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United States Court of Appeals
Tenth Circuit

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Christopher M. Wolpert
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PUBLISH

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ASHLIE NICOLE ROSE MARTIN,

Defendant - Appellant.

No. 25-7057

Appeal from the United States District Court
for the Eastern District of Oklahoma
(D.C. No. 6:23-CR-00059-DCJ-1)

Stuart W. Southerland, Assistant Federal Public Defender (Scott Graham, Federal Public Defender, with him on the briefs), Office of Federal Public Defender, Eastern District of Oklahoma, Muskogee, Oklahoma, for Defendant-Appellant.

Jarrod Leaman, Assistant United States Attorney (Christopher J. Wilson, United States Attorney, and Linda Epperley, Assistant United States Attorney, with him on the brief), Office of United States Attorney, Eastern District of Oklahoma, Muskogee, Oklahoma, for Plaintiff-Appellee.

Before **TYMKOVICH**, **BACHARACH**, and **MORITZ**, Circuit Judges.

TYMKOVICH, Circuit Judge.

Ashlie Martin recruited her boyfriend and another friend to kill her mother and father. She planned the scheme and her accomplices followed through with it by

brutally murdering her parents. The government charged Martin, a juvenile at the time of the murders, with conspiracy and two counts of murder. And because she is an Indian, her parents were Indians, and the crimes took place in Indian country, the government charged the murders under the Major Crimes Act (MCA), 18 U.S.C. § 1153. After the government transferred her case to adult court, Martin ultimately pleaded guilty to the conspiracy charge. The district court then sentenced her to 456 months in prison. Martin appeals her sentence, arguing that it is both procedurally and substantively unreasonable.

In addition to challenging her sentence, Martin contends the district court lacked subject-matter jurisdiction over her conviction because conspiracy to commit murder in Indian country is not an enumerated offense under the MCA. Relying on circuit precedent, Martin contends the charge is thus not an "offense against the laws of the United States" under 18 U.S.C. § 3231, the statute that grants district courts original jurisdiction over federal crimes.

Exercising our own jurisdiction under 28 U.S.C. § 1291, we **AFFIRM** Martin's conviction and sentence. The district court possessed subject-matter jurisdiction over Martin's conviction because conspiracy to commit a murder in Indian country is a generally applicable federal crime and is therefore an offense under § 3231. The situs of the crime is not an element of the offense, so the law applies to everyone, everywhere—no matter where Martin was located when she completed the conspiracy—even in Indian country. The offense is not a federal-enclave law that needs to be extended to Indian country for it to apply, so its absence

from the MCA is irrelevant. We also conclude that Martin's below-guideline sentence is neither procedurally nor substantively unreasonable.

I. Background

We recited the facts underlying Martin's conviction in our previous opinion affirming her transfer to adult court, *see United States v. Doe*, 58 F.4th 1148, 1152–53 (10th Cir. 2023), so we only briefly recount those events before describing what has taken place since her last appeal.

A. Factual Background

Ashlie Martin, an enrolled member of the Choctaw Nation, grew up in a dysfunctional and impoverished household on the Choctaw Nation Reservation. Among other appalling events that occurred during her childhood, Martin claims her father physically and sexually abused her. When Martin was seventeen-and-a-half-years old, she convinced her then fifteen-year-old boyfriend, Bryson Miller, and eighteen-year-old friend, Chad Voyles, to murder her parents. Martin used a false pregnancy to persuade Miller, telling him that "the only way they could be together and raise their child was to kill her parents." R., Vol. II at 267. Martin formulated a simple plan that the trio soon set into motion. *See* R., Vol. I at 12 (a text from Martin to Voyles read, "kill my mother then take out my father then get what u need take one at a time put into the whole [sic] then the next one").

On the evening of December 22, 2020, Martin let Miller and Voyles into her parents' home through a window. While Martin hid in the bathroom, the two boys tased Martin's mother, then beat her with bats and slit her throat. The trio buried her

in a crude grave in the backyard and Martin then cleaned her mother's blood in the home with bleach.

While the trio waited for Martin's father to arrive, Martin cooked bacon and eggs for the group. Once her father returned home the next morning, Voyles shot at him with a bow and arrow but missed. Miller then clubbed Martin's father in the head with a dumbbell and Voyles set him on fire. After the home also caught fire, Martin and the boys fled in her parents' car. The trio, however, did not get far because they struck a nearby boulder and flipped the vehicle. Law enforcement officers soon arrived and arrested them.

"Although [Martin] did not participate in the physical assaults, she was the author of the plan—the murders would not have occurred without her initiative." *Doe*, 58 F.4th at 1152.

B. Procedural Background

The government charged Martin via juvenile information with two counts of murder in Indian country under 18 U.S.C. § 1111 and the MCA, one count of conspiracy to commit murder in Indian country under 18 U.S.C. §§ 1117, 1111, 1151 and the MCA, and one count of carjacking resulting in death under 18 U.S.C. § 2119. The government moved to transfer her case from juvenile court to federal district court in the Eastern District of Oklahoma so it could prosecute her as an adult. *See* 18 U.S.C. § 5032 (authorizing the transfer of certain juveniles to federal district court if the court finds "such transfer would be in the interest of justice"). The district

court granted the government's motion and Martin filed an interlocutory appeal. We affirmed the district court's transfer. *See generally Doe*, 58 F.4th at 1153–60.

Martin subsequently pleaded guilty in July 2023 to the conspiracy charge without a plea agreement. The district court accepted her plea and dismissed the remaining charges upon the government's motion.

During Martin's sentencing hearing, the district court first addressed various objections to the presentence investigation report (PSR) from both parties. Among other rulings, the district court overruled Martin's objection to a two-level vulnerable-victim enhancement because it found her father suffered from chronic obstructive pulmonary disease (COPD), heart problems, and diabetes, all of which required him to use an oxygen tank and a walker. R., Vol. III at 16. The court concluded Martin's father's "severe health problems" "precluded" his "ability to avoid his murder, . . . even though in this case there may have been, for a normal adult, the opportunity to avoid it." *Id.* The district court then adopted the PSR which calculated a total offense level of forty-three and a Guidelines range of life.

The district court next considered the 18 U.S.C. 3553(a) sentencing factors. Martin presented testimony from a juvenile-homicide expert who had evaluated Martin and submitted a report. Martin's expert testified that Martin was immature, possessed borderline intelligence, did not show a pattern of criminal behavior, and was amenable to rehabilitation and treatment. The government asked the district court to sentence Martin to life in prison in accordance with the Guidelines range. Martin moved for a downward variance and departure, asking the district court to

only impose a sentence of up to 210 months' imprisonment. The district court granted Martin's motion in part and sentenced her to 456 months in prison.

Martin objected to the sentence on the grounds that it was "substantively and procedurally unreasonable" because, among other things, the district court used a "starting point of a life sentence" for a juvenile. R., Vol. III at 50. She argued that it was "inappropriate for a sentencing court to consider adult sentences when sentencing a juvenile." *Id.* at 51–52.

On the same day the district court sentenced Martin, it also sentenced her coconspirators who had both pleaded guilty to murder charges. The district court sentenced Miller to 300 months in prison and Voyles to 420 months in prison. Voyles had cooperated with the government and received a downward departure based on his substantial assistance.[1] *See* Aplt. Supp. R., Vol. I at 6. The district court explained Miller's comparatively lower sentence derived from his "age at the time of the offense, 15 years-old, . . . and . . . the influence of . . . one young adult and one older child in the commission of the offense, especially the role of Ashlie Martin in influencing [him]." *Id.* at 53.

Martin appealed to this court, challenging the reasonableness of her sentence. After initial briefing concluded, Martin moved to file a supplemental brief

[1] The government moves to supplement the record with a Statement of Reasons and sealed motion from Voyles's case to help "explain the disparate sentences between" Martin and her coconspirators. *See* Dkt. No. 46; Aple. Supp. R., Attachments A & B. Martin opposed the motion. We grant the government's motion and consider the supplemental information since it is relevant to Martin's arguments.

challenging the district court's subject-matter jurisdiction over her conviction. We granted the motion and the parties filed supplemental briefs addressing the issue.

