

United States Court of Appeals  
For the Eighth Circuit

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No. 12-1907

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United States of America

*Plaintiff - Appellee*

v.

Jose Domingo Garcia

*Defendant - Appellant*

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Appeal from United States District Court  
for the Eastern District of Arkansas - Little Rock

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Submitted: October 4, 2012

Filed: October 11, 2012

[Unpublished]

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Before MURPHY, ARNOLD, and SMITH, Circuit Judges.

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PER CURIAM.

After Jose Garcia pleaded guilty to conspiring to possess and distribute more than 500 grams of a mixture or substance containing methamphetamine, the district

court<sup>1</sup> sentenced him to 135 months in prison and 5 years of supervised release. On appeal, counsel has filed a brief under Anders v. California, 386 U.S. 738 (1967), arguing that the sentence is unreasonable.

The district court did not abuse its discretion in sentencing Mr. Garcia. We find nothing in the record indicating that the court committed any procedural error, and Mr. Garcia's sentence is not substantively unreasonable. See United States v. Feemster, 572 F.3d 455, 460-62 (8th Cir. 2009) (en banc). Although the sentence is more severe than those received by Mr. Garcia's co-defendants, the district court considered the reasons for the lower sentences imposed on the co-defendants, and articulated a detailed and reasonable basis for its choice of sentence in Mr. Garcia's case--a sentence at the bottom of the advisory Guidelines range. The court expressed concern over, among other things, the severity of the offense and the need to provide an adequate deterrent effect. See id. at 461 (court abuses discretion when it fails to consider relevant factor, gives significant weight to irrelevant or improper factor, or considers appropriate factors but commits clear error of judgment in weighing factors; if sentence is within Guidelines range, appellate court may apply presumption of reasonableness).

Finally, having reviewed the record independently under Penson v. Ohio, 488 U.S. 75 (1988), we find no nonfrivolous issues for review. Accordingly, we affirm the judgment of the district court.

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<sup>1</sup>The Honorable Susan Webber Wright, United States District Judge for the Eastern District of Arkansas.