

United States Court of Appeals
For the Eighth Circuit

No. 15-3892

United States of America

Plaintiff - Appellee

v.

Timothy Colhour

Defendant - Appellant

Appeal from United States District Court
for the Western District of Arkansas - Fayetteville

Submitted: April 15, 2016
Filed: April 20, 2016
[Unpublished]

Before GRUENDER, ARNOLD, and SHEPHERD, Circuit Judges.

PER CURIAM.

Timothy Colhour directly appeals the sentence imposed by the district court¹ after he pleaded guilty to distributing methamphetamine and using a firearm during

¹The Honorable Timothy L. Brooks, United States District Judge for the Western District of Arkansas.

and in relation to a drug trafficking offense. His counsel has moved to withdraw, and has filed a brief under Anders v. California, 386 U.S. 738 (1967), arguing that the district court abused its discretion by denying a downward variance based on the 18 U.S.C. § 3553(a) factors. We conclude that the court did not abuse its discretion in denying a variance, as nothing in the record indicated the within-Guidelines sentence was substantively unreasonable, and the court adequately explained its reasons for denying it. See United States v. Salazar-Aleman, 741 F.3d 878, 881 (8th Cir. 2013) (under substantive review, district court abuses its discretion if it fails to consider relevant factor, gives significant weight to improper or irrelevant factor, or commits clear error of judgment in weighing factors); United States v. Cook, 698 F.3d 667, 670 (8th Cir. 2012) (treating within-Guidelines sentence as presumptively reasonable on appeal); United States v. Gonzalez, 573 F.3d 600, 608 (8th Cir. 2009) (upholding denial of downward variance where court considered sentencing factors and properly explained rationale). We have reviewed the record independently under Penson v. Ohio, 488 U.S. 75 (1988), and we find no nonfrivolous issues for appeal.

Accordingly, we affirm the judgment, and we grant counsel's motion to withdraw.
