

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 10-10525
Non-Argument Calendar

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT OCTOBER 22, 2010 JOHN LEY CLERK

D.C. Docket No. 8:09-cr-00425-VMC-MAP-1

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

ANTHONY MCCARTY,

Defendant - Appellant.

Appeal from the United States District Court
for the Middle District of Florida

(October 22, 2010)

Before EDMONDSON, PRYOR and MARTIN, Circuit Judges.

PER CURIAM:

Anthony McCarty appeals his sentence of imprisonment for 108 months after pleading guilty to receiving child pornography. 18 U.S.C. §§ 2552(a), (b)(1).

McCarty argues that his sentence is both procedurally and substantively unreasonable and violates the Eighth Amendment. We affirm.

We review the reasonableness of a sentence deferentially for abuse of discretion. Gall v. United States, 552 U.S. 38, 41, 128 S. Ct. 586, 591 (2007). We review an objection raised for the first time on appeal for plain error. United States v. Massey, 443 F.3d 814, 818 (11th Cir. 2006).

McCarty's sentence is reasonable. The district court adopted the undisputed facts in the presentencing information report; considered the relevant sentencing factors, 18 U.S.C. § 3553(a), including the factors addressed by McCarty's witness; and stated a sufficient reason for imposing a sentence in the middle of the guideline range. McCarty also was sentenced well below the statutory maximum.

McCarty's remaining argument, raised for the first time on appeal, also fails. McCarty cannot establish that his sentence is so grossly disproportionate to his offense as to violate the Eighth Amendment. The district court did not plainly err in sentencing McCarty within the statutory limits, which neither this Court nor the Supreme Court has held are cruel or unusual.

McCarty's sentence is

AFFIRMED.