

United States Court of Appeals
For the Eighth Circuit

No. 17-2938

United States of America

Plaintiff - Appellee

v.

Benjamin J. Henderson

Defendant - Appellant

Appeal from United States District Court
for the Western District of Arkansas - Texarkana

Submitted: May 7, 2018

Filed: May 10, 2018

[Unpublished]

Before WOLLMAN, BOWMAN, and BENTON, Circuit Judges.

PER CURIAM.

Benjamin J. Henderson appeals the sentence the district court¹ imposed after revoking his supervised release. Having jurisdiction under 28 U.S.C. § 1291, this court affirms.

His counsel has moved to withdraw, and has filed a brief discussing whether delay in holding the revocation hearing violated Henderson's due process rights, whether there was sufficient proof of the violations alleged, and whether the revocation sentence was procedurally and substantively reasonable.

Upon review, this court rejects the contention that delay in holding the revocation hearing violated Henderson's due process rights. *See Kartman v. Parratt*, 535 F.2d 450, 455-56 (8th Cir. 1976) (rejecting due process claim based on delay in holding parole revocation hearing where defendant did not allege prejudice). The district court did not clearly err in determining that Henderson committed the violations alleged. *See* 18 U.S.C. § 3583(e)(3) (court may revoke supervised release if it finds by preponderance of evidence that defendant violated condition of supervised release); *United States v. Miller*, 557 F.3d 910, 913-14 (8th Cir. 2009) (standard of review). This court concludes that the revocation sentence was neither procedurally nor substantively unreasonable. *See Miller*, 557 F.3d at 915-17 (discussing appellate review of sentencing decisions; listing sources of procedural error); *see also United States v. Petreikis*, 551 F.3d 822, 824 (8th Cir. 2009) (applying presumption of substantive reasonableness to revocation sentence within Guidelines range).

The judgment is affirmed. Counsel's motion to withdraw is granted.

¹The Honorable Susan O. Hickey, United States District Judge for the Western District of Arkansas.