

United States Court of Appeals
For the Eighth Circuit

No. 19-1355

United States of America,

Plaintiff - Appellee,

v.

Eric Allen Boyer,

Defendant - Appellant.

Appeal from United States District Court
for the Northern District of Iowa - Cedar Rapids

Submitted: September 27, 2019

Filed: October 16, 2019

[Unpublished]

Before LOKEN, COLLOTON, and GRASZ, Circuit Judges.

PER CURIAM.

Eric Boyer appeals after he pleaded guilty to unlawful possession of a firearm as a convicted felon and was sentenced to a prison term within the advisory

sentencing guideline range. The district court¹ sentenced Boyer within the range, but stated that if the guideline calculations were erroneous, it would nevertheless impose the same sentence based on Boyer's history and characteristics. Boyer's counsel has moved to withdraw and has filed a brief under *Anders v. California*, 386 U.S. 738 (1967), arguing that the district court erred in concluding that one of Boyer's prior convictions qualified as a predicate offense for the purpose of increasing the base offense level, in determining the criminal-history score, and in denying his motion for a downward departure. Counsel further argues that the court's alternative sentence was substantively unreasonable.

We conclude that any error in calculating the guidelines range was harmless in light of the district court's statements at sentencing that it would have imposed the same sentence regardless of the advisory range. *See United States v. Davis*, 932 F.3d 1150, 1152-53 (8th Cir. 2019). We also conclude that the alternative sentence was not substantively unreasonable, given that the district court made an individualized assessment of sentencing factors based on the facts presented. *See United States v. Mangum*, 625 F.3d 466, 469-70 (8th Cir. 2010).

Finally, we have independently reviewed the record under *Penson v. Ohio*, 488 U.S. 75 (1988), and have found no non-frivolous issues for appeal. Accordingly, we grant counsel's motion to withdraw, and we affirm.

¹The Honorable Linda R. Reade, United States District Judge for the Northern District of Iowa.