

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

September 3, 2026

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

OSCAR REYNALDO GOMEZ,

Defendant - Appellant.

No. 26-6028
(D.C. No. 5:23-CR-00311-G-1)
(W.D. Okla.)

ORDER AND JUDGMENT*

Before **HARTZ**, **KELLY**, and **CARSON**, Circuit Judges.

Oscar Reynaldo Gomez pleaded guilty to one count of arson, in violation of 18 U.S.C. § 844(i), and was sentenced to a term of imprisonment of 84 months, plus a three-year term of supervised release. Mr. Gomez appeals, arguing that his sentence is substantively unreasonable. Exercising jurisdiction under 28 U.S.C. § 1291, we affirm the sentence.

* After examining the briefs and appellate record, this panel has determined unanimously to honor the parties' request for a decision on the briefs without oral argument. *See* Fed. R. App. P. 34(f); 10th Cir. R. 34.1(G). The case is therefore 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 This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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. FACTUAL BACKGROUND

Shortly after 5 a.m. on April 17, 2023, the Oklahoma City Fire Department (OCFD) was dispatched to a fire at the God of No Limits Church (the Church) in Oklahoma City, Oklahoma. When OCFD arrived, the fire was coming from the northwest door and roof on the north side of the Church. The fire ultimately caused a total loss of the Church building, resulting in approximately \$4 million in losses.

Surveillance videos obtained from a nearby convenience store showed a man wearing a zip-up sweatshirt, shorts, and work boots enter the store, purchase a cigarette lighter, and then ride a bicycle toward the Church. Surveillance videos from inside the Church showed the same man break the glass on the northwest door of the Church, enter the Church, use what appeared to be a lighter to ignite materials inside the Church, move the burning material out of the camera view, and exit through the same door he entered. Law-enforcement officials showed a still image of the suspect to a Church employee, who identified the man as Mr. Gomez and stated he had previously encountered Mr. Gomez at the Church multiple times.

On April 21, 2023, Mr. Gomez was arrested after federal law-enforcement agents observed him riding a bicycle in front of the Church. In a postarrest interview Mr. Gomez stated that he set the fire at the Church in self-defense because he believed the pastor of the Church had intentionally stolen his wallet and identification and was trying to steal his identity. Mr. Gomez also provided details regarding the fire, such as the first items ignited, that only the person who set it could have known.

II. PROCEDURAL BACKGROUND

Mr. Gomez was initially charged by criminal complaint with one count of arson, in violation of 18 U.S.C. § 844(i). He was later indicted on the same charge.

The magistrate judge, acting on a motion filed by Mr. Gomez's appointed counsel, ordered that Mr. Gomez be committed to the custody of the Attorney General for a psychiatric examination to determine his mental competency. The magistrate judge thereafter conducted a competency hearing and, in a written report and recommendation, found that Mr. Gomez suffered from schizophrenia, that his delusional beliefs precluded his understanding the nature and consequences of the proceedings against him, and that he was unable to assist in his own defense. The district court adopted the report and recommendation and committed Mr. Gomez to federal custody for treatment to seek restoration of competency.

Following Mr. Gomez's treatment at a federal medical center, the district court held a competency hearing and found that Mr. Gomez had recovered to such an extent that he was able to understand the nature and consequences of the proceedings against him and to assist in his own defense. Several months later, Mr. Gomez pleaded guilty, without benefit of a written plea agreement, to the charge in the indictment.

The probation office submitted a presentence investigation report (PSR) that calculated a total offense level of 21, a criminal-history score of 3, a criminal-history category of II, and an advisory guideline imprisonment range of 41 to 51 months.

But the PSR determined the guideline term of imprisonment was 60 months because that was the statutory minimum sentence.

The government moved for an upward variance from the guideline range to protect the community and prevent Mr. Gomez from engaging in further criminal conduct. Mr. Gomez filed a sentencing memorandum opposing the government's motion for an upward variance and asking the district court to impose a guideline sentence of 60 months.

