

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 10-1489

United States of America,

Appellee,

v.

Jesse James Holder,

Appellant.

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* Appeal from the United States
* District Court for the Northern
* District of Iowa.
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* [UNPUBLISHED]

Submitted: September 24, 2010

Filed: October 7, 2010

Before GRUENDER, ARNOLD, and SHEPHERD, Circuit Judges.

PER CURIAM.

Jesse Holder appeals from his sentence of sixty-three months' imprisonment for conspiring to manufacture methamphetamine. *See* 21 U.S.C. §§ 841(a)(1), 841(b)(1)(C), and 846. He maintains that the district court¹ erred in denying his motion for a downward departure and in failing to vary from the guidelines when it fixed his sentence.

¹The Honorable Linda R. Reade, United States District Judge for the Northern District of Iowa.

Mr. Holder's appeal from the denial of his motion for a downward departure necessarily fails since the denial of such a motion is not reviewable. *United States v. Watson*, 480 F.3d 1175, 1177 (8th Cir. 2007). His complaint about the district court's failure to vary from the guidelines is an assertion that his sentence was unreasonable. But we have held that a sentence within the guidelines, as this one was, is presumptively reasonable, and we will affirm a sentence, moreover, unless in fixing it the district court abused its discretion. *United States v. Robinson*, 516 F.3d 716, 717 (8th Cir. 2008); *United States v. Hayes*, 518 F.3d 989, 995 (8th Cir. 2008). An abuse of discretion occurs only if the district court failed to consider an appropriate matter, gave significant weight to an inappropriate matter, or committed a clear error of judgment in weighing appropriate matters. *United States v. Bolden*, 596 F.3d 976, 984-85 (8th Cir. 2010).

Here, Mr. Holder argued for a sentence below the guidelines because of his illnesses and his age (he is 71 years old), but the district court carefully weighed these considerations and concluded on sufficient evidence that Mr. Holder was able to work, was not seriously infirm, and could receive appropriate health care in prison. The court also adverted to the list of relevant factors set out in 28 U.S.C. § 3553(a) before pronouncing sentence. Having examined the record carefully, we detect no abuse of discretion here.

Affirmed.
