

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-4431

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JAMES GRAY,

Defendant - Appellant.

Appeal from the United States District Court for the Northern District of West Virginia, at
Wheeling. John Preston Bailey, District Judge. (5:20-cr-00044-JPB-JPM-1)

Submitted: April 27, 2023

Decided: June 6, 2023

Before WILKINSON and HEYTENS, Circuit Judges, and FLOYD, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

ON BRIEF: Frank C. Walker II, FRANK WALKER LAW, Clairton, Pennsylvania, for
Appellant. William Ihlenfeld, United States Attorney, Jennifer T. Conklin, Assistant
United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Wheeling,
West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

James Gray appeals his 120-month sentence imposed following a jury conviction for unlawful possession of a firearm, in violation of 18 U.S.C. §§ 922(g)(1), 924(a)(2) (2018). On appeal, Gray argues that his sentence is procedurally and substantively unreasonable. We affirm.

We review a sentence for reasonableness, applying “a deferential abuse-of-discretion standard.” *United States v. Torres-Reyes*, 952 F.3d 147, 151 (4th Cir. 2020) (internal quotation marks omitted).

Gray argues that his sentence is procedurally unreasonable because the district court erred by failing to incrementally depart and explain its incremental departure from a criminal history category of VI to an extrapolated category of IX. After reviewing the record, we conclude that the district court deviated from the Guidelines range based on Gray’s extensive criminal history, its impact on the community, the need to promote respect for the law, and the need for deterrence. Thus, Gray’s sentence is not procedurally unreasonable.

Next, Gray argues that his sentence is substantively unreasonable because the extent of the variance was not justified by the applicable § 3553(a) factors and was greater than necessary to achieve the goals of sentencing. Having reviewed the record and accorded due deference to the district court, we conclude the district court did not abuse its discretion in varying upward from a 70- to 87-month Guidelines range to a 120-month sentence.

We therefore 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