

NONPRECEDENTIAL DISPOSITION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 December 3, 2025

Decided December 4, 2025

Before

DAVID F. HAMILTON, *Circuit Judge*

CANDACE JACKSON-AKIWUMI, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

No. 24-1477

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

DARIUS GAVIN,
Defendant-Appellant.

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

No. 1:17-CR-00729(2)

Andrea R. Wood,
Judge.

ORDER

Darius Gavin pleaded guilty to two counts of robbery affecting commerce and one count of brandishing a firearm during a violent crime. *See* 18 U.S.C. §§ 1951(a), 924(c)(1)(A)(ii). The district court sentenced him to a below-guidelines sentence of 168 months' imprisonment and 3 years' supervised release. Gavin filed a notice of appeal, but his appointed attorney seeks to withdraw because he asserts the appeal is frivolous. *Anders v. California*, 386 U.S. 738, 744 (1967). We notified Gavin of counsel's motion to withdraw, and he did not respond. *See* CIR. R. 51(b). Counsel's brief explains

the nature of the case and raises potential issues that an appeal of this kind would be expected to involve. Because counsel's brief appears thorough, we limit our review to the subjects counsel discusses. *See United States v. Bey*, 748 F.3d 774, 776 (7th Cir. 2014). We grant the motion and dismiss the appeal.

In 2017, a federal grand jury indicted Gavin, in relevant part, on two counts of committing a robbery affecting commerce, 18 U.S.C. § 1951(a), and one count of brandishing a firearm in connection to a crime of violence. *Id.* § 924(c)(1)(A)(ii). The charges arose from robberies of a Chicago supermarket and a liquor store carried out by Gavin and two co-conspirators. In the first robbery, the co-conspirators brandished guns while Gavin took approximately \$1,700 in cash from the store. In the second robbery a few months later, one co-conspirator fired a gun into a padlock to gain access to the store's rear office, where they took a large sum of cash. In total, they made off with approximately \$3,700 in the second robbery.

Gavin pleaded guilty to these charges. In his plea agreement, he stipulated that he participated in two other armed robberies and possessed a firearm as a felon. The district court adopted the presentence investigation report's recommended guidelines range of 97 to 121 months for the robbery charges (based on an offense level of 28 and criminal history category of III) and an 84-month consecutive, statutory minimum sentence for brandishing a firearm during the commission of the robberies. 18 U.S.C. § 924(c)(1)(A)(ii). The court then weighed the factors under 18 U.S.C. § 3553(a) and sentenced Gavin to a below-guidelines term of 168 months' imprisonment and three years' supervised release.

In discussing potential issues to raise on appeal, counsel first confirms that he communicated with Gavin and that Gavin does not wish to challenge his guilty plea. Counsel therefore properly refrains from addressing the plea's validity. *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).

Counsel considers arguments about the calculation of Gavin's guidelines range but correctly concludes that any such attacks would be frivolous. Gavin did not object to the PSR's guidelines calculations or make any argument against them at sentencing, so he would be entitled to plain-error review at most. *United States v. Burgess*, 22 F.4th 680, 686 (7th Cir. 2022). Like counsel, we cannot discern any potential error, let alone an obvious one, that affected Gavin's substantial rights. The district court correctly assessed an offense level of 28 based on the highest offense level for Gavin's convictions (27), *see* U.S.S.G. § 2B3.1(a), (b)(2)(A); the multiple-count adjustment (+4), *see id.* § 3D1.4;

and Gavin's acceptance of responsibility (-3), *see id.* § 3E1.1. And the court correctly assessed a criminal history category of III based on Gavin's prior convictions for possession of a stolen motor vehicle (3 points) and criminal trespass to a vehicle (2 points). *See* U.S.S.G. § 4A1.1(a)–(b); *id.* § 5A.

We also agree with counsel that a challenge to the substantive reasonableness of Gavin's sentence would be frivolous. We presume that a below-guidelines sentence is reasonable. *United States v. Oregon*, 58 F.4th 298, 302 (7th Cir. 2023). Counsel rightly concludes that the district court adequately justified the prison term under the applicable § 3553(a) factors. The court highlighted Gavin's history and characteristics (noting his unstable childhood), the seriousness of the offense (emphasizing the danger associated with robberies involving firearms and the effect of the offenses on the victims), and the nature and circumstances of the offense (noting as "a slight factor in mitigation" that Gavin was not the person who brandished or used a firearm during the robberies).

Finally, counsel asks whether Gavin could plausibly challenge one term of his supervised release as impermissibly vague—the term permitting a probation officer to visit him "at any reasonable time" and at any "reasonable location specified." But as counsel points out, we rejected a vagueness challenge to a nearly identical condition in *United States v. Armour*, 804 F.3d 859, 870 (7th Cir. 2015). *See also United States v. Downey*, 908 F.3d 205, 207 (7th Cir. 2018).

We thus GRANT counsel's motion and DISMISS the appeal.