

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-11943
Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

PEDRO SANTACRUZ,

a.k.a. Red,

a.k.a. Pedro David Santacruz,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Georgia
D.C. Docket No. 1:21-cr-00304-LMM-JEM-1

Before JILL PRYOR, BRANCH, and MARCUS, Circuit Judges.

PER CURIAM:

Pedro Santacruz appeals his 187-month sentence for conspiracy to possess with intent to distribute methamphetamine and possession with intent to distribute methamphetamine -- a 23-month downward variance that was imposed upon resentencing. In an earlier appeal, Santacruz challenged the 192-month sentence imposed at his first sentencing hearing. *United States v. Santacruz*, No. 23-12391 (11th Cir. Dec. 4, 2024) (unpublished). We affirmed the district court’s drug quantity and base offense level calculations and its application of a firearm enhancement, but vacated and remanded as to its application of an aggravating-role adjustment. *Id.* In the instant appeal of the 187-month sentence imposed on remand, Santacruz argues that: (1) the district court erred in denying him safety-valve relief under U.S.S.G. §§ 2D1.1(b)(18) and 5C1.2(a); (2) the court clearly erred in its drug-weight attribution between him and his codefendant; and (3) his sentence is substantively unreasonable. After thorough review, we affirm.

I.

We review a district court’s factual findings concerning safety-valve relief for clear error. *United States v. Maisonet*, 121 F.4th 194, 199 (11th Cir. 2024). We review the sentence a district court imposes for “reasonableness,” which “merely asks whether the trial court abused its discretion.” *United States v. Pugh*, 515 F.3d 1179, 1189 (11th Cir. 2008) (citation modified).

II.

First, we are unpersuaded by Santacruz’s claim that the district court erred in denying him safety-valve relief. A defendant is

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eligible for safety-valve relief if he meets the five criteria set forth in § 5C1.2(a), including that the defendant did not possess a firearm or other dangerous weapon in connection with the offense. U.S.S.G. § 5C1.2(a)(2). If a defendant convicted of a drug-trafficking offense meets the criteria set forth in the safety-valve provision, § 5C1.2(a), his offense level is decreased by two levels. U.S.S.G. § 2D1.1(b)(18).

A defendant possesses a firearm in connection with a drug offense if the firearm is in proximity to drugs or if the firearm facilitates the drug offense. *United States v. Carillo-Ayala*, 713 F.3d 82, 96 (11th Cir. 2013). A firearm can facilitate a drug offense if it emboldens an actor who had the ability to display or discharge the weapon, serves as an integral part of a drug transaction, instills confidence in others who relied on the defendant, or serves as a “badge of office” to help the defendant avoid detection. *Id.* (citation modified) “Where any of these possibilities are shown by the evidence, the safety valve is unavailable unless the defendant negates the proof by a preponderance of the evidence, or unless the government precludes relief by proving the fact by a preponderance of the evidence.” *Id.* The presence of a gun within a defendant’s dominion and control during a drug-trafficking offense will ordinarily show that he possessed the firearm in connection with the offense. *Id.*

However, under *United States v. Keene*, when “a decision either way will not affect the outcome” of a sentence, it is unnecessary for us to decide it. 470 F.3d 1347, 1348 (11th Cir. 2006). “A

decision about a disputed guidelines issue will not affect the outcome either way where (1) the district court states it would have imposed the same sentence, even absent an alleged error, and (2) the sentence is substantively reasonable.” *United States v. Olson*, 127 F.4th 1266, 1275 (11th Cir. 2025) (citation modified). If the sentencing court makes such a statement, we assume there was an error, calculate the guideline range without the error, and analyze whether the sentence would be substantively reasonable under that guideline range to determine if any error was “truly harmless.” *Keene*, 470 F.3d at 1349–50.

