

United States Court of Appeals
For the Eighth Circuit

No. 18-2827

United States of America

Plaintiff - Appellee

v.

Keith R. Hardin

Defendant - Appellant

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

Submitted: March 13, 2019

Filed: March 20, 2019

[Unpublished]

Before GRUENDER, SHEPHERD, and STRAS, Circuit Judges.

PER CURIAM.

After this court vacated Keith Hardin's sentence upon concluding that he did not qualify as an armed career criminal, *United States v. Hardin*, 889 F.3d 945 (8th

Cir. 2018), the district court¹ resentenced Hardin to 120 months in prison on his felon-in-possession conviction, and he appeals. Hardin’s counsel has moved to withdraw and filed a brief under *Anders v. California*, 386 U.S. 738 (1967), challenging the sentence as substantively unreasonable.

The district court varied upward, above the 41 to 51 month advisory Guidelines range to the statutory maximum. After careful review, we conclude that the district court did not abuse its discretion in determining that Hardin’s criminal history and the need to protect the public warranted the sentence it imposed. *See Gall v. United States*, 552 U.S. 38, 41 (2007) (holding that “while the extent of the difference between a particular sentence and the recommended Guidelines range is surely relevant, courts of appeals must review all sentences--whether inside, just outside, or significantly outside the Guidelines range--under a deferential abuse-of-discretion standard”). The record reveals that no significant procedural error was committed, and that no objection was raised suggesting the district court failed to consider a relevant factor that should have received significant weight, gave significant weight to an improper or irrelevant factor, or considered only the appropriate factors but committed a clear error of judgment. *See United States v. Sadler*, 86 F.3d 902, 904 (8th Cir. 2017) (per curiam).

In addition, we have reviewed the resentencing record independently under *Penson v. Ohio*, 488 U.S. 75 (1988), and conclude there are no non-frivolous issues for appeal. Accordingly, the district court’s amended judgment is affirmed, and counsel’s motion to withdraw is granted.

¹The Honorable Greg Kays, United States District Judge for the Western District of Missouri.