

United States Court of Appeals
For the Eighth Circuit

No. 25-1607

United States of America

Plaintiff - Appellee

v.

David Enrique Remigio

Defendant - Appellant

Appeal from United States District Court
for the Southern District of Iowa - Eastern

Submitted: May 11, 2026

Filed: August 20, 2026

[Unpublished]

Before COLLOTON, Chief Judge, SHEPHERD and KOBES, Circuit Judges.

PER CURIAM.

David Remigio pleaded guilty to one count of receipt of child pornography, 18 U.S.C. § 2252A(a)(2) and (b)(1). In his plea agreement, he “agree[d] that the Court shall order restitution” of “no less than \$3,000 per victim.” The presentence report identified “100 different series” of child pornography from the images and videos seized from Remigio. Those series had known victims, and the PSR listed

twelve who requested restitution. Remigio did not object to the PSR. At sentencing the district court awarded restitution for the twelve victims, plus \$3,000 for “Audrey,” a victim who appeared in one of the series identified in the PSR. The Government did not introduce any evidence about her loss at sentencing, and Remigio did not object. The district court¹ sentenced Remigio to 192 months in prison and 5 years of supervised release. It ordered restitution in the amount of \$39,000.

Remigio argues that the district court plainly erred by ordering him to pay Audrey \$3,000 in restitution. See Fed. R. Crim. P. 52(b) (standard of review); United States v. Binkholder, 832 F.3d 923, 930 (8th Cir. 2016) (same). His main assignment of error is that the district court “impos[ed] restitution without any evidence in the record to support the award.” He also takes issue with the court’s alleged failure to follow the “specific procedure” required by 18 U.S.C. § 3664, and he complains that the United States Attorney and the United States Probation Office do not allow defense counsel access to restitution requests before release of the draft PSR, a practice that “creates confusion and uncertainty.”

We are not convinced that any of these allegations amount to “clear” or “obvious” error. United States v. Olano, 507 U.S. 725, 734 (1993). Remigio admits that federal law “calls for mandatory restitution of \$3,000 for victims,” 18 U.S.C. § 2259(b)(2)(B), that he agreed in his plea agreement to pay “for the full amount of each victim’s losses, which is no less than \$3,000,” and that Audrey was a known victim in one of the series listed in the PSR. He also concedes that the Government “may very well be able” to prove up Audrey’s losses on remand. So even if the district court erred, we would not exercise our discretion to correct the error because it did not “seriously affect the fairness, integrity or public reputation of judicial proceedings.” Olano, 507 U.S. at 736.

¹The Honorable Stephen H. Locher, United States District Judge for the Southern District of Iowa.

The judgment of the district court is affirmed. See United States v. Lukassen, 103 F.4th 1325, 1332 (8th Cir. 2024) (“[G]iven that Congress now has established that \$3,000 is the minimum reasonable amount of restitution per victim in this circumstance, we also conclude that leaving the awards in place would not result in a miscarriage of justice.”).
