

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

STEVEN RANDALL NEAL,

Defendant-Appellant.

No. 25-5895

Appeal from the United States District Court for the Eastern District of Kentucky at Lexington.
No. 5:24-cr-00076-1—Danny C. Reeves, District Judge.

Decided and Filed: August 19, 2026

Before: STRANCH, BUSH, and MURPHY, Circuit Judges.

COUNSEL

ON BRIEF: J. Nicholas Bostic, Lansing, Michigan, for Appellant. Charles P. Wisdom, Jr., UNITED STATES ATTORNEY’S OFFICE, Lexington, Kentucky, for Appellee.

OPINION

MURPHY, Circuit Judge. An indictment charged Steven Neal with knowingly attempting to entice a 12-year-old girl to engage in illegal sexual activity for almost two years. During the two years charged in the indictment, Neal also twice sexually assaulted the victim. He pleaded guilty to the enticement offense and admitted to the two sexual assaults in the process. At sentencing, though, Neal claimed that the two assaults did not qualify as “relevant conduct” that the district court could consider under U.S.S.G. § 1B1.3. The district court disagreed and relied on the assaults to calculate Neal’s guidelines range. It sentenced him to 292

months' imprisonment. Neal now challenges the district court's use of his sexual assaults as relevant conduct and its ultimate sentence. But the district court properly relied on those assaults because they "occurred during [Neal's] commission of" the enticement offense. *Id.* § 1B1.3(a)(1). And the court reasonably imposed a sentence at the bottom of Neal's guidelines range. We thus affirm.

I

Over the Fourth of July weekend in 2022, Neal was vacationing with friends and family at a cabin in Wolfe County, Kentucky. In the year before this holiday weekend, Neal had started to communicate on Facebook Messenger with a 12-year-old girl who also attended the get-together. When this girl got out of the cabin's hot tub and walked to her room, Neal followed her inside. She changed out of her swimsuit and started to walk outside again, but Neal "pushed her against the side of the wall" before she could get to the back door. Sent. Tr., R.55, PageID 292. He shoved "his hands down the front and the back of her pants," "grabbed her behind" with one hand, and "digitally penetrated [her] vagina" with the other one. *Id.*, PageID 293. The girl grasped at the back door while Neal assaulted her, and he eventually let her leave. Late that night, Neal renewed his messages to the girl on Facebook. He asked if she was okay ("You all right?") and tried to persuade her to meet him outside after her parents fell asleep ("Give them a little bit to go to sleep and come out. I got us some beer."). Plea Tr., R.35, PageID 162. But she declined.

Neal continued to send "flirtatious" messages to the girl over the next year. *Id.* He then renewed his physical abuse in August 2023. That month, Neal invited friends over to his home in Estill, Kentucky, to watch a pay-per-view fight. He built a campfire in his backyard. While Neal and the victim were sitting outside, he messaged her to come into the house ("Guess what?" "Follow me inside and I'll show you."). *Id.*, PageID 163. She did not join him at that time but later had to use the bathroom. Following his pattern from the year before, Neal pursued her into the home. He "put his hands around her waist" while she walked from the laundry room to the kitchen. Sent. Tr., R.55, PageID 295. When she made it to the bathroom, he forced his way in. Neal "pushed her up against the sink or vanity area" and "put his hands under her shirt." *Id.* He then started "groping her breasts and buttocks under her clothing." Plea Tr., R.35, PageID 163.

He also got “her pants partially pulled down.” Sent. Tr., R.55, PageID 295. But Neal stopped this second assault when somebody else (potentially his wife) walked into the home. Still, Neal later messaged the girl that she should convince her parents to let her spend the night because her brother was staying over. Her parents refused even after Neal asked them.

When the girl got home that night, Neal continued to message her. He told her that he planned to “send [her] a picture,” explaining: “I was going to send you something good if you send me something good.” Plea Tr., R.35, PageID 164. He later added that he would “send [her] a pick of my dick,” asked why he found her so “damn attractive,” and said that she should “[s]end [him] a pic first.” *Id.*, PageID 164–65. But they never exchanged photos. The next day, the victim told a neighbor about Neal’s abuse. The neighbor told her parents, who alerted the authorities.