Here, after the district court heard the parties’ arguments and issued its 187-month sentence, it clearly said that it would have imposed the “same sentence . . . regardless of the application of § safety-valve” relief. It reiterated that “even if the guidelines were lower because of this firearm issue, which I think was handled correctly, but even if it’s not, this is the correct sentence to me.” The court made this determination based its consideration of the § 3553(a) factors, including the quantity of drugs, the seriousness of Santacruz’s offense, and the mitigating factors concerning his behavior while incarcerated. In light of these unambiguous statements from the district court, we will not vacate and remand for resentencing so long as its error in denying safety-valve relief -- assuming there was one -- did not affect the outcome of the case. See *Olson*, 127 F.4th at 1275; *Keene*, 470 F.3d at 1348–50.

Under the analysis in *Keene*, which assumes the district court erred in not applying a safety-valve reduction, Santacruz’s adjusted

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offense level without the error would have been 35 with a criminal history category of I, yielding a guideline range of 168 to 210 months' imprisonment. U.S.S.G. § 2D1.1(b)(18). This means that Santacruz's 187-month sentence would have been within the adjusted guideline range that would have applied assuming an error. Further, as we'll discuss, Santacruz's 187-month sentence is substantively reasonable. Thus, it is unnecessary for us to decide whether the district court erred in declining to apply safety-valve relief because that error, if any, was "truly harmless." *See Keene*, 470 F.3d at 1349–50. Accordingly, we affirm as to this issue.

III.

Next, we find no merit to Santacruz's claim that the court clearly erred in attributing 542,000 kilograms of converted drug weight to him, and only 12,588 to his codefendant. The law-of-the-case doctrine precludes us from "revisiting issues that were decided explicitly or by necessary implication in a prior appeal." *United States v. Stein*, 964 F.3d 1313, 1322 (11th Cir. 2020) (citation omitted). There are three exceptions to the law-of-the-case doctrine: (1) the evidence in a subsequent trial was "substantially different"; (2) there is a change in controlling law; or (3) the prior decision was "clearly erroneous and would work a manifest injustice." *Id.* at 1323 (citation modified).

Here, the law-of-the-case doctrine bars Santacruz's challenge to the drug-quantity attribution because we affirmed the district court's drug quantity and base offense level calculation during his first appeal. *See Santacruz*, No. 23-12391, manuscript op. at 3–4,

11. Additionally, no exceptions to the law-of-the-case doctrine apply. *See Stein*, 964 F.3d at 1323. There was no second trial, nor was any of the evidence raised at his resentencing hearing substantially different. Further, Santacruz raises no change in controlling law, and our prior decision -- holding that the district court did not clearly err in its base offense level calculation -- was not clearly erroneous. Accordingly, we affirm as to this issue as well.

IV.

Finally, as we've noted, Santacruz's 187-month sentence was not substantively unreasonable. In reviewing the "substantive reasonableness of [a] sentence imposed under an abuse-of-discretion standard," we consider the "totality of the circumstances." *Pugh*, 515 F.3d at 1190 (quoting *Gall v. United States*, 552 U.S. 38, 51 (2007)). The district court must impose a sentence "sufficient, but not greater than necessary, to comply with the purposes" listed in 18 U.S.C. § 3553(a).¹ The court must consider all of the § 3553(a) factors, but "the weight given to each factor is committed to the sound discretion of the district court," and the court may attach

¹ The § 3553(a) factors include: (1) the nature and circumstances of the offense and the history and characteristics of the defendant; (2) the need for the sentence imposed to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense; (3) the need for the sentence imposed to afford adequate deterrence; (4) the need to protect the public; (5) the need to provide the defendant with educational or vocational training or medical care; (6) the kinds of sentences available; (7) the Sentencing Guidelines range; (8) the pertinent policy statements of the Sentencing Commission; (9) the need to avoid unwarranted sentencing disparities; and (10) the need to provide restitution to victims. 18 U.S.C. § 3553(a).

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great weight to one factor over the others -- a decision that is within its sound discretion. *United States v. Butler*, 39 F.4th 1349, 1355 (11th Cir. 2022); *United States v. Rosales-Bruno*, 789 F.3d 1249, 1254 (11th Cir. 2015).

