NONPRECEDENTIAL DISPOSITION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 July 9, 2025
Decided July 10, 2025

Before

THOMAS L. KIRSCH II, *Circuit Judge*

JOHN Z. LEE, *Circuit Judge*

JOSHUA P. KOLAR, *Circuit Judge*

No. 24-2503

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

TAMEICO JOHNSON,
Defendant-Appellant.

Appeal from the United States District Court for the Southern District of Indiana, Indianapolis Division.

No. 1:23CR00093-005

Tanya Walton Pratt,
Chief Judge.

O R D E R

Tameico Johnson pleaded guilty to distributing and conspiring to distribute controlled substances, for which he was sentenced to 250 months' imprisonment and 5 years' supervised release. He filed a notice of appeal, but his appointed lawyer asserts that the appeal is frivolous and seeks to withdraw under *Anders v. California*, 386 U.S. 738, 744 (1967). We told Johnson of counsel's motion, and he did not respond. *See* CIR. R. 51(b). Counsel's brief explains the nature of the case and addresses potential issues that an appeal of this kind would typically involve. Because counsel's analysis appears thorough, we limit our review to the subjects counsel discusses. *See United States v. Bey*, 748 F.3d 774, 776 (7th Cir. 2014). We grant the motion and dismiss the appeal.

Johnson and 12 codefendants sold large quantities of methamphetamine and fentanyl in southern Indiana. A federal grand jury indicted Johnson for distributing and conspiring to distribute controlled substances, 21 U.S.C. §§ 841(a)(1), 846, and Johnson later pleaded guilty without a plea agreement. At the plea colloquy, Johnson confirmed under oath that he understood the charges, the minimum and maximum penalties (imprisonment for 10 years to life, up to a $10 million fine, and a minimum 5 years' supervised release), and the rights he was waiving. The court accepted the plea after finding that it was knowing and voluntary and that there was an adequate factual basis.

Before sentencing, a probation officer prepared a presentence investigation report (PSR) that calculated a total offense level of 42. The base level was 38 because Johnson's offense involved more than 90,000 kilograms of converted drug weight. *See* U.S.S.G. § 2D1.1(a)(5), (c)(1). The PSR added two levels for possessing a firearm in relation to the offense, *id.* § 2D1.1(b)(1), another two because Johnson maintained a premises for the purpose of distributing drugs, *id.* § 2D1.1(b)(12), and three more because Johnson was a manager or supervisor (but not an organizer or leader) and the criminal activity involved five or more participants, *id.* § 3B1.1(b); then again, the PSR removed three levels for acceptance of responsibility, *id.* § 3E1.1(a), (b). Based on a total offense level of 42 and a criminal history category of III, the PSR calculated a guidelines range of 360 months to life imprisonment and 5 years' supervised release.

Johnson objected to the two levels for possessing a firearm because the guns found in his apartment were not loaded, which he said suggested "he did not intend to use [the guns] for protection." And he objected to the three-level manager adjustment, contending that the government lacked evidence of his control over others.

At the sentencing hearing, the district court first resolved Johnson's objections. Despite evidence of Johnson's role in making travel arrangements for drug couriers, the court sustained his objection to the manager-or-supervisor enhancement. In support of the gun enhancement, however, the government presented testimony from a police officer who said he observed Johnson carrying packages resembling those used for drugs and that Johnson had a firearm in his waistband. Plus, the government emphasized, police officers found four guns and $22,000 in cash inside one of Johnson's apartments. The court thus upheld the gun enhancement, yielding a total offense level of 39 and criminal history category of III, for a range of 324 to 405 months in prison.

After weighing the sentencing factors under 18 U.S.C. § 3553(a), the court imposed a below-guidelines sentence of 250 months' imprisonment and 5 years' supervised release.

