

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 00-3224

United States of America,

Appellee,

v.

Miguel Guerrero-Villasenor,

Appellant.

*
*
*
*
*
*
*
*
*

Appeal from the United States
District Court for the
Southern District of Iowa.

[UNPUBLISHED]

Submitted: July 5, 2001

Filed: July 10, 2001

Before MORRIS SHEPPARD ARNOLD, RICHARD S. ARNOLD, and BEAM,
Circuit Judges.

PER CURIAM.

After Miguel Guerrero-Villasenor pleaded guilty to re-entering the United States illegally after deportation, in violation of 8 U.S.C. § 1326(a), the district court¹ sentenced him to 30 months imprisonment and 2 years supervised release. By that time, Guerrero-Villasenor had already begun serving a 55-year Iowa state sentence for unrelated convictions. To be sure that Guerrero-Villasenor would serve a total

¹The Honorable Ronald E. Longstaff, Chief Judge, United States District Court for the Southern District of Iowa.

sentence of at least 10 years, the court made the federal sentence commence when he was paroled, or upon a fixed date, whichever occurred first.

In a brief submitted pursuant to Anders v. California, 386 U.S. 738 (1967), counsel challenges the structure of this sentence. We find no abuse of discretion, see United States v. Cotroneo, 89 F.3d 510, 512-13 (8th Cir.) (standard of review), cert. denied, 519 U.S. 1018 (1996), because this sentence structure is expressly authorized, see U.S.S.G. § 5G1.3, comment. (n.4). In a pro se supplemental filing, Guerrero-Villasenor challenges the district court's authority to consider his state parole date in fashioning his federal sentence. This argument also lacks merit. See U.S.S.G. § 5G1.3, comment. (n.3).

We have located no non-frivolous issues for appeal after reviewing the record independently pursuant to Penson v. Ohio, 488 U.S. 75 (1988). Accordingly, we affirm the judgment of the district court, grant counsel's motion to withdraw, and deny Guerrero-Villasenor's request for substitute counsel.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.