

United States Court of Appeals
For the Eighth Circuit

No. 14-2992

United States of America

Plaintiff - Appellee

v.

Jesse Oziah

Defendant - Appellant

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

Submitted: March 10, 2015

Filed: March 25, 2015

[Unpublished]

Before BYE, COLLOTON, and SHEPHERD, Circuit Judges.

PER CURIAM.

Jesse Oziah directly appeals after he pled guilty to charges relating to production of child pornography, and the district court¹ sentenced him to a term of

¹The Honorable Timothy L. Brooks, United States District Judge for the Western District of Arkansas.

imprisonment below his calculated Guidelines range. His counsel has moved to withdraw, and has filed a brief under *Anders v. California*, 386 U.S. 738 (1967), suggesting the district court abused its discretion in sentencing Oziah.

We have carefully reviewed the district court's sentencing decision and find no abuse of discretion. See *United States v. Feemster*, 572 F.3d 455, 461-62 (8th Cir. 2009) (en banc). Moreover, we have independently reviewed the record pursuant to *Penson v. Ohio*, 488 U.S. 75 (1988), and conclude that there are no nonfrivolous issues. As for counsel's motion to withdraw, we conclude that allowing counsel to withdraw at this time would not be consistent with the Eighth Circuit's 1994 Amendment to Part V of the Plan to Implement The Criminal Justice Act of 1964. We therefore deny counsel's motion to withdraw as premature, without prejudice to counsel refiling the motion upon fulfilling the duties set forth in the Amendment.

Judge Colloton would grant counsel's motion to withdraw. See *United States v. Eredia*, 578 Fed. Appx. 620, 621 (8th Cir. 2014) (Colloton, J., concurring in part and dissenting in part).
