NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted June 30, 2023
Decided July 5, 2023

Before

FRANK H. EASTERBROOK, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

DORIS L. PRYOR, *Circuit Judge*

No. 22-2369

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

JACOB MACLIN,
Defendant-Appellant.

Appeal from the United States District Court for the Eastern District of Wisconsin.

No. 2018-cr-122-PP

Pamela Pepper,
Chief Judge.

O R D E R

A jury found Jacob Maclin guilty of multiple firearm and drug charges. The district court sentenced him to 96 months in prison. He filed a notice of appeal, but his appointed counsel asserts the appeal is frivolous and moves to withdraw. *See Anders v. California*, 386 U.S. 738 (1967). We grant the motion and dismiss the appeal as frivolous.

Police observed Maclin participate in a suspected drug transaction in March 2018. Maclin drove away from the scene, and officers pulled him over. During their

search, they found a firearm and around 40 grams of marijuana. The government charged Maclin with (1) unlawfully possessing a firearm, 18 U.S.C. § 922(g)(1); (2) possessing drugs with the intent to distribute, 21 U.S.C. § 841(a)(1), (b)(1)(D); and (3) possessing a firearm in furtherance of a drug-trafficking offense, 18 U.S.C. § 924(c)(1)(A)(i).

During the prosecution, Maclin represented himself with the assistance of court-appointed standby counsel. Invoking "sovereign citizen" arguments, he filed several motions seeking to end the prosecution, arguing that the court lacked jurisdiction and the prosecutor lacked "standing." The court denied these motions, rejecting as frivolous Maclin's sovereign-citizen arguments. The case proceeded to trial, and a jury found Maclin guilty on all three counts.

Maclin then moved for a new trial under Rule 33 of the Federal Rules of Criminal Procedure, once again raising his sovereign-citizen arguments. The court denied this motion, too. First, the court reasoned, it was untimely: Because Maclin was not basing his motion on newly discovered evidence, he had 14 days after the jury's verdict to file a motion, *see* FED. R. CRIM. P. 33(b)(2), and the court received his motion 23 days after. In the alternative, the court on the merits again rejected the sovereign-citizen arguments.

Calculating the guidelines range took several steps, starting with the unlawful-possession charge. Its base offense level was 24 because Maclin had at least two prior, relevant felony convictions. U.S.S.G. § 2K2.1(a)(2). Normally, he would receive a four-level jump for possessing a gun in connection with another felony, *id.* § 2K2.1(b)(6)(B), but this increase did not apply because of the § 924(c) conviction. *Id.* § 2K2.4 cmt. n.4. The second step involved the drug charge. Its base offense level was six, because Maclin possessed 46.29 grams of marijuana. *Id.* § 2D1.1(c)(17). This would have increased by two levels because he possessed a firearm while trafficking, *id.* § 2D1.1(b)(1), but again the § 924(c) conviction canceled any bump. *Id.* § 2K2.4 cmt. n.4. The court then determined that Maclin was a career offender and increased the offense level to 17. *Id.* § 4B1.1(a), (b)(6). Next, the court decided not to group these two charges together under § 3D1.2. Treating them separately, it ruled that the combined offense level was one more than the greater of the two charges' levels (24 and 17) because they were seven levels apart, *id.* § 3D1.4(b), bringing the offense level to 25. Maclin's criminal-history category was VI because of the career-offender finding. *Id.* § 4B1.1(c)(2)–(3). This yielded a preliminary range of 110 to 137 months' imprisonment. The final step involved the § 924(c) charge, which here changed the guidelines range to the greater of the 60-month mandatory minimum added to the preliminary range (170 to 197 months)

or 360 months to life. *See id.* § 4B1.1(c)(2)–(3). Thus, the final range was 360 months to life. Maclin said he had no objections to this calculation.

The district court sentenced Maclin to 96 months' imprisonment after the parties stated that they recommended a global sentence of 96 months' imprisonment between this case and another one in the same district. *See United States v. Maclin*, No. 21-CR-113 (E.D. Wis. June 1, 2022). Calling the guidelines range "ridiculous" and "excessive," the court said that Maclin's crime was not "particularly dramatically awful" because Maclin possessed only a small amount of marijuana and just had the gun in the car. Maclin, the court added, was smart, respected in the community, and an exemplary employee for a local charity (according to the organization's leader). And Maclin's criminal history, while long, consisted of relatively minor conduct. The court noted that the pandemic had pushed Maclin back into criminal conduct, but he was otherwise "a person who's smart, who's got skills, who's got something to give back to the community, and he has been giving it back for some period of time, and things just went off the track."

