

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-4935

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

GERALD ELLSWORTH GENERETTE,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Wilmington. James C. Fox, Senior District Judge. (CR-98-67)

Submitted: February 24, 2006

Decided: March 10, 2006

Before NIEMEYER and MICHAEL, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Thomas P. McNamara, Federal Public Defender, Stephen C. Gordon, Assistant Federal Public Defender, Raleigh, North Carolina, for Appellant. Frank D. Whitney, United States Attorney, Anne M. Hayes, Christine Witcover Dean, Assistant United States Attorneys, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Gerald E. Generette appeals from the district court's order revoking his supervised release and imposing a twenty-four month sentence. We affirm.

Generette contends that his sentence is plainly unreasonable because it exceeds the applicable guideline range under U.S. Sentencing Guidelines Manual § 7B1.4(a), p.s. (2005), and that a sentence within the guidelines would have imposed adequate punishment. However, while the applicable guideline range is one of the factors to be considered, it is advisory only, see United States v. Davis, 53 F.3d 638, 640-42 (4th Cir. 1995), and we find the district court properly considered Generette's need for intensive drug treatment when determining the length of his sentence. Thus, Generette's sentence is not plainly unreasonable.

Counsel's motion to withdraw is denied. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED