

United States Court of Appeals
For the Eighth Circuit

No. 14-2567

United States of America

Plaintiff - Appellee

v.

Kingsley Onumbu

Defendant - Appellant

Appeal from United States District Court
for the District of Nebraska - Omaha

Submitted: December 17, 2014

Filed: December 22, 2014

[Unpublished]

Before SMITH, BOWMAN, and COLLOTON, Circuit Judges.

PER CURIAM.

Kingsley Onumbu directly appeals after imposition of sentence by the district court¹ upon his guilty plea to a fraud offense. Counsel moves to withdraw, and in a

¹The Honorable Joseph F. Bataillon, United States District Judge for the District of Nebraska.

brief under Anders v. California, 386 U.S. 738 (1967), he argues that the sentence is unreasonable. Onumbu has filed a supplemental brief, in which he challenges the validity of his plea, and argues that he received ineffective assistance of counsel. For the reasons discussed below, each of these arguments is unavailing.

First, Onumbu's challenge to the voluntariness of his guilty plea is not cognizable in this direct appeal, because he did not move to withdraw his plea below. See United States v. Umanzor, 617 F.3d 1053, 1060 (8th Cir. 2010) (defendant may not challenge voluntariness of guilty plea for first time on direct appeal if he did not move to withdraw plea in district court). Second, his ineffective-assistance claims are more properly raised in proceedings under 28 U.S.C. § 2255, and we decline to consider those claims in this appeal. See United States v. McAdory, 501 F.3d 868, 872-73 (8th Cir. 2007) (ineffective-assistance claims are ordinarily deferred to § 2255 proceedings). Third, after careful review, we conclude that the sentence is not unreasonable. See United States v. Feemster, 572 F.3d 455, 461 (8th Cir. 2009) (en banc) (appellate review of sentencing decision).

Finally, having reviewed the record independently under Penson v. Ohio, 488 U.S. 75, 80 (1988), we find no nonfrivolous issues. Accordingly, we grant counsel's motion to withdraw, and we affirm.
