FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 24-14049

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CHADWICK LEMAINE,

Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 6:23-cr-00233-CEM-RMN-1

Before WILLIAM PRYOR, Chief Judge, GRANT, and LUCK, Circuit Judges.

WILLIAM PRYOR, Chief Judge:

This appeal requires us to decide whether the district court reversibly erred in finding that Chadwick Lemaine committed an

armed robbery while on bond, whether it plainly erred in considering that armed robbery when it denied Lemaine a reduction in his offense level for acceptance of responsibility under the Sentencing Guidelines, and whether it imposed an unreasonable sentence. Because the district court committed no reversible error, we affirm.

I. BACKGROUND

Chadwick Lemaine is a felon previously convicted of armed burglary of a dwelling, burglary of a dwelling, and grand theft of a firearm. When officers searched Lemaine's vehicle during a traffic stop, they found a firearm. A federal grand jury later indicted Lemaine for possessing a firearm as a felon. *See* 18 U.S.C. §§ 922(g)(1), 924(a)(8). He initially pleaded not guilty. Although the prosecution requested pretrial detention, *see id.* § 3142(f)(1)(E), a magistrate judge granted Lemaine bond but required home detention.

Lemaine later pleaded guilty without an agreement. At Lemaine's change-of-plea hearing, his counsel requested the removal of the home-detention condition. The district court obliged. But it twice warned Lemaine that if he violated bond, it would adjust his sentence accordingly. It also required him to wear an ankle monitor.

In late October 2024—shortly before Lemaine's sentencing hearing—police arrested him for armed robbery. The district court postponed his sentencing hearing and instead held a bond revocation hearing. At that hearing, Detective Gregory Nash of the Orange County Sheriff's Office testified about being called to the

scene of a robbery in Orlando, Florida, at 12:22 a.m. on October 20, 2024. The victim told him that two black males in ski masks approached her outside her residence while she walked to her vehicle. One of them held "an unknown pistol," and the other held "a Draco-style pistol." They pointed the guns at her and ordered her to give them her valuables. They stole $5,000 in cash, her cell phone, and what she estimated to be about $90,000 worth of jewelry. One robber fled on foot, and the other went west in a white sport-utility vehicle on Clarcona Ocoee Road.

Detective Nash then testified that a neighbor's Ring camera captured the robbery in minimal detail. That footage also showed a white Mercedes-Benz sport-utility vehicle arrive at 10:12 p.m., well before the robbery. A license-plate-reader camera showed a vehicle matching that description at 10:06 p.m. just four to six minutes from the robbery site, which matched the time needed to arrive by 10:12 p.m. That vehicle was registered to Cory Vanessa Woods. Woods is the mother of Lemaine's children. Around 1:30 a.m., detectives went to Woods's house and saw the vehicle in her driveway. They then watched two black males leave the house in another vehicle. The detectives stopped the moving vehicle and identified Lemaine as the driver.

Location data from Lemaine's ankle monitor showed that he arrived at the robbery site at 10:12 p.m., which matched the time when the white Mercedes-Benz arrived in the Ring video. The data also showed that Lemaine left the site at 12:22 a.m., soon after the robbery, and headed westbound on Clarcona Ocoee Road. And the

data placed him at Woods's house by 12:36 a.m. Location data also showed that the victim's stolen phone was near Woods's house soon after the robbery.

On cross-examination, Detective Nash testified that investigators found no stolen phone, jewelry, cash, or firearms when they searched Woods's house. Detective Nash also stated that the victim's opinion was the only evidence that the robbers' firearms were real.

The district court determined that the prosecution "established that [what the prosecution alleged] happened well beyond the 51 percent mark"—that is, that "the [prosecution] has established [under] the probable cause standard [that] the defendant violated his conditions of release." The district court revoked Lemaine's bond.

