

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 10-4868**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

GARY W. ELLINGTON, JR.,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. Robert E. Payne, Senior District Judge. (3:05-cr-00083-REP-1)

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Submitted: April 14, 2011

Decided: June 8, 2011

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Before GREGORY, SHEDD, and DUNCAN, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Michael S. Nachmanoff, Federal Public Defender, Mary E. Maguire, Assistant Federal Public Defender, Patrick L. Bryant, Research and Writing Attorney, Richmond, Virginia, for Appellant. Neil H. MacBride, United States Attorney, Brandon M. Santos, Special Assistant United States Attorney, Richmond, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Gary W. Ellington, Jr., pleaded guilty to one count of possession of a firearm by a convicted felon/user of controlled substance and one count of possession of marijuana. He was sentenced to a total of fifty-one months' imprisonment and three years of supervised release. While on supervised release, Ellington violated several conditions of his supervised release. The district court revoked Ellington's supervised release and sentenced him to eighteen months in prison followed by no further supervised release. Ellington appeals his sentence, claiming that the district court's sentence was plainly unreasonable. We affirm.

This court will affirm a sentence imposed after revocation of supervised release if it is not plainly unreasonable. United States v. Thompson, 595 F.3d 544, 546 (4th Cir. 2010). The first step in this review requires a determination of whether the sentence is unreasonable. United States v. Crudup, 461 F.3d 433, 438 (4th Cir. 2006). "This initial inquiry takes a more 'deferential appellate posture concerning issues of fact and the exercise of discretion' than reasonableness review for [G]uidelines sentences." United States v. Moulden, 478 F.3d 652, 656 (4th Cir. 2007) (quoting Crudup, 461 F.3d at 439) (applying "plainly unreasonable" standard of review for probation revocation). Only if the

sentence is procedurally or substantively unreasonable does the inquiry proceed to the second step of the analysis to determine whether the sentence is plainly unreasonable. Crudup, 461 F.3d at 438-39.

A supervised release revocation sentence is procedurally reasonable if the district court considered the advisory policy statement range based upon Chapter Seven of the Sentencing Guidelines and the § 3553(a) factors applicable to supervised release revocation. See 18 U.S.C. § 3583(e) (2006); Crudup, 461 F.3d at 438-40. A sentence is substantively reasonable if the district court stated a proper basis for concluding the defendant should receive the sentence imposed, up to the statutory maximum. Crudup, 461 F.3d at 440. "A court need not be as detailed or specific when imposing a revocation sentence as it must be when imposing a post-conviction sentence, but it still must provide a statement of reasons for the sentence imposed." Thompson, 595 F.3d at 547 (internal quotation marks omitted). After thoroughly reviewing the record, we conclude that Ellington's sentence was both procedurally and substantively reasonable.

Accordingly, we affirm the judgment of 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