

UNPUBLISHED ORDER
Not to be cited per Circuit Rule 53

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Argued April 4, 2005
Decided November 8, 2005

Before

Hon. RICHARD A. POSNER, *Circuit Judge*

Hon. ILANA DIAMOND ROVNER, *Circuit Judge*

Hon. ANN CLAIRE WILLIAMS, *Circuit Judge*

No. 04-2036

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

JAMAR HENRY,
Defendant-Appellant.

] Appeal from the United
] States District Court for
] the Central District of
] Illinois
]
] No. 02 CR 30056
]
]
] **Richard Mills,**
] *Judge.*

O R D E R

This case is on appeal from a limited remand from our court pursuant to *United States v. Paladino*, 401 F.3d 471, 483-84 (7th Cir. 2005). *United States v. Henry*, 408 F.3d 930, 935 (7th Cir. 2005). The district court has now determined that it would impose the same sentence if we were to vacate the judgment and remand for re-sentencing even in light of the advisory nature of the Guidelines. We must therefore determine whether the sentence is reasonable. If it is, then any

Sixth Amendment violation in the sentencing process did not affect his substantial rights and thus did not constitute plain error.

The parties have had the opportunity to file arguments concerning the appropriate disposition of the appeal in light of the district court's decision, but only the government has availed itself of that opportunity. Henry's sentence is within the Guideline range, and therefore we must presume that the sentence of 262 months in prison, 8 years supervised release, and a \$100.00 special assessment, is reasonable. *United States v. Mykytiuk*, 415 F.3d 606, 608 (7th Cir. 2005). A defendant may rebut that presumption by demonstrating that his sentence is unreasonable in light of the factors identified in 18 U.S.C. § 3553(a).

The district court's order reveals that the court considered the 18 U.S.C. § 3553(a) factors, and that it properly applied those factors in determining that it would give the same sentence. There are no apparent errors in the court's consideration of those factors, nor does Henry raise any argument to this court that the sentence is unreasonable. Accordingly, we affirm Henry's sentence.