BEFORE THE HONORABLE DAVID HITTNER

11 **SENTENCING**

12 APPEARANCES:

13 FOR THE UNITED STATES OF AMERICA:

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15 Assistant United States Attorney
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19 FOR THE DEFENDANT:

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25 PROCEEDINGS RECORDED BY STENOGRAPHIC MEANS,
TRANSCRIPT PRODUCED FROM COMPUTER-AIDED TRANSCRIPTION

Gayle Dye, CSR, RDR, CRR - 713.250.5582

25-20230.88

1 release, along with \$17,500 in restitution.

2 THE COURT: Okay. We're going to talk about
3 restitution in a moment --

4 MR. DAY: Okay.

02:37:11 5 THE COURT: -- because there's also -- is that the
6 \$17,000 -- the 10,000 plus the 7500?

7 MR. DAY: Correct, your Honor.

8 THE COURT: Okay, yeah. I'll be addressing that as to
9 those -- the monetary. You can't compensate anybody monetarily.
02:37:27 10 But they also said the -- one of his reports said they wanted to
11 be kept -- and this was a letter to you, right? Are you
12 familiar with that --

13 MR. DAY: Yes, your Honor.

14 THE COURT: -- the restitution request? And that they
02:37:43 15 -- they be informed that there was going to be any waiver of
16 that. Well, there's not, as far as I'm concerned. So, that's
17 already -- is going to be taken into consideration when I read
18 the sentence.

19 Go right ahead.

02:37:56 20 MR. DAY: Thank you, your Honor. We'd also ask for a
21 no-contact order. We're talking about the minor victims of the
22 defendant --

23 THE COURT: They're still here?

24 MR. DAY: -- being his brothers.

02:38:04 25 THE COURT: A lot of these examinations, though, were

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25-20230.106

1 THE PROBATION OFFICER: -- there is a condition that
2 he must not have direct contact with any child under the age of
3 18. So, I would assume that would satisfy what the government
4 is referring to.

02:39:11 5 THE COURT: Is that satisfactory or not?

6 MR. DAY: Well, the order brother of the two victims
7 is now 18. So, we would like to include him, if possible, in
8 that no-contact order, as well, since he is now no longer a
9 minor.

02:39:25 10 THE PROBATION OFFICER: Your Honor, we can include as
11 a condition of his release that he has no contact with Minor
12 Victim 1 or Minor Victim 2, which are his brothers.

13 THE COURT: Is that --

14 MR. DAY: That will be fine, your Honor. Thank you.

02:39:36 15 THE COURT: Okay. Yes. So, do that, please.

16 THE PROBATION OFFICER: Yes, your Honor.

17 THE COURT: Okay. That's granted. Anything further?

18 MR. DAY: No, your Honor.

19 THE COURT: All right. Counsel, do you know any
02:39:41 20 reason why your client should not be sentenced at this time?

21 MS. AWAD: No, your Honor.

22 THE COURT: Okay. Let me see if I have any additional
23 notes.

24 A lot of time was put in on this, but I think
02:39:56 25 these type of cases are difficult and they deserve the time.

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25-20230.108

1 All right. I've considered 18, United States
2 Code, Section 3553(a). I feel that the next -- the following
3 sentence is appropriate in this case: It's the judgment of the
4 Court the defendant is hereby committed to the custody of the
02:40:19 5 Bureau of the Prisons to be imprisoned in the federal
6 penitentiary with no parole for a term of 240 months. That's 20
7 years.

8 Upon release from imprisonment, he'll be placed
9 on supervised release for a term of life.

02:40:35 10 Within 72 hours of release from the custody of
11 the Bureau of the Prisons, the defendant shall report in person
12 to the probation office in which he's released. While on
13 supervised release, he'll not commit another federal, state, or
14 local crime; shall comply with the standard conditions that have
02:40:53 15 been adopted by this Court under General Order 2017-01; abide by
16 any mandatory conditions required by law; and comply with the
17 additional conditions as reflected in the appendix of the
18 presentence report.

19 It's further ordered that he pay restitution in
02:41:15 20 the amount of \$10,000 to Victim [REDACTED] and \$7500 to Victim [REDACTED].

21 Now, any more restitution, counsel? That's the
22 next question I have always in these cases by the government.
23 Any other matters of restitution that need to be decided --

24 MR. DAY: Not at all.

02:41:38 25 THE COURT: -- because I got some language here? Any

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25-20230.109

1 more research need to be done?

