

United States Court of Appeals
For the Eighth Circuit

No. 24-1408

United States of America

Plaintiff - Appellee

v.

Kevin Cunningham

Defendant - Appellant

Appeal from United States District Court
for the Eastern District of Missouri - St. Louis

Submitted: September 12, 2024

Filed: September 17, 2024

[Unpublished]

Before BENTON, KELLY, and ERICKSON, Circuit Judges.

PER CURIAM.

After this court vacated Kevin Cunningham's sentence for a drug conspiracy offense and remanded for resentencing, the district court¹ imposed a sentence of 60

¹The Honorable Henry E. Autrey, United States District Judge for the Eastern District of Missouri.

months in prison to be served consecutively to the undischarged sentence imposed in a separate federal case. Cunningham appeals, and his counsel has moved to withdraw and has filed a brief under Anders v. California, 386 U.S. 738 (1967), arguing that the district court's decision to impose a consecutive sentence resulted in a substantively unreasonable sentence. Cunningham has filed a supplemental brief also challenging his sentence.

Upon careful review, we conclude the district court did not abuse its discretion in imposing a consecutive sentence. See United States v. Nelson, 982 F.3d 1141, 1146 (8th Cir. 2020) (standard of review). The court considered the factors listed in 18 U.S.C. § 3553(a), the record, and Cunningham's argument in favor of a concurrent sentence; and the court did not err in weighing the relevant factors. See United States v. Feemster, 572 F.3d 455, 461 (8th Cir. 2009) (en banc) (district court abuses its discretion when it considers relevant factor that should have received significant weight, gives significant weight to improper or irrelevant factor, or commits clear error of judgment in weighing appropriate factors); see also 18 U.S.C. § 3584 (district court may impose concurrent or consecutive sentences and shall consider § 3553(a) factors). Accordingly, we grant counsel leave to withdraw and affirm.
