NONPRECEDENTIAL DISPOSITION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 March 22, 2024
Decided March 25, 2024

Before

MICHAEL Y. SCUDDER, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

No. 23-2513

UNITED STATES OF AMERICA, *Plaintiff-Appellee*,	Appeal from the United States District Court for the Central District of Illinois.
v.	No. 21-CR-20056
TRAVIS CHILDRESS, *Defendant-Appellant*.	Colin S. Bruce, *Judge*.

O R D E R

Travis Childress pleaded guilty to three counts of robbery. 18 U.S.C. § 1951. Over Childress's objections, the court applied three enhancements under the Sentencing Guidelines that increased his recommended imprisonment range. The court then sentenced him within that range to a 12-year prison term. Childress appeals, but his appointed lawyer asserts that the appeal is frivolous and moves to withdraw. *See Anders v. California*, 386 U.S. 738, 744 (1967). Counsel's brief explains the nature of the appeal and addresses issues that an appeal of this kind might be expected to involve. Because counsel's analysis appears thorough, and Childress has not responded to the motion,

see CIR. R. 51(b), we limit our review to the subjects that counsel discusses. *See United States v. Bey*, 748 F.3d 774, 776 (7th Cir. 2014).

Counsel begins by telling us that Childress does not wish to challenge his guilty plea, and so counsel appropriately refrains from discussing any arguments related to the plea's validity. *See United States v. Konczak*, 683 F.3d 348, 349 (7th Cir. 2012); *United States v. Knox*, 287 F.3d 667, 670–71 (7th Cir. 2002).

Counsel next considers challenges to the enhancements and rightly concludes that contesting them would be frivolous. First, the district court applied an enhancement to all three counts of robbery because Childress possessed or used a "dangerous weapon" while committing the offenses. U.S.S.G. § 2B3.1(b)(2)(D), (E). Childress argued that the weapon in his possession during the robberies—a BB gun—was not "dangerous." But an object that "closely resembles" a firearm is a "dangerous weapon" under the Guidelines, *id.* § 2B3.1 cmt. n.2, and a BB gun has such a resemblance. *Id.* § 1B1 cmt. n.1(H) ("'BB' or pellet gun … is a dangerous weapon."); *see Bey*, 748 F.3d at 777–78.

Second, Childress cannot raise a nonfrivolous challenge to the two-level enhancement for a leadership role. *See* U.S.S.G. § 3B1.1(c). Childress had his girlfriend scout the businesses before each robbery, and he also directed her to drive the getaway car after two of the robberies. The enhancement applies if the defendant "tells people what to do and determines whether they've done it," *United States v. Anderson*, 988 F.3d 420, 428 (7th Cir. 2021), and we would find that criteria satisfied here.

Third, Childress has no room to argue that the court improperly applied a two-level enhancement for recklessly creating a substantial risk of death or serious bodily injury. *See* U.S.S.G. § 3C1.2. While fleeing law enforcement after the third robbery, Childress directed his girlfriend to speed and drive through red lights. That conduct creates substantial risk of significant harm. *See United States v. Brown*, 716 F.3d 988, 995–96 (7th Cir. 2013).

Counsel next considers whether Childress could raise a nonfrivolous challenge to the court's other sentencing calculations, and properly concludes he could not. Childress objected to the inclusion of certain convictions from "over 10 years ago" that increased his criminal history category, but the applicable time period under U.S.S.G. § 4A1.2(e)(1) is the 15 years preceding the commencement of the instant offense. We would also uphold the court's assessment that Childress's adjusted offense level of 28

and criminal history category of VI yielded a guidelines imprisonment range of 140 to 175 months. U.S.S.G. ch. 5, pt. A. And Childress's 12-year prison sentence was below the statutory maximum of 60 years for three robberies. *See* 18 U.S.C. § 1951(a) (20-year maximum for each offense).

Counsel is also correct that Childress cannot raise a nonfrivolous argument about the reasonableness of his sentence. Childress's within-Guidelines sentence was presumptively reasonable, *United States v. Ambriz-Villa*, 28 F.4th 786, 791 (7th Cir. 2022), and we see no basis to rebut that presumption. The court properly discussed the sentencing factors under 18 U.S.C. § 3553(a), expressing deep concern about Childress's extensive criminal history ("a legacy of intimidating people, scaring people, threatening people, and getting yourself locked up") and the need to protect the public from further crimes (despite "multiple incarcerations … nothing seems to register on you"). The court also acknowledged his mental-health issues and his struggles with substance abuse. We would not reweigh these factors on appeal. *Ambriz-Villa*, 28 F.4th at 791–92.

Finally, we agree with counsel that any challenge to the length and conditions of supervised release would be frivolous. The three-year term of supervised release is within statutory limits. 18 U.S.C. §§ 3559(a)(3), 3583(b)(2). And because Childress—at sentencing—waived an explanation and reading of the conditions of supervised release (and did not otherwise present any conditions-related argument), he cannot obtain appellate review of those conditions. *United States v. Flores*, 929 F.3d 443, 449–50 (7th Cir. 2019).

Accordingly, we GRANT counsel's motion to withdraw and DISMISS the appeal.