II. Discussion

Before we consider Martin's challenges to her sentence, we must ensure that the district court possessed subject-matter jurisdiction over her conviction. *See Ex parte McCardle*, 74 U.S. (7 Wall.) 506, 514 (1868) ("Without jurisdiction the court cannot proceed at all in any cause. Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause.").

A. Subject-Matter Jurisdiction

Martin relies on our decision in *United States v. Hopson*, 150 F.4th 1290 (10th Cir. 2025), for her jurisdictional challenge. She argues that conspiracy to murder under §§ 1117 & 1111—"when committed by an Indian defendant against an Indian victim on Indian land"—"is not an offense against the United States" under § 3231 since it is not enumerated in the MCA. *See Hopson*, 150 F.4th at 1302. And because conspiracy to murder in Indian country is not "a violation of *federal* criminal law," she contends "[t]he district court therefore lacked subject matter jurisdiction to enter judgment of conviction against [her] for the offense."[2] *See id.* at 1303.

[2] Martin did not present this argument below nor did she raise it in her opening brief on appeal. But "[t]here is no preservation problem . . . because challenges to a district court's subject matter jurisdiction may be raised at any time, and subject matter jurisdiction may not be conferred on a federal court by stipulation, estoppel, or waiver." *Hopson*, 150 F.4th at 1297 (citation modified).

"Criminal jurisdiction over offenses committed in 'Indian country,' 18 U.S.C. § 1151, is governed by a complex patchwork of federal, state, and tribal law." *Negonsott v. Samuels*, 507 U.S. 99, 102 (1993) (citation modified). "What's more, in any criminal case involving Native Americans or Indian Country, jurisdiction depends on the *precise* location of the events, the particular crime alleged, and the race of the victim and accused." Richard W. Garnett, *Once More Into the Maze:* United States v. Lopez, *Tribal Self-Determination, and Federal Conspiracy Jurisdiction in Indian Country*, 72 N.D. L. Rev. 433, 442 (1996). And because "[t]he Supreme Court has repeatedly cautioned that 'jurisdiction,' is a word of many, too many, meanings," *United States v. Hebert*, No. 24-7030, 2026 WL 3071611, at *14 (10th Cir. Oct. 14, 2026) (en banc) (citation modified), we first provide a background on federal court criminal jurisdiction in Indian country.

1. Federal Court Criminal Jurisdiction

"Federal courts are courts of limited jurisdiction." *Hopson*, 150 F.4th at 1297 (quoting *Kokkonen v. Guardian Life Ins.*, 511 U.S. 375, 377 (1994)). District courts only possess the subject-matter jurisdiction that Congress grants them by statute. *See* U.S. Const. art. III, § 1 ("The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish."); *Home Depot U.S.A., Inc. v. Jackson*, 587 U.S. 435, 437 (2019) ("[D]istrict courts may not exercise jurisdiction absent a statutory basis." (quotation marks omitted)).

"In every federal criminal prosecution subject-matter jurisdiction comes from 18 U.S.C. § 3231, and that's the beginning and the end of the 'jurisdictional' inquiry." *Hebert*, 2026 WL 3071611, at *14 (citation modified). Section 3231 grants district courts original subject-matter jurisdiction over "all offenses against the laws of the United States." 18 U.S.C. § 3231. But "[f]or a district court to have subject matter jurisdiction over *an offense* under § 3231, . . . Congress must have made that offense a federal crime." *Hopson*, 150 F.4th at 1298 (emphasis added).

"Congress has undoubted constitutional power to prescribe a criminal code applicable in Indian country." *Hebert*, 2026 WL 3071611, at *13 (quoting *United States v. Antelope*, 430 U.S. 641, 648 (1977)). "We might say that criminal jurisdiction in Indian Country is there for the taking, if the United States wants it." Garnett, *supra*, at 444. But Congress can likewise "except[] [certain] crimes from those 'offenses against the laws of the United States' over which a federal court has jurisdiction" in Indian country. *Hebert*, 2026 WL 3071611, at *14 (citation omitted). Thus, to determine whether Congress made the offense Martin pleaded guilty to (conspiracy to murder in Indian country) a federal crime, we must examine Congress's statutory scheme that governs federal crimes in Indian country. *See Liparota* v. *United States*, 471 U.S. 419, 424 (1985) ("[F]ederal crimes . . . are solely creatures of statute.").

2. Federal Crimes in Indian Country

"Federal statutes governing criminal activity in Indian country fall into two categories: enclave statutes and general criminal laws." *United States v. Brice*, 167 F.4th 1330, 1335 (11th Cir. 2026).

a. Federal-Enclave Statutes

Federal enclaves are territorial locations under special federal control, *e.g.*, national parks and military bases. Congress possesses the exclusive power to enact criminal statutes that adopt or define what are traditionally state-law crimes and apply them in federal enclaves. *See generally* U.S. Const. art. I, § 8, cl. 17 ("The Congress shall have Power . . . To exercise exclusive Legislation in all Cases whatsoever . . . over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings[.]"). For example, § 1111 makes it a federal crime to commit murder in a federal enclave. *See, e.g.*, 18 U.S.C. § 1111(b) ("Within the special maritime and territorial jurisdiction of the United States, [w]hoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life[.]"). So for all federal-enclave criminal statutes, the *federal situs* of the crime is a jurisdictional element of the offense.[3] *See United States v. Chavarria*, 140 F.4th

[3] A jurisdictional element does *not* concern the type of jurisdiction at issue here. A "jurisdictional element . . . ties the substantive offense . . . to one of *Congress's* constitutional powers." *Torres v. Lynch*, 578 U.S. 452, 457 (2016) (emphasis added). It does not affect "the courts' statutory or constitutional *power* to adjudicate the case"—*i.e.*, a court's subject-matter jurisdiction. *United States v. Cotton*, 535 U.S. 625, 630 (2002) (quotation marks omitted). If the charged crime is

1257, 1259 (10th Cir. 2025) ("*Federal* crimes require some sort of jurisdictional hook to sort the prohibited activity into one of the government's enumerated and limited powers, such as its power over interstate commerce.").

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a federal offense that Congress has created, the government's failure to prove (or even allege) that the defendant's conduct satisfied that element does not deprive a court of subject-matter jurisdiction over the case. *See United States v. Thompson*, 176 F.4th 1219, 1227 n.8 (10th Cir. 2026) ("Lack of such proof may support a challenge to the conviction for insufficient evidence but it would not eliminate the court's subject matter jurisdiction." (citation modified)); *see also, e.g.*, *Hebert*, 2026 WL 3071611, at *15 ("[The MCA's] limitation to Indian country was 'a question, not of the jurisdiction of [the convicting] court, but of the jurisdiction of the United States.'" (second alteration in original) (quoting *Louie v. United States*, 254 U.S. 548, 550 (1921))).

An en banc panel of this court in *United States v. Hebert*, No. 24-7030, 2026 WL 3071611 (10th Cir. Oct. 14, 2026), recently confirmed that the General Crimes Act's (GCA) Indian-on-Indian exception is *not* a jurisdictional element of a federal-enclave crime under the GCA—in fact we held it is not an element at all. *See generally id.* at *9–16. The government therefore need not affirmatively prove a defendant's non-Indian status to prosecute him for a GCA-extended crime against an Indian victim in Indian country; the Indian-on-Indian exception is an affirmative defense, not an element.

But *Hebert* does not directly bear on this case. First, Martin was convicted of conspiracy to commit a murder under the MCA, not a murder under the GCA. And second, she is not challenging the district court's jurisdiction based on any alleged failure by the government in proving either her Indian status or the underlying jurisdictional element (*i.e.*, the Indian country locus of the murders). *See* R., Vol. I at 35–36 (Martin testifying at her change of plea hearing that she "was an enrolled member of the Choctaw Nation with some degree of Indian blood" and that "the murders occurred . . . on land that is Indian Country because it is part of the Choctaw Nation"). As a result, Martin's jurisdictional challenge—that conspiracy to commit an intra-Indian murder in Indian country is not a federal offense—falls under the ambit of *Hopson*, not *Hebert*.

