

United States Court of Appeals
For the Eighth Circuit

No. 23-1788

United States of America

Plaintiff - Appellee

v.

Davonte Andrews

Defendant - Appellant

Appeal from United States District Court
for the District of Nebraska - Omaha

Submitted: December 11, 2023

Filed: February 12, 2024

[Unpublished]

Before ERICKSON, MELLOY, and STRAS, Circuit Judges.

PER CURIAM.

After pleading guilty to distributing child pornography, see 18 U.S.C. § 2252(a)(2), (b)(1), Davonte Andrews received a 130-month prison sentence. He argues the sentence is substantively unreasonable because it is 10 months longer than what the parties jointly recommended.

We conclude otherwise, in large part because the district court¹ had no obligation to stick to the parties' recommendation. *See United States v. Gasaway*, 684 F.3d 804, 806, 808 (8th Cir. 2012) (affirming the substantive reasonableness of a sentence nearly double the government's request). Nor did it need to place greater weight on the mitigating factors than it thought they deserved. *See United States v. Moua*, 895 F.3d 556, 560 (8th Cir. 2018) (per curiam). The point is that, having decided to vary downward, the court had the discretion to decide how low to go. *See United States v. Matheny*, 42 F.4th 837, 847 (8th Cir. 2022). We accordingly affirm the judgment of the district court.

¹The Honorable Brian C. Buescher, United States District Judge for the District of Nebraska.