

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 16-11422
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

September 27, 2017

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

CHALON CHISHOLM,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:16-CR-64-1

Before HIGGINBOTHAM, JONES, and SMITH, Circuit Judges.

PER CURIAM:*

Chalon Chisholm appeals the 40-month above guideline sentence imposed following her guilty plea conviction of being a felon in possession of a firearm. Chisholm contends that her sentence is procedurally unreasonable because the district court failed to follow the proper procedures in imposing the sentence as a departure under U.S.S.G. § 4A1.3.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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Chisholm's argument is without merit. This court recognizes three types of sentences: (1) a sentence within the advisory guidelines range; (2) a "departure" based on the Guidelines; and (3) a non-guidelines sentence or "variance" independent of the Guidelines and based on the 18 U.S.C. § 3553(a) factors. *United States v. Brantley*, 537 F.3d 347, 349 (5th Cir. 2008). To that end, the record reflects that the district court imposed a non-guidelines sentence or variance based on the § 3553(a) factors. Thus, Chisholm's arguments regarding the district court's misapplication of § 4A1.3 are inapposite. Chisholm does not otherwise challenge the sentence as a variance based on the § 3553(a) factors, nor does she challenge the substantive reasonableness of the sentence.

Chisholm elsewhere argues that the district court failed to adequately explain the above guidelines sentence. However, the argument, which is made without citation to authorities or the record, is inadequately briefed and is therefore waived. *See United States v. Scroggins*, 599 F.3d 433, 446-47 (5th Cir. 2010).

AFFIRMED.