

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 07-2638

United States of America,

Appellee,

v.

J. Jesus Tello-Martinez

Appellant.

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* Appeal from the United States

* District Court for the

* Western District of Missouri.

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* [UNPUBLISHED]

Submitted: June 3, 2008

Filed: June 6, 2008

Before WOLLMAN, RILEY, and GRUENDER, Circuit Judges.

PER CURIAM.

J. Jesus Tello-Martinez appeals the 77-month prison sentence the district court¹ imposed after he pleaded guilty to being an alien found unlawfully present in the United States after having been previously removed, in violation of 8 U.S.C. § 1326(a), (b)(2). His counsel has moved to withdraw and filed a brief under Anders v. California, 386 U.S. 738 (1967), arguing that the sentence is unreasonable.

¹The Honorable Fernando J. Gaitan, Jr., Chief Judge, United States District Court for the Western District of Missouri.

We conclude that the within-Guidelines-range sentence is not unreasonable, because nothing in the record indicates the district court overlooked a relevant factor, gave significant weight to an improper factor, or made a clear error of judgment in weighing appropriate factors. See Rita v. United States, 127 S. Ct. 2456, 2462-68 (2007) (allowing appellate presumption of reasonableness); United States v. Haack, 403 F.3d 997, 1003-04 (8th Cir. 2005) (reasonableness factors).

After reviewing the record independently under Penon v. Ohio, 488 U.S. 75, 80 (1988), we find no nonfrivolous issues. Accordingly, we grant counsel leave to withdraw, and we affirm the district court's judgment.