But Indian country is not "the equivalent of a federal enclave for jurisdictional purposes." *Oklahoma v. Castro-Huerta*, 597 U.S. 629, 642 (2022). Thus, for a federal-enclave criminal law to apply in Indian country, Congress must affirmatively say so. *See Hopson*, 150 F.4th at 1299 ("[T]he Supreme Court has long required a *clear expression* of the intention of Congress before the . . . federal government may try Indians for conduct on their lands." (citation modified)). Through the General Crimes Act (GCA), 18 U.S.C. § 1152, Congress has done so for many federal-enclave offenses. The GCA broadly "extends the criminal jurisdiction of the federal courts provided for in 18 U.S.C. § 3231 to federal enclave crimes occurring within Indian country[.]" *Hebert*, 2026 WL 3071611, at *6 (quotation marks omitted).

Congress, however, expressly excluded from the GCA's broad extension all federal-enclave "offenses committed by one Indian against the person or property of another Indian[.]"[4] 18 U.S.C. § 1152. So after the Supreme Court held in *Ex parte Crow Dog*, 109 U.S. 556 (1883), that this Indian-on-Indian exception precluded the federal government from prosecuting "the murder of one Indian by another in Indian country," Congress enacted the MCA. *Hebert*, 2026 WL 3071611, at *3 (citing *Brice*, 167 F.4th at 1336). The MCA reinstates certain enumerated federal-enclave

[4] The Supreme Court in *United States v. McBratney*, 104 U.S. 621 (1882), held that states have exclusive authority to prosecute a non-Indian for committing a crime against another non-Indian in Indian country. *See* 104 U.S. at 621–24. As a result of *McBratney* and the GCA's Indian-on-Indian exception, "§ 1152 applies federal enclave criminal law to Indian-country crimes only when the defendant is a non-Indian and the victim is an Indian, or vice versa." *Hebert*, 2026 WL 3071611, at *2.

offenses excluded by the GCA's Indian-on-Indian exception. "The enumerated offenses include murder, manslaughter, kidnapping, maiming, incest, felony assault, assaults against minors, felony child abuse or neglect, arson, burglary, and robbery." *Brice*, 167 F.4th at 1336 (citing 18 U.S.C. § 1153). In short, while an Indian cannot be convicted of murdering another Indian in Indian country under the GCA, such a murder is a federal crime under the MCA and is therefore an "offense[] against the laws of the United States" over which federal courts possess subject-matter jurisdiction. 18 U.S.C. § 3231.

Yet the GCA and MCA only concern *federal-enclave* crimes in Indian country. *See Brice*, 167 F.4th at 1337–38 ("[T]he text of the [GCA] and the text of the [MCA] establish that they are about federal enclave laws, not criminal laws of general applicability." (citing 18 U.S.C. §§ 1152 & 1153)); *United States v. Begay*, 42 F.3d 486, 498 (9th Cir. 1994) ("[T]he [MCA] deals only with the application of federal enclave law to Indians and has no bearing on federal laws of nationwide applicability[.]"). And because the situs of the crime is an element of a federal-enclave offense, "the government [must] prove an element in addition to the elements of the relevant federal enclave offenses" when prosecuting under the GCA or MCA—"it must prove that the offense occurred in Indian country." *Hebert*, 2026 WL 3071611, at *11; *see also id.* at *13 ("Proving the offense occurred in Indian country is the 'jurisdictional hook' establishing that the regulated conduct possesses the requisite connection to congressional authority." (citation modified)).

Against this backdrop, we held in *United States v. Hopson*, 150 F.4th 1290 (10th Cir. 2025), that if (1) "an Indian defendant" commits (2) a federal-enclave crime (3) "against an Indian victim on Indian land," and (4) the crime is *not* enumerated in the MCA, then "it is not an offense against the United States" under § 3231. 150 F.4th at 1302; *see also* Cohen's Handbook of Federal Indian Law § 11.02(3)(d) (Nell Jessup Newton & Kevin K. Washburn, eds., 2024 ed.) (Cohen's Handbook) ("A federal prosecutor may bring a charge under the MCA only for the conduct enumerated in the statute[.]"). In *Hopson*, we considered whether a federal court possessed subject-matter jurisdiction to convict a defendant of a lesser-included offense of "felony assault under section 113," one of the MCA's enumerated crimes. *See* 18 U.S.C. § 1153. The lesser-included offense, misdemeanor simple assault, was *not* listed in the MCA. As a result, we concluded "misdemeanor simple assault under § 113, when committed by an Indian defendant against an Indian victim on Indian land, is a crime within the exclusive jurisdiction of the tribal courts—it is not an offense against the United States." *Hopson*, 150 F.4th at 1302. "The district court therefore lacked subject matter jurisdiction to enter judgment of conviction against Mr. Hopson for the offense of misdemeanor simple assault." *Id.* at 1303.

b. Federal Crimes of General Applicability

"[I]n addition to (but separate from) these enclave statutes, there are generally applicable criminal laws that apply to everyone, everywhere." *Brice*, 167 F.4th at 1336. "These laws apply in Indian country just as they do outside of Indian country." *Id.*; *see also Fed. Power Comm'n v. Tuscarora Indian Nation*, 362 U.S. 99,

116 (1960) ("[I]t is now well settled by many decisions of this Court that a general statute in terms applying to all persons includes Indians and their property interests."). "Such crimes actually have little to do with Indian law, and it need only be noted that federal jurisdiction over them applies in Indian country as it does everywhere else." William C. Canby, Jr., *American Indian Law in a Nutshell* 188 (Jesse E. Chopper et al. eds., 8th ed. 2025). So regardless of whether a crime is enumerated in the MCA, "federal court jurisdiction extends to intra-Indian violations of federal criminal laws of general, nationwide applicability." *United States v. Gachot*, 512 F.3d 1252, 1254 (10th Cir. 2008) (quotation marks omitted).

The yardstick of a federal crime of general applicability is that, unlike a federal-enclave crime, "the situs of the [crime] is *not* an element of the offense."[5] *See Begay*, 42 F.3d at 499 (emphasis added).

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[5] "Most circuits have . . . concluded that federal criminal laws that do not include situs as an element, such as, for example, federal drug laws or the crime of assaulting a federal officer, also apply within Indian country." Cohen's Handbook § 11.02(4)(a). The Second Circuit, however, "has rejected blanket application of laws of general applicability, preferring a narrower analysis that would justify jurisdiction 'where such offenses constitute "peculiarly federal" crimes.'" *Id.* (quoting *United States v. Markiewicz*, 978 F.2d 786, 799 (2d Cir. 1992)). "No other circuit has followed *Markiewicz*." *Id.*; *but see* Garnett, *supra*, at 470–71 (arguing that although the Seventh Circuit in *United States v. Funmaker*, 10 F.3d 1327 (7th Cir. 1993), "seemed simply to adopt the [majority] position, . . . [it] actually adopted the Second Circuit's approach in *Markiewicz*").

We decline to adopt *Markiewicz*'s requirement for a showing of a "peculiarly federal interest" for a generally applicable crime to apply in Indian country. Such an inquiry is redundant since it "adds nothing to the analysis of whether a federal statute is constitutional; absent a federal interest, Congress lacked the power to enact the statute." Cohen's Handbook § 11.02(4)(a); *see also United States v. Wadena*, 152 F.3d 831, 841 (8th Cir. 1998) ("If Congress passes *any* federal act, assuming it

> Take, for instance, the prohibition against assaulting a federal officer, 18 U.S.C. § 111. The prohibition against assaulting a federal officer subjects *anyone* who "forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person designated [as a federal officer] while engaged in . . . official duties" to criminal penalties, without reference to the territorial jurisdiction or the identity of the perpetrator. Because this statute is generally applicable, it applies with full force in Indian country. *See United States v. Wheeler*, 435 U.S. 313, 330 n.30, 331 n.31 (1978) ("Federal jurisdiction also extends to crimes . . . over which there is federal jurisdiction regardless of whether an Indian is involved, such as assaulting a federal officer[.]").