The government charged Neal with attempting to persuade or coerce a child to engage in unlawful sexual acts by using a means of interstate commerce. *See* 18 U.S.C. § 2422(b). The indictment alleged that this offense occurred from August 2021 (when Neal first communicated with the victim on Facebook Messenger) to August 2023 (when the victim disclosed the abuse). Neal pleaded guilty without a plea agreement.

Before sentencing, Neal’s presentence report recommended that the district court apply several enhancements to his guidelines range. For the most part, these enhancements all rested on the undisputed fact that Neal had twice sexually assaulted the victim. Neal objected to the recommended enhancements on the ground that he pleaded guilty to sending messages, not to committing sexual assaults.

At sentencing, the district court overruled Neal’s objections. The court found that the two sexual assaults “constitute[d] relevant conduct” to his enticement offense under the Sentencing Guidelines. Sent. Tr., R.55, PageID 313. This conclusion led to a guidelines range of 292 to 365 months’ imprisonment. Ultimately, the court imposed a sentence at the bottom of this range: 292 months.

II

Neal challenges his sentence as both procedurally and substantively unreasonable. Procedurally, he renews his objections to the district court's guidelines calculations. Substantively, he asserts that the district court over-relied on the guidelines to pick his sentence.

A. Procedural Reasonableness

A district court issues a procedurally unreasonable sentence if it miscalculates a defendant's guidelines range when imposing it. *See United States v. Riccardi*, 989 F.3d 476, 481 (6th Cir. 2021). Neal alleges that the district court committed this type of error in several ways. He first challenges the court's decision to use a sex-abuse guideline rather than the guideline typically reserved for his enticement offense. He then challenges the court's decision to impose several enhancements within that sex-abuse guideline.

1. Use of Sex-Abuse Guideline

Normally, U.S.S.G. § 2G1.3 identifies the base offense level and potential offense-level enhancements for an enticement offense like Neal's. *See* U.S.S.G. § 2G1.3(a)(3). But a cross-reference in that section also instructs district courts to instead "apply § 2A3.1" if a defendant's "offense involved conduct described in 18 U.S.C. § 2241 or § 2242" and if the use of § 2A3.1 would generate a "greater" offense level. *Id.* § 2G1.3(c)(3). The identified statutory sections—18 U.S.C. §§ 2241 and 2242—prohibit aggravated sexual abuse and sexual abuse. As relevant here, § 2241 bars a defendant from "using force against" a person to cause the person "to engage in a sexual act," including "the penetration, however slight, of the . . . genital opening of another by a hand or finger[.]" *Id.* §§ 2241(a)(1), 2246(2)(C). On appeal, Neal does not dispute the district court's conclusion that his first sexual assault in July 2022 qualified as "conduct described" in § 2241(a)(1) because "there was penetration" of the victim and Neal "did so by the use of force" against her. Sent. Tr., R.55, PageID 313; *see* U.S.S.G. § 2G1.3(c)(3). Neal instead argues that the court should not have considered his sexual assaults in its guidelines calculations because they did not qualify as "relevant conduct" to his enticement offense. And without those assaults, Neal adds, the court should have calculated his guidelines range using § 2G1.3, not § 2A3.1.

He is mistaken. When calculating a defendant's guidelines range, a district court need not limit itself to the precise conduct underlying a defendant's offense. *See United States v. Benton*, 957 F.3d 696, 700 (6th Cir. 2020). It may also consider all "[r]elevant [c]onduct" related to that offense. U.S.S.G. § 1B1.3. What qualifies as "relevant conduct"? Section 1B1.3 tells district courts they may consider (among other things) "all acts and omissions committed . . . by the defendant" "that occurred during the commission of the offense of conviction, in preparation for that offense, or in the course of attempting to avoid detection or responsibility for" it. *Id.* § 1B1.3(a)(1). In this case, we must consider what § 1B1.3 means when it says that a court can consider all the defendant's "acts and omissions" "that occurred *during the commission of the offense of conviction*["]. *Id.* (emphasis added). Our cases have already read this text to cover only those "acts and omissions" that are independently unlawful under federal or state law (even if no government has punished the defendant for the conduct). *See United States v. England*, 2023 WL 1777533, at *14 (6th Cir. Feb. 6, 2023); *United States v. Hodge*, 805 F.3d 675, 679–80 (6th Cir. 2015). That said, the government need not have alleged these acts and omissions in the indictment, and the defendant need not have admitted to them in a guilty plea. *See Benton*, 957 F.3d at 700.