An initial presentence report calculated Lemaine's guideline imprisonment range for his felon-in-possession charge as 37 to 46 months. That report reduced his offense level because Lemaine accepted responsibility for his offense. *See* United States Sentencing Guidelines Manual § 3E1.1 (Nov. 2025). After the robbery charge, the United States Probation Office prepared a new presentence report.

The new report did not grant Lemaine a reduction for accepting responsibility. His new guideline imprisonment range was 51 to 63 months. The prosecution then moved for a four-level "upward variance" to account for Lemaine's presentencing robbery.

The prosecution calculated that the resulting sentencing range would be 77 to 96 months and requested a 96-month sentence.

At the sentencing hearing, the prosecution first argued that Lemaine should not receive a reduction to his offense level for accepting responsibility because he committed armed robbery while on bond. To confirm that Lemaine committed armed robbery, the prosecution offered to have Detective Nash testify about only the "new evidence secured" from the "ongoing investigation," or even "start from the very beginning." The district court responded that the prosecution could "certainly ask [it] to incorporate by reference the evidence [the prosecution] previously presented, because the burden is going to be the same at sentencing as it was for revocation" and the record included the previous testimony. For his part, defense counsel stated that "the defense would not object . . . to [the district court] considering prior testimony and evidence." The district court then "encourage[d]" the prosecution to present any "evidence that was not developed previously" so the district court could be "more certain . . . in [its] decision making." The prosecution obliged.

Detective Nash testified that the locations of Lemaine's phone, the co-conspirator's phone, and the victim's stolen phone coincided with the robbery and events immediately afterward. Lemaine's cell phone connected to Ms. Woods's vehicle. Detective Nash also recounted the victim's statement that the robbers told her, "Don't move," and she told them, "Please don't kill me." *See United States v. Kennedy*, 146 F.4th 1054, 1072 (11th Cir. 2025)

("[R]eliable hearsay is admissible during a sentencing procedure, and the sentencing judge does not need to make explicit findings about the reliability of that testimony." (citation modified)). Based on itemized receipts, the total value of "the items . . . stolen from" the victim was approximately $97,000. On cross-examination, Detective Nash acknowledged that none of the stolen items or firearms had been recovered, and that the firearms were not visible in the Ring video of the robbery.

The victim's vehicle also tied Lemaine to the robbery. The night of the robbery, the victim was using a vehicle that she often borrowed. About two weeks after the robbery, the owner of that borrowed vehicle took it to a mechanic, who found "an Optimus 2.0 tracking device" on it. Lemaine was the "subscriber" for the device, and it was registered to his phone number and to "two email addresses that were associated with" him. The tracking device was also connected to a Visa debit card under his name. And the device had been to Woods's residence and another location where Lemaine stayed. The device and Lemaine's ankle monitor were both at the victim's residence on September 15 for about two hours but then tracked Lemaine until the night of the robbery. That evidence reflects that Lemaine went to the victim's house on September 15 with the tracking device but did not attach it to her vehicle, instead keeping it with him until the robbery. After the robbery, the tracker's location matched that of the vehicle the victim borrowed.

Lemaine's cell phone contained several text messages between him and his co-conspirator before the early-morning October 20 robbery. On October 16, Lemaine's co-conspirator instructed him to "[b]e locked in for the weekend" for "make or break time." Twenty minutes later, Lemaine's co-conspirator reminded him that it was "15 days until sentencing" and added that it was "[t]ime to get it on" and that they were "locked in for the weekend" regardless of "whatever f[e]ll after that." Lemaine replied, "Say that." And on October 19, Lemaine's co-conspirator told him to "[s]ee if we can get that tonight," to which Lemaine explained that he was "trying" but "[s]he [was] playing it hard."

Lemaine stated two objections to his second presentence report. The first was that the report should have reduced his offense level because he accepted responsibility for his offense. And the second was that the report should not have accepted the armed-robbery allegation because there was insufficient evidence that Lemaine carried a firearm during the robbery.

