

United States Court of Appeals
For the Eighth Circuit

No. 19-3506

United States of America

Plaintiff - Appellee

v.

Joshua Thomas Beach

Defendant - Appellant

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

Submitted: August 12, 2020
Filed: August 17, 2020
[Unpublished]

Before COLLOTON, WOLLMAN, and BENTON, Circuit Judges.

PER CURIAM.

Joshua Thomas Beach pled guilty to firearm and drug offenses. Having jurisdiction under 28 U.S.C. § 1291, this court affirms.

Counsel has filed a brief under *Anders v. California*, 386 U.S. 738 (1967), in which he seeks permission to withdraw and asserts the district court committed reversible error during the change-of-plea hearing. He also asserts Beach's sentence is substantively unreasonable.

This court concludes that the district court¹ did not abuse its discretion in sentencing Beach. The district court imposed a below-Guidelines sentence. *See United States v. McCauley*, 715 F.3d 1119, 1127 (8th Cir. 2013) (noting that when district court has varied below Guidelines range, it is "nearly inconceivable" that court abused its discretion in not varying downward further). The record reflects the district court properly considered the 18 U.S.C. § 3553(a) factors. *See United States v. Feemster*, 572 F.3d 455, 461-62 (8th Cir. 2009) (en banc) (appellate court first ensures no significant procedural error occurred, then considers substantive reasonableness of sentence under deferential abuse-of-discretion standard). To the extent Beach challenges the voluntariness of his guilty plea, this court concludes that his statements at the plea hearing establish the plea was knowing and voluntary. *See Nguyen v. United States*, 114 F.3d 699, 703 (8th Cir. 1997) (defendant's representations during plea-taking carry strong presumption of verity). The court has independently reviewed the record under *Penson v. Ohio*, 488 U.S. 75 (1988), and finds no nonfrivolous issues for appeal.

The judgment is affirmed. Counsel is granted leave to withdraw.

¹The Honorable Rebecca Goodgame Ebinger, United States District Judge for the Southern District of Iowa.