The advisory guideline range is “but one of many considerations” that a sentencing court must take into account when sentencing a defendant. *Rosales-Bruno*, 789 F.3d at 1254. Further, one of the purposes of the Guidelines is to provide certainty and fairness in sentencing and to avoid unwarranted sentencing disparities among defendants with similar records who have been found guilty of similar criminal conduct. *United States v. Docampo*, 573 F.3d 1091, 1102 (11th Cir. 2009). But even though a district court is required to avoid unwarranted sentence disparities among similarly situated defendants, defendants who provide assistance to the government are not similarly situated to defendants who do not do so. *Id.* at 1101. In addition, “[d]isparity between the sentences imposed on codefendants is generally not an appropriate basis for relief on appeal.” *United States v. Cavallo*, 790 F.3d 1202, 1237 (11th Cir. 2015) (citation modified).

The district court is not required to discuss each of the § 3553(a) factors, and an acknowledgement that it has considered the § 3553(a) factors will suffice. *United States v. Turner*, 474 F.3d 1265, 1281 (11th Cir. 2007). Additionally, the court’s “failure to discuss mitigating evidence does not indicate that the court erroneously ignored or failed to consider the evidence.” *Butler*, 39 F.4th at 1356

(citation modified). However, a sentence may be substantively unreasonable when a court unjustifiably relies on any single § 3553(a) factor, fails to consider pertinent § 3553(a) factors, bases the sentence on impermissible factors, or selects the sentence arbitrarily. *Pugh*, 515 F.3d at 1191–92. A sentence that suffers from one of these symptoms is not *per se* unreasonable; rather, we must examine the totality of the circumstances to determine the sentence’s reasonableness. *Id.* at 1192. “We will not second guess the weight (or lack thereof) that the [court] accorded to a given [§ 3553(a)] factor . . . as long as the sentence ultimately imposed is reasonable in light of *all* the circumstances presented.” *United States v. Snipes*, 611 F.3d 855, 872 (11th Cir. 2010) (citation modified).

As the reviewing court, we may not apply a presumption of unreasonableness to a sentence outside of the advisory guideline range. *Gall*, 552 U.S. at 51. We “may consider the extent of the deviation, but must give due deference to the district court’s decision that the § 3553(a) factors, on a whole, justify the extent of the variance.” *Id.* We will vacate a sentence only if we are left with the “definite and firm” conviction that the district court committed a clear error of judgment in weighing the § 3553(a) factors by arriving at a sentence that is outside the range of reasonable sentences dictated by the facts of the case. *Pugh*, 515 F.3d at 1191 (citation modified). The party challenging the sentence bears the burden of demonstrating that the sentence is unreasonable in light of the record, the factors listed in 18 U.S.C. § 3553(a), and the substantial deference afforded sentencing courts. *Rosales-Bruno*, 789 F.3d at 1256.

Here, the district court did not abuse its discretion in determining that a 187-month sentence -- which was a 23-month downward variance from the advisory guideline range -- was warranted. The record reveals that the district court considered the advisory guideline range, the parties' arguments, and the § 3553(a) factors, including the nature and circumstances of Santacruz's offense, his history and characteristics, the need for the sentence to reflect the seriousness of the offense, deterrence, protection of the public, his training, the kinds of sentences available, all pertinent policies, and the need to avoid sentencing disparities. In so doing, the court expressly noted that Santacruz had committed a serious drug crime, but also that he had worked hard on his education while incarcerated and that the sentence was well below the recalculated guideline range. In addition, despite Santacruz's claims to the contrary, the court acknowledged Santacruz's arguments concerning the proposed changes to the methamphetamines guidelines and the disparity between his sentence and his codefendant's. Further, the court acted within its discretion to find that Santacruz's conduct warranted a different sentence than his codefendant's, based on the differences between their offense conduct and between their level of cooperation with the government. *See Docampo*, 573 F.3d at 1101. As for Santacruz's argument that his sentence was substantially above the national average of sentences for comparable offenders, he has not shown how his record is similar to the average defendant in the statistics. *Id.* at 1102.

On this record, the court acted well within its discretion to vary downward based on Santacruz's mitigating behavior and to

give greater weight to need to reflect the seriousness of the offense in crafting its sentence. *See Butler*, 39 F.4th at 1355. Accordingly, we affirm.

AFFIRMED.