

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-4149

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

EDER ALFARO RUIZ,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Durham. N. Carlton Tilley, Jr., District Judge. (1:07-cr-00036-NCT-1)

Submitted: September 16, 2008 Decided: September 18, 2008

Before MOTZ, TRAXLER, and SHEDD, Circuit Judges.

Affirmed by unpublished per curiam opinion.

J. Darren Byers, LAW OFFICES OF J. DARREN BYERS, P.A., Winston-Salem, North Carolina, for Appellant. Anna Mills Wagoner, United States Attorney, Angela Hewlett Miller, Assistant United States Attorney, Randall Stuart Galyon, OFFICE OF THE UNITED STATES ATTORNEY, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Eder Alfaro Ruiz pled guilty pursuant to a written plea agreement to possession with intent to distribute cocaine hydrochloride and possession of a firearm by an illegal alien, in violation of 18 U.S.C. § 922(g)(5); 21 U.S.C. § 841(a)(1) (2000). Ruiz was sentenced to a total of 121 months' imprisonment. Finding no error, we affirm.

On appeal, counsel filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), asserting there are no meritorious grounds for appeal, but questioning whether the sentence imposed by the district court is reasonable. Although Ruiz was notified of his right to file a pro se supplemental brief, he did not do so, and the Government elected not to file a responding brief.

When determining a sentence, the district court must calculate the appropriate advisory guideline range and consider it in conjunction with the factors set forth in 18 U.S.C. § 3553(a) (2000). Gall v. United States, 128 S. Ct. 586, 596 (2007). Appellate review of a district court's imposition of a sentence, "whether inside, just outside, or significantly outside the Guidelines range," is for abuse of discretion. Id. at 591. Sentences within the applicable Guidelines range may be presumed reasonable. United States v. Pauley, 511 F.3d 468, 473 (4th Cir. 2007).

The district court followed the necessary procedural steps in sentencing Ruiz, appropriately treating the Sentencing Guidelines as advisory, properly calculating and considering the applicable Guidelines range, and weighing the relevant § 3553(a) factors. Furthermore, Ruiz's 121-month sentence, which is at the low end of the Guidelines range and below the statutory maximum, may be presumed reasonable. Thus, we conclude that the district court did not abuse its discretion in imposing the chosen sentence.

In accordance with Anders, we have reviewed the entire record in this case and have found no meritorious issues for appeal. Accordingly, we affirm the judgment of the district court. 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 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 in the decisional process.

AFFIRMED