Brice, 167 F.4th at 1336 (alterations in original) (citation omitted). There are many other examples of generally applicable crimes the circuits have found to reach Indian country. *See id.* at 1337 (concluding "Hobbs Act robbery is [a] generally applicable criminal offense" because it "prohibits anyone, anywhere, from" obstructing interstate commerce by robbery, and the "crime's connection to interstate commerce does not turn on the crime's location"); Cohen's Handbook § 11.02(4)(a) n.191 (listing cases from the Second, Seventh, Eighth, and Ninth Circuits).

Unlike federal-enclave crimes, generally applicable federal crimes apply in Indian country without needing to be extended there by the GCA or MCA. *See Brice*, 167 F.4th at 1337 ("[F]ederal courts may exercise jurisdiction over generally

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has constitutional authority to do so, there always exists a federal concern and interest."). In any event, the offense of conspiracy to commit murder in a federal enclave (and by extension, in Indian country) is a peculiarly federal crime. The federal government has a substantial interest in preventing murders within its territorial jurisdiction and punishing those who conspire to commit such murders—no matter where the conspirator is located.

applicable federal crimes—even when the offense is committed by an Indian, against an Indian, while in Indian country."); Restatement of the L. of Am. Indians § 70 cmt. h (Am. L. Inst. 2022) ("In general, the federal government possesses jurisdiction to enforce, in Indian country, federal crimes generally applicable throughout the United States."). And because federal crimes of general applicability apply to intra-Indian crimes in Indian country—regardless of whether the crime is enumerated in the MCA—our reasoning under *Hopson* does not apply to them. *Cf. Hopson*, 150 F.4th at 1299 ("Our discussion is limited to the federal enclave laws applicable to conduct committed by an Indian defendant in Indian country."); *see also United States v. Yannott*, 42 F.3d 999, 1004 (6th Cir. 1994) ("[The MCA] does not strip the federal courts of jurisdiction of those crimes not enumerated therein; in fact, federal courts retain jurisdiction over violations of federal laws of general, non-territorial applicability.").

Federal district courts thus possess subject-matter jurisdiction over all generally applicable crimes as offenses against the laws of the United States under § 3231.

3. Conspiracy to Commit Murder in Indian Country

With these considerations in mind, we turn to the crime to which Martin pleaded guilty: conspiracy to commit murder in Indian country. We start with the text of the conspiracy statute to determine whether the situs of the crime is an element of the offense. Section 1117 reads:

> If two or more persons conspire to violate section 1111, 1114, 1116, or 1119 of this title, and one or more of such persons do any overt act to effect the object of the conspiracy, each shall be punished by imprisonment for any term of years or for life.

18 U.S.C. § 1117. By the statute's plain terms, it applies to *anyone* who conspires to (1) commit a murder in a federal enclave (§ 1111); (2) kill an officer or employee of the United States (§ 1114); (3) kill certain foreign officials (§ 1116); or (4) kill a United States national while the national is abroad (§ 1119). In other words, if two or more persons conspire to commit a murder in a federal enclave, § 1117 applies—no matter where their conspiring occurred. What matters under § 1117 and § 1111 is that a defendant conspires with another *to commit a murder* in a federal enclave; the defendant need not be in a federal enclave when he *completes the conspiracy*. If the other substantive elements of the conspiracy are met, the defendant can be convicted of the offense even if he never steps foot in a federal enclave—so long as he conspired to commit the underlying offense, that is, murder his victim while *the victim* is in a federal enclave.[6] We conclude conspiracy to murder under §§ 1117 &

[6] We do not mean to imply that the government must prove, as an element of conspiracy to murder, that the defendant had the *specific intent* that the murder occurs in a federal enclave; or in other words, that the defendant knew the location of the planned murder was a federal enclave. *See United States v. Campa*, 529 F.3d 980, 1007 (11th Cir. 2008) (W. Pryor, J.) (holding that because "intent that the murder occur within the special maritime and territorial jurisdiction of the United States is not an element of section 1111, . . . it need not be proved to establish a conspiracy to murder [under] 18 U.S.C. § 1117"). Martin does not contest that she satisfied the substantive elements of the conspiracy charge, so we need not consider or resolve any questions about the mens rea requirements of the offense.

1111 is a crime of general applicability "because the situs of the conspiracy is not an element of the offense." *See Begay*, 42 F.3d at 499; Canby, *supra*, at 188 ("The federal conspiracy statute is a law of nationwide applicability." (citation omitted)).

The same is true for conspiracy to commit a murder in Indian country under §§ 1117, 1111, and the MCA or GCA.[7] It is a generally applicable federal crime that applies equally in Indian country to Indian defendants because there is no situs element that the conspiracy occur in Indian country. *See Gachot*, 512 F.3d at 1254. For example, imagine Martin was living in Oklahoma City (not Indian country) and never set foot in the Choctaw Nation Reservation at the time of the relevant events. She could still be convicted of conspiracy to commit murder in Indian country since she agreed with Miller and Voyles for them to kill her parents in her parents' home on the Reservation. Martin's location outside of Indian country would be irrelevant to the completion of the conspiracy; what matters is that she planned to kill her parents while *they* were in Indian country. Conspiracy to commit murder in Indian

[7] Neither the GCA nor the MCA are necessary to extend *conspiracy* to murder under §§ 1117 & 1111 to Indian country since we conclude it is a generally applicable crime. But to make out the *underlying offense* of the conspiracy—*i.e.*, murder in Indian country—the GCA or MCA form part of the statutory basis for the crime of conspiracy to murder in Indian country. So when prosecuting conspiracy to murder in Indian country, "[t]he government [is] not required to prove that the conspiracy occurred in Indian country, but [is] required to prove that the objects of the conspiracy—[murder] in violation of the Major Crimes Act—occurred in Indian country." *See* Canby, *supra*, at 189.

country is thus also a criminal law of general applicability that applies to intra-Indian offenses in Indian country despite not being listed in the MCA.

The Eighth and Ninth Circuits have likewise concluded that other federal conspiracy crimes are offenses "of nationwide applicability, and therefore appl[y] equally to everyone everywhere within the United States, including Indians in Indian country"—even though the crimes were not enumerated in the MCA.[8] *See Begay*, 42 F.3d at 499 (conspiracy to commit assault and kidnapping under 18 U.S.C. § 371); *United States v. Wadena*, 152 F.3d 831, 836 (8th Cir. 1998) (conspiracy to defraud the United States under § 371, and conspiracy to oppress free exercise of election rights under 18 U.S.C. § 241); *United States v. Milk*, 66 F.4th 1121, 1130 (8th Cir.

[8] One scholar has argued that the general federal conspiracy statute under 18 U.S.C. § 371 should *not* apply to Indian-on-Indian crimes in Indian country, even though he admits the statute is "not an enclave law." *See generally* Garnett, *supra*, at 451–75. He contends that "limit[ing] the Major Crimes Act's force to federal enclave laws, and read[ing] it as having no effect on the force of generally applicable federal laws, . . . is inconsistent with a major purpose of [the MCA and GCA], namely, to limit intrusions on tribal sovereignty." *Id.* at 453–54. "This intrusion was intended to be limited, to be respectful of tribal sovereignty, especially—as the [GCA's] exceptions make clear—in intra-Indian matters." *Id.* at 458. And since "[c]onspiracy is not enumerated in the Major Crimes Act," he argues that applying the crime to intra-Indian conspiracies in Indian country would make the MCA "not amount to much at all." *Id.* at 457.

But whatever merit this argument may have, we must reject it since our circuit has already concluded that "federal court jurisdiction extends to intra-Indian violations of federal criminal laws of general, nationwide applicability." *Gachot*, 512 F.3d at 1254. And in any event, we do not interpret statutes by their purported major purpose; the plain text of the MCA demonstrates it applies *only* to federal-enclave crimes. *See Castro-Huerta*, 597 U.S. at 641 ("[T]he Major Crimes Act says that defendants in Indian country 'shall be subject to the same law' as defendants in federal enclaves." (quoting 18 U.S.C. § 1153)).

2023) (conspiracy to distribute methamphetamine under 21 U.S.C. § 846); *see also* Garnett, *supra*, at 450–51 ("Clearly, the federal conspiracy statute is not an enclave law, and so it follows that the [GCA] and its exceptions do not apply.").

