

United States Court of Appeals
For the Eighth Circuit

No. 22-2823

United States of America

Plaintiff - Appellee

v.

Christopher Tyrone White, Jr.

Defendant - Appellant

Appeal from United States District Court
for the Eastern District of Arkansas - Central

Submitted: January 13, 2023

Filed: March 9, 2023

[Unpublished]

Before GRASZ, MELLOY, and KOBES, Circuit Judges.

PER CURIAM.

Christopher White, Jr. pleaded guilty to being a felon in possession of a firearm, 18 U.S.C. § 922(g)(1). The district court¹ sentenced him to 54 months in

¹The Honorable Lee P. Rudofsky, United States District Judge for the Eastern District of Arkansas.

prison, varying 17 months upward from the top end of the Guidelines range. We affirm White's sentence.

White challenges the reasonableness of his sentence, which we review for an abuse of discretion. United States v. Petersen, 848 F.3d 1153, 1157 (8th Cir. 2017). The district court imposed a two-level enhancement for “recklessly creat[ing] a substantial risk of death or serious bodily injury to another person in the course of fleeing from a law enforcement officer.” U.S.S.G. § 3C1.2. Along with the enhancement, the district court varied upward, citing, among other things, the dangerousness of White's offense. Because the enhancement already accounted for the dangerousness of the offense, White says that the district court abused its discretion by assigning significant weight to the same conduct to justify the variance. See United States v. Obi, 25 F.4th 574, 581 (8th Cir. 2022). We disagree.

A district court may impose a variance based on factors used to calculate the Guidelines range, and it has wide discretion to weigh some factors more heavily than others. Id. at 581–82. Here, the district court imposed the variance to reflect the seriousness of White's offense, protect the public, and deter White and others from acting as White did here. White's conviction arose out of a dangerous encounter with the public and police. He was loading a shotgun in a shopping center parking lot. When an officer approached, White pushed the officer, causing him to fall into White's car. As the officer tried to take White into custody, White resisted and started to drive away, across the parking lot, with the officer in the car trying to restrain him. White's criminal record also shows that he has a history of fleeing from the police, casting doubt on his ability to follow the law. All things considered, the district court did not abuse its discretion, and we affirm.