

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 07-4176**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JUAN NICHOLAS, a/k/a Scan,

Defendant - Appellant.

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Appeal from the United States District Court for the Southern District of West Virginia, at Huntington. Robert C. Chambers, District Judge. (3:02-cr-00200)

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Submitted: June 21, 2007

Decided: June 27, 2007

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Before NIEMEYER, WILLIAMS, and SHEDD, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Tim C. Carrico, CARRICO LAW OFFICES, LC, Charleston, West Virginia, for Appellant. Charles T. Miller, United States Attorney, Miller A. Bushong III, Assistant United States Attorney, Beckley, West Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Juan Nicholas pled guilty in 2002 to distribution of cocaine base (crack) and was sentenced to a term of 188 months imprisonment. Nicholas challenged the quantity of drugs on appeal, and we affirmed the sentence. United States v. Nicholas, 71 F. App'x 218 (4th Cir. 2003). Nicholas subsequently filed a motion to vacate under 28 U.S.C. § 2255 (2000), raising a number of claims of ineffective assistance of counsel. The district court granted relief on one claim, finding that Nicholas was incorrectly sentenced as a career offender because one of his predicate convictions was too old to be counted. The court resentenced Nicholas to a term of 151 months imprisonment, the bottom of the revised advisory guideline range. Nicholas appeals this sentence, arguing that the sentence is unreasonable because the court gave more weight to the advisory guideline range than to other factors set out in 18 U.S.C.A. § 3553(a) (West 2000 & Supp. 2007).

This court has repeatedly held that a sentence imposed within a properly calculated guideline range is presumed to be reasonable. See, e.g., United States v. Montes-Pineda, 445 F.3d 375, 379 (4th Cir. 2006), petition for cert. filed, \_\_\_ U.S.L.W. \_\_\_ (U.S. July 21, 2006) (No. 06-5439); United States v. Johnson, 445 F.3d 339, 341-42 (4th Cir. 2006). We have considered Nicholas' claim of procedural error, see United States v. Johnson, 445 F.3d 339, 345 (4th Cir. 2006), and find it without merit.

We therefore affirm the sentence imposed by the district court. 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