Having established that conspiracy to commit murder in Indian country is a law that applies generally to everyone, including Indian defendants located in Indian country, we address Martin's arguments in turn.

First, Martin argues that under *Hopson*, the district court lacked subject-matter jurisdiction because conspiracy under § 1117 is not enumerated in the MCA and is thus not an offense against the United States. But as we explained, *Hopson* only deals with federal-enclave laws, and conspiracy to commit murder in Indian country is not one. *Hopson* therefore does not control this case.

Martin next contends that conspiracy to murder under § 1117 is not a crime of general applicability because the underlying crime, murder under § 1111, "must be committed within the special maritime and territorial jurisdiction of the United States." Aplt. Supp. Br. at 9. "If this case were tried before a jury, the jury would be instructed that territorial jurisdiction is an element of the offense." *Id.*

The Ninth Circuit rejected this same argument. In *United States v. Begay*, 42 F.3d 486 (9th Cir. 1994), several Indian defendants were convicted of conspiracy to commit assault and kidnapping in Indian country under 18 U.S.C. §§ 371, 1201(c), and the MCA. *See* 18 U.S.C. § 1153 (the MCA lists assault and kidnapping as enclave crimes it extends to Indian country against Indian defendants). One defendant argued that the government failed to prove the conspiracy charge occurred

in a federal enclave. The Ninth Circuit rejected his argument, explaining that conspiracy under § 371 contains no situs element, even though the conspiracy's underlying crimes did. "[T]he Government need only show that *the underlying offenses* which were the objects of the conspiracy occurred in Indian country"—it did not have to do the same for the conspiracy charge. 42 F.3d at 501 (emphasis added). In other words, *conspiracy* to commit assault and kidnapping in Indian country "is not a federal enclave law because the situs of the conspiracy is not an element of the offense," even though the underlying crimes are federal-enclave crimes since their Indian country locus is an element of those offenses. *Id.* at 499.

Conspiracy to commit murder in Indian country works the same way. The Indian country locus of the underlying offense (murder in Indian country under § 1111 and the MCA) is an element of *that crime*. *See* Pattern Crim. Jury Instr. 10th Cir. 2.52 (Aug. 2026) (the jury must find "beyond a reasonable doubt" that "the killing took place within the [territorial] [special maritime] jurisdiction of the United States" (alterations in original)). But as Martin rightly points out, conspiracy is a separate offense from its underlying crime. *See* Aplt. Supp. Br. at 5 ("[T]he commission of the substantive offense and a conspiracy to commit it are separate and distinct offenses." (quoting *Pinkerton v. United States*, 328 U.S. 640, 643 (1946))). Although § 1111 murder has a situs element, conspiracy to commit that offense does not. The underlying murder need not have even taken place for the conspiracy to be complete, so it does not matter where Martin conspired to commit the murder. The government need only show that she "agreed with at least one other person to . . .

specifically . . . commit the crime of" murder in Indian country. *Cf.* Pattern Crim. Jury Instr. 10th Cir. 2.19.1 (Aug. 2026). This simply requires the government prove Martin specifically planned a murder in Indian country, which is different from a territorial-situs element.

Finally, Martin asserts conspiracy cannot be a generally applicable crime because "[h]ad the government believed § 1117 to be [such a crime], there would have been no need to allege jurisdiction under 18 U.S.C. § 1153." Aplt. Supp. Br. at 9. But as we explained, the presence of the MCA in the charge simply creates *the underlying offense* of murder by one Indian against another in Indian country. *See supra* n.7. Without the MCA, it would not be a federal crime for an Indian to murder another Indian in Indian country, *see Ex parte Crow Dog*, 109 U.S. at 567–68, and there necessarily could be no federal conspiracy crime to commit an underlying offense that does not exist. But the MCA *does* make it a federal crime for an Indian to commit such a murder. Sections 1117, 1111, and the MCA then combine to form the federal offense of conspiracy to commit that crime. That is the only role that the MCA plays here; the MCA does not affect the generally applicable crime of conspiracy since it only deals with enclave statutes. In other words, if the underlying enclave offense is enumerated in the MCA, there is no need for a conspiracy to commit that offense to also be listed. *See Begay*, 42 F.3d at 501.

In sum, because the situs of the crime is not an element of § 1117, conspiracy to commit murder in Indian country is a criminal law of general applicability. The offense applies to everyone, everywhere, including Indians in Indian country, even

though it is not enumerated in the MCA. We therefore conclude the district court possessed subject-matter jurisdiction under § 3231 over Martin's conviction.

B. Reasonableness of the Sentence

Martin next contends that her sentence is both procedurally and substantively unreasonable.

"Our review of the reasonableness of a sentence proceeds in two steps." *United States v. Sanchez-Leon*, 764 F.3d 1248, 1261 (10th Cir. 2014). "We first 'ensure that the district court committed no significant procedural error.'" *Id.* (quoting *Gall v. United States*, 552 U.S. 38, 51 (2007)). "If there is no reversible procedural error, we then consider the substantive reasonableness of the sentence." *Id.* (quotation marks omitted).

1. Procedural Reasonableness

The procedural component of our review "focuses on the manner in which the sentence was calculated." *Id.* (quotation marks omitted). "Procedural error includes 'failing to calculate (or improperly calculating) the Guidelines range, treating the Guidelines as mandatory, failing to consider the § 3553(a) factors, selecting a sentence based on clearly erroneous facts, or failing to adequately explain the chosen sentence—including an explanation for any deviation from the Guidelines range.'" *Id.* at 1261–62 (quoting *Gall*, 552 U.S. at 51). A district court's alleged improper application of a vulnerable-victim enhancement also falls under the procedural component of our reasonableness inquiry. *See United States v. Scott*, 529 F.3d 1290, 1300 (10th Cir. 2008).

Martin argues her sentence is procedurally unreasonable because the district court: (1) improperly anchored its analysis to a Guidelines range intended to implement a life sentence for an adult rather than a juvenile; (2) designated Martin's father as a vulnerable victim which resulted in a two-level enhancement to her offense level; (3) considered harm suffered by her coconspirators as a sentencing factor; (4) failed to state why it refused to fully grant Martin's requested downward variance to 210 months; and (5) imposed a sentence greater than Martin's coconspirators, creating an unwarranted sentencing disparity.

We review the procedural reasonableness of the district court's sentencing decisions for abuse of discretion. *Sanchez-Leon*, 764 F.3d at 1262. Under this standard, "[w]hen evaluating the district court's interpretation and application of the Sentencing Guidelines, we review legal questions de novo and factual findings for clear error, giving due deference to the district court's application of the guidelines to the facts." *United States v. Smith*, 178 F.4th 572, 580 (10th Cir. 2026) (quotation marks omitted). But if the defendant "did not object on procedural grounds after his sentence was imposed," we review for plain error. *United States v. Lucero*, 130 F.4th 877, 884 (10th Cir. 2025). We address Martin's arguments in turn.

a. Calculation of the Guidelines Range

Martin asserts that the district court improperly calculated her Guidelines range by starting with a range of life imprisonment. "In construing the sentencing guidelines, we are bound not only by the guidelines themselves but also by the commentary to the extent that it is not plainly erroneous or inconsistent with the

guidelines." *United States v. Ulibarri*, 176 F.4th 1230, 1234–35 (10th Cir. 2026) (quotation marks omitted).

Section 2A1.5 of the Guidelines is the starting point for a conviction of conspiracy to commit murder under § 1117. It levies a base offense level of thirty-three. But "[i]f the offense resulted in the death of a victim," it directs the judge to "apply § 2A1.1 (First Degree Murder)." U.S.S.G. § 2A1.5(c)(1). Section 2A1.1 imposes a base offense level of forty-three. The provision's commentary notes read:

> This guideline applies in cases of premeditated killing. This guideline also applies when death results from the commission of certain felonies. For example, this guideline may be applied as a result of a cross reference . . . . In the case of premeditated killing, life imprisonment is the appropriate sentence if a sentence of death is not imposed.

Id. § 2A1.1, cmt. n.1–2.

