

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 04-1540

United States of America,

Appellee,

v.

Andre Williamson,

Appellant.

*

*

*

*

*

*

*

*

*

Appeal from the United States
District Court for the Eastern
District of Missouri.

[UNPUBLISHED]

Submitted: September 13, 2004

Filed: September 20, 2004

Before MORRIS SHEPPARD ARNOLD, BRIGHT, and FAGG, Circuit Judges.

PER CURIAM.

After Andre Williamson pleaded guilty to fraud and related activity, he was sentenced to twelve months and one day of imprisonment and three years of supervised release. During his supervised release, the probation office filed a petition alleging Williamson had violated his supervised release terms by committing another crime. The district court* issued a warrant, and at the revocation hearing, Williamson stipulated to the conduct giving rise to the alleged violations—stealing a credit card and using it to purchase goods costing less than \$500. The district court

*The Honorable Rodney W. Sippel, United States District Judge for the Eastern District of Missouri.

classified Williamson's offense as a Class B supervised release violation under U.S.S.G. § 7B1.1(a)(2) and sentenced him to twenty months in prison. On appeal, counsel has filed a brief under Anders v. California, 386 U.S. 738 (1967), and Williamson has filed a supplemental brief.

Williamson and his counsel contend the district court mischaracterized the violation as Grade B, which applies to conduct constituting an offense punishable by a term of imprisonment greater than one year, rather than as Grade C, which applies to conduct constituting an offense punishable by a term of imprisonment of one year or less. See U.S.S.G. § 7B1.1(a)(2)-(3). According to Williamson, his conduct was punishable by less than a year in prison under Missouri law. We disagree. Under Mo. Rev. Stat. § 570.030.3(3)(c), stealing a credit card is a class C felony, and under Mo. Rev. Stat. § 558.011.1(3), the crime is punishable by up to seven years in prison. Thus, we conclude the district court properly determined the grade of Williamson's supervised release violation, and did not abuse its discretion in sentencing him within the applicable guidelines range.

Having reviewed the record, we find no other nonfrivolous issues. See Penson v. Ohio, 488 U.S. 75, 80 (1988). We thus affirm Williamson's sentence and grant his counsel's motion to withdraw.
