

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-4011

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CHINH TIET NGUYEN,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. William L. Osteen, Jr., District Judge. (1:10-cr-00069-WO-1)

Submitted: July 19, 2011

Decided: August 16, 2011

Before NIEMEYER, MOTZ, and DIAZ, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Mark E. Edwards, EDWARDS & TRENKLE, PLLC, Durham, North Carolina, for Appellant. Michael Francis Joseph, Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Chinh Tiet Nguyen appeals the eighty-four-month sentence imposed following his guilty plea to possession with intent to distribute cocaine, in violation of 21 U.S.C.A. §§ 841(a)(1) and (b)(1)(C) (West 1999 & Supp. 2011) (Count One), and possession of a firearm in furtherance of a drug trafficking crime, in violation of 18 U.S.C. § 924(c)(1)(A)(i) (2006) (Count Three). Counsel for Nguyen filed a brief in this court in accordance with Anders v. California, 386 U.S. 738 (1967), questioning the reasonableness of Nguyen's sentence. Counsel states, however, that he has found no meritorious grounds for appeal. Nguyen, notified of his right to file a pro se supplemental brief, did not do so. Because we find no meritorious grounds for appeal, we affirm.

Nguyen's counsel questions the reasonableness of Nguyen's sentence. We review a sentence imposed by a district court under a deferential abuse of discretion standard. Gall v. United States, 552 U.S. 38, 51 (2007); United States v. Lynn, 592 F.3d 572, 575-76 (4th Cir. 2010). We begin by reviewing the sentence for significant procedural error, including such errors as "failing to calculate (or improperly calculating) the Guidelines range, treating the Guidelines as mandatory, failing to consider the [18 U.S.C.] § 3553(a) [(2006)] factors, selecting a sentence based on clearly erroneous facts, or

failing to adequately explain the chosen sentence – including an explanation for any deviation from the Guidelines range.” Gall, 552 U.S. at 51. If there are no procedural errors, we then consider the substantive reasonableness of the sentence, taking into account the totality of the circumstances. United States v. Mendoza-Mendoza, 597 F.3d 212, 216 (4th Cir. 2010).

“When rendering a sentence, the district court ‘must make an individualized assessment based on the facts presented.’” United States v. Carter, 564 F.3d 325, 328 (4th Cir. 2009) (quoting Gall, 552 U.S. at 50) (emphasis omitted). Accordingly, a sentencing court must apply the relevant § 3553(a) factors to the particular facts presented and must “‘state in open court’” the particular reasons that support its chosen sentence. Id. (quoting 18 U.S.C.A. § 3553(c) (West 2000 & Supp. 2011)). The court’s explanation need not be exhaustive; it must be “sufficient ‘to satisfy the appellate court that the district court has considered the parties’ arguments and has a reasoned basis for exercising its own legal decisionmaking authority.’” United States v. Boulware, 604 F.3d 832, 837 (4th Cir. 2010) (quoting Rita v. United States, 551 U.S. 338, 356 (2007)) (alterations omitted).

We conclude that the sentence imposed by the district court was both procedurally and substantively reasonable. The district court calculated the Guidelines range and understood

that it was advisory. Furthermore, it is apparent that the court had a reasoned basis for its decision. The court made an individualized statement explaining the sentence imposed. Thus, the court imposed a reasonable sentence under the circumstances.

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 Nguyen, in writing, of the right to petition the Supreme Court of the United States for further review. If Nguyen 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 Nguyen. 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