

United States Court of Appeals
For the Eighth Circuit

No. 14-2945

United States of America

Plaintiff - Appellee

v.

Tina L. Kuehl

Defendant - Appellant

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

Submitted: February 13, 2015

Filed: February 20, 2015

[Unpublished]

Before MURPHY, BOWMAN, and SHEPHERD, Circuit Judges.

PER CURIAM.

Tina Kuehl appeals the within-Guidelines-range sentence the district court¹ imposed after she pled guilty to bank fraud and other offenses. Her counsel has

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

moved to withdraw, and has filed a brief under Anders v. California, 386 U.S. 738 (1967), arguing that the district court abused its discretion by failing to give adequate consideration to Kuehl’s medical issues as a basis for a downward variance. Upon careful review, we conclude that the district court did not abuse its discretion in sentencing Kuehl. See United States v. Wanna, 744 F.3d 584, 589 (8th Cir.) (concluding that district court did not abuse its discretion in declining to vary downward based on defendant’s “myriad health problems” and sentencing her to bottom of her advisory Guidelines range), cert. denied, 135 S. Ct. 125 (2014); cf. United States v. Krzyzaniak, 702 F.3d 1082, 1085-86 (8th Cir. 2013) (with respect to adequacy of district court’s explanation for sentence, finding no error, much less plain error, where court acknowledged defendant’s poor health, but explained that lower sentence was not warranted). In addition, having independently reviewed the record consistent with Penson v. Ohio, 488 U.S. 75 (1988), we have found no nonfrivolous issues. Accordingly, we affirm the judgment of the district court.

As for counsel’s motion to withdraw, we conclude that allowing counsel to withdraw at this time would not be consistent with the Eighth Circuit’s 1994 Amendment to Part V of the Plan to Implement The Criminal Justice Act of 1964. We therefore deny counsel’s motion to withdraw as premature, without prejudice to counsel refiling the motion upon fulfilling the duties set forth in the Amendment.