

United States Court of Appeals
For the Eighth Circuit

No. 23-1409

United States of America

Plaintiff - Appellee

v.

Robert Clay Smith

Defendant - Appellant

Appeal from United States District Court
for the Western District of Arkansas - Fayetteville

Submitted: October 18, 2023

Filed: October 30, 2023

[Unpublished]

Before LOKEN, COLLOTON, and GRUENDER, Circuit Judges.

PER CURIAM.

Robert Smith appeals after he pleaded guilty to conspiring to defraud the United States. His counsel has moved to withdraw, and has filed a brief under Anders

v. California, 386 U.S. 738 (1967), raising challenges to the district court's¹ denial of his motion to withdraw his guilty plea and the substantive reasonableness of the sentence.

Upon careful review, we conclude that the district court did not abuse its discretion in denying Smith's motion to withdraw his guilty plea. See United States v. Watson, 883 F.3d 1033, 1037 (8th Cir. 2018). While Smith argued that he would not have pleaded guilty but for his prior counsel's ineffective assistance, he testified that he was satisfied with his counsel's performance during the plea hearing. See United States v. Trevino, 829 F.3d 668, 672 (8th Cir. 2016). Further, his statements during the plea hearing demonstrate that his guilty plea was made knowingly and voluntarily. See United States v. McHenry, 849 F.3d 699, 706 (8th Cir. 2017); United States v. Smith, 422 F.3d 715, 724 (8th Cir. 2005); Voytik v. United States, 778 F.2d 1306, 1308 (8th Cir. 1985). We also agree with the district court that there was an adequate factual basis for the plea. See United States v. Cheney, 571 F.3d 764, 769 (8th Cir. 2009). As to the reasonableness of the sentence, we conclude that the district court did not err in imposing the within-Guidelines sentence that Smith received. See United States v. Callaway, 762 F.3d 754, 760 (8th Cir. 2014); United States v. Feemster, 572 F.3d 455, 461 (8th Cir. 2009) (en banc).

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

¹The Honorable Timothy L. Brooks, United States District Judge for the Western District of Arkansas.