United States Court of Appeals
For the Eighth Circuit

No. 13-3422

United States of America

Plaintiff - Appellee

v.

Ceneca Romale Johnson, also known as Ceneca Ronele Johnson

Defendant - Appellant

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

Submitted: June 17, 2014
Filed: June 20, 2014
[Unpublished]

Before LOKEN, MURPHY, and SMITH, Circuit Judges.

PER CURIAM.

Ceneca Johnson appeals the sentence that the district court[1] imposed on him after he pleaded guilty to bank robbery, in violation of 18 U.S.C. § 2113(a) and (d).

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[1]The Honorable John A. Jarvey, United States District Judge for the Southern District of Iowa.

Johnson's counsel has moved to withdraw, and in a brief filed under Anders v. California, 386 U.S. 738 (1967), counsel argues that the court abused its discretion by denying Johnson's motion to withdraw his guilty plea, by imposing an unreasonable sentence, and by imposing a condition of supervised release requiring Johnson to submit to warrantless searches. Johnson joins in some of these arguments in his pro se brief, and adds arguments that he suffered prosecutorial misconduct and violations of double jeopardy, and the court miscalculated his Guidelines range. He moves for new counsel.

The foregoing arguments fail. First, the court did not abuse its discretion by denying Johnson's motion, filed before sentencing, to withdraw his guilty plea. We agree with the court that Johnson failed to carry his burden of demonstrating that he had a fair and just reason to withdraw his plea. See Fed. R. Crim. P. 11(d)(2)(B); United States v. Yell, 18 F.3d 581, 582 (8th Cir. 1994) (standard of review); United States v. Bahena, 223 F.3d 797, 806-07 (8th Cir. 2000). Johnson's valid guilty plea forecloses any challenge in this appeal to pre-plea, non-jurisdictional issues, and we conclude that any surviving claims regarding prosecutorial misconduct and double jeopardy are meritless and do not require discussion. See United States v. Broce, 488 U.S. 563, 569, 575 (1989); United States v. White, 724 F.2d 714, 716-17 (8th Cir. 1984) (per curiam).

As to Johnson's sentence, see United States v. Feemster, 572 F.3d 455, 461 (8th Cir. 2009) (en banc) (appellate review of sentences), the district court properly determined that Johnson was a career offender, see U.S.S.G. § 4B1.1(a); United States v. Clarke, 564 F.3d 949, 955 (8th Cir. 2009) (de novo review), and did not impose an unreasonable sentence by varying upward after providing multiple reasons for doing so based on specified sentencing factors in 18 U.S.C. § 3553(a), see United States v. White Twin, 682 F.3d 773, 778 (8th Cir. 2012); United States v. Mangum, 625 F.3d 466, 470 (8th Cir. 2010); United States v. Gatewood, 438 F.3d 894, 896 (8th Cir. 2006). The court also did not abuse its discretion by imposing the special

supervised-release condition, in light of Johnson's criminal history. See 18 U.S.C. § 3583(d)(1)-(3); United States v. Simons, 614 F.3d 475, 478-79 (8th Cir. 2010) (standard of review).

Having independently reviewed the record under Penson v. Ohio, 488 U.S. 75 (1988), we find no nonfrivolous issues for appeal. Accordingly, we deny Johnson's pro se motion for new counsel, and we affirm. We also grant counsel's motion to withdraw, subject to counsel informing Johnson about procedures for seeking rehearing or filing a petition for certiorari.
