

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 26-10689
Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MARINO NAVA,

a.k.a. Marino Nava-Sanchez,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Georgia
D.C. Docket No. 1:25-cr-00343-JPB-JKL-1

Before NEWSOM, BRASHER, and TJOFLAT, Circuit Judges.

PER CURIAM:

Marino Nava appeals his sentence of 21 months' imprisonment for illegal reentry after deportation. He argues the sentence

imposed by the District Court is substantively unreasonable because the District Court failed to properly balance the factors set forth in 18 U.S.C. § 3553(a).

When reviewing for substantive reasonableness, we consider the totality of the circumstances under a deferential abuse of discretion standard. *Gall v. United States*, 552 U.S. 38, 51, 128 S. Ct. 586, 597 (2007). The party challenging the sentence bears the burden of establishing that it is unreasonable based on the facts of the case and the § 3553(a) factors. *United States v. Tome*, 611 F.3d 1371, 1378 (11th Cir. 2010).

The District Court abuses its discretion 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. Irey*, 612 F.3d 1160, 1189 (11th Cir. 2010) (en banc) (citation omitted). The proper factors are set out in § 3553(a) and include the history and characteristics of the defendant; the nature and seriousness of the crime; the need for the sentence to promote respect for the law, provide just punishment, afford adequate deterrence, and protect the public from further crimes of the defendant; the guideline range; and “the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct.” 18 U.S.C. § 3553(a).

We have “underscored” that we must give “due deference” to the district court to consider and weigh the proper sentencing

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factors. *United States v. Shabazz*, 887 F.3d 1204, 1224 (11th Cir. 2018) (citation omitted). The District Court does not have to give all the factors equal weight and is given discretion to attach greater weight to one factor over another. *United States v. Gomez*, 955 F.3d 1250, 1257 (11th Cir. 2020). We will only reverse a procedurally proper sentence 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 lies outside the range of reasonable sentences dictated by the facts of the case.” *United States v. McBride*, 511 F.3d 1293, 1297–98 (11th Cir. 2007) (quoting *United States v. Williams*, 456 F.3d 1353, 1363 (11th Cir. 2006)).

Here, the District Court imposed a substantively reasonable sentence after diligent consideration of the § 3553(a) factors. After announcing the 21-month sentence, the District Court articulated that the sentence was “made in view of the sentencing goals delineated in 18 USC Section 3553(a) and the parties' arguments as to those factors.” The District Court noted it was refusing Nava’s request for a variance below the Guideline range¹ “based on the entirety of [the Court’s] analysis of the 3553(a) factors.”

The Court noted several factors that weighed in Nava’s favor, including the fact that he was raised in poverty, his prior military service in Mexico, and the reports of inadequate medical care

¹ Nava’s Sentencing Guideline range was 18 to 24 months.

he received while in custody. But the Court determined other factors, including the “circumstances of the offense” and the need for the “sentence [to] reflect the seriousness of the offense,” outweighed these considerations.

[O]nce he illegally re-entered this country he then proceeded to commit two crimes² So I think it makes total sense that the government would come in here and ask for the maximum sentence. I mean, this is, to me, one of the main reasons I would think that we have that law and prosecute it, is to make sure that this doesn't happen again. So I think specific deterrence and general deterrence are incredibly important here.

Despite the strong factors weighing in favor of a top-of-the-range sentence, the Court found the mitigating evidence warranted a sentence in the middle of the Guideline range.

So although I certainly agree with the government that a maximum penalty here of 24 months would be in order given, you know, especially for the crimes he committed while he was here illegally, when I factor in all of the 3553(a) factors, and I think important here was his poor healthcare, among other things, I think

² According to his PSR, Nava pleaded guilty to arson and burglary in 2022. He also pleaded nolo contendere to “Discharge of Gun Near Highway or Street” and “Reckless Conduct” in 2021.

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a sentence in the middle of the guidelines makes more sense.

We find the District Court conducted a fulsome and careful consideration of the factors set forth in § 3553(a). Defendant’s contention that the various factors considered by the District Court did not “compel” or “require” the imposition of a 21-month sentence is beside the point. When reviewing for substantive reasonableness, we do not ask whether the evidence “compelled” or “required” the sentence imposed. That Nava may disagree with the District Court’s weighing of the § 3553(a) factors is no basis for this Court to deem the sentence substantively unreasonable. *See United States v. Butler*, 39 F.4th 1349, 1355 (11th Cir. 2022) (“In reviewing the reasonableness of a sentence, we will not substitute our own judgment for that of the sentencing court. . . .”).

AFFIRMED.