United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 08-2340

United States of America,	*	
	*	
Appellee,	*	
	*	Appeal from the United States
v.	*	District Court for the
	*	District of South Dakota.
Keith E. Hawkman,	*	
	*	[UNPUBLISHED]
Appellant.	*	

Submitted: January 21, 2010
Filed: February 1, 2010

Before WOLLMAN, RILEY, and SMITH, Circuit Judges.

PER CURIAM.

A jury found Keith Hawkman guilty of engaging in a sexual act with a person who was unable to comprehend or resist the sexual act, in violation of 18 U.S.C. §§ 1153, 2242(2), and 2246(2)(A). The district court[1] sentenced him to 210 months in prison. Hawkman appeals. His counsel has filed a brief under Anders v. California, 386 U.S. 738 (1967), requesting leave to withdraw and arguing that Hawkman's sentence is excessive.

[1]The Honorable Karen E. Schreier, Chief Judge, United States District Court for the District of South Dakota.

We hold that the district court did not abuse its discretion in imposing Hawkman's sentence at the bottom of the Guidelines range, as the court did not commit procedural error, and the sentence is substantively reasonable. See United States v. Feemster, 572 F.3d 455, 461 (8th Cir. 2009) (en banc) (listing factors that constitute abuse of discretion; citing Gall v. United States, 552 U.S. 38, 51 (2007)). The court properly calculated the Guidelines range, considered the sentencing factors set out in 18 U.S.C. § 3553(a), specifically discussed Hawkman's drinking and the victims of his crimes, and noted his positive behavior on pretrial detention and the serious nature of his crime. See United States v. Stults, 575 F.3d 834, 849 (8th Cir. 2009) (where record reflects district court made individualized assessment based on facts presented, specifically addressing defendant's proffered information in its consideration of sentencing factors, sentence is not unreasonable), petition for cert. filed, (U.S. Dec. 11, 2009) (No. 09-8153); United States v. Sicaros-Quintero, 557 F.3d 579, 583 (8th Cir. 2009) (according presumption of reasonableness to sentence at bottom of Guidelines range).

After reviewing the record independently under Penson v. Ohio, 488 U.S. 75 (1988), we have found no nonfrivolous issues for appeal. Accordingly, the judgment is affirmed, and counsel is granted leave to withdraw.
