

UNPUBLISHEDUNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-4233

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

STONEY SHEW,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Statesville. Richard L. Voorhees, District Judge. (5:13-cr-00053-RLV-DCK-1)

Submitted: March 30, 2016

Decided: April 8, 2016

Before WILKINSON, KEENAN, and DIAZ, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Denzil H. Forrester, THE LAW OFFICES OF DENZIL H. FORRESTER, Charlotte, North Carolina, for Appellant. Jill Westmoreland Rose, United States Attorney, Amy E. Ray, Assistant United States Attorney, Asheville, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Stoney Shew pleaded guilty, without a written agreement, to conspiracy to distribute, possess with intent to distribute, and manufacture methamphetamine, in violation of 21 U.S.C. §§ 841(b)(1)(A), 846 (2012), and possession and distribution of pseudoephedrine for the purpose of manufacturing methamphetamine, in violation of 21 U.S.C. §§ 802(34)(K), 841(c)(2) (2012). The district court sentenced Shew to 135 months' imprisonment, a downward variance from the 360-month-to-life Sentencing Guidelines range. On appeal, Shew contends that the sentence was substantively unreasonable because the downward variance should have been greater. We affirm.

We review Shew's sentence for reasonableness under an abuse-of-discretion standard. United States v. Howard, 773 F.3d 519, 527-28 (4th Cir. 2014). Because Shew raises no procedural error, we limit our review to the substantive reasonableness of the sentence under "the totality of the circumstances." Id. (internal quotation marks omitted). "Any sentence that is within or below a properly calculated Guidelines range is presumptively [substantively] reasonable. Such a presumption can only be rebutted by showing that the sentence is unreasonable when measured against the 18 U.S.C. § 3553(a) [(2012)] factors." United States v. Louthian, 756 F.3d 295, 306 (4th Cir.) (citation omitted), cert. denied, 135 S. Ct. 421

(2014). We conclude that Shew has failed to rebut the presumption that his below-Guidelines sentence is substantively reasonable.

Accordingly, we affirm the district court's criminal judgment. 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