At the sentencing hearing the district court adopted the PSR's guideline calculations without objection from the parties. After hearing argument from counsel, the court considered the factors set forth in 18 U.S.C. § 3553(a). In discussing Mr. Gomez's history and characteristics, it said he "has a long history of substance abuse" involving alcohol, marijuana, and methamphetamine. R. vol. III at 34. It also noted that Mr. Gomez "was diagnosed with schizophrenia," "other psychotic disorder[,] and alcohol use disorder," but in "several instances . . . den[ied] that he has any mental health impairment and, in at least one instance, stat[ed] that he wanted to be treated without medication." *Id.* at 35. The court characterized the offense of conviction as "a very serious, very dangerous act . . . that warrants substantial punishment." *Id.* at 36. With respect to the need for the sentence imposed to afford adequate deterrence and protect the public from future harm committed by Mr. Gomez, the court observed that even if "Mr. Gomez did not truly intend to harm anyone else by lighting this fire," his "history of DUI offenses and

this act of arson reflect . . . a lack of care, an absence of care, about the dangerousness of his actions . . . that is very concerning.” *Id.* at 37.

The district court concluded “that a sentence of seven years’ or 84 months’ imprisonment is . . . sufficient but not greater than necessary to achieve the purposes of sentencing described in Section 3553.” *Id.* The court said that an upward variance from the guideline sentence was “appropriate” given “the danger and destruction caused by the act of arson in this case, as well as Mr. Gomez’s history of criminal acts evidencing a lack of care for the safety of others.” *Id.* at 38. It also imposed supervised release for a term of three years.

III. DISCUSSION

Mr. Gomez argues that the 84-month sentence imposed by the district court is substantively unreasonable. We review “the substantive reasonableness of a district court’s sentence for abuse of discretion, giving substantial deference to the district court’s application of [the] § 3553(a) factors to the facts of the case.” *United States v. Dias*, 174 F.4th 1266, 1280-81 (10th Cir. 2026) (internal quotation marks omitted). “In reviewing the sentence, we do not reweigh the sentencing factors; rather, we ask whether the sentence fell within the range of rationally available choices that the facts and law at issue can fairly support.” *Id.* at 1281 (internal quotation marks omitted). “[T]he district court need not afford equal weight to each § 3553(a) factor, and we will defer on substantive-reasonableness review not only to a district court’s factual findings but also to its determinations of the weight to be afforded to such findings.” *Id.* (internal quotation marks omitted). “We reverse only if the sentence

exceeded the bounds of permissible choice, such that the sentence is arbitrary, capricious, whimsical, or manifestly unreasonable.” *Id.* (internal quotation marks omitted).

A. Mr. Gomez’s history and characteristics

Mr. Gomez begins by asserting that the district court failed to reasonably consider his history and characteristics under § 3553(a)(1). He notes that he “is a diagnosed schizophrenic” whose “mental illness directly contributed to the offense conduct and led to the competency proceedings that followed his arrest.” *Aplt. Br.* at 6-7. He argues that “[a]lthough the district court recognized that [his] mental illness was a ‘significant driver’ in the offense, it failed to give meaningful weight to that critical fact” in determining his sentence. *Id.* at 7. He also argues that the court, despite acknowledging that his mental health “symptoms entered remission and his competency was restored” when he was able to have “sustained medication compliance and abstinence from illicit substances,” “failed to give [those facts] meaningful mitigating effect.” *Id.* at 10. As a result, he argues, “the district court abused its discretion by imposing a sentence greater than necessary to satisfy the purposes of sentencing under 18 U.S.C. § 3553(a).” *Id.* at 7.

