

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

January 23, 2020

Lyle W. Cayce
Clerk

No. 19-10362
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

BARRY LALANE HARRELL,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:11-CR-196-5

Before JONES, ELROD, and OLDHAM, Circuit Judges.

PER CURIAM:*

Barry Lalane Harrell appeals the 24-month sentence of imprisonment imposed following the revocation of his supervised release. He contends that the sentence is substantively unreasonable because the district court failed to adequately consider his history and characteristics, focused solely on his criminal history, and imposed a sentence above the advisory policy range without adequate justification.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 19-10362

The record reflects that the district court heard Harrell's arguments for leniency based on his history and characteristics and implicitly considered those arguments but determined that the 24-month sentence was appropriate based on the applicable 18 U.S.C. § 3553(a) factors, in view of Harrell's criminal history and supervised release violations. We must give due deference to the district court's sentencing decision and decline to reweigh the applicable § 3553(a) factors. *See Gall v. United States*, 552 U.S. 38, 51 (2007).

With respect to challenges to substantive reasonableness, we have routinely upheld revocation sentences exceeding the advisory policy range, even where, as here, the sentence equals the statutory maximum. *United States v. Warren*, 720 F.3d 321, 332 (5th Cir. 2013). Under the totality of the circumstances, the sentence in this case was not an abuse of discretion. *See id.*

AFFIRMED.