

United States Court of Appeals
for the Fifth Circuit

No. 20-30539
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

March 8, 2021

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

BRANT R. LANDRY,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 5:18-CR-252-1

Before JOLLY, ELROD, and GRAVES, *Circuit Judges.*

PER CURIAM:*

Brant R. Landry pleaded guilty to one count each of conspiracy to distribute and possess with intent to distribute anabolic steroids, possession with intent to distribute anabolic steroids, and manufacture of anabolic steroids, and he received a within-guidelines sentence of 87 months in prison.

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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He now appeals, asserting that the district court erred in (1) applying a two-level enhancement under U.S.S.G. § 2D1.1(b)(1) based on the possession of a dangerous weapon and (2) applying a four-level enhancement under U.S.S.G. § 3B1.1(a) for his role as a leader or organizer. In addition, Landry contends that his sentence is substantively unreasonable.

We find no clear error in the district court's application of § 2D1.1(b)(1). *See United States v. King*, 773 F.3d 48, 52 (5th Cir. 2014). The district court's application of the enhancement is plausible in light of the record as a whole, which showed that when Landry was stopped on his way to deliver vials of steroids to a coconspirator, a loaded firearm was found next to the console of the vehicle in which the steroids were hidden. *Id.*; *see United States v. Cisneros-Gutierrez*, 517 F.3d 751, 764-65 (5th Cir. 2008). Although Landry contends that it is not unusual for individuals to carry firearms in his vehicle, he has not shown "that it was clearly improbable that the weapon was connected with the offense." *United States v. Ruiz*, 621 F.3d 390, 396 (5th Cir. 2010).

Likewise, Landry has shown no clear error in the imposition of the § 3B1.1(a) enhancement. *See United States v. Fillmore*, 889 F.3d 249, 255 (5th Cir. 2018). The district court found that the offense involved at least five participants. *See* § 3B1.1(a). Although Landry asserts that an individual identified in the presentence report as assisting in the drug offenses was not actually involved, the district court did not list this individual as a participant, and Landry's failure to challenge the individuals actually identified by the court does not warrant relief. *See, e.g., Brinkmann v. Dallas Cty. Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987) (explaining that the failure to identify any errors in the district court's decision is the same as failing to appeal it). To the extent that Landry is arguing that he is not a leader or organizer because he did not direct third-party sales of the anabolic steroids or receive a share of the profits from those sales, he has not shown that the

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district court erred in its conclusion, given the evidence that Landry was solely responsible for manufacturing the steroids and that he recruited and directed the actions of other participants. *See Fillmore*, 889 F.3d at 255; *United States v. Curtis*, 635 F.3d 704, 720 (5th Cir. 2011).

We review a challenge to the substantive reasonableness of a sentence for abuse of discretion. *Gall v. United States*, 552 U.S. 38, 51 (2007). Landry's within-guidelines sentence is entitled to a presumption of reasonableness. *See United States v. Rashad*, 687 F.3d 637, 644 (5th Cir. 2012). To rebut that presumption, Landry must show "that the sentence does not account for a factor that should receive significant weight, it gives significant weight to an irrelevant or improper factor, or it represents a clear error of judgment in balancing sentencing factors." *United States v. Cooks*, 589 F.3d 173, 186 (5th Cir. 2009). Landry's general disagreement with the propriety of his sentence and the district court's weighing of the 18 U.S.C. § 3553(a) factors is insufficient to establish that the district court erred in balancing them. *See Gall*, 552 U.S. at 51; *Cooks*, 589 F.3d at 186. He has not shown that the district abused its discretion by sentencing him within the Guidelines to 87 months in prison. *See Gall*, 552 U.S. at 51. Consequently, the judgment of the district court is AFFIRMED.