

United States Court of Appeals
For the Eighth Circuit

No. 22-1654

United States of America

Plaintiff - Appellee

v.

Phillip Neal Jones, Jr.

Defendant - Appellant

Appeal from United States District Court
for the District of Minnesota

Submitted: January 9, 2023

Filed: March 14, 2023

[Unpublished]

Before GRUENDER, BENTON, and SHEPHERD, Circuit Judges.

PER CURIAM.

Phillip Jones, Jr., appeals his sentence for possession of a firearm by a felon. *See* 18 U.S.C. § 922(g)(1). Jones left a loaded gun in his apartment, and children who were left alone there discovered it. One of them accidentally fired the gun, killing a six-year-old boy. Jones pleaded guilty.

Jones’s advisory sentencing guidelines range was 30 to 37 months’ imprisonment. Based on the fact that his crime involved the death of a young child, his extensive criminal history, and his three prior felon-in-possession convictions, the district court¹ varied upward and sentenced him to 57 months’ imprisonment. On appeal, Jones argues that his sentence is substantively unreasonable.

This is not “the unusual case when we reverse a district court sentence . . . as substantively unreasonable.” *See United States v. Feemster*, 572 F.3d 455, 464 (8th Cir. 2009) (en banc). The district court has wide latitude to weigh the 18 U.S.C. § 3553(a) factors. *United States v. Stephen*, 984 F.3d 625, 633 (8th Cir. 2021). We previously affirmed a much larger upward variance when a defendant’s dangerous conduct endangered children. *United States v. Godfrey*, 863 F.3d 1088, 1092-94 (8th Cir. 2017). And we have affirmed substantial upward variances when a defendant repeated his prior criminal conduct. *See, e.g., United States v. David*, 682 F.3d 1074, 1077-78 (8th Cir. 2012). Although Jones disagrees with how the district court weighed the factors, the district court did not abuse its discretion by weighing more heavily aggravating factors under § 3553(a) to vary upward. *See Feemster*, 572 F.3d at 461. We therefore affirm Jones’s sentence.

¹The Honorable Paul A. Magnuson, United States District Judge for the District of Minnesota.