NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted April 15, 2024
Decided April 16, 2024

Before

MICHAEL B. BRENNAN, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

JOSHUA P. KOLAR, *Circuit Judge*

No. 23-2600

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

RONALD J. WIGGINS,
Defendant-Appellant.

Appeal from the United States District Court for the Southern District of Illinois.

No. 3:14-CR-30015-DWD

David W. Dugan,
Judge.

O R D E R

Ronald Wiggins appeals the sentence imposed upon the revocation of his supervised release, but his appointed counsel asserts that the appeal is frivolous and moves to withdraw. *See Anders v. California*, 386 U.S. 738, 744 (1967). We grant the motion and dismiss the appeal.

A defendant does not have a constitutional right to counsel in revocation proceedings, *see Gagnon v. Scarpelli*, 411 U.S. 778, 787 (1973), but our practice is to apply the safeguards of *Anders* in this context. *See United States v. Brown*, 823 F.3d 392, 394 (7th Cir. 2016). In his brief, counsel explains the nature of the case and addresses issues that an appeal of this kind would typically involve. Because counsel's analysis appears thorough, and Wiggins did not respond to the motion, *see* CIR. R. 51(b), we limit our review to the subjects that counsel discusses. *See United States v. Bey*, 748 F.3d 774, 776 (7th Cir. 2014).

Wiggins pleaded guilty in 2014 to various drug-distribution offenses and was given four concurrent 151-month prison sentences followed by 3 years' supervised release. After completing his prison term, he violated the terms of his supervision, and in 2022 he was sentenced to time served followed by 2 years' supervised release.

Several months into his second term of supervised release, Wiggins again violated its terms by, among other things, testing positive for methamphetamine, amphetamine, and suboxone. At his revocation hearing, Wiggins admitted to the violations. The district court revoked his supervised release and sentenced him to 18 months' imprisonment and no additional supervised release.

Counsel tells us that Wiggins wishes to challenge not the revocation of his supervised release, but only the reasonableness of his sentence. Counsel therefore appropriately declines to explore any challenge to the voluntariness of his admissions or to the revocation decision. *See United States v. Wheeler*, 814 F.3d 856, 857 (7th Cir. 2016).

Counsel first considers whether Wiggins could challenge his revocation sentence but correctly concludes that doing so would be frivolous. Wiggins admitted to multiple instances of drug possession, some of which were Grade B violations, and the court properly identified his criminal-history category as VI, yielding an advisory range of 21 to 27 months under the Sentencing Guidelines' policy statements. U.S.S.G. § 7B1.4(a). The court capped Wiggins's effective range at 23 months and 15 days (based on the two-year, statutory-maximum penalty, *see* 18 U.S.C. § 3583(g), minus the 15 days he served in prison during his first revocation of supervision).[1] Nor could Wiggins argue

[1] Wiggins should not have received credit for the 15 days he served in prison during his first revocation of supervised release. Prior time served for supervised-release violations "does not limit the statutory maximum that a court may impose for subsequent violations of supervised release pursuant to 18 U.S.C. § 3583(e)(3)." *United States v. Perry*, 743 F.3d 238, 242 (7th Cir. 2014). The court's miscalculation, however,

that the court failed to adequately consider his arguments in mitigation. The court specifically acknowledged such arguments, including Wiggins's serious drug addiction and the hard work he was doing to provide for his family.

Counsel finally explores but rightly rejects a challenge to the substantive reasonableness of the sentence. We presume a term below the policy-statement range like Wiggins's to be reasonable, *United States v. Yankey*, 56 F.4th 554, 560 (7th Cir. 2023), and counsel has not identified any ground to rebut that presumption, nor can we. The district court adequately addressed the relevant sentencing factors by alluding to Wiggins's history and characteristics (especially his tendency to lie to counselors and others who tried to help him) and the need for deterrence and effective correctional treatment (which had not been achieved with the prior term of supervised release). 18 U.S.C. § 3553(a)(1), (2)(B), (2)(D).

We therefore GRANT counsel's motion to withdraw and DISMISS the appeal.

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did not harm Wiggins, so there would be no basis for counsel to have challenged the sentence on this ground. *See United States v. Knox*, 287 F.3d 667, 671 (7th Cir. 2014) ("[I]t is no failure of advocacy to leave well enough alone.").