We have also suggested that these other acts must meet two requirements for them to occur "during the commission of the offense" (and thus to qualify as "relevant conduct" on this basis). For one thing, the ordinary meaning of the words "during" and "commission" shows that the acts must occur "throughout the continuance" of—or at least "at some point in the course of"—the "perpetration of" the offense. *Webster's Third New International Dictionary* 703 (1981) (defining "during"); *Black's Law Dictionary* 246 (5th ed. 1979) (defining "commission"). In other words, a "temporal link" must connect the relevant conduct and the offense. *United States v. Ressam*, 553 U.S. 272, 274 (2008). For another thing, we have said that the other acts must have a "logical relationship to" the offense. *Hodge*, 805 F.3d at 680; *see United States v. Caldwell*, 128 F.4th 1170, 1177–78 (10th Cir. 2025); *United States v. Wernick*, 691 F.3d 108, 114–16 (2d Cir. 2012).

We review de novo whether certain actions qualify as "relevant conduct" under § 1B1.3. *See United States v. Amerson*, 886 F.3d 568, 573 (6th Cir. 2018). But we review the district

court's underlying factual findings about Neal's conduct under the deferential clear-error standard. *See Benton*, 957 F.3d at 702; *United States v. Donadeo*, 910 F.3d 886, 893 (6th Cir. 2018).

Applying these standards here, we hold that the district court properly treated Neal's two sexual assaults as relevant conduct. At the outset, though, we highlight the narrow nature of Neal's claim. He does not dispute that each of his two sexual assaults was "a criminal offense" for which he could face punishment under state or federal law apart from his enticement offense. *Hodge*, 805 F.3d at 679. Nor does he dispute that a "logical relationship" existed between his sexual assaults of the victim and his enticement of her to engage in that sexual activity. *Id.* at 680.

Neal instead argues that his two sexual assaults (in July 2022 and August 2023) did not take place "during" his "commission" of the enticement offense. U.S.S.G. § 1B1.3(a)(1). But the facts that he admitted when pleading guilty prove the opposite. Critically, his indictment treated the charged enticement count as a "continuing offense." *United States v. Tykarsky*, 446 F.3d 458, 482 (3d Cir. 2006); *see United States v. Pulido*, 133 F.4th 1256, 1266 n.2 (11th Cir. 2025); *United States v. Rounds*, 749 F.3d 326, 335 (5th Cir. 2014); *United States v. Byrne*, 171 F.3d 1231, 1235 n.2 (10th Cir. 1999). This type of offense (conspiracy being a prime example) does not occur at a specific moment in time and instead "can be continued through time and space as part of a single crime." 1 Barbara E. Bergman et al., *Wharton's Criminal Procedure* § 10:7 (14th ed.), Westlaw (database updated May 2025); *see Smith v. United States*, 568 U.S. 106, 110–11 (2013).

The indictment charged (and Neal pleaded guilty to) this type of offense because it alleged that he committed a "continuing" violation of 18 U.S.C. § 2242(b). Indictment, R.1, PageID 1. According to the indictment, Neal "knowingly attempt[ed] to persuade, induce, entice, and coerce" the victim "to engage in sexual activity" over a two-year period: from "August 21, 2021," to "August 20, 2023[.]" *Id.* At Neal's plea hearing, the prosecutor explained that the government charged this two-year period because the "Facebook records" showed Neal messaging the victim throughout that time. Plea Tr., R.35, PageID 161. Neal also answered "Yes" when asked if he agreed that "the information" the prosecutor "summarized" was "true

and accurate[.]” *Id.*, PageID 167. So he admitted to trying to persuade the victim to engage in sexual activity using Facebook Messenger over the alleged time. And each assault occurred “at some point in the course of” this two-year effort. *Webster’s Third, supra*, at 703. If anything, the assaults could be viewed as *part* of the “pattern of activity” that makes up Neal’s enticement offense. *Pulido*, 133 F.4th at 1270. For example, on the night of the August 2023 assault, Neal messaged the victim to encourage her to come inside his house where the assault later occurred. Plea Tr., R.35, PageID 163. The assaults thus occurred “during the commission of” that crime. U.S.S.G. § 1B1.3(a)(1).

