

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 05-1537

United States of America,

Appellee,

v.

Dwayne Parker,

Appellant.

*

*

*

*

*

*

*

*

*

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

[UNPUBLISHED]

Submitted: November 28, 2005

Filed: November 30, 2005

Before ARNOLD, FAGG, and SMITH, Circuit Judges.

PER CURIAM.

A jury found Dwayne Parker guilty of being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g), and possessing an unregistered firearm, in violation of 26 U.S.C. § 5861(d). At sentencing, the district court¹ granted the downward departure Mr. Parker requested and sentenced him to two concurrent terms of fifty-seven months in prison and two years of supervised release. This represented the middle of the advisory Guidelines imprisonment range.

¹The Honorable E. Richard Webber, United States District Judge for the Eastern District of Missouri.

On appeal, counsel has moved to withdraw and filed a brief under Anders v. California, 386 U.S. 738 (1967), arguing that the sentence is unreasonable under the standard of review established in United States v. Booker, 125 S. Ct. 738 (2005). We conclude that the sentence is not unreasonable. Mr. Parker's prior convictions include first-degree assault and possessing cocaine. The instant offenses of conviction involved possessing a loaded sawed-off shotgun in an apartment where children were present. The district court showed Mr. Parker leniency by granting his requested downward departure. The court's written sentencing memorandum expressly refers to its consideration of the factors set forth in 18 U.S.C. § 3553(a). See United States v. Lincoln, 413 F.3d 716, 717-18 (8th Cir. 2005) (sentence within Guidelines range is presumptively reasonable, and defendant must rebut presumption of reasonableness), petition for cert. filed, __ U.S.L.W. __ (U.S. Nov. 7, 2005) (No. 05-7506).

Having reviewed the record independently pursuant to Penson v. Ohio, 488 U.S. 75 (1988), we conclude that there are no nonfrivolous issues for appeal. Accordingly, we affirm the judgment of the district court, and we grant counsel's motion to withdraw.
