

United States Court of Appeals for the Fifth Circuit

No. 23-30596
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

July 12, 2024

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

ERISTON WILSON,

Defendant—Appellant.

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 2:19-CR-34-3

Before SMITH, HIGGINSON, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:*

Eriston Wilson challenges his conviction and sentence for conspiracy to commit Hobbs Act robbery and aiding and abetting the brandishing of a firearm during a crime of violence, in connection with his role in a string of robberies.

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

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We affirm the district court's denial of his motion for a new trial based on newly discovered evidence, as the motion was not timely filed. *See* FED. R. CRIM. P. 33(b)(1). We also affirm the court's application of U.S.S.G. § 1B1.2(d) because Wilson has failed to show that the court clearly erred by implicitly finding that it would have still convicted him of the object offenses of the Hobbs Act robbery conspiracy despite the alleged newly discovered evidence. *See United States v. Lockhart*, 844 F.3d 501, 513 (5th Cir. 2016).

Finally, Wilson has not demonstrated that the district court abused its discretion in denying his request for a downward variance. *See United States v. Douglas*, 957 F.3d 602, 609 (5th Cir. 2020). His within-guidelines sentence is presumptively reasonable, and he has not shown that the sentencing court failed to account for a factor that should have received significant weight, gave significant weight to an irrelevant or improper factor, or made a clear error of judgment in weighing the sentencing factors. *See id.*

AFFIRMED.