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Case No. 25-3682

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

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KELLY L. STEPHENS, Clerk

UNITED STATES OF AMERICA, Plaintiff - Appellee, v. FREDDIE K. JOHNSON, JR., Defendant - Appellant.	)	ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO OPINION

Before: GIBBONS, LARSEN, and RITZ, Circuit Judges.

RITZ, Circuit Judge. Defendant Freddie Johnson was on federal supervised release when he committed a new federal firearms crime. Johnson pled guilty to the new crime, and the district court addressed Johnson's violation of supervised release at the same time the court sentenced Johnson for the new charge. At the hearing, the court sentenced Johnson to consecutive prison sentences of 30 months for the new charge and 18 months for the supervised release violation.

Johnson appeals the revocation of his supervised release, arguing that the revocation proceedings did not comply with the federal rules. He also challenges the procedural reasonableness of his 18-month sentence. For the reasons explained below, we affirm the district court.

BACKGROUND

I. Johnson's violation of supervised release

In 2016, Freddie Johnson pled guilty to conspiracy to commit racketeering. When it accepted Johnson's guilty plea, the district court explained that any sentence imposed could carry

a period of supervised release, and that violation of any terms of that supervised release could lead to additional imprisonment. Johnson's sentence in the racketeering case ultimately included three years of supervised release, one condition of which was that he not commit another crime. But soon after Johnson completed his prison term and started his supervised release, he possessed a firearm in violation of 18 U.S.C. § 922(g)(1).

The Probation Office filed a petition for revocation of Johnson's supervised release based on both the new crime and Johnson's alleged failure to comply with mental health counseling requirements. The Probation Office recommended a sentence of 18 months for those violations, which was at the low end of the advisory range under the United States Sentencing Guidelines.

Johnson pled guilty to the firearms charge. His plea agreement stated that there was no agreement as to what sentence should be imposed for the violation of Johnson's supervised release in the prior racketeering case. And at the change-of-plea hearing for the firearms case, the government, Johnson, and Johnson's counsel all orally confirmed their understanding that the plea agreement did not speak to any sentence for Johnson's supervised release violation.

Johnson's presentence report in the firearms case likewise noted that the parties had not agreed on a sentence for the supervised release violation in the racketeering case. The report further stated: "Consistent with the policy set forth in Application Note 4 and subsection (f) of § 7B1.3 (Revocation of Probation or Supervised Release), the Commission recommends that the sentence for the [firearms] offense be imposed consecutively to the sentence imposed for the revocation [of Johnson's supervised release]." Case No. 2:24-cr-123-ALM, RE 31, Presentence Rep., PageID 126.

In his sentencing memorandum, Johnson requested that the court run the sentence for his supervised release violation concurrently with his sentence in the firearms case. The government, on the other hand, requested that the sentences be run consecutively.

II. The hearing

The district court held a combined hearing for the two cases, in which it first addressed Johnson's sentence in the firearms case and then addressed revocation of his supervised release in the racketeering case. The government and Johnson expressed their understanding that the day's proceedings would encompass both Johnson's sentencing on the firearms charges, as well as the "related supervised release violation proceeding." RE 1952, Hr'g Tr., PageID 22257, 222560.

The district court confirmed that Johnson had no objections to the presentence report and heard argument from the parties on the sentence to be imposed in the firearms case. Defense counsel emphasized Johnson's difficult upbringing and mental-health issues. He requested a sentence of 30 months for the firearms offense, which was at the low end of the applicable guidelines range, to be served concurrently with any sentence imposed for violation of Johnson's supervised release. The government, for its part, emphasized Johnson's criminal history and the original racketeering offenses, the need to deter the general public from committing similar crimes, and the protection of the public from future crimes by Johnson. It asked for a top-of-the-guidelines sentence of 37 months, to be served consecutively to any revocation sentence. In its colloquy with Johnson, the district court acknowledged Johnson's difficult childhood but stated that it was "mystified" as to how Johnson could continue to carry a firearm after having been previously prosecuted for racketeering offenses. *Id.* at PageID 22271-73.

In pronouncing the sentence for the new firearms offense, the district court addressed the seriousness of the crime, Johnson's personal history and characteristics, the need for deterrence,

the need to protect the public, and the need to provide for rehabilitation. It then sentenced Johnson to 30 months' imprisonment for the firearms offense.

