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No. 25-3685

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

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KELLY L. STEPHENS, Clerk

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

REGGIE JORDAN,
Defendant-Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO

OPINION

Before: KETHLEDGE, Chief Judge; CLAY, and NALBANDIAN, Circuit Judges.

KETHLEDGE, Chief Judge. Reggie Jordan challenges the constitutionality of his indictment and the substantive reasonableness of his sentence. We reject his challenges and affirm.

I.

In March 2022, Jordan took assault rifles, handguns, and ammunition to a gun range and later depicted his excursion in a video posted to a social media account. Police saw the video and investigated. It turned out that Jordan had previously been convicted of aggravated robbery, after he struck the victim in the head with a gun and stole $1,000. Jordan also had multiple prior convictions for selling drugs.

Police obtained a warrant to search Jordan's apartment, where they found six guns, including several rifles. One handgun (shown in Jordan's video) had been reported as stolen. The police also found a second handgun in the kitchen, along with digital scales and a drug press. The press and one scale later tested positive for cocaine and fentanyl residue.

A grand jury thereafter indicted Jordan under 18 U.S.C. §§ 922(g)(1) and 924(a)(2) as a felon in possession of a firearm and ammunition. Jordan moved to dismiss his indictment, arguing that § 922(g)(1) was unconstitutional both on its face and as applied to him. The district court rejected both challenges, and a jury later convicted him. In preparation for sentencing, Probation calculated Jordan's guidelines range. His base offense level—26, the highest available for a felon-in-possession offense—resulted from his past convictions and his guns' ability to fire using high-capacity magazines. His final offense level was 33, after enhancements for the number of guns recovered by the officers, the fact that one of them had been stolen, and because of the drug scales and press found with the guns. Combined with his criminal history score—VI, also the highest recognized under the guidelines—Jordan's offense level yielded a guidelines range of 235 to 293 months. The relevant statutory maximum capped Jordan's sentence at 120 months, however, so that became his guideline recommendation.

Jordan requested a downward variance from that statutory maximum, arguing that his possession of firearms did not involve violent conduct. The district court later held a sentencing hearing, but continued it mid-hearing after learning of some pending state criminal charges against Jordan. Those charges arose before Jordan's federal indictment, when officers responded to a noise complaint at Jordan's apartment. There, they found Jordan apparently overdosing on drugs, with another man unconscious in a bathroom, apparently after trying to flush drugs down a toilet. The officers also found stacks of money and zip-lock baggies containing fentanyl and cocaine. The district court in Jordan's sentencing hearing said that he should be sentenced on those state charges before his federal ones. Jordan was later convicted of drug possession in his state case and sentenced to a 16-year minimum prison sentence.

Before the second sentencing hearing, both the government and Jordan filed supplemental sentencing memoranda. The government argued for a 120-month sentence, which the government said should run consecutively to his state sentence, given that the federal and state offenses involved different conduct. Jordan sought a concurrent sentence below the statutory maximum.

The court soon held a second sentencing hearing, where it reviewed the 18 U.S.C. § 3553(a) factors and imposed a 120-month sentence consecutive to the state sentence. This appeal followed.

II.

A.

Jordan challenges the district court's denial of his motion to dismiss his indictment, which we review de novo. *See United States v. Crayton*, 357 F.3d 560, 564 (6th Cir. 2004). Jordan argues that § 922(g)(1) violates his right to "keep and bear Arms," both on its face and as applied to him. U.S Const. amend. II. The Second Amendment presumptively protects the right of all American citizens, including felons, to possess a gun. *See United States v. Williams*, 113 F.4th 637, 649 (6th Cir. 2024). But "our nation's history and tradition demonstrate that Congress may disarm individuals they believe are dangerous." *Id.* at 657.

Circuit precedent forecloses Jordan's facial challenge to § 922(g)(1). *See id.* Meanwhile, § 922(g)(1) is constitutional "as it applies to dangerous individuals." *Id.* at 662. The question here is whether Jordan is a "dangerous individual" for purposes of that rule. On that point, Jordan bears the "burden to demonstrate that he is not dangerous, and thus falls outside of § 922(g)(1)'s constitutionally permissible scope." *Id.* at 657.

Here, Jordan's conviction for aggravated robbery "speak[s] directly to whether [he] is dangerous," not least because he struck his victim in the head with a gun. *Id.* at 658. Jordan thus

"presents a danger to others or the public." *Id.* at 662. Jordan was also convicted twice of drug trafficking, which poses a "significant threat of danger" to others. *Id.* at 659. The record affords ample grounds to justify Jordan's disarmament. *See United States v. Goins*, 118 F.4th 794, 805 (6th Cir. 2024).

B.

Jordan argues that his sentence is substantively unreasonable. We review the reasonableness of his sentence for an abuse of discretion. *See United States v. Willoughby*, 742 F.3d 229, 243 (6th Cir. 2014). The district court imposed a sentence within the guidelines range, so Jordan's sentence is "presumptively reasonable." *Id.*

Jordan argues specifically that the district court gave undue weight to his criminal history and character in sentencing him. A sentence is substantively unreasonable if the district court "gives an unreasonable amount of weight to any pertinent factor." *United States v. Bistline*, 720 F.3d 631, 633 (6th Cir. 2013). Not all the factors "are important in every sentencing; often one or two prevail, while others pale." *United States v. Bridgewater*, 479 F.3d 439, 442 (6th Cir. 2007). Here, the court discussed all the relevant § 3553(a) factors, including his criminal record and potential mitigating factors alike. And Jordan's criminal history itself bore on multiple factors that § 3553(a) required the district court to consider. The court said as much, noting that Jordan's criminal history required a sentence that would "protect the public, provide adequate deterrence, [and] reflect the seriousness of the offense." The court's emphasis on Jordan's criminal history was reasonable.

Jordan cites several cases in arguing otherwise, but each case involved a sentence that varied significantly above the guidelines range. *See United States v. Johnson*, 26 F.4th 726, 736 (6th Cir. 2022); *United States v. Morris*, 71 F.4th 475, 480 (6th Cir. 2023); *United States v. Lee*,

974 F.3d 670, 677 (6th Cir. 2020); *United States v. Warren*, 771 F. App'x 637, 638 (6th Cir. 2019). Here, by contrast, the statutory maximum limited the district court to a sentence of just over half of the one the guidelines would otherwise recommend. The circumstances accounted for by the guidelines—the details of the offense and Jordan's prior convictions—thus amply supported imposing the statutory maximum. Jordan's sentence is substantively reasonable.

C.

Finally, Jordan argues that his sentence is substantively unreasonable, because the district court made it consecutive to his state sentence. We review that decision too for an abuse of discretion. *See United States v. Berry*, 565 F.3d 332, 342 (6th Cir. 2009).

Jordan contends that the district court overlooked U.S.S.G. § 5G1.3(d), which reminds district courts of their discretion to make a sentence concurrent or consecutive. But the court said it had read Jordan's supplemental sentencing memorandum, which discussed the relevant provision at length. *See United States v. Johnson*, 553 F.3d 990, 998 (6th Cir. 2009). And the court made its reasons for the sentence "generally clear." *Berry*, 565 F.3d at 342 (quotation omitted). Immediately after discussing the § 3553(a) factors, the court said it would impose a consecutive sentence "for the reasons . . . just stated." And the state and federal offenses involved entirely unrelated conduct, which likewise supports the court's decision to make the sentences consecutive. *Cf. Witte v. United States*, 515 U.S. 389, 405 (1995). The district court did not abuse its discretion.

The district court's judgment is affirmed.