The district court overruled Lemaine's objections. It explained that Lemaine did not earn a reduction for acceptance of responsibility because he engaged in "a course of conduct that violated the conditions of release." And it explained that, as "the trier of fact," it was entitled to determine "whether or not [to] believe" testimony that the victim "w[as] robbed [at] gunpoint."

When the district court asked Lemaine's counsel for any "argument on the sentence," counsel conceded that neither "[t]he guidelines" nor "the case law" supported Lemaine's entitlement to

a reduction to his offense level for accepting responsibility. That is, counsel confirmed that the district court could deny the reduction "based on precedent." But he still appealed to the sentencing court's "discretion[]" by "request[ing] the [c]ourt's consideration for variance purposes" that Lemaine pleaded guilty. Counsel argued that failing to treat Lemaine's plea as an acceptance of responsibility would give other defendants who plead an incentive "to withdraw [their] plea[s]" in like situations because "the guidelines would be the same" anyway.

The district court sentenced Lemaine to 96 months' imprisonment and three years of supervised release. It recounted its earlier warning "that if [Lemaine] violated the conditions of release, depending on what the violation was, there are potentially going to be consequences for it." It stated that the prosecution "alleged and proved circumstantially, overwhelmingly with circumstantial evidence, . . . that [Lemaine] committed a robbery." It stated that Lemaine's "attorney [wa]s right that technically there's no firearm, so he can argue credibly that" a real firearm was not used in the robbery. And it explained that "[t]here's robbery with a weapon in . . . Florida [and] [t]here's simple robbery in . . . Florida," for which "[a]ll you have to do is induce fear of imminent serious bodily harm in someone." It suggested that Lemaine's objection to the finding of armed robbery was essentially "play[ing] with semantics" because failure to satisfy the firearm element would still mean Lemaine committed robbery. It added that it was "100 percent convinced that" Lemaine committed robbery. And it found that Lemaine had "proven [him]self to be a dangerous person" in the light

of the text messages he exchanged with his co-conspirator. To the district court, those messages suggested that Lemaine decided to have a "last hurrah before [he] went away for a while." Finally, the district court stated that if the prosecutor asked for "10 years" or "15 years," it "wouldn't have a problem with that either because [it] th[ought] [Lemaine had] proven [him]self to be a dangerous person." At the end of the hearing, Lemaine objected generally "on procedural and substantive reasonableness" grounds.

II. STANDARDS OF REVIEW

"We review for plain error issues raised for the first time on appeal." *United States v. Innocent*, 977 F.3d 1077, 1081 (11th Cir. 2020). We instead review for clear error preserved objections to factual findings. *United States v. Coats*, 8 F.4th 1228, 1261–62 (11th Cir. 2021). And we review the substantive reasonableness of a sentence for an abuse of discretion. *United States v. Boone*, 97 F.4th 1331, 1339 (11th Cir. 2024).

III. DISCUSSION

We divide this discussion into three parts. First, we explain that the district court did not reversibly err in finding that Lemaine committed the armed robbery. Second, we hold that the district court did not plainly err in considering Lemaine's armed robbery to deny him an offense-level reduction for accepting responsibility. And third, we conclude that Lemaine's sentence is substantively reasonable.

A. The District Court Did Not Reversibly Err in Finding that Lemaine Committed Armed Robbery.

Lemaine argues that the district court applied the wrong burden of proof in assessing whether, at sentencing, the prosecution proved that Lemaine committed armed robbery. Because Lemaine's objection to the armed-robbery finding was "not clear enough to inform the district court of th[is] legal basis for [his] objection . . . the objection is not properly preserved," and we review for plain error. *See United States v. Massey*, 443 F.3d 814, 819 (11th Cir. 2006).