The district court followed this procedure when calculating Martin's Guidelines range: Martin's crime of conspiracy to commit murder resulted in the death of two victims, so the district court cross-referenced to § 2A1.1 to reach a base offense level of forty-three. The Guidelines range for that offense level and a Criminal History Category of one is life imprisonment. The district court thus properly calculated Martin's Guidelines range as life. *See Smith*, 178 F.4th at 580 ("A district court should begin all sentencing proceedings by correctly calculating the applicable Guidelines range." (citation modified)).

Martin concedes that the district court mechanically applied the Guidelines correctly. *See* R., Vol. III at 19 ("THE COURT: . . . [T]he applicable guideline range

is Life, correct? [Martin's Counsel]: Yes."). Yet she insists that since she was a juvenile at the time of her crime, the district court could not "begin its analysis at the *adult* offense level of 43 before considering a variance." Aplt. Br. at 30; *see also id.* ("[W]hen the starting point for the § 3553(a) analysis is incorrect, the end point, i.e., the resulting sentence, can rarely be shown to be unaffected." (alteration in original) (quoting *United States v. Rosales-Miranda*, 755 F.3d 1253, 1259–60 (10th Cir. 2014))). This, she argues, is because under *Miller v. Alabama*, 567 U.S. 460 (2012), "a mandatory life sentence for a juvenile offender would violate the Eighth Amendment." *Id.* at 29.

But Martin overlooks the fact that the federal Sentencing Guidelines are merely *advisory*. *United States v. Booker*, 543 U.S. 220, 264 (2005). In *Miller*, the Supreme Court considered whether a state's *mandatory* life sentencing scheme violated the Eighth Amendment when applied to a juvenile who was tried as an adult. The Court ultimately held "that the Eighth Amendment forbids a sentencing scheme that mandates life in prison without possibility of parole for juvenile offenders." *Miller*, 567 U.S. at 479. The Court, however, did "not foreclose a sentencer's ability to make that judgment in homicide cases, we require it to take into account how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison." *Id.* at 480; *see also id.* at 494 (Roberts, C.J., dissenting) ("[I]f a 17-year-old is convicted of deliberately murdering an innocent victim, it is not 'unusual' for the murderer to receive a mandatory sentence of life without parole.").

The district court did not violate *Miller*. It applied the Guidelines as written to a seventeen-and-a-half-year-old convicted of conspiracy to murder that resulted in two premeditated killings and arrived at an advisory range of life. Martin makes no argument nor provides any authority to suggest what the district court should have done differently when calculating her initial sentence range. For instance, when Martin raised this same argument at the sentencing hearing, the district court asked her counsel what the starting range should be if not life. Martin's counsel had no answer other than to suggest the court should have disregarded the Guidelines altogether. *See* R., Vol. III at 50–51 ("THE COURT: So where do you think I should have started? [Martin's Counsel]: I don't think in this case that the guidelines are . . . relevant given that they are telling you the starting point would be unconstitutional if it were mandatory. THE COURT: Okay, which is exactly why I granted your client's request for a variance from the guidelines. [Martin's Counsel]: That's true."). But even though the Guidelines are advisory, the district court cannot simply disregard them; it "*must* consult those Guidelines and take them into account when sentencing." *Booker*, 543 U.S. at 264 (emphasis added).

In any event, the district court partially granted Martin's motion for a downward variance and did not impose a life sentence. The district court even noted that Martin's "sentence would remain the same even if there [was] an error in the calculation of the sentencing guidelines." R., Vol. III at 49. All said, if Martin serves her entire sentence, she will be fifty-five years old when released.

In sum, we conclude the district court did not abuse its discretion by accurately calculating a Guidelines range and considering that advisory range as a starting point.

b. Vulnerable-Victim Enhancement

Martin next contends the district court erred in finding her father was a vulnerable victim under § 3A1.1(b)(1) of the Guidelines and applying a two-level enhancement to her overall offense level. "In evaluating the application of a Guidelines enhancement, we review factual findings for clear error, but to the extent the defendant asks us to interpret the Guidelines or hold that the facts found by the district court are insufficient as a matter of law to warrant an enhancement, we must conduct a de novo review." *Scott*, 529 F.3d at 1300 (citation modified). We thus review a district court's factual findings about a victim's "physical vulnerability" that underpins the court's application of the enhancement for clear error. *See id.* at 1301–02. "Clear error exists if a factual finding is wholly without factual support in the record, or after reviewing the evidence, we are definitively and firmly convinced that a mistake has been made." *United States v. Hooks*, 551 F.3d 1205, 1217 (10th Cir. 2009) (quotation marks omitted).

The Guidelines recommend a two-level enhancement "[i]f the defendant knew or should have known that a victim of the offense was a vulnerable victim." U.S.S.G. § 3A1.1(b)(1). "Application Note 2 to the vulnerable victim guideline requires that the victim must be '*unusually* vulnerable due to age, physical or mental condition, or . . . otherwise *particularly susceptible to the criminal conduct.*" *Scott*, 529 F.3d at 1300 (quoting U.S.S.G. § 3A1.1 cmt. n.2). In other words, "to classify a

victim as 'vulnerable,' the sentencing court must make particularized findings of vulnerability." *United States v. Tissnolthtos*, 115 F.3d 759, 761 (10th Cir. 1997). "The focus of the inquiry must be on the victim's personal or individual vulnerability." *Id.*

The district court made particularized findings that Martin's father needed a walker to get around and used an oxygen-tank full time to breathe. It also found that he was grossly overweight and suffered from severe and chronic diseases, such as COPD, heart problems, and diabetes. The court relied on record evidence contained in the PSR to make these findings. *See, e.g.*, R., Vol. II at 270.

Martin contends the district court's findings were erroneous since the evidence in the PSR came from an FBI interview of Martin's aunt (her father's sister), whose account is "unreliable and unsupported by any physical evidence." Aplt. Br. at 43–44. She also claims the district court's finding is undercut by the fact that "[t]here was no walker or . . . oxygen tank in the house where Mr. Martin was killed." *Id.* at 44.

But the district court permissibly relied on the evidence in the PSR since there was no evidence in the record (other than the purported *absence* of a walker or oxygen tank in the home where Martin's father was killed) to belie its findings. Martin even admitted at her change of plea hearing that her father "used a walker" and "was on disability." R., Vol. I at 35. The district court's factual findings only needed to "be supported by a preponderance of the evidence." *Hooks*, 551 F.3d at 1217. That evidentiary threshold combined with our own clear-error review

creates a highly deferential standard we use to assess a district court's factual findings at sentencing. *See id.* ("A finding must be more than possibly or even probably wrong; the error must be pellucid to any objective observer." (citation modified)). Martin's conclusory objection to her aunt's testimony, without any affirmative record evidence as support, does not overcome this standard. The district court's factual findings about her father's health were not wholly without factual support and are therefore not clearly erroneous.

From these factual findings, the district court then concluded that Martin's father's health issues made him particularly vulnerable to lethal attack because he was less able to evade or escape than an ordinary person. Martin, however, argues the vulnerable-victim enhancement was inappropriate because her father's health issues did not make him anymore susceptible to being killed by bludgeoning and immolation than an ordinary person would be. She cites our decision in *United States v. Tissnolthtos*, 115 F.3d 759 (10th Cir. 1997), as support for her argument.

Reviewing the district court's legal conclusion de novo, we are satisfied that the court did not err in applying the enhancement. The situation here is different from the one we confronted in *Tissnolthtos*. In that case, we held the vulnerable-victim enhancement to be inappropriate when it was based solely on the victim's elderly status. *See* 115 F.3d at 761 ("A comparison of the defendant's age with the victim's is an insufficiently particularized finding of the victim's vulnerability."). But the district court here relied on factual findings about Martin's father's *unique* and *particularized* health conditions. His physical infirmities distinguished him from

the general population because he was less likely than a healthy victim to ward off the attack. *See, e.g.*, *Scott*, 529 F.3d at 1301–02 (recognizing a district court may rely on a victim's "medical and physical needs," as well as his "physical vulnerabilit[ies]" and "stature" when applying the enhancement); *United States v. Checora*, 175 F.3d 782, 790 (10th Cir. 1999) (affirming a district court's application of the enhancement because the victim was "intoxicated, outnumbered, and much smaller in stature than his assailants . . . [so] he was particularly susceptible to the defendants' criminal conduct"); *United States v. Joe*, 785 F. App'x 528, 530 (10th Cir. 2019) (affirming a district court's finding that a victim's cerebral palsy disability "made him vulnerable to physical attacks" which was sufficient to support the enhancement).

