

**NONPRECEDENTIAL DISPOSITION**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 4, 2025

Decided April 1, 2025

**Before**

MICHAEL B. BRENNAN, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

NANCY L. MALDONADO, *Circuit Judge*

No. 24-2539

UNITED STATES OF AMERICA,  
*Plaintiff-Appellee,*

*v.*

JOSEPH R. QUINONES,  
*Defendant-Appellant.*

Appeal from the United States District  
Court for the Northern District of  
Indiana, Fort Wayne Division.

No. 1:24-cr-00003-HAB-SLC-1

Holly A. Brady,  
*Chief Judge.*

**ORDER**

Joseph Quinones pleaded guilty to possession of a firearm by a felon, 18 U.S.C. § 922(g)(1), and was sentenced to 150 months' imprisonment, above the applicable range of 110–137 months under the Sentencing Guidelines. Quinones appeals, arguing that the district court made a procedural error by providing inadequate justification for the upward variance and failing to explain why any deviation from the guidelines range was necessary. He contends that the sentence is substantively unreasonable for the same reasons. Because the court adequately explained the sentence and was not required to specifically justify the variance, we affirm.

One morning Quinones and his now wife went to a fast-food drive-through window and attempted to order items off the lunch menu. When told that the restaurant was serving only breakfast at the time, they got out of the car and went inside. Quinones then walked behind the counter, pulled out a handgun, and began threatening employees. An employee called the police, but by the time officers arrived, Quinones and his wife were in their car. When officers stopped them and told them to stay in the car, they both got out and began walking away. The police were forced to chase Quinones down on foot.

Quinones was previously convicted of multiple felonies, and so he was charged with being a felon in illegal possession of a firearm. *See* 18 U.S.C. 922(g)(1). He pleaded guilty with no plea agreement.

Before the sentencing hearing, both parties submitted sentencing memoranda. In mitigation, Quinones highlighted his difficult upbringing, noting that he had grown up in poverty, enduring homelessness and a physically abusive father. Because of the prevalence of drugs in his neighborhood, he began abusing alcohol and marijuana when he was 11, soon moving on to other substances. He also presented studies on the adverse effects of violence and early drug use on child development. With his memorandum, he submitted videos from family members speaking on his behalf. Quinones contended that a below-guidelines sentence of 96 months would be appropriate. The government, in its memorandum, emphasized Quinones's lengthy criminal history and the fact that several previous sentences had not deterred him from criminal conduct. It recommended a sentence of 126 months.

At the hearing, the court first confirmed that neither party objected to the facts laid out in the presentence investigation report, then adopted them as its findings of fact. The court then calculated the guidelines range: 110–137 months' imprisonment based on an offense level of 25 and a criminal history category of VI. U.S.S.G. § 5A. Both parties agreed with this calculation.

Before hearing the parties' arguments, the court acknowledged that it had reviewed the sentencing memoranda and the family videos from Quinones. It also explained what circumstances it viewed as aggravating and mitigating and how they weighed in its assessment of the 18 U.S.C. § 3553(a) sentencing factors. In mitigation, the court acknowledged Quinones's difficult childhood, noting many of the details from his memorandum. The court also favorably noted his wife's support for him and his prompt acceptance of responsibility. Then the court canvassed Quinones's criminal history and noted that it was "very concerned" that his past offenses included many

instances of violent conduct. Because of the violent nature of Quinones's crimes and their persistence despite previous sentences, the court stated, protecting the public and deterrence would weigh most heavily in its consideration of the § 3553(a) factors. 18 U.S.C § 3553(a)(2)(B)–(C).

Given their turns to argue, the government and Quinones largely reiterated their sentencing memoranda, with Quinones's lawyer adding a few details about Quinones's participation in therapy and motivation to maintain sobriety. Quinones also spoke, apologizing for his conduct and expressing his hope that he could stay on track after his time in prison. The court briefly restated its consideration of the mitigating and aggravating factors, acknowledging the additional remarks Quinones and his lawyer had made in mitigation. The court then pronounced an above-guidelines sentence of 150 months in prison.

Quinones appeals, challenging the procedural validity and substantive reasonableness of his sentence. He first argues that the court procedurally erred by providing an insufficiently detailed explanation to permit appellate review and failing to specifically justify why a sentence within the guidelines range was insufficient. We review de novo procedural challenges to a sentence. *United States v. Cook*, 108 F.4th 574, 580 (7th Cir. 2024).

Quinones asserts that the sentencing court's justification was too thin to allow us to "meaningful[ly] ... review" the sentence. See *Gall v. United States*, 552 U.S. 38, 50 (2007). But this statement is unsupported by the record. The court, at the beginning of the sentencing hearing, listed several specifics that it found mitigating, such as a strong support system at home and his acceptance of responsibility. The court also noted that Quinones's long history of violent crime was highly aggravating and explicitly said that deterrence and protection of the public were its most pressing concerns. A detailed explanation of how the facts about the case and the defendant are aggravating or mitigating and how they translate into § 3553(a) factors, as provided here, is a sufficient explanation. See *United States v. Hendrix*, 74 F.4th 859, 867–68 (7th Cir. 2023); *United States v. Morgan*, 987 F.3d 627, 632–33 (7th Cir. 2021).

