

UNPUBLISHED

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

No. 19-4797

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DAVID CICALESE,

Defendant - Appellant.

Appeal from the United States District Court for the Northern District of West Virginia, at Elkins. Thomas S. Kleeh, District Judge. (2:08-cr-00024-TSK-MJA-1)

Submitted: April 14, 2020

Decided: May 20, 2020

Before NIEMEYER, MOTZ, and AGEE, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Kristen M. Leddy, Assistant Federal Public Defender, OFFICE OF THE FEDERAL PUBLIC DEFENDER, Martinsburg, West Virginia, for Appellant. Stephen Donald Warner, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Elkins, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

David Cicalese appeals from the district court's judgment revoking his supervised release and imposing a 24-month prison term and a lifetime of supervised release. On appeal, Cicalese's attorney has filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), stating that there are no meritorious issues for appeal, but raising as an issue for review whether Cicalese's 24-month prison term is plainly unreasonable. Cicalese was informed of his right to file a pro se supplemental brief, but he has not done so. The Government declined to file a brief. 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). In making this determination, we are guided by “the same procedural and substantive considerations that guide our review of original sentences,” but we take “a more deferential appellate posture than we do when reviewing original sentences.” *United States v. Padgett*, 788 F.3d 370, 373 (4th Cir. 2015) (internal quotation marks and brackets omitted). We have reviewed the record and conclude that Cicalese's 24-month prison sentence is not plainly unreasonable.

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 district court's revocation judgment. This court requires that counsel inform Cicalese, in writing, of the right to petition the Supreme Court of the United States for further review. If Cicalese 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 Cicalese.

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