

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 08-1444

United States of America,

Appellee,

v.

Noni Russell,

Appellant.

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

[UNPUBLISHED]

Submitted: July 22, 2008
Filed: August 8, 2008

Before MURPHY, BYE, and BENTON, Circuit Judges.

PER CURIAM.

Noni Russell challenges the below-Guidelines-range sentence the district court¹ imposed after she pleaded guilty to identity fraud, in violation of 18 U.S.C. §§ 2, 1028(a)(7). Her counsel has moved to withdraw and has filed a brief under Anders v. California, 386 U.S. 738 (1967). Russell has filed a pro se supplemental brief. For the reasons discussed below, we grant counsel's motion and affirm.

¹The Honorable Henry E. Autrey, United States District Judge for the Eastern District of Missouri.

In the Anders brief, counsel raises numerous potential issues for appeal, including: (1) the validity of Russell's guilty plea; (2) the reasonableness of Russell's sentence; and (3) the effectiveness of her counsel. After carefully reviewing all of the issues raised in counsel's brief and Russell's brief, we conclude that none have merit. We hold that Russell cannot challenge her guilty plea for the first time on appeal. See United States v. Villareal-Amarillas, 454 F.3d 925, 932 (8th Cir. 2006) (if defendant fails to attempt to withdraw guilty plea in district court, claim that guilty plea was not knowing and intelligent is not cognizable on direct appeal). We also conclude that Russell's 3-month prison sentence is not unreasonable. See Gall v. United States, 128 S. Ct. 586, 597 (2007) (appellate court must review sentence under abuse-of-discretion standard whether sentence imposed is inside or outside Guidelines range); United States v. Haack, 403 F.3d 997, 1003 (8th Cir. 2005) (district court abuses its discretion by imposing unreasonable sentence). Finally, to the extent Russell challenges the effectiveness of her counsel, we decline to review her claim in this direct appeal. See United States v. Ramirez-Hernandez, 449 F.3d 824, 826-27 (8th Cir. 2006) (declining to review claim of ineffective assistance of counsel on direct appeal; claim is more properly raised in separate motion under 28 U.S.C. § 2255).

Reviewing the record in accordance with Penon v. Ohio, 488 U.S. 75 (1988), we have found no nonfrivolous issues. Accordingly, we grant counsel's motion to withdraw, and we affirm.
