

United States Court of Appeals
For the Eighth Circuit

No. 19-2214

United States of America

Plaintiff - Appellee

v.

Myles Schwitzer

Defendant - Appellant

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

Submitted: January 23, 2020

Filed: January 28, 2020

[Unpublished]

Before SHEPHERD, STRAS, and KOBES, Circuit Judges.

PER CURIAM.

Myles Schwitzer pleaded guilty to using a communication facility to commit a felony drug crime, 21 U.S.C. § 843(b), and received a within-Guidelines-range sentence of three years of probation. In an *Anders* brief, Schwitzer's counsel

identifies the substantive reasonableness of the sentence as an issue for us to consider on appeal. *See Anders v. California*, 386 U.S. 738 (1967).

We conclude that Schwitzer's sentence is substantively reasonable. *See United States v. Callaway*, 762 F.3d 754, 760 (8th Cir. 2014) (stating that a within-Guidelines-range sentence is presumptively reasonable). The record establishes that the district court¹ sufficiently considered the statutory sentencing factors, 18 U.S.C. § 3553(a), and did not rely on an improper factor or commit a clear error of judgment. *See United States v. Feemster*, 572 F.3d 455, 461 (8th Cir. 2009) (en banc).

We have also independently reviewed the record under *Penon v. Ohio*, 488 U.S. 75 (1988), and conclude that there are no non-frivolous issues for appeal. Accordingly, we affirm the judgment of the district court.

¹The Honorable C.J. Williams, United States District Judge for the Northern District of Iowa.