

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

CHANCE YORK,

Defendant-Appellant.

No. 25-4032

Appeal from the United States District Court for the Northern District of Ohio at Akron.
No. 5:25-cr-00023-1—Christopher A. Boyko, District Judge.

Decided and Filed: September 14, 2026

Before: SUTTON, Chief Judge; SILER and MOORE, Circuit Judges.

COUNSEL

ON BRIEF: Joseph C. Patituce, PATITUCE & ASSOCIATES, LLC, Strongsville, Ohio, for Appellant. Collen Egan, UNITED STATES ATTORNEY’S OFFICE, Cleveland, Ohio, for Appellee.

OPINION

SUTTON, Chief Judge. Chance York challenges his 120-month sentence for possessing child pornography as well as receiving and distributing visual depictions of real minors engaged in sexually explicit conduct. Seeing no reason to disturb this below-guidelines sentence, we affirm.

I.

Before authorities arrived at his Northeastern Ohio doorstep in 2024, York amassed 99 images and 63 videos of child pornography. After York pleaded guilty, his quantity of child pornography played a role at sentencing. Offenses involving more than 600 images of child pornography trigger a five-level enhancement. U.S.S.G. § 2G2.2(b)(7)(D). Over York's objection, the district court followed the commentary to the guidelines by treating each video as 75 images and enhancing the offense level by five. The resulting guidelines recommendation ranged from 151 to 188 months.

The government requested a within-guidelines sentence. York sought the statutory mandatory minimum sentence of 60 months. The district court settled on 120 months.

II.

On appeal, York challenges his sentence on procedural and substantive grounds.

Procedural Reasonableness. York initially takes issue with how the district court reached his sentence. To avoid procedural error, a “court must properly calculate the guidelines range, treat the range as advisory,” “sufficiently explain its sentence,” and consider the § 3553(a) factors (in Title 18) while avoiding impermissible considerations. *United States v. Johnson*, 934 F.3d 498, 499 (6th Cir. 2019). We give fresh review to interpretations of the guidelines and abuse-of-discretion review to the ultimate sentence. *United States v. Rayyan*, 885 F.3d 436, 440 (6th Cir. 2018); *United States v. Morgan*, 687 F.3d 688, 693 (6th Cir. 2012).

The district court properly calculated the guidelines range and sufficiently discussed the § 3553(a) sentencing factors. In aiming to fashion a sentence sufficient but not greater than necessary to achieve the objectives of sentencing, the court considered “the good, the bad, and the ugly.” R.33 at 36. On one side of the ledger, the court noted that York had no prior criminal history, held several advanced degrees, performed well on pretrial release, participated in pre-sentencing counseling, and accepted responsibility for his offenses. *See* 18 U.S.C. § 3553(a)(1). On the other side of the ledger, the court noted that the offense involved “extremely serious” conduct. R.33 at 33; *see* 18 U.S.C. § 3553(a)(1), (2)(A). Some videos, for example, depicted the

sexual abuse of an infant and a toddler. The court stressed the “perpetual hurt and perpetual harm” to the victims and the community. R.33 at 33–34. It also considered the average 109-month sentence and median 97-month sentence for similarly situated defendants. *See* 18 U.S.C. § 3553(a)(6). Rounding out the § 3553(a) factors, the court articulated the need for deterrence, restitution, protecting children, and providing York with any treatment. *See id.* § 3553(a)(2)(B)–(D), (a)(7). The district court, in short, showed its work.

In challenging that work, York takes aim at the court’s guidelines calculation, specifically the five-level enhancement generated by the 63 videos and 99 images of child pornography. As he sees it, the court should have treated each of his 63 videos depicting child pornography as one, two, or three images under the guidelines. Had the court followed this approach, it would have imposed a three-level, rather than a five-level, enhancement. *See* U.S.S.G. § 2G2.2(b)(7).

