United States Court of Appeals
For the Eighth Circuit

No. 13-1478

United States of America

Plaintiff - Appellee

v.

T. Wayne Allen, Sr.

Defendant - Appellant

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

Submitted: November 1, 2013
Filed: November 6, 2013 (Corrected November 6, 2013)
[Unpublished]

Before MURPHY, COLLOTON, and GRUENDER, Circuit Judges.

PER CURIAM.

T. Wayne Allen pleaded guilty to being a felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1). After finding that Allen was an armed career

criminal (ACC), and in accordance with the written plea agreement, the district court[1] sentenced him to 180 months in prison and 4 years of supervised release. On appeal, Allen's counsel has moved to withdraw and has filed a brief under Anders v. California, 386 U.S. 738 (1967), arguing that the court erred in finding that Allen was the person who committed the ACC predicate offenses.

After reviewing the evidence presented at the sentencing hearing, we conclude that the district court did not clearly err in finding that Allen was the person convicted of the Nevada robbery convictions at issue. See United States v. Urbina-Mejia, 450 F.3d 838, 839 (8th Cir. 2006) (court did not clearly err in finding that defendant had prior conviction based on data from National Crime Information Center (NCIC) and testimony of probation officer, where defendant provided no evidence that NCIC report was unreliable). Accordingly, the district court properly sentenced him as an ACC. See 18 U.S.C. § 924(e)(1) (ACC status applies to person who violates § 922(g) and has three previous convictions for violent felony or serious drug offense). Further, having reviewed the record pursuant to Penson v. Ohio, 488 U.S. 75, 80 (1988), we find no nonfrivolous issues.

Accordingly, we affirm the judgment of the district court, and we grant counsel's motion to withdraw, subject to counsel informing Allen about procedures for seeking rehearing or filing a petition for certiorari.

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[1]The Honorable James E. Gritzner, Chief Judge, United States District Court for the Southern District of Iowa.