

**NONPRECEDENTIAL DISPOSITION**

To be cited only in accordance with FED. R. APP. P. 32.1

**United States Court of Appeals****For the Seventh Circuit  
Chicago, Illinois 60604**

Argued March 5, 2024

Decided April 2, 2024

**Before**DIANE S. SYKES, *Chief Judge*JOHN Z. LEE, *Circuit Judge*JOSHUA P. KOLAR, *Circuit Judge*

No. 23-2682

UNITED STATES OF AMERICA,  
*Plaintiff-Appellee,**v.*LESTER WARFIELD,  
*Defendant-Appellant.*Appeal from the United States District  
Court for the Northern District of  
Illinois, Eastern Division.

No. 1:23-CR-00061(1)

Elaine E. Bucklo,  
*Judge.***ORDER**

After pleading guilty to escape from custody and attempted bank robbery, Lester Warfield was sentenced to 105 months' imprisonment—46 months less than the low end of the applicable sentencing guidelines range. On appeal, he contends that this term is still too severe and that the district judge did not adequately consider the sentencing factors listed in 18 U.S.C. § 3553(a). Because the district judge conducted a complete analysis under § 3553(a) and arrived at a substantively reasonable sentence, we affirm.

## I. Background

While serving the remainder of his second federal sentence for bank robbery, Warfield lived at a Salvation Army residential re-entry center. On August 29, 2022, while out on employment-related travel, Warfield returned to the Salvation Army more than two hours late. The Salvation Army placed him on “escape status,” and Warfield faced the potential of returning to jail. The next day, he removed his ankle monitor and left the Salvation Army without any authorization. On September 5, 2022, he emailed Salvation Army staff to say he would turn himself in to the United States Marshals the following day.

Warfield did not turn himself in as promised. Instead, on September 6, 2022, Warfield tried to rob another bank. Wearing a facemask, he approached a teller and demanded bills, gestured to his waistband, and said someone was going to die. Surmising (correctly) that Warfield was unarmed, however, the teller did not comply. Warfield left the bank emptyhanded, and police arrested him shortly thereafter.

Warfield was indicted for escape from custody, in violation of 18 U.S.C. § 751(a), and attempted bank robbery, in violation of 18 U.S.C. § 2113(a). He pleaded guilty to both counts without a plea agreement. The statutory sentencing caps were 60 months’ imprisonment for escape from custody and 240 months’ imprisonment for attempted bank robbery. The presentence investigation report (PSR) classified Warfield as a career offender because he had at least two prior convictions for violent felonies (including bank robberies). *See* U.S.S.G. § 4B1.1(a). His combined base offense level was 32 because the statutory maximum was 20 years, and his criminal history category was VI. *See* U.S.S.G. § 4B1.1(b). The PSR then subtracted three offense levels for acceptance of responsibility, *see* U.S.S.G. § 3E1.1, resulting in a final offense level of 29. The PSR thus calculated a sentencing guidelines range of 151 to 188 months’ imprisonment.

In his sentencing memorandum and at the sentencing hearing, Warfield sought a below-guidelines prison term because of his difficult life and asserted lack of dangerousness. He explained how his hardworking mother was often absent in his childhood; how he joined a street gang and began abusing alcohol at 13; and how he struggled with depression, suicidal thoughts, and addiction, including heroin and cocaine abuse. He further stated that his recent alcohol relapse and crimes stemmed from inadequate services at the Salvation Army, concern for his wife and her various

health issues, and the denial of a request to transfer to a facility in Mississippi to be near his then-ailing mother.

The district judge sentenced Warfield to 105 months' imprisonment, 46 months below the low end of the guidelines range: 30 months for escape from custody and 75 months for attempted bank robbery, to run consecutively. In conducting the analysis under § 3553(a), the judge explained that mitigating factors included Warfield's difficult childhood, addictions, and decision to leave the bank emptyhanded rather than use force. But the judge noted that, on the other hand, Warfield had a significant criminal history—this was his third bank robbery conviction. And absent evidence that Warfield was likely to overcome any addiction, attributing his crimes to substance abuse would not make him less of a safety concern. Prior sentences had not deterred him, and the judge had a duty to protect the public from him.

