

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-4753

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ARTKES BENNETT,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Greenville. James C. Dever III, Chief District Judge. (4:15-cr-00013-D-1)

Submitted: September 16, 2016

Decided: October 4, 2016

Before WILKINSON and TRAXLER, Circuit Judges, and DAVIS, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Thomas P. McNamara, Federal Public Defender, Stephen C. Gordon, Assistant Federal Public Defender, Raleigh, North Carolina, for Appellant. John Stuart Bruce, Acting United States Attorney, Jennifer P. May-Parker, Barbara D. Kocher, Assistant United States Attorneys, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Artkes Bennett appeals his 192-month sentence following his guilty plea to conspiracy to distribute and possess with intent to distribute a quantity of methamphetamine and a quantity of heroin, in violation of 21 U.S.C. §§ 841(b)(1)(C), 846 (2012), distribution of a quantity of methamphetamine, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(C) (2012), and possession with intent to distribute a quantity of heroin, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(C). On appeal, Bennett contends only that his sentence is substantively unreasonable. We disagree.

We “consider the substantive reasonableness of the sentence imposed under an abuse-of-discretion standard.” Gall v. United States, 552 U.S. 38, 51 (2007). In doing so, we must “take into account the totality of the circumstances, including the extent of any variance from the [Sentencing] Guidelines range.” Id. We presume that a sentence within a properly calculated Guidelines range is substantively reasonable. United States v. Louthian, 756 F.3d 295, 306 (4th Cir. 2014). A defendant can rebut this presumption only “by showing that the sentence is unreasonable when measured against the 18 U.S.C. § 3553(a) [(2012)] factors.” Id.

Having reviewed the record, we conclude that Bennett has not made the showing necessary to rebut the presumption that his within-Guidelines-range sentence is substantively reasonable.

Accordingly, we affirm the judgment of the district court. 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