UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-4349

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

BALDOMERO PENA CARDONA, a/k/a Camacho,

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-00072-WO-2)

Submitted: February 9, 2012 Decided: February 13, 2012

Before WILKINSON, AGEE, and FLOYD, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Louis C. Allen, Federal Public Defender, Eric D. Placke, Assistant Federal Public Defender, Greensboro, North Carolina, for Appellant. Sandra Jane Hairston, Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Baldomero Pena Cardona pled guilty to distribution of a mixture or substance containing methamphetamine. The district court sentenced him to 120 months' imprisonment — the statutory mandatory minimum sentence. Cardona's attorney filed a brief in accordance with Anders v. California, 386 U.S. 738 (1967), certifying that there are no meritorious issues for appeal, but questioning whether the sentence imposed was reasonable. Although notified of his right to file a supplemental pro se brief, Cardona has not done so. Finding no reversible error, we affirm.

We have reviewed the transcript of the plea colloquy and find that the district court fully complied with Fed. R. Crim. P. 11, and that Cardona's plea was knowing and voluntarily entered. We therefore affirm his conviction.

We review a sentence imposed by a district court for reasonableness, applying a deferential abuse-of-discretion standard. Gall v. United States, 552 U.S. 38, 46, 51 (2007). Such review requires consideration of both the procedural and substantive reasonableness of a sentence. Id. at 41; see United States v. Carter, 564 F.3d 325, 328 (4th Cir. 2009).

The district court followed the necessary procedural steps in sentencing Cardona, appropriately treated the sentencing Guidelines as advisory, properly calculated and

considered the applicable Guidelines range, and weighed the relevant 18 U.S.C. § 3553(a) (2006) factors. We examine the substantive reasonableness of a sentence under the totality of the circumstances. United States v. Pauley, 511 F.3d 468, 473 (4th Cir. 2007). This court accords a sentence within a properly calculated Guidelines range an appellate presumption of reasonableness. United States v. Mendoza-Mendoza, 597 F.3d 212, 216 (4th Cir. 2010). Such a presumption is rebutted only by showing "that the sentence is unreasonable when measured against the [§ 3553(a)] factors." United States v. Montes-Pineda, 445 F.3d 375, 379 (4th Cir. 2006) (internal quotation marks omitted). We conclude that the district court's consideration of the § 3553(a) factors and imposition of the 120-month mandatory minimum sentence was reasonable and not an abuse of discretion. See Gall, 552 U.S. at 41; United States v. Allen, 491 F.3d 178, 193 (4th Cir. 2007) (applying appellate presumption of reasonableness to within-Guidelines sentence).

In accordance with Anders, we have reviewed the entire record in this case and have found no meritorious issues for appeal. Accordingly, we affirm the district court's judgment. This court requires that counsel inform Cardona, in writing, of the right to petition the Supreme Court of the United States for further review. If Cardona 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 Cardona. 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