

United States Court of Appeals
For the Eighth Circuit

No. 18-3516

United States of America

Plaintiff - Appellee

v.

Elmer Martinez-Niz

Defendant - Appellant

Appeal from United States District Court
for the Northern District of Iowa - Sioux City

Submitted: April 10, 2019

Filed: April 25, 2019

[Unpublished]

Before ERICKSON, BOWMAN, and GRASZ, Circuit Judges.

PER CURIAM.

Elmer Martinez-Niz, a citizen of Guatemala, pleaded guilty to illegal re-entry, 8 U.S.C. § 1326(a), and the District Court¹ sentenced him to ten months in prison and

¹The Honorable Leonard T. Strand, Chief Judge, United States District Court for the Northern District of Iowa.

one year of supervised release. Martinez-Niz appeals, and his counsel has filed a brief filed under Anders v. California, 386 U.S. 738 (1967), challenging the sentence as unreasonable.

After review, we have determined that the District Court properly considered the relevant 18 U.S.C. § 3553(a) sentencing factors and did not abuse its discretion in imposing sentence. See United States v. David, 682 F.3d 1074, 1076–77 (8th Cir. 2012) (standard of review); see also United States v. Callaway, 762 F.3d 754, 760 (8th Cir. 2014) (noting that a sentence within the U.S. Sentencing Guidelines range “is presumed to be reasonable”).

We have independently reviewed the record under Penson v. Ohio, 488 U.S. 75, 80 (1988), and we have identified no non-frivolous issues for appeal. We grant counsel’s motion to withdraw and affirm.
