

United States Court of Appeals
For the Eighth Circuit

No. 22-2113

United States of America,

Plaintiff - Appellee,

v.

Dana Ray Day, Jr.,

Defendant - Appellant.

Appeal from United States District Court
for the Western District of Missouri - Jefferson City

Submitted: November 30, 2022

Filed: December 5, 2022

[Unpublished]

Before COLLTON, GRUENDER, and GRASZ, Circuit Judges.

PER CURIAM.

Dana Day, Jr. appeals after a jury found him guilty of a firearm offense, and the district court¹ sentenced him to 120 months in prison. His counsel has moved to

¹The Honorable Stephen R. Bough, United States District Judge for the Western District of Missouri.

withdraw and filed a brief under *Anders v. California*, 386 U.S. 738 (1967), challenging the admission of certain evidence at trial and the reasonableness of the sentence.

We conclude that the district court did not abuse its discretion in admitting photographs of the firearm and its markings, which showed where it was manufactured, *see United States v. Buchanan*, 604 F.3d 517, 521-23 (8th Cir. 2010); *United States v. Stockton*, 968 F.2d 715, 719 (8th Cir. 1992), or the investigator's expert testimony as to the firearm markings, *see Fed. R. Evid. 703*; *United States v. Carter*, 270 F.3d 731, 735 (8th Cir. 2001); *United States v. Thody*, 978 F.2d 625, 630-31 (10th Cir. 1992). In any event, the investigator confirmed through independent evidence that the gun had been in interstate commerce. *See Buchanan*, 604 F.3d at 523-24.

Day's sentence was not unreasonable, as there is no indication that the court overlooked a relevant factor, gave significant weight to an improper or irrelevant factor, or committed a clear error of judgment in weighing the relevant factors. *See United States v. Feemster*, 572 F.3d 455, 461-62 (8th Cir. 2009) (en banc); *see also United States v. Callaway*, 762 F.3d 754, 760 (8th Cir. 2014).

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