

United States Court of Appeals
For the Eighth Circuit

No. 22-3327

United States of America

Plaintiff - Appellee

v.

Colique Depree Brown

Defendant - Appellant

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

Submitted: May 2, 2023

Filed: May 5, 2023

[Unpublished]

Before LOKEN, COLLOTON, and BENTON, Circuit Judges.

PER CURIAM.

Colique Brown appeals the sentence the district court¹ imposed after he pleaded guilty to a firearm offense. His counsel has moved to withdraw and has filed a brief

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

under Anders v. California, 386 U.S. 738 (1967), challenging two sentencing enhancements and the substantive reasonableness of the sentence.

On de novo review, see United States v. Nyah, 35 F.4th 1100, 1109 (8th Cir.), cert. denied, 143 S. Ct. 389 (2022), we conclude the district court did not err by applying a four-level enhancement under U.S.S.G. § 2K2.1(b)(6)(B) for possessing the firearm in connection with another felony offense, specifically Interference with Official Acts with a Firearm under Iowa Code § 719.1(1)(a), (f). Although Brown contends otherwise, the record demonstrates the officers acted within the scope of their lawful duty or authority. See Arizona v. Johnson, 555 U.S. 323, 327 (2009); Nyah, 35 F.4th at 1104, 1106; State v. McIver, 858 N.W.2d 699, 702 (Iowa 2015). We also conclude the obstruction-of-justice enhancement was proper. See U.S.S.G. § 3C1.1 & comment. n.4(D). The court did not clearly err by discrediting Brown's version of events, see United States v. Wahlstrom, 588 F.3d 538, 542-43 (8th Cir. 2009), and Brown's conduct was not contemporaneous with his arrest, see United States v. Lamere, 980 F.2d 506, 509, 515 n.6 (8th Cir. 1992). Finally, on abuse-of-discretion review, we conclude the court did not impose a substantively unreasonable sentence. The court properly considered the factors set forth in 18 U.S.C. § 3553(a), and 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 relevant factors. See United States v. Feemster, 572 F.3d 455, 461-62, 464 (8th Cir. 2009) (en banc). Finally, we have independently reviewed the record under Penson v. Ohio, 488 U.S. 75 (1988), and have found no non-frivolous issues for appeal.

Accordingly, we affirm the judgment, and we grant counsel's motion to withdraw.