

United States Court of Appeals
For the Eighth Circuit

No. 25-3005

United States of America

Plaintiff - Appellee

v.

Ernesto Leyva

Defendant - Appellant

Appeal from United States District Court
for the District of Nebraska - Lincoln

Submitted: June 17, 2026

Filed: June 23, 2026

[Unpublished]

Before GRUENDER, BENTON, and SHEPHERD, Circuit Judges.

PER CURIAM.

Ernesto Leyva appeals the judgment entered and the sentence imposed by the district court¹ after a jury found him guilty of a drug conspiracy offense. His counsel

¹The Honorable Susan M. Bazis, United States District Judge for the District of Nebraska.

has moved to withdraw, and has filed a brief under *Anders v. California*, 386 U.S. 738 (1967). Having jurisdiction under 28 U.S.C. § 1291, this court affirms.

Before trial, Leyva moved to sever his trial from that of his co-defendant. The district court denied the motion, and Leyva challenges that ruling on appeal. This court concludes that the district court did not abuse its discretion in denying the motion. *See United States v. Sierra*, 94 F.4th 721, 727 (8th Cir. 2024) (standard of review). Leyva also challenges the sufficiency of the evidence. Upon careful review, this court concludes that the jurors had sufficient evidence to find Leyva guilty of a conspiracy offense involving at least 100 grams of fentanyl analogue mixture. *See United States v. Oliver*, 90 F.4th 1222, 1224–25 (8th Cir. 2024).

This court rejects Leyva’s argument that the district court erred by allowing testimony regarding his possession of firearms. *See United States v. Adamson*, 608 F.3d 1049, 1055 (8th Cir. 2010). Leyva’s arguments challenging the Guidelines calculations also fail. The district court did not plainly err in determining the drug quantity. *See United States v. Burnette*, 518 F.3d 942, 946 (8th Cir. 2008) (standard of review). Further, the district court did not clearly err in concluding that Leyva possessed a firearm in connection with the offense and that he maintained a drug premises. *See United States v. Torres*, 409 F.3d 1000, 1003 (8th Cir. 2005); *United States v. Clark*, 135 F.4th 622, 625 (8th Cir. 2025).

Having independently reviewed the record under *Penon v. Ohio*, 488 U.S. 75 (1988), this court finds no non-frivolous issues for appeal.

The judgment is affirmed and counsel’s motion to withdraw is granted.
