

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-4306

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JASON MICHAEL BROWN,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Max O. Cogburn, Jr., District Judge. (3:14-cr-00167-MOC-1)

Submitted: March 14, 2017

Decided: March 16, 2017

Before FLOYD and HARRIS, Circuit Judges, DAVIS, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

John Parke Davis, Interim Executive Director, Jared P. Martin, FEDERAL DEFENDERS OF WESTERN NORTH CAROLINA, Charlotte, North Carolina, for Appellant. Amy Elizabeth Ray, Assistant United States Attorney, Asheville, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Jason Michael Brown appeals his conviction and sentence of 240 months of imprisonment for transportation of child pornography, in violation of 18 U.S.C. § 2252A(a)(1), (b)(1) (2012), and possession of material containing child pornography, in violation of 18 U.S.C. § 2252A(a)(5)(b), (b)(2) (2012). Appellate counsel has filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), concluding that there are no meritorious issues for appeal, but questioning whether the district court committed a procedural error by applying a five-level sentencing enhancement for pattern of activity. We affirm.

We review Brown's sentence for reasonableness "under a deferential abuse-of-discretion standard." United States v. McCoy, 804 F.3d 349, 351 (4th Cir. 2015) (quoting Gall v. United States, 552 U.S. 38, 41 (2007)), cert. denied, 137 S. Ct. 320 (2016). This review entails appellate consideration of both the procedural and substantive reasonableness of the sentence. Gall, 552 U.S. at 51. In assessing the district court's calculation of the Guidelines range, we review its legal conclusions de novo and its factual findings for clear error. United States v. Cox, 744 F.3d 305, 308 (4th Cir. 2014).

Based on a review of the record, we conclude the district court did not clearly err in crediting the child victim's interview statements in determining that she had been abused more than once.

Furthermore, we have reviewed the record and conclude that the court properly calculated the Guidelines range, treated the Guidelines as advisory rather than mandatory, gave the parties an opportunity to argue for an appropriate sentence, considered the 18 U.S.C. § 3353(a) factors, selected a sentence not based on clearly erroneous facts, and sufficiently explained the chosen sentence. Therefore, we conclude that Brown's sentence is procedurally reasonable.

In accordance with Anders, we have reviewed the entire record in this case and have found no meritorious issues for appeal. We therefore affirm the district court's judgment. This court requires that counsel inform Brown, in writing, of the right to petition the Supreme Court of the United States for further review. If Brown requests that a petition be filed, but counsel believes that such a petition would be frivolous, then counsel may move in this court for leave to withdraw from representation. Counsel's motion must state that a copy thereof was served on Brown.

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