Different burdens of proof apply at bond revocation and at sentencing. At sentencing, "the government must prove the facts . . . by a preponderance of the evidence." *United States v. Shenberg*, 89 F.3d 1461, 1476 (11th Cir. 1996). But to revoke a defendant's pretrial release because he committed a new offense while on bond, a district court may rely on mere "probable cause to believe that the person has committed" that offense. 18 U.S.C. § 3148(b)(1)(A). Despite these differing burdens, the district court said at Lemaine's sentencing that "the burden is going to be the same at sentencing as it was for revocation."

Notwithstanding its misstatement of the prosecution's burden of proof at sentencing, the district court still required the prosecution to satisfy the correct burden. At Lemaine's bond revocation hearing, the district court found that "the [prosecution] has established that [the armed robbery] happened well beyond the 51 percent mark"—that is, by a preponderance of the evidence. *See*

United States v. Watkins, 10 F.4th 1179, 1184–85 (11th Cir. 2021) (en banc) (explaining that the "preponderance standard of proof" is satisfied with "proof that persuades the trier of fact that a proposition is more likely true than not" (citation modified)). And at sentencing the district court explained that it would hold the prosecution to the same burden of proof as it had at the bond revocation hearing. So, although the district court mistakenly suggested that the same burden applied at both bond revocation and sentencing, it still applied the correct standard at sentencing by adopting its use of preponderance from the revocation hearing. Any "misstatement was harmless." *See Dunn v. Comm'r, Ala. Dep't of Corr.*, 179 F.4th 1277, 1322 (11th Cir. 2026).

Indeed, the district court determined that the prosecution satisfied an even higher burden than required at sentencing. The district court became "100 percent convinced that [Lemaine] did [the robbery]" after the prosecution "proved" Lemaine's involvement "overwhelmingly." Again, any misstatement was harmless. *See United States v. Brennan*, 326 F.3d 176, 200 & n.7 (3d Cir. 2003) (district court thrice misstating who had the burden of proof at sentencing was harmless error because it "ultimately placed the burden where it belonged" and, "[i]f anything . . . raised the bar for the [g]overnment by applying the clear and convincing evidence standard").

Lemaine also argues that the district court could not find armed robbery by a preponderance of the evidence. Lemaine objected to that factual finding, so we review for clear error whether

sufficient evidence supported the finding. *Coats*, 8 F.4th at 1262. "For a finding to be clearly erroneous, this Court must be left with a definite and firm conviction that a mistake has been committed." *United States v. Rothenberg*, 610 F.3d 621, 624 (11th Cir. 2010) (citation modified). If instead "the district court's account of the evidence is plausible in [the] light of the record viewed in its entirety," we must affirm. *United States v. Matthews*, 3 F.4th 1286, 1289 (11th Cir. 2021) (citation modified).

The district court did not clearly err in finding at sentencing that Lemaine committed the armed robbery. The circumstantial evidence placing Lemaine at the scene of the robbery came from multiple sources: his ankle monitor's location data; the tracking device's location data; and the sightings of the vehicle on the Ring camera, on traffic cameras, in Woods's driveway, and its connection with Lemaine's phone. The evidence implicating him in the robbery is likewise substantial, including the text messages between Lemaine and his alleged co-conspirator and the location data of the victim's stolen phone that tracked Lemaine's location immediately after the robbery. It is not enough that the victim's stolen jewelry and phone were never recovered because other evidence supports the finding that Lemaine more likely than not committed the armed robbery.

Lemaine contends that even if the district court did not clearly err in finding a robbery, it clearly erred in finding an armed one. He highlights that the prosecution offered no physical evidence that Lemaine "carried a firearm or other deadly weapon"—

an element of armed robbery—instead of, say, a fake or a toy. *See* FLA. STAT. § 812.13(2)(a); *see also id.* § 790.001(9) (defining "firearm"). The district court referred to this point when it said that "technically there's no firearm." But the district court could still find that Lemaine committed armed robbery based on Detective Nash's testimony about the victim's account that the robbers carried firearms that made her fear for her life. *See United States v. Hunt*, 187 F.3d 1269, 1270–71 (11th Cir. 1999) (holding that "the testimony of . . . two witnesses regarding the gun" that "was never recovered," plus "surveillance photographs and . . . videotape of . . . [the defendant] holding what appeared to be a gun," was sufficient to find beyond a reasonable doubt that a defendant carried "a real gun" during a bank robbery).

