

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 19-4546**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DARRIC JOEL SWEENEY,

Defendant - Appellant.

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Appeal from the United States District Court for the Northern District of West Virginia, at Clarksburg. Irene M. Keeley, Senior District Judge. (1:08-cr-00077-IMK-MJA-1)

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Submitted: February 27, 2020

Decided: May 20, 2020

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Before NIEMEYER and HARRIS, Circuit Judges, and SHEDD, Senior Circuit Judge.

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Affirmed by unpublished per curiam opinion.

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Brian J. Kornbrath, Federal Public Defender, OFFICE OF THE FEDERAL PUBLIC DEFENDER, Clarksburg, West Virginia. William J. Powell, United States Attorney, Wheeling, West Virginia, Zelda E. Wesley, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Clarksburg, West Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Darric Joel Sweeney appeals the 24-month prison sentence the district court imposed upon revocation of his supervised release. On appeal, Sweeney alleges that the district court erred by improperly relying on rehabilitative factors in determining the length of his sentence, *see Tapia v. United States*, 564 U.S. 319, 334-35 (2011), though he did not object to his sentence on this basis before the district court. For the following reason, we affirm the judgment of the district court.

“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). In making this determination, we are guided by “the same procedural and substantive considerations that guide our review of original sentences.” *United States v. Padgett*, 788 F.3d 370, 373 (4th Cir. 2015) (brackets and internal quotation marks omitted). “A revocation sentence is procedurally reasonable if the district court adequately explains the chosen sentence after considering the Sentencing Guidelines’ nonbinding Chapter Seven policy statements and the applicable 18 U.S.C. § 3553(a) [(2018)] factors.” *United States v. Slappy*, 872 F.3d 202, 207 (4th Cir. 2017) (footnotes omitted). “[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.” *Id.* at 207 (brackets and internal quotation marks omitted).

When formulating a sentence, 18 U.S.C. § 3582(a) (2018) “precludes sentencing courts from imposing or lengthening a prison term to promote an offender’s rehabilitation.” *Tapia*, 564 U.S. at 332; *see United States v. Bennett*, 698 F.3d 194, 198 (4th Cir. 2012) (holding *Tapia* applies to sentences imposed upon revocation of supervised release). Sweeney asserts that the district court erred by sentencing him based on prohibited rehabilitative factors – specifically, the need for Sweeney to be medicated. But because Sweeney did not object to his sentence on this basis before the district court, this challenge is reviewed only for plain error. *United States v. Lemon*, 777 F.3d 170, 172 (4th Cir. 2015) (reviewing similar claim for plain error because “issue was not raised at the revocation hearing”). To demonstrate plain error, a defendant must show “(1) that the district court erred; (2) that the error was plain; and (3) that the error affected his substantial rights, meaning that it affected the outcome of the district court proceedings.” *Bennett*, 698 F.3d at 200 (brackets and internal quotation marks omitted). Even where a defendant satisfies these requirements, we need only correct the error if it “seriously affects the fairness, integrity or public reputation of judicial proceedings.” *Molina-Martinez v. United States*, 136 S. Ct. 1338, 1343 (2016) (internal quotation marks omitted).

Here, not only did Sweeney fail to object to his sentence on this basis before the district court, but he also does not address this failure on appeal – even after the government raised this issue in its response brief. As a result, Sweeney does not so much as assert that any purported error was plain, or that it affected the outcome of the proceedings. Thus, he

has not met his burden of showing that his sentence resulted from plain error. Accordingly, we affirm the judgment of the district court. 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*