

NO. 24-_____

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 2024

CHRISTOPHER WILLIAMS

Petitioner,

UNITED STATES OF AMERICA,

Respondent,

PETITION FOR WRIT OF CERTIORARI

TO THE UNITED STATES COURT OF

APPEALS FOR THE SEVENTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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No. 24- _____

IN THE SUPREME COURT OF THE UNITED STATES
OCTOBER TERM,

CHRISTOPHER WILLIAMS,

Petitioner,

VS.

UNITED STATES OF AMERICA

Respondents.

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

I, Bart E. Beals, appointed counsel for the petitioner seeks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed in forma pauperis.

x Petitioner has previously been granted leave to proceed in forma pauperis in the following court(s): U.S District Court and U.S. Court of Appeals, Seventh Circuit

____ Petitioner has not previously been granted leave to proceed in forma pauperis in any other court.

Petitioner's affidavit or declaration in support of this motion is attached hereto.

Bart Beals
(Signature)

**AFFIDAVIT OR DECLARATION
IN SUPPORT OF MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS**

I, Bart E. Beals, court appointed counsel for Christopher Williams, who is serving a sentence of forty-one (41) months in the U.S. Bureau of Prisons, is the petitioner on behalf of Mr. Ortega-Galvan in the above-entitled case. In support of my motion to proceed without being required to prepay fees, costs or give security therefor, I state that because of my client's poverty he is unable to pay the costs of this case or to give security therefor; and I believe he is entitled to redress.

I further swear that the responses I have made to the questions and instructions below relating to my client's ability to pay the cost of proceeding in this Court are true.

1. Are you presently employed? No.
2. Have you received within the past twelve months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, or other sources? No.
3. Do you own any cash or have a checking or savings account? No.
4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? No.
5. List the persons who are dependent upon you for support and state your relationship to those persons.

I declare under penalty of perjury that the foregoing is true and correct.

Bart Beals
(Signature)

QUESTIONS PRESENTED FOR REVIEW

- I. Whether the district court erred by sentencing the Defendant to three hundred sixty (360) months in light of the circumstances of the case?
- II. Whether the government met its burden to prove the enhancements without producing a firearm and only one piece of objective evidence?
- III. Was the government required to provide additional evidence regarding purity?

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CHRISTOPHER WILLIAMS

Petitioner,

v.

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Respondent.

PETITION FOR WRIT OF CERTIORARI

TO THE UNITED STATES COURT OF APPEALS

FOR THE SEVENTH CIRCUIT

The Petitioner Christopher Williams respectfully prays that a writ of certiorari issue to review the judgment and opinion of the United States Court of Appeals for the Seventh Circuit which was entered in the above-entitled case on October 30, 2023.

OPINION BELOW

The opinion of the United States Court of Appeals for the Seventh Circuit, entitled *United States v. Christopher Williams*, is reported at 85 F.4th 844 (7th Cir. 2023), and is attached hereto in the Appendix A.

JURISDICTION

On October 30, 2023, the United States Court of Appeals for the Seventh Circuit affirmed the sentence of the district court. No petition for rehearing was sought.

Petitioner seeks review of the Seventh Circuit judgment in this Court pursuant to 28 U.S.C. § 1254 (1).

STATUTE INVOLVED

Title 18, United States Code, Section 3553, provides, in pertinent part:

(a) Factors to be considered in imposing a sentence.--The court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection. The court, in determining the particular sentence to be imposed, shall consider--

(1) the nature and circumstances of the offense and the history and characteristics of the defendant;

(2) the need for the sentence imposed--

(A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;

(B) to afford adequate deterrence to criminal conduct;

(C) to protect the public from further crimes of the defendant; and

(D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;

(3) the kinds of sentences available;

(4) the kinds of sentence and the sentencing range established for--

STATEMENT OF THE CASE

Mr. Williams was charged with a four-count bill of indictment on July 20, 2021. On May 26, 2022, Mr. Williams accepted responsibility for his actions when he entered a guilty plea to all counts in the indictment. Due to being portrayed as the head of a large, organized, and hierarchical meth distribution network, Mr. Williams received a sentence that was two times longer than most of the other individuals involved and even longer than the sentence of a participant who is a career offender that spent most of his adult life in prison. During the investigation of Mr. Williams, federal agents interviewed approximately seventeen people regarding Mr. Williams's participation in the sale of Methaphetamine. The government called ten (10) of the defendants that they interviewed during their investigation to testify during Mr. Williams's sentencing hearing.¹ All the other defendants who by their own admission sold meth to a significant number of customers. Several of the individuals admitted to selling to a user that overdosed and died as a result of the meth that they provided to the drug user. However, none of those individuals received a sentence longer than ten (10) years (a couple received less than a year of custody).

