

United States Court of Appeals  
For the Eighth Circuit

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No. 22-1310

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United States of America

*Plaintiff - Appellee*

v.

Jacob Dylan Ness

*Defendant - Appellant*

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

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Submitted: September 19, 2022

Filed: November 10, 2022

[Unpublished]

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Before COLLOTON, WOLLMAN, and STRAS, Circuit Judges.

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PER CURIAM.

After Jacob Ness violated the conditions of probation by using methamphetamine, the district court<sup>1</sup> varied upward and gave him a 27-month prison sentence. See 18 U.S.C. § 3565(a). Although he argues that the sentence is too long, we affirm.

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

We conclude that the sentence is substantively reasonable. *See United States v. Michael*, 12 F.4th 858, 860 (8th Cir. 2021) (stating that a within-Guidelines sentence is presumed reasonable). The record establishes that the district court sufficiently considered the statutory sentencing factors, 18 U.S.C. § 3553(a), and did not rely on an improper factor or commit a clear error of judgment, *see United States v. Leonard*, 785 F.3d 303, 306–07 (8th Cir. 2015) (per curiam). In its view, Ness presented a “clear danger to the community” based on his “outrageous criminal behavior,” even though he was “trying to remain sober.” *Cf. Michael*, 12 F.4th at 860–61 (affirming an upward departure based on the district court’s decision “to give greater weight to the risk to the public”). Just because Ness believes the court should have weighed these factors differently does not mean the court abused its discretion. *See United States v. Holdsworth*, 830 F.3d 779, 786 (8th Cir. 2016).

We accordingly affirm the judgment of the district court.

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