After sentencing Johnson on the firearms charge, the district court turned to the supervised release revocation. The government noted that Johnson had allegedly violated two conditions of his supervised release in the racketeering case: first, that he participate in mental health counseling, and second, that he not commit another crime. Johnson contested the mental health counseling violation. But he did not dispute that he had "commit[ted] a federal offense." *Id.* at PageID 22283; *see also id.* at PageID 22284 ("I understand that I'm in violation of [the prohibition on committing new crimes]."). The court then stated:

> All right. Based on the information provided and the comments made at the hearing, the Court finds that Mr. Johnson did not violate Special Condition No. 1 [on mental health counseling]; however, he did violate Mandatory Condition No. 1 [on committing new crimes]. As a result, his supervised release is hereby revoked, and he is hereby committed to the custody of the United States Bureau of Prisons for a period of 18 months to run consecutive to the 30-month sentence imposed in [the firearms case].

Id. at PageID 22284-85. When asked if there were objections to the sentence, Johnson's counsel said there were none. Johnson filed this timely appeal.

ANALYSIS

Johnson argues that he was not given a revocation hearing and was not adequately advised that pleading guilty in the firearms case would result in revocation of his supervised release in the racketeering case. He also argues that his revocation sentence was procedurally unreasonable because the district court did not explain the sentence or appreciate its discretion to run that sentence concurrently. Each argument fails.

I. Johnson cannot show the district court plainly erred in determining that he violated his supervised release.

Defendants facing revocation of supervised release are entitled to a hearing under Rule 32.1(b)(2) of the Federal Rules of Criminal Procedure. Fed. R. Crim. P. 32.1(b)(2). The hearing "must include written notice of the violation; disclosure of evidence against the individual; the opportunity to appear, present evidence, and question witnesses; notice of the right to counsel, and an opportunity to make a statement and present mitigating evidence." *United States v. Williams*, 321 F. App'x 486, 489 (6th Cir. 2009).

"Typically, we review a district court's revocation of supervised release for an abuse of discretion, its factual findings for clear error, and its legal conclusions *de novo*." *United States v. Hoyle*, 148 F.4th 396, 402 (6th Cir. 2025) (citation modified). But where, like here, a defendant does not object to preserve a claim, we review for plain error. *Id.* To establish plain error, Johnson must show "that the district court (1) committed an error, (2) that was clear or obvious, and (3) which affected his substantial rights." *Id.* at 402-03. If he meets this burden, "we may reverse the error if it affected the fairness, integrity, or public reputation of the judicial proceedings." *Id.* at 403 (citation modified).

Johnson argues that he did not receive a revocation hearing, so his admission to the supervised release violation was involuntary. This argument fails because Johnson did receive a revocation hearing. The district court held both the firearms-case sentencing and the revocation hearing on the same day, and all attorneys acknowledged that both matters would be taken up during the hearing.

Johnson's main argument is that his admission to violating the terms of his supervised release was not knowing and voluntary, because the district court did not advise him that pleading

guilty in the firearms case would result in an admission of guilt for purposes of revoking his supervised release. Johnson argues that this failure amounted to a violation of Rule 32.1.

Johnson cannot show plain error. A defendant's admission to an alleged supervised release violation "need only be knowing and voluntary under the totality of the circumstances." *United States v. Melton*, 782 F.3d 306, 311 (6th Cir. 2015) (citing *Williams*, 321 F. App'x at 490). In conducting this analysis, we may consider, among other things, whether the district court "apprised the accused of his Rule 32.1(b) rights and the consequences of waiving those rights, evidence regarding the accused's comprehension of the charges against him, and his understanding of the possible sentence." *Id.* (citations omitted). But because each case is "sui generis," we do not "assign[] talismanic significance to any single fact or circumstance." *Id.* (citation modified).

Here, the district court explained to Johnson when it accepted his racketeering plea that a violation of the terms of his supervised release in that case could lead to revocation of that release and further imprisonment. And at his initial appearance in the firearms case, Johnson was "advised of [his] rights, [the] charges, and [potential] penalties." RE 1921, Minute Entry, PageID 21380. The Probation Office's revocation petition, too, apprised Johnson of the evidence in support of the firearms charge and that the conduct constituted a violation of his supervised release.

Moreover, Johnson knew that admitting to the firearms offense could result in the revocation of his supervised release and an additional prison sentence, because his plea agreement in the firearms case contemplated this possibility, even if it made no promises as to what that additional sentence would be. His presentence report in the firearms case contained similar language. The supervised release violation report outlined a guidelines range of 18 to 24 months and recommended a sentence of 18 months. And Johnson understood that the revocation sentence

could potentially be consecutive to the sentence in the firearms case, because his counsel argued for a concurrent sentence instead.