B. The District Court Did Not Plainly Err in Considering the Armed Robbery for Purposes of Section 3E1.1.

Lemaine's only challenge to the district court denying him an offense-level reduction under section 3E1.1 is that it could not consider the armed robbery in making that decision. Although we generally review a denial of a reduction under section 3E1.1 for clear error, *United States v. Smith*, 22 F.4th 1236, 1242 (11th Cir. 2022), we review Lemaine's legal argument for plain error because he did not object on this ground in the district court. "An error is plain if it is 'clear' or 'obvious.'" *Innocent*, 977 F.3d at 1081 (quoting *United States v. Olano*, 507 U.S. 725, 734 (1993)). "Of course, there can be no plain error if there was no error at all." *United States v. Pielago*, 135 F.3d 703, 709 (11th Cir. 1998).

The district court committed no error in considering Lemaine's pre-sentencing armed robbery. If a "defendant clearly demonstrates acceptance of responsibility for his offense," section 3E1.1 directs the district court to "decrease [his] offense level." The word "clearly" sets the defendant's burden of proving his acceptance of responsibility for his offense "[u]nequivocal[ly]"—that is, "[w]ithout . . . confusion . . . or uncertainty." *Clearly*, BLACK'S LAW DICTIONARY (6th ed. 1990). And the word "demonstrates" means that a district court may consider not only a defendant's words but also his conduct in determining whether it was clear that he accepted responsibility for his offense. *Demonstrate*, BLACK'S LAW DICTIONARY, *supra* ("To teach by exhibition of samples."); *Demonstrate*, WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY (1993) ("[T]o make evident or reveal as true by reasoning processes, concrete facts and evidence, experimentation, operation, or repeated examples."). The phrase "for his offense" dictates for what a defendant must clearly prove he accepted responsibility. That is, to establish his entitlement to a reduction under section 3E1.1, a defendant must accept responsibility for only the offense for which he was convicted and is being sentenced.

That leaves the phrase "acceptance of responsibility." "Responsibility" can mean "moral, legal, or mental accountability." *Responsibility*, WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY, *supra*. But "nonlawyers use th[e] term in moral senses." *Responsibility*, GARNER'S DICTIONARY OF LEGAL USAGE (3d ed. 2011). Because "[w]ords are to be understood in their ordinary, everyday meanings," ANTONIN SCALIA & BRYAN A. GARNER, READING LAW:

THE INTERPRETATION OF LEGAL TEXTS § 6, at 69 (2012), we interpret section 3E1.1 to require a defendant to accept that he is morally accountable for his offense in the sense that he is "answerable . . . to his conscience," *Accountable*, WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY, *supra*. And in this context, to "accept" something means "to regard [it] and hold [it] as true," or "believe in" it. *Accept*, WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY, *supra*.

Altogether, to obtain an offense-level reduction under section 3E1.1, a defendant must establish through his words and his conduct that he believes that he did something morally wrong when he committed his offense of conviction. Words or conduct inconsistent with such a belief provide a district court good reason to deny the reduction. *See United States v. Williams*, 627 F.3d 839, 844 (11th Cir. 2010) (stating that the guideline's "plain language" illustrates that it "is intended to reward defendants who express contrition for their wrongdoing and evidence a desire to reform their conduct"). Even a dictionary Lemaine cites supports the construction that the district court could consider his armed robbery in denying the reduction. *Acceptance of Responsibility*, MERRIAM-WEBSTER.COM LEGAL DICTIONARY, https://perma.cc/MZA3-UC56 ("[A] convicted federal defendant's acknowledgement of and *remorse* for his . . . crime . . . ." (emphasis added)). To hold instead that a defendant who "obviously d[oes] not cease his life of crime" must receive a reduction under section 3E1.1 would be "so ludicrous as . . . to compromise the public reputation of judicial proceedings." *Puckett v. United States*, 556 U.S. 129, 143 (2009).

