

United States Court of Appeals for the Fifth Circuit

No. 24-60172
Summary Calendar

United States Court of Appeals
Fifth Circuit
FILED
September 13, 2024

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

ERIC JAMERSON HINES,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Mississippi
USDC No. 3:23-CR-58-1

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

PER CURIAM:*

Eric Jamerson Hines appeals the 46-month sentence imposed by the district court following his guilty plea conviction for possession of a firearm by a convicted felon. Hines argues that the within-guidelines sentence was substantively unreasonable because he provided ample mitigation for the court to impose a lesser sentence and he was already serving a 24-month

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

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sentence due to the revocation of his supervised release for the same offense conduct.

Because Hines sought a downward variance from the sentencing guidelines range, he preserved his general challenge to the substantive reasonableness of the sentence. *See Holguin-Hernandez v. United States*, 589 U.S. 169, 174-75 (2020). We review a preserved challenge to the substantive reasonableness of a sentence for an abuse of discretion. *Gall v. United States*, 552 U.S. 38, 51 (2007); *see United States v. Hernandez*, 876 F.3d 161, 166 (5th Cir. 2017). A properly calculated sentence within the guidelines range is presumptively reasonable. *United States v. Jenkins*, 712 F.3d 209, 214 (5th Cir. 2013). This presumption is rebutted only if the appellant demonstrates that the sentence does not account for a factor that should receive significant weight, gives significant weight to an irrelevant or improper factor, or represents a clear error of judgment in balancing the sentencing factors. *Id.*

Here, the record demonstrates that the district court considered Hines's mitigation arguments, the advisory guidelines range, the statutory penalties, and the 18 U.S.C. § 3553(a) factors. Further, although Hines was serving a 24-month revocation sentence for much of the same conduct, we have noted that a sentence imposed on revocation of supervised release punishes a breach of trust for violating the conditions of supervision; it is a distinct sentence from the sentence imposed for the new offense. *United States v. Napper*, 978 F.3d 118, 125 (5th Cir. 2020). In any event, the district court granted Hines's request that the 46-month sentence run concurrently with the previously imposed revocation sentence.

Hines's disagreement with the district court's weighing of the § 3553(a) factors is insufficient to rebut the presumption of reasonableness attached to his within-guidelines sentence. *See Hernandez*, 876 F.3d at 167; *Jenkins*, 712 F.3d at 214. Accordingly, the judgment is AFFIRMED.