The totality of the circumstances reflects that Johnson was on notice of the consequences of a guilty plea, including "the full extent of his potential sentencing exposure," and therefore knowingly and voluntarily admitted to having violated his supervised release. *United States v. McPherson*, 814 F. App'x 957, 961 (6th Cir. 2020). To the extent that Johnson argues that the district court was required to advise him that pleading guilty in the firearms case "would entail admission of violation of the terms of his supervised release," he cites no authority stating that the district court was required to do more than it did. CA6 R. 24, Appellant Br., at 11.

The only case that Johnson cites, *United States v. Hoyle*, does not help him. In *Hoyle*, the defendant violated the terms of his supervised release by committing a new crime. 148 F.4th at 400. He had a combined detention hearing and preliminary hearing, which addressed both the new crime and the supervised release violation, and the evidence presented was the same for both matters. *Id.* The defendant was informed of the nature of the violation and the potential penalties for both the new crime and the supervised release violation. *Id.* At his change-of-plea hearing on the new crime, the district court confirmed with Hoyle that he understood that pleading guilty to the new crime could lead to him being found in violation of his supervised release as well. *Id.* at 401. And during a combined hearing on supervised release revocation and sentencing for both matters, Hoyle admitted the supervised release violation. *Id.* at 402.

On appeal, Hoyle argued that he had not knowingly and voluntarily waived his right to a revocation hearing under Rule 32.1 because the district court did not advise him of the right to a hearing. *Id.* We rejected that argument, holding that the district court did not plainly err in accepting Hoyle's admission to the violation and his "apparent hearing waiver" as knowing and

voluntary. *Id.* at 403. In so holding, we considered the "totality of the circumstances" as to how the case had unfolded "over the course of several proceedings." *Id.* (citation modified). Hoyle, we noted, had been advised of his rights under Rule 32.1(b)(2) and the consequences of waiving them, the charges against him, and potential sentences. *Id.* at 403.

Johnson insists that because none "of the elements in *Hoyle* . . . are present in [his] case," we may not conclude that he knowingly and voluntarily admitted to the supervised release violation. CA6 R. 24, Appellant Br., at 10-11. But putting aside that *Hoyle*'s facts as to voluntariness are quite similar to the facts here, Johnson misses the larger picture: we consider the "totality of the circumstances" when determining whether an admission was made knowingly and voluntarily. We do not check boxes on a checklist. Each case, after all, has "its own unique facts." *Hoyle*, 148 F.4th at 403. And the facts of this case paint a straightforward picture. Much like in *Hoyle*, over the course of several proceedings, Johnson was informed of the charges against him and alleged violations, the fact that revocation of supervised release could result in additional prison time, the relevant guidelines range for his supervised release violation, and the possibility of consecutive sentences. On this record, it strains credulity to believe that Johnson did not understand that admitting to the firearms charge would also constitute an admission for purposes of the supervised release violation. Indeed, Johnson "does not claim a lack of actual knowledge of his sentencing exposure or the consequences of admitting to the new violation[]." *McPherson*, 814 F. App'x at 961 (holding that admissions to violations of supervised release conditions by committing new crimes were knowing and voluntary, despite the defendant not being advised of the consequences of his guilty pleas at the revocation hearing).

But even if the court had erred, Johnson has not met his burden to show that any supposed error affected his substantial rights. *See United States v. Hamm*, 400 F.3d 336, 339 (6th Cir. 2005).

To establish this requisite prejudice, Johnson must "demonstrate a reasonable probability that, but for the" district court's error, he would have denied the violation conduct. *United States v. Hobbs*, 953 F.3d 853, 857 (6th Cir. 2020) (citation modified). But because Johnson had already admitted to having committed a crime in the firearms case and does not dispute that his guilty plea to this substantive offense was knowing and voluntary, that admission "rendered virtually nil the chance of a different outcome for" the supervised release violation, which was premised on the same conduct. *Hoyle*, 148 F.4th at 405. There was therefore "no reasonable probability of a different outcome." *Id.*

II. Johnson cannot show the district court plainly erred in imposing the revocation sentence.

Johnson next argues that the revocation sentence was procedurally unreasonable because (1) the district court failed to explain its reasons for the sentence, and (2) the district court did not appreciate its discretion to run the sentence concurrently with his sentence in the firearms case. Because Johnson did not object on these grounds in the district court, we again review under the plain-error standard. *United States v. Potts*, 947 F.3d 357, 364 (6th Cir. 2020); *United States v. Pippin*, 613 F. App'x 476, 479 (6th Cir. 2015).

