

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-5207

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CARLOS ALFONSO ALDRETE-CRUZ, a/k/a Carlos Cruz,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. N. Carlton Tilley, Jr., Senior District Judge. (1:10-cr-00104-NCT-1)

Submitted: June 30, 2011

Decided: July 5, 2011

Before WILKINSON, DUNCAN, and WYNN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Mark E. Edwards, EDWARDS & TRENKLE, PLLC, Durham, North Carolina, for Appellant. Angela Hewlett Miller, Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Carlos Alfonso Aldrete-Cruz pled guilty to illegal re-entry into the United States after committing an aggravated felony, in violation of 8 U.S.C. § 1326(a), (b)(2) (2006). He appeals his twenty-nine-month within-Guidelines sentence. His attorney has filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), stating that there are no meritorious issues for appeal but arguing that Aldrete-Cruz should have received a low-end Guidelines sentence. Aldrete-Cruz filed a supplemental brief.* We affirm.

An appellate court reviews a sentence for reasonableness under an abuse-of-discretion standard. Gall v. United States, 552 U.S. 38, 51 (2007). This review requires consideration of both the procedural and substantive reasonableness of a sentence. Id. First, the court must assess whether the district court properly calculated the Guidelines range, considered the 18 U.S.C. § 3553(a) (2006) factors, analyzed any arguments presented by the parties, and sufficiently explained the selected sentence. Id. at 49-50; see United States v. Lynn, 592 F.3d 572, 576 (4th Cir. 2010). The

* Aldrete-Cruz asserted, without legal support, that he should not have received a criminal history point for one of his prior misdemeanor convictions. We have reviewed the record and conclude that this claim is without merit.

court also must consider the substantive reasonableness of the sentence, "examin[ing] the totality of the circumstances to see whether the sentencing court abused its discretion in concluding that the sentence it chose satisfied the standards set forth in § 3553(a)." United States v. Mendoza-Mendoza, 597 F.3d 212, 216 (4th Cir. 2010). After reviewing the record, we conclude that Aldrete-Cruz's sentence is both procedurally and substantively reasonable.

In accordance with Anders, we have reviewed the 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 Aldrete-Cruz, in writing, of the right to petition the Supreme Court of the United States for further review. If Aldrete-Cruz 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 Aldrete-Cruz. 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