

United States Court of Appeals
For the Eighth Circuit

No. 22-2868

United States of America

Plaintiff - Appellee

v.

Jyshawn Robertson

Defendant - Appellant

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

Submitted: May 8, 2023

Filed: August 4, 2023

[Unpublished]

Before SHEPHERD, STRAS, and KOBES, Circuit Judges.

PER CURIAM.

Jyshawn Robertson received a 120-month prison sentence after he pleaded guilty to possessing a firearm as a felon. *See* 18 U.S.C. §§ 922(g)(1), 924(a)(2). Although he claims the sentence is too long, we affirm.

The district court¹ explained why Robertson received the statutory-maximum sentence: he fired several times at a busy nightclub. *See* U.S.S.G. § 5K2.6 (allowing the court to depart upward when “a weapon or dangerous instrumentality was used” to commit the offense); *United States v. Porter*, 409 F.3d 910, 914 (8th Cir. 2005) (shooting a gun into an occupied building “clearly fits within Section 5K2.6’s plain language”). He denies firing the shots, but there is plenty of evidence to the contrary. The getaway driver identified him as the gunman, the bar owner said he had been making threats, and his DNA was recovered from the gun. In the court’s words, the evidence here was “overwhelming,” more than enough to get past clear-error review. *See United States v. Fields*, 512 F.3d 1009, 1011 (8th Cir. 2008).

Robertson’s sentence is also substantively reasonable. The district court sufficiently considered the statutory sentencing factors, *see* 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. Feemster*, 572 F.3d 455, 461–62 (8th Cir. 2009) (en banc). Indeed, Robertson’s actions easily could have killed someone, so it is no surprise that he received a lengthy sentence. *See* 18 U.S.C. § 3553(a)(2)(A) (noting that a sentence should “reflect the seriousness of the offense”).

We accordingly affirm the judgment of the district court.

¹The Honorable C.J. Williams, United States District Judge for the Northern District of Iowa.