Section 3553(a)(1) requires a district court to consider, in relevant part, “the history and characteristics of the defendant.” 18 U.S.C. § 3553(a)(1). In complying with that directive, the district court noted that Mr. Gomez was diagnosed with schizophrenia as early as 2011, and in December 2014, “after several weeks of aberrant behavior,” was diagnosed with “alcohol use disorder” and again “diagnosed

with schizophrenia.” R. vol. III at 35. The court further noted that in 2024 he received “a similar diagnosis of schizophrenia and other psychotic disorder and alcohol use disorder.” *Id.* And it noted that Mr. Gomez’s “[t]reatment records” from his stay at the federal medical center indicated that Mr. Gomez’s experienced “delusions and hallucinations.” *Id.* The court acknowledged that “the treatment Mr. Gomez has received during this case indicates that medication would help ameliorate his symptoms.” *Id.* at 39-40. But it also observed that the treatment records “detail[ed] several instances of Mr. Gomez denying that he has any mental health impairment” and “at least one instance” of his “stating that he wanted to be treated without medication.” *Id.* at 35. Relatedly, the court noted that Mr. Gomez “has not been able to achieve a sustained course of treatment for schizophrenia” since he was diagnosed in 2011. *Id.* at 39.

After considering the § 3553 factors, the district court concluded “that a sentence of seven years’ or 84 months’ imprisonment” was “sufficient but not greater than necessary to achieve the purposes of sentencing described in Section 3553.” *Id.* at 37. The court stated that in arriving at this conclusion, it “considered the mitigating goal[] of providing needed care and treatment” to Mr. Gomez “in the most effective manner,” but that this “consideration” did not “warrant[] deviation from” the 84-month sentence. *Id.* at 38.

Thus, the sentencing record refutes Mr. Gomez’s contentions. The district court plainly considered Mr. Gomez’s mental illnesses and his positive response to appropriate treatment, but concluded that those facts did not warrant a lower sentence

given Mr. Gomez's tendency to deny the existence of his mental illnesses and his poor history of complying with appropriate treatment.

B. Mr. Gomez's offense conduct

Mr. Gomez next argues that his offense conduct does not justify the upward variance. He argues that "Congress has already accounted for the seriousness of the offense by imposing a 60-month statutory mandatory minimum, which in this case displaced [his] otherwise applicable guideline range of 41 to 51 months." *Aplt. Br.* at 15-16. He says that "[b]y relying on th[e] same inherent dangerousness" of the offense "to justify an additional 24-month upward variance, the court assigned disproportionate weight to a factor already accounted for by Congress, resulting in a sentence greater than necessary." *Id.* at 16.

We reject these arguments because the sentencing record makes clear the district court did not rely solely on the seriousness of the offense in deciding to impose an upward variance. To be sure, the court emphasized that, in its view, the offense of conviction was "a very serious, very dangerous act . . . that warrant[ed] substantial punishment." *R.* vol. III at 36. But it also concluded that Mr. Gomez's criminal history, including the offense of conviction, demonstrated "a lack of care . . . about the dangerousness of his actions" that it viewed as "very concerning." *Id.* at 37. Further, as mentioned above, the court also expressed concern about Mr. Gomez's denial of his mental illnesses and his history of failing to comply with appropriate treatment for those illnesses. Thus, it was all these factors together that formed the basis for the district court's decision to vary upwards.

C. Purposes of sentencing and sentencing disparity

Finally, Mr. Gomez argues that the upward variance was unnecessary to achieve the purposes of sentencing and created an unwarranted sentencing disparity. The district court expressly concluded, however, that the upward variance was “sufficient but not greater than necessary to achieve the purposes of sentencing described in Section 3553, including to reflect the seriousness of the offense,” “promote respect for the law,” and “to afford adequate deterrence to criminal conduct” both by Mr. Gomez “and generally as to any other person who might contemplate a similar crime.” R. vol. III at 37. It also concluded that the upward variance did not result in an unwarranted sentencing disparity. Nothing in the record on appeal persuades us that these conclusions amounted to an abuse of discretion or that the sentence exceeded the bounds of permissible choice. *See Dias*, 174 F.4th at 1280-81.

IV. CONCLUSION

We affirm Mr. Gomez’s sentence. We deny his motion to supplement the record and his motion to take judicial notice.

Entered for the Court

Harris L Hartz
Circuit Judge