

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 05-4024

United States of America,

Appellee,

v.

Jorge Hernandez-Reyes,

Appellant.

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Appeal from the United States
District Court for the
District of Nebraska.
[UNPUBLISHED]

Submitted: January 5, 2007
Filed: January 11, 2007

Before RILEY, COLLOTON, and GRUENDER, Circuit Judges.

PER CURIAM.

Jorge Hernandez-Reyes appeals the sentence the district court¹ imposed after he pleaded guilty to possessing with intent to distribute 50 grams or more of a methamphetamine mixture in violation of 21 U.S.C. § 841(a)(1), (b)(1), and one count of criminal forfeiture. His counsel has moved to withdraw, and has filed a brief under Anders v. California, 386 U.S. 738 (1967), arguing that 18 U.S.C. § 3553(a) warrants a more lenient sentence than the 78-month prison sentence imposed.

¹The Honorable Richard G. Kopf, United States District Judge for the District of Nebraska.

We conclude that the sentence is not unreasonable: the district court properly considered the section 3553(a) factors in sentencing Hernandez-Reyes at the bottom of the Guidelines range, and we see nothing in the record to rebut the presumption that the sentence is reasonable. See United States v. Lincoln, 413 F.3d 716, 717-18 (8th Cir.) (when sentence is within Guidelines range, defendant bears burden to rebut presumption of reasonableness; burden is satisfied by showing, with reference to § 3553(a), that district court based sentence on improper or irrelevant factor or failed to consider relevant factor), cert. denied, 126 S. Ct. 840 (2005).

Having reviewed the record under Penson v. Ohio, 488 U.S. 75, 80 (1988), we find no nonfrivolous issues. Accordingly, we affirm the district court's judgment, we grant counsel leave to withdraw, and we deny Hernandez-Reyes's motion for appointment of new counsel.
