

United States Court of Appeals
For the Eighth Circuit

No. 16-4238

United States of America

Plaintiff - Appellee

v.

Zibo Li

Defendant - Appellant

Appeal from United States District Court
for the District of Minnesota - St. Paul

Submitted: September 29, 2017

Filed: October 4, 2017

[Unpublished]

Before GRUENDER, BENTON, and KELLY, Circuit Judges.

PER CURIAM.

Zibo Li was found guilty by a jury of conspiracy to traffic in unauthorized access devices, in violation of 18 U.S.C. § 371, and two counts of possessing unauthorized access devices, in violation of 18 U.S.C. § 1029(a)(3), (c)(1)(A)(i). Counsel appeals in a brief filed under *Anders v. California*, 386 U.S. 738 (1967), challenging the sufficiency of the evidence and the constitutionality of the sentence

imposed by the district court.¹ Having jurisdiction under 28 U.S.C. § 1291, this court affirms.

The evidence at trial included the testimony of cooperating witnesses who participated at various levels in a scheme that involved selling fraudulently obtained cellular telephones for a profit. Testimony established that law enforcement officials searched Li's home and seized unauthorized access devices and other incriminating evidence after intercepting boxes containing fraudulently obtained cellular telephones sent by Li from Minnesota bound for Hong Kong. This evidence was sufficient to support the jury verdict, notwithstanding Li's denial of knowledge of the fraudulent means used by others to obtain the cellular telephones. *See* 18 U.S.C. § 1029(a)(3) (possession of unauthorized access devices); *United States v. Jenkins-Watts*, 574 F.3d 950, 959-60 (8th Cir. 2009) (standard of review and required proof for conspiracy conviction). Li's due process rights were not violated by the district court's application of a preponderance-of-the-evidence standard in sentence enhancements. *See United States v. Mustafa*, 695 F.3d 860, 862 (8th Cir. 2012) (per curiam).

This court finds no nonfrivolous issues after reviewing the record in accordance with *Penson v. Ohio*, 488 U.S. 75, 80 (1988).

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

¹The Honorable David S. Doty, United States District Judge for the District of Minnesota.