NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted May 4, 2023
Decided May 5, 2023

Before

ILANA DIAMOND ROVNER, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

DORIS L. PRYOR, *Circuit Judge*

No. 22-2705

UNITED STATES OF AMERICA, *Plaintiff-Appellee*,	Appeal from the United States District Court for the Southern District of Illinois.
v.	No. 14-cr-30018-NJR
CLAUDE ROGERS, *Defendant-Appellant*.	Nancy J. Rosenstengel, *Chief Judge*.

O R D E R

The district court revoked Claude Rogers's supervised release and imposed an additional 8 months' imprisonment and 12 months' supervised release. Rogers appeals, but his appointed counsel asserts that the appeal is frivolous and moves to withdraw. *See Anders v. California*, 386 U.S. 738, 744 (1967). We are not obligated to apply the *Anders* safeguards in all cases of revoked release, *see United States v. Wheeler*, 814 F.3d 856, 857 (7th Cir. 2016), but we do so in an abundance of caution. *See United States v. Brown*, 823 F.3d 392, 394 (7th Cir. 2016). Counsel's brief explains the nature of the case and raises potential issues that an appeal like this would be expected to involve. Because his analysis appears thorough, and Rogers has not responded to counsel's

motion, *see* CIR. R. 51(b), we limit our review to the subjects that counsel discusses. *See United States v. Bey*, 748 F.3d 774, 776 (7th Cir. 2014).

In the underlying case, Rogers pleaded guilty to two counts of distribution of a controlled substance (cocaine base). *See* 21 U.S.C. § 841(a)(1), (b)(1)(C). The district court sentenced him to 151 months' imprisonment and 3 years' supervised release, based on an offense level of 29 and a criminal history category of VI. He began his term of supervised release in December 2020, after the district court granted his motion for compassionate release under 18 U.S.C. § 3582(c). Just over a year later, in February 2022, Rogers's probation officer petitioned the court to revoke his supervision. According to the officer, Rogers had committed crimes—illegal occupancy and retail theft over $300—and had violated eight administrative conditions of his supervision, including failure to report to the probation office and to participate in a mental-health-treatment program. The U.S. Probation Office classified Rogers's retail-theft offense as a Grade B violation and the rest (the illegal-occupancy offense and the administrative violations) as Grade C. *See* U.S.S.G. § 7B1.1. Rogers was arrested on the petition and released on bond pending a revocation hearing.

At the revocation hearing, defense counsel told the court that the government had agreed to drop (and the court later dismissed) the retail-theft offense—the only Grade B violation—in exchange for Rogers's admission to the remaining Grade C violations. After placing Rogers under oath to determine whether he was admitting to his violations voluntarily, the court concluded that Rogers was competent to understand the proceeding. It also discussed, and Rogers confirmed that he understood, the rights Rogers was giving up and the possible penalties that he faced. The court then accepted the description of violation conduct that the Probation Office had submitted, and Rogers admitted that the government could prove these allegations by a preponderance of the evidence.

After hearing arguments from both parties, the court revoked supervision and sentenced Rogers. It acknowledged that Rogers had been a "model inmate" and obtained a job while on bond. But it emphasized that his criminal history category of VI was "concerning" and that his multiple Grade C violations and use of cocaine while on bond showed "a lack of willingness … to do anything that [he was] supposed to do" on supervision. The court revoked his supervision and, after weighing the factors under 18 U.S.C. § 3553(a), it found that "a low-end guideline sentence" was appropriate and imposed 8 months' reimprisonment—within the range of 8 to 14 months in the Guidelines—followed by 12 months of supervised release. The court also imposed the

government's proposed supervised-release condition of home detention, but it reduced the term from 180 days (which the government requested) to 60 days.

Counsel informs us that Rogers wants to challenge the reasonableness of his sentence, including the 60-day home-detention condition, but not the revocation of his supervised release. Thus, counsel appropriately does not assess the validity of the revocation. *See United States v. Wheaton*, 610 F.3d 389, 390 (7th Cir. 2010).

In his *Anders* brief, counsel considers whether Rogers could raise a non-frivolous argument that the sentence he received was "plainly unreasonable." *See United States v. Childs*, 39 F.4th 941, 945 (7th Cir. 2022) (citation omitted). First, counsel examines whether Rogers could plausibly argue that the court procedurally erred in calculating or imposing the sentence, and rightly concludes that he could not. Counsel notes that the court correctly determined the range of imprisonment under § 7B1.1(a)(3) and § 7B1.4(a) as 8 to 14 months, because Rogers's most serious offense was a Grade C violation (as the alleged Grade B violation was dismissed) and his criminal history category was VI. And each component of the sentence was less than the relevant statutory maximum of two years' imprisonment, *see* 18 U.S.C. § 3583(e), and a life term of supervised release, *see id.* § 3583(h). Further, the sentence was not based on any constitutionally impermissible factors. Therefore, we agree that it would be pointless to raise any procedural error in Rogers's sentence on appeal.

We also agree with counsel that a challenge to the substantive reasonableness of Rogers's sentence would be frivolous. We presume that a sentence within the applicable guidelines range is reasonable. *United States v. Griffith*, 913 F.3d 683, 689 (7th Cir. 2019). And counsel rightly concludes that, because the court adequately justified the prison term under the applicable § 3553(a) factors, Rogers could not rebut the presumption: The court favorably acknowledged Rogers's admission to his violations, noting that they were of a less-serious grade. But it reasonably emphasized the need to provide "adequate deterrence" given Rogers's unwillingness to comply with his release conditions, his lengthy criminal history, and the need to protect the public based on his cocaine use while on bond.

The court also adequately supported the term of supervised release. It acknowledged Rogers's success in obtaining employment during his supervision term, but it reasonably explained that an additional 12-month period was necessary because he had failed to comply with many of the release conditions. We thus agree that Rogers cannot raise any non-frivolous argument that the sentence was "plainly unreasonable." *See Childs*, 39 F.4th at 945.

Finally, counsel examines whether Rogers could reasonably challenge the 60-day home-supervision condition of his sentence, and rightly concludes that he could not. We would review the court's imposition of a supervised-release condition for abuse of discretion. *United States v. Musso*, 643 F.3d 566, 571 (7th Cir. 2011). And we would agree with counsel's assessment that the court acted well within its discretion by requiring Rogers to submit to home confinement under 18 U.S.C. § 3563(b)(19): The court noted Rogers's previous lack of compliance with the supervision conditions, including his failures to report to the probation office and make himself available to the officer. From this, it permissibly concluded that a home-confinement period of 60 days was appropriate.

Therefore, we GRANT counsel's motion to withdraw and DISMISS the appeal.