

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 13-4613**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DAVID WESLEY TREADWAY,

Defendant - Appellant.

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Appeal from the United States District Court for the Northern District of West Virginia, at Wheeling. Frederick P. Stamp, Jr., Senior District Judge. (5:13-cr-00013-FPS-JES-4)

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Submitted: January 21, 2014

Decided: January 23, 2014

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Before MOTZ, KEENAN, and THACKER, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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William L. Pennington, Morgantown, West Virginia, for Appellant.  
Stephen L. Vogrin, Assistant United States Attorney, Wheeling, West Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

David Wesley Treadway appeals the eighteen-month sentence imposed by the district court following his guilty plea to aiding and abetting the distribution of cocaine base, in violation of 21 U.S.C. § 841 (2012). In accordance with Anders v. California, 386 U.S. 738 (1967), Treadway's counsel has filed a brief certifying that there are no meritorious grounds for appeal but questioning whether the district court erred in denying Treadway's request for a probationary sentence. Treadway has not filed a supplemental brief despite receiving notice of his right to do so. We affirm.

We review Treadway's sentence for reasonableness, using an abuse of discretion standard. Gall v. United States, 552 U.S. 38, 51 (2007). We first review for significant procedural errors, including improperly calculating the Guidelines range, failing to consider the 18 U.S.C. § 3553(a) (2012) factors, sentencing under clearly erroneous facts, or failing to adequately explain the sentence. Gall, 552 U.S. at 51; see United States v. Evans, 526 F.3d 155, 160-61 (4th Cir. 2008). Only if we conclude a sentence is procedurally reasonable may we consider its substantive reasonableness. United States v. Carter, 564 F.3d 325, 328 (4th Cir. 2009).

Here, the district court correctly calculated Treadway's Guidelines range and fully explained its reasoning supporting

Treadway's sentence, including its rejection of Treadway's request for a downward departure or variance. Accordingly, we conclude that the sentence is procedurally and substantively reasonable. See United States v. Montes-Pineda, 445 F.3d 375, 379 (4th Cir. 2006) (affording within-Guidelines range sentence presumption of reasonableness on appeal).

In accordance with Anders, we have reviewed the entire record and have found no meritorious grounds for appeal. We therefore affirm the district court's judgment. This court requires that counsel inform Treadway, in writing, of his right to petition the Supreme Court of the United States for further review. If Treadway requests that a petition be filed, but counsel believes that such a petition would be frivolous, counsel may move in this court for leave to withdraw from representation. Counsel's motion must state that a copy thereof was served on Treadway. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid in the decisional process.

AFFIRMED