Neal’s responses lack merit. He first compares his case to two others: *United States v. Surratt*, 87 F.3d 814 (6th Cir. 1996), and *United States v. Schock*, 862 F.3d 563 (6th Cir. 2017). Neither helps him. In *Surratt*, the defendant pleaded guilty to receiving child pornography. 87 F.3d at 816. Yet the government also uncovered evidence that the defendant had separately abused over “a dozen minor females.” *Id.* at 817. It thus requested a guidelines enhancement for engaging in a “pattern of activity involving the sexual abuse or exploitation of a minor[.]” U.S.S.G. § 2G2.2(b)(5). (This enhancement was located at § 2G2.2(b)(4) when we decided *Surratt*. See 87 F.3d at 817.) *Surratt* held that the enhancement applied only “to past sexual abuse or exploitation activities *related* to” the child-pornography materials the defendant had trafficked. *Id.* at 819 (emphasis added). The court thus refused to apply the enhancement to the unrelated sexual abuse. *Id.* But that conclusion is irrelevant here. *Surratt*’s holding rested on the meaning of the pattern-of-abuse enhancement in § 2G2.2(b)(5)—not on the meaning of “during the commission of the offense” in § 1B1.3(a)(1). Indeed, we did not even cite the latter provision. And besides, the Sentencing Commission has since amended § 2G2.2 to depart from *Surratt*’s interpretation. See *United States v. Ladeau*, 688 F. App’x 342, 349–50 (6th Cir. 2017).

As for *Schock*, it at least involved the relevant-conduct guideline. See 862 F.3d at 567. There, the defendant pleaded guilty to sexually exploiting a minor in September 2013. *Id.* at 565, 568. The government also gathered evidence that the defendant had sexually exploited another child. *Id.* at 565–66. It sought to rely on this additional abuse to calculate the defendant’s guidelines range. *Id.* But we held that this other abuse did not occur “during the commission” of the charged offense. See *id.* at 567–69. We reasoned that the indictment

“unambiguously cabin[ed] the offense conduct to Schock’s” sexually explicit photography on around September 5, 2013. *Id.* at 568. Yet the abuse of the different victim occurred almost a year later. *Id.* at 569; *see also United States v. Weiner*, 518 F. App’x 358, 365 (6th Cir. 2013). Unlike the indictment in *Schock*, Neal’s indictment did not “cabin[]” his offense to specific acts on a specific day. 862 F.3d at 565–66. It instead charged a nearly two-year continuous crime. And the sexual assaults that make up his relevant conduct occurred in that time frame against the same victim. So those assaults took place “during the commission” of his offense in a way that the abuse in *Schock* did not.

Neal next compares § 1B1.3(a)(1)’s relevant-conduct definition to a statutory provision in the Armed Career Criminal Act. This provision enhances a defendant’s sentence if the defendant has committed three violent felonies or serious drug offenses “on occasions different from one another[.]” 18 U.S.C. § 924(e)(1). To decide whether two offenses occurred on “different” “occasions,” *id.*, the Supreme Court has adopted a “multi-factored” test that examines timing and location (among other things), *Wooden v. United States*, 595 U.S. 360, 369 (2022). Under this test, Neal claims, his enticement offense and his two sexual assaults all would have occurred on different occasions from each other. But § 1B1.3(a)(1) does not require the relevant conduct to occur on the same “occasion[]” as the offense, 18 U.S.C. § 924(e)(1); it requires the conduct to occur “during the commission of the offense,” U.S.S.G. § 1B1.3(a)(1). And Neal’s sexual assaults fall within the latter text because they occurred “at some point in the course of” his two-year criminal effort to entice the victim. *Webster’s Third, supra*, at 703.

