

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 04-3189

United States of America,

Appellee,

v.

Oscar Alavez,

Appellant.

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Appeal from the United States
District Court for the
District of Nebraska.

[UNPUBLISHED]

Submitted: June 24, 2005

Filed: July 14, 2005

Before MELLOY, McMILLIAN, and GRUENDER, Circuit Judges.

PER CURIAM.

Oscar Alavez appeals the 87-month sentence the district court¹ imposed after he pleaded guilty to conspiring to distribute and possess with intent to distribute 500 grams or more of a methamphetamine mixture, in violation of 21 U.S.C. §§ 841(a)(1) and 846. Alavez's counsel has moved to withdraw and filed a brief under Anders v. California, 386 U.S. 738 (1967). Counsel questions the reasonableness of the sentence, stating Alavez believes that his sentence is "extreme" and that the court should have been allowed to sentence him below the Guidelines range.

¹The Honorable Laurie Smith Camp, United States District Judge for the District of Nebraska.

The district court indicated the sentence was based on its consideration of the factors set forth in 18 U.S.C. § 3553(a), and we cannot agree with Alavez that the sentence is extreme or unreasonable. See United States v. Booker, 125 S. Ct. 738, 764-66 (2005) (sentencing courts must consult Guidelines and take them into account along with other § 3553(a) factors; § 3553(a) factors guide inquiry as appellate courts review sentences to determine whether they are unreasonable); cf. United States v. Jones, 2 F.3d 827, 828-29 (8th Cir. 1993) (finding 151-month sentence for conspiring to distribute phencyclidine not “excessive”).

Having reviewed the record under Penson v. Ohio, 488 U.S. 75, 80 (1988), we find no nonfrivolous issues. Accordingly, we grant counsel’s motion to withdraw, and we affirm.
