UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 25-4098

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JONATHAN EDWARD ANDERSON,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of Virginia, at Lynchburg. Norman K. Moon, Senior District Judge. (6:24-cr-00004-NKM-CKM-1)

Submitted: August 20, 2026 Decided: August 24, 2026

Before AGEE and RUSHING, Circuit Judges, and TRAXLER, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

ON BRIEF: Heather L. Carlton, CARLTON LAW PLC, Charlottesville, Virginia, for Appellant. Zachary T. Lee, Acting United States Attorney, Jonathan Jones, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Roanoke, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Jonathan Edward Anderson pled guilty, without a written plea agreement, to possession with intent to distribute cocaine, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(C). The district court sentenced Anderson to 78 months' imprisonment. On appeal, Anderson argues that his sentence is procedurally unreasonable because the court erred in calculating his advisory Sentencing Guidelines range, contending that the court lacked sufficient factual support to increase his total converted drug weight with a quantity of methamphetamine obtained from three controlled drug buys between Anderson and a confidential informant. Anderson asserts that the evidence was insufficient to find that the controlled drug buys were relevant conduct because officers did not observe each drug transaction and the confidential informant lied about the controlled buys and wrote a letter recanting his statements that Anderson had sold him methamphetamine. Anderson also argues that the court failed to allow defense counsel to argue for an appropriate sentence, in violation of Fed. R. Crim P. 32(i)(4)(A)(i), and committed error under *United States v. Rogers*, 961 F.3d 291 (4th Cir. 2020), because it did not expressly adopt the presentence report before imposing the standard conditions of supervised release. Finding no reversible error, we affirm.

We review a defendant's sentence for reasonableness "under a deferential abuse-of-discretion standard." *United States v. Lewis*, 18 F.4th 743, 748 (4th Cir. 2021) (internal quotation marks omitted). We "first ensure that the district court committed no significant procedural error." *Gall v. United States*, 552 U.S. 38, 51 (2007). "In determining procedural reasonableness, this Court considers whether the district court properly

calculated the defendant's advisory [Sentencing G]uidelines range, gave the parties an opportunity to argue for an appropriate sentence, considered the 18 U.S.C. § 3553(a) factors, and sufficiently explained the selected sentence." *United States v. Jackson*, 127 F. 4th 448, 454 (4th Cir. 2025) (internal quotation marks omitted). In considering a challenge to the calculation of the Sentencing Guidelines, we review the district court's legal determinations de novo and its factual findings for clear error. *Lewis*, 18 F.4th at 748. "A [factual] finding is clearly erroneous when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed." *United States v. Wooden*, 887 F.3d 591, 602 (4th Cir. 2018) (internal quotation marks omitted). "If the district court's account of the evidence is plausible in light of the record viewed in its entirety, the court of appeals may not reverse it even though convinced that had it been sitting as the trier of fact, it would have weighed the evidence differently." *United States v. Ferebee*, 957 F.3d 406, 417 (4th Cir. 2020) (internal quotation marks omitted).

Under the Guidelines, certain relevant conduct committed by the defendant may be considered in determining the applicable advisory Guidelines range. *See generally* U.S. Sentencing Guidelines Manual § 1B1.3 (2023). "When a defendant has committed multiple offenses similar to the charged offense, all conduct that is 'part of the same course of conduct or common scheme or plan as the offense of conviction' constitutes relevant conduct." *United States v. Hodge*, 354 F.3d 305, 312-13 (4th Cir. 2004) (quoting USSG § 1B1.3(a)(2)). Offenses may "qualify as part of the same course of conduct if they are sufficiently connected or related to each other as to warrant the conclusion that they are

part of a single episode, spree, or ongoing series of offenses." USSG § 1B1.3, cmt. n.5(B)(ii). "That is to say, the same-course-of-conduct standard requires only that the defendant be engaged in an identifiable pattern of certain criminal activity." *United States v. McDonald*, 28 F.4th 553, 564 (4th Cir. 2022) (citation modified). In making this assessment, courts consider "the degree of similarity of the offenses, the regularity (repetitions) of the offenses, and the time interval between the offenses." USSG § 1B1.3, cmt. n.5(B)(ii). "[E]ach relevant-conduct case is fact-specific, reaching different results depending on the circumstances supporting each factor." *McDonald*, 28 F.4th at 566.

Based on these principles, we conclude that the district court did not clearly err in its relevant conduct determination. As the court found, the controlled buys and the underlying cocaine distribution offense were sufficiently related to qualify as the same course of conduct because the controlled buys occurred within a two-week timespan, and the third controlled buy occurred on the same day the police executed the search warrant and seized the cocaine underlying Anderson's offense of conviction.