Lacking support in the law, Neal turns to the facts. He argues that the government failed to say on the “record” why the indictment alleged that his crime began in August 2021—some “11 months before” the first sexual assault. Appellant’s Br. 19. To the contrary, the government explained at his plea hearing that it charged him with knowingly starting his seduction efforts at this time because he began to message the victim over Facebook then. Plea Tr., R.35, PageID 161. Neal later admitted to these facts when he pleaded guilty. He agreed that he understood the charged crime as it had been explained to him and that the “factual information” alleged in the prosecutor’s summary and the indictment was true. *Id.*, PageID 167.

This admission dooms Neal’s next claim that we should not allow the government to “control” what qualifies as relevant conduct by giving it complete discretion to allege the “time frames” that it prefers in the indictment. Appellant’s Br. 19. But the government must do more than *allege* the facts that it decides to put in the indictment. It also must *prove* those facts—typically beyond a reasonable doubt if the facts concern elements of the charged crime. *See Apprendi v. New Jersey*, 530 U.S. 466, 477 (2000). And the government did so here because Neal admitted to them when he pleaded guilty. Regardless, the indictment does not even need to include relevant conduct for the district court to use it at sentencing. *See Benton*, 957 F.3d at 700.

His admission also dooms his related claim that the government did not adequately prove a two-year enticement period. He criticizes the government because it failed to produce the “actual” Facebook “messages” at sentencing (except for the messages during a period around the assaults). Appellant’s Br. 19–20. And he says that the prosecutor’s claim that the messages were “flirtatious” was “too vague” to show his intent to entice the victim. *Id.* at 18. But the government had no need to produce additional evidence at sentencing because he pleaded guilty to the charged two-year crime and admitted the underlying facts that formed the basis for that charge.

We end with one last point. Both parties have briefed this case on the assumption that § 2422(b)—Neal’s offense of conviction—qualifies as a “continuing offense.” This subsection punishes a defendant who, “using the mail or any facility or means of interstate or foreign commerce,” “knowingly persuades, induces, entices, or coerces” a child “to engage in” illegal “sexual activity” (as well as a defendant who “attempts to do so”). 18 U.S.C. § 2422(b). When deciding on the proper venue for prosecutions, some courts have read this language to allow the government to prove a violation through a pattern of conduct over a lengthy period. *See Rounds*, 749 F.3d at 335; *Byrne*, 171 F.3d at 1235 n.2. Yet the Eleventh Circuit recently suggested that an indictment improperly charged two *distinct* § 2422(b) offenses in a single count when it alleged a pattern of enticement that led to several discrete sexual acts. *See Pulido*, 133 F.4th at 1269–71. Here, though, the parties did not assert any arguments about § 2422(b)’s proper scope. We thus decide this appeal as they have presented it to us—assuming (without resolving) that the

government properly alleged a single continuing offense. On that assumption, Neal's sexual assaults were relevant conduct and thus triggered § 2G1.3(c)(3)'s cross-reference to § 2A3.1.

2. Sentencing Enhancements

Neal next challenges the district court's use of the sentencing enhancements in §§ 2A3.1(b)(1), and 4B1.5(b)(1) to calculate his guidelines range. Yet our conclusion that Neal's two sexual assaults qualified as relevant conduct largely forecloses these related challenges.

Forced Sexual Act. Section 2A3.1(b)(1) instructs district courts to increase a defendant's offense level by four "[i]f the offense involved conduct described in 18 U.S.C. § 2241(a) or (b)[.]" U.S.S.G. § 2A3.1(b)(1). This case implicates § 2241(a). The district court found that Neal caused the victim to engage in a "sexual act" by "using force against" her during the first sexual assault in July 2022. 18 U.S.C. § 2241(a); Sent. Tr., R.55, PageID 313–14. That assault thus "involved conduct described in" § 2241(a) under the guideline enhancement. U.S.S.G. § 2A3.1(b)(1); *see United States v. Al-Maliki*, 787 F.3d 784, 796 (6th Cir. 2015). As a result, our rejection of Neal's relevant-conduct argument goes a long way toward showing that this enhancement applies too.

