

United States Court of Appeals
For the Eighth Circuit

No. 18-1928
No. 18-1929

United States of America

Plaintiff - Appellee

v.

Allen Frank Martin

Defendant - Appellant

Appeals from United States District Court
for the Western District of Arkansas - Ft. Smith

Submitted: June 21, 2019
Filed: June 28, 2019
[Unpublished]

Before LOKEN, GRUENDER, and KOBES, Circuit Judges.

PER CURIAM.

In these consolidated cases, Allen Martin directly appeals the within-Guidelines sentence the district court¹ imposed after he was charged in two indictments and pled guilty to aggravated identity theft, theft of government funds, and failure to appear. His counsel has moved for leave to withdraw, and has filed a brief under Anders v. California, 386 U.S. 738 (1967), challenging the sentence as substantively unreasonable. Martin has filed a pro se brief, claiming ineffective assistance of counsel.

We first decline to address Martin's pro se ineffective-assistance claim in this direct appeal. See United States v. Ramirez-Hernandez, 449 F.3d 824, 827 (8th Cir. 2006) (discussing limited circumstances in which ineffective-assistance claims are considered on direct appeal). We further conclude that Martin's sentence is not substantively unreasonable. See United States v. Feemster, 572 F.3d 455, 461 (8th Cir. 2009) (en banc) (discussing substantive reasonableness); see also Gall v. United States, 552 U.S. 38, 51 (2007) (appellate court may apply presumption of reasonableness to within-Guidelines sentence). Finally, we have independently reviewed the record pursuant to Penson v. Ohio, 488 U.S. 75 (1988), and have found no non-frivolous issues. Accordingly, we grant counsel's motion to withdraw, and we affirm.

¹The Honorable P.K. Holmes, III, United States District Judge for the Western District of Arkansas.