

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

Submitted May 17, 2024

Decided June 18, 2024

*Before*THOMAS L. KIRSCH II, *Circuit Judge*CANDACE JACKSON-AKIWUMI, *Circuit Judge*DORIS L. PRYOR, *Circuit Judge*

No. 23-2748

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

TYLER R. SCHUMACHER,
Defendant-Appellant.

Appeal from the United States District
Court for the Southern District of
Illinois.

No. 4:22-CR-40025-SMY-1

Staci M. Yandle,
Judge.

ORDER

Tyler Schumacher pleaded guilty to conspiracy to distribute methamphetamine and to possession with the intent to distribute methamphetamine. *See* 21 U.S.C. §§ 841(a)(1), (b)(1)(A), 846. The district court sentenced him to 188 months in prison and three years of supervised release. Schumacher filed a notice of appeal, but his appointed lawyer believes that the appeal is frivolous and seeks to withdraw under *Anders v.*

California, 386 U.S. 738, 744 (1967). Schumacher did not respond to counsel's motion to withdraw. See CIR. R. 51(b). The *Anders* brief, though barebones, is adequate for our review. See *United States v. Tabb*, 125 F.3d 583, 584 (7th Cir. 1997) (explaining that an *Anders* brief is adequate on its face if "it explains the nature of the case and intelligently discusses the issues that a case of the sort might be expected to involve"). From our review of the brief and the record, we conclude that Schumacher does not have an arguable issue on appeal. We therefore grant the motion and dismiss the appeal.

From 2019 to 2022, Schumacher bought and distributed methamphetamine in the Effingham, Illinois area. In February 2022, a search was executed at Schumacher's residence, where law enforcement recovered methamphetamine, drug paraphernalia, guns, and other illegal substances. Both Schumacher and his partner, later named at sentencing as Molly Miller, were arrested. Upon their release on bond, they fled to Kentucky and were re-arrested after barricading themselves in a camper. A search warrant was also executed on the camper, and law enforcement recovered methamphetamine, a firearm, and a digital scale. When Miller was back in custody, she provided details about the escape to Kentucky and Schumacher's methamphetamine activities, saying that he traded drugs for guns as well as money. Later, Schumacher also admitted to the charged conduct after his re-arrest, and he pleaded guilty without a plea agreement.

Before sentencing, the parties received the presentence investigation report. The probation office initially gave Schumacher a three-level reduction in his offense level for acceptance of responsibility. But the government argued that he should receive a two-level enhancement for obstruction of justice and no reduction for accepting responsibility. For justification, it presented a recorded conversation in which Schumacher told Miller that he needed her to "clarify" the incriminating statement that she had made after her re-arrest about his drug and gun dealing. The probation office accepted the government's argument that this recording reflected an attempt to influence a witness and was obstructive, and agreed Schumacher did not merit a reduction for acceptance of responsibility. Schumacher objected to the change, arguing that he merely tried to have Miller tell the truth, so he did not attempt to obstruct justice, and he should receive the reduction for acceptance of responsibility.

Sentencing came next. First, the district court received evidence on the obstruction issue. The government called the agent who recorded the conversation between Miller and Schumacher. He played the audio and testified that Miller felt Schumacher was asking her to alter her statement. The court ruled that the

enhancement for obstruction of justice was warranted because Schumacher was improperly trying to alter witness testimony, and no reduction for acceptance of responsibility was warranted. As a result, Schumacher's adjusted offense level was 36; with a criminal history category of I, his guidelines range was 188 to 235 months' imprisonment. The government argued for a sentence at the bottom of that range. Schumacher sought the statutory minimum of 120 months, emphasizing mitigating factors of his drug addiction, attempts to build a legitimate business, and support of his family before turning to the drug trade. Against these mitigating factors, the court weighed aggravating factors: Schumacher had fled custody, had been heavily involved in trading firearms while dealing drugs, and had falsely accused a state social worker (who had checked on his children) of supplying him with drugs. The court ultimately sentenced Schumacher to 188 months in prison and five years of supervised release.

