

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-4312

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

BALMORE PORTILLO-MERINO,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Statesville. Richard L. Voorhees, District Judge. (5:09-cr-00018-RLV-DSC-1)

Submitted: November 12, 2013

Decided: November 21, 2013

Before WILKINSON, GREGORY, and KEENAN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Lawrence W. Hewitt, GUTHRIE, DAVIS, HENDERSON & STATON, PLLC, Charlotte, North Carolina, for Appellant. Amy Elizabeth Ray, Assistant United States Attorney, Asheville, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Baltimore Portillo-Merino appeals the fifty-seven-month sentence imposed by the district court following his guilty plea, pursuant to a written plea agreement, to reentry of a deported alien, in violation of 8 U.S.C. § 1326(a), (b)(2) (2012). On appeal, Portillo-Merino's counsel filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), asserting that there are no meritorious grounds for appeal but questioning whether the sentence imposed by the district court was substantively reasonable. Portillo-Merino was advised of his right to file a pro se supplemental brief but did not file one. Finding no error, we affirm.

The sole issue raised in the Anders brief is whether Portillo-Merino's sentence on remand was substantively reasonable. In reviewing the substantive reasonableness of a sentence, we must "take into account the totality of the circumstances." Id. The sentence imposed "must be sufficient, but not greater than necessary," to satisfy the purposes of sentencing. 18 U.S.C. § 3553(a) (2012). If the sentence imposed is within the appropriate Guidelines range, we consider it presumptively reasonable. United States v. Abu Ali, 528 F.3d 210, 261 (4th Cir. 2008). The presumption may be rebutted by a showing "that the sentence is unreasonable when measured against the § 3553(a) factors." United States v. Montes-Pineda, 445

F.3d 375, 379 (4th Cir. 2006) (internal quotation marks omitted). Upon review, we conclude that the district court committed no substantive error in imposing the fifty-seven-month sentence. United States v. Lynn, 592 F.3d 572, 577 (4th Cir. 2010) (providing standard of review).

In accordance with Anders, we have reviewed the entire record and have found no meritorious issues for appeal. We therefore affirm the district court's judgment. This court requires that counsel inform Portillo-Merino, in writing, of his right to petition the Supreme Court of the United States for further review. If Portillo-Merino requests that a petition be filed, but counsel believes that such a petition would be frivolous, counsel may move in this court for leave to withdraw from representation. Counsel's motion must state that a copy thereof was served on Portillo-Merino. 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