

NONPRECEDENTIAL DISPOSITION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

Submitted June 23, 2026

Decided June 24, 2026

*Before*MICHAEL Y. SCUDDER, *Circuit Judge*AMY J. ST. EVE, *Circuit Judge*JOSHUA P. KOLAR, *Circuit Judge*

No. 25-2287

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

DWIGHT HASBERRY,
Defendant-Appellant.

Appeal from the United States District
Court for the Northern District of
Illinois, Eastern Division.

No. 1:23-CR-00135(2)

Manish S. Shah,
Judge.

ORDER

Dwight Hasberry pleaded guilty to carjacking, *see* 18 U.S.C. § 2119, armed robbery, *see id.* § 1951(a), and brandishing a firearm during a violent crime, *see id.* § 924(c)(1)(A). The district court sentenced him to 180 months' imprisonment. Hasberry appeals, but his appointed counsel asserts that the appeal is frivolous and moves to withdraw. *See Anders v. California*, 386 U.S. 738, 744 (1967). Counsel's brief explains the nature of the case and addresses issues that an appeal of this kind might be expected to involve. Because the analysis appears thorough, and Hasberry has not responded to

counsel's motion, *see* CIR. R. 51(b), we limit our review to the subjects that counsel raises. *United States v. Bey*, 748 F.3d 774, 776 (7th Cir. 2014). We grant the motion and dismiss the appeal.

Hasberry entered a written plea agreement in which he admitted to the following facts. Hasberry and two co-conspirators pointed guns at a driver in his parked car while the driver's infant child was in the backseat. One of the co-conspirators patted down the driver and removed a firearm from his pocket. After the driver took his child from the backseat, Hasberry and the two co-conspirators got into the car, which they drove away. Hasberry and the two co-conspirators proceeded to a convenience store and robbed it at gunpoint. One co-conspirator pointed a gun at the cashier, demanded that he open the cash registers, forced the cashier into a back room, took his wallet, and then used a gun to hit the cashier on the head. The co-conspirators all took cash from the registers, as well as cigarettes and bottles of liquor from the store shelves, and fled in the stolen car. Soon thereafter, they were apprehended by police. The cashier who was struck in the head bled profusely and suffered a concussion requiring treatment at a hospital.

After Hasberry entered his plea agreement, the probation office prepared a presentence investigation report. For the carjacking count, the PSR calculated a total offense level of 30, given Hasberry's base offense level of 20, *see* U.S.S.G. § 2B3.1(a); a six-level increase for using a firearm during the offense, *see id.* § 2B3.1(b)(2)(B); a two-level increase for carjacking, *see id.* § 2B3.1(b)(5); a one-level increase for taking a firearm, *see id.* § 2B3.1(b)(6); and a one-level increase for stealing property (namely, the stolen car) worth more than \$20,000, *see id.* § 2B3.1(b)(7)(B). For the count that arose from the armed robbery of the convenience store, the PSR calculated a total offense level of 27, given the base offense level of 20, *see id.* § 2B3.1(a); a five-level increase for causing an injury the degree of which was between serious bodily injury and permanent or life-threatening bodily injury, *see id.* § 2B3.1(b)(3)(E); and a two-level increase for restraining the victim, *see id.* § 2B3.1(b)(4)(B).

Under the multiple-count adjustment of U.S.S.G. § 3D1.4, Hasberry's combined offense level was determined by taking the highest adjusted offense level (30, for the carjacking count) and increasing that offense level by two levels (the applicable number of units—one for the carjacking count, and one for the armed robbery count). The PSR then subtracted three levels for acceptance of responsibility, *see id.* § 3E1.1(a)–(b), reaching a total offense level of 29. Given his criminal history category of III, Hasberry's guidelines range was calculated at 108 to 135 months for the carjacking and armed

robbery counts, *see id.* § 5A, which combined with the mandatory 84-month term for the firearm count, *see id.* § 2K2.4(b); 18 U.S.C. § 924(c)(1)(A)(ii), to yield a total guidelines range of 192 to 219 months.

Hasberry objected to the recommended five-level enhancement under U.S.S.G. § 2B3.1(b)(3)(E) for injury to the cashier who was struck in the head, which the PSR categorized as being between “serious” and “permanent or life-threatening.” He argued that the cashier’s injury, while serious, was not sufficiently severe or life-threatening. The court agreed with Hasberry that the four-level enhancement for serious bodily injury under § 2B3.1(b)(3)(B) was more apt under the circumstances, adding that the adjustment did not affect the guidelines calculation.

Subject to this adjustment, the district court adopted the PSR’s factual findings and proposed guidelines range. The government argued for a sentence within the guidelines range, and Hasberry sought a below-guidelines 144-month sentence. The court then weighed the sentencing factors under 18 U.S.C. § 3553(a) and sentenced him to 180 months, to be followed by three years’ supervised release. Acknowledging that the parties needed further time to discuss and submit recommendations for the appropriate amount of restitution, the court deferred entry of a restitution order.

