

United States Court of Appeals
For the Eighth Circuit

No. 18-1438

United States of America,

Plaintiff - Appellee,

v.

Jaysen Lane Heyer,

Defendant - Appellant.

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

Submitted: November 12, 2018

Filed: November 16, 2018

[Unpublished]

Before COLLOTON, GRUENDER, and SHEPHERD, Circuit Judges.

PER CURIAM.

Jaysen Heyer appeals the sentence the district court¹ imposed after he pleaded guilty, pursuant to a written plea agreement, to a drug offense. His counsel has

¹The Honorable Susan Richard Nelson, United States District Judge for the District of Minnesota.

moved to withdraw and has filed a brief under *Anders v. California*, 386 U.S. 738 (1967), challenging the sentence as substantively unreasonable. In a pro se brief, Heyer argues that he did not understand the consequences of his guilty plea, that the plea agreement was breached, and that he received ineffective assistance of counsel.

After careful review, we conclude that the district court did not impose an unreasonable sentence. The sentence was below the advisory Guideline range. The court properly considered the factors set forth in 18 U.S.C. § 3553(a), and there is no indication that the court committed a clear error of judgment in weighing relevant factors. *See United States v. Salazar-Aleman*, 741 F.3d 878, 881 (8th Cir. 2013) (standard of review); *see also United States v. Torres-Ojeda*, 829 F.3d 1027, 1030 (8th Cir. 2016). We further conclude that Heyer's claims that he did not understand the consequences of his guilty plea and that the sentence constituted a breach of his plea agreement are refuted by his testimony at the plea hearing and the terms of the plea agreement. *See Nguyen v. United States*, 114 F.3d 699, 703 (8th Cir. 1997); *see also United States v. Bahena*, 223 F.3d 797, 806-07 (8th Cir. 2000). Additionally, we decline to consider Heyer's claims of ineffective assistance of counsel in this direct appeal. *See United States v. Hernandez*, 281 F.3d 746, 749 (8th Cir. 2002).

Having independently reviewed the record under *Penon v. Ohio*, 488 U.S. 75 (1988), we find no nonfrivolous issues for appeal. Accordingly, we grant counsel's motion and affirm.
