

United States Court of Appeals
For the Eighth Circuit

No. 19-2525

United States of America

Plaintiff - Appellee

v.

Manuel Sanchez

Defendant - Appellant

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

Submitted: March 23, 2020

Filed: March 26, 2020

[Unpublished]

Before GRUENDER, BEAM, and SHEPHERD, Circuit Judges.

PER CURIAM.

Manuel Sanchez appeals the sentence imposed by the district court¹ after a jury convicted him of a drug offense. His counsel has moved for leave to withdraw, and

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

has filed a brief under Anders v. California, 386 U.S. 738 (1967), arguing that the court erred in applying a sentencing enhancement for obstruction of justice based on his trial testimony. Sanchez has filed a motion for appointment of new counsel.

Upon careful review, we conclude that the district court properly found that the obstruction-of-justice enhancement was applicable to Sanchez, see U.S.S.G. § 3C1.1 comment. (n.2) (defendant's denial of guilt is ordinarily not a basis for obstruction enhancement, other than a denial under oath that constitutes perjury); and that any error in the court's determination was harmless in any event, as the court stated that it would sentence Sanchez as though he did not have the enhancement, and sentenced him within the Guidelines range calculated without the enhancement, see United States v. Shuler, 598 F.3d 444, 447 (8th Cir. 2010) (procedural errors in determining advisory Guidelines range are subject to harmless error analysis); United States v. Spikes, 543 F.3d 1021, 1025-26 (8th Cir. 2008) (where it is clear that sentencing court would have imposed same sentence regardless of whether appellant's argument for lower Guidelines range ultimately prevailed, there can be no reversible error in sentence).

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