

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 10-4508**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

REGINAL MARCELLIUS BOYD,

Defendant - Appellant.

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Appeal from the United States District Court for the District of South Carolina, at Rock Hill. Joseph F. Anderson, Jr., District Judge. (0:09-cr-00198-JFA-1)

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Submitted: November 5, 2010

Decided: December 15, 2010

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Before MOTZ and AGEE, Circuit Judges, and HAMILTON, Senior Circuit Judge.

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Affirmed by unpublished per curiam opinion.

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Katherine E. Evatt, Assistant Federal Public Defender, Columbia, South Carolina, for Appellant. William N. Nettles, United States Attorney, James C. Leventis, Jr., Assistant United States Attorney, Columbia, South Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Reginal Marcellius Boyd pled guilty to one count of being a felon in possession of a firearm, in violation of 18 U.S.C. §§ 922(g)(1), 924(a)(2), (e) (2006). Boyd's advisory Sentencing Guidelines range of imprisonment was fifty-seven to seventy-one months' imprisonment. The district court sentenced Boyd to sixty-five months' imprisonment. Boyd appeals, claiming the court erred by considering certain conduct prior to imposing sentence. He has also filed a pro se supplemental brief claiming there was an error in determining his Criminal History Category. We affirm.

An appellate court reviews a sentence for reasonableness under an abuse of discretion standard. Gall v. United States, 552 U.S. 38, 51 (2007). This review requires consideration of both the procedural and substantive reasonableness of a sentence. Id. This court must assess whether the district court properly calculated the advisory guidelines range, considered the § 3553(a) factors, analyzed any arguments presented by the parties, and sufficiently explained the selected sentence. Id. at 49-50; see United States v. Lynn, 592 F.3d 572, 575-76 (4th Cir. 2010); United States v. Carter, 564 F.3d 325, 330 (4th Cir. 2009). If there is no procedural error, the appellate court reviews the substantive reasonableness of the sentence, "examin[ing] the totality of the

circumstances to see whether the sentencing court abused its discretion in concluding that the sentence it chose satisfied the standards set forth in § 3553(a)." United States v. Mendoza-Mendoza, 597 F.3d 212, 216 (4th Cir. 2010). If the sentence is within the guidelines range, the court applies a presumption of reasonableness. Rita v. United States, 551 U.S. 338, 346-56 (2007) (upholding presumption of reasonableness for within-guidelines sentence).

We conclude that the district court did not abuse its discretion by considering Boyd's conduct during the commission of the offense in determining the within-guidelines sentence. We further conclude the sentence is reasonable. In addition, while we grant Boyd's motion for leave to file a pro se supplemental brief, we find his issue is without merit.

Accordingly, we affirm the district court's judgment. 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