

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-4350

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ROGER FRANCIS CARUTHERS,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. William L. Osteen, Jr., District Judge. (1:16-cr-00366-WO-1)

Submitted: December 19, 2017

Decided: December 21, 2017

Before SHEDD, AGEE, and DIAZ, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Louis C. Allen, Federal Public Defender, John A. Duberstein, Assistant Federal Public Defender, Greensboro, North Carolina, for Appellant. Eric Lloyd Iverson, OFFICE OF THE UNITED STATES ATTORNEY, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Roger Francis Caruthers appeals his conviction and 168-month sentence after pleading guilty to receipt of child pornography, in violation of 18 U.S.C. § 2252A(a)(2)(A), (b)(1) (2012). Caruthers' counsel has filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), stating that there are no meritorious issues for appeal but questioning whether Caruthers' sentence is unreasonable. Caruthers was advised of his right to file a pro se supplemental brief, but he has not filed one. We affirm.

We review Caruthers' sentence for both procedural and substantive reasonableness “under a deferential abuse-of-discretion standard.” *Gall v. United States*, 552 U.S. 38, 41 (2007). We must ensure that the district court committed no significant procedural error, such as improperly calculating the Guidelines range. *Id.* at 51. If there is no significant procedural error, we then consider the sentence's substantive reasonableness under “the totality of the circumstances, including the extent of any variance from the Guidelines range.” *Id.* We presume that a sentence below a properly calculated Guidelines range is reasonable. *United States v. Louthian*, 756 F.3d 295, 306 (4th Cir. 2014). A defendant can rebut this presumption only “by showing that the sentence is unreasonable when measured against the 18 U.S.C. § 3553(a) factors.” *Id.*

After reviewing the presentence report and sentencing transcript, we conclude that Caruthers' sentence is both procedurally and substantively reasonable. The district court properly calculated the advisory Guidelines range and sufficiently explained its reasons for imposing the sentence Caruthers received. Further, Caruthers has not made the

showing necessary to rebut the presumption of reasonableness accorded his below-Guidelines sentence.

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

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