

United States Court of Appeals
For the Eighth Circuit

No. 21-2301

United States of America

Plaintiff - Appellee

v.

Swayze Marcel Santiago

Defendant - Appellant

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

Submitted: November 10, 2021

Filed: November 17, 2021

[Unpublished]

Before COLLOTON, BENTON, and GRASZ, Circuit Judges.

PER CURIAM.

Swayze Marcel Santiago appeals the below-Guidelines sentence the district court¹ imposed after he pled guilty to assault on an officer and a firearm offense. Having jurisdiction under 28 U.S.C. § 1291, this court affirms.

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

Counsel has moved for leave to withdraw, and filed a brief under *Anders v. California*, 386 U.S. 738 (1967), challenging the sentence as substantively unreasonable. In a pro se brief, Santiago questions the district court judge's professionalism and impartiality, and contends that he should be resentenced before a male judge; asserts his sentence on the firearm offense was overly harsh; and contends that the federal criminal justice system is unfair.

The sentence imposed was neither harsh nor unreasonable. *See United States v. Feemster*, 572 F.3d 455, 461-62, 464 (8th Cir. 2009) (en banc) (in reviewing sentences, appellate court first ensures no significant procedural error occurred, then considers substantive reasonableness of sentence under abuse-of-discretion standard). The record shows that the district court considered the 18 U.S.C. § 3553(a) factors, and clearly acknowledged the mitigating circumstances Santiago presented at sentencing. *See Id.* at 461-62 (abuse of discretion occurs when court fails to consider relevant factor, gives significant weight to improper or irrelevant factor, or commits clear error of judgment in weighing appropriate factor); *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). The sentence did not exceed the statutory maximum for either offense. *See* 26 U.S.C. § 5871 (maximum prison term is 120 months); 18 U.S.C. § 111(b) (maximum prison term is 240 months); *Sun Bear v. United States*, 644 F.3d 700, 705 (8th Cir. 2011) (en banc) (unlawful or illegal sentence is one imposed without, or in excess of, statutory authority). Santiago's remaining pro se arguments present no basis for reversal, as they are either unsupported by the record or are mere opinion. This court has independently reviewed the record under *Penson v. Ohio*, 488 U.S. 75 (1988), and finds no nonfrivolous issues for appeal.

The judgment is affirmed. Counsel's motion to withdraw is granted.
