United States Court of Appeals

For the Eighth Circuit

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No. 16-1590

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United States of America

Plaintiff - Appellee

v.

Christopher Sutphin

Defendant - Appellant

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

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Submitted: September 7, 2016
Filed: September 16, 2016
[Unpublished]

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Before WOLLMAN, ARNOLD, and MURPHY, Circuit Judges.

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PER CURIAM.

Christopher Sutphin directly appeals after he pleaded guilty to being a felon in
possession of a firearm, and the district court[1] sentenced him to an

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

above-Guidelines-range prison term of 96 months. His counsel has moved for leave to withdraw and has filed a brief under <u>Anders v. California</u>, 386 U.S. 738 (1967), asserting that the court imposed a substantively unreasonable sentence.

Having reviewed the district court's sentencing decision, we conclude that no abuse of discretion occurred and that Sutphin's 96-month prison term is not substantively unreasonable. <u>See</u> <u>United States v. Feemster</u>, 572 F.3d 455, 461-62 (8th Cir. 2009) (en banc) (describing appellate review of sentencing decisions); <u>see also</u> <u>United States v. Franik</u>, 687 F.3d 988, 991 (8th Cir. 2012) (factors that have already been taken into account in calculating advisory Guidelines range can nevertheless form basis of variance; concluding that no abuse of discretion occurred where district court found Guidelines would not accomplish objectives of 18 U.S.C. § 3553(a) without upward variance); <u>United States v. Mangum</u>, 625 F.3d 466, 469-70 (8th Cir. 2010) (upward variance is reasonable where court makes individualized assessment of § 3553(a) factors based on facts presented, and considers defendant's proffered information). Having independently reviewed the record under <u>Penson v. Ohio</u>, 488 U.S. 75 (1988), we have found no nonfrivolous issues for appeal.

The judgment is affirmed, and counsel's motion to withdraw is granted.

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