

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

September 1, 2026

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DAMION BLAIR BRADLEY GEORGE,
a/k/a DG,

Defendant - Appellant.

No. 25-6137
(D.C. No. 5:24-CR-00495-PRW-3)
(W.D. Okla.)

ORDER AND JUDGMENT*

Before **TYMKOVICH**, **MATHESON**, and **PHILLIPS**, Circuit Judges.

Damion Blair Bradley George appeals his 180-month prison sentence as substantively unreasonable. We have jurisdiction under 18 U.S.C. § 3742(a) and 28 U.S.C. § 1291. We affirm.

* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

I.

Mr. George, as a member of the Irish Mob Gang (IMG), was involved in an incident where he and other gang members heated a machete “glowing red hot” and “then put it to the back of the [victim’s] head” to burn off a tattoo. R. vol. 1 at 46.

Mr. George was indicted and pled guilty to one count of violating 18 U.S.C. § 1959(a)(2), which makes it a crime to maim another person in aid of racketeering. A presentence investigation report (PSR) calculated the offense level under the U.S. Sentencing Guidelines as twenty-five, and Mr. George’s criminal history category as VI, based on prior convictions and prison sentences for burglary, drug possession, and a gang-related aggravated assault committed in jail. The resulting Guidelines sentencing range was 110–137 months.

The district court imposed an above-Guidelines sentence of 180 months based on its evaluation of the 18 U.S.C. § 3553(a) sentencing factors, particularly the nature and circumstances of Mr. George’s offense and his history and characteristics.

Regarding the nature and circumstances of the offense, the sentencing judge described it as “particularly shocking and heinous,” noting the “lack of humanity and the raw violence” of the burning incident, which was videotaped. R. vol. 3 at 52. While stating he “[didn’t] know what a normal maiming is,” the judge found Mr. George’s offense “falls far outside the norm . . . in terms of the gratuity of the violence and the infliction of pain on the victim.” *Id.* The sentencing judge also noted that the IMG “is known for quite violent, gratuitous violence,” *id.* at 45, and uses video recordings of its violent acts to perpetuate a reputation for retributive

violence, finding this use of violence “to allow the criminal enterprise to better function” also exacerbated the nature of Mr. George’s offense, *id.* at 52.

Regarding Mr. George’s history and characteristics, the sentencing judge found that “[n]one of [his] prior sentences. . . seem to have dissuaded [him] from continuing to engage in criminal conduct . . . [or] from [his] pursuit of the gang lifestyle and ascendancy in the gang.” R. vol. 3 at 53. And he emphasized that although Mr. George himself did not hold the machete to commit the burning, he had been “the ranking member of the gang” involved and had “the ability . . . to direct the actions of what was going on” and could have stopped other gang members from committing the maiming but had not done so. *Id.*

Given his evaluation of the § 3553(a) factors, the sentencing judge found a within-Guidelines sentence would not adequately account for the nature and circumstances of Mr. George’s offense, history, and characteristics, and that a 180-month prison sentence was warranted to promote respect for the law, adequately reflect the seriousness of the offense, and deter criminal conduct. Mr. George appeals, arguing only that the length of his sentence is substantively unreasonable.

II.

Substantive reasonableness concerns “whether the length of the sentence is reasonable given all the circumstances of the case in light of the factors set forth in 18 U.S.C. § 3553(a).” *United States v. Jackson*, 82 F.4th 943, 949 (10th Cir. 2023) (internal quotation marks omitted). “We review the substantive reasonableness of ‘all sentences—whether inside, just outside, or significantly outside the Guidelines

range—under a deferential abuse-of-discretion standard.” *United States v. Lente*, 759 F.3d 1149, 1158 (10th Cir. 2014) (quoting *Gall v. United States*, 552 U.S. 38, 41 (2007)).

When varying from the Guidelines, a district court “can and should engage in a holistic inquiry of the § 3553(a) factors,” and it properly does so “when it bases its decision on specific, articulable facts supporting the variance and does not employ an impermissible methodology or rely on facts that would make the decision out of bounds.” *United States v. Barnes*, 890 F.3d 910, 916 (10th Cir. 2018) (internal quotation marks omitted). The sentencing court “must consider the extent of the deviation and ensure that the justification is sufficiently compelling to support the degree of the variance.” *Gall*, 552 U.S. at 50. A “‘major’ variance should have ‘a more significant justification than a minor one.’” *Lente*, 759 F.3d at 1158 (quoting *Gall*, 552 U.S. at 50).

