

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 05-3576

United States of America,

Appellee,

v.

Jonathan M. Arther,

Appellant.

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Appeal from the United States
District Court for the
Western District of Missouri.

[UNPUBLISHED]

Submitted: August 3, 2006
Filed: August 17, 2006

Before RILEY, COLLOTON, and GRUENDER, Circuit Judges.

PER CURIAM.

Jonathan Arther (Arther) appeals the 96-month prison sentence imposed by the district court¹ upon his guilty plea to being a felon in possession of a firearm, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2). His counsel has moved to withdraw and filed a brief under Anders v. California, 386 U.S. 738 (1967), arguing the sentence is unreasonable.

¹The Honorable Nanette K. Laughrey, United States District Judge for the Western District of Missouri.

We reject this argument. The sentence imposed was within the advisory Guidelines imprisonment range of 77-96 months, and nothing in the record rebuts the presumption that the sentence is reasonable. See United States v. Tobacco, 428 F.3d 1148, 1151 (8th Cir. 2005) (sentence within applicable Guidelines range is presumptively reasonable; presumption can be rebutted if district court (1) failed to consider relevant factor that should have received significant weight, (2) gave significant weight to improper or irrelevant factor, or (3) considered only appropriate factors but in weighing factors committed clear error of judgment). In setting the sentence, the district court noted Arther's particular characteristics and the need to protect society. See 18 U.S.C. § 3553(a)(1), (a)(2)(C); United States v. Long Soldier, 431 F.3d 1120, 1123 (8th Cir. 2005) (explaining a district court is not required to specifically mention § 3553(a) in sentencing defendant; relevant inquiry is whether the court actually considered § 3553(a) factors and whether the appellate court's review of those factors leads to a conclusion that they support the reasonableness of the district court's sentencing decision).

Having reviewed the record under Penon v. Ohio, 488 U.S. 75, 80 (1988), we conclude there are no nonfrivolous issues. Accordingly, we affirm the district court's judgment, and we grant counsel leave to withdraw.
