

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-4298

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KEON MARQUESE GAITHER, a/k/a Sleepy,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina,
at Statesville. Richard L. Voorhees, Senior District Judge. (5:14-cr-00034-RLV-DSC-1)

Submitted: January 30, 2018

Decided: February 1, 2018

Before MOTZ and KEENAN, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Sharon Leigh Smith, UNTI & SMITH, Raleigh, North Carolina, for Appellant. Amy
Elizabeth Ray, Assistant United States Attorney, OFFICE OF THE UNITED STATES
ATTORNEY, Asheville, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Keon Marquese Gaither pled guilty to conspiracy to possess with intent to distribute cocaine base, 21 U.S.C. §§ 841(a), (b)(1)(C), 846 (2012), and possession of a firearm involved in interstate commerce from which the serial number had been removed or altered, 18 U.S.C. §§ 922(k), 924(a)(1)(B) (2012). The district court sentenced him to 64 months' imprisonment. Counsel has filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), stating that, in counsel's view, there are no meritorious issues for appeal, but addressing the validity of Gaither's waiver of his right to appeal and whether he could raise any issues outside the waiver. Although informed of his right to file a pro se supplemental brief, Gaither has declined to do so. We affirm.

Although Gaither's plea agreement contains a waiver of the right to appeal his conviction and sentence, because the Government has not sought to enforce the waiver, we decline to enforce it sua sponte. *See United States v. Jones*, 667 F.3d 477, 486 (4th Cir. 2012).

We have reviewed the record and conclude that Gaither's guilty plea was knowing and voluntary and that his sentence is reasonable. *See Gall v. United States*, 552 U.S. 38, 41 (2007); *see also United States v. Allen*, 491 F.3d 178, 193 (4th Cir. 2007) (applying an appellate presumption of reasonableness to a sentence imposed within a properly calculated advisory Guidelines range).

In accordance with *Anders*, we have reviewed the entire record in this case and have found no meritorious issues for appeal. We therefore affirm Gaither's conviction and sentence. This court requires that counsel inform Gaither, in writing, of his right to

petition the Supreme Court of the United States for further review. If Gaither requests that a petition be filed, but counsel believes that such a petition would be frivolous, then counsel may move this court for leave to withdraw from representation. Counsel's motion must state that a copy thereof was served on Gaither. 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