

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 10-3271

United States of America,

Appellee,

v.

Elmer Hernandez-Figueroa,

Appellant.

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Appeal from the United States
District Court for the
Northern District of Iowa.

[UNPUBLISHED]

Submitted: February 1, 2011

Filed: February 8, 2011

Before MELLOY, GRUENDER, and BENTON, Circuit Judges.

PER CURIAM.

Elmer Hernandez-Figueroa pleaded guilty to being found in the United States after having been removed subsequent to attaining felony convictions, in violation of 8 U.S.C. § 1326(a), (b)(1). The district court¹ sentenced him to 57 months in prison (the bottom of the applicable Guidelines range), and he appeals. His counsel has moved to withdraw and filed a brief under Anders v. California, 386 U.S. 738 (1967), arguing that the sentence was unreasonable and that the court should have varied

¹The Honorable Linda R. Reade, Chief Judge, United States District Court for the Northern District of Iowa.

downward. Hernandez-Figueroa has filed a pro se supplemental brief asserting that his family circumstances warranted a lower sentence.

We conclude that the district court took into account all the relevant sentencing factors, committed no procedural error, and imposed a substantively reasonable sentence. See Gall v. United States, 552 U.S. 38, 51 (2007) (in reviewing sentence, appellate court first ensures that district court committed no significant procedural error, and then considers substantive reasonableness of sentence under abuse-of-discretion standard); United States v. Haack, 403 F.3d 997, 1004 (8th Cir. 2005) (describing abuse of discretion).

Having reviewed the record under Penson v. Ohio, 488 U.S. 75 (1988), we find no nonfrivolous issues. Accordingly, we grant counsel's motion to withdraw, and we affirm.