Lemaine contends that section 3E1.1 "simply directs a court to determine whether a defendant has acknowledged and expressed remorse for the conduct relating to his underlying offense." But that interpretation ignores the word "demonstrate," which directs the district court to consider more than a defendant's words. Additionally, a necessary implication of Lemaine's position—albeit one that Lemaine's counsel disavowed at oral argument—is that any defendant who pleads guilty and makes even a barebones statement of contrition is entitled to a reduction under section 3E1.1. But "clearly" is surplusage under that construction because there is no way to *unclearly* satisfy those requirements. *See* SCALIA & GARNER, *supra*, § 26, at 174 ("If possible, every word . . . is to be given effect . . . . None should be ignored.").

Lemaine also contends that because the phrase "for his offense" modifies "acceptance of responsibility," the guideline does not allow a district court to consider "criminal conduct that is unrelated to the underlying offense." But when "for his offense" modifies "acceptance of responsibility," it suggests nothing about what a district court may consider relevant to the sincerity of a defendant's acceptance of responsibility for his offense.

Lemaine tries to bolster his construction using the amendment history of section 3E1.1(a). The original guideline required a defendant to demonstrate acceptance "for the offense of conviction." U.S.S.G. § 3E1.1(a) (Oct. 1987). It was then amended to require acceptance "for his criminal conduct." U.S.S.G. § 3E1.1(a) (Jan. 1988). And it was later amended again to require acceptance

only "for his offense." U.S.S.G. § 3E1.1(a) (Nov. 1992). As Lemaine acknowledges, this last change was to clarify only that a defendant need not admit to uncharged criminal conduct to earn the reduction because a circuit split had developed over whether such a requirement would violate the Fifth Amendment. *See* SUSAN WINARSKY, DAVID DEBOLD & RICHARD MCNEIL, U.S. SENT'G COMM'N, ACCEPTANCE OF RESPONSIBILITY WORKING GROUP REPORT 16–18, 21, 26 (1991). *Compare United States v. Frierson*, 945 F.2d 650, 662–64 (3d Cir. 1991) (court may consider defendant's denial of relevant conduct in denying acceptance-of-responsibility reduction), *United States v. Gordon*, 895 F.2d 932, 936 (4th Cir. 1990) (same), *United States v. Mourning*, 914 F.2d 699, 705–06 (5th Cir. 1990) (same), *and United States v. Ignancio Munio*, 909 F.2d 436, 439–40 & n.4 (11th Cir. 1990) (same), *with United States v. Perez-Franco*, 873 F.2d 455, 463–64 (1st Cir. 1989) (conditioning acceptance-of-responsibility reduction on defendant's admission to relevant conduct would violate Fifth Amendment's prohibition on self-incrimination, so the guideline is best interpreted to avoid that deficiency); *United States v. Oliveras*, 905 F.2d 623, 626–29 (2d Cir. 1990) (same); *United States v. Piper*, 918 F.2d 839, 840–41 (9th Cir. 1990) (same).

Nothing about the amendment history changes whether courts can consider post-plea conduct. Whether a defendant admits to such conduct is irrelevant to section 3E1.1 today. Instead, the issue is whether that conduct—admitted or not—undermines the defendant's attempt to establish that he accepted responsibility for his offense of conviction. *See United States v. Pace*, 17 F.3d 341, 344 (11th Cir. 1994) (stating that the 1992 amendment "was *not* made

to take from the district court the discretion to consider the defendant's continued criminal conduct").

