

United States Court of Appeals
For the Eighth Circuit

No. 12-1250

United States of America,

Plaintiff - Appellee,

v.

Patrick H. Watson,

Defendant - Appellant.

Appeal from United States District Court
for the Northern District of Iowa - Sioux City

Submitted: August 22, 2012

Filed: September 4, 2012

[Unpublished]

Before LOKEN, BOWMAN, and COLLOTON, Circuit Judges.

PER CURIAM.

Patrick Watson pleaded guilty to conspiring to distribute at least 28 grams of a mixture containing cocaine base, and distributing cocaine base near a playground,

in violation of 21 U.S.C. §§ 841(a)(1), 846, 860(a). The district court¹ sentenced him to 180 months in prison, which was below the applicable Guidelines range. On appeal, his counsel has filed a brief under Anders v. California, 386 U.S. 738 (1967), in which he seeks to withdraw and challenges the reasonableness of the sentence. Pro se, Watson moves for new counsel and raises several challenges to the conspiracy conviction and his sentence.

As to the pro se arguments, we conclude the district court did not err by accepting Watson's guilty plea to the conspiracy count, or by finding that he faced a mandatory minimum sentence under 21 U.S.C. § 841(b)(1)(B). See United States v. Christenson, 653 F.3d 697, 699-700 (8th Cir. 2011) (reviewing for plain error a claim of insufficient factual basis for guilty plea where issue was raised and withdrawn in district court); United States v. Resinos, 631 F.3d 886, 888 n.1 (8th Cir. 2011) (en banc) (per curiam) (aggregation of drug amounts is permissible where count of conviction includes conspiracy to violate § 841(a)(1)); cf. United States v. Kincannon, 567 F.3d 893, 897-99 (7th Cir. 2009) (affirming conviction where indictment alleged defendant conspired with "others known and unknown" and evidence showed conspiracy with another person even if it did not show conspiracy with person named in indictment).

As to counsel's argument, we conclude the sentence was reasonable and was supported by the 18 U.S.C. § 3553(a) factors. See United States v. Feemster, 572 F.3d 455, 461-62 (8th Cir. 2009) (en banc).

Having reviewed the record independently under Penson v. Ohio, 488 U.S. 75 (1988), we find no nonfrivolous issue. Accordingly, we deny Watson's motion, we grant counsel leave to withdraw, and we affirm the judgment.

¹The Honorable Mark W. Bennett, United States District Judge for the Northern District of Iowa.