In his *Anders* brief, counsel first considers challenging Johnson's guilty plea. But counsel does not say that he consulted with Johnson about whether he wishes to raise this challenge. We have repeatedly reminded counsel that they should not consider in an *Anders* brief any arguments about the validity of a guilty plea unless counsel has consulted with the client, advised the client of the risks of withdrawal of the plea, and confirmed that the client wishes to withdraw the plea. *See United States v. Larry*, 104 F.4th 1020, 1022 (7th Cir. 2024); *United States v. Konczak*, 683 F.3d 348, 349 (7th Cir. 2012); *United States v. Knox*, 287 F.3d 667, 671 (7th Cir. 2002).

Nonetheless, the information in counsel's brief, along with our own review of the record, assures us that a challenge to the district court's acceptance of Johnson's guilty plea would be frivolous. Johnson did not move in the district court to withdraw his plea, so our review would be for plain error, *United States v. Davenport*, 719 F.3d 616, 618 (7th Cir. 2013), and we see none. The district court properly found that Johnson's plea was knowing and voluntary and supported by an adequate factual basis. *See* FED. R. CRIM. P. 11(b)(2)–(3). The court also ensured that Johnson knew the nature of the charges, the possible penalties, the rights he would waive by pleading guilty, and the role of the Sentencing Guidelines. *See* FED. R. CRIM. P. 11(b)(1); *Konczak*, 683 F.3d at 349.

Next, counsel rightly concludes that Johnson cannot plausibly challenge his sentence on procedural grounds. We review a district court's application of the Guidelines de novo and its findings of fact for clear error. *See United States v. Shehadeh*, 127 F.4th 1058, 1064 (7th Cir. 2025). As counsel explains, the district court correctly calculated a range of 324 to 405 months' imprisonment based on a total offense level of 39 and criminal history category of III. *See* U.S.S.G. § 5A. Counsel considers whether Johnson could reprise on appeal his objection to the offense-level increase for possessing a firearm. We agree with counsel that Johnson lacks a nonfrivolous argument that the district court clearly erred in finding he possessed a firearm in connection with drug trafficking. The adjustment applies "if the weapon was present," unless the defendant can show that "it is clearly improbable that the weapon was connected with the offense." U.S.S.G. § 2D1.1(b)(1), cmt. n.11(A). Johnson did not make this showing—especially given the police officer's uncontroverted testimony that he observed Johnson carrying packages resembling drugs and that he had a firearm in his waistband. *See United States v. Cashman*, 216 F.3d 582, 587 (7th Cir. 2000) ("Individuals who do no more than conspire to distribute narcotics are nonetheless eligible for the enhancement, so long as they possess a firearm in the course of the conspiracy.”).

As for substantive reasonableness, we agree with counsel that any challenge would be frivolous. A below-guidelines sentence is presumed reasonable, and Johnson would bear “a particularly onerous burden” to rebut that presumption by showing that the sentence is unreasonably high in light of the § 3553(a) factors. *United States v. Moore*, 851 F.3d 666, 674 (7th Cir. 2017). Here, the district court invoked the factors when explaining the sentence, highlighting the serious nature and circumstances of the offense (e.g., Johnson’s significant role in the conspiracy) and the need to promote respect for the law (as Johnson failed to consider the “drastic consequences” of his decision to distribute drugs). Balancing these factors against Johnson’s youth (23 years old at sentencing) and remorse, the court settled on a below-guidelines term of 250 months’ imprisonment. We do not reweigh a sentencing court’s assessment of the aggravating and mitigating factors, and that is all an appellate argument would ask us to do. *See United States v. Ambriz-Villa*, 28 F.4th 786, 791–92 (7th Cir. 2022).

Finally, counsel identifies no nonfrivolous argument that Johnson received ineffective assistance of trial counsel. Given the undeveloped record regarding trial counsel’s decisions, it would be unwise to raise this argument on direct appeal; such an argument is best saved for collateral review, where an evidentiary basis can be developed. *See, e.g.*, *United States v. Cates*, 950 F.3d 453, 456–57 (7th Cir. 2020) (citing *Massaro v. United States*, 538 U.S. 500, 504–05 (2003)).

We therefore GRANT counsel’s motion to withdraw and DISMISS the appeal.