

United States Court of Appeals
For the Eighth Circuit

No. 12-3151

United States of America

Plaintiff - Appellee

v.

Jeffrey Scott Rand

Defendant - Appellant

Appeal from United States District Court
for the Western District of Arkansas - Hot Springs

Submitted: April 30, 2013

Filed: May 3, 2013

[Unpublished]

Before BYE, ARNOLD, and SHEPHERD, Circuit Judges.

PER CURIAM.

After Jeffrey Rand pleaded guilty to one count of mail fraud in violation of 18 U.S.C. § 1341, the district court¹ imposed a sentence of 57 months in prison, 3 years

¹The Honorable Robert T. Dawson, United States District Judge for the Western District of Arkansas.

of supervised release, and \$7,921,435.86 in restitution. On appeal, Rand's counsel has moved to withdraw and filed a brief under Anders v. California, 386 U.S. 738 (1967); the brief addresses the reasonableness of Rand's sentence.

We conclude that the district court properly considered the sentencing factors, and that the 57-month prison term--which was the top of the properly calculated Sentencing Guidelines range--is not unreasonable. See United States v. Farmer, 647 F.3d 1175, 1178 (8th Cir. 2011) (standard of review); see also United States v. Mabery, 686 F.3d 591, 599 (8th Cir. 2012) (court of appeals may presume sentence within properly calculated Guidelines range is substantively reasonable); United States v. Wood, 587 F.3d 882, 884 (8th Cir. 2009) (court adequately addresses 18 U.S.C. § 3553(a) factors if it references at least some of them). We also conclude that Rand cannot challenge the restitution portion of his sentence, having withdrawn his related objection at the sentencing hearing. See United States v. Watson-El, 174 Fed. Appx. 356, 356 (8th Cir. 2006) (unpublished per curiam) (defendant waived appeal challenge to restitution amount by withdrawing objection to it in district court).

Having independently reviewed the record under Penson v. Ohio, 488 U.S. 75 (1988), we find no nonfrivolous issue. Accordingly, we affirm the judgment of the district court and grant counsel's motion to withdraw, subject to counsel informing appellant about procedures for seeking rehearing or filing a petition for certiorari.
