

UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

United States v. McKenzie

United States v. McKenzie · No. 24-2087 · Decided June 12, 2026

SUMMARY

The United States Court of Appeals for the First Circuit reviews Dimitri McKenzie's conviction for attempted sex trafficking of a child under 18 U.S.C. §§ 1591 and 1594. The court holds that, for an attempted sex-trafficking-of-a-minor conviction, the defendant may satisfy the age-related mens rea requirement by knowingly or recklessly disregarding the substantial and unjustifiable risk that the solicited person was under eighteen, even when no actual minor was involved. The court finds no merit in McKenzie's other trial-related arguments, affirms his conviction, and clarifies the judgment.

CASE DETAILS

COURT	United States Court of Appeals for the First Circuit
WRITING FOR THE COURT	David J. Barron; David J. Barron, Chief Judge; Jeffrey R. Howard, Circuit Judge; Kermit V. Lipez Kayatta, Circuit Judge
JURISDICTION	United States Court of Appeals for the First Circuit
DECIDED	June 12, 2026
DOCKET	24-2087
DISPOSITION	affirmed
PROCEDURAL POSTURE	McKenzie appealed his federal jury conviction for attempted sex trafficking of a child under 18 U.S.C. §§ 1591 and 1594, challenging the mens rea jury instruction, sufficiency of the evidence, denial of an entrapment instruction, evidentiary rulings, and the judgment's effect on First Step Act time-credit eligibility.
STANDARD OF REVIEW	The court reviewed the preserved instructional-error and sufficiency-of-the-evidence claims de novo; a preserved refusal to give an entrapment instruction de novo; preserved evidentiary rulings for abuse of discretion; unpreserved evidentiary claims for plain error; and harmlessness under the highly-probable-that-the-error-did-not-affect-the-outcome standard.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Dimitri McKenzie v. United States of America

TOPICS

statutory interpretation

criminal procedure

mens rea

appellate procedure

sentencing

PRACTICE AREAS

criminal law

criminal procedure

federal appellate procedure

sex trafficking

statutory interpretation

sentencing and prison credits

QUESTIONS PRESENTED

1. Whether attempted sex trafficking of a minor under 18 U.S.C. §§ 1591 and 1594 requires the defendant to believe that the solicited person was under eighteen when no actual minor was involved, or whether reckless disregard of a substantial and unjustifiable risk that the person was under eighteen suffices.
2. Whether the district court properly refused to give an entrapment instruction.
3. Whether the district court committed reversible error by excluding a church sermon, proposed testimony from McKenzie's father, evidence of McKenzie's lack of a criminal record, and evidence regarding child-pornography penalties.
4. Whether McKenzie's judgment contained a clerical error correctable under Federal Rule of Criminal Procedure 36 because it cited both 18 U.S.C. § 1594 and the underlying provisions of § 1591.
5. Whether McKenzie's conviction was legally a conviction under 18 U.S.C. § 1594 rather than a conviction under the substantive offense provision of 18 U.S.C. § 1591 for purposes of First Step Act time-credit eligibility.

HOLDINGS

1. A defendant may be convicted of attempted sex trafficking of a minor under 18 U.S.C. §§ 1591(a)(1) and 1594(a) when he intends to solicit a person for commercial sex and recklessly disregards a substantial and unjustifiable risk that the person is under eighteen, even if the person is actually an adult or does not exist.
2. A defendant's belief that the person solicited is an adult does not establish legal impossibility when the defendant nevertheless recklessly disregards a substantial risk that the person is a minor.
3. The district court did not err by instructing the jury that reckless disregard as to age could satisfy the mens rea requirement, and the evidence was sufficient to support the conviction despite the absence of an actual minor.
4. The district court properly refused to give an entrapment instruction because McKenzie failed to produce hard evidence of improper government inducement.
5. The challenged evidentiary rulings did not warrant reversal because the sermon and character evidence were irrelevant or waived, and any error concerning child-pornography penalties was harmless.
6. The judgment was not clerically erroneous under Federal Rule of Criminal Procedure 36, but McKenzie was convicted only under 18 U.S.C. § 1594, not under 18 U.S.C. § 1591, and is therefore eligible for First Step Act time credits applicable to prisoners sentenced under § 1594.

KEY QUOTATIONS

“We therefore hold that a defendant may be convicted of attempted sex trafficking of a minor, in violation of 18 U.S.C. §§ 1591(a)(1) and 1594(a), where he acts in reckless disregard of a substantial and unjustifiable risk that the person solicited is under eighteen -- regardless of whether the person solicited turns out to actually be under eighteen.” (24)

“We therefore clarify that McKenzie has been convicted only under 18 U.S.C. § 1594, not 18 U.S.C. § 1591.” (44)

“For the foregoing reasons, we find no reversible error and affirm McKenzie’s conviction under 18 U.S.C. § 1594.” (45)

FACTUAL BACKGROUND

Homeland Security Investigations conducted an undercover operation involving an online commercial-sex advertisement. McKenzie contacted the undercover agent, selected a purported fourteen-year-old girl, arranged to meet at a hotel, brought money, and accepted a hotel keycard before agents arrested him; no actual minor was involved. A jury convicted him of attempted sex trafficking of a child, and the district court imposed a 126-month sentence.

