

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-13931
Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

WIBER TENORIO-RODRIGUEZ,

Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 8:19-cr-00404-WFJ-SPF-3

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

PER CURIAM:

Wiber Tenorio-Rodriguez appeals the denial of his 18 U.S.C. § 3582(c)(2) motion for a sentence reduction based on the retroactive application of Amendment 821 to the Sentencing Guidelines.

He asserts the district court abused its discretion in denying relief under the § 3553(a) factors when it failed to give enough weight to his mitigating evidence, including his difficult upbringing and excellent post-incarceration behavior. After review,¹ we affirm.

A district court has no inherent authority to modify a defendant's sentence and may do so only when authorized by statute or rule. *United States v. Puentes*, 803 F.3d 597, 605–06 (11th Cir. 2015). Under § 3582(c)(2), upon a defendant's motion, a district court may reduce a term of imprisonment for a defendant “who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission . . . after considering the factors set forth in section 3553(a) to the extent that they are applicable, if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission.” 18 U.S.C. § 3582(c)(2).

Under § 3582(c)(2), a district court must perform a two-step analysis: first, it must determine whether the defendant is eligible for relief, and then it must consider any applicable § 3553(a) factors to determine whether, in its discretion, the reduction is warranted in whole or in part under the particular circumstances of the case.

¹ We review de novo a prisoner's eligibility for a sentence reduction under § 3582(c)(2) as well as the district court's conclusions regarding the scope of its legal authority under § 3582(c)(2). *United States v. Llewlyn*, 879 F.3d 1291, 1294 (11th Cir. 2018). If § 3582(c)(2) applies, we review the denial of a sentence reduction for an abuse of discretion. *United States v. Caraballo-Martinez*, 866 F.3d 1233, 1238 (11th Cir. 2017).

United States v. Caraballo-Martinez, 866 F.3d 1233, 1248 (11th Cir. 2017).

As an initial matter, neither party disputes the district court’s conclusion that Tenorio-Rodriguez was eligible for relief as a zero-point offender under Part B of Amendment 821.² Thus, the analysis proceeds to step two of the inquiry—the § 3553(a) factor balancing. *See id.*

A district court abuses its considerable discretion in weighing the § 3553(a) factors only when “it (1) fails to afford consideration to relevant factors that were due significant weight, (2) gives significant weight to an improper or irrelevant factor, or (3) commits a clear error of judgment in considering the proper factors.” *United States v. Sotelo*, 130 F.4th 1229, 1244 (11th Cir. 2025) (quotation marks omitted). The district court is not required to give all the factors equal weight. *United States v. Olson*, 127 F.4th 1266, 1276 (11th Cir. 2025).

² Part B of Amendment 821 to the Sentencing Guidelines, which became effective on November 1, 2023, and applies retroactively as of February 1, 2024, added U.S.S.G. § 4C1.1(a) to the Sentencing Guidelines. *See* U.S. Sentencing Commission, *Adopted Amendments (Effective November 1, 2023)*, Amendment 821; U.S.S.G. § 1B1.10(d), (e)(2) (2023). Under the 2023 Sentencing Guidelines, § 4C1.1(a)’s “zero-point offender” adjustment required a court to decrease a defendant’s offense level by two levels if, *inter alia*, “the defendant did not receive any criminal history points from Chapter Four, Part A” and “the defendant did not receive an adjustment under § 3B1.1 (Aggravating Role) and was not engaged in a continuing criminal enterprise, as defined in 21 U.S.C. § 848.” U.S.S.G. § 4C1.1(a)(1), (10), (11) (2023).

Section 3553(a)’s “statutory command” is that any sentence must be “sufficient, but not greater than necessary, to comply with the purposes of punishment.” *Hewitt v. United States*, 606 U.S. 419, 435 (2025) (quotation marks omitted). These purposes include the need to reflect the seriousness of the offense, deter criminal conduct, promote respect for the law, provide just punishment for the offense, protect the public from the defendant’s future crimes, and provide the defendant with needed training or treatment. 18 U.S.C. § 3553(a)(2)(A)–(D). In imposing a particular sentence, the court must also consider the offense’s “nature and circumstances,” the defendant’s “history and characteristics,” the “kinds of sentences available,” the applicable Guidelines range, Sentencing Commission policy statements, “the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct,” and the need to provide restitution to any of the defendant’s victims. *Id.* § 3553(a)(1), (3)–(7).

Tenorio-Rodriguez fails to show an abuse of discretion in the district court’s weighing of the § 3553(a) factors to deny him § 3582(c)(2) relief under Amendment 821. The district court’s order contained several statements showing it was basing its denial on several relevant statutory factors, including the nature and circumstances of the offense, the seriousness of the offense, promoting respect for the law, and deterrence. The court noted its concerns about a lack of deterrence and respect for the law if it reduced the sentence, which had already incorporated a downward variance, for a sophisticated, international drug smuggling operation.

Accordingly, the record shows no clear error of judgment in the district court's balancing of the factors as there is no indication it improperly considered an irrelevant factor or failed to consider an important one. *See Sotelo*, 130 F.4th at 1244.

Tenorio-Rodriguez resists this conclusion by arguing the district court's analysis was an abuse of discretion because it "minimal[ly] engage[d]" with and failed to "grappl[e]" with the mitigating factors. The premise of his argument is unpersuasive as it implies the court needed to give greater weight to the mitigating factors or otherwise more clearly explain why they did not warrant relief. This statement is wrong as a matter of law, because the relative weight the district court gives each factor is within its "sound discretion." *United States v. Rodriguez*, 34 F.4th 961, 969 (11th Cir. 2022) (stating the weight a district court gives to "any given § 3553(a) factor is a matter committed to the sound discretion of the district court" (quotation marks omitted)). Furthermore, a failure to affirmatively discuss mitigating evidence does not mean that such evidence was not considered. *United States v. Amedeo*, 487 F.3d 823, 833 (11th Cir. 2007) (explaining the court's failure to discuss mitigating evidence does not indicate that it "erroneously 'ignored' or failed to consider this evidence"). Thus, to the extent Tenorio-Rodriguez takes issue with the district court's omission of any reference to his difficult upbringing or good post-incarceration behavior, this does not establish the court did not consider those factors.

Additionally, Tenorio-Rodriguez is correct that disparate sentences produced by substantial-assistance departures are not

similarly situated and not properly considered under § 3553(a)(6). *See United States v. Docampo*, 573 F.3d 1091, 1101–02 (11th Cir. 2009) (holding defendants who substantially assist the government are not similarly situated to those who do not for § 3553(a)(6) disparity considerations). However, the district court adhered to this principle, rather than violated it, when it decided against granting Tenorio-Rodriguez a one-month reduction because that would place his non-substantial assistance sentence at the same level as the substantial assistance sentences obtained by his codefendants, defeating the statutory purpose of giving substantial assistance. Part of considering § 3553(a)(6) is not just keeping like sentences like, but also keeping distinct sentences distinct. *See id.* at 1101 (observing a well-founded claim of disparity under § 3553(a)(6) assumes “apples are being compared to apples” (quotation marks omitted)). Accordingly, Tenorio-Rodriguez fails to show an abuse of discretion in the district court’s weighing of the § 3553(a) factors to deny relief.

AFFIRMED.