

United States Court of Appeals
For the Eighth Circuit

No. 21-2849

United States of America

Plaintiff - Appellee

v.

Matthew Lee Rupert

Defendant - Appellant

Appeal from United States District Court
for the District of Minnesota

Submitted: March 16, 2022

Filed: April 28, 2022

[Unpublished]

Before GRUENDER, BENTON, and ERICKSON, Circuit Judges.

PER CURIAM.

Matthew L. Rupert pled guilty to arson in violation of 18 U.S.C. §§ 2, 844(i). During protests after the murder of George Floyd, Rupert lit a fire in the back of a Sprint store in Minneapolis. The fire triggered the sprinkler system, causing

extensive damage to the store. The district court¹ sentenced Rupert to 105 months in prison. Rupert appeals his sentence. Having jurisdiction under 28 U.S.C. § 1291, this court affirms.

Rupert contends the district court clearly erred in its guidelines determination. The district court found that Rupert’s “actions and statements clearly show that he was attempting to destroy the store,” thus placing him in the highest base offense level. *See* U.S.S.G. § 2K1.4(a)(1)(B). This court “review[s] a district court’s factual findings for clear error and its interpretation and application of the sentencing guidelines de novo.” *United States v. Farish*, 535 F.3d 815, 824 (8th Cir. 2008).

Via live video stream, Rupert documented his acts on May 29, 2020. He repeatedly asked people leaving the store “Should we torch it?” Entering the store, he declared: “We’re gonna torch it, everybody gotta get out.” That video and the store’s surveillance video show him gathering boxes and pouring lighter fluid on them as an accelerant. He ordered his companion (a minor) to light the pile. Fleeing, Rupert shouted “I lit it on fire! I lit it on fire, yes!”

After careful review of the record, this court concludes the district court did not clearly err in finding Rupert’s arson was (at least) an attempt to destroy the Sprint store.

This court affirms Rupert’s sentence. *See* 8th Cir. R. 47B.

* * * * *

The judgment is affirmed.

¹Hon. Nancy E. Brasel, United States District Judge for the District of Minnesota.