2 MR. DAY: Judge, at this time, we don't have any
3 additional requests. If we find anything, we will make those
4 requests to the Court.

02:41:50 5 THE COURT: Okay.

6 I find he doesn't have the ability to pay a fine.
7 I'll waive a fine in this case. The Court finds that the
8 defendant is indigent and doesn't have the ability to pay the --
9 it's called the JVTa assessment, nor the AVAA assessment. Those
02:42:05 10 are assessments in some of these matters. And I'll waive both
11 assessments because he doesn't have any matter -- he doesn't
12 have any -- what is it? -- ability to pay.

13 It's further ordered that the defendant pay to
14 the United States a special assessment of \$100. I need to set
02:42:27 15 -- that's set by Congress as for each count -- felony count, and
16 he's to pay it immediately. And I need to set some sort of a
17 budget: any unpaid balance of the greater of \$25 per quarter or
18 50 percent of any wages earned while in prison.

19 The defendant will receive credit for any
02:42:48 20 payments made through the Bureau of the Prisons. And when he
21 gets out, he'll make monthly installments to commence 60 days
22 after release to a term of supervision and to be paid through
23 the US District Clerk, Southern District of Texas.

24 All right. No more order of forfeiture.

02:43:11 25 Anything further from the government?

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25-20230.110

No. 25-20230

**IN THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

**UNITED STATES OF AMERICA,
*Plaintiff–Appellee,***

v.

**AURELIO QUINTANILLA, JR.,
*Defendant–Appellant.***

**On Appeal from the United States District Court
For the Southern District of Texas
Houston Division, Case No. 4:24-CR-00434**

BRIEF OF PLAINTIFF–APPELLEE

**NICHOLAS J. GANJEI
United States Attorney**

**CARMEN CASTILLO MITCHELL
Chief, Appellate Division**

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ATTORNEYS FOR APPELLEE

a lifetime term of supervised release necessary because of the specific facts and circumstances of the case and the history and characteristics of the defendant.

ISSUE FIVE: Finally, although not barred by the appellate waiver, Quintanilla's challenge to the restitution order lacks merit. A defendant, like Quintanilla, who possesses a victim's images proximately causes the victim injury. The two victims here submitted detailed victim impact statements reciting the *Paroline* factors and delineating their total damage amount. The district court's award to the two victims (\$10,000 and \$7,500) was a small fraction of the total estimated future costs for the victims to cope with their post-traumatic stress and other injuries. This Court has affirmed restitution awards in similar cases.

ARGUMENT

There is no reversible error in Quintanilla's guideline sentence or the order of restitution.

I. Quintanilla's appellate waiver bars most of his issues.

A. The standard of review is de novo.

This Court generally reviews de novo whether an appeal waiver bars an appeal. *United States v. Keele*, 755 F.3d 752, 754 (5th Cir. 2014). To the extent Quintanilla challenges the district court's Rule 11 colloquy,

transported. Appellant's brief, 34-36. Quintanilla did not object to the restitution award in the district court. He correctly concedes review is for plain error only. Appellant's brief, 34; see *United States v. West*, 137 F.4th 395, 401 (5th Cir. 2025) (reviewing for plain error a claim that the district court failed to conduct a proximate cause analysis when imposing restitution).

B. Quintanilla's appellate waiver does not bar a claim that the district court conducted no *Paroline* analysis.

Quintanilla argues that the restitution award must be reversed because the district court failed to conduct a proximate cause analysis and make findings as required by *Paroline v. United States*, 572 U.S. 434 (2014). Appellant's brief, 34-36. As an initial matter, a general appellate waiver in a plea agreement may bar a restitution appeal. See *United States v. Alfred*, 60 F.4th 979, 981-82 (5th Cir. 2023). An appellate waiver will not bar appeal of a restitution order where the defendant asserts the district court failed to determine restitution in accordance with *Paroline*; this type of claim falls within the exception to enforcing an appellate waiver for an appeal of a sentence that exceeds the statutory maximum. *United States v. Leal*, 933 F.3d 426, 430-31 (5th Cir. 2019); *United States*

v. Winchel, 896 F.3d 387, 389 (5th Cir. 2018). To the extent Quintanilla complains about the court’s lack of a *Paroline* analysis, his claim is not barred by the appellate waiver.⁷ Nevertheless, the claim fails.

