

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-4608

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

LOUIS N. NOMAR,

Defendant - Appellant.

Appeal from the United States District Court for the Southern District of West Virginia, at Charleston. Joseph Robert Goodwin, District Judge. (2:02-cr-00091)

Submitted: November 17, 2006

Decided: December 8, 2006

Before WIDENER, WILKINSON, and GREGORY, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Mary Lou Newberger, Federal Public Defender, Jonathan D. Byrne, Appellate Counsel, Edward H. Weis, Assistant Federal Public Defender, Charleston, West Virginia, for Appellant. Charles T. Miller, United States Attorney, L. Anna Forbes, Assistant United States Attorney, Charleston, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Louis N. Nomar appeals the seventy-seven month sentence imposed by the district court on resentencing in light of United States v. Booker, 543 U.S. 220 (2005), for his convictions of conspiracy to commit wire fraud via the internet, and escape. We affirm.

Nomar contends that his sentence is unreasonable because his offenses were not violent, there was no evidence that anyone was injured by his conduct, few victims have requested restitution, no one was harmed in his escape, and, in his view, the disparity between his seventy-seven-month sentence and co-defendant Yolanda Monroe's fifteen-month sentence is not justified. He argues that a sentence of time served would be sufficient but not greater than necessary to comply with the factors set out in 18 U.S.C.A. § 3553(a) (West 2000 & Supp. 2006).

In resentencing Nomar after Booker, the district court considered the advisory sentencing guidelines range and the factors set forth in § 3553(a). See United States v. Moreland, 437 F.3d 424, 432 (4th Cir.), cert. denied, 126 S. Ct. 2054 (2006). The sentence imposed by the district court is within the advisory guideline range of 70-87 months. The court imposed a term of sixty months for the fraud count and a consecutive seventeen months for the escape count, which did not exceed the statutory maximum of five years for each count. "[A] sentence within the proper advisory

Guidelines range is presumptively reasonable." United States v. Johnson, 445 F.3d 339, 341 (4th Cir. 2006). We have carefully considered Nomar's arguments on appeal and conclude that he has failed to rebut the presumption of reasonableness.

We therefore affirm the sentence imposed by the district court. 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