We see no error in the five-level increase. When a case involves child pornography offenses, the number of images enhances the offense level by up to five levels. *Id.* If the defendant has 600 images or more, he will receive a five-level increase. The guidelines do not spell out how to treat videos—as one image, several images, or one image per frame—for enhancement purposes. But the commentary to the guidelines does spell this out. The commentary creates the “75:1 Rule,” which as a matter of rough justice says that each video amounts to 75 images. *Id.* cmt. n.6(B)(ii). Applying this conversion to the 63 videos (and adding the 99 still images), the district court attributed 4,824 images to York and applied the five-level enhancement.

The first problem with York’s challenge to the trial court’s use of the 75:1 Rule turns on precedent. *United States v. Phillips* embraced the 75:1 Rule and affirmed a district court’s reliance on it. 54 F.4th 374, 386 (6th Cir. 2022). The court deemed the term “image” ambiguous in describing the number of images attributable to a single video, concluded that the 75:1 Rule reasonably interpreted the term, and ruled that the character and context of this interpretation counseled in favor of giving it controlling weight. *Id.* at 379–86 (citing *Kisor v. Wilkie*, 588 U.S. 558, 574–79 (2019); *Auer v. Robbins*, 519 U.S. 452, 461 (1997)). Given that binding precedent, we need not consider the decision of a district court in another circuit that went the other way. *See United States v. Roberts*, 787 F. Supp. 3d 219 (E.D. Va. 2025).

The second problem for York is that his reliance on Judge Larsen's concurrence in *Phillips* does not help him. True, Judge Larsen forcefully and thoughtfully disagreed with the court's acceptance of the 75:1 Rule. *Phillips*, 54 F.4th at 386–98 (Larsen, J., concurring in the judgment). True also, two other circuits later embraced Judge Larsen's approach to the same issue. See *United States v. Kluge*, 147 F.4th 1291, 1298–1301 (11th Cir. 2025) (“As Judge Larsen explained in her thorough textual analysis of § 2G2.2(b)(7), ‘[o]ne can hardly reproduce a moving thing on paper or in printed form.’”) (quotations omitted and alteration in original); *United States v. Haggerty*, 107 F.4th 175, 182–85 (3d Cir. 2024) (“In her concurring opinion, Judge Larsen hits the nail on the head when she explains: ‘Images means exactly what you’ll find in every dictionary—a still representation; and vis-à-vis a video, an image is a frame.’”) (quotations omitted). But, unfortunately for York, Judge Larsen proceeded to endorse counting each individual frame of a video as an image. *Phillips*, 54 F.4th at 398 (Larsen, J., concurring in the judgment). York, who possessed 63 videos, including one that spanned 33 minutes, does not ask us to adopt this frame-by-frame rule—and has not suggested that it would reduce his offense level. Not even the majority in *Phillips*, it bears adding, thought a 1:1 ratio was the proper way to treat videos. See *id.* at 381–85 (majority opinion). For similar reasons, we think it unlikely that the pending case in the U.S. Supreme Court, *Beaird v. United States*, No. 25-5343, 2026 WL 1052007 (U.S. Apr. 20, 2026), will aid York.

The third problem with York's argument is that one panel of the court has no authority to overrule a prior panel decision anyway. “The prior decision remains controlling authority unless an inconsistent decision of the United States Supreme Court requires modification of the decision or this Court sitting en banc overrules the prior decision.” *Salmi v. Sec’y of Health & Hum. Servs.*, 774 F.2d 685, 689 (6th Cir. 1985). While *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), counts as an intervening Supreme Court decision, it does not overrule our decision in *Phillips*. Yes, the *Chevron* approach to agency interpretations of statutes is a relic of the past. *Loper Bright*, 603 U.S. at 412. But our court recently determined that the *Auer* and *Kisor* framework for considering an agency's interpretation of agency-promulgated regulations remains good law in the Sixth Circuit. *United States v. Prather*, 138 F.4th 963, 975 (6th Cir. 2025).

