

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-4081

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

MARCUS ANTONIO MCSWAIN,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Durham. N. Carlton Tilley, Jr., District Judge. (1:05-cr-00369-NCT)

Submitted: October 17, 2007

Decided: October 31, 2007

Before MOTZ and DUNCAN, Circuit Judges, and WILKINS, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Thomas N. Cochran, Assistant Federal Public Defender, Greensboro, North Carolina, for Appellant. Anna Mills Wagoner, United States Attorney, Michael F. Joseph, Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Marcus A. McSwain pled guilty to one count of possession of a firearm by a convicted felon, in violation of 18 U.S.C. §§ 922(g)(1), 924(a)(2) (2000), pursuant to North Carolina v. Alford, 400 U.S. 25 (1970). On appeal, he challenges the district court's imposition of the statutory maximum sentence of 120 months' imprisonment.

We find that the district court properly applied the Sentencing Guidelines and considered the relevant sentencing factors before imposing the 120-month sentence. 18 U.S.C.A. § 3553(a) (West 2000 & Supp. 2007). Additionally, we find that the sentence imposed was reasonable. See United States v. Johnson, 445 F.3d 339, 341 (4th Cir. 2006); Rita v. United States, 127 S. Ct. 2456, 2462-69 (2007) (upholding presumption of reasonableness accorded within-guidelines sentence). Accordingly, we affirm McSwain's sentence.

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