

United States Court of Appeals  
For the Eighth Circuit

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No. 16-2227

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United States of America

*Plaintiff - Appellee*

v.

Milton Lewis Poole, III

*Defendant - Appellant*

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Appeal from United States District Court  
for the District of South Dakota - Sioux Falls

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Submitted: January 30, 2017

Filed: February 8, 2017

[Unpublished]

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Before SMITH, ARNOLD, and COLLOTON, Circuit Judges.

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PER CURIAM.

After pleading guilty to conspiring to distribute a controlled substance, Milton Poole appeals the district court's<sup>1</sup> below-Guidelines sentence. His counsel has moved

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<sup>1</sup>The Honorable Karen Schreier, United States District Judge for the District of South Dakota.

to withdraw and has filed a brief under Anders v. California, 386 U.S. 738 (1967), arguing that the sentence was substantively unreasonable.

We find that the district court did not abuse its discretion, as it imposed the below-Guidelines sentence after considering the 18 U.S.C. § 3553(a) factors, specifically mentioning Mr. Poole’s history of violating probation, his musical aspirations, and the effect of his crimes on the community. See United States v. Miller, 557 F.3d 910, 917 (8th Cir. 2009) (under substantive-reasonableness test, district court abuses its discretion if it fails to consider relevant § 3553(a) factor, gives significant weight to improper or irrelevant factor, or commits clear error of judgment in weighing factors); United States v. Moore, 581 F.3d 681, 684 (8th Cir. 2009) (per curiam) (“[W]here a district court has sentenced a defendant below the advisory guidelines range, it is nearly inconceivable that the court abused its discretion in not varying downward still further.”). Having independently reviewed the record pursuant to Penson v. Ohio, 488 U.S. 75 (1988), we find no non-frivolous issues for appeal.

Accordingly, we affirm the judgment and grant counsel’s motion to withdraw.

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