¹ Mr. Williams was the only African-American defendant in the case.

REASONS FOR GRANTING THE WRIT

THE SEVENTH CIRCUIT COURT OF APPEAL'S DECISION WAS INCORRECT FOR THREE REASONS

A. The District Court Committed Procedural and Substantive Errors That Require a Remand For a New Sentencing Hearing

1. Procedural Error

One of the determinations to be made is "whether the district court made any procedural errors, such as 'failing to calculate (or improperly calculating) the Guidelines range, treating the Guidelines as mandatory, failing to consider the section 3553(a) factors, selecting a sentence based on clearly erroneous facts, or failing to adequately explain the chosen sentence -- including an explanation for any deviation from the Guidelines range.'" *United States v. Maisonet-Gonzalez*, 785 F.3d 757, 762 (1st Cir. 2015) (quoting *United States v. Rivera-Moreno*, 613 F.3d 1, 8 (1st Cir. 2010)). It is procedural error for the district court to fail to properly explain the sentence chosen for the defendant. *United States v. Garcia*, 804 F.3d 904, 907 (7th Cir. 2015).

Mr. Williams received a sentence that was two times longer than nearly every defendant in the case. The district court did not explain why under the circumstances that disparity was warranted. The disparity was not warranted based on culpability. During the sentencing hearing, each defendant was cross-examined. Each defendant admitted culpability in the instant case and hoping to receive a reduced sentence based on their cooperation. The defense raised the issue of the disparity in sentences based on how the government chose to charge or not charge each defendant and how the government chose to pursue each defendant. When the

district court announced its sentence for Mr. Williams, there was no mention of the facts and reasoning that substantiated such a huge disparity in sentences from the other defendants in the case.

2. Substantive Error - The Sentence Was Unreasonable Under the Circumstances

It is the district court's duty to impose "a sentence sufficient, but not greater than necessary" to fulfill the purposes of sentencing found in 18 U.S.C. § 3553(a)(2). *United States v. Lanning*, 633 F.3d 469, 474 (6th Cir. 2011) (quoting 18 U.S.C. § 3553(a)). "A sentence is substantively unreasonable if the district court 'selects a sentence arbitrarily, bases the sentence on impermissible factors, fails to consider relevant sentencing factors, or gives an unreasonable amount of weight to any pertinent factor.'" *United States v. Zobel*, 696 F.3d 558, 569 (6th Cir. 2012) (quoting *United States v. Hall*, 632 F.3d 331, 335 (6th Cir. 2011)).

"When conducting this review, we take into account the totality of the circumstances, including the extent of any variance from the Guidelines." *Maisonet-Gonzalez*, 785 F.3d at 762 (quoting *United States v. Trinidad-Acosta*, 773 F.3d 298, 309 (1st Cir. 2014)). "A sentence will withstand a substantive reasonableness challenge so long as there is 'a plausible sentencing rationale and a defensible result.'" *Id.* (quoting *United States v. Martin*, 520 F.3d 87, 96 (1st Cir. 2008)). If "'identically situated defendants' receive significantly disparate sentences, red flags may indeed be raised." *United States v. Rivera-Lopez*, 736 F.3d 633, 636 (1st Cir. 2013) (quoting *United States v. Mueffelman*, 470 F.3d 33, 41 (1st Cir. 2006)).

The main reason that the defendants that were witnesses in this case were not similarly situated was primarily due to how the government chose to prosecute them. The instant case is a prime example how prosecutorial discretion can be abused to overly push one drug dealer while turning a blind eye to another all under the color of law.

The government called eleven witnesses on their behalf, where ten of the eleven admitted to being a part of selling methamphetamine and none of them received as long of a sentence as Mr. Williams.² Mr. Williams was portrayed by the government as the top of the methamphetamine distribution network even though several of the witnesses testified that Mr. Williams behaved more like their competition. The only basis for the defendants involved in this case being differentiated from Mr. Williams is the fact that the government chose to target Mr. Williams as the boss of the organization as opposed to any of the other defendants. The only evidence of the network being a hierarchical organization with a top boss (Christopher Williams) instead of a bunch of drug dealers that purchased drugs from each other and at time competed against each other with no top boss, were the testimonies of ten admitted drug dealers

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2 1. Ricky Rapp – prior to receiving consideration for his cooperation, he received 15 years, 2. Ronnie Bodtke – (admitted to selling drugs at the flop house where Mr. Bennett died from an overdose, but claimed to have no responsibility for the overdose death, and admitted to lying to the police regarding his level of involvement with Mr. Williams) was never charged with a federal case and only received a state possession charge that was served at 50%, 3. Dustin Test – received 190 months, 4. William Zamaro – he admitted to giving Charlie Smith the methamphetamine that caused his overdose death, was never charged federally and his state case was reduced to a simple possession where he only served 180 days in jail and probation, 5. Harold Kock – received 20 years (had a much worse criminal background than Mr. Williams), 6. Daniel Dawe – (admitted to having 15-20 customers) received 151 months, 7. Jeffery Miller – Pleaded guilty nearly a year prior to Mr. Williams's sentencing hearing but was not sentenced himself until after Mr. Williams's sentencing hearing ended, 8. Thomas Wright – career offender and received 300 months, 9. Mary Lazzari - (admitted to selling to 20 customers)(also gave methamphetamine to Sara Seybold that died of an overdose) was never charged with a state or federal methamphetamine crime, and 10. Justin Collins – had more adult convictions than Mr. Williams, was on pretrial for a state methamphetamine case when he committed the federal case where he received 180 months.

that either obfuscated legal responsibility for their crimes or were seeking lesser sentences for their crimes. The majority of the defendants in the case admitted to having their own customers and having a significant number of customers that they served.

Many of the allegations against Mr. Williams regarding the use of violence, large customer base, use of the methamphetamine with fentanyl could just as easily been made against the other defendants. The circumstances of the instant case has a plethora of red flags. Mr. Williams's sentence is substantively unreasonable.

B. The Government Failed to Meet Its Burden to Sustain the Sentencing Enhancements

"The government must prove sentencing enhancements by a preponderance of the evidence." *United States v. Juarez*, 626 F.3d 246, 251 (5th Cir. 2010). The appellate court exercises plenary review of a district court's interpretation of the Guidelines, but review for clear error a factual challenge to the application of the Guidelines. *United States v. Richards*, 674 F.3d 215, 220 (3d Cir. 2012).

A "defendant has a due process right to be sentenced on the basis of reliable information," *United States v. Zehm*, 217 F.3d 506, 514 (7th Cir. 2000). A "sentencing judge can consider a wide range of information in reaching sentencing determinations provided it is reliable or, as we have said, provided it includes 'sufficient indicia of reliability to support its probable accuracy.'" *United States v. Robinson*, 164 F.3d 1068, 1070 (7th Cir. 1999)(Where the court rejected the increase in drug quantity based on an informant's testimony that the court found to be unreliable.)(citing *United States v. Taylor*, 72 F.3d 533, 543 (7th Cir. 1995)).

1. The Government Did Not meet its Burden of Proof

The government produced ten witnesses on their behalf. Only three of the ten witnesses stated that Mr. Williams allegedly made some type of threat towards them. One of the witness's testimony contradicted the other government witness's testimony. Only one witness produced some evidence via selective text messages. The other two witnesses did not produce any objective evidence to support their claims. Seven of the other witnesses stated that Mr. Williams never threatened them. Many of them had dealings with Mr. Williams for a year or more. Most also stated that they never saw Mr. Williams with a weapon.

C. The Guideline Range Was Not Accurate Due To Not Enough Information Regarding Purity of The Methamphetamine

The "some evidence" standard is not a demanding one. *United States v. Moore*, 52 F.4th 697, 699 (7th Cir. 2022). A "defendant whose liberty is at stake is entitled to hold the government to its burden of proof by a preponderance of reliable evidence. An unsupported assumption does not tell us anything about whether test results in a particular case can reasonably be relied upon." *Id* at 701.

The defense during the sentencing hearing stipulated the weight of the methamphetamine and the offense conduct based on the weight. However, despite that stipulation, it is the position of the defense that some evidence of purity must have been presented at the sentencing hearing.

CONCLUSION

WHEREFORE, for the reasons stated above, Petitioner Christopher Williams respectfully prays that a writ of certiorari issue to review the judgment and opinion of the United States of Appeals for the Seventh Circuit entered on October 30, 2023.

Respectfully submitted,

Bart Beals

Bart E. Beals
Petitioner for Christopher Williams

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Respondents.

PROOF OF SERVICE

I, Bart E. Beals, do swear or declare that on this date, January 28, 2024 as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid.

The name and addresses of those served are as follows:

Clerk	Solicitor General of the United States
Supreme Court of the United States	Room 5614
Washington, D.C. 20543	10 th and Constitution Avenue
	Washington, D.C. 20530

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 28, 2024

Bart Beals
(Signature)

APPENDICE

Opinion Below

Appendix A

United States v. Christopher Williams, is reported at 85 F.4th 844 (7th Cir. 2023)

1a

United States v. Williams

United States Court of Appeals for the Seventh Circuit
September 21, 2023, Argued; October 30, 2023, Decided
No. 22-3099

Reporter

85 F.4th 844 *; 2023 U.S. App. LEXIS 28754 **

UNITED STATES OF AMERICA, Plaintiff-
Appellee, v. CHRISTOPHER R. WILLIAMS, JR.,
Defendant-Appellant.

Case Summary

Overview

HOLDINGS: [1]-Defendant properly received a 360-month term of imprisonment for his role in a large-scale methamphetamine trafficking conspiracy because there was no procedural error as the court explained why defendant's sentence was higher than that of his coconspirators. The sentence was reasonable because the court considered the [18 U.S.C.S. § 3553\(a\)](#) factors, defendant was a large-scale dealer who supplied other dealers and distributed methamphetamine to many people, defendant exerted a high level of control and threatened others to conform to his will pursuant to [U.S. Sentencing Guidelines Manual § 2D1.1\(b\)\(2\)](#), some victims died after ingesting the methamphetamine, and defendant, having made full and strategic use of a stipulation to reduce the base level offense pursuant to [U.S. Sentencing Guidelines Manual § 2D1.1\(c\)\(1\)](#), could not argue that the base offense level was incorrect.

Outcome

Sentencing decision affirmed.

LexisNexis® Headnotes

Criminal Law &
Procedure > ... > Appeals > Standards of
Review > Abuse of Discretion

Criminal Law &
Procedure > Sentencing > Appeals > Proportionality & Reasonableness Review

Criminal Law &
Procedure > Sentencing > Imposition of
Sentence > Factors

[HN1](#) Standards of Review, Abuse of Discretion

As for deference, the district court has a front row view to the facts of the crime, the demeanor and credibility of the witnesses, the presentation of the pre-sentencing report, and the assessment of the [18 U.S.C.S. § 3553](#) factors. For this reason, the Supreme Court of the United States instructs appellate courts to limit their review only to determinations of whether a sentence is reasonable. Consequently, an appellate court reviews the substantive reasonableness of a sentence for abuse of discretion only. Although the court reviews claims of procedural errors in sentencing de novo, these are generally limited to matters such as failing to calculate (or improperly calculating) the U.S. Sentencing Guidelines range, treating the Guidelines as mandatory, failing to consider the [18](#)

U.S.C.S. § 3553(a) factors, selecting a sentence based on clearly erroneous facts, or failing to adequately explain the chosen sentence—including an explanation for any deviation from the Guidelines range.

Criminal Law &
Procedure > Sentencing > Appeals > Proportionality & Reasonableness Review

Criminal Law &
Procedure > Sentencing > Ranges

HN2 Appeals, Proportionality & Reasonableness Review

An appellate court's deference is at its peak when a sentence is within the range suggested by the United States Sentencing Guidelines. For even though the Guidelines are advisory rather than mandatory, they are the product of careful study based on extensive empirical evidence derived from the review of thousands of individual sentencing decisions. The Guidelines themselves are designed to remove disparities, thus within-Guidelines sentences are presumed to be reasonable and are virtually unassailable.

Criminal Law &
Procedure > ... > Appeals > Standards of Review > Abuse of Discretion

Criminal Law &
Procedure > Sentencing > Imposition of Sentence > Factors

HN3 Standards of Review, Abuse of Discretion

A district court judge who reasonably and adequately explains why a disparity in sentencing of coconspirators is warranted has not abused his discretion.

Criminal Law &
Procedure > ... > Appeals > Standards of Review > Clear Error Review

Evidence > Burdens of Proof > Preponderance of Evidence

HN4 Standards of Review, Clear Error Review

A district court must find facts sufficient to support an enhancement by a preponderance of the evidence—a finding that an appellate court reviews only for clear error. That means the appellate court can reverse only if a review of the evidence leaves the court with the definite and firm conviction that a mistake has been made.

Criminal Law &
Procedure > Appeals > Procedural Matters > Briefs

Criminal Law &
Procedure > ... > Reviewability > Waiver > Triggers of Waivers

HN5 Procedural Matters, Briefs

Perfunctory and undeveloped arguments, and arguments that are unsupported by pertinent authority, are waived.

Criminal Law &
Procedure > Appeals > Procedural Matters > Briefs

Criminal Law &
Procedure > ... > Reviewability > Waiver > Triggers of Waivers

HN6 Procedural Matters, Briefs

Just as undeveloped arguments are waived, so are arguments raised for the first time in reply briefs. Arguments raised for the first time in a reply brief

are waived because they leave no chance to respond.

Criminal Law &
Procedure > Sentencing > Imposition of Sentence > Evidence

Evidence > Burdens of Proof > Preponderance of Evidence

[HN7](#) [+] **Imposition of Sentence, Evidence**

Evidence in criminal matters commonly comes from witness testimony without physical evidence. The district court has far-reaching discretion to listen to testimony and the subsequent cross-examination, assess demeanor, and then decide about the credibility of that testimony. Moreover, the district court need only find by a preponderance of the evidence that a threatening behavior occurred.

Criminal Law &
Procedure > Sentencing > Presentence Reports

Criminal Law &
Procedure > ... > Reviewability > Waiver > Triggers of Waivers

[HN8](#) [+] **Sentencing, Presentence Reports**

When a defendant intentionally relinquishes a known right—for example, stating on the record that he has no objection to a specific aspect of the presentence report—he waives the right to appeal.

Criminal Law &
Procedure > ... > Reviewability > Waiver > Triggers of Waivers

[HN9](#) [+] **Waiver, Triggers of Waivers**

When a court looks at the record and can see a strategic decision for forgoing an argument, it is a

good indication that the defendant made a knowing and intelligent waiver and did not negligently fail to raise the argument.

Counsel: [\[**1\]](#) For UNITED STATES OF AMERICA, Plaintiff - Appellee: Nathan Bertrand, Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Urbana, IL.

For CHRISTOPHER R. WILLIAMS, JR., also known as: BLACK, Defendant - Appellant: Bart E. Beals, Attorney, BEALS LAW FIRM, Chicago, IL.

Judges: Before EASTERBROOK, ROVNER, and PRYOR, Circuit Judges.

Opinion by: ROVNER

Opinion

[\[**846\]](#) ROVNER, *Circuit Judge*. Christopher Williams received a 360-month term of imprisonment for his role in a large-scale methamphetamine trafficking conspiracy, to which he pled guilty. Unhappy with that sentence, he appeals, arguing that the sentence was unreasonable, and that the judge erred in enhancing the sentence in light of aggravating factors.

In his sentencing hearing, the government portrayed Williams as a major supplier to both other dealers and individual users, asserting that he was responsible for the distribution of more than 48 kilograms (105 pounds) of methamphetamine over the course of the conspiracy. As is all too often the tragic result with methamphetamine distribution, some of the drugs Williams supplied caused fatalities. The government's investigation linked three such deaths back to methamphetamine supplied by Williams. Laboratory testing of different [\[**2\]](#) batches of drugs supplied by Williams and confiscated by law enforcement indicated that the tested drugs were between 96 to 100% pure methamphetamine.

Ten people who purchased significant quantities of methamphetamine from Williams (and were all

implicated in the distribution of methamphetamine with Williams) testified at his sentencing hearing about the quantities of drugs they bought from him. Several of them also testified about threats he made to them to induce payment for fronted supply, and about his possession and use of firearms. The government had plenty of other evidence of his drug dealings: a driver and passenger arrested for methamphetamine possession disclosed Williams as their source. Another dealer in Peoria informed officers that he and Williams had distributed 276 grams of methamphetamine as part of their trafficking relationship. And officers orchestrated a controlled buy with audio and visual recording in which, after phone calls arranging the transaction with Williams, Williams' associate provided the source with approximately twenty grams of methamphetamine.

Williams pled guilty to four different counts involving distribution and possession [*847] of methamphetamine in [*847] violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A), and (b)(1)(B). The district court sentenced Williams to a sentence at the bottom of the 360 month to life range recommended by the United States Sentencing Guideline—imposing a 360-month sentence for each count, to be served concurrently.

A. The reasonableness of the sentence

In this appeal, Williams begins with what some consider the Mt. Everest of sentencing arguments. Williams would like us to conclude that his within-Guidelines sentence was unreasonable. This goal is elusive both because of the deference appellate courts owe to district courts in sentencing generally, and because of the presumption of reasonableness attached to sentences recommended by the United States Sentencing Commission.

HNI [+] As for deference, the district court has a front row view to the facts of the crime, the demeanor and credibility of the witnesses, the presentation of the pre-sentencing report, and the assessment of the § 3553 factors. See [United States v. Vallar, 635 F.3d 271, 279-80 \(7th Cir. 2011\)](#)

("We recognize that the sentencing judge is in the best position to apply the § 3553(a) factors to the individual defendant, and that the judge sees things we cannot see, assesses in real-time the credibility of witnesses and defendants when we cannot, and develops insights from [**4] the various bits and pieces of information that he comes across in the course of a case that nonetheless are not reflected in the record."); [United States v. Daoud, 989 F.3d 610, 611 \(7th Cir. 2021\)](#) (Rovner, J., dissenting from the denial of rehearing en banc) (describing factors that make it important to defer to a district court's discretion in sentencing). For this reason, the Supreme Court instructs appellate courts to limit their review only to determinations of whether a sentence is reasonable. [Gall v. United States, 552 U.S. 38, 46, 128 S. Ct. 586, 169 L. Ed. 2d 445 \(2007\)](#). Consequently, we review the substantive reasonableness of a sentence for abuse of discretion only. *Id.*; [United States v. Griffith, 913 F.3d 683, 689 \(7th Cir. 2019\)](#). Although we review claims of procedural errors in sentencing de novo, these are generally limited to matters such as "failing to calculate (or improperly calculating) the Guidelines range, treating the Guidelines as mandatory, failing to consider the § 3553(a) factors, selecting a sentence based on clearly erroneous facts, or failing to adequately explain the chosen sentence—including an explanation for any deviation from the Guidelines range." [Gall, 552 U.S. at 51](#).

Williams claims that the court committed procedural error by failing to explain why he received a harsher sentence than any of the witnesses who testified against him and were implicated in the same distribution [**5] scheme. But as will become clear below, the court did not ignore the requirement of § 3553(a) to "avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct." [18 U.S.C. § 3553\(a\)](#). The court considered the disparity issue and addressed it, giving several explanations for why Williams' sentence was higher than that of his coconspirators. In short, there was no procedural error.

Consequently, all of Williams' arguments about the sentence and the disparities are really arguments about the reasonableness of his sentence, which, as we noted, we review only for an abuse of discretion. [United States v. Turnipseed, 47 F.4th 608, 613 \(7th Cir. 2022\)](#). [HN2](#) Moreover, our deference is at its peak when the sentence, like the one given to Williams, is within the range suggested by the United States Sentencing Guidelines. "For even though the Guidelines are advisory rather than mandatory, they are ... the product of careful study based on extensive empirical evidence derived from the review of thousands of individual sentencing decisions." [Gall, 552 U.S. at 46](#). The Guidelines themselves are designed to remove disparities, thus within-Guidelines sentences are presumed to be reasonable and are virtually unassailable. *Molina-Martinez*, 578 U.S. at 201; [United States v. Vallar, 635 F.3d 271, 279 \(7th Cir. 2011\)](#) (stating that within-Guidelines [**6](#) sentences "will almost never be unreasonable.") (quoting [United States v. Tahzib, 513 F.3d 692, 695 \(7th Cir. 2008\)](#)); [United States v. Shrake, 515 F.3d 743, 748 \(7th Cir. 2008\)](#).

Williams' reasonableness argument also focuses on the disparity between his sentence and those of the testifying coconspirators. Six of the other testifying witnesses who were charged with federal crimes received between 151 and 300 months, depending on their criminal history, their role in the conspiracy, and the mitigating and aggravating circumstances. Two were charged only with state crimes. One cooperated with the government and no charges were ever filed, and one was awaiting sentencing at the time of briefing. The government pointed out that each of the witnesses who received a lesser sentence than Williams was subject to a lower advisory Guidelines range. The district court judge considered Williams' arguments about the disparity and addressed them head on, justifying the higher sentence on the rationale that Williams was a large-scale dealer who supplied other dealers and distributed methamphetamine to many people. The court reasoned that he exerted a high level of control over the transactions, and he threatened

others to conform to his will. The district court judge also noted that Williams was not, himself, addicted [**7](#) to methamphetamine and was motivated by financial gain rather than addiction.¹ Finally the court noted that, although the district court was not sentencing Williams for the death of any of the victims who died after ingesting the methamphetamine he sold directly or indirectly to them, the district court judge nevertheless considered it as an aggravating factor under [§ 3553](#) because Williams dabbled in the distribution of drugs (much of which was tainted with deadly fentanyl) known to be exceptionally dangerous. [HN3](#) A district court judge who reasonably and adequately explains why a disparity is warranted has not abused his discretion. [United States v. Patch](#) 921 F.3d 663, 673-74 (7th Cir. 2019).

B. The enhancements

Williams' "Statement of Issues for Review" also asks "[w]hether the government met its burden to prove the enhancements without producing a firearm and only one piece of evidence?" Williams' Brief at 2. [HN4](#) A district court must find facts sufficient to support an enhancement by a preponderance of the evidence—a finding that,

¹ At oral argument and in the reply brief, Williams' counsel argued that Williams was indeed a drug addict. The Presentence Investigation Report indicates that Williams, according to his own self report, used several drugs, including methamphetamine, during the time in which he was distributing drugs. The testifying witnesses who were asked during the sentencing hearing about Williams' drug use, however, stated that they did not know Williams to be a drug user. See Tr. 49-50, R. 49 at 49-50 (testimony of Ronnie Bodke); Tr. 69, R. 49 at 69 (testimony of Dustin Test); Tr. 103, R. 49 at 103 (testimony of William Zamaro); Tr. 233, R. 50 at 64 (testimony of Thomas Wright); Tr. 258, R. 50 at 89 (testimony of Mary Lazzari). And the prosecuting attorney argued at sentencing that Williams' statements about his own drug use were contradictory and unreliable, as they changed according to what was most beneficial to him at the time. Tr. 381-384, R. 50 at 212-15. The court was entitled to believe the witness testimony that Williams rarely if ever used methamphetamine, over his own report that he was an addict. But in any event, even if the district court erred by concluding, based on the evidence, that Williams was not addicted to methamphetamine, this error would not have affected the sentence, as Williams' interest in financial gain (as opposed to supporting an addiction), was only one small part of the district court's rationale for his sentence.

once again, we review only for clear error. *United States v. Griffin*, 76 F.4th 724, 751 (7th Cir. 2023).

That means we can reverse "only if a review of the evidence leaves us with the definite and firm conviction that a mistake has been made." *United States v. Sandidge*, 784 F.3d 1055, 1061 (7th Cir. 2015) (quoting *United States v. Johnson*, 765 F.3d 702, 708 (7th Cir. 2014)).

Although Williams' "Statement [**8] of Issues for Review" specifically references firearms, but not threats, in the argument section he discusses the threatening conduct with just a throwaway reference to firearms. The only statement in the argument section about firearms is as follows: "Most [witnesses] also stated that they never saw Mr. Williams with a weapon." Williams' Brief at 8. **HN5**[↑] If this is indeed an argument about the firearms enhancement, it is wholly insufficient to preserve the issue for appeal. *Hakim v. Safariland, LLC*, 79 F.4th 861, 872 (7th Cir. 2023) (quoting *Crespo v. Colvin*, 824 F.3d 667, 674 (7th Cir. 2016)) ("perfunctory and undeveloped arguments, and arguments that are unsupported by pertinent authority, are waived."). Williams included additional information in the reply brief in which he argues that the threatening text message used to support the firearm enhancement happened outside of the timeframe of the conspiracy, but this argument comes too late, and likewise is not fully developed. **HN6**[↑] Just as undeveloped arguments are waived, so are arguments raised for the first time in reply briefs. *White v. United States*, 8 F.4th 547, 552 (7th Cir. 2021) ("[Arguments raised for the first time in [a] reply brief are waived because they leave no chance to respond.]")

As for the enhancement for credible threats of violence under *Sentencing Guideline § 2D1.1(b)(2)*, Williams argues that the enhancement for threats [**9] was unreasonable because only three of the ten witnesses testified that they had been threatened, only one of the threats was supported by physical evidence of the threat (in the form of a text message), and during one of the alleged threatening incidents, Williams did not have a

weapon. The Guideline, however, says nothing about a particular number of threats, or the presence of a weapon. It merely states, "If the defendant used violence, made a credible threat to use violence, or directed the use of violence, increase by 2 levels." *U.S.S.G. § 2D1.1(b)(2)*.

The evidence of threats was overwhelming. One of Williams' buyers testified that Williams threatened to "shoot up" his home if he did not pay what he owed. A second buyer testified that Williams assaulted and threatened to kill him when he incurred a debt after Williams fronted him methamphetamine, and then later solicited someone to assault him while he was incarcerated. And one of the witnesses at sentencing confirmed that she drove Williams while he looked for that same buyer to settle his debt. A third witness testified that Williams brandished a handgun just prior to threatening another buyer about payment. The government also introduced texts sent [**10] from Williams to a fourth coconspirator in which he stated that he would kill for money owed and expected money or [*850] blood. That final threat, evidenced both by witness testimony and the actual text messages themselves, would have been more than sufficient to support the district court's enhancement for issuing threats. *U.S.S.G. § 2D1.1(b)(2)*. We do not mean to imply, however, that the evidence of threatening behavior supported by witness testimony alone was insufficient. It is not uncommon for drug dealers who threaten their dealers and buyers not to leave behind a written trail of evidence of those threats. **HN7**[↑] Evidence in criminal matters commonly comes from witness testimony without physical evidence. See *Villavicencio-Serna v. Jackson*, 999 F.3d 496, 503 (7th Cir. 2021) ("Not every case has the kind of physical evidence that definitively resolves doubts, but neither is that type of evidence required."). The district court has far-reaching discretion to listen to testimony and the subsequent cross-examination, assess demeanor, and then decide about the credibility of that testimony. *United States v. Pennington*, 908 F.3d 234, 240 (7th Cir. 2018) (quoting *United States v. Pulley*,

601 F.3d 660, 664 (7th Cir. 2010) ("we defer to a district court's determination of witness credibility, which can virtually never be clear error."). Moreover, the district court need only find by a preponderance [**11] of the evidence that the threatening behavior occurred. United States v. Galvan, 44 F.4th 1008, 1012 (7th Cir. 2022). The district court judge acknowledged the potential self-interested motivations of many of the testifying witnesses, but nevertheless judged the testimony about the threats to be credible and thus applied the enhancement for threatening conduct. We have no firm conviction that an error has been made.

C. Objections to the base offense level

Finally, Williams argues that the Guideline range was not accurate because the government failed to provide enough information about the purity of the methamphetamine. Williams, however, after a brief objection to the base offense level, withdrew that objection and stipulated to a base offense level of 38 under the Sentencing Guidelines, explicitly agreeing that it was accurate and not asserting any objection to the purity of the drugs. HN8 [↑]
"When a defendant intentionally relinquishes a known right—for example, stating on the record that he has no objection to a specific aspect of the presentence report—he waives the right to appeal."
United States v. Robinson, 964 F.3d 632, 639-40 (7th Cir. 2020).

HN9 [↑] Even had Williams not explicitly withdrawn his objection to the base offense level, when a court looks at the record and can see a strategic decision for forgoing [**12] an argument, it is a good indication that the defendant made a knowing and intelligent waiver and did not negligently fail to raise the argument. United States v. Burns, 843 F.3d 679, 686 (7th Cir. 2016). In this case, Williams made a successful strategic decision to stipulate to the base offense level of 38. That base offense level required only that Williams be held accountable for 4.5 kilograms or more of methamphetamine (actual). USSG § 2D1.1(c)(1). The evidence supported the government's conclusion that Williams was responsible for more

than 48 kilograms of methamphetamine—almost ten times the amount the government needed to prove. Given these facts, any argument about purity was unlikely to lower the amount below 4.5 kilograms. Not only was it a losing argument, but to assert it, Williams would have to sacrifice any potential reduction for acceptance of responsibility. Williams' lawyer made full use of that stipulation to argue for a reduction based on acceptance of responsibility. *See* Tr. at 329; R. 50 at 160 ("Your Honor, I believe that the three-level reduction is [**851] warranted because my client has accepted responsibility. He admitted to the conspiracy. He admitted to selling to various individuals. He even admitted, you know, to the offense level of [**13] 38."). That stipulation reduced Williams' offense level by three. Having made full and strategic use of the stipulation, Williams cannot now argue that the base offense level was incorrect.

Because we see neither error nor abuse of discretion, we AFFIRM the sentencing decision of the district court in this matter.

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