

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 19-60218
Summary Calendar

D.C. Docket No. 3:18-CR-96-1

United States Court of Appeals
Fifth Circuit

FILED

October 21, 2019

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff - Appellee

v.

DESMOND BOWEN,

Defendant - Appellant

Appeal from the United States District Court for the
Northern District of Mississippi

Before SMITH, DENNIS, and DUNCAN, Circuit Judges.

J U D G M E N T

This cause was considered on the record on appeal and the briefs on file.

It is ordered and adjudged that the judgment of the District Court is affirmed.

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Appeal from the United States District Court
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USDC No. 3:18-CR-96-1

Before SMITH, DENNIS, and DUNCAN, Circuit Judges.

PER CURIAM:*

Desmond Bowen appeals the sentence imposed following his guilty plea for possession of ammunition by a felon. He argues that the 120-month, above-guidelines sentence is substantively unreasonable because the district court placed undue weight on his criminal history. We affirm.

The record reflects that the district court made an informed, individualized assessment after considering the 18 U.S.C. § 3553(a) factors,

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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the statutory sentencing provisions, the guidelines range, the facts in the presentence report, and the arguments of the parties. We owe deference to the district court's determination, *see Gall v. United States*, 552 U.S. 38, 50-53 (2007), and discern no abuse of the court's discretion. Bowen has a history of offenses involving firearms and reckless behavior; it was proper for the district court to consider this, and reasonable for the court to conclude that he presented a risk to others. *Cf. United States v. Key*, 599 F.3d 469, 475-76 (5th Cir. 2010); *United States v. Smith*, 440 F.3d 704, 708-10 (5th Cir. 2006). Although the 120-month sentence is 63 months greater than the top of the guidelines range, we have upheld similar or greater variances in the past. *E.g., Key*, 599 F.3d at 475-76; *Smith*, 440 F.3d at 708-10. That Bowen disagrees with how the court balanced the factors before it is not a sufficient ground for reversal. *See United States v. Malone*, 828 F.3d 331, 342 (5th Cir. 2016). We note as well that Bowen asks us to reconsider binding precedent in this area of law, an invitation we decline. The judgment of the district court is AFFIRMED.