

United States Court of Appeals
For the Eighth Circuit

No. 24-1883

United States of America

Plaintiff - Appellee

v.

Michael Sean Russell

Defendant - Appellant

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

Submitted: November 26, 2024

Filed: December 6, 2024

[Unpublished]

Before BENTON, SHEPHERD, and KELLY, Circuit Judges.

PER CURIAM.

Michael Russell appeals the district court's¹ denial of his motion to withdraw his guilty plea and the substantive reasonableness of the below-Guidelines sentence the district court imposed after he pled guilty to a firearms offense and a drug

¹The Honorable Stephen H. Locher, United States District Judge for the Southern District of Iowa.

offense. Having jurisdiction under 28 U.S.C. § 1291, this court dismisses the appeal of the denial of the motion to withdraw the guilty plea based on the appeal waiver, and affirms the sentence.

Counsel has moved for leave to withdraw and filed a brief under *Anders v. California*, 386 U.S. 738 (1967), arguing that the district court erred in denying the motion to withdraw the plea and challenging the sentence as substantively unreasonable. Upon careful review, this court determines that the motion to withdraw the plea falls within the scope of the appeal waiver. 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. The district court properly considered the 18 U.S.C. § 3553(a) factors, there is no indication that it overlooked a relevant factor or committed a clear error of judgment in weighing relevant factors, and the sentence was below the advisory Guidelines range. 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. McCauley*, 715 F.3d 1119, 1127 (8th Cir. 2013) (when district court varies below Guidelines range, it is “nearly inconceivable” that court abused its discretion in not varying further). 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 appeal is dismissed in part and affirmed in part, and counsel’s motion to withdraw is granted.