## II. Analysis

On appeal, Warfield argues that his 105-month sentence is substantively unreasonable. We review the substantive reasonableness of a sentence for abuse of discretion. *United States v. Oregon*, 58 F.4th 298, 301–02 (7th Cir. 2023). In conducting this review “[t]here is a nearly irrebuttable presumption that a below-range sentence is reasonable.” *Id.* at 302 (quoting *United States v. Miller*, 829 F.3d 519, 527 (7th Cir. 2016)) (alteration in original). To rebut that presumption, Warfield must demonstrate that his sentence “does not comport” with the sentencing factors under 18 U.S.C. § 3553(a). *United States v. De La Torre*, 940 F.3d 938, 953 (7th Cir. 2019). We have never held that a below-guidelines sentence was unreasonably high. *See Oregon*, 58 F.4th at 302.

Warfield's primary argument is that the 30-month sentence for escape from custody is longer than that of defendants in other cases. First, Warfield's argument overlooks the principle that his consecutive sentences for escape and attempted bank robbery are part of a sentencing package and cannot necessarily be isolated from one another. *See United States v. Sprenger*, 14 F.4th 785, 794 (7th Cir. 2021). Second, the cases he cites are inapposite. He starts with *United States v. Conley*, where an escapee received 41 months for scaling down 17 stories of a jail wall, 777 F.3d 910, 911–12 (7th Cir. 2015). Warfield suggests his 30-month term is not sufficiently below Conley's 41-month term. But he offers no principled basis for that comparison. He next cites, as an example of a fairer sentence for escape, the 24-month term imposed in *United States v. Thurman*, No. 20-3356, 2021 WL 5206235, at \*1–2 (7th Cir. Nov. 9, 2021) (non-precedential

disposition). But Thurman, unlike Warfield, was not a career offender and faced no attempted-robbery charge, so the comparison is not compelling.

Warfield further cites a report from the United States Sentencing Commission that lists 12 months as the “average” prison term for escape convictions, U.S. SENT’G COMM’N, REPORT ON FEDERAL ESCAPE OFFENSES, at 3 (Sept. 2023). Even if this report was a relevant point of comparison “to avoid unwarranted sentencing disparities among defendants with similar records who have been found guilty of similar conduct,” *see* 18 U.S.C. § 3553(6), as the Commission observed in the same report, more than 90% of cases in the sample involved *only* an escape conviction. U.S. SENT’G COMM’N, REPORT ON FEDERAL ESCAPE OFFENSES, at 5. Here, Warfield’s guidelines range was calculated (and enlarged) based on his attempted bank robbery and career-offender designation. So even if Warfield were correct that an “average case” deserves an “average sentence,” his case is not “average.” Furthermore, we have previously held that “a sentence *below* the applicable Sentencing Guidelines range cannot be an unwarranted disparity.” *United States v. Gonzalez*, 765 F.3d 732, 740 (7th Cir. 2014) (emphasis in original). The Sentencing Guidelines themselves account for disparate conduct, so a below-range sentence generally cannot create an unwarranted disparity. *Oregon*, 58 F.4th at 304–05; *United States v. Nania*, 724 F.3d 824, 840–41 (7th Cir. 2013).

Next, Warfield argues that his sentence is unreasonable because the judge did not adequately consider the § 3553(a) factors when arriving at his sentence. In his view, the judge ignored his motivations: He left the Salvation Army re-entry center because, he says, he was not receiving alcohol-abuse treatment and wanted to care for his family. He further contends the judge failed to account for the relative tameness of his attempted bank robbery, including that “the entire incident spanned less than a minute and a half.”

But contrary to Warfield’s contentions, a review of the sentencing transcript makes clear that the judge adequately considered the § 3553(a) factors and addressed each of Warfield’s arguments. A judge need only provide reasons for the sentence that are logical and consistent with § 3553(a). *United States v. Bonk*, 967 F.3d 643, 650 (7th Cir. 2020). The judge did so here by pointing to several mitigating factors (Warfield’s difficult childhood, addiction, family circumstances, and decision to walk away from the attempted robbery without using force) and several aggravating ones (his criminal history, recidivism despite prior sentences, and threat to the public), all of which is consistent with what § 3553(a) requires. *See* 18 U.S.C. § 3553(a)(1)–(2) (directing district courts to consider nature, seriousness, and circumstances of offense; history and

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characteristics of defendant; need to deter criminal conduct; and need to protect the public). The statute and our precedent do not require more. There was thus no abuse of discretion when the judge sentenced Warfield to 46 months below the low end of the applicable sentencing guidelines range.

AFFIRMED