

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-4911

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

ANTONIO CARRILLO-MIRAMONTES,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Statesville. Richard L. Voorhees, Chief District Judge. (CR-03-22)

Submitted: April 27, 2006

Decided: May 1, 2006

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

Affirmed by unpublished per curiam opinion.

Mark P. Foster, Jr., NIXON, PARK, GRONQUIST & FOSTER, P.L.L.C., Charlotte, North Carolina, for Appellant. Douglas Scott Broyles, Assistant United States Attorney, Charlotte, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Antonio Carrillo-Miramontes appeals from his 78-month sentence imposed following his guilty plea to two counts of possession with intent to distribute methamphetamine, in violation of 21 U.S.C. § 841(a)(1) (2000). Carrillo-Miramontes' counsel filed a brief pursuant to Anders v. California, 386 U.S. 738, 744 (1967), stating that there were no meritorious issues for appeal, but addressing the reasonableness of Carrillo-Miramontes' sentence. Carrillo-Miramontes was informed of his right to file a pro se supplemental brief, but he has not done so. Because our review of the record discloses no reversible error, we affirm.

We find that Carrillo-Miramontes' guilty plea was knowingly and voluntarily entered after a thorough hearing pursuant to Fed. R. Crim. P. 11. Carrillo-Miramontes was properly advised of his rights, the offense charged, and the maximum sentence for the offense. The court also determined that there was an independent factual basis for the plea and that the plea was not coerced or influenced by any promises. See North Carolina v. Alford, 400 U.S. 25, 31 (1970); United States v. DeFusco, 949 F.2d 114, 119-20 (4th Cir. 1991).

We find that the district court properly applied the Sentencing Guidelines and considered the relevant sentencing factors before imposing the 78-month sentence. 18 U.S.C.A. § 3553(a) (West Supp. 2005); see United States v. Hughes, 401 F.3d

540, 546-47 (4th Cir. 2005). Additionally, we find that the district court's decision to deny Carrillo-Miramontes' request for a variance from the guideline range was reasonable, and its determination of the sentence within the range was reasonable. See United States v. Green, 436 F.3d 449, 457 (4th Cir. 2006) ("[A] sentence imposed within the properly calculated [g]uidelines range . . . is presumptively reasonable.") (internal quotation marks and citation omitted). Accordingly, we affirm Carrillo-Miramontes' sentence.

As required by Anders, we have reviewed the entire record and have found no meritorious issues for appeal. We therefore affirm Carrillo-Miramontes' convictions and sentence. This court requires that counsel inform his client, in writing, of his right to petition the Supreme Court of the United States for further review. If the client 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 the client. 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