NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 23-2916

UNITED STATES OF AMERICA

v.

JOSE TORRES,

Appellant

Appeal from the United States District Court
for the District of New Jersey
(D. C. No. 2:20-cr-00418-001)
District Judge: Honorable Brian R. Martinotti

Submitted under Third Circuit L.A.R. 34.1(a)
on September 11, 2025

Before: CHAGARES, *Chief Judge*, PORTER and ROTH, *Circuit Judges*

(Opinion filed: August 17, 2026)

OPINION[*]

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[*] This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

ROTH, *Circuit Judge*

A jury convicted Jose Torres of four counts of knowingly persuading, inducing, and enticing four women to travel from out of state to New Jersey to engage in prostitution, in violation of the Mann Act, 18 U.S.C. § 2422(a).[1] The District Court sentenced him to 311 months' imprisonment. Torres appeals his conviction and sentence. We will affirm.

I. BACKGROUND[2]

Federal authorities began investigating Torres in 2018. The investigation uncovered the following pattern of conduct: Torres contacted commercial sex workers online using fake names, false references, and more than 400 phone numbers to evade the sex worker community's blacklist; solicited women to travel to New Jersey by promising substantial payment; and when they arrived, forced them to engage in unprotected intercourse, did not pay them as promised, and, in some cases, assaulted and raped them. Investigators interviewed at least thirty women who described similar experiences, though Torres's online payment account listed over 160 women who had never received payments, and investigators found that he had booked more than 250 one-night hotel stays near his residence.

[1] "Whoever knowingly persuades, induces, entices, or coerces any individual to travel in interstate or foreign commerce, or in any Territory or Possession of the United States, to engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title or imprisoned not more than 20 years, or both." 18 U.S.C. § 2422(a).

[2] We write primarily for the parties, so we recite only the facts essential to our decision.

In February 2020, the government arrested Torres and charged him with violations of the Mann Act.[3] The District Court denied his repeated applications for bail. It also rejected Torres's claim that the prosecuting Assistant United States Attorney (AUSA) had a conflict of interest based on her prior employment with a firm that later represented some of Torres's victims pro bono.

While represented by counsel, Torres filed a series of pro se submissions accusing the AUSA, her former firm, and other government officials of conspiring to manufacture evidence against him, coerce false testimony, and fabricate information to keep him detained. The District Court struck those filings, explaining that Torres was not entitled to hybrid representation and had to proceed through counsel.

Torres continued filing anyway, expanding his accusations against the AUSA. In response, the government sought a limited filing injunction that would require Torres's filings to be pre-screened before public docketing.

At a January 6, 2023 hearing, the District Court considered an August 2022 motion by Torres to proceed either under hybrid representation or pro se. The court treated the motion as seeking to proceed pro se, again explaining that Torres was not entitled to hybrid representation. After conducting a full colloquy under *Faretta*,[4] the court warned Torres that continued failure to comply with court orders could result in the loss of his right to self-representation. The court thereafter struck and sealed Torres's

[3] The Second Superseding Indictment initially charged Torres with six counts under § 2422. After the government dismissed two counts and struck the words "coercion" and "coerce" from the remaining counts, the operative indictment proceeded on four counts.
[4] *Faretta v. California*, 422 U.S. 806, 821 (1975).

improper filings, denied hybrid representation, and enjoined further pro se filings pending a ruling on his request to proceed pro se. Days later, Torres refiled the sealed materials in a parallel civil action.

On February 22, 2023, the District Court permitted Torres to proceed pro se but imposed safeguards because of his repeated disregard of court orders. It appointed a Special Master to screen his filings for compliance and warned that continued violations could result in revocation of his pro se status. The Special Master reviewed more than forty submissions totaling over 500 pages and recommended that numerous filings be rejected for violating the court's orders while others be docketed only after redaction or removal of improper material.

At a May 8, 2023 status conference, the Special Master reported that Torres had submitted an additional 31 filings since the court had permitted him to proceed pro se, fewer than half of which complied with prior orders. Concluding that Torres's conduct was "outrageous," burdened the docket, and bordered on contempt, the District Court revoked his right to self-representation and reinstated standby counsel.[5]

The case went to trial in October 2023. Four victims testified that Torres located their advertisements online, solicited commercial sex from them, and asked them to travel to New Jersey in exchange for substantial payment. Upon their arrival, he forced them into unwanted and unprotected sex and did not pay them. The jury found him guilty on all counts, and the District Court denied his motion for acquittal.

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[5] SAppx 881-82.

The court sentenced Torres to 311 months' imprisonment. Torres appeals his conviction and sentence.

II. DISCUSSION[6]

Torres first argues that there was insufficient evidence to sustain his Mann Act convictions because paying sex workers who advertised their services cannot constitute "persuasion," "inducement," or "enticement" under § 2422(a). He further contends that the statute is unconstitutionally vague as applied to him because the Mann Act has historically targeted forced prostitution and trafficking, not so-called johns—customers who pay adult sex workers. We disagree and will uphold Torres's convictions because § 2422(a) clearly proscribes his conduct.[7]

Torres admitted at trial that he offered large sums of money to four women to travel across state or international lines to have sex with him; that they did in fact travel; and that the sole purpose of their travel was prostitution.[8] Each woman testified that Torres's financial offers prompted her decision to travel, noting that in some instances, his offers far exceeded their ordinary rates and included additional financial incentives.