A. The district court did not plainly err in explaining its reasoning.

The supervised release statute requires the district court to consider most of the general sentencing factors listed in 18 U.S.C. § 3553(a). *See* 18 U.S.C. § 3583(e); *see also Esteras v. United States*, 606 U.S. 185, 193-95 (2025) (holding that district courts may not consider the "seriousness of the offense" at the supervised release revocation hearing because the supervised release statute does not incorporate that § 3553(a) factor). A court may impose a sentence for violating a term of supervised release after considering such factors as "the nature of the offense and the history and characteristics of the defendant; the need to deter criminal conduct, to protect

the public, and to provide Defendant with appropriate treatment; any guideline range for sentencing; guideline policy statements; and avoidance of unwarranted disparities." *United States v. Ayala*, 652 F. App'x 399, 402 (6th Cir. 2016) (citation modified). We do not require a district court to engage in a "ritual incantation" of each factor; rather, we ask whether the court's explanation of the sentence "permit[s] meaningful appellate review." *Id.* (citation modified).

Here, the district court held a combined hearing in which it sentenced Johnson both for the new firearms offense as well as for violating his supervised release in the racketeering case. The district court did not announce the two sentences together. Rather, it dealt with each matter separately and announced each sentence separately. In sentencing for the firearms conviction, the court extensively discussed the § 3553(a) factors in detail, referencing the colloquies it had with the parties immediately before pronouncing the sentence. Those colloquies included discussion of the original racketeering offense, but also (and necessarily) the new firearms charge that constituted a violation of Johnson's supervised release. When it came to pronouncing the revocation sentence, however, the district court, rather than expound again upon the individual § 3553(a) factors, simply stated that "[b]ased on the information provided and the comments made at the hearing," it would sentence Johnson to 18 months. RE 1952, Hr'g Tr., PageID 22284-85.

Johnson cannot show plain error on this record. To the extent that Johnson argues that the district court failed to articulate the § 3553(a) factors *at all* in fashioning his revocation sentence, that argument fails. The district court heard extensive arguments on these factors earlier in the hearing and articulated the factors that it took into consideration in pronouncing the firearms sentence. "Based on" this same information that the parties "provided" the court, as well as each party's "comments made [earlier in] the hearing," the district court imposed the revocation sentence. *Id.* Admittedly, this was a bare-bones explanation, and it would have been helpful for

our purposes if the district court had said more. But we cannot say that the court "omit[ted] all explanation of [its revocation] sentencing decision," as Johnson argues. CA6 R. 24, Appellant Br., at 15. The Supreme Court has said that a sentencing court need only "set forth enough to satisfy the appellate court that [it] has considered the parties' arguments and has a reasoned basis for exercising [its] own legal decisionmaking authority." *Rita v. United States*, 551 U.S. 338, 356 (2007). Even when "a more specific discussion of the relevant factors would have been preferable," it is enough if the record "allow[s] for meaningful appellant review." *United States v. Dexta*, 470 F.3d 612, 615 (6th Cir. 2006). The record here satisfies that standard.

Johnson further argues that it is impossible to tell, from the district court's brief comments, whether the court considered an *impermissible* factor in fashioning the revocation sentence. He has a point. In *Hoyle*, like in this case, the district court combined the defendant's supervised release revocation hearing with a sentencing hearing for a new criminal charge. 148 F.4th at 401-02. During the sentencing phase, the district court discussed several § 3553(a) factors, but it "did not explicitly distinguish between which, if any, factors it applied to the [new] offense, which it applied to the supervised-release violation, and which it applied to both." *Id.* at 402. Because district courts cannot consider the "need for the sentence imposed" to "reflect the seriousness of the [original] offense" in revoking supervised release and imposing reimprisonment, the district court erred in failing to "specify which factors it applied to the substantive offense and which ones it applied when sentencing for the supervised-release violation." *Hoyle*, 148 F.4th at 406-07 (citation modified). We were also concerned with how "prominen[tly]" the district court highlighted Hoyle's disrespect for the law, an impermissible consideration. *Id.* at 407. We therefore remanded for resentencing, saying that there was a "reasonable probability" that, had the district court not erroneously considered "the retributive and punishment factor," the defendant

might have received "a sentence lower than the top-of-the-Guidelines sentence he received." *Id.* at 407.

