

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-4863

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

IGNACIO GARCIA CARRIZALES,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. William L. Osteen, Jr., Chief District Judge. (1:12-cr-00061-WO-1)

Submitted: May 20, 2013

Decided: May 23, 2013

Before WILKINSON and DIAZ, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Louis C. Allen, III, Federal Public Defender, Mireille P. Clough, Assistant Federal Public Defender, Winston-Salem, North Carolina, for Appellant. Angela Hewlett Miller, Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Ignacio Garcia Carrizales, a native and citizen of Mexico, pled guilty to one count of illegal reentry of an aggravated felon in violation of 8 U.S.C. §§ 1326(a), (b)(2) (2006). The district court imposed a sentence of fifty-six months' imprisonment and he now appeals. Appellate counsel has filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), questioning whether the sentence was reasonable. Although Garcia Carrizales was informed of the right to file a pro se supplemental brief, he has not done so. Finding no error, we affirm.

Counsel questions whether the district court's sentence is unreasonably high because it is greater than necessary to accomplish the goals of 18 U.S.C. § 3553(a) (2006). 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 § 3553(a) factors, selecting a sentence based on clearly erroneous facts, or failing to adequately explain the chosen sentence." Gall, 552 U.S. at 51. This court presumes 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 was both procedurally and substantively reasonable.

We have examined the entire record in accordance with Anders and have found no meritorious issues for appeal. Accordingly, we affirm the judgment of the district court. This court requires that counsel inform Garcia Carrizales, in writing, of the right to petition the Supreme Court of the United States for further review. If Garcia Carrizales 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 Garcia Carrizales. 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 the decisional process.

AFFIRMED