

United States Court of Appeals
For the Eighth Circuit

No. 21-2758

United States of America

Plaintiff - Appellee

v.

Michael Shawn McGuire

Defendant - Appellant

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

Submitted: May 16, 2022

Filed: May 19, 2022

[Unpublished]

Before SHEPHERD, STRAS, and KOBES, Circuit Judges.

PER CURIAM.

Michael McGuire received a 120-month prison sentence after he pleaded guilty to four counts of cyberstalking. *See* 18 U.S.C. § 2261A(2). An *Anders* brief suggests that the sentence is substantively unreasonable and that he should not have received a fine. *See Anders v. California*, 386 U.S. 738 (1967). A pro se supplemental brief raises two other issues.

Neither the sentence nor the fine poses a problem. 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, 461–62 (8th Cir. 2009) (en banc). The record further establishes that the district court did not clearly err when it found that McGuire was “able to pay [the] fine.” *United States v. Allmon*, 500 F.3d 800, 807 (8th Cir. 2007) (quoting U.S.S.G. § 5E1.2(a)).

McGuire’s pro se arguments fare no better. He forfeited his double-jeopardy argument when he pleaded guilty, *see United States v. Broce*, 488 U.S. 563, 571 (1989); and there has been no impermissible double counting, *see United States v. Jones*, 951 F.3d 918, 919–20 (8th Cir. 2020).

Finally, we have independently reviewed the record and conclude that no other non-frivolous issues exist. *See Penson v. Ohio*, 488 U.S. 75, 82–83 (1988). We accordingly affirm the judgment of the district court and grant counsel permission to withdraw.

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