

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 07-3861

United States of America,

Appellee,

v.

Dennis Keely,

Appellant.

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

[UNPUBLISHED]

Submitted: November 4, 2009
Filed: November 9, 2009

Before MURPHY, COLLOTON, and SHEPHERD, Circuit Judges.

PER CURIAM.

In this direct criminal appeal, Dennis Keely challenges the sentence the district court¹ imposed after he pleaded guilty to possessing with intent to distribute five grams or more of cocaine base, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(B)(iii), and possessing with intent to distribute a substance containing a detectable amount of heroin, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(C). The district court found that Keely was a career offender under U.S.S.G. § 4B1.1, and sentenced him below the applicable Guidelines range to 188 months in prison and four

¹The Honorable E. Richard Webber, United States District Judge for the Eastern District of Missouri.

years of supervised release. On appeal, his counsel has moved to withdraw and has filed a brief under Anders v. California, 386 U.S. 738 (1967), arguing that the below-Guidelines-range sentence is unreasonable and that Keely should have been granted a greater variance.

We review the imposition of sentences under a deferential abuse-of-discretion standard, first ensuring that the district court committed no significant procedural error, and then considering the substantive reasonableness of the sentence. See United States v. Feemster, 572 F.3d 455, 461 (8th Cir. 2009) (en banc) (listing factors that constitute abuse of discretion); United States v. Haack, 403 F.3d 997, 1003-04 (8th Cir. 2005) (standard of review). We find no abuse of discretion here. We note in particular the district court's consideration of 18 U.S.C. § 3553(a) and discussion of the specific factors on which it relied to impose a sentence below the advisory Guidelines range. See United States v. Stults, 575 F.3d 834, 849 (8th Cir. 2009) (where record reflects district court made individualized assessment based on facts presented, specifically addressing defendant's proffered information in its consideration of sentencing factors, sentence is not unreasonable).

After reviewing the record independently under Penon v. Ohio, 488 U.S. 75 (1988), we have found no nonfrivolous issues for appeal. Accordingly, we affirm the judgment of the district court, and we grant counsel's motion to withdraw, subject to counsel informing appellant about procedures for seeking rehearing or filing a petition for certiorari.
