

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-4993

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

ABEL RIVERA ALVARADO,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Durham. James A. Beaty Jr., Chief District Judge. (1:05-cr-00393-JAB)

Submitted: July 19, 2007

Decided: July 24, 2007

Before MOTZ and GREGORY, Circuit Judges, and WILKINS, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

A. Wayne Harrison, Sr., LAW OFFICES OF A. WAYNE HARRISON, Greensboro, North Carolina, for Appellant. Sandra Jane Hairston, Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Abel Rivera Alvarado appeals from the seventy-six month sentence he received after he pled guilty to conspiracy to distribute between five and fifteen kilograms of cocaine hydrochloride, in violation of 21 U.S.C. § 846 (2000). Alvarado's counsel filed a brief pursuant to Anders v. California, 286 U.S. 738, 744 (1967), stating that there were no meritorious issues for appeal, but suggesting that the district court erred in sentencing Alvarado. Alvarado was advised of his right to file a pro se supplemental brief, but he has not done so. For the following reasons, we affirm.

The district court sentenced Alvarado in light of United States v. Booker, 543 U.S. 220, 224 (2005), and 18 U.S.C.A. § 3553(a) (West 2000 & Supp. 2007). This Court reviews a post-Booker sentence to determine whether the sentence is within the statutorily prescribed range and is reasonable. United States v. Moreland, 437 F.3d 424, 433 (4th Cir.), cert. denied, 126 S. Ct. 2054 (2006). A sentence within a properly-calculated advisory Sentencing Guidelines range is presumptively reasonable. Rita v. United States, __U.S.__, 2007 WL 1772146 (U.S. June 21, 2007) (No. 06-5754); United States v. Johnson, 445 F.3d 339, 341-43 (4th Cir. 2006). Here, the district court correctly calculated the sentencing range, treated the federal Sentencing Guidelines as advisory, as directed by Booker, considered the § 3553(a) factors,

and sentenced Alvarado in the middle of his advisory sentencing range. Thus, we find no error in sentencing.

We have examined the entire record in this case in accordance with the requirements of Anders, and find no meritorious issues for appeal. Accordingly, we affirm the district court's judgment. 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