

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

October 5, 2007

Charles R. Fulbruge III
Clerk

No. 07-30140
Summary Calendar

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

MICHAEL ANTHONY WILLIAMS

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 2:06-CR-20063-1

Before KING, DAVIS, and CLEMENT, Circuit Judges.

PER CURIAM:*

Michael Anthony Williams appeals the sentence imposed following his guilty plea conviction for possession of child pornography. Williams argues that his sentence of 78 months of imprisonment, which was within the applicable advisory sentencing guidelines range, is unreasonable because it is greater than necessary to meet the sentencing objectives of 18 U.S.C. § 3553(a). Williams asserts that his sentence should have been lower than the guidelines range.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Williams did not raise a specific objection in the district court to the reasonableness of his sentence, which could result in review for plain error. See *United States v. Hernandez-Martinez*, 485 F.3d 270, 272 (5th Cir. 2007). We need not decide whether plain error applies, however, because even under a reasonableness standard, Williams's arguments fail.

There is no dispute that the guidelines range was properly calculated. Thus, Williams's sentence is entitled to a rebuttable presumption of reasonableness. See *United States v. Alonzo*, 435 F.3d 551, 553-54 (5th Cir. 2006). In order to review a sentence for reasonableness, this court must examine whether the district court's sentence failed to "account for a factor that should have received significant weight," gave "significant weight to an irrelevant or improper factor," or represented "a clear error of judgment in balancing the sentencing factors." *United States v. Nikonova*, 480 F.3d 371, 376 (5th Cir. 2007), petition for cert. filed (May 21, 2007)(No. 06-11834). A review of the record results in the finding that Williams's sentence does not fall "so far afield" of one of these standards. See *id.*

Williams also argues that his sentence is unreasonable as a matter of law because this court's application of a presumption of reasonableness to sentences imposed within a properly calculated guidelines range is in violation of the Sixth Amendment and the principles announced in *United States v. Booker*, 543 U.S. 220 (2005). He concedes that the argument is foreclosed by circuit precedent but raises it to preserve it for further review.

Williams's argument is foreclosed by *Rita v. United States*, 127 S. Ct. 2456, 2462-66 (2007), wherein the Supreme Court affirmed the use of a presumption of reasonableness to review sentences imposed within the guidelines range.

Accordingly, the judgment of the district court is AFFIRMED.