

United States Court of Appeals  
For the Eighth Circuit

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No. 16-2571

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United States of America

*Plaintiff - Appellee*

v.

James Delvico Borden, also known as James Delvoico Borden, also known as Earl  
Johnson

*Defendant - Appellant*

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Appeal from United States District Court  
for the Western District of Missouri - Jefferson City

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Submitted: May 4, 2017  
Filed: May 25, 2017  
[Unpublished]

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Before COLLOTON, BOWMAN, and KELLY, Circuit Judges.

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PER CURIAM.

James Delvico Borden directly appeals the sentence the district court<sup>1</sup> imposed after he pleaded guilty to drug charges. His counsel has moved for leave to withdraw, and has filed a brief under Anders v. California, 386 U.S. 738 (1967), challenging a sentencing enhancement, suggesting that the district court miscalculated the Guidelines imprisonment range, and arguing that Borden's sentence is substantively unreasonable. Borden has filed a pro se brief making essentially the same arguments.

Upon careful review, we conclude that the district court did not plainly err in applying the challenged sentencing enhancement. See United States v. Lovelace, 565 F.3d 1080, 1087 (8th Cir. 2009) (failure to object at sentencing results in review for plain error that affects substantial rights); United States v. Menteer, 408 F.3d 445, 446 (8th Cir. 2005) (per curiam) (unobjected-to facts in presentence report are deemed admitted). We further conclude that the district court did not plainly err in calculating the Guidelines imprisonment range, or impose a substantively unreasonable sentence. See United States v. Feemster, 572 F.3d 455, 461 (8th Cir. 2009) (en banc) (describing appellate review of sentencing decisions); Lovelace, 565 F.3d at 1087; see also United States v. Callaway, 762 F.3d 754, 760 (8th Cir. 2014) (on appeal, within-Guidelines-range sentence may be presumed reasonable).

Finally, we have independently reviewed the record pursuant to Penson v. Ohio, 488 U.S. 75 (1988), and have found no nonfrivolous issues for appeal. Accordingly, we grant counsel's motion for leave to withdraw, and we affirm the judgment.

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<sup>1</sup>The Honorable Brian C. Wimes, United States District Judge for the Western District of Missouri.