

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

United States Court of Appeals
Fifth Circuit

FILED

December 15, 2009

No. 09-50184
Conference Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JOHN ERIC GILLIAM,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 7:07-CR-193-1

Before KING, JOLLY, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

John Eric Gilliam appeals the sentence imposed following his jury conviction for possession and receipt of child pornography. He argues that his within-guidelines sentence was substantively unreasonable because when considering the 18 U.S.C. § 3553(a) sentencing factors, the district court did not give appropriate weight to his medical condition, his vocational and criminal histories, and his conduct while awaiting trial and sentencing.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Gilliam's within-guidelines sentence is afforded a presumption of reasonableness. *See Rita v. United States*, 551 U.S. 338, 347 (2007). Gilliam's appellate arguments amount to a disagreement with the district court's weighing of the § 3553(a) factors and the appropriateness of his within-guidelines sentence. "[T]he sentencing judge is in a superior position to find facts and judge their import under § 3553(a) with respect to a particular defendant." *United States v. Campos-Maldonado*, 531 F.3d 337, 339 (5th Cir.), *cert. denied*, 129 S. Ct. 328 (2008). As such, Gilliam has not shown that his sentence was substantively unreasonable, *see United States v. Delgado-Martinez*, 564 F.3d 750, 751-53 (5th Cir. 2009), nor has he rebutted the presumption of reasonableness that attaches to his within-guidelines sentence. *See Rita*, 551 U.S. at 347.

AFFIRMED.