Quinones justifies ignoring these sections of the transcript by contending that we may not consider the explanatory statements the court made before hearing the parties argue. The caselaw he relies on, however, stands only for the proposition that a sentencing court must not finally decide a sentence before the parties have a chance to argue. See *Gall*, 552 U.S. at 49–50 (directing the sentencing court to determine the sentence only after hearing argument); *United States v. Wilcher*, 91 F.4th 864, 872 (7th Cir.

2024) (requiring a sentencing court to provide an explanation, but not prescribing when the explanation must come). Quinones cites no decisions that prevent an appellate court from reviewing any portion of the transcript when deciding if a district court adequately justified a sentence. Instead, we review the entire transcript to determine if the explanation of the sentence was sufficient. *United States v. Swank*, 37 F.4th 1331, 1334 (7th Cir. 2022); *see also United States v. Brooks*, 100 F.4th 825, 841 (7th Cir. 2024).

Quinones also argues that the court procedurally erred by failing to consider his arguments in mitigation or his suggestions for an appropriate lower sentence. First, Quinones waived any argument that the court did not sufficiently consider his arguments in mitigation. At the end of the sentencing hearing, the court asked Quinones if it had satisfactorily addressed his arguments in mitigation, and Quinones responded in the affirmative; he cannot argue otherwise on appeal. *See United States v. Creek*, 95 F.4th 484, 492 (7th Cir. 2024). And even if this argument were not waived, we have never prescribed how a court must demonstrate consideration of arguments in mitigation, only that it may not “pass over in silence” the defendant’s main arguments. *See United States v. Castaneda*, 77 F.4th 611, 616 (7th Cir. 2023); *United States v. Cunningham*, 429 F.3d 673, 679 (7th Cir. 2005). Here, just before announcing the sentence, the court specifically mentioned all the main factors in mitigation that Quinones had raised: his acceptance of responsibility, his difficult background, his mental health struggles, and his post-arrest efforts at rehabilitation.

Nor did the court procedurally err by not specifically explaining why the lower sentences suggested by Quinones and the government were insufficient. Quinones relies upon *United States v. Ferguson*, 831 F.3d 850, 855 (7th Cir. 2016), and *United States v. Lyons*, 733 F.3d 777, 785 (7th Cir. 2013), for the proposition that courts must specifically state why they did not impose the shorter sentences suggested by the parties. This misreads *Ferguson* and *Lyons*. In each case, the crucial error was that the district court inadequately explained the sentence that it pronounced, not that it failed to explain why other, lower, sentences were not appropriate. *Ferguson*, 831 F.3d at 855; *Lyons*, 733 F.3d at 785.

Finally, Quinones argues that the court procedurally erred by not directly explaining why a within-guidelines sentence would be insufficient. He points to the Court’s mandate in *Gall* that sentencing courts, when considering an out-of-guidelines sentence, “consider the extent of the deviation and ensure that the justification is sufficiently compelling to support the degree of the variance,” along with its

observation that “a major departure should be supported by a more significant justification than a minor one.” 552 U.S. at 50.

But *Gall* does not require a sentencing court to explain specifically why it chose a sentence above the range. The instructions that Quinones points to require a more *thorough* explanation of an above-guidelines sentence, but they do not mandate that courts use specific language to explain why the guidelines range was insufficient. *Id.* Here, the sentencing court highlighted the specific aggravating and mitigating factors that concerned it to help guide the parties’ arguments, listened to those arguments, and then explicitly rested its variance from the Guidelines on “justifiable reasons” – the seriousness of the offense, specific deterrence, and public safety. This articulation as a whole is entirely sufficient. Our case law supports this approach: we have routinely upheld above-guidelines sentences that are justified with reference to the § 3553(a) factors. *See, e.g., Hendrix*, 74 F.4th at 867–68; *United States v. Kuczora*, 910 F.3d 904, 908 (7th Cir. 2018).

Quinones’s procedural argument therefore fails. Not using specific language to explain why the court deviated from the Guidelines is not procedural error when the court’s rationale adequately supports the chosen sentence. And, as explained above, here the court “thoroughly document[ed]” its reasons for imposing the sentence and demonstrated that it considered the sentencing factors; that is procedurally sufficient. *Cook*, 108 F.4th at 583; *Hendrix*, 74 F.4th at 867.

For the same reason, Quinones cannot establish that his sentence is substantively unreasonable. In contending that the sentence is too long, he essentially restates his arguments that the court imposed an above-guidelines sentence without adequately justifying it—as he puts it, that the procedural errors led the court to impose a substantively unreasonable sentence. But if there is no procedural error under de novo review, it follows by Quinones’s own logic that the same purported defects do not render the sentence substantively unreasonable under review for abuse of direction. *See Cook*, 108 F.4th at 580 (identifying the standard of review and noting that a substantively reasonable sentence is one that is imposed in conformity with the § 3553(a) factors).

AFFIRMED