Martin also contends the district court "should have . . . considered in the vulnerability analysis" her status as a juvenile. Aplt. Br. at 45. In *Tissnolthtos*, we did say that "information about a defendant may be relevant in assessing a victim's vulnerability." 115 F.3d at 761–62. But that was in the context of whether "standard biographical information about a defendant [can] salvage a vulnerable victim enhancement when the only information known about the victim is his or her age" (we concluded it could not). *Id.* at 762. Martin offers no relevant authority to suggest the district court should have declined the enhancement simply because she was a juvenile. Even still, her minor status had nothing to do with her father's vulnerability since she played no physical role in the attack.

c. Harm to Coconspirators

Martin next argues that the district court's consideration of "[h]arm to co-conspirators who chose to participate in a conspiracy to kill two people is not" a proper "sentencing factor under 18 U.S.C. § 3553(a)." Aplt. Br. at 31. *See United States v. Smart*, 518 F.3d 800, 803–04 (10th Cir. 2008) ("[I]f a district court bases a sentence on a factor not within the categories set forth in § 3553(a), this would indeed be one form of procedural error."). Martin points to the district court's statement at the sentencing hearing that it "consider[ed] [her] instigating and manipulative roles in perpetuating these crimes. Not only is she responsible for the death of her parents, but her actions also severely damaged many other lives, including her co-conspirators . . . ." R., Vol. III at 43.

Martin concedes she did not specifically object to this alleged error below since her counsel only made a general "procedural objection to the district court's sentence." Aplt. Br. at 32–33. We thus consider this argument under plain-error review. *See United States v. Finnesy*, 953 F.3d 675, 690 (10th Cir. 2020) (reviewing for plain error when the defendant merely "alerted the district court to *an* issue, [but] did not alert the court to *the issue at hand*; that is, it was not the issue that he [presented] on appeal" (citation modified)).

While "harm to codefendants" is not a specifically enumerated factor in § 3553(a), Martin's outsized influence and role as a leader in the conspiracy comfortably fits under "the nature and circumstances of the offense" factor. *See* 18 U.S.C. § 3553(a)(1); *see also United States v. Cozad*, 21 F.4th 1259, 1263

(10th Cir. 2022) ("[A]ppellate courts have interpreted § 3553(a) liberally."). A conspiracy is an agreement between two or more people to commit a crime—it bears on the nature and circumstances of the conspiracy whether Martin was an influential (or even manipulative) leader among her coconspirators.[9] *See, e.g.*, *United States v. McGee*, 540 F. App'x 948, 951 (11th Cir. 2013) (per curiam) (affirming a sentence as reasonable where the district court "specifically noted [the defendant's] extensive planning, [and] her manipulation of" her coconspirators). While consideration of Martin's manipulation of her coconspirators may be one step removed from the harm they suffered from that manipulation, any error by the district court in taking that step was not plain. If an influential leader of a conspiracy

[9] Martin also claims that the district court's "assumptions" that she played "instigating and manipulative roles" over her coconspirators "have more in common with cultural tropes than the evidence in this case." Aplt. Br. at 31–32; *see also id.* ("Eve tempted Adam with forbidden fruit . . . . Jezebel convinced her husband, King Ahab, to abandon the Hebrew God and worship other deities."). "Underlying the district court's finding of influence is the idea that Ashlie Martin held some kind of sophisticated sexual influence over her co-conspirators." Aplt. Reply at 18.

Yet there *is* record evidence in the PSR to support the district court's finding that Martin manipulated her coconspirators into committing the crime. Martin relied on a false pregnancy to convince Miller, a fifteen-year-old boy, that he had to kill her parents so they could raise their child together. *See* R., Vol. II at 267–68. Martin admits she was not pregnant at the time, but protests that "there is no evidence to show that she did not *believe* herself to be pregnant." Aplt. Reply at 19 (emphasis added). And since "[t]he district court did not comment on [her] pregnancy," Martin claims the court "made no factual finding that she had lied about it." *Id.* We, however, afford due deference to the district court's conclusion because its factual finding that Martin manipulated her coconspirators was not clearly erroneous. *See Smith*, 178 F.4th at 580. And we see nothing in the hearing transcript to suggest the district court relied on a "cultural trope" to unduly punish Martin because she is a woman.

manipulates her coconspirators into committing the underlying crime, it makes sense that they could be harmed from the consequences of that crime (*e.g.*, imprisonment). *See Lucero*, 130 F.4th at 884 ("[D]istrict courts have broad discretion to consider particular facts in fashioning a sentence under 18 U.S.C. § 3553(a), even when those facts are already accounted for in the advisory Guidelines range." (citation modified)). Martin provides no relevant authority suggesting otherwise.

We conclude it was not plain error for the district court to consider the harm Martin caused her coconspirators.

d. Explanation of the Downward Variance

Martin contends the district court failed to sufficiently explain why it did not fully grant her request for a downward variance from life to 210 months. She admits her counsel did not specifically object to this alleged error so plain-error review applies. *See Finnesy*, 953 F.3d at 690. Martin nevertheless insists "[t]he error is plain because the law is well-established that a district court must explain its reasons for imposing a particular sentence on a particular defendant." Aplt. Br. at 36.

To satisfy its obligation to adequately explain a chosen sentence, the district court "should set forth enough to satisfy the appellate court that [it] has considered the parties' arguments and has a reasoned basis for exercising [its] own legal decisionmaking authority." *Rita v. United States*, 551 U.S. 338, 356 (2007). And "[w]hen imposing a within-Guidelines sentence"—or here, a *below*-guideline sentence—the district court "need not explicitly refer to either the § 3553(a) factors

or respond to every argument for leniency that it rejects in arriving at a reasonable sentence." *Sanchez-Leon*, 764 F.3d at 1262 (citation modified).

The district court explained that in granting Martin's motion for a downward variance, it "considered the nature and circumstances of the offense, as well as [Martin's] personal characteristics, lack of criminal history, and [her] motion." R., Vol. III at 48. After reviewing the district court's statement of reasons, we are satisfied that the court adequately explained its reasons for Martin's sentence. It was not required to explain in detail why it did not *fully* vary downwards to Martin's proposed number. *See United States v. Ruiz-Terrazas*, 477 F.3d 1196, 1199 (10th Cir. 2007) ("Where . . . a district court imposes a sentence falling within the range suggested by the Guidelines, Section 3553(c) requires the court to provide only a general statement of the reasons for its imposition of the particular sentence." (citation modified)). "The record before us reveals that the district court entertained [Martin's] Section 3553(a) arguments at length; indicated on the record that it had considered the Section 3553(a) factors; and proceeded to explain its reliance on [and downward variance from] the range suggested by the sentencing Guidelines." *Id.* at 1202–03. "In our view, no more is required by statute or our precedents." *Id.* at 1203.

Martin's argument thus fails under plain-error review since "the district court committed no error at all." *Id.* at 1199.

e. Unwarranted Sentencing Disparity

Martin's final procedural argument is that the district court failed to adequately compare her to her coconspirators, which resulted in an unwarranted sentencing disparity since she received a sentence thirty-six months longer than Voyles and 156 months longer than Miller. Martin claims, "the mere fact that [she] hatched the idea to kill her abusive parents does not render her more culpable than" Voyles and Miller who "carried out the killings and had full control over the details of how the murders would be committed." Aplt. Br. at 40.

