

United States Court of Appeals
For the Eighth Circuit

No. 22-2534

United States of America

Plaintiff - Appellee

v.

Demetrius Demarco Spencer

Defendant - Appellant

Appeal from United States District Court
for the District of Minnesota

Submitted: November 29, 2022

Filed: December 2, 2022

[Unpublished]

Before COLLOTON, GRUENDER, and GRASZ, Circuit Judges.

PER CURIAM.

Demetrius Spencer appeals the sentence imposed by the district court¹ after a jury convicted him of a firearm offense. Spencer's counsel has moved for leave to

¹The Honorable Eric C. Tostrud, United States District Judge for the District of Minnesota.

withdraw, and has filed a brief under *Anders v. California*, 386 U.S. 738 (1967), challenging the sentence.

Upon careful review, we conclude the district court correctly calculated Spencer's United States Sentencing Guidelines Manual ("Guidelines") offense level, *see United States v. Turner*, 781 F.3d 374, 393 (8th Cir. 2015) (reviewing de novo construction and application of the Guidelines), as the district court's finding that the firearm was used in connection with another felony offense was supported by the trial evidence, *see United States v. Carothers*, 337 F.3d 1017, 1019 (8th Cir. 2003) (noting district court's credibility determinations are virtually unreviewable on appeal).

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