

United States Court of Appeals
For the Eighth Circuit

No. 18-3381

United States of America

Plaintiff - Appellee

v.

Edward D. McBrayer

Defendant - Appellant

Appeal from United States District Court
for the Western District of Missouri - Springfield

Submitted: May 6, 2019

Filed: May 10, 2019

[Unpublished]

Before BENTON, STRAS, and KOBES, Circuit Judges.

PER CURIAM.

Edward McBrayer pleaded guilty to being a felon in possession of a firearm and ammunition, 18 U.S.C. §§ 922(g)(1), 924(a)(2). The district court¹ sentenced him to a prison term below his advisory Sentencing Guidelines range. In an *Anders* brief, McBrayer’s counsel raises procedural error at sentencing and the substantive reasonableness of the sentence as potential issues on appeal and requests permission to withdraw. *See Anders v. California*, 386 U.S. 738 (1967).

We conclude that there was no procedural error. *See United States v. Feemster*, 572 F.3d 455, 461–62 (8th Cir. 2009) (en banc) (discussing appellate review of sentencing decisions). The district court correctly calculated McBrayer’s Guidelines range; adequately considered a host of relevant factors, including those that he had raised; and did not rely on clearly erroneous findings. *See id.* at 460 (listing potential procedural errors).

McBrayer’s sentence is also substantively reasonable. *See United States v. Black*, 670 F.3d 877, 882 (8th Cir. 2012) (stating that it is “nearly inconceivable” that a below-Guidelines-range sentence is substantively unreasonable (citation omitted)). The record establishes that the district court sufficiently considered the statutory factors, 18 U.S.C. § 3553(a), when it sentenced him. *See United States v. Wohlman*, 651 F.3d 878, 887 (8th Cir. 2011).

We have also independently reviewed the record under *Penson v. Ohio*, 488 U.S. 75 (1988), and conclude that there are no non-frivolous issues for appeal. Accordingly, we affirm the judgment and grant counsel permission to withdraw.

¹The Honorable M. Douglas Harpool, United States District Judge for the Western District of Missouri.