

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

---

**No. 12-4818**

---

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LARRY DALE NICHOLS,

Defendant - Appellant.

---

Appeal from the United States District Court for the Western District of Virginia, at Big Stone Gap. James P. Jones, District Judge. (2:12-cr-00016-JPJ-PMS-1)

---

Submitted: May 8, 2013

Decided: May 24, 2013

---

Before GREGORY, DUNCAN, and KEENAN, Circuit Judges.

---

Affirmed by unpublished per curiam opinion.

---

Charles Michael Henter, HENTERLAW, PLC, Charlottesville, Virginia, for Appellant. Timothy J. Heaphy, United States Attorney, Jason S. Beaton, Special Assistant United States Attorney, Charlottesville, Virginia, for Appellee.

---

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Larry Dale Nichols pleaded guilty to conspiracy to provide a prohibited object to a federal inmate, in violation of 18 U.S.C. § 371 (2006); possession of heroin by an inmate, in violation of 18 U.S.C. § 1791 (2006); and conspiracy to possess with intent to distribute heroin, in violation of 21 U.S.C. § 846 (2006). The district court sentenced Nichols to 151 months of imprisonment and he now appeals. Finding no error, we affirm.

On appeal, Nichols challenges the reasonableness of the sentence. We review a sentence for reasonableness, applying an abuse of discretion standard. Gall v. United States, 552 U.S. 38, 51 (2007); see also United States v. Layton, 564 F.3d 330, 335 (4th Cir. 2009). In so doing, we examine the sentence for "significant procedural error," including "failing to calculate (or improperly calculating) the Guidelines range, treating the Guidelines as mandatory, failing to consider the [18 U.S.C.] § 3553(a) [(2006)] factors, selecting a sentence based on clearly erroneous facts, or failing to adequately explain the chosen sentence." Gall, 552 U.S. at 51. We will presume on appeal that a sentence within a properly calculated advisory Guidelines range is reasonable. United States v. Allen, 491 F.3d 178, 193 (4th Cir. 2007); see Rita v. United States, 551 U.S. 338, 346-56 (2007) (upholding presumption of

reasonableness for within-Guidelines sentence). We have thoroughly reviewed the record and conclude that the sentence is both procedurally and substantively reasonable. See United States v. Abu Ali, 528 F.3d 210, 271 (4th Cir. 2008) (appellate court's conclusion that a different sentence might be appropriate is insufficient to justify reversal of the district court's judgment).

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 this court and argument would not aid in the decisional process.

AFFIRMED