

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 08-2915

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United States of America,	*
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Appellee,	*
	* Appeal from the United States
v.	* District Court for the
	* Western District of Arkansas.
Adolfo Vargas-Vasquez, also known as	*
Jesus Vargas-Vasquez,	* [UNPUBLISHED]
	*
Appellant.	*

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Submitted: November 5, 2009  
Filed: November 16, 2009

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Before BYE, BOWMAN, and BENTON, Circuit Judges.

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PER CURIAM.

Adolfo Vargas-Vasquez appeals the within-Guidelines-range sentence imposed by the district court<sup>1</sup> upon his guilty plea to illegally re-entering the United States after being deported, in violation of 8 U.S.C. § 1326(a),(b)(1), 6 U.S.C. § 202(3) & (4), and 6 U.S.C. § 557. On appeal, counsel has moved to withdraw and has filed a brief under *Anders v. California*, 386 U.S. 738 (1967), arguing the district court failed to properly

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<sup>1</sup>The Honorable Jimm Larry Hendren, Chief Judge, United States District Court for the Western District of Arkansas.

consider the 18 U.S.C. § 3553(a) factors and gave undue consideration to Vargas-Vasquez's criminal history.

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). We find no procedural error in this case, *see id.* at 461 (describing procedural error), and we find the district court did not abuse its discretion in considering Vargas-Vasquez's criminal history and the sentence was not substantively unreasonable, *see Rita v. United States*, 551 U.S. 338, 347-50 (2007); *United States v. Cadenas*, 445 F.3d 1091, 1094 (8th Cir. 2006).

After reviewing the record independently under *Penon v. Ohio*, 488 U.S. 75 (1988), we find no nonfrivolous issues for appeal. Accordingly, we affirm the judgment of the district court and grant counsel's motion to withdraw.

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