

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 18-4101

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CHRISTOPHER JEROME TOOMER,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. William L. Osteen, Jr., District Judge. (1:17-cr-00290-WO-1)

Submitted: August 23, 2018

Decided: August 27, 2018

Before DUNCAN and FLOYD, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

George E. Crump, III, Rockingham, North Carolina, for Appellant. Terry Michael Meinecke, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Christopher Jerome Toomer appeals the 36-month sentence imposed by the district court after he pleaded guilty to possession with intent to distribute cocaine base, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(C) (2012). 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. Counsel questions, however, whether Toomer’s upward variant sentence is reasonable. Toomer was informed of his right to file a pro se supplemental brief but has not done so. We affirm.

“We ‘review all sentences—whether inside, just outside, or significantly outside the Guidelines range—under a deferential abuse-of-discretion standard.’” *United States v. Blue*, 877 F.3d 513, 517 (4th Cir. 2017) (quoting *Gall v. United States*, 552 U.S. 38, 41 (2007)). This review entails appellate consideration of both the procedural and substantive reasonableness of the sentence. *Gall*, 552 U.S. at 51. “While a district court’s explanation for the sentence must support the degree of the variance, it need not find extraordinary circumstances to justify a deviation from the Guidelines.” *United States v. Spencer*, 848 F.3d 324, 327 (4th Cir. 2017) (internal quotation marks omitted).

We have reviewed the record and conclude that the district court committed no procedural error. The district court properly calculated the advisory Sentencing Guidelines range and discussed the nature and circumstances of the offense; the history and characteristics of the defendant, including Toomer’s previous assault convictions, several of which involved firearms, for which he received no criminal history points, as well as Toomer’s recidivism so soon after being released from a lengthy prison term; the need for

deterrence; and the need to protect the public. We conclude that the district court's explanation was procedurally sufficient to support an upward variance. *See id.* Finally, insofar as Toomer contends that an upward variance of 6 months from the top of the Guidelines range is substantively unreasonable, we reject his claim.

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

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