Neal responds with a "double counting" argument. Appellant's Br. 29. He points out that the district court relied on his first sexual assault to trigger § 2G1.3(c)(1)'s cross-reference—which increased his base offense level from 28 to 30. *Compare* U.S.S.G. § 2G1.3(a)(3), *with id.* §§ 2A3.1(a)(2), 2G1.3(c)(3). The court then relied on the same assault to add four more points to his offense level through this enhancement in § 2A1.3(b)(1). Neal thus asserts that the district court wrongly double counted his sexual assault to increase his sentencing exposure twice.

Neal is correct that our precedent sometimes prohibits a district court from relying on the same criminal conduct to impose two different guidelines enhancements. *See United States v. Hensley*, 110 F.4th 900, 904–05 (6th Cir. 2024); *United States v. Duke*, 870 F.3d 397, 404 (6th Cir. 2017). But we do not treat the use of two enhancements as "double counting" if each one applies because of "distinct aspects" of the defendant's criminal conduct. *United States v. Battaglia*, 624 F.3d 348, 351 (6th Cir. 2010). Regardless, we permit double counting if the plain

text of the relevant guideline shows that the Sentencing Commission “intended” to impose multiple penalties for the same conduct. *Hensley*, 110 F.4th at 905–06. Applying these rules, we have repeatedly rejected double-counting arguments that rest on the mix of § 2G1.3(c)(3)’s cross-reference and § 2A1.3(b)(1)’s enhancement. See *United States v. Bixler*, 2022 WL 247740, at *10 (6th Cir. Jan. 27, 2022); *United States v. Kizer*, 517 F. App’x 415, 419–20 (6th Cir. 2013); *United States v. Morris*, 494 F. App’x 574, 588 (6th Cir. 2012); see also *United States v. Flanders*, 752 F.3d 1317, 1340 (11th Cir. 2014); *United States v. Archdale*, 229 F.3d 861, 869 (9th Cir. 2000).

As in those cases, no impermissible double counting occurred here because these two guideline provisions applied to “distinct aspects” of Neal’s sexual assault. *Battaglia*, 624 F.3d at 351. The cross-reference covers *either* aggravated sexual abuse (under 18 U.S.C. § 2241) *or* sexual abuse (under 18 U.S.C. § 2242). See U.S.S.G. § 2G1.3(c)(3). But the enhancement covers only *aggravated* sexual abuse (under 18 U.S.C. § 2241(a) or (b)). See U.S.S.G. § 2A1.3(b)(1). In other words, Neal’s sexual abuse triggered the cross-reference, whereas the aggravated nature of his abuse triggered the enhancement. See *Kizer*, 517 F. App’x at 419; *Flanders*, 752 F.3d at 1340. A contrary holding would treat Neal (who committed aggravated sexual abuse) the same as a defendant who committed only sexual abuse (both of whom trigger the cross-reference). Yet that holding would disregard the aggravated nature of his crime. We refuse to do so.

Pattern of Activity. Section 4B1.5(b)(1) instructs district courts to increase the offense level by five if they find several conditions met. U.S.S.G. § 4B1.5(b)(1). The defendant’s “offense of conviction” must qualify as a “covered sex crime[.]” *Id.* § 4B1.5(b). Next, the defendant must not qualify as a career offender under “§ 4B1.1” and must not have a prior “sex offense conviction” that falls within § 4B1.5(a). *Id.* Lastly, the defendant must have “engaged in a pattern of activity involving prohibited sexual conduct[.]” *Id.* Neal agrees that he committed a “covered sex crime,” that he does not qualify as a career offender, and that he lacks a prior sex-offense conviction.

