UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 14-4580

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOHN LOUIS LEWANDOWSKI,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. James C. Dever III, Chief District Judge. (5:13-cr-00330-D-1)

Submitted: June 26, 2015 Decided: July 2, 2015

Before WILKINSON, MOTZ, and GREGORY, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Thomas P. McNamara, Federal Public Defender, Stephen C. Gordon, Assistant Federal Public Defender, Raleigh, North Carolina, for Appellant. Thomas G. Walker, United States Attorney, Jennifer P. May-Parker, Kristine L. Fritz, Assistant United States Attorneys, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

John Louis Lewandowski appeals the within-Guidelines sentence imposed by the district court after he pled guilty to receipt of child pornography, in violation of 18 U.S.C. § 2252(a)(2) (2012), and possession of child pornography, in violation of 18 U.S.C. § 2252(a)(4)(B) (2012). On appeal, he contends that his 97-month sentence is substantively unreasonable. For the reasons that follow, we affirm.

We review a criminal sentence for reasonableness using "a deferential abuse-of-discretion standard." Gall v. United States, 552 U.S. 38, 41 (2007). Because Lewandowski asserts no procedural error, we consider whether the sentence is substantively reasonable, "tak[ing] into account the totality of the circumstances" and giving due deference to the district court's decision. Id. at 51. We presume on appeal that a sentence within or below a properly calculated Guidelines range is substantively reasonable. United States v. Louthian, 756 F.3d 295, 306 (4th Cir.), cert. denied, 135 S. Ct. 421 (2014); see United States v. Strieper, 666 F.3d 288, 295-96 (4th Cir. 2012) (rejecting argument that presumption of reasonableness should not apply to sentences for child pornography offenses). Lewandowski bears the burden of rebutting this presumption "by showing that the sentence is unreasonable when measured against the 18 U.S.C. § 3553(a) factors." Louthian, 756 F.3d at 306.

Here, the district court reasonably determined that a sentence of 97 months was appropriate based on its thorough, individualized assessment of Lewandowski's case in light of his arguments and the § 3553(a) factors. Based on the totality of the circumstances, we conclude that the district court did not abuse its discretion in imposing the chosen sentence.

Accordingly, we affirm the district court's judgment. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED