

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 05-4421

United States of America,

Appellee,

v.

Jacob George Colbert,

Appellant.

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Appeal from the United States
District Court for the
District of Minnesota.

[UNPUBLISHED]

Submitted: February 7, 2007
Filed: February 14, 2007

Before COLLOTON, HANSEN, and BENTON, Circuit Judges.

PER CURIAM.

Jacob Colbert pleaded guilty to conspiracy to possess with intent to distribute in excess of 50 grams of cocaine base, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A), and 846. The district court¹ found that Colbert was subject to an advisory Guidelines imprisonment range of 262-327 months, and sentenced him to 235 months in prison based on its explicit consideration of the factors set forth in 18 U.S.C. § 3553(a). On appeal, Colbert argues that the district court abused its discretion by not imposing a lower sentence. We reject this argument, because the court properly

¹The Honorable Donovan W. Frank, United States District Judge for the District of Minnesota.

based the sentence – which was below the bottom of the undisputed Guidelines range – on the section 3553(a) factors, and Colbert has not shown that the court failed to take into account or give proper weight to any factor. *See United States v. Booker*, 543 U.S. 220, 261-62 (2005) (sentences are reviewed for unreasonableness; section 3553(a) factors will guide appellate courts in determining whether sentence is unreasonable); *cf. United States v. Tobacco*, 428 F.3d 1148, 1151 (8th Cir. 2005) (discussing when presumptively reasonable sentence may be unreasonable); *United States v. Lincoln*, 413 F.3d 716, 717-18 (8th Cir.) (sentence within Guidelines range is presumptively reasonable; defendant bears burden to rebut that presumption), *cert. denied*, 126 S. Ct. 840 (2005).

Accordingly, we affirm.