Counsel informs us that Hasberry does not wish to challenge his guilty plea, so he properly refrains from discussing the voluntariness of the plea. *See United States v. Konczak*, 683 F.3d 348, 349 (7th Cir. 2012); *United States v. Knox*, 287 F.3d 667, 671 (7th Cir. 2002).

As for the district court’s calculations of Hasberry’s guidelines range, counsel first considers whether Hasberry could plausibly challenge the district court’s determination that the counts for the carjacking and the armed robbery of the convenience store should not be grouped. But counsel correctly rejects this challenge as frivolous because the robbery and carjacking counts involved different victims, *see* U.S.S.G. § 3D1.2(a)–(b); none of the conduct in either count was the basis for a specific offense characteristic in the other count, *see id.* § 3D1.2(c); and § 3D1.2(d) specifically excludes grouping offenses like robbery that are sentenced under U.S.S.G. § 2B3.1. Relatedly, counsel rightly rejects as frivolous any argument that the district court erred by imposing a two-level multiple-count adjustment under § 3D1.4. The PSR properly assigned one unit for the carjacking count (the highest offense level) and one unit for the armed robbery count (four levels less serious than the carjacking count), *see id.* § 3D1.4(a), resulting in a two-level increase in the combined offense level, *see id.*

Counsel next considers whether Hasberry could plausibly challenge three of the enhancements applied for special offense characteristics and rightly rejects these challenges as frivolous. First, counsel considers challenging the six-level enhancement for use of a firearm during the carjacking. *See id.* § 2B3.1(b)(2)(B). But as counsel notes, when a court imposes a sentence under § 924(c) “in conjunction with a sentence for an underlying offense,” the court should not apply an enhancement for brandishing a firearm to the underlying offense. *See* U.S.S.G. § 2K2.4 cmt. n.4(A). The underlying offense here for the count under § 924(c) is the armed-robbery charge, not the carjacking charge, so we agree with counsel that any challenge to this enhancement would be frivolous.

Second, counsel considers challenging the four-level enhancement that Hasberry received for serious bodily injury on the armed robbery count. *See id.* § 2B3.1(b)(3)(B). But as counsel points out, Hasberry waived any argument about the four-level enhancement for serious bodily injury when he objected to the PSR’s proposed five-level enhancement, *see id.* § 2B3.1(b)(3)(E), and explicitly sought the four-level enhancement, *see id.* § 2B3.1(b)(3)(B). *See United States v. Pugh*, 147 F.4th 801, 807 (7th Cir. 2025).

Third, counsel considers challenging the two-level enhancement that was applied because the cashier was physically restrained to facilitate the armed robbery. *See* U.S.S.G. § 2B3.1(b)(4)(B). But counsel rightly rejects this challenge as frivolous because forcing a person into a back room at gunpoint, as Hasberry’s co-conspirator did here to the cashier, constitutes physical restraint within the meaning of § 2B3.1(b)(4)(B). *See United States v. White*, 80 F.4th 811, 813 (7th Cir. 2023).

Counsel also rightly concludes that any challenge to the substantive reasonableness of Hasberry’s sentence would be frivolous. We presume that a below-guidelines sentence, such as Hasberry’s, is reasonable, *see United States v. Oregon*, 58 F.4th 298, 302 (7th Cir. 2023), and we agree with counsel that the district court adequately justified the prison term under the applicable § 3553(a) factors. The court emphasized the seriousness of the offenses (Hasberry’s conduct was a “crime spree” that “[wreaked] havoc on innocent people” and gun brandishing during the offenses was akin to “threatening [the victims] with murder”) and the need for the sentence to deter others from committing similar crimes (sentence was intended to make people “think twice before they pick up guns, steal cars, and rob people”). In mitigation, the court considered that Hasberry’s conduct was less serious than that of his codefendant

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who struck the cashier with a gun, and that Hasberry had a difficult childhood marked by violence.

Counsel considers whether there is any basis to challenge the conditions of Hasberry's supervised release. We agree that Hasberry waived any challenge when he asserted at sentencing that he did not object to the proposed conditions. *See United States v. Gibbs*, 130 F.4th 619, 622 (7th Cir. 2025).

Lastly counsel considers whether Hasberry could challenge any restitution award but rejects this challenge as frivolous because (at the time of briefing) no final judgment had yet been entered. The district court has since entered an amended judgment ordering Hasberry to pay \$2,150 in restitution. Hasberry filed a new notice of appeal of the restitution order, No. 26-1389, and in that appeal remains free to pursue any challenge he deems appropriate.

We GRANT counsel's motion to withdraw and DISMISS the appeal.