UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 14-4410

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARCUS WARRICK,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Mark S. Davis, District Judge. (2:12-cr-00189-MSD-TEM-1)

Submitted: January 29, 2015 Decided: February 6, 2015

Before DIAZ and FLOYD, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Michael S. Nachmanoff, Federal Public Defender, Caroline S. Platt, Appellate Attorney, Keith L. Kimball, Assistant Federal Public Defender, Alexandria, Virginia, for Appellant. Dana J. Boente, United States Attorney, Randy C. Stoker, Elizabeth M. Yusi, Assistant United States Attorneys, Norfolk, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

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PER CURIAM:

Marcus Warrick was convicted by a jury of six counts of receiving child pornography, 18 U.S.C. § 2252(a)(2) (2012), and sentenced to a within-Guidelines sentence of 180 months' imprisonment, followed by supervised release for life. Warrick appeals, arguing that the district court abused its discretion by allowing the Government to play short clips from seven videos found on a computer in Warrick's home, despite Warrick's offer to stipulate that the videos met the definition of child pornography.

A district court should exclude relevant evidence when "its probative value is 'substantially outweighed' by the potential for undue prejudice, confusion, delay or redundancy." United States v. Queen, 132 F.3d 991, 994 (4th Cir. 1997) (quoting Fed. R. Evid. 403). "Prejudice, as used in Rule 403, refers to evidence that has an 'undue tendency to suggest decision on an improper basis, commonly, though not necessarily, an emotional one.'" Id. (citations omitted). We apply "a highly deferential standard of review of such an issue, and a trial court's decision to admit evidence over a Rule 403 objection will not be overturned except under the most extraordinary circumstances, where that discretion has been plainly abused." United States v. Hassan, 742 F.3d 104, 132

(4th Cir.) (internal quotation marks and citation omitted), cert. denied, 135 S. Ct. 157 (2014).

We have thoroughly reviewed the record and conclude that the district court did not abuse its discretion in admitting the video clips at issue. We therefore affirm Warrick's conviction. 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