In reviewing an above-Guidelines sentence on appeal, we may consider the extent of the variance but “may not apply a presumption of unreasonableness,” and must still “give due deference to the district court’s decision that the § 3553(a) factors, on a whole, justify the extent of the variance.” *Gall*, 552 U.S. at 51. “We do not reweigh the § 3553(a) sentencing factors but instead ask whether the sentence fell within the range of rationally available choices that facts and the law at issue can fairly support.” *United States v. McCrary*, 43 F.4th 1239, 1249 (10th Cir. 2022) (brackets and internal quotation marks omitted). “As long as the balance struck by the district court among the factors . . . is not arbitrary, capricious, or manifestly

unreasonable, we must defer to that decision even if we would not have struck the same balance in the first instance.” *Id.* (brackets and internal quotation marks omitted). Thus, “[w]e uphold even substantial variances when the district court properly weighs the § 3553(a) factors and offers valid reasons for the chosen sentence,” given its “superior position to find facts and judge their import under § 3553(a) in the individual case.” *United States v. Gross*, 44 F.4th 1298, 1304 (10th Cir. 2022) (internal quotation marks omitted).

III.

Giving the required deference to the district court’s evaluation of the § 3553(a) factors, we cannot say Mr. George’s sentence was substantively unreasonable.

Mr. George primarily challenges the district court’s specific deterrence rationale as insufficient to support the extent of the upward variance. He emphasizes that his 180-month sentence was far longer than any prior sentence he had served, the longest of which had been 39 months. He calculates that even a sentence at the bottom of the Guidelines range would have required him to spend more than twice that long in prison. So, while he agrees that “the court could reasonably conclude that *some* additional time . . . was needed to deter him,” he argues “there is no basis to believe that *so much* more time was needed,” and that a within-Guidelines sentence would have sufficed. Aplt. Opening Br. at 14 (emphasis added).

This argument fails to show the district court’s chosen sentence lay outside the range of rationally available choices. *See McCrary*, 43 F.4th at 1249. We have cautioned that district courts should not place “nearly exclusive focus” on only one

§ 3553(a) factor. *United States v. Crosby*, 119 F.4th 1239, 1248 (10th Cir. 2024) (internal quotation marks omitted). But that did not occur here. Rather, the sentencing judge weighed the need for deterrence along with other relevant factors, particularly the unusual violence of the offense, the gang’s use of such violence to further its criminal activities, and Mr. George’s role, given his authority over other gang members involved. Even if we might have chosen a shorter sentence in the first instance, we cannot say a 180-month sentence is manifestly unreasonable, given the facts presented and the district court’s reasoned evaluation of the § 3553(a) factors.

Mr. George also argues the district court’s sentence failed to adequately consider mitigating facts, including the harsh circumstances of his childhood and harms he has suffered from both his parents’ and his own addictions. We do not doubt the significance of these challenges. But Mr. George’s argument asks us to reweigh the § 3553(a) factors. *See* Aplt. Opening Br. at 21 (arguing “the district court significantly over-weight[ed] the need for specific deterrence,” and “under-weighted other aspects of his history and characteristics”). Doing so would be contrary to our deferential standard of review. *See McCrary*, 43 F.4th at 1249 (“We do not reweigh the [§ 3553(a)] sentencing factors.”) And to the extent he argues the district court overlooked or failed to consider mitigating facts or factors, that argument does not show the length of his sentence is *substantively* unreasonable. *See Gross*, 44 F.4th at 1303 (“[P]rocedural error is the failure to consider all the relevant factors, whereas substantive error is when the district court imposes a sentence that does not fairly reflect those factors.” (internal quotation marks omitted)).

Finally, Mr. George’s argument that the district court inadequately justified the upward variance is also unavailing. “[F]ailing to adequately explain the chosen sentence” is a “procedural error.” *Gall*, 552 U.S. at 51. But here Mr. George challenges only substantive reasonableness.¹ We have recognized that the distinction between procedural and substantive reasonableness may become “murky” where an appeal “is based on the district court’s explanation of the § 3553(a) factors.” *Crosby*, 119 F.4th at 1248 (internal quotation marks omitted). However, nothing about the district court’s explanation here “hinder[s] our review of [the] sentence’s substantive reasonableness.” *Id.* The sentencing judge’s specific application of the § 3553(a) factors was more than sufficient both to justify the chosen sentence and to allow appellate review. *See Gross*, 44 F.4th at 1304 (stating we will affirm where the district court “properly weighs the § 3553(a) factors and offers valid reasons for the chosen sentence” (internal quotation marks omitted)).

In short, under the deferential standards that control our appellate review of substantive reasonableness, Mr. George has shown no reason to reverse.

IV.

We affirm.

Entered for the Court

Gregory A. Phillips
Circuit Judge

¹ In his plea agreement, Mr. George waived his right to appeal except to challenge substantive reasonableness.