

United States Court of Appeals
For the Eighth Circuit

No. 25-3247

United States of America

Plaintiff - Appellee

v.

Eugene Wilson

Defendant - Appellant

Appeal from United States District Court
for the Eastern District of Arkansas - Central

Submitted: September 9, 2026

Filed: September 15, 2026

[Unpublished]

Before L.R. SMITH, GRUENDER, and SHEPHERD, Circuit Judges.

PER CURIAM.

Eugene Wilson appeals the below-Guidelines-range sentence the district court¹ imposed after he pleaded guilty to a fraud offense. On appeal, he challenges the sentence as unreasonable, arguing the district court considered an improper factor.

Upon careful review, we conclude Wilson's argument fails, whether his sentence is reviewed for plain procedural error or substantive error amounting to an abuse of discretion. See United States v. Feemster, 572 F.3d 455, 461 (8th Cir. 2009) (en banc) (in reviewing sentences, this court first ensures no significant procedural error occurred, then considers substantive reasonableness of sentence under abuse-of-discretion standard); see also United States v. Hall, 931 F.3d 694, 696-97 (8th Cir. 2019) (noting use of excluded factor could be raised either as procedural error of considering improper factor or as substantive error of giving significant weight to improper factor; reviewing procedural error not raised in district court for plain error). Even if the court improperly considered Wilson's ability to pay restitution, any error did not affect his substantial rights, as the court explained the amount of the victim's loss was "driving this sentence." See United States v. Jeffries, 569 F.3d 873, 875-76 (8th Cir. 2009) (under plain error review, court must first determine whether there was clear or obvious error that affected appellant's substantial rights, meaning error affected outcome of proceedings); United States v. Sadler, 864 F.3d 902, 904-05 (8th Cir. 2017) (per curiam) (no plain procedural error due to district court's consideration of allegedly improper factor; record showed court's consideration of 18 U.S.C. § 3553(a) factors, as opposed to improper factor, was "driving force" behind sentence). Further, there is no indication the court abused its discretion by giving such a factor significant weight. See Feemster, 572 F.3d at 461 (abuse of discretion occurs when court fails to consider relevant factor, gives significant weight to

¹The Honorable James M. Moody Jr., United States District Judge for the Eastern District of Arkansas.

improper to irrelevant factor, or commits clear error of judgment in weighing factors); United States v. Kouangvan, 844 F.3d 996, 1001 (8th Cir. 2017) (no abuse of discretion occurred where court did not label anticipated inability to pay restitution an aggravating factor or otherwise imply it was increasing prison sentence to compensate for expectation of not recovering restitution).

Accordingly, we affirm.
