

United States Court of Appeals
For the Eighth Circuit

No. 16-4297

United States of America

Plaintiff - Appellee

v.

Theresa G. Morales

Defendant - Appellant

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

Submitted: July 20, 2017

Filed: July 25, 2017

[Unpublished]

Before WOLLMAN, LOKEN, and BENTON, Circuit Judges.

PER CURIAM.

In this direct criminal appeal, Theresa Morales challenges the sentence the district court¹ imposed following her guilty plea to drug and gun charges. Her

¹The Honorable Stephanie M. Rose, United States District Judge for the Southern District of Iowa.

counsel has moved to withdraw and submitted a brief under Anders v. California, 386 U.S. 738 (1967), arguing that the sentence was substantively unreasonable. Morales has filed 2 motions, in which she seeks appointment of new counsel; and asserts that she should have received a shorter sentence given her minor role, and that counsel was ineffective.

As to counsel's argument that the below-Guidelines sentence was substantively unreasonable, we conclude that the district court did not abuse its discretion, as it properly considered the 18 U.S.C. § 3553(a) factors; there was no indication that it overlooked a relevant factor, or committed a clear error of judgment in weighing relevant factors, see United States v. David, 682 F.3d 1074, 1077 (8th Cir. 2012) (standard of review); United States v. Wohlman, 651 F.3d 878, 887 (8th Cir. 2011); and the sentence was below the Guidelines range, see United States v. Moore, 581 F.3d 681, 684 (8th Cir. 2009) (per curiam).

To the extent Morales is arguing that she should have received a minor role reduction, we conclude that the court did not clearly err in imposing the role enhancement (rather than a role reduction). See United States v. Camacho, 555 F.3d 695, 706 (8th Cir. 2009) (standard of review). We decline to address the ineffective-assistance claim on direct appeal, as it would be better litigated in a 28 U.S.C. § 2255 proceeding. See United States v. Ramirez-Hernandez, 449 F.3d 824, 826-27 (8th Cir. 2006).

We have independently reviewed the record under Penson v. Ohio, 488 U.S. 75 (1988), and have found no non-frivolous issues for appeal. Accordingly, we grant counsel's motion to withdraw, deny both motions for new counsel, and affirm.