

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 09-1201

United States of America,

Appellee,

v.

Gabriel Martinez,

Appellant.

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Appeal from the United States
District Court for the
District of North Dakota.

[UNPUBLISHED]

Submitted: January 11, 2010
Filed: February 5, 2010

Before BYE, RILEY, and SHEPHERD, Circuit Judges.

PER CURIAM.

Gabriel Martinez directly appeals after the district court¹ sentenced him to life imprisonment upon his guilty plea to conspiracy with intent to distribute controlled substances, in violation of 21 U.S.C. § 846; possession with intent to distribute methamphetamine, in violation of 21 U.S.C. § 841(a)(1); causing death by the use of a firearm during a crime of violence, in violation of 18 U.S.C. § 924(j)(1); murder in furtherance of a continuing criminal enterprise, in violation of 21 U.S.C. § 848(e)(1)(A); attempted escape from custody, in violation of 18 U.S.C. § 751(a);

¹The Honorable Ralph R. Erickson, Chief Judge, United States District Court for the District of North Dakota.

conspiracy to escape from custody, in violation of 18 U.S.C. §§ 371 and 751(a); and obstruction of justice, in violation of 18 U.S.C. § 1503(a). On appeal, his counsel has moved for permission to withdraw, and has filed a brief under Anders v. California, 386 U.S. 738 (1967). In a pro se supplemental brief, Martinez suggests that his counsel was ineffective, but we decline to consider this matter on direct appeal. See United States v. McAdory, 501 F.3d 868, 872-73 (8th Cir. 2007) (appellate court ordinarily defers ineffective-assistance claims to 28 U.S.C. § 2255 proceedings).

After reviewing the record independently under Penon v. Ohio, 488 U.S. 75 (1988), we have found no nonfrivolous issues for appeal. In particular, we conclude that the district court committed no procedural or substantive error in sentencing Martinez. See United States v. Feemster, 572 F.3d 455, 461 (8th Cir. 2009) (en banc) (standards for reviewing sentence). Accordingly, we affirm the judgment of the district court, and we grant counsel's motion to withdraw, subject to counsel informing Martinez about procedures for seeking rehearing or filing a petition for certiorari.
