

United States Court of Appeals  
For the Eighth Circuit

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No. 23-3592

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United States of America

*Plaintiff - Appellee*

v.

Cleo D. Johnson, III

*Defendant - Appellant*

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Appeal from United States District Court  
for the Western District of Missouri - Kansas City

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Submitted: September 23, 2024

Filed: October 22, 2024

[Unpublished]

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Before SMITH, ERICKSON, and STRAS, Circuit Judges.

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PER CURIAM.

Cleo Johnson appeals after the district court<sup>1</sup> varied upward from the Sentencing Guidelines and sentenced him to 84 months' imprisonment. He challenges the substantive reasonableness of his sentence.

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<sup>1</sup>The Honorable Greg Kays, United States District Judge for the Western District of Missouri.

After careful review of the record, we conclude that the district court did not abuse its discretion in varying upward by 21 months. See United States v. Henry, 770 Fed. Appx. 309, 310-11 (8th Cir. 2019) (per curiam) (finding no abuse of discretion with a 66-month upward variance based on the district court’s reasoned basis supported by the evidence). In varying upward, the district court considered factors not already accounted for by the Guidelines and determined the Guidelines failed to give sufficient weight to other factors. See United States v. Petersen, 22 F.4th 805, 808 (8th Cir. 2022) (court may vary upward if it determines “the weight the Guidelines assigned to a particular factor was insufficient”). The district court’s reasoning is supported by the evidence.

Accordingly, we affirm.

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