

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 06-3629

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United States of America,	*
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Appellee,	*
	* Appeal from the United States
v.	* District Court for the
	* Northern District of Iowa.
Eddie Rask,	*
	* [UNPUBLISHED]
Appellant.	*

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Submitted: July 30, 2007  
Filed: August 3, 2007

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Before WOLLMAN, COLLOTON, and BENTON, Circuit Judges.

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PER CURIAM.

Eddie Rask challenges the 100-month prison sentence imposed by the district court<sup>1</sup> after he pleaded guilty to a drug offense. For reversal, he argues that his sentence was unreasonable under 18 U.S.C. § 3553 because his criminal history was overstated and the court refused to grant his motion for a downward departure under U.S.S.G. § 4A1.3 (allowing departure for over- or under-represented criminal history). We affirm, because the district court's clearly discretionary decision not to depart is unreviewable, *see United States v. Lee*, 451 F.3d 914, 918 (8th Cir. 2006) (even after

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<sup>1</sup>The Honorable Linda R. Reade, Chief Judge, United States District Court of the Northern District of Iowa.

United States v. Booker, 543 U.S. 220 (2005), discretionary decision not to depart under Guidelines continues to be unreviewable on appeal), petition for cert. filed, (U.S. Oct. 30, 2006) (No. 06-7591), and we see no basis to conclude that the sentence--imposed at the bottom of the advisory Guidelines range--is unreasonable, see Rita v. United States, 127 S. Ct. 2456, 2463-68 (U.S. 2007) (discussing application of presumption of reasonableness to sentence that reflected proper application of Guidelines); United States v. Harris, No. 06-2892, 2007 WL 1964651, at \*3 (8th Cir. July 9, 2007) (sentence within advisory Guidelines range is presumptively reasonable).

Accordingly, the judgment is affirmed.

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