Again, "his offense" in section 3E1.1 dictates only *for what* a defendant must accept responsibility; it does not suggest anything about *how* he may or may not clearly demonstrate his acceptance. Of course, if a defendant continues to engage in conduct mirroring his original offense, a district court may easily conclude that a defendant has not accepted the moral wrongfulness of that conduct. But it is within the district court's discretion to determine the extent to which other conduct also speaks to acceptance.

The government asserts that our prior-panel-precedent rule compels the foregoing conclusion. *See United States v. Scroggins*, 880 F.2d 1204, 1215–16 (11th Cir. 1989) (affirming consideration of a drug-offense defendant's post-plea drug use); *Pace*, 17 F.3d at 343–44 (affirming consideration of "subsequent criminal conduct that is unrelated to the offense of conviction"). Lemaine counters that because those precedents were based on the commentary to section 3E1.1, our holding in *United States v. Dupree* abrogated them. 57 F.4th 1269, 1279 (11th Cir. 2023) (en banc) (holding that courts cannot defer to a guideline's commentary until determining that the guideline itself is ambiguous). Because our precedents are consistent with the text of section 3E1.1, *Dupree* did not abrogate them.

In determining whether to grant Lemaine an offense-level reduction under section 3E1.1, the district court could consider his armed robbery. And it did not clearly err in determining that the armed robbery vitiated Lemaine's attempt to demonstrate that he

accepted responsibility for his offense of conviction. *See Smith*, 22 F.4th at 1242; *see also United States v. Knight*, 562 F.3d 1314, 1322 (11th Cir. 2009) ("[A] denial of a reduction of sentence for an acceptance of responsibility . . . is entitled to great deference on review and should not be disturbed unless it is without foundation." (citation modified)). Because the district court committed no error, we do not reach the government's argument that any error was invited.

C. Lemaine's Sentence Is Substantively Reasonable.

When a district court varies above the range the sentencing guidelines recommend, we "must give due deference to the district court's decision that the [section] 3553(a) factors, on a whole, justify the extent of the variance." *Gall v. United States*, 552 U.S. 38, 51 (2007); *see also* 18 U.S.C. § 3553(a). We vacate only if "we are left with the definite and firm conviction that the district court committed a clear error of judgment in weighing the [section] 3553(a) factors by arriving at a sentence that lies outside the range of reasonable sentences dictated by the facts of the case." *United States v. Irey*, 612 F.3d 1160, 1190 (11th Cir. 2010) (en banc) (citation modified).

Lemaine argues that his sentence is substantively unreasonable because the district court "doubly punished" him by basing both "the denial of the 3-point acceptance of responsibility deduction and the addition of the 4-point upward variance" on the armed robbery. But we have held that a "district court may vary upward based on conduct that was already considered in calculating the

guideline range." *United States v. Taylor*, 997 F.3d 1348, 1355 (11th Cir. 2021). So, the district court could consider the armed robbery not only to deny a reduction under section 3E1.1 but also to vary above the guideline range.

Lemaine's armed robbery was also relevant to multiple section 3553(a) factors and provided adequate support for the variance. The robbery formed part of "the history . . . of the defendant." *See* 18 U.S.C. § 3553(a)(1). Lemaine committed it while on bond, as a "last hurrah before [he] went away for a while," which supports a harsher sentence "to promote respect for the law." *See id.* § 3553(a)(2)(A). And the robbery supported the finding that Lemaine was "dangerous," a "characteristic[] of the defendant," *see id.* § 3553(a)(1), that makes a longer sentence appropriate "to protect the public from further crimes of the defendant," *see id.* § 3553(a)(2)(C). "Finally, a sentence imposed well below the statutory maximum penalty is an indicator of a reasonable sentence." *Taylor*, 997 F.3d at 1355. Here, the statutory maximum term is 15 years, 18 U.S.C. § 924(a)(8)—nearly twice Lemaine's sentence. His sentence is substantively reasonable.

IV. CONCLUSION

We **AFFIRM** Lemaine's conviction and sentence.