

United States Court of Appeals
For the Eighth Circuit

No. 18-1248

United States of America

Plaintiff - Appellee

v.

Ryan William McMillan

Defendant - Appellant

Appeal from United States District Court
for the District of Minnesota - St. Paul

Submitted: September 28, 2018

Filed: October 15, 2018

[Unpublished]

Before GRUENDER, KELLY, and GRASZ, Circuit Judges.

PER CURIAM.

Ryan McMillan directly appeals after the district court¹ resentenced him and imposed an above-Guidelines-range prison term. His counsel has filed briefs arguing

¹The Honorable Joan N. Ericksen, United States District Judge for the District of Minnesota.

that the sentence is procedurally and substantively unreasonable.² Counsel's motion for leave to withdraw is also pending.

After careful consideration of the record and the parties' arguments on appeal, we conclude that the district court did not impose an unreasonable sentence. *See United States v. Feemster*, 572 F.3d 455, 461-62 (8th Cir. 2009) (en banc) (reviewing sentence under deferential abuse-of-discretion standard); *see also United States v. Timberlake*, 679 F.3d 1008, 1012-13 (8th Cir. 2012) (finding no abuse of discretion in district court's decision to vary upward where district court emphasized, inter alia, defendant's criminal history). Accordingly, we affirm, and we grant counsel's motion to withdraw.

²Counsel initially filed a brief under *Anders v. California*, 386 U.S. 738 (1967). After this court conducted an independent review under *Penson v. Ohio*, 488 U.S. 75 (1988), and ordered additional briefing, the parties filed supplemental briefs.