

[PUBLISH]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 19-14969

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JASON GATLIN,

Defendant-Appellant.

Appeals from the United States District Court
for the Southern District of Florida
D.C. Docket No. 1:19-cr-20163-RS-1

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No. 20-14149

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JASON GATLIN,

Defendants-Appellants.

Appeals from the United States District Court
for the Southern District of Florida
D.C. Docket No. 1:19-cr-20163-RS-1

Before JORDAN, LUCK, and LAGOA, Circuit Judges.

LAGOA, Circuit Judge:

Jason Gatlin appeals his convictions and sentences for sex trafficking of a minor, production of child pornography, and witness tampering. On appeal, Gatlin raises several arguments in challenging his convictions and sentences. After careful review, and with the benefit of oral argument, we affirm Gatlin's convictions and sentences as to Counts 1 and 2 but reverse his conviction and

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sentence as to Count 3. We also affirm the district court's restitution order.

I. FACTUAL AND PROCEDURAL BACKGROUND

A. Gatlin's Relationship with and Trafficking of E.H.

E.H.¹ ran away from home when she was sixteen years old. She began using drugs, starting with marijuana and escalating to MDMA. According to E.H., she was unable to get a job, so she traded sex for money and drugs.

In October 2018, J.C., E.H.'s friend at the time, introduced E.H. to Gatlin. Gatlin and E.H. first interacted by talking on the phone and eventually began a sexual relationship. When they first met in person, Gatlin picked up E.H. and took her to a hotel in Florida City, where he paid her about \$40 and gave her some drugs in exchange for sex. When E.H. first met Gatlin, she told him that she was seventeen years old.

Subsequently, the two stayed in contact, and E.H. believed that they were in a romantic relationship. E.H. began saying that she was eighteen years old, despite being seventeen years old, because she wanted to protect their relationship. Gatlin and E.H. took at least two trips to Key West, where they stayed together in a house that Gatlin was working on. Throughout this relationship, Gatlin took at least one photograph of them having sex.

¹ The names of the minors in this case have been omitted to preserve their anonymity.

During this time, Gatlin became E.H.'s de facto pimp. Gatlin told at least one customer that he was E.H.'s "manager." Gatlin booked hotel rooms for E.H. so that she could engage in sex with customers. He also paid for E.H.'s food, supplied her with MDMA, drove her to the Florida Keys where she would prostitute herself, and allowed her to stay in the house that he was working on there. Additionally, Gatlin coached E.H. to charge more money in the Florida Keys than in Miami given the high presence of tourists and taught her sexual "tricks" so that she could continue to engage in prostitution. In return, Gatlin expected a cut of E.H.'s earnings.

The relationship between Gatlin and E.H. soured quickly. Gatlin became angry that E.H. was having sex with other men. Similarly, E.H. was irate to learn that Gatlin was having sex with other women.

Things came to a head on November 30, 2018. While the two were staying together in the Florida Keys, E.H. threatened to call the police on Gatlin. The situation became violent. As a result of her fight with Gatlin, E.H. suffered injuries to her nose and mouth. On the way back to Miami after their physical altercation, Gatlin threatened E.H. She became scared and asked Gatlin to pull over at a convenience store so that she could use the bathroom. Once inside, she locked herself in the bathroom and called the police. Gatlin then left her there.

Officers from the local sheriff's office responded to E.H.'s call, and after interviewing her, brought her to a hospital, where

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she spoke with additional officers. Gatlin was arrested three days later.

B. Gatlin's Pretrial Tampering with E.H.

Before trial, Gatlin made two attempts to tamper with E.H.'s testimony. First, in the period after E.H. spoke with law enforcement but prior to his arrest, Gatlin gave E.H. money and food and told her to recant her statements to the police.

Second, after he was arrested, Gatlin told his mother to convince E.H. to recant. In a prison call, Gatlin told his mother that he would "get out immediately" if E.H. said she was lying and that it would take "[o]ne thousand dollars," because "[p]eople will do all kinds of stuff for that." Gatlin's mother said that she understood and that she would "try and do the best [she] can to get [Gatlin] out of there." At the time, E.H. did not have permanent housing and was living with Gatlin's mother. In a later call, Gatlin told E.H. directly that all she had to do was go into court and change her statements in a sworn affidavit. Sometime later, Gatlin's mother drove E.H. to the public defender's office, where E.H. tried to recant her statements to Gatlin's public defender, who eventually relayed her recantation to the Federal Bureau of Investigation ("FBI"). E.H. continued living with Gatlin's mother following that encounter. At trial, E.H. said she tried to recant her statements because she "needed a place to stay."

C. Indictment and Trial

A grand jury charged Gatlin via a superseding indictment with one count of sex trafficking of a minor, in violation of 18

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