UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 24-4558

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ALAN J. DISOMMA, JR.,

Defendant - Appellant.

Appeal from the United States District Court for the Southern District of West Virginia, at Beckley. Frank W. Volk, Chief District Judge. (5:22-cr-00227-1)

Submitted: May 20, 2026 Decided: August 19, 2026

Before WILKINSON, WYNN, and RICHARDSON, Circuit Judges.

Affirmed by unpublished per curiam opinion.

ON BRIEF: David O. Schles, LAW OFFICE OF DAVID SCHLES, Charleston, West Virginia, for Appellant. Lisa G. Johnston, Acting United States Attorney, Jennifer Rada Herrald, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Charleston, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Alan Disomma, Jr., appeals his convictions, following a jury trial, for violations of 18 U.S.C. §§ 2422(b) and 2423(b), and his resulting life sentence. The charges related to his attempts to engage in sexual activity with two minors, who were actually fictitious personas created by an undercover officer. We affirm.

According to the evidence at trial, Jillian Yeager, a police officer and member of an FBI task force, undertook an investigation in which she created an undercover profile on a fetishist social networking site. Her profile identified her character's fetishes as incest and watching her children engage in sexual activity with adults. She posted that she was a "Young Mama Bear" who was "[l]ooking for some like-minded family friendly fun" and invited users to message her. J.A. 257.[1]

On December 10, 2021, Yeager received a direct message from Disomma. His profile identified one of his fetishes as "Daddy/girl" and another as "Taboo," which in Yeager's experience "normally deals with pedophilia or incest." J.A. 262–63. Yeager told Disomma that she had two daughters, aged 11 and 13. From the very first conversation, the messages were extremely graphic sexually, with Disomma talking at length about various sexual activities he would like to undertake with the two children.

Over the following year, Disomma and Yeager exchanged around 2,000 text messages and engaged in phone calls. Disomma often restarted the exchanges after periods of silence and regularly steered the conversations into overtly sexual discussions regarding

[1] Citations to the "J.A." refer to the Joint Appendix filed by the parties in this appeal.

the fictitious children. At times, Yeager pulled Disomma back from his more extreme proposals for sexual acts with the children, including his suggestions of bestiality and violence.

Further, Disomma undertook to gain the girls' trust directly. He had a phone conversation in which he believed he spoke to the girls; he exchanged emails with both children, asking them questions about themselves and telling them about the room he had set up for them at his house in Arizona; and he mailed them a PlayStation console, controllers, and numerous games.

On December 18, 2022, Disomma flew from Arizona to West Virginia, where Yeager's character purportedly lived. Yeager met him at baggage claim, and shortly thereafter, law enforcement arrested him. His luggage included a pill bottle for Sildenafil, the generic form of Viagra.[2]

The trial took place in February 2024. Disomma's defense strategy revolved around the claim that he had engaged with Yeager because he was "investigating" her and "trying to bring [her] to justice." J.A. 240. In other words, he openly admitted that he had been the participant in all of the messages discussed in court. But he testified that he never intended to have sex with children—he "was trying to stop it." J.A. 435.

The district court rejected Disomma's requested entrapment instruction, and the jury found him guilty on all three counts. The district court later sentenced him to a Guidelines sentence of life imprisonment on each of the § 2422(b) convictions, as well as a concurrent

[2] On multiple occasions during his communications with Yeager prior to his trip, Disomma talked about how he would need to use Viagra to have sex with the girls.

30-year sentence on the § 2423(b) conviction. Disomma timely appealed. Finding no error, we affirm.

First, Disomma appeals the district court's rejection of his motion to dismiss the charges against him based on outrageous government conduct, citing *United States v. Russell*, 411 U.S. 423, 431–32 (1973). "When reviewing the denial of a defendant's motion to dismiss an indictment, we review the district court's legal conclusions de novo and its factual findings for clear error." *United States v. Skinner*, 70 F.4th 219, 223 (4th Cir. 2023) (per curiam).

We see no outrageous government conduct here. We have emphasized that the standard is exceedingly high. *United States v. Hare*, 820 F.3d 93, 102 (4th Cir. 2016). This case involved a classic sting operation: a government agent presented a criminal opportunity broadly online, and Disomma reached out to take it. But "'outrageous' is not a label properly applied to conduct just because it is a sting operation." *United States v. Osborne*, 935 F.2d 32, 37 (4th Cir. 1991). And Disomma has not pointed to any aspect of this particular operation that clears the high bar for outrageous conduct.

Second, Disomma appeals the district court's refusal to instruct the jury on entrapment. Again, our review is de novo. *United States v. Elboghdady*, 117 F.4th 224, 232 & n.7 (4th Cir. 2024).

We have held that when, as here, "government agents merely offer an opportunity to commit the crime and the defendant promptly avails himself of that opportunity, an entrapment instruction is not warranted." *United States v. Harrison*, 37 F.3d 133, 136 (4th Cir. 1994). In fact, we have affirmed the denial of an entrapment instruction in another case

arising from Yeager's undercover work that, if anything, presented a closer call on the question of entrapment than this case does. *Elboghdady*, 117 F.4th at 228–33. So we affirm the district court's decision regarding the entrapment instruction.

Turning to sentencing, Disomma first argues that the government engaged in "sentencing entrapment or manipulation" when it made one of the fictitious daughters 11 years old at the beginning of his communications with Yeager. That's because, for certain sex offenses involving minors under the age of 12, the Guidelines apply an eight-level sentencing enhancement. *See* U.S.S.G. § 2G1.3(b)(5). Because Disomma did not raise this issue below, our review is for plain error. *United States v. Carthorne*, 878 F.3d 458, 464 (4th Cir. 2017). And because "[a]n error can be 'plain' only on the basis of settled law," *id.*, and we have never held the theories of sentencing entrapment and sentencing manipulation to be viable, *see United States v. Jones*, 18 F.3d 1145, 1154–55 (4th Cir. 1994), there is no plain error here.

In another unpreserved argument that we review for plain error, Disomma contends that his life sentence is vastly disparate from those of others prosecuted through the same sting operation. But he merely lists other cases and the sentences imposed. He does not argue that other defendants' Guidelines were calculated differently or that they received substantial variances that he did not. And he "offers no evidence that his sentence was out of line with nationwide sentences for similar conduct." *United States v. Lamborn*, 159 F.4th 230, 251 (4th Cir. 2025), *cert. denied sub nom. Le v. United States*, 146 S. Ct. 1845 (2026). So we reject this argument.

Disomma also contends that his sentence was procedurally and substantively unreasonable. But the only argument he makes that we have not already addressed is a passing assertion that the sentence "is far greater than necessary to fulfill the purposes of 18 U.S.C. § 3553(a)(2)." Opening Br. at 26. This "passing shot" is insufficient to rebut the presumption that Disomma's within-Guidelines sentence is reasonable. *United States v. Covington*, --- F.4th ---, No. 25-4282, 2026 WL 1902549, at *10 n.6 (4th Cir. July 2, 2026); *see United States v. Holman*, 171 F.4th 303, 318 (4th Cir. 2026).

Finally, pending before us are three motions for leave for Disomma to file pro se supplemental briefs. However, "[b]ecause [Disomma] is represented by counsel and this appeal is not submitted pursuant to *Anders*," we deny the motions. *United States v. Penniegraft*, 641 F.3d 566, 569 n.1 (4th Cir. 2011) (citing *Anders v. California*, 386 U.S. 738 (1967)).

Accordingly, we affirm the criminal judgment. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED