UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-4150

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RAHSAAN DIANTE PEARSON,

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-00361-WO-1)

Submitted: May 24, 2022 Decided: June 6, 2022

Before NIEMEYER, WYNN, and HEYTENS, Circuit Judges.

Affirmed by unpublished per curiam opinion.

ON BRIEF: Brian M. Aus, BRIAN AUS, ATTORNEY AT LAW, Durham, North Carolina, for Appellant. Frank Joseph Chut, Jr., 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Unpublished opinions are not binding precedent in this circuit.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:

Rahsaan Diante Pearson appeals the district court's judgment revoking his term of supervised release and imposing 60 days of imprisonment and 34 months of supervised release. On appeal, Pearson's counsel has filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), stating that there are no meritorious grounds for appeal but questioning the reasonableness of Pearson's sentence. Although notified of his right to do so, Pearson has not filed a pro se supplemental brief. For the reasons that follow, we affirm.

"A district court has broad . . . discretion in fashioning a sentence upon revocation of a defendant's term of supervised release." *United States v. Slappy*, 872 F.3d 202, 206 (4th Cir. 2017). "We will affirm a revocation sentence if it is within the statutory maximum and is not plainly unreasonable." *Id.* at 207 (internal quotation marks omitted). "To consider whether a revocation sentence is plainly unreasonable, we first must determine whether the sentence is procedurally or substantively unreasonable." *Id.* Even if a revocation sentence is unreasonable, we will reverse only if it is "plainly so." *Id.* (internal quotation marks omitted).

A district court imposes a procedurally reasonable sentence by "considering the Sentencing Guidelines' nonbinding Chapter Seven policy statements and the applicable 18 U.S.C. § 3553(a) factors," "adequately explain[ing] the chosen sentence," and "meaningfully respond[ing] to the parties' nonfrivolous arguments" for a different sentence. *Id.* (footnote omitted). And a court complies with substantive reasonableness requirements by "sufficiently stat[ing] a proper basis for its conclusion that the defendant should receive the sentence imposed." *Id.* (internal quotation marks omitted). "A sentence

within the policy statement range is presumed reasonable." *United States v. Padgett*, 788 F.3d 370, 373 (4th Cir. 2015) (internal quotation marks omitted).

Here, the district court correctly calculated a policy statement range of 8 to 14 months, provided defense counsel with an opportunity to argue for an appropriate sentence, and allowed Pearson to address the court. The court then imposed a presumptively reasonable prison sentence far below the policy statement range.[*] Finally, the court reimposed Pearson's original 36-month term of supervised release, minus the 60-day period of imprisonment, indicating that it wished to revert to the status quo ante once Pearson completed his 60 days in prison. Based on our review of the record, we conclude that the court acted well within its discretion in conducting the revocation proceeding and fashioning Pearson's revocation sentence.

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

[*] Although Pearson has already served his custodial sentence, we conclude that the appeal from this part of the sentence is not moot, given that a successful challenge to the 60-day sentence could potentially result in a shorter term of supervised release. *See United States v. Ketter*, 908 F.3d 61, 67 (4th Cir. 2018).

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