

United States Court of Appeals
For the Eighth Circuit

No. 17-3803

United States of America

Plaintiff - Appellee

v.

Gregorio Hernandez

Defendant - Appellant

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

Submitted: July 16, 2018

Filed: August 6, 2018

[Unpublished]

Before LOKEN, COLLOTON, and BENTON, Circuit Judges.

PER CURIAM.

Gregorio Hernandez directly appeals the Guidelines-range sentence the district court¹ imposed after he pled guilty to being a felon in possession of a firearm. His

¹The Honorable Beth Phillips, United States District Judge for the Western District of Missouri.

counsel has moved for leave to withdraw and has filed a brief under *Anders v. California*, 386 U.S. 738 (1967), arguing that the sentence is substantively unreasonable, as the Guidelines range overrepresented Hernandez’s criminal history, and the court should have given greater weight to his alcohol abuse. Having jurisdiction under 28 U.S.C. § 1291, this court affirms.

This court concludes that the district court did not impose a substantively unreasonable sentence. Counsel concedes that the Guidelines range was properly calculated; and the record reflects that the district court carefully considered and discussed relevant 18 U.S.C. § 3553(a) factors, and imposed a sentence within the Guidelines range. *See United States v. Feemster*, 572 F.3d 455, 461-62, 464 (8th Cir. 2009) (en banc) (appellate court first ensures no significant procedural error occurred, then considers substantive reasonableness of sentence under deferential abuse-of-discretion standard; on review, court may apply presumption of reasonableness to Guidelines-range sentence); *United States v. Stults*, 575 F.3d 834, 849 (8th Cir. 2009) (where court makes individualized assessment based on facts presented, addressing defendant’s proffered information in consideration of § 3553(a) factors, sentence is not unreasonable); *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). The court has independently reviewed the record under *Penon v. Ohio*, 488 U.S. 75 (1988), and finds no nonfrivolous issues for appeal.

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