

United States Court of Appeals
For the Eighth Circuit

No. 19-1724

United States of America

Plaintiff - Appellee

v.

Neil George Ness

Defendant - Appellant

Appeal from United States District Court
for the Northern District of Iowa - Dubuque

Submitted: January 13, 2020
Filed: February 3, 2020
[Unpublished]

Before KOBES, BEAM, and MELLOY, Circuit Judges.

PER CURIAM.

Neil George Ness pleaded guilty to one count of possessing an unregistered short-barreled shotgun in violation of 26 U.S.C. §§ 5845(a) and 5861(d). The district

court¹ sentenced him to 37 months in prison—the bottom of his Guidelines range. On appeal, Ness challenges his sentence as substantively unreasonable. We affirm.

We review the substantive reasonableness of a sentence for an abuse of discretion. United States v. Feemster, 572 F.3d 455, 461 (8th Cir. 2009) (en banc). The record must show that the district court considered the § 3553(a) factors, but we do not require “a mechanical recitation” of all the factors. Id. Simply because the district court weighed relevant factors more heavily than Ness would prefer does not mean the district court abused its discretion. United States v. Farmer, 647 F.3d 1175, 1179 (8th Cir. 2011). “A within-Guidelines sentence is presumed reasonable.” United States v. Williams, 913 F.3d 1115, 1116 (8th Cir. 2019) (per curiam).

Ness claims that the sentencing enhancements he received were unduly harsh and that the district court did not properly consider his offense conduct (that the firearm was not used for an illegal purpose), military service, work history, his Social Security Disability status, and his age. The record shows the district court “carefully considered each and every factor” and Ness’s arguments for a departure. Sentencing Hr’g Tr. 15:25–19:23. It found no basis for a downward variance because his house smelled strongly of marijuana, contained several firearms (including one with the serial number removed), marijuana growing equipment, drug paraphernalia, and he “permitted illegal conduct there.” Id. at 17:15–18:19. Accordingly, we find no abuse of discretion.

Ness’s sentence is affirmed.

¹The Honorable Linda R. Reade, United States District Judge for the Northern District of Iowa.