

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED
May 24, 2010

No. 09-20496
Summary Calendar

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff–Appellee,

v.

CARL EDWARD PRESTON, JR.,

Defendant–Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:09-CR-14-3

Before GARZA, CLEMENT, and OWEN, Circuit Judges.

PER CURIAM:*

Carl Edward Preston, Jr., pleaded guilty to aggravated bank robbery and brandishing a firearm during a crime of violence. The district court imposed a within-guidelines range sentence of 71 months of imprisonment on the bank robbery count and a mandatory consecutive sentence of 84 months of imprisonment on the brandishing a firearm count. Preston appeals the sentence imposed on the bank robbery count, arguing that the district court committed procedural error by failing to sufficiently explain its reasons for rejecting his

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

request for a downward variance from the guidelines sentence range and that the sentence was substantively unreasonable.

“[W]hen a judge decides simply to apply the Guidelines to a particular case, doing so will not necessarily require lengthy explanation.” *Rita v. United States*, 551 U.S. 338, 356 (2007). The requirement that the district court explain its sentence may be satisfied if the district court listens to arguments and then indicates that a sentence within the guidelines range is appropriate. *Id.* at 357-59. The record shows that the district court heard Preston’s arguments, rejected those arguments, and stated that a sentence within the applicable guidelines range satisfied the factors of 18 U.S.C. § 3553(a). Accordingly, the district court’s explanation of the sentence imposed, while brief, was legally sufficient. *See id.* at 358-59.

“A discretionary sentence imposed within a properly calculated guidelines range is presumptively reasonable.” *United States v. Campos-Maldonado*, 531 F.3d 337, 338 (5th Cir. 2008), *cert. denied*, 129 S. Ct. 328 (2008). The fact that this court “might reasonably have concluded that a different sentence was appropriate is insufficient to justify reversal of the district court.” *Gall v. United States*, 552 U.S. 38, 51 (2007). We conclude there is “no reason to disturb” the presumption of reasonableness in this case. *See United States v. Rodriguez*, 523 F.3d 519, 526 (5th Cir. 2008).

AFFIRMED.