

United States Court of Appeals
For the Eighth Circuit

No. 16-4124

United States of America

Plaintiff - Appellee

v.

Michael Charles Garreans

Defendant - Appellant

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

Submitted: June 15, 2017

Filed: June 20, 2017

Before LOKEN, ARNOLD, and MURPHY, Circuit Judges.

PER CURIAM.

Michael Charles Garreans directly appeals the below-Guidelines-range sentence imposed by the district court¹ after he pleaded guilty to possessing child pornography, in violation of 18 U.S.C. § 2252(a)(4)(B). Garreans's counsel has

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

moved to withdraw, and has filed a brief under Anders v. California, 386 U.S. 738 (1967), challenging the sentence as substantively unreasonable.

Counsel's argument fails. Upon review of the sentencing transcript, we conclude that the district court's carefully considered sentence was not an abuse of discretion. See 18 U.S.C. § 3553(a); United States v. Feemster, 572 F.3d 455, 461-62 (8th Cir. 2009) (en banc) (standard of review); United States v. Stults, 575 F.3d 834, 849 (8th Cir. 2009) (where court makes individualized assessment based on facts presented, addressing proffered information in consideration of § 3553(a) factors, sentence is not unreasonable); United States v. Lazarski, 560 F.3d 731, 733-34 (8th Cir. 2009) (where court varied downward from Guidelines range, it is "nearly inconceivable" that it abused its discretion in not varying downward further still).

Further, having independently reviewed the record under Penson v. Ohio, 488 U.S. 75 (1988), we find no nonfrivolous issues for appeal. We note, however, that the amended judgment incorrectly cites "18 U.S.C. § 2252A(a)(4)(B)" (prohibiting sale of, or possession with intent to sell, child pornography) as the offense of conviction, and thus we modify the judgment to substitute "18 U.S.C. § 2252(a)(4)(B)" for "18 U.S.C. § 2252A(a)(4)(B)." See 28 U.S.C. § 2106 (appellate court may modify any judgment brought before it for review).

Accordingly, we grant counsel's motion to withdraw, and we affirm the judgment, as modified.
