UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-4359

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LAWRENCE L. PETTAWAY,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Mark S. Davis, District Judge. (2:10-cr-00161-MSD-DEM-2)

Submitted: October 19, 2017 Decided: October 23, 2017

Before NIEMEYER, MOTZ, and KING, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Timothy Anderson, ANDERSON & ASSOCIATES, PC, Virginia Beach, Virginia, for Appellant. Katherine Lee Martin, Assistant United States Attorney, Richmond, Virginia; Alan Mark Salsbury, Assistant United States Attorney, Norfolk, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Lawrence L. Pettaway appeals the district court's judgment revoking his supervised release and imposing a sentence of 36 months of imprisonment. Appellate counsel has filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), concluding that there are no meritorious grounds for appeal but questioning the reasonableness of Pettaway's sentence. We affirm.

"A district court has broad discretion when imposing a sentence upon revocation of supervised release." *United States v. Webb*, 738 F.3d 638, 640 (4th Cir. 2013). "We will affirm a revocation sentence if it is within the statutory maximum and is not plainly unreasonable." *Id.* (internal quotation marks omitted). "When reviewing whether a revocation sentence is plainly unreasonable, we must first determine whether it is unreasonable at all." *United States v. Thompson*, 595 F.3d 544, 546 (4th Cir. 2010). A revocation sentence is procedurally reasonable if the district court adequately explains the sentence after considering the policy statements in Chapter Seven of the Sentencing Guidelines and the applicable 18 U.S.C. § 3553(a) (2012) factors. *See* 18 U.S.C. § 3583(e) (2012); *see also United States v. Slappy*, ___, F.3d ___, ___, No. 16-4010, 2017 WL 4183191, at *3-5 (4th Cir. Sept. 22, 2017); *Thompson*, 595 F.3d at 546-47. "And a revocation sentence is substantively reasonable if the court sufficiently states a proper basis for its conclusion that the defendant should receive the sentence imposed." *Slappy*, 2017 WL 4183191, at *3 (alteration and internal quotation marks omitted).

We conclude that the district court's explanation of Pettaway's above policy statement range sentence, in discussing the need for future deterrence in light of Pettaway's

background and criminal history and pointing out Pettaway's repeated noncompliance with the terms of his supervised release, easily satisfies this standard. Furthermore, we conclude that an upward variance of 18 months from the top of the applicable policy statement range is not unreasonable. *See, e.g.*, *United States v. Diosdado-Star*, 630 F.3d 359, 362, 367 (4th Cir. 2011).

In accordance with *Anders*, we have reviewed the entire record in this case and have found no meritorious grounds for appeal. We therefore affirm the judgment of the district court. This court requires that counsel inform Pettaway, in writing, of the right to petition the Supreme Court of the United States for further review. If Pettaway 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 Pettaway.

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