

United States Court of Appeals
For the Eighth Circuit

No. 18-2983

United States of America

Plaintiff - Appellee

v.

Robert E. Sanford

Defendant - Appellant

Appeal from United States District Court
for the District of Nebraska - Omaha

Submitted: September 27, 2019

Filed: October 4, 2019

[Unpublished]

Before GRUENDER, STRAS, and KOBES, Circuit Judges.

PER CURIAM.

Robert Sanford pleaded guilty to bank robbery, 18 U.S.C. § 2113(a), and received a within-Guidelines-range sentence of 151 months in prison. Critical to the

calculation of his sentence was the district court's¹ determination that he is a career offender based on two prior Nebraska robbery convictions. *See* U.S.S.G. § 4B1.1(a)–(b). In an *Anders* brief, Sanford's counsel requests permission to withdraw and specifically identifies the career-offender classification and the substantive reasonableness of Sanford's sentence as issues for us to consider on appeal. *See Anders v. California*, 386 U.S. 738 (1967).

We conclude that the district court did not plainly err in its determination that Sanford is a career offender. *See United States v. Harper*, 869 F.3d 624, 626–27 (8th Cir. 2017) (holding that federal “bank robbery by intimidation . . . is a crime of violence”); *State v. Welch*, 299 N.W.2d 155, 159 (Neb. 1980) (explaining that an essential element of Nebraska robbery is the use of force, violence, or intimidation and that the degree of force is immaterial if it is sufficient to overcome resistance); *see also United States v. Robinson*, 826 F.3d 1044, 1045 (8th Cir. 2016) (discussing the standard of review). Nor is Sanford's sentence substantively unreasonable. *See United States v. Callaway*, 762 F.3d 754, 760 (8th Cir. 2014) (stating that a within-Guidelines-range sentence is presumptively reasonable). The record establishes that the court sufficiently considered the statutory sentencing factors, 18 U.S.C. § 3553(a), and did not rely on an improper factor or commit a clear error of judgment. *See United States v. Wohlman*, 651 F.3d 878, 887 (8th Cir. 2011).

We have also independently reviewed the record under *Penson v. Ohio*, 488 U.S. 75 (1988), and conclude that there are no non-frivolous issues for appeal. Accordingly, we affirm the judgment and grant counsel permission to withdraw.

¹The Honorable Robert F. Rossiter, United States District Judge for the District of Nebraska.