## United States Court of Appeals For the Eighth Circuit

No. 13-1917

United States of America

Plaintiff - Appellee

v.

Efrain Orozco

Defendant - Appellant

Appeal from United States District Court for the Western District of Missouri - Springfield

> Submitted: October 7, 2013 Filed: October 11, 2013 [Unpublished]

Before BENTON, BEAM, and MELLOY, Circuit Judges.

PER CURIAM.

In 2011, a jury found Efrain Orozco guilty of possessing with intent to distribute 500 grams or more of a mixture containing cocaine, and possessing with intent to distribute 50 grams or more of a mixture containing cocaine base. He

appeals the 120-month prison sentence that the district court<sup>1</sup> imposed after this court affirmed his conviction, but remanded for resentencing in light of <u>Dorsey v. United</u> <u>States</u>, 132 S. Ct. 2321 (2012). Counsel has requested leave to withdraw and has filed a brief under <u>Anders v. California</u>, 386 U.S. 738 (1967), arguing that the district court abused its discretion in failing to grant a greater downward variance based on Orozco's extraordinary family responsibilities.<sup>2</sup> We conclude, however, that the sentence imposed was not substantively unreasonable. <u>See United States v. Feemster</u>, 572 F.3d 455, 461 (8th Cir. 2009) (en banc) (standard of review); <u>see also United States v. Kendall</u>, 475 F.3d 961, 963-64 (8th Cir. 2007) (discussing resentencing upon remand). Further, having reviewed the record under <u>Penson v. Ohio</u>, 488 U.S. 75, 80 (1988), we find no nonfrivolous issues. Accordingly, we affirm the judgment, and we grant counsel leave to withdraw.

<sup>&</sup>lt;sup>1</sup>The Honorable Greg Kays, United States District Judge for the Western District of Missouri.

<sup>&</sup>lt;sup>2</sup>Orozco also sought a downward departure based on the same grounds, but we do not review a district court's discretionary decision not to grant a downward departure. <u>See United States v. Dixon</u>, 650 F.3d 1080, 1084 (8th Cir. 2011).