

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-4879

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

ROBERTO GIL GARCIA, a/k/a Don Beto,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Durham. William L. Osteen, Senior District Judge. (1:05-cr-00354-WLO)

Submitted: May 31, 2007

Decided: June 4, 2007

Before WILKINSON, TRAXLER, and GREGORY, Circuit Judges.

Affirmed by unpublished per curiam opinion.

J. Carlyle Sherrill, III, SHERRILL & CAMERON, PLLC, Salisbury, North Carolina, for Appellant. Anna Mills Wagoner, United States Attorney, Sandra Jane Hairston, Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Roberto Gil Garcia* appeals from his 128-month sentence imposed following his guilty plea to conspiracy to distribute cocaine hydrochloride. Garcia's attorney filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), asserting that the sentencing court erred by imposing a higher than minimum sentence based on Garcia's failure to disclose his real name prior to the presentence investigation. Garcia was advised of his right to file a pro se supplemental brief, but has not done so. Our review of the record discloses no reversible error; accordingly, we affirm Garcia's conviction and sentence.

We find that Garcia's guilty plea was knowingly and voluntarily entered after a thorough hearing pursuant to Fed. R. Crim. P. 11. Garcia was properly advised of his rights, the offense charged, and the mandatory minimum and maximum sentences 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 United States v. DeFusco, 949 F.2d 114, 119-20 (4th Cir. 1991).

*The judgment from which the appeal is taken, as well as the dockets of both the district court and this court, show Appellant's name as Roberto Gil Garcia, a/k/a Don Beto. At sentencing, counsel for the government informed the court that Appellant's true name is Alberto Lopez Lopez. We refer to Appellant as Roberto Garcia to be consistent with the name used on the judgment from which the appeal is taken.

Garcia argues that the sentence is unreasonable because the district court considered his failure to provide his real name as a sentencing factor when there had not been an adjustment for obstruction of justice. We find that the district court properly applied the Sentencing Guidelines and considered the relevant sentencing factors before imposing the 128-month sentence. 18 U.S.C.A. § 3553(a) (West 2000 & Supp. 2006); see United States v. Hughes, 401 F.3d 540, 546-47 (4th Cir. 2005). Additionally, we find that the sentence imposed—which was in the middle of the properly calculated guideline range—was reasonable. See United States v. Green, 436 F.3d 449, 457 (4th Cir.) (“[A] sentence imposed within the properly calculated [g]uidelines range . . . is presumptively reasonable.”) (internal quotation marks and citation omitted), cert. denied, 126 S. Ct. 2309 (2006). Accordingly, we affirm Garcia’s sentence.

As required by Anders, we have reviewed the entire record and have found no meritorious issues for appeal. We therefore affirm Garcia’s conviction 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