

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

United States v. Ryan, Jeremiah

1 Fed. Sent. R. 409 (3d Cir. 1989) · No. No. 88-3344 · Decided January 26, 1989

SUMMARY

Jeremiah Ryan appealed a ten-month sentence imposed after his conviction for simple possession of cocaine base under 21 U.S.C. § 844(a). The Third Circuit held that the district court could depart from the applicable sentencing-guideline range based on the quantity, purity, and packaging of the drugs, and that the ten-month sentence was not unreasonable. The court affirmed the judgment.

CASE DETAILS

COURT	United States Court of Appeals for the Third Circuit
WRITING FOR THE COURT	Greenberg, Circuit Judge; Scirica, Circuit Judge; Weis, Circuit Judge
JURISDICTION	Federal
DECIDED	January 26, 1989
DOCKET	No. 88-3344
DISPOSITION	affirmed
PROCEDURAL POSTURE	Ryan appealed his sentence imposed after a jury convicted him of simple possession of a controlled substance, arguing that the district court unreasonably departed upward from the applicable sentencing guideline.
STANDARD OF REVIEW	The court exercised plenary review over whether departure from the applicable guideline was legally permissible and reviewed whether the sentence outside the guideline range was unreasonable under 18 U.S.C. § 3742(d)(3). The extent of the departure was reviewed for reasonableness, with substantial discretion accorded to the sentencing court.
PRECEDENTIAL VALUE	Published precedential opinion of the United States Court of Appeals for the Third Circuit
PARTIES	Jeremiah Ryan v. United States

TOPICS

- sentencing guidelines
- sentencing
- statutory interpretation
- standard of review
- appellate procedure

PRACTICE AREAS

Federal criminal sentencing

Sentencing guidelines

Appellate review of sentencing departures

Controlled-substance offenses

QUESTIONS PRESENTED

1. Whether the sentencing guidelines and 18 U.S.C. § 3553(b) permitted the district court to depart upward from the simple-possession guideline based on the quantity, purity, and packaging of the drugs.
2. Whether considering the drug packaging and other conduct related to the acquitted intent-to-distribute charge was permissible in determining whether to depart from the guideline.
3. Whether the ten-month sentence imposed after departure was unreasonable under 18 U.S.C. § 3742(d) (3).

HOLDINGS

1. A sentencing court may consider drug quantity and purity as aggravating circumstances supporting departure from the simple-possession guideline when the Sentencing Commission did not adequately take those circumstances into account for that offense.
2. The district court did not act unreasonably by considering the packaging of the drugs and other information concerning Ryan's background, character, and conduct in deciding whether to depart from the applicable guideline.
3. The ten-month sentence was not unreasonable.

KEY QUOTATIONS

“The Commission recognizes that there may be cases ... in which a departure outside suggested levels is warranted.”

“In determining ... whether a departure from the guidelines is warranted, the court may consider, without limitation, any information concerning the background, character and conduct of the defendant, unless otherwise prohibited by law.”

FACTUAL BACKGROUND

Police officers approached Ryan while he was sitting with a brown paper bag in his lap. Ryan dropped the bag, which the officers retrieved and found to contain 10.32 grams of crack cocaine packaged in 33 individual plastic bags. Although the jury acquitted Ryan of possession with intent to distribute, it convicted him of simple possession. The district court relied on the quantity, purity, and packaging of the crack in departing upward from the guideline range.

PROCEDURAL HISTORY

Ryan was charged by information with possession of a controlled substance with intent to distribute. After a jury trial, he was acquitted of possession with intent to distribute but convicted of the lesser included offense of simple possession under 21 U.S.C. § 844(a). The district court applied the guideline for simple possession,

which prescribed a zero-to-six-month range, but departed upward and imposed ten months' imprisonment, one year of supervised release, and a \$25 special assessment. The Third Circuit affirmed.

DISPOSITION

affirmed

CASES CITED

- United States v. Correa-Vargas, 860 F.2d 35 (2d Cir. 1988)
- United States v. Guerrero, 863 F.2d 245 (2d Cir. 1988)
- United States v. Bernard, 757 F.2d 1439 (4th Cir. 1985)
- United States ex rel. Goldberg v. Warden, 622 F.2d 60 (3d Cir. 1980), cert. denied, 449 U.S. 871 (1980)
- United States v. Nuno-Huizar, 863 F.2d 36 (9th Cir. 1988)

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