

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 21-4193**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

BENNIE FRANK GETER, JR.,

Defendant - Appellant.

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Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. Catherine C. Eagles, District Judge. (1:20-cr-00230-CCE-1)

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Submitted: November 18, 2021

Decided: November 19, 2021

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Before MOTZ, THACKER, and HARRIS, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Louis C. Allen, III, Federal Public Defender, John A. Duberstein, Assistant Federal Public Defender, OFFICE OF THE FEDERAL PUBLIC DEFENDER, Greensboro, North Carolina, for Appellant. Terry Michael Meinecke, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Greensboro, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Bennie Frank Geter, Jr., pled guilty, pursuant to a written plea agreement, to one count of possession of a firearm as a convicted felon, in violation of 18 U.S.C. §§ 922(g)(1), 924. The district court sentenced Geter to 80 months' imprisonment, followed by 3 years of supervised release. On appeal, Geter's counsel has filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), concluding that there are no meritorious grounds for appeal but questioning whether Geter's sentence is reasonable. Although advised of his right to file a supplemental pro se brief, Geter has not done so. For the following reasons, 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. Torres-Reyes*, 952 F.3d 147, 151 (4th Cir. 2020) (internal quotation marks omitted). “First, we ensure that the district court committed no significant procedural error, such as failing to calculate (or improperly calculating) the Guidelines range, treating the Guidelines as mandatory, failing to consider the [18 U.S.C.] § 3553(a) factors, selecting a sentence based on clearly erroneous facts, or failing to adequately explain the chosen sentence—including an explanation for any deviation from the Guidelines range.” *United States v. Fowler*, 948 F.3d 663, 668 (4th Cir. 2020) (internal quotation marks omitted). “If the [c]ourt finds no significant procedural error, it then considers the substantive reasonableness of the sentence imposed.” *United States v. Arbaugh*, 951 F.3d 167, 172 (4th Cir.) (cleaned up), *cert. denied*, 141 S. Ct. 382 (2020). We look to “the totality of the circumstances to see whether the sentencing court abused its discretion in concluding that the sentence it chose

satisfied the standards set forth in § 3553(a).” *Id.* at 176 (internal quotation marks omitted). We presume that a sentence within or below a defendant’s advisory Guidelines range is substantively reasonable. *United States v. Zelaya*, 908 F.3d 920, 930 (4th Cir. 2018). This “presumption can only be rebutted by showing that the sentence is unreasonable when measured against the 18 U.S.C. § 3553(a) factors.” *United States v. Gutierrez*, 963 F.3d 320, 344 (4th Cir. 2020) (internal quotation marks omitted), *cert. denied*, 141 S. Ct. 1431 (2021). Our review of the record indicates that Geter’s below-Guidelines sentence is procedurally reasonable, and Geter has not rebutted the presumption of reasonableness attached to his below-Guidelines sentence.

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

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*