

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-5258

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MICHAEL WINEBUSH,

Defendant - Appellant.

Appeal from the United States District Court for the Southern District of West Virginia, at Bluefield. Thomas E. Johnston, District Judge. (1:00-cr-00161-1)

Submitted: April 7, 2009

Decided: April 20, 2009

Before MICHAEL, MOTZ, and TRAXLER, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Mary Lou Newberger, Federal Public Defender, Jonathan D. Byrne, Appellate Counsel, David R. Bungard, Assistant Federal Public Defender, Charleston, West Virginia, for Appellant. Charles T. Miller, United States Attorney, John L. File, Assistant United States Attorney, Beckley, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Michael Winebush appeals the district court's judgment revoking his supervised release and imposing a sentence of ten months of imprisonment, followed by forty-eight months of supervised release. On appeal, Winebush asserts that the sentence imposed by the district court is unreasonable. Finding no error, we affirm.

We will affirm a sentence imposed after revocation of supervised release if it is within the prescribed statutory range and not plainly unreasonable. United States v. Crudup, 461 F.3d 433, 437-40 (4th Cir. 2006). The first step in this analysis is a determination of whether the sentence was unreasonable. Id. at 438. While the district court must consider the policy statements in Chapter Seven of the sentencing guidelines, and the statutory requirements and factors applicable to revocation sentences, "the court ultimately has broad discretion to revoke its previous sentence and impose a term of imprisonment up to the statutory maximum." Id. at 439 (quoting United States v. Lewis, 424 F.3d 239, 244 (2d Cir. 2005)) (internal quotation marks omitted).

We have reviewed the record and conclude that the sentence is procedurally and substantively reasonable. We therefore affirm the judgment. 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