He thus challenges only whether his two sexual assaults showed “a pattern of activity involving prohibited sexual conduct[.]” *Id.* Even this challenge is narrow. Neal does not

dispute that the conduct underlying both assaults qualifies as “prohibited sexual conduct.” Nor does he dispute that two sexual assaults of a child could, in the abstract, make out a “pattern” (“repeated and related” conduct). *United States v. Paauwe*, 968 F.3d 614, 617 (6th Cir. 2020); see *United States v. Vannelli*, 171 F.4th 912, 918–19 (6th Cir. 2026); *United States v. Parkey*, 142 F.4th 866, 871–72 (6th Cir. 2025). Indeed, our cases hold “that abusing the same child ‘more than one time on different days’” satisfies § 4B1.5(b)(1). *Vannelli*, 171 F.4th at 919 n.4 (quoting *United States v. Wandahsega*, 924 F.3d 868, 886 (6th Cir. 2019)). Neal’s facts thus fit within this precedent: he sexually abused the same child at a cabin in July 2022 and at his home in August 2023.

How, then, does Neal try to avoid the pattern-of-abuse enhancement? To start, he renews his claim that the sexual assaults did not qualify as “relevant conduct” under § 1B1.3. Even if we set aside the reasons we have already provided why he is wrong, this claim would still lack merit. Chapter Four of the Sentencing Guidelines does not limit the facts that a district court may consider to the defendant’s “relevant conduct” under § 1B1.3. See *Parkey*, 142 F.4th at 872; *United States v. Preece*, 2023 WL 395028, at *6 (6th Cir. Jan. 25, 2023). Rather, courts may consider all of the “conduct and information specified in the respective guidelines” in Chapter Four. U.S.S.G. § 1B1.3(b); see *Preece*, 2023 WL 395028, at *5–6. And § 4B1.5’s commentary (which Neal accepts as a proper interpretation) tells a court that it may consider a prior sexual assault “without regard to whether” it “occurred during the course of the instant offense[.]” U.S.S.G. § 4B1.5 cmt. n.4(B)(ii). So Neal’s argument that the assaults were not “relevant conduct” would not help him under § 4B1.5(b)(1). Either way, Neal engaged in a pattern of prohibited sexual conduct.

Neal next falls back to § 4B1.5’s commentary. The commentary explains that this enhancement applies “if on at least two separate *occasions*, the defendant engaged in prohibited sexual conduct with a minor.” *Id.* § 4B1.5 cmt. n.4(B)(i) (emphasis added). Neal again asks us to adopt the Supreme Court’s “multi-factored” test about the meaning of the word “occasion” from the Armed Career Criminal Act. *Wooden*, 595 U.S. at 369. Yet he now says that his two sexual assaults occurred on the *same* “occasion” under this test. Why? He claims that it would be “incongruous” for us to treat the assaults as occurring on “separate occasions” if we also treat

“the enticement offense as a singular occasion occurring over a two-year” period. Appellant’s Br. 34.

We see no incongruity. At the outset, we have reserved whether *Wooden*’s understanding of “occasion” should apply to § 4B1.5. *Vannelli*, 171 F.4th at 918. We can take the same approach here because Neal’s argument “fails even under *Wooden*.” *Id.* *Wooden* told courts to ask several questions when deciding whether two crimes occurred on different occasions. *See* 595 U.S. at 369. How close in time were the crimes? *Id.* Did they occur at the same place? *Id.* And did they arise from a “common scheme or purpose”? *Id.* The Court added, though, that only one of these questions might prove dispositive in some cases. *Id.* at 370. As an example, it noted that crimes separated by “a day or more” almost “always” occur on different occasions. *Id.*

This case is straightforward under *Wooden*. True, one might say that Neal twice sexually assaulted the victim pursuant to a “common scheme” to abuse her. *Id.* at 369. But the two sexual assaults occurred more than a year apart—well beyond the one “day” delay that usually signals different occasions. *Id.* at 370. The assaults also took place in different counties at a “significant distance” from each other. *Id.* (citation omitted). The large time and location gaps compel the conclusion that the July 2022 sexual assault at the cabin and the August 2023 sexual assault at Neal’s home occurred on separate occasions. *See Vannelli*, 171 F.4th at 918–19.

Nor is this conclusion “incongruous” with our holding that both assaults occurred during Neal’s commission of the enticement offense in 18 U.S.C. § 2422(b). Appellant’s Br. 34. Discrete criminal acts can often take place during an ongoing criminal enterprise. Consider a defendant who commits multiple murders over multiple years to further a conspiracy to traffic illegal drugs. We would naturally say that these murders occurred on different “occasions” from each other if they took place in different years, happened at different places, and arose for different reasons. But we would also naturally say that the murders all occurred “during the commission” of the multi-year drug-trafficking conspiracy. This case is no different under the parties’ assumption that the enticement statute creates a continuing offense that could occur over the two-year period alleged in the indictment.

