

United States Court of Appeals
For the Eighth Circuit

No. 15-3301

United States of America

Plaintiff - Appellee

v.

Albert Allen, Jr.

Defendant - Appellant

Appeal from United States District Court
for the Northern District of Iowa - Cedar Rapids

Submitted: April 11, 2016

Filed: April 20, 2016

[Unpublished]

Before RILEY, Chief Judge, WOLLMAN and MURPHY, Circuit Judges.

PER CURIAM.

Albert Allen, Jr. pled guilty to conspiring to distribute 280 grams or more of cocaine base in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A), and 846 and was sentenced to 262 months imprisonment. In this direct appeal, Allen challenges only

the four-level aggravating-role enhancement the district court¹ applied at sentencing upon finding Allen was an organizer or leader in the charged conspiracy. See U.S.S.G. § 3B1.1(a) (requiring a four-level increase “[i]f the defendant was an organizer or leader of a criminal activity that involved five or more participants or was otherwise extensive”).

“We review *de novo* the district court’s application of the guidelines and review for clear error its underlying findings of fact.” United States v. Scott, 448 F.3d 1040, 1043 (8th Cir. 2006). “We interpret the terms ‘organizer’ and ‘leader’ broadly.” United States v. Adetiloye, 716 F.3d 1030, 1037 (8th Cir. 2013). In evaluating whether the district court properly found Allen was an organizer or leader under § 3B1.1(a), we consider factors such as

the exercise of decision making authority, the nature of participation in the commission of the offense, the recruitment of accomplices, the claimed right to a larger share of the fruits of the crime, the degree of participation in planning or organizing the offense, the nature and scope of the illegal activity, and the degree of control and authority exercised over others.

U.S.S.G. § 3B1.1, cmt. n.4.

Having carefully reviewed the sentencing record, we conclude the district court did not err in applying the § 3B1.1(a) aggravating-role enhancement in imposing Allen’s sentence. Allen concedes the conspiracy involved at least five participants. And the stipulated facts in Allen’s plea agreement, the uncontested parts of the presentence investigation report, and the sentencing transcript amply support the district court’s determination that Allen took a leadership role in the conspiracy “by

¹The Honorable Linda R. Reade, Chief Judge, United States District Court for the Northern District of Iowa.

arranging with people to middle² [drug] transactions for him, deliver drugs for him, and transport him into Chicago to buy drugs in return for payment . . . by drugs.” See, e.g., United States v. Razo-Guerra, 534 F.3d 970, 976-77 (8th Cir. 2008) (upholding a four-level aggravating-role enhancement under § 3B1.1(a) where the defendant supplied dealer quantities of drugs, directed drug deliveries, and recruited others to deliver and transport drugs); United States v. Garcia, 512 F.3d 1004, 1005-06 (8th Cir. 2008) (concluding a four-level aggravating-role enhancement under § 3B1.1(a) was appropriate where the defendant “recruited others to join the conspiracy, . . . received drug orders from customers, and . . . directed others to package and deliver drugs”).

Allen’s unsupported contention that the district court must expressly discuss every factor listed in the application notes to § 3B1.1 is without merit. Cf., e.g., United States v. Thunder, 553 F.3d 605, 608 (8th Cir. 2009) (noting a sentencing court need not mechanically recite every sentencing factor and thoroughly discuss its relative importance in each case as long as the record indicates the court considered the relevant factors).

For the foregoing reasons, we affirm.

²According to Allen’s plea agreement, “middling” a drug transaction “means [a coconspirator] would obtain crack from [Allen] and immediately deliver it to others for [Allen].”