

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-4375

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

THOMAS JAVIE KINLAW, III,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Wilmington. Terrence W. Boyle, District Judge. (7:09-cr-00076-BO-2)

Submitted: December 13, 2013

Decided: September 8, 2014

Before MOTZ, SHEDD, and WYNN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Thomas P. McNamara, Federal Public Defender, Stephen C. Gordon, Assistant Federal Public Defender, Raleigh, North Carolina, for Appellant. Thomas G. Walker, United States Attorney, Jennifer P. May-Parker, Kristine L. Fritz, Assistant United States Attorneys, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Thomas Javie Kinlaw, III, pled guilty to possession of a sawed-off shotgun and aiding and abetting. In May 2010, he was sentenced to a term of forty-two months' imprisonment and three years of supervised release. After his release from imprisonment, the district court found that Kinlaw violated the terms of his supervised release and sentenced him to the statutory maximum of twenty-four months' incarceration. Kinlaw appeals. Finding no error, we affirm.

A district court has broad discretion when imposing a sentence upon revocation of supervised release. United States v. Thompson, 595 F.3d 544, 547 (4th Cir. 2010). We will affirm a revocation sentence if it is within the statutory maximum and is not "plainly unreasonable." United States v. Crudup, 461 F.3d 433, 438 (4th Cir. 2006). In making this determination, we first consider whether the sentence imposed is procedurally or substantively unreasonable. Id. at 438-39. Only if we find the sentence unreasonable must we decide "whether it is 'plainly' so." United States v. Moulden, 478 F.3d 652, 657 (4th Cir. 2007) (quoting Crudup, 461 F.3d at 439). Kinlaw argues that the district court improperly considered 18 U.S.C. § 3553(a) (2012) factors that should not be taken into account when determining a revocation sentence, and contends that his sentence is substantively unreasonable. We have

reviewed the record and Kinlaw's arguments and find no reversible error. Accordingly, we conclude that Kinlaw's sentence is not plainly unreasonable. See United States v. Webb, 738 F.3d 638, 642 (4th Cir. 2013).

We therefore affirm the district court's order. 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