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[6] The District Court had jurisdiction pursuant to 18 U.S.C. § 3231. We have jurisdiction under 28 U.S.C. § 1291.

[7] "We exercise plenary review over a district court's ruling on a Rule 39 motion." *United States v. John-Baptiste*, 747 F.3d 186, 201 (3d Cir. 2014) (citation omitted). We review the sufficiency of the evidence by asking whether any rational juror could find guilt beyond a reasonable doubt when viewing the evidence in the light most favorable to the government. *Id.* We also exercise plenary review over whether a challenged statute is unconstitutionally vague as applied. *Id.* at 199-200.

[8] There is no dispute that the four women "travel[ed] in interstate or foreign commerce." 18 U.S.C. § 2422(a). Three of them traveled interstate from New York to New Jersey, and the fourth traveled internationally from Canada to New Jersey.

On this record, a rational jury could conclude that Torres persuaded, induced, or enticed each woman to travel for prostitution.

Contrary to Torres's assertions, nothing in § 2422(a)'s text limits the statute to traffickers, excludes johns, or turns on whether the traveler was already predisposed to engage in commercial sex. The terms "persuades," "induces," and "entices" carry their ordinary meanings and encompass conduct that influences or brings about another person's decision.[9] By the statute's plain terms, the traveler's consent or predisposition is irrelevant.[10] Nor does the statute's text give johns a get-out-of-jail free card.[11] Torres asks us to graft limitations onto the statute based on the Mann Act's legislative history and enforcement patterns. We will not do so. The Supreme Court has already held that courts may not narrow the Mann Act based on its original focus where the enacted text is broader.[12]

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[9] *United States v. Tykarsky*, 446 F.3d 458, 473 (3d Cir. 2006) (concluding § 2422(b) is not unconstitutionally vague, and recognizing the same terms, as used in § 2422(b), "have a plain and ordinary meaning that does not need further technical explanation") (quoting *United States v. Dhingra*, 371 F.3d 557, 561-62 (9th Cir. 2004)). *See also, e.g.*, *Batsell v. United States*, 403 F.2d 395, 399 (8th Cir. 1968) (finding "no ambiguity in the terms of [the Mann Act]" and explaining "[t]he word 'induces' in § 2422 is one of common usage and meaning and requires no explanation or definition").

[10] *See Wyatt v. United States*, 362 U.S. 525, 530 (1960) (observing the "consent of [the] woman [is] immaterial in [a] prosecution under [18 U.S.C. § 2422]"); *Gebardi v. United States*, 287 U.S. 112, 121 (1932) ("Congress set out in the Mann Act to deal with cases which frequently, if not normally, involve consent and agreement on the part of the woman to the forbidden transportation."). *See also, e.g.*, *United States v. Waqar*, 997 F.3d 481, 485-86 (2d Cir. 2021) (rejecting the defendant's argument that if someone is already "inclined to do something, she wouldn't need to be persuaded").

[11] Section 2422(a) authorizes prosecution of "[w]hoever" commits the offense. Congress did not limit the statute's reach to traffickers, pimps, or procurers.

[12] *Caminetti v. United States*, 242 U.S. 470, 490-91 (1917) (holding that courts cannot use the Mann Act's original legislative history to override the statute's plain meaning).

Torres's vagueness challenge fails for the same reason. Section 2422(a) uses common terms that courts have already held are not unconstitutionally vague.[13] The relative novelty of prosecuting a john under § 2422(a) does not mean Torres did not have fair notice that his conduct was unlawful.[14] Offering substantial financial incentives to secure interstate travel for sex fits squarely within the statute's text. The evidence adduced at trial was thus more than sufficient to sustain Torres's § 2422(a) convictions.

Torres next argues that the District Court violated his Sixth Amendment right to self-representation by revoking his pro se status based on his pretrial conduct. He portrays himself as a respectful litigant who merely filed too many motions and contends that the court acted without adequate justification. The record shows otherwise.[15]

The Sixth Amendment guarantees a defendant the right to represent himself, but that right is not absolute.[16] A defendant may not disregard court orders, disrupt proceedings, or use self-representation as a tool for delay,[17] and courts may revoke pro se status when a defendant, after clear warnings, refuses to comply with court rulings.[18]

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[13] *See, e.g.*, *Tykarsky*, 446 F.3d at 473.

[14] *Cf. United States v. Lanier*, 520 U.S. 259, 266-67 (1997) ("[D]ue process bars courts from applying a novel construction of a criminal statute to conduct that neither the statute nor any prior judicial decision has fairly disclosed to be within its scope.").

[15] We exercise plenary review over the District Court's legal conclusion that the defendant waived by conduct his Sixth Amendment right to proceed pro se. *See United States v. Peppers*, 302 F.3d 120, 127 (3d Cir. 2002). We review the facts establishing the defendant's conduct for clear error. *Id.*

[16] *Faretta*, 422 U.S. at 834 n.46.