York separately argues that the sentencing judge impermissibly espoused his views about those who produce, rather than solely possess, child pornography. Because York never raised this objection below and because he did not raise the objection when asked at the end of his sentencing hearing, *United States v. Bostic*, 371 F.3d 865, 872–73 (6th Cir. 2004), this challenge triggers plain error review, *United States v. Vonner*, 516 F.3d 382, 386 (6th Cir. 2008) (en banc). We see no error, plain or otherwise.

After sharing his decades of experience in “dealing with” these sorts of cases, the sentencing judge added: “I’m waiting for the day when law enforcement will bring me somebody who actually made these videos so I can give them the maximum sentence.” R.33 at 35–36. Viewed in context, these comments go to the nature and circumstances of the offense as well as the seriousness of the conduct. 18 U.S.C. § 3553(a)(1), (2)(A). In measuring these proper § 3553(a) considerations, district courts may naturally frame the offense conduct within the universe of possible offense conduct—both more and less egregious. *United States v. Bistline*, 665 F.3d 758, 765 (6th Cir. 2012). A tape measure without numbers is difficult to use. So, too, for offense conduct that could be more or less egregious. Distinguishing possession, distribution, and production of child pornography promotes, rather than undermines, fair sentencing. *See id.*

The comparison, moreover, seemed to help York. The court’s below-guidelines sentence shows that the district court fairly distinguished between producers of child pornography and those who possess and distribute it. No plain error occurred.

Substantive Reasonableness. York also argues that his sentence is “too long.” *Rayyan*, 885 F.3d at 442. This inquiry turns to the length of the sentence and to whether the court properly weighed the permissible factors in explaining it. *United States v. Hawkins*, 165 F.4th 442, 449 (6th Cir. 2026). A sentencing court does not abuse its discretion merely because another judge could have weighed the § 3553(a) factors differently. *United States v. Williams*, 169 F.4th 727, 732 (6th Cir. 2026). Because York challenges a below-guidelines sentence, he bears the significant burden of rebutting its presumed reasonableness. *United States v. Pirosko*, 787 F.3d 358, 374 (6th Cir. 2015); *United States v. Greco*, 734 F.3d 441, 450 (6th Cir. 2013).

The district court, in its own words, considered “the good, the bad, and the ugly” in weighing the relevant factors. R.33 at 36; *see United States v. Zobel*, 696 F.3d 558, 571 (6th Cir. 2012). Its below-guidelines sentence reasonably reflected just that.

Spotlighting one sentencing factor (an average sentence for comparable defendants), York presses that the district court failed to sufficiently account for unwarranted sentencing disparities. But the court repeatedly referenced the 109-month average sentence and the 97-month median sentence for similarly situated defendants. In addition, by handing down a 120-month sentence, it varied downward from the guidelines range (151 to 188 months) and tracked more closely to the 109-month average. The challenged factor, once again, seemed to do more to help York than to hurt him.

To the extent York claims that this 109-month sentencing average discouraged the judge from imposing an even lower sentence or invites us to reweigh the § 3553(a) factors, these arguments falter. “[T]he sentencing process involves an exercise in judgment, not a mathematical proof,” so we “give due deference to the district court’s decision that the § 3553(a) factors, on a whole, justify the extent of the variance, and due deference to the sentencing judge’s on-the-scene assessment of the competing considerations.” *United States v. Grossman*, 513 F.3d 592, 596 (6th Cir. 2008) (quotation omitted). Avoiding “unwarranted sentence disparities among [similarly situated] defendants,” like each sentencing factor, is just that—a factor. 18 U.S.C. § 3553(a)(6); *see also Johnson*, 934 F.3d at 502 (highlighting that judicial discretion will invariably lead to a degree of variation among sentences). The district court weighed this factor alongside all the others, including the “extremely serious” nature of York’s years-long underlying misconduct. R.33 at 33–34. Disturbing the balance struck here would strip deference of its meaning and overstep our role.

We affirm.