

United States Court of Appeals  
For the Eighth Circuit

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No. 14-1613

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United States of America

*Plaintiff - Appellee*

v.

Mensur Malik

*Defendant - Appellant*

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Appeal from United States District Court  
for the Northern District of Iowa - Ft. Dodge

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Submitted: December 19, 2014

Filed: December 24, 2014

[Unpublished]

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Before SMITH, BOWMAN, and COLLOTON, Circuit Judges.

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PER CURIAM.

Mensur Malik directly appeals the sentence that the district court<sup>1</sup> imposed after he pleaded guilty to a sex offense. His counsel has moved to withdraw, and in a brief filed under Anders v. California, 386 U.S. 738 (1967), counsel argues that (1) the court erred in applying an enhancement pursuant to U.S.S.G. § 4B1.5(b)(1) for a pattern of activity involving prohibited sexual conduct; and (2) the sentence is unreasonable.

Upon careful review, see United States v. Feemster, 572 F.3d 455, 461 (8th Cir. 2009) (en banc) (appellate review of sentencing decision), we conclude that the court committed neither procedural nor substantive error in sentencing Malik. First, we conclude that the court did not err in applying the section 4B1.5(b)(1) enhancement, because unobjected-to statements in the presentence report (PSR) indicate that Malik and the victim engaged in sexual intercourse at least four times during the course of several days. See U.S.S.G. § 4B1.5, comment (n.4(B)(i)); United States v. Gant, 663 F.3d 1023, 1029 (8th Cir. 2011) (appellate court reviews application of Guidelines de novo, and factual findings for clear error); United States v. Douglas, 646 F.3d 1134, 1137 (8th Cir. 2011) (court may accept as true facts in PSR to which defendant did not object). Second, we conclude that the within-Guidelines-range sentence is not unreasonable. See United States v. Wanna, 744 F.3d 584, 589 (8th Cir.), cert. denied, 135 S. Ct. 125 (2014). Finally, having reviewed the record independently under Person v. Ohio, 488 U.S. 75, 80 (1988), we find no nonfrivolous issues.

Accordingly, we grant counsel's motion to withdraw, and we affirm.

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<sup>1</sup>The Honorable Linda R. Reade, Chief Judge, United States District Court for the Northern District of Iowa.