United States Court of Appeals
For the Eighth Circuit

No. 14-3464

United States of America

Plaintiff - Appellee

v.

Patrick Tyrell Bailey

Defendant - Appellant

Appeal from United States District Court
for the Western District of Missouri - Springfield

Submitted: March 25, 2015
Filed: March 30, 2015
[Unpublished]

Before LOKEN, BOWMAN, and KELLY, Circuit Judges.

PER CURIAM.

Patrick Bailey appeals the 24-month prison sentence that the District Court[1] imposed after revoking his supervised release for the second time. For reversal, he

---

[1]The Honorable M. Douglas Harpool, United States District Judge for the Western District of Missouri.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

argues that the sentence is unreasonable because the court failed to consider the length of the sentence imposed after the first revocation of his supervised release and because the sentence is above the advisory range calculated under the Sentencing Guidelines. He also asserts that the above-Guidelines-range sentence violated his due process rights because it was within the advisory range that would have resulted if he had committed a Grade A violation, but the District Court found insufficient evidence to support a Grade A violation and found only multiple Grade C violations.

We conclude that the sentence is neither procedurally nor substantively unreasonable. See United States v. Miller, 557 F.3d 910, 915–16 (8th Cir. 2009) (standard of review). The District Court calculated the correct advisory Guidelines range and imposed the maximum prison sentence allowed based on its consideration of relevant sentencing factors. See 18 U.S.C. § 3583(e)(3) (statutory maximum). The court did not err in weighing these factors and sufficiently explained its sentencing decision, including a comment on Bailey's repeated violations of his release conditions. See United States v. Eagle Thunder, 553 F.3d 605, 609 (8th Cir. 2009) (holding that a revocation sentence above the advisory range was not substantively unreasonable when the defendant repeatedly violated his supervised-release conditions); United States v. Larison, 432 F.3d 921, 924 (8th Cir. 2006) (affirming a statutory-maximum revocation sentence and noting that the court gave "excellent supporting reasons").

Accordingly, we affirm the judgment of the District Court. We also grant counsel's motion for leave to withdraw, subject to counsel informing appellant about procedures for seeking rehearing or filing a petition for certiorari.

Appellate Case: 14-3464 Page: 2 Date Filed: 03/30/2015 Entry ID: 4259484