In counsel's *Anders* brief, counsel explains the nature of the case and raises potential issues that we would expect an appeal like this to involve, and Maclin has not come forth with additional issues to raise in an appeal. *See* CIR. R. 51(b). Because counsel's analysis appears thorough, we limit our review to the subjects that counsel discusses. *See United States v. Bey*, 748 F.3d 774, 776 (7th Cir. 2014).

Counsel first considers challenging the district court's denial of Maclin's motion for a new trial. In that motion, Maclin relied on the sovereign-citizen arguments that he made earlier: For example, he insisted that he was incorrectly held as "surety" in place of the true defendant and was beyond the jurisdiction of the court because he is not a "commercial entity." We have repeatedly said that these arguments are frivolous and that courts should summarily reject them. *See, e.g.*, *Bey v. Indiana*, 847 F.3d 559, 559–60 (7th Cir. 2017); *United States v. Benabe*, 654 F.3d 753, 767 (7th Cir. 2011). Counsel is correct that Maclin could not plausibly argue that the court wrongly denied his motion.

Next, counsel considers possible challenges to the sentence, but correctly assesses that any challenge would be frivolous. To start, Maclin waived any challenge to his sentence because the parties jointly recommended a total of 96 months in prison and Maclin received that sentence. We would thus conclude that he waived any argument for a different sentence. *See United States v. Nichols*, 789 F.3d 795, 796 (7th Cir. 2015).

Even without the waiver, for three additional reasons that counsel mentions, any challenge to the sentence would be frivolous. First, Maclin forfeited any objection to the

calculation of the guidelines range. Once the court calculated the range, it asked Maclin if he had any objections, and he responded no. Because Maclin forfeited an appellate challenge, we would review the guidelines calculation only for plain error. *See United States v. Pankow*, 884 F.3d 785, 790 (7th Cir. 2018). Counsel explains why the court did not err in its guidelines calculation, but even if the court did err, it would be frivolous to argue that any error was plain. Although most mistaken calculations are plain error—the guidelines range will typically have an anchoring effect on the sentence, *see Molina-Martinez v. United States*, 578 U.S. 189, 198–200 (2016)—here the court said that it *ignored* the range (calling it "ridiculous" and "excessive"). The range thus did not affect the sentence, which means Maclin's substantial rights were not affected. *See id.* at 194, 200.

Second, we agree with counsel that Maclin could not reasonably argue that the court's analysis of the sentencing factors under 18 U.S.C. § 3553(a) was procedurally insufficient. A court must provide an explanation that allows us to assess whether it considered the relevant factors. *United States v. Greene*, 970 F.3d 831, 834 (7th Cir. 2020); *United States v. Castaldi*, 743 F.3d 589, 595 (7th Cir. 2014). But it need not "march through every factor … in a checklist manner" or supply specific citations to § 3553(a). *United States v. Llanos*, 62 F.4th 312, 316–17 (7th Cir. 2023). Here, we can see how the court considered those factors. It adequately considered "the history and characteristics of" Maclin, § 3553(a)(1), by discussing how he is "smart," has "amazing potential," has given to his community, and has a criminal history that, although long, lacks egregious conduct. Additionally, the court discussed the seriousness of the offense conduct for this conviction, § 3553(a)(2), and concluded that it was relatively minor. Overall, this explanation was sufficient.

Third, a challenge to the substantive reasonableness of the sentence would go nowhere. We would presume the sentence is reasonable because it is below the guidelines range. *United States v. Dewitt*, 943 F.3d 1092, 1098 (7th Cir. 2019). And nothing in the record would rebut that presumption—given that the district court sentenced Maclin to almost four times below the range's minimum, and its explanation for the sentence reasonably balanced the competing factors under § 3553(a). *See id.*

We thus GRANT counsel's motion to withdraw and DISMISS the appeal.