PROCEDURAL HISTORY

A federal grand jury in the District of Massachusetts indicted McKenzie for attempted sex trafficking of a child. After a jury trial, the jury returned a guilty verdict, and the district court sentenced him to 126 months’ imprisonment. The First Circuit found no reversible trial error, affirmed the conviction under 18 U.S.C. § 1594, and clarified that the conviction was under the attempt statute rather than the substantive offense statute in 18 U.S.C. § 1591.

DISPOSITION

affirmed

CASES CITED

- United States v. Díaz-Rosado, 857 F.3d 116, 117 (1st Cir. 2017)
- United States v. Medina, 155 F.4th 11, 20-22 (1st Cir. 2025)
- Allen v. United States, 164 U.S. 492, 501 (1896)
- United States v. Stefanik, 674 F.3d 71, 74, 76 (1st Cir. 2012)
- In re Fin. Oversight & Mgmt. Bd. for P.R., 919 F.3d 121, 128 (1st Cir. 2019)
- Borden v. United States, 593 U.S. 420, 427 (2021)
- Neder v. United States, 527 U.S. 1, 21 (1999)
- Bronson v. United States, No. 22-1745, 2023 WL 9900908, at *1 (1st Cir. Sept. 5, 2023)
- United States v. Haas, 986 F.3d 467, 478 (4th Cir. 2021)
- United States v. Puff, No. 23-4457, 2025 WL 830439, at *2-3 (4th Cir. Mar. 17, 2025)

- United States v. Tunchez, 772 F. App'x 105, 106 (5th Cir. 2019)
- United States v. Zam Lian Mung, 989 F.3d 639, 642-43 (8th Cir. 2021)
- United States v. Baker, No. 24-1242, 2025 WL 342862, at *1 (9th Cir. Jan. 30, 2025)
- United States v. Robinson, 993 F.3d 839, 844 (10th Cir. 2021)
- United States v. Wolff, 796 F.3d 972, 974-75 (8th Cir. 2015) (per curiam)
- United States v. Saldaña-Rivera, 914 F.3d 721, 725 (1st Cir. 2019)
- United States v. Jayavarman, 871 F.3d 1050, 1058-59 (9th Cir. 2017)
- United States v. Dworken, 855 F.2d 12, 16-17 (1st Cir. 1988)
- United States v. Benítez-Beltrán, 892 F.3d 462, 468 (1st Cir. 2018)
- United States v. Doyon, 194 F.3d 207, 210 (1st Cir. 1999)
- United States v. Fernandez, 722 F.3d 1, 31 (1st Cir. 2013)
- United States v. Carter, 15 F.4th 26, 36, 47 (1st Cir. 2021)
- United States v. Hsu, 155 F.3d 189, 199 n.16 (3d Cir. 1998)
- United States v. Dixon, 449 F.3d 194, 201-02 (1st Cir. 2006)
- United States v. Chavez, 29 F.4th 1223, 1228 (10th Cir. 2022)
- United States v. Encarnación-Ruiz, 787 F.3d 581, 585 (1st Cir. 2015)
- United States v. Mardirosian, 602 F.3d 1, 8 (1st Cir. 2010)
- United States v. Dávila-Nieves, 670 F.3d 1, 9-11 (1st Cir. 2012)
- United States v. O'Donovan, 126 F.4th 17, 40 (1st Cir. 2025)
- United States v. Sandoval, 6 F.4th 63, 100 (1st Cir. 2021)
- United States v. Pérez-Rodríguez, 13 F.4th 1, 17-21 (1st Cir. 2021)
- United States v. Hinkel, 837 F.3d 111, 117 (1st Cir. 2016)
- United States v. Gendron, 18 F.3d 955, 961 (1st Cir. 1994)
- United States v. Symonevich, 688 F.3d 12, 24 (1st Cir. 2012)
- United States v. Saemisch, 18 F.4th 50, 59 (1st Cir. 2021)
- United States v. Encarnacion, 26 F.4th 490, 504 (1st Cir. 2022)
- United States v. Grullon, 996 F.3d 21, 31 (1st Cir. 2021)
- United States v. Martínez-Mercado, 132 F.4th 61, 68-69 (1st Cir. 2025)
- Neece v. City of Chicopee, 106 F.4th 83, 93 (1st Cir. 2024)
- United States v. Ahmed, 51 F.4th 12, 19 n.4 (1st Cir. 2022)
- United States v. Warren, 5 F.4th 1078, 1081 & n.2 (9th Cir. 2021)
- United States v. Phillips, No. CR 13-286, 2022 WL 17415077, at *3 (E.D. La. Dec. 5, 2022)
- United States v. Medina-Ortiz, 160 F.4th 11, 14-17 (1st Cir. 2025)