

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-4333

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

SUSAN ROSEANNE SMITH,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Durham. N. Carlton Tilley, Jr., District Judge. (1:07-cr-00201-NCT-1)

Submitted: October 15, 2008

Decided: October 28, 2008

Before MICHAEL, DUNCAN, and AGEE, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Louis C. Allen, Federal Public Defender, John A. Dusenbury, Jr., Assistant Federal Public Defender, Greensboro, North Carolina, for Appellant. Harry L. Hobgood, Angela Hewlett Miller, Assistant United States Attorneys, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Susan Roseanne Smith pled guilty to one count of filing a false joint tax return in violation of 26 U.S.C. § 7206(1) (2006). The district court sentenced Smith to thirty-three months in prison, one year of supervised release, and restitution.

Smith's attorney has filed a brief in accordance with Anders v. California, 386 U.S. 738 (1967), finding no meritorious grounds for appeal but questioning whether the district court erred in sentencing Smith to thirty-three months' incarceration. Smith was advised of her right to file a pro se supplemental brief but has not done so. Finding no meritorious grounds for appeal, we affirm.

This court will affirm a sentence imposed by the district court as long as it is within the statutorily prescribed range and is reasonable. United States v. Hughes, 401 F.3d 540, 547 (4th Cir. 2005). In assessing the reasonableness of the sentence, we focus on whether the district court abused its discretion in imposing the sentence. United States v. Pauley, 511 F.3d 468, 473 (4th Cir. 2007). We first examine the sentence for significant procedural errors, and then look at the substance of the sentence. Id. A sentence within a properly calculated sentencing guideline range is presumptively reasonable. United States v. Allen, 491 F.3d 178, 193 (4th Cir.

2007). We review a district court's factual findings for clear error and its legal conclusions de novo. United States v. Hampton, 441 F.3d 284, 287 (4th Cir. 2006).

We have reviewed the record and find that Smith's sentence is both procedurally and substantively reasonable. Although counsel raises the issue of whether the district court erred in sentencing Smith to thirty-three months in prison, he concludes that the sentence was within a properly calculated guideline range and was not unreasonable. We agree.

In accordance with Anders, we have reviewed the entire record in this case and have found no meritorious issues for appeal. We therefore affirm the district court's judgment. This court requires that counsel inform his client, in writing, of her right to petition the Supreme Court of the United States for further review. If the client requests that a petition be filed, but counsel believes that such a petition would be frivolous, then counsel may move in this court for leave to withdraw from representation. Counsel's motion must state that a copy thereof was served on the client. Finally, 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