Further, the court did not err by finding that the facts contained in the presentence report, and the testimony at the sentencing hearing, established by a preponderance of the evidence that Anderson committed the offenses included as relevant conduct, supporting the increased converted drug weight. At sentencing, Officer Knabb, the case agent, testified that even if officers periodically lost sight of the confidential informant during the first two controlled buys, they closely monitored him, and they saw Anderson meet with the confidential informant at the third controlled buy; Knabb also confirmed the dates of the controlled buys and confirmed that he recognized the voice on the audio recordings of

the controlled buys as Anderson's. And despite the confidential informant's destroyed credibility, the controls the officers had implemented—such as searching the confidential informant before and after each controlled buy—maintained the integrity of the controlled transactions. Further, as the court noted, the letter from the confidential informant that Anderson introduced during his testimony at sentencing was unauthenticated, likely fabricated by Anderson, and did not overcome the overwhelming corroborating evidence. Accordingly, the court did not abuse its discretion in finding that the controlled buys were relevant conduct or in calculating Anderson's Guidelines range. *See Hodge*, 354 F.3d at 307, 313-15 (concluding district court did not clearly err in finding quantity of cocaine purchased during prior controlled drug transactions was relevant conduct for purposes of calculating defendant's sentence for cocaine distribution conviction; both the prior transactions and the offense for which defendant was being prosecuted related to defendant's continuing distribution of cocaine up and down the East Coast, and evidence was introduced indicating a "continuous pattern of narcotics trafficking").

Anderson also argues that the district court procedurally erred by not allowing defense counsel to argue for an appropriate sentence at sentencing, in violation of Fed. R. Crim. P. 32(i)(4)(A)(i). Under Rule 32, the district court must "provide the defendant's attorney an opportunity to speak on the defendant's behalf." Fed. R. Crim P. 32(i)(4)(A)(i). We review unpreserved objections only for plain error. *United States v. Covington*, 65 F.4th 726, 730 (4th Cir. 2023). "To establish plain error, [a defendant] must show (1) that the district court erred, (2) that the error is clear or obvious, and (3) that the error affected his substantial rights, meaning that it affected the outcome of the district court proceedings."

United States v. Webb, 738 F.3d 638, 640-41 (4th Cir. 2013) (internal quotation marks omitted). However, even if a defendant makes such a showing, the decision to recognize the error is discretionary, and we will do so only when "the district court's error seriously affects the fairness, integrity or public reputation of judicial proceedings." *Id.* at 641 (citation modified).

Admittedly, the court imposed its sentence before hearing the entirety of defense counsel's sentencing arguments. After receiving testimony on Anderson's relevant conduct objection, the court heard argument from both parties on that issue, denied Anderson's objection, immediately discussed the 18 U.S.C. § 3553(a) factors, allowed Anderson to allocute, and imposed sentence. After the court's imposition of the sentence, Anderson's counsel stated that he "thought we were just arguing about the relevant conduct," but then expressed that he thought he "got everything in that [he] wanted to argue," and briefly argued for a 51-month sentence for the reasons stated in his sentencing memorandum and his earlier arguments against the inclusion of relevant conduct. Accordingly, we discern no error, plain or otherwise.

Turning to Anderson's challenge to the district court's imposition of the standard conditions of supervised release, in *Rogers*, we held that a district court must announce all nonmandatory conditions of supervised release at the sentencing hearing. 961 F.3d at 299. A "district court may satisfy its obligation to orally pronounce discretionary conditions through incorporation—by incorporating, for instance, all Guidelines 'standard' conditions when it pronounces a supervised-release sentence, and then detailing those conditions in the written judgment." *Id.* "Discretionary conditions that appear for the first time in a

subsequent written judgment . . . are nullities; the defendant has not been sentenced to those conditions, and a remand for resentencing is required." *United States v. Singletary*, 984 F.3d 341, 344 (4th Cir. 2021). We review Anderson's *Rogers* claim de novo. *See United States v. Smith*, 117 F.4th 584, 604-05 (4th Cir. 2024).

Anderson argues that the district court committed error under *Rogers* because it did not orally pronounce the standard conditions of supervised released listed in the presentence report and it did not expressly adopt the presentence report. We disagree. The court sufficiently incorporated the standard conditions "set forth in Section 5D1.3 of the sentencing guidelines and outlined on pages 20 through 22 of the [presentence report]" when it said that it would impose those standard conditions, after confirming that Anderson's counsel had reviewed them and had no objections to them. *See United States v. Turner*, 122 F.4th 511, 519 (4th Cir. 2024) (finding court sufficiently incorporated special conditions as set forth in presentence report after confirming counsel reviewed them and had no objections), *cert. denied*, 145 S. Ct. 1894 (2025). We discern no error in the court's imposition of the standard conditions of supervised release.

Accordingly, we affirm the criminal judgment. 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