UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 14-4604

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DONTE LEE SMITH,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. Catherine C. Eagles, District Judge. (1:14-cr-00017-CCE-1)

Submitted: February 25, 2015 Decided: March 3, 2015

Before NIEMEYER, KING, and THACKER, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Louis C. Allen, Federal Public Defender, Tiffany T. Jefferson, Assistant Federal Public Defender, Greensboro, North Carolina, for Appellant. Kyle David Pousson, OFFICE OF THE UNITED STATES ATTORNEY, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Donte Lee Smith appeals his eighty-month sentence imposed after he pled guilty pursuant to a plea agreement to possession of ammunition by a felon, in violation of 18 U.S.C. §§ 922(g)(1), 924(a)(2) (2012). In accordance with Anders v. California, 386 U.S. 738 (1967), Smith's counsel filed a brief certifying that there are no meritorious grounds for appeal, but questioning whether Smith's sentence is substantively reasonable. Although notified of his right to do so, Smith has not filed a pro se supplemental brief, and the Government has declined to file a responsive brief. Finding no error, we affirm.

We review the district court's sentence, "whether inside, just outside, or significantly outside the Guidelines range[,] under a deferential abuse-of-discretion standard." Gall v. United States, 552 U.S. 38, 41 (2007). In reviewing a sentence for substantive reasonableness, we "examine[] the totality of the circumstances," and, if the sentence is within the properly calculated Guidelines range, we presume on appeal that the sentence is substantively reasonable. United States v. Mendoza–Mendoza, 597 F.3d 212, 216–17 (4th Cir. 2010). "Such a presumption can only be rebutted by showing that the sentence is unreasonable when measured against the 18 U.S.C. § 3553(a) [(2012)] factors." United States v. Louthian, 756 F.3d 295, 306

(4th Cir.) (citations omitted), cert. denied, 135 S. Ct. 421 (2014). Smith has failed to rebut the presumption of reasonableness this court affords his within-Guidelines sentence.

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 Smith, in writing, of his right to petition the Supreme Court of the United States for further review. If Smith 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 Smith. 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 the decisional process.

AFFIRMED