

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-4614

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ERIK ALBERTO TELLEZ,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. Loretta C. Biggs, District Judge. (1:18-cr-00026-LCB-1)

Submitted: February 26, 2019

Decided: February 28, 2019

Before KING, THACKER, and QUATTLEBAUM, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Louis C. Allen, Federal Public Defender, John A. Duberstein, Assistant Federal Public Defender, OFFICE OF THE FEDERAL PUBLIC DEFENDER, Greensboro, North Carolina, for Appellant. Whitney N. Shaffer, Special 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Unpublished opinions are not binding precedent in this circuit.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:

Erik Alberto Tellez pled guilty to possession of firearms in furtherance of a drug trafficking crime, in violation of 18 U.S.C. § 924(c)(1)(A)(i) (2012), and was sentenced to 60 months' imprisonment and 5 years' supervised release. On appeal, counsel has filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), stating that there are no meritorious issues for appeal, but questioning whether the district court erred in the imposition of Tellez's sentence. Although advised of his right to file a supplemental pro se brief, Tellez has not done so. The Government declined to file a response brief. We affirm.

“We review the reasonableness of a sentence under 18 U.S.C. § 3553(a) [(2012)] using an abuse-of-discretion standard, regardless of ‘whether the sentence is inside, just outside, or significantly outside the Guidelines range.’” *United States v. Lymas*, 781 F.3d 106, 111 (4th Cir. 2015) (quoting *Gall v. United States*, 552 U.S. 38, 41 (2007) (alteration omitted)). This review requires consideration of both the procedural and substantive reasonableness of the sentence. *Id.* In determining procedural reasonableness, we consider whether the district court properly calculated the defendant's advisory Guidelines range, gave the parties an opportunity to argue for an appropriate sentence, considered the 18 U.S.C. § 3553(a) sentencing factors, and sufficiently explained the selected sentence. *Id.* at 111-12. After determining that the sentence is procedurally reasonable, we consider the substantive reasonableness of the sentence, “tak[ing] into account the totality of the circumstances.” *Gall*, 552 U.S. at 51.

Our review of the sentencing transcript reveals no significant procedural or substantive errors. The district court allowed the parties to present arguments, gave Tellez the opportunity to allocute, considered the 18 U.S.C. § 3553(a) sentencing factors, and explained the selected sentence. Sixty months is the mandatory minimum term of imprisonment Tellez could have received under 18 U.S.C. § 924(c)(1)(A)(i), and the five-year term of supervised release is authorized by 18 U.S.C. §§ 3559(a); 3583(b)(1) (2012).

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 criminal judgment. This court requires that counsel inform Tellez, in writing, of the right to petition the Supreme Court of the United States for further review. If Tellez 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 Tellez.

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