

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 08-1867

United States of America,

Appellee,

v.

Anthony Gray,

Appellant.

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

[UNPUBLISHED]

Submitted: March 12, 2009

Filed: April 13, 2009

Before WOLLMAN, MURPHY, and MELLOY, Circuit Judges.

PER CURIAM.

Anthony Gray appeals the prison sentence that the district court¹ imposed after revoking his supervised release, arguing that the sentence is unreasonable. We affirm.

Upon careful review, we conclude that the sentence is not unreasonable. See United States v. Tyson, 413 F.3d 824, 825 (8th Cir. 2005) (per curiam) (standard of review). The sentence is within the applicable statutory maximum, see 18 U.S.C. § 3583(e)(3), and it resulted from the district court's careful consideration of

¹The Honorable Richard G. Kopf, United States District Judge for the District of Nebraska.

appropriate sentencing factors, including the advisory Guidelines revocation range, the need adequately to punish Gray for his repeated noncompliant behavior while on supervised release, the court's concern that he would commit new felonious conduct, and the court's belief that he could obtain needed treatment and supervision only in prison. The court also observed that Gray previously had been shown sentencing leniency. See U.S.S.G. § 7B1.4, comment. (n.4); 18 U.S.C. § 3553(a)(1), (2)(B)-(D); United States v. Nelson, 453 F.3d 1004, 1005-06 (8th Cir. 2006) (24-month revocation prison sentence not unreasonable despite advisory range of 4-10 months where defendant committed multiple supervised-release violations, court found sentence was necessary for deterrence and incapacitation, defendant's lengthy history of drug abuse made success in inpatient treatment unlikely, and defendant had benefitted from initial relatively lenient sentence).

The judgment is affirmed.
