

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 06-3362

United States of America,

Appellee,

v.

Robert E. Williams,

Appellant.

*

*

*

* Appeal from the United States

* District Court for the

* Western District of Missouri.

*

* [UNPUBLISHED]

*

Submitted: February 21, 2008

Filed: February 26, 2008

Before WOLLMAN, RILEY, and GRUENDER, Circuit Judges.

PER CURIAM.

Robert E. Williams (Williams) appeals the 24-month sentence the district court¹ imposed after revoking his supervised release. After carefully reviewing the record and counsel's brief, we affirm.

We first conclude the district court did not clearly err in finding by a preponderance of the evidence that Williams had violated the conditions of his supervised release. See United States v. Carothers, 337 F.3d 1017, 1019 (8th Cir.

¹The Honorable Ortrie D. Smith, United States District Judge for the Western District of Missouri.

2003) (stating the government’s burden of proof, and the clear-error review standard, and finding the district court did not clearly err in concluding that defendant had violated a condition of supervised release by committing assault, where the court found the victim’s testimony credible and defendant’s testimony not credible); United States v. Hernandez, 281 F.3d 746, 748 (8th Cir. 2002) (explaining the district court’s witness credibility determinations are virtually unreviewable on appeal).

We further conclude Williams’s sentence is not unreasonable because it is within the applicable statutory maximum, see 18 U.S.C. § 3583(e)(3) (establishing for a Class C felony, the maximum term of imprisonment upon revocation of supervised release is 2 years), and the sentence resulted from the district court’s consideration of appropriate factors under 18 U.S.C. § 3553(a), see United States v. Nelson, 453 F.3d 1004, 1006 (8th Cir. 2006) (explaining an appellate court reviews a revocation sentence to determine whether it is unreasonable in relation to, inter alia, § 3553(a) factors and the advisory Guidelines range); United States v. Tyson, 413 F.3d 824, 825 (8th Cir. 2005) (per curiam) (declaring revocation sentences are reviewed for unreasonableness in accordance with United States v. Booker, 543 U.S. 220 (2005)).

We grant counsel’s motion to withdraw, and we affirm.
