

United States Court of Appeals
For the Eighth Circuit

No. 18-2936

United States of America

Plaintiff - Appellee

v.

Henry Trevillion

Defendant - Appellant

Appeal from United States District Court
for the District of Nebraska - Omaha

Submitted: April 25, 2019

Filed: May 9, 2019

[Unpublished]

Before COLLOTON, WOLLMAN, and KELLY, Circuit Judges.

PER CURIAM.

Henry Trevillion directly appeals after he pleaded guilty to drug and firearm offenses, and the district court¹ imposed statutory minimum prison terms. His

¹The Honorable John M. Gerrard, Chief Judge, United States District Court for the District of Nebraska.

counsel has filed a brief under Anders v. California, 386 U.S. 738 (1967), arguing that there was an inadequate factual basis for Trevillion's plea as to the firearm offense, and that the district court plainly erred in accepting his guilty plea. Counsel has also moved for leave to withdraw. Trevillion has filed a pro se brief, essentially repeating counsel's arguments, and additionally arguing that he received ineffective assistance of counsel, which rendered his guilty plea partially invalid.

Initially, we decline to address Trevillion's ineffective-assistance argument in this direct appeal. See United States v. Hernandez, 281 F.3d 746, 749 (8th Cir. 2002) (generally, ineffective-assistance claim is not cognizable on direct appeal); see also United States v. Ramirez-Hernandez, 449 F.3d 824, 827 (8th Cir. 2006) (this court considers ineffective-assistance claims on direct appeal only where record has been fully developed, not acting would amount to plain miscarriage of justice, or counsel's error is readily apparent). Regarding the argument that there was an inadequate factual basis for Trevillion's plea as to the firearm offense, we conclude that the district court did not plainly err, as it was undisputed that Trevillion sold cocaine base and a handgun in simultaneous transactions. See United States v. Wroblewski, 816 F.3d 1021, 1024-25 (8th Cir. 2016) (standard of review; before entering judgment on guilty plea, district court must determine there is adequate factual basis for plea); United States v. Claude X, 648 F.3d 599, 603-04 (8th Cir. 2011) (discussing meaning of 18 U.S.C. § 924(c), setting forth firearm offense). Furthermore, because there was a factual basis for Trevillion's plea, and in light of statements he made at the plea hearing, we conclude that his guilty plea was knowing and voluntary. See United States v. Martinez-Cruz, 186 F.3d 1102, 1104 (8th Cir. 1999) (guilty plea must be knowing and voluntary); Nguyen v. United States, 114 F.3d 699, 703 (8th Cir. 1997) (defendant's statements made during plea hearing carry strong presumption of verity).

Finally, we have independently reviewed the record pursuant to Penson v. Ohio, 488 U.S. 75 (1988), and conclude there are no nonfrivolous issues. Accordingly, we affirm the judgment, and we grant counsel's motion to withdraw.