Here, in contrast to *Hoyle*, the district court did not articulate specific § 3533(a) factors in proximity to pronouncing the revocation sentence. But neither did it state that it was relying on an impermissible retributive factor. It simply imposed the revocation sentence based on the same information previously considered for the firearms sentencing phase. *See United States v. Hunnicutt*, No. 24-1831, 2025 WL 3537329, at *5 (6th Cir. Sep. 19, 2025) (order) (concluding that a district court did not run afoul of *Hoyle* where, after explaining sentence for new conviction, district court imposed revocation sentence "for all the same reasons"). And we have said that if it is not "clear or obvious that the district court actually relied on" an impermissible § 3553(a)(2)(A) consideration in a supervised release sentencing, the error is not plain. *Id.* (quoting *Esteras*, 606 U.S. at 202-03). Although the district court could have been clearer with respect to the revocation sentence, it is not obvious that it relied on an impermissible factor in determining Johnson's revocation sentence.

Also, it bears noting that unlike in *Hoyle* where the defendant received a top-of-the-guidelines revocation sentence, Johnson received a bottom-of-the-guidelines sentence. "We have held that a sentencing error affects a defendant's substantial rights when there is a reasonable probability that, but for the error, the defendant would have received a more favorable sentence." *United States v. Coleman*, 835 F.3d 606, 615 (6th Cir. 2016) (citation modified). Johnson cannot show that, but for any error in consideration of the § 3533(a) factors, he would have received a more favorable sentence.

B. The district court did not plainly err in imposing a consecutive sentence.

Johnson next argues that the district court failed to make clear that it understood its discretion to run his revocation sentence concurrently with his sentence in the firearms case. But Johnson points to nothing in the record suggesting that the district court did not appreciate its discretion, "beyond his own speculation about the district court's silence on the question—silence that was more likely caused by [Johnson's] failure to raise the issue." *Hunnicutt*, 2025 WL 3537329, at *4.

"When a defendant is subject to an undischarged sentence of imprisonment, the district court generally has authority to impose a term of imprisonment on the current offense to run concurrently with or consecutively to the prior undischarged term." *United States v. Johnson*, 640 F.3d 195, 208 (6th Cir. 2011) (citing 18 U.S.C. § 3584(a)). The district court must, however, consider the § 3553(a) factors, including any applicable guideline or Sentencing Commission policy statement. *Id.* At the time of Johnson's sentencing, the guidelines recommended that a supervised release revocation sentence run "consecutively to any sentence of imprisonment that the defendant is serving, whether or not the sentence of imprisonment being served resulted from the conduct that is the basis of the revocation of . . . supervised release." U.S.S.G. §7B1.3(f) (2024) (titled "Revocation of Probation or Supervised Release").

If the court decides to impose a consecutive sentence, it is not required to "state a specific reason" for doing so, but it is "nevertheless obliged to make generally clear the rationale under which it has imposed the consecutive sentence." *United States v. Cochrane*, 702 F.3d 334, 346 (6th Cir. 2012) (citation modified). The court "may incorporate by reference a discussion of the relevant considerations in another document," or it may "make clear that its reasons for choosing a substantive sentence and for running two sentences consecutively are the same," or

"intertwined." *Id.* (citation modified); *see also United States v. Berry*, 565 F.3d 332, 343 (6th Cir. 2009).

The district court here did the latter. That is, its decision for running the revocation sentence consecutively with the firearms sentence was "[b]ased on the information provided and the comments made at the hearing." RE 1952, Hr'g Tr., PageID 22284; *see Johnson*, 640 F.3d at 208. And even where a district court does "not say, 'I am imposing consecutive sentences for x reason,'" we have affirmed if the record shows that the "concurrent/consecutive analysis was plainly bound up with [the district court's] analysis of the § 3553(a) factors." *United States v. Duncan*, No. 22-5370, 2023 WL 5447338, at *4 (6th Cir. Aug. 24, 2023). Because the consecutive-sentence analysis here was bound up with the § 3553(a) analysis, we are satisfied that the district court did not plainly err in imposing a consecutive sentence. *See, e.g.*, *Hunnicut*, 2025 WL 3537329, at *4.

Besides, even if the district court's explanation was lacking, Johnson must demonstrate that the error affected his substantial rights as well as the fairness, integrity, or public reputation of the proceedings. *Hoyle*, 148 F.4th at 405. Johnson cannot make this showing.

CONCLUSION

For the foregoing reasons, we affirm.