Counsel does not tell us, as he should, whether Schumacher wants to withdraw his plea. *See United States v. Konczak*, 683 F.3d 348, 349 (7th Cir. 2012); *United States v. Knox*, 287 F.3d 667, 671 (7th Cir. 2002). But we need not reject counsel's brief because the plea transcript shows that the district court substantially complied with Federal Rule of Criminal Procedure 11, rendering the plea valid. After informing Schumacher that he was under oath and could face perjury charges if he lied, the court ensured that Schumacher understood the charges (including the maximum possible penalties). The court also explained that Schumacher is "innocent until proven guilty ... beyond a reasonable doubt," that he has the right to "a jury trial," "to confront" his accusers, to "bring in" his own witnesses, to "an attorney," and against "self-incrimination," all of which Schumacher affirmed he understood. The court also explained how his sentence would be decided if he was found guilty. *See* FED. R. CRIM. P. 11(b)(1)(A–K, M). Finally, the court ensured that Schumacher was pleading guilty of his own volition and that his plea had an adequate factual basis. *See id.* 11(b)(2), 11(b)(3).

We note two arguable omissions from the plea colloquy, but even if they were deemed omissions, they would both be harmless. The first is that the court did not state that, "if convicted, a defendant who is not a United States citizen may be removed from the United States, denied citizenship, and denied admission to the United States in future." *Id.* 11(b)(1)(O). But nothing in the record suggests that Schumacher is not a citizen; thus the arguable omission does not undermine his plea. *See United States v. Stoller*, 827 F.3d 591, 598 (7th Cir. 2016). The second is that the court did not specify that, by pleading guilty, Schumacher would be waiving all the rights to a trial that the court had detailed at length. FED. R. CRIM. P. 11(b)(1)(F). But "because the district court explained in great detail to [Schumacher] his right to a trial and [Schumacher]

acknowledged that he understood that right,” the omission is “harmless.” *United States v. Maeder*, 326 F.3d 892, 893 (7th Cir. 2003).

Counsel considers whether Schumacher could reasonably contest the decision to apply the enhancement for obstruction of justice and remove the three-level reduction for acceptance of responsibility and correctly concludes that he could not. We would review the relevant factual findings for clear error and legal interpretations de novo. *United States v. Major*, 33 F.4th 370, 378–79, 382 (7th Cir. 2022). An enhancement for obstruction of justice is appropriate if the defendant “willfully obstructed or impeded ... the administration of justice with respect to ... sentencing.” U.S.S.G. § 3C1.1. The court did not clearly err in finding that, because Schumacher does not deny that he asked Miller to change the statement she had already provided and Miller felt Schumacher was encouraging her to change her statement, he obstructed justice. Even an attempt to get a witness who has already given a statement to “tell the truth” is obstructive where, as the district court reasonably found, it is a “willful attempt” to change witness testimony. *Major*, 33 F.4th at 381 (quoting *United States v. Cheek*, 740 F.3d 440, 453–54 (7th Cir. 2014)).

Because the district court properly found that Schumacher obstructed justice, it would be frivolous to challenge the court’s decision not to remove points for acceptance of responsibility. Only in “extraordinary cases” would a defendant receive a reduction for acceptance of responsibility despite an enhancement for obstruction of justice, *id.*, and nothing suggests that this case is extraordinary.

For completeness, we observe that Schumacher could not mount any other sentencing challenges. Procedurally, Schumacher received an opportunity to contest the presentence report, *see* FED. R. CRIM. P. 32(i), and after the rulings about obstruction and acceptance of responsibility, the court correctly calculated the guidelines range as 188 to 235 months in prison. U.S.S.G. ch. 5, pt. A. Substantively, we would presume that his within-guidelines prison term of 188 months is reasonable, *United States v. McGhee*, 98 F.4th 816, 823–24 (7th Cir. 2024), and nothing here overcomes that presumption. The court reasonably balanced the sentencing factors under 18 U.S.C. § 3553(a) by weighing aggravating circumstances (drug trafficking, flight to Kentucky, gun trafficking, and false accusations, *see* 18 U.S.C. § 3553(a)(1), (2)(C)) against Schumacher’s employment and family involvement, *see United States v. Holder*, 94 F.4th 695, 700 (7th Cir. 2024), to arrive at a sentence at the bottom of the range. And under 21 U.S.C. § 841(b)(1), Schumacher faced a potential life sentence, so his term of 188 months in prison properly falls below the statutory maximum. Finally, Schumacher could not reasonably challenge

No. 23-2748

Page 5

his five-year term of supervised release. The district court's adequate explanation for the prison term also justifies the term of the supervised release. *United States v. Wilcher*, 91 F.4th 864, 871 (7th Cir. 2024). And because Schumacher did not object to the conditions of release in the district court, he has waived any challenge to them on appeal. *United States v. Flores*, 929 F.3d 443, 449 (7th Cir. 2019).

Thus, we GRANT counsel's motion to withdraw and DISMISS the appeal.