

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 10-2369

United States of America,

Appellee,

v.

Fabian Francisco Spears,

Appellant.

*
*
*
*
*
*
*
*
*

Appeal from the United States
District Court for the
District of Minnesota.

[UNPUBLISHED]

Submitted: November 24, 2010

Filed: December 2, 2010

Before WOLLMAN, MELLOY, and GRUENDER, Circuit Judges.

PER CURIAM.

Fabian Francisco Spears appeals the two concurrent 204-month sentences imposed by the district court¹ after he pled guilty to two counts of abusive sexual contact with a child who had not attained the age of 12 years, in violation of 18 U.S.C. §§ 1151, 1153, 2244(a)(5), 2246(3). His counsel has moved to withdraw and has filed a brief under Anders v. California, 386 U.S. 738 (1967), stating that the sentence was greater than necessary.

¹The Honorable Donovan W. Frank, United States District Judge for the District of Minnesota.

We conclude that the district court committed no procedural error and imposed a substantively reasonable sentence. See Gall v. United States, 552 U.S. 38, 51 (2007) (in reviewing sentence, appellate court first ensures that district court committed no significant procedural error, and then considers substantive reasonableness of sentence under abuse-of-discretion standard; if sentence is within applicable Guidelines range, appellate court may apply presumption of reasonableness); United States v. Haack, 403 F.3d 997, 1004 (8th Cir. 2005) (describing abuse of discretion).

Having reviewed the record under Penon v. Ohio, 488 U.S. 75 (1988), we find no nonfrivolous issues. Accordingly, we grant counsel's motion to withdraw, and we affirm.
