

United States Court of Appeals
For the Eighth Circuit

No. 24-2349

United States of America

Plaintiff - Appellee

v.

James Edward Hawkins, Jr.

Defendant - Appellant

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

Submitted: October 24, 2024

Filed: October 29, 2024

Before LOKEN, SMITH, and KOBES, Circuit Judges.

PER CURIAM.

James Hawkins, Jr., appeals the within-Guidelines sentence the district court¹ imposed after he pled guilty to escaping from custody. His counsel has moved for leave to withdraw, and has filed a brief under Anders v. California, 386 U.S. 738

¹The Honorable Stephanie M. Rose, Chief Judge, United States District Court for the Southern District of Iowa.

(1967), arguing his sentence was substantively unreasonable and that the district court plainly erred in calculating Hawkins's criminal history.

Upon careful review, we conclude that the district court did not abuse its discretion in sentencing Hawkins, as it properly considered the 18 U.S.C. § 3553(a) factors; there was no indication that it overlooked a relevant factor, or committed a clear error of judgment in weighing relevant factors; and the sentence was within the advisory Guidelines range. See United States v. Feemster, 572 F.3d 455, 461 (8th Cir. 2009) (en banc) (standard of review); United States v. Anderson, 90 F.4th 1226, 1227 (8th Cir. 2024) (district court has wide latitude in weighing relevant factors); United States v. Miner, 544 F.3d 930, 932 (8th Cir. 2008) (appellate court may presume sentence within properly calculated guidelines range is reasonable).

As to Hawkins's argument that his criminal history should have been reduced by 1 point, he did not raise this issue below, and we conclude that the district court did not plainly err because Hawkins would remain in the same criminal history category with a 1-point reduction, and thus the difference did not affect his substantial rights. See United States v. Strubberg, 929 F.3d 969, 978 (8th Cir. 2019) (unobjected-to error is reviewed for plain error; to prevail, defendant must show that error affected his substantial rights); Molina-Martinez v. United States, 578 U.S. 189, 194, 198 (2016) (plain error requires, inter alia, defendant to show reasonable probability that outcome of proceeding would have been different).

Having independently reviewed the record pursuant to Penson v. Ohio, 488 U.S. 75 (1988), we find no non-frivolous issues for appeal. Accordingly, we affirm and grant counsel's motion to withdraw.