* * *

We end by flagging an argument that we need not resolve. If we had held that Neal's sexual assaults did not qualify as relevant conduct triggering § 2G1.3's cross-reference to § 2A3.1, Neal asked us also to conclude that a distinct enhancement in § 2G1.3 (one that covered "a sex act or sexual contact") should not apply on remand. U.S.S.G. § 2G1.3(b)(4)(A)(i). But we need not address this argument because the district court properly applied the cross-reference to § 2A3.1. It did not use this separate § 2G1.3 enhancement when sentencing Neal. We thus need not consider whether the enhancement covered Neal's conduct.

B. Substantive Reasonableness

A district court imposes a substantively unreasonable sentence if the sentence is "too long" when measured against the sentencing factors in 18 U.S.C. § 3553(a). *United States v. Rayyan*, 885 F.3d 436, 442 (6th Cir. 2018). Yet defendants who ask us to reverse on this ground "face a difficult task" because our appellate authority does not let us choose the sentence that we find appropriate after rebalancing the § 3553(a) factors. *United States v. Holt*, 116 F.4th 599, 616–17 (6th Cir. 2024). Rather, we review the district court's balancing of those factors under a deferential abuse-of-discretion standard. *See id.* at 616. And when (as in this case) a district court imposes a sentence within a defendant's guidelines range, we presume on appeal that the court chose a reasonable number. *See United States v. Vonner*, 516 F.3d 382, 389 (6th Cir. 2008) (en banc).

Neal cannot overcome this deference. Recall that the district court sentenced him to a term of imprisonment (292 months) at the very bottom of his guidelines range (292 to 365 months). The court reasonably chose this number by balancing the sentencing factors in § 3553(a). It started with the "correct" guidelines range. Sent. Tr., R.55, PageID 335; 18 U.S.C. § 3553(a)(4). On the negative side, it then found that the "nature and circumstances of the offense" were "quite serious" because Neal enticed and abused "a very young victim" over "a pretty lengthy period of time." Sent. Tr., R.55, PageID 336; 18 U.S.C. § 3553(a)(1). It thus believed that a guidelines sentence was appropriate to "promote respect for the law" and ensure adequate "deterrence" against similar crimes. Sent. Tr., R.55, PageID 338; 18 U.S.C.

§ 3553(a)(2)(A)–(B). On the positive side, it found Neal’s “limited criminal history” an “important factor” for the proper sentence. Sent. Tr., R.55, PageID 335; 18 U.S.C. § 3553(a)(1). It also recognized his strong “family relationships” as part of the calculus. Sent. Tr., R.55, PageID 337. These positive attributes led it to choose a sentence “at the bottom” of the guidelines range. *Id.*, PageID 339. Nothing about this balancing looks unreasonable.

Neal responds that the district court gave “too much weight” to the guidelines range. Appellant Br. 43–44. In support, he notes that the Sentencing Commission recently amended the guidelines by deleting the specific offender characteristics in Chapter 5H that courts could use for a *departure* from the guidelines range. *See* U.S. Sent’g Guidelines Manual, amend. 836, app. C, vol. IV, at 352 (U.S. Sentencing Comm’n 2025). Yet the Commission itself explained that this change was “outcome neutral” because district courts could still rely on the same factors to grant a *variance*. *Id.* So we fail to see why the change matters here. And the district court adequately considered the offender characteristics on which Neal now relies, including his age and family relationships. But the court concluded that these factors warranted only a sentence at the bottom of the range rather than a variance from it. And Neal’s criticisms of that conclusion fall far short of showing its unreasonableness. At bottom, he merely asks us to “balance the factors *differently* than the district court did.” *United States v. Gardner*, 32 F.4th 504, 532 (6th Cir. 2022) (citation omitted). But that task falls outside our appellate review. *See id.*

We affirm.