

UNPUBLISHEDUNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-4084

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LEON EUGENE SMITH,

Defendant - Appellant.

Appeal from the United States District Court for the Southern District of West Virginia, at Beckley. Irene C. Berger, District Judge. (5:15-cr-00172-1)

Submitted: July 28, 2016

Decided: August 10, 2016

Before MOTZ, AGEE, and WYNN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Christian M. Capece, Federal Public Defender, Jonathan D. Byrne, Research & Writing Specialist, David R. Bungard, Assistant Federal Public Defender, Charleston, West Virginia, for Appellant. Carol A. Casto, Acting United States Attorney, Miller Bushong, Assistant United States Attorney, Beckley, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Leon Eugene Smith appeals the 60-month sentence imposed upon his plea of guilty to possession of a firearm by a convicted felon. Finding no error, we affirm.

We review Smith's sentence for both procedural and substantive reasonableness "under a deferential abuse-of-discretion standard." Gall v. United States, 552 U.S. 38, 41 (2007). We must ensure that the district court committed no significant procedural error, such as improperly calculating the Sentencing Guidelines range. Id. at 51. If there is no significant procedural error, we then consider the sentence's substantive reasonableness under "the totality of the circumstances, including the extent of any variance from the Guidelines range." Id.

Smith raises no claim of procedural error but argues that the district court erred by varying upward from the advisory Sentencing Guidelines range of 33 to 41 months' imprisonment. The district court thoroughly explained its decision that, given Smith's history and characteristics, a 60-month sentence was sufficient but not greater than necessary to accomplish the goals of deterrence, promoting respect for the law, and protecting the public. See 18 U.S.C. § 3553(a) (2012). Our review of the record convinces us that the district court did not abuse its discretion in so finding and that, therefore,

Smith's sentence is both procedurally and 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