

United States Court of Appeals for the Fifth Circuit

No. 24-60004
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

August 19, 2024

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

GERALD JOSEPH TOOKER,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 2:23-CR-10-1

Before SMITH, STEWART, and DUNCAN, *Circuit Judges.*

PER CURIAM:*

Gerald Joseph Tooker pleaded guilty to escaping the custody of a federal institution. He was sentenced above the guidelines range to 24 months of imprisonment and three years of supervised release. Tooker argues on appeal that the district court exhibited a clear error of judgment

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

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when balancing the 18 U.S.C. § 3553(a) sentencing factors and imposed a substantively unreasonable sentence.

We review for abuse of discretion. *See Gall v. United States*, 552 U.S. 38, 51 (2007). An above-guidelines sentence is substantively unreasonable if it “(1) does not account for a factor that should have received significant weight, (2) gives significant weight to an irrelevant or improper factor, or (3) represents a clear error of judgment in balancing the sentencing factors.” *United States v. Diehl*, 775 F.3d 714, 724 (5th Cir. 2015). Based on our review of the record, and in light of our deferential standard of review, we are not persuaded that the district court abused its discretion. *See Gall*, 552 U.S. at 51; *Diehl*, 775 F.3d at 724.

AFFIRMED.