C. Although not barred by the appellate waiver, Quintanilla’s restitution argument is without merit.

Restitution is mandatory for offenses that involve child pornography trafficking, including Quintanilla’s offense here. *See* 18 U.S.C. § 2259(b)(2). In *Paroline*, the Supreme Court held that restitution is proper under § 2259 “only to the extent the defendant’s offense proximately caused a victim’s losses.” *Paroline*, 572 U.S. at 448. Congress codified *Paroline* in § 2259(b)(2), which requires the district court to determine the full amount of the victim’s losses and order restitution “in an amount that reflects the defendant’s relative role in the causal process that underlies the victim’s losses, but which is no less than \$3,000.” 18 U.S.C. § 2259(b)(2).

⁷ To the extent this Court believes Quintanilla is raising some other argument about restitution, such as the validity of the amounts claimed in the victim impact statements, which the district court adopted, his claims would concern only a factual dispute as to how the court calculated the restitution amount. Such claims are barred by the appellate waiver. *See Alfred*, 60 F.4th at 987.

which detailed the victims' losses and discussed *Paroline* factors. *See* ROA.95-96, 185-86.

The PSR here recited the mandate of 18 U.S.C. § 2259(b)—that is, the codified *Paroline* holding—and incorporated by reference April's and Pia's detailed requests. *See* ROA.163, 171, 185-86; PSR ¶¶ 13, 71 and Addenda. April's and Pia's restitution packets also noted the *Paroline* factors and broke down their economic and psychological losses, as well as the cost of their treatment plans for future mental health needs. *See* ROA.176-84 (April), ROA.187-283 (Pia).

For example, April's packet delineated total losses of over \$3.6 million. ROA.183. April noted she had recovered \$619,385.13 in restitution to date, which left about \$2.9 million in losses. ROA.176, 182. She projected future costs for psychological treatment alone to be \$226,375. ROA.182. She requested and the court ordered only \$10,000 in restitution, ROA.176, which is approximately 0.3% (less than one half of one percent) of her outstanding estimated losses.

Similarly, Pia's packet estimated her total losses to be approximately \$1,980,793.67 and her future treatment costs for psychological care to be between \$286,000 and \$323,000. ROA.187. Pia

requested and the court ordered restitution of only \$7,500, ROA.189, which is also less than one half of one percent (approximately 0.3%) of her total losses.

Quintanilla characterizes April's and Pia's restitution submissions as "boilerplate" statements, and he complains the district court made no findings about causation and the statements' reliability. Appellant's brief, 34-35. First, both April's and Pia's statements and letters painfully described the physical, economic, and psychological harm Quintanilla's conduct had on them. *See Paroline*, 572 U.S. at 460. For example, April noted that "every instance of possession and distribution [of her images] renews the abuse. Each time that she is notified that her images are in possession of yet another perpetrator, it retraumatizes her and disrupts her healing process." ROA.179.

Pia similarly documented ongoing psychological issues and the need for long-term counseling caused by the "ongoing circulation of her abuse images," which have been viewed by "strangers, including the defendant in this matter," who "value those images for their own depraved pleasures." ROA.189. She explained that having images of her abuse circulated among people "like the defendant" is damaging,

abuse she endured. . . . [E]veryone who reproduces, distributes, or possesses the images of the victim’s abuse—including [Quintanilla]—plays a part in sustaining and aggravating this tragedy.” *Paroline*, 572 U.S. at 457 (emphasis added); see also, e.g., *United States v. Norris*, 159 F.3d 926, 930 (5th Cir. 1998) (“The consumer who ‘merely’ or ‘passively’ receives or possesses child pornography directly contributes to this continuing victimization.”).

The district court here also noted the prosecutor’s argument that Quintanilla had “downloaded and viewed [the victims] abuse . . . and the images and the videos are still out there in public.” ROA.103. After quoting one victim’s statement that she will suffer “indefinitely” because the “images of [her] abuse [are] available on the internet forever,” the court continued, “That child will never be allowed to live a life that she deserved as long as her images are being viewed.” ROA.103. Far from ignoring causality, the district court’s focus on that part of the victim’s statement is consistent with the Supreme Court’s recognition that “every viewing of child pornography is a repetition of the victim’s abuse.” *Paroline*, 572 U.S. at 457.