"But § 3553(a)(6) does not require the sentencing court to compare the sentences of codefendants; rather, it looks to uniformity on a national scale." *United States v. Ivory*, 532 F.3d 1095, 1107 (10th Cir. 2008). As Martin even admits, her below-guideline sentence fits "squarely" between the average and median length of sentences over the last five years for defendants with the same offense level and criminal history category as her. Aplt. Br. at 39; *see also* R., Vol. II at 280 (Judiciary Sentencing Information (JSIN) statistics in the PSR showing the average term of imprisonment was 416 months, and the median length was 470 months).[10] And even

[10] Martin briefly argues that the JSIN statistics are not relevant because they concern adult defendants and "comparing the sentence of an adult defendant to that of a juvenile would be of limited utility given the two are not similarly situated." Aplt. Br. at 39 (quoting *United States v. Tom*, 327 F. App'x 93, 99 (10th Cir. 2009) (unpublished)). But even though Martin was a juvenile, the government chose to prosecute her as an adult; a choice that both this court and the district court affirmed. Martin does not point to any statistics the district court should have considered instead of the JSIN data in the PSR to avoid sentencing disparities. She simply argues that her sentence is unduly harsher than her coconspirators' sentences. The JSIN statistics in the PSR were thus reasonable benchmarks and the district court did

though a district court *may* consider sentencing disparities between coconspirators, *see Gall*, 552 U.S. at 599–600, Martin's argument that her sentence is unreasonable compared to her coconspirators' sentences is not a sufficient basis for a procedural challenge. *See United States v. Davis*, 437 F.3d 989, 997 (10th Cir. 2006) ("[A] criminal defendant alleging a disparity between his sentence and that of a co-defendant is not entitled to relief from a sentence that is properly within the sentencing guidelines and statutory requirements.").

We therefore conclude Martin's sentence is procedurally reasonable.

2. Substantive Reasonableness

Since Martin's sentence is procedurally reasonable, we next consider her arguments that it is substantively unreasonable. Martin contends her sentence of 456 months in prison is substantively unreasonable because: (1) the district court did not adequately consider her personal characteristics and prospects for rehabilitation; and (2) the district court created an unwarranted sentencing disparity between her and her coconspirators.

Like our review for procedural unreasonableness, "[w]e review a district court's sentencing decision for substantive reasonableness under an abuse-of-discretion standard, looking at the totality of the circumstances." *United States v. Guevara-Lopez*, 147 F.4th 1174, 1183 (10th Cir. 2025) (quotation marks omitted).

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not abuse its discretion considering them in furtherance of its duty to avoid unwarranted sentencing disparities.

Under this standard, we grant "substantial deference to the district court" because of its "superior position to find facts and judge their import under § 3553(a) in the individual case." *Id.* at 1184 (quotation marks omitted). "And when we review a downward variance from the recommended guidelines range, as we do here, even more solicitude to the sentencing court is appropriate." *United States v. Barnes*, 890 F.3d 910, 916 (10th Cir. 2018) (citation modified). This is because a "downward variance is based simply on the district court's *discretionary authority* to consider the nature and circumstances of the offense and select a sentence sufficient, but not greater than necessary, to comply with all of the purposes of sentencing." *Id.* (citation modified). As a result, a "below-guideline sentence" is entitled to a "rebuttable presumption of reasonableness" when "challenged by the defendant as unreasonably harsh." *United States v. Balbin-Mesa*, 643 F.3d 783, 788 (10th Cir. 2011).

Substantive reasonableness is similar to procedural reasonableness; indeed, the two standards often overlap "when a challenge is based on the district court's explanation of the § 3553(a) factors." *United States v. Crosby*, 119 F.4th 1239, 1248 (10th Cir. 2024). The district court's explanation is "both a procedural requirement" and is "relevant to whether the length of the sentence is substantively reasonable[.]" *Id.* We assess substantive reasonableness by considering "whether the sentence is unreasonable given the totality of the circumstances in light of the 18 U.S.C. § 3553(a) factors." *Barnes*, 890 F.3d at 915 (citation modified). "A sentence is more

likely to be within the bounds of reasonable choice when the court has provided a cogent and reasonable explanation for it." *Id.* at 917.

We note from the start that Martin's sentence is below the Guidelines range, so it is presumptively reasonable, and we afford the district court's ultimate sentencing decision substantial deference and solicitude.

a. Characteristics of the Defendant

Martin argues the district court overlooked the facts that she "committed the charged offense as a child," she had a low IQ, she had a horrific childhood, and that her expert testified that she had good prospects for rehabilitation. Aplt. Br. at 18–24.

But the district court addressed each of those facts when imposing Martin's sentence in a lengthy statement of reasons. The court first explained that it had "given a lot of thought to this case and to Ms. Martin's sentence specifically." R., Vol. III at 42. Along with considering "the horrific and depraved nature of [Martin's] crime," and its "terrible impact on [her] family and community," the district court also weighed various mitigating circumstances. *Id.* For example, it considered Martin's "neglect and likely sexual abuse during her childhood, her persistent unstable home situation, the deplorable home conditions in which she lived, and notable mental, educational and intellectual deficits." *Id.* at 43. The district court measured the fact Martin was a "minor at the time of the commission of [the] offense," *id.* at 48; even prefacing the hearing by noting "the sentencing guidelines in the federal system normally apply to adults," *id.* at 10. Finally, the

district court said that it had pondered "all the factors set forth in 18 U.S.C. § 3553(a)." *Id.* at 48 (citation modified).

And although Martin's expert testified at the sentencing hearing that Martin exhibited "good prognostic indicators" for rehabilitation, R., Vol. IV at 31, the expert nevertheless attested that Martin was a "moderate risk . . . for reoffending" due to her "lack of family support," *id.* at 43. Martin's expert also cautioned, "I think [Martin] is treatable, but I can't say there is a guarantee." *Id.* at 33. The district court, of course, heard all this testimony right before imposing Martin's sentence and necessarily contemplated it when granting the downward variance. We afford substantial deference and solicitude to the weight the district court placed on the expert's testimony. *See Barnes*, 890 F.3d at 916.

Because the record reveals that the district court *did* consider all the evidence and Martin's pleas for leniency, Martin's challenge on appeal "simply asks us to re-weigh factors already presented to the district court—something we cannot and will not do." *Ulibarri*, 176 F.4th at 1239 (quotation marks omitted). "For our purposes, it is enough that the district court thoroughly weighed each of these § 3553(a) factors, reached a logical conclusion, and detailed its reasoning." *Id.* at 1240 (quotation marks omitted); *see also Lucero*, 130 F.4th at 888 ("We do not require a ritualistic incantation to establish consideration of a legal issue, nor do we demand that the district court recite any magic words to show us that it fulfilled its responsibility to be mindful of the § 3553(a) factors that Congress has instructed it to consider." (citation modified)).

The district court properly assessed Martin's personal characteristics and provided a cogent and reasonable explanation for her sentence; that was enough.

b. Unwarranted Sentencing Disparity

Finally, much like one of her procedural arguments, Martin contends her sentence is also substantively unreasonable since she received a longer sentence than her coconspirators when she "did not kill anyone." Aplt. Br. at 25. She points out that even though Voyles was an adult at the time of the murders, he received a shorter sentence than her as a juvenile.

But as we explained, sentencing factor § 3553(a)(6) concerns unwarranted sentencing disparities on a national scale, not among defendants or coconspirators. *See supra* Section II.B.1.e. "[I]t is not enough to say, . . . that the court failed . . . to discuss the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty [of] similar conduct." *United States v. Verdin-Garcia*, 516 F.3d 884, 898 (10th Cir. 2008) (quotation marks omitted).

At any rate, a purported sentencing disparity must be *unwarranted* for it to be unreasonable. The record here shows the district court had a reasonable basis to impose a harsher sentence on Martin than her coconspirators. *See Davis*, 437 F.3d at 997 ("[D]isparate sentences are allowed where the disparity is explicable by the facts on the record." (quotation marks omitted)). Miller was just fifteen years old when Martin manipulated him into committing the murders. Although Voyles was an adult and Martin was (even if just barely) a juvenile, they were only a year apart in age. *See* R., Vol. III at 51 (Martin's counsel acknowledging "there is not a huge

difference in age" between the two). And Voyles offered the government substantial assistance which warranted a downward departure.

Because Martin's procedural and substantive challenges to her sentence fail, we affirm her sentence as reasonable.

III. Conclusion

For these reasons, we affirm Martin's conviction and sentence.