

United States Court of Appeals
For the Eighth Circuit

No. 19-3135

United States of America

Plaintiff - Appellee

v.

Alejandro Jesus Rodriguez

Defendant - Appellant

Appeal from United States District Court
for the Southern District of Iowa - Des Moines

Submitted: May 8, 2020

Filed: May 13, 2020

[Unpublished]

Before KELLY, WOLLMAN, and STRAS, Circuit Judges.

PER CURIAM.

Alejandro Rodriguez pleaded guilty to possession with intent to distribute methamphetamine, 21 U.S.C. §§ 841(a)(1), (b)(1)(A), and received a within-Guidelines-range sentence of 235 months in prison. In an *Anders* brief, Rodriguez's counsel requests permission to withdraw and suggests that the sentence is

substantively unreasonable. *See Anders v. California*, 386 U.S. 738 (1967). In a pro se brief, Rodriguez argues that his sentence is unfair, primarily because another unnamed offender received a lower sentence than he did.

We conclude that Rodriguez’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).

Rodriguez’s pro se arguments also have no merit. He has not established a sentencing disparity, *see United States v. Carr*, 895 F.3d 1083, 1091 (8th Cir. 2018) (requiring the defendant to show a comparator with a similar record who engaged in similar conduct), and to the extent he argues that he received ineffective assistance of counsel during plea negotiations, we will not consider this issue now. *See United States v. Ramirez-Hernandez*, 449 F.3d 824, 826–27 (8th Cir. 2006) (explaining that ineffective-assistance-of-plea-counsel claims “are usually best litigated in collateral proceedings”).

Finally, we have independently reviewed the record under *Penon v. Ohio*, 488 U.S. 75, 82–83 (1988), and conclude that there are no other non-frivolous issues for appeal. Accordingly, we affirm the judgment and grant counsel permission to withdraw.

¹The Honorable James E. Gritzner, United States District Judge for the Southern District of Iowa.