

United States Court of Appeals
For the Eighth Circuit

No. 24-2586

United States of America

Plaintiff - Appellee

v.

Dewayne Baker, also known as Wolf

Defendant - Appellant

Appeal from United States District Court
for the Eastern District of Arkansas - Central

Submitted: November 5, 2024

Filed: November 8, 2024

[Unpublished]

Before GRUENDER, BENTON, and GRASZ, Circuit Judges.

PER CURIAM.

Dewayne Baker appeals the above-Guidelines sentence the district court¹ imposed after he pled guilty to possession of a firearm in furtherance of a federal

¹The Honorable James M. Moody Jr., United States District Judge for the Eastern District of Arkansas.

drug trafficking crime. Having jurisdiction under 28 U.S.C. § 1291, this court affirms.

Counsel moved for leave to withdraw and filed a brief under *Anders v. California*, 386 U.S. 738 (1967), arguing that the sentence was substantively unreasonable. Upon careful review, this court first determines that the appeal is outside the scope of the appeal waiver in the written plea agreement. *See United States v. Scott*, 627 F.3d 702, 704 (8th Cir. 2010) (de novo review of appeal waiver). Next, this court concludes that the district court did not impose a substantively unreasonable sentence, 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 upward variance was based on an individualized assessment of the facts. *See United States v. Feemster*, 572 F.3d 455, 461 (8th Cir. 2009) (en banc) (abuse of discretion 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. Mangum*, 625 F.3d 466, 469-70 (8th Cir. 2010) (upward variance reasonable where court makes individualized assessment based on facts presented).

Having independently reviewed the record pursuant to *Penson v. Ohio*, 488 U.S. 75 (1988), this court finds no non-frivolous issues for appeal.

The judgment is affirmed and counsel's motion to withdraw is granted.
