

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-4309

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DAMON KEYON JONES,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. N. Carlton Tilley, Jr., Senior District Judge. (1:97-cr-00178-NCT-1)

Submitted: December 18, 2015

Decided: December 23, 2015

Before MOTZ, DUNCAN, and DIAZ, Circuit Judges.

Affirmed by unpublished per curiam opinion.

William S. Trivette, WILLIAM S. TRIVETTE, ATTORNEY AT LAW, PLLC, Greensboro, North Carolina, for Appellant. Ripley Rand, United States Attorney, Harry L. Hobgood, Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Damon Keyon Jones appeals from the district court's amended judgment revoking his supervised release and sentencing him to 48 months' imprisonment. On appeal, Jones argues that this sentence is substantively unreasonable. We affirm.

This court will affirm a sentence imposed after revocation of supervised release "if it is within the statutory maximum and is not 'plainly unreasonable.'" United States v. Webb, 738 F.3d 638, 640 (4th Cir. 2013) (quoting United States v. Crudup, 461 F.3d 433, 438 (4th Cir. 2006)). When reviewing whether a revocation sentence is plainly unreasonable, we first assess the sentence for unreasonableness, "follow[ing] generally the procedural and substantive considerations that we employ in our review of original sentences." Crudup, 461 F.3d at 438. A supervised release revocation sentence is procedurally reasonable if the district court considers the Sentencing Guidelines' Chapter Seven advisory policy statement range and explains the sentence adequately after considering the policy statements and the 18 U.S.C. § 3553(a) (2012) factors it is permitted to consider in a supervised release revocation case. See 18 U.S.C. § 3583(e) (2012); Crudup, 461 F.3d at 439. A revocation sentence is substantively reasonable if the district court states a proper basis for concluding the defendant should receive the sentence imposed, up to the

statutory maximum. See Crudup, 461 F.3d at 440. Only if a sentence is found procedurally or substantively unreasonable will we “then decide whether the sentence is plainly unreasonable.” Id. at 439 (emphasis omitted). A sentence is plainly unreasonable if it is clearly or obviously unreasonable. Id.

Jones contends that his 48-month revocation sentence is substantively unreasonable because the district court did not consider certain mitigating factors proffered in support of a sentence within the advisory policy statement ranges of 12 to 18 months’ imprisonment and imposed the revocation sentence to punish him for his conduct violating supervised release rather than for his breach of trust. Contrary to Jones’ assertion, however, the record makes clear that the district court heard his arguments in mitigation at the revocation hearing but rejected them in light of the nature and circumstances of his violative behavior, his history and characteristics, and the need for the revocation sentence to sanction his breach of trust on release, all factors the court was permitted to consider in imposing a revocation sentence. See 18 U.S.C. §§ 3553(a)(1), 3583(e); U.S. Sentencing Guidelines Manual ch. 7, pt. A, introductory cmt. 3(b) (U.S. Sentencing Comm’n 2015) (“[A]t revocation the [district] court should sanction primarily the defendant’s breach of trust, while taking into account, to a

limited degree, the seriousness of the underlying violation and the criminal history of the violator."). We therefore conclude that the revocation sentence is not substantively unreasonable and affirm the district court's amended 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