

United States Court of Appeals  
For the Eighth Circuit

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No. 23-3384

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United States of America

*Plaintiff - Appellee*

v.

Ahmed Abdullahi Khalif, also known as Mohamed Abdulah Khalif

*Defendant - Appellant*

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

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Submitted: March 21, 2024

Filed: April 9, 2024

[Unpublished]

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Before SHEPHERD, KELLY, and KOBES, Circuit Judges.

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PER CURIAM.

Ahmed Abdullahi Khalif appeals after he pleaded guilty to a firearm offense, and the district court<sup>1</sup> imposed an above-Guidelines-range sentence. His counsel has

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<sup>1</sup>The Honorable Leonard T. Strand, United States District Judge for the Northern District of Iowa.

moved to withdraw, and has filed a brief under Anders v. California, 386 U.S. 738 (1967), challenging a relevant-conduct determination that resulted in the assessment of two criminal history points.

After careful review, we conclude the district court did not clearly err in determining that the prior conviction was not relevant conduct and thus constituted a prior offense for purposes of USSG § 4A1.1. See United States v. Soto, 62 F.4th 430, 432 (8th Cir. 2023) (standard of review); United States v. Smith, 944 F.3d 1013, 1016 (8th Cir. 2019) (factors this court considers in determining whether prior conviction was for relevant conduct). In any event, we conclude that any error was harmless, because the district court made clear that it found the Guidelines range inadequate to account for certain aggravating 18 U.S.C. § 3553(a) factors, and would have imposed the same sentence even had it sustained Khalif's objection to the relevant-conduct determination. See United States v. Shuler, 598 F.3d 444, 447 (8th Cir. 2010) (procedural errors in determining Guidelines range are subject to harmless error analysis); see also United States v. Martinez, 821 F.3d 984, 988-89 (8th Cir. 2016) (incorrect application of Guidelines is harmless error where district court specified that resolution of particular issue did not affect ultimate sentence determination).

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