

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 12-4894**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOE OVALLES, a/k/a Jose Ovalles,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. Henry E. Hudson, District Judge. (3:12-cr-00077-HEH-3)

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Submitted: January 2, 2014

Decided: January 29, 2014

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Before SHEDD, DUNCAN, and DIAZ, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Edwin F. Brooks, EDWIN F. BROOKS, LLC, Richmond, Virginia, for Appellant. Dana J. Boente, Acting United States Attorney, Stephen W. Miller, Assistant United States Attorney, Richmond, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Joe Ovalles appeals the district court's judgment sentencing him to fifty-seven months' imprisonment for conspiracy to traffic contraband cigarettes, in violation of 18 U.S.C. § 2342(a) (2012), possession of contraband cigarettes, in violation of § 2342(a), and conspiracy to commit money laundering, in violation 18 U.S.C. § 1956(a)(1)(A)(i) (2012). On appeal, Ovalles argues that his sentence is substantively unreasonable.\* We affirm.

We review a sentence for reasonableness, applying an abuse of discretion standard. Gall v. United States, 552 U.S. 38, 51 (2007). We assess the substantive reasonableness of the sentence under the totality of the circumstances. United States v. Mendoza-Mendoza, 597 F.3d 212, 216 (4th Cir. 2010). If the sentence is within the Guidelines range, we presume on appeal that the sentence is substantively reasonable. United States v. Strieper, 666 F.3d 288, 295 (4th Cir. 2012).

We conclude that Ovalles' sentence, which was at the top of the properly calculated Sentencing Guidelines range, is

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\* Ovalles filed his notice of appeal more than fourteen days after the district court's judgment was entered. However, failure to comply with Rule 4(b)(1)(A) does not deprive this court of jurisdiction. United States v. Urutyan, 564 F.3d 679, 685 (4th Cir. 2009). We therefore reach the merits of this appeal.

not substantively unreasonable. The district court considered and rejected Ovalles' arguments for a below-Guidelines sentence. The court concluded that Ovalles was a significant player in the large-scale trafficking conspiracy with a greater stake in the venture than his co-defendants, finding that a within-Guidelines sentence was necessary to provide just punishment and deterrence, to promote respect for the law, and to provide consistency among similarly situated individuals. Because the district court acted well within its considerable discretion in making these determinations, we conclude that Ovalles has not rebutted the presumption of reasonableness that this court attaches to a within-Guidelines sentence.

Accordingly, we affirm the district court's judgment. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument will not aid the decisional process.

AFFIRMED