[17] *See Illinois v. Allen*, 397 U.S. 337, 346-47 (1970).

[18] *See United States v. Goldberg*, 67 F.3d 1092, 1101 (3d Cir. 1995).

Before the District Court permitted Torres to proceed pro se, he had already shown a pattern of disregard for court orders.[19] He repeatedly filed motions while represented by counsel despite explicit prohibitions on hybrid filings, characterizing the court's orders as mere "recommendation[s]."[20] Even so, the court allowed him to represent himself, but only after warning him that further violations would result in revocation of that right. Torres confirmed he understood the court's conditions, but then repeatedly violated them by filing numerous non-compliant submissions, relitigating resolved issues, and disregarding filing and sealing restrictions. His behavior required appointment of a Special Master, and even then, his conduct did not improve. The District Court, having exhibited ample patience, reasonably determined that Torres's conduct flouted court orders, caused delay, and left it with no confidence that he would abide by court rules. We are more than satisfied that this record supports the District Court's decision.[21]

Torres additionally argues that the lead prosecutor should have been disqualified because of her prior employment at a firm that later represented some of his victims pro bono. His conflict-of-interest claim holds no water.[22]

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[19] Torres has continued his pattern of hybrid filings before this Court. We have repeatedly warned him that represented parties may not file motions or other documents pro se. Accordingly, we do not consider his pro se submissions.
[20] SAppx 498.
[21] Because we conclude the court properly found waiver by conduct on this record, we need not decide whether Torres's conduct also rose to the level of forfeiture. *United States v. Barkers-Woode*, 136 F.4th 496, 503 (3d Cir. 2025) ("Waiver by conduct is triggered by 'conduct less severe than sufficient to warrant a forfeiture.'") (quoting *Goldberg*, 67 F.3d at 1101)).
[22] We review the District Court's finding for abuse of discretion, provided the court makes a reasoned, non-arbitrary determination based on a developed record. *See United States v. Shah*, 43 F.4th 356, 362 n.4 (3d Cir. 2022).

The prosecutor's prior firm did not begin representing Torres's victims until *after* she had left. The United States Attorney's Office assigned the prosecutor to the case only *after* she had disclosed to her supervisor her prior connection to the firm. And, apart from baseless accusations, Torres provided no evidence of *any* continuing financial or personal relationship between the prosecutor and the firm. His own counsel conceded that there was none. Moreover, the government obtained an authorization letter from the Department of Justice concluding that the prosecutor could continue to participate in Torres's matter and designated another prosecutor to handle communications with the firm and its clients. The District Court's conclusion that not even an appearance of a conflict existed, let alone an actual one, was well-supported and not an abuse of discretion.[23]

Finally, Torres argues that the District Court violated his Sixth Amendment right to a jury trial when it calculated a base offense level according to U.S.S.G. § 2G1.1(c)(1)'s cross-reference to § 2A3.1 for conduct involving criminal sexual abuse. Again, we disagree.[24] We have "repeatedly rejected [such] arguments," holding that "judicial findings of fact that increase the defendant's Guidelines range, but not the statutory maximum, do not violate the Constitution."[25] Indeed, "[f]acts pertinent to

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[23] *See id.* at 364 & n.7 (affirming denial of disqualification motion with no evidentiary hearing because record was detailed and defendant "presented nothing to" contradict the government's submissions).
[24] Because Torres did not preserve his claim at sentencing regarding applying the cross-reference in U.S.S.G. § 2G1.1(c)(1) based on a preponderance standard, we review for plain error. *United States v. Flores-Mejia*, 759 F.3d 253, 256 (3d Cir. 2014) (en banc).
[25] *United States v. Jackson*, 132 F.4th 266, 273 (3d Cir. 2025).

sentencing need only be submitted to a jury" when they "raise the applicable statutory maximum or mandatory minimum sentence."[26] Here, the District Court sentenced Torres to terms of imprisonment within the statutory maximum for each count of conviction, and the court's factual findings did not increase the statutory penalties authorized by the jury's verdict.[27] Consistent with our precedent, we conclude that the District Court did not plainly err by applying the sexual abuse cross-reference.[28]

III. CONCLUSION

For the foregoing reasons, the judgment of the District Court will be affirmed.

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[26] *Id. See also Alleyne v. United States*, 570 U.S. 99, 114-16 (2013).

[27] Torres received a total sentence of 311 months' imprisonment, comprised of 240 months on three of the four enticement counts, to run concurrently, followed by 71 months on the remaining enticement count. Each conviction under 18 U.S.C. § 2422(a) carried a statutory maximum sentence of twenty years' imprisonment. None of the court's factual findings increased the statutory maximum sentence Torres faced on any count of conviction.

[28] Torres's reliance on *Erlinger v. United States*, 602 U.S. 821 (2024), is also misplaced. *Erlinger* involved a statutory enhancement that increased the statutorily prescribed minimum and maximum penalties. *Id.* at 825 (quoting 18 U.S.C. § 924(e)(1)). It did not concern the advisory Guidelines.