

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 07-3880

United States of America,

Appellee,

v .

Homero Mendoza-Gomez, also known
as Marcos,

Appellant.

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

[UNPUBLISHED]

Submitted: June 24, 2009

Filed: July 30, 2009

Before WOLLMAN, MURPHY, and MELLOY, Circuit Judges.

PER CURIAM.

Homero Mendoza-Gomez appeals the 108-month prison sentence imposed by the district court¹ after he pleaded guilty to a drug offense. On appeal, counsel has moved to withdraw and has filed a brief under Anders v. California, 386 U.S. 738 (1967), in which she questions the sentence's reasonableness. We affirm.

¹The Honorable Michael J. Davis, Chief Judge, United States District Court for the District of Minnesota.

The sentence is presumptively reasonable because it falls within the undisputed advisory Guidelines range, and Mendoza-Gomez has not rebutted the presumption. See Rita v. United States, 551 U.S. 338, 346-47 (2007) (approving presumption); United States v. Harris, 493 F.3d 928, 932 (8th Cir. 2007) (sentence within advisory Guidelines range is presumptively reasonable), cert. denied, 128 S. Ct. 1263 (2008); United States v. Haack, 403 F.3d 997, 1003 (8th Cir. 2005) (appeals court reviews sentence for abuse of discretion, i.e., unreasonableness). Specifically, we see no indication in the record that the district court based the sentence on an improper or irrelevant factor, failed to consider a relevant factor, or made a clear error of judgment in weighing appropriate factors. See Haack, 403 F.3d at 1003-04 (listing circumstances in which abuse of discretion may occur). Further, having reviewed the record under Penon v. Ohio, 488 U.S. 75, 80 (1988), we find no nonfrivolous issues.

Accordingly, we affirm, and we grant counsel's motion to withdraw on the condition that counsel inform appellant about the procedures for filing petitions for rehearing and for certiorari.
