

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 21-1867

United States of America

Appellee

v.

Valarie Watson

Appellant

Appeal from U.S. District Court for the Western District of Arkansas - Fayetteville
(5:20-cr-50070-TLB-1)

MANDATE

In accordance with the opinion and judgment of 09/02/2021, and pursuant to the provisions of Federal Rule of Appellate Procedure 41(a), the formal mandate is hereby issued in the above-styled matter.

September 23, 2021

Clerk, U.S. Court of Appeals, Eighth Circuit

United States Court of Appeals
For the Eighth Circuit

No. 21-1867

United States of America

Plaintiff - Appellee

v.

Valarie Watson

Defendant - Appellant

Appeal from United States District Court
for the Western District of Arkansas - Fayetteville

Submitted: August 30, 2021

Filed: September 2, 2021

[Unpublished]

Before SHEPHERD, GRASZ, and KOBES, Circuit Judges.

PER CURIAM.

Valarie Watson appeals the above-Guidelines sentence imposed by the district court¹ after she pleaded guilty to making a false statement to a federal agency. Her

¹The Honorable Timothy L. Brooks, United States District Judge for the Western District of Arkansas.

counsel has moved for leave to withdraw, and has filed a brief under Anders v. California, 386 U.S. 738 (1967), challenging her sentence. Watson has filed a pro se brief arguing that she did not understand she could be sentenced above the Guidelines range.

Upon careful review, we conclude the district court did not impose a substantively unreasonable sentence, as the court properly considered the factors listed in 18 U.S.C. § 3553(a) and did not err in weighing the relevant factors. See United States v. Feemster, 572 F.3d 455, 461-62 (8th Cir. 2009) (en banc) (sentences are reviewed for substantive reasonableness under deferential abuse of discretion standard; abuse of discretion occurs when court fails to consider relevant factor, gives significant weight to improper or irrelevant factor, or commits clear error of judgment in weighing appropriate factors; this court must give due deference to district court's determination that § 3553(a) factors justify variance); see also United States v. Mangum, 625 F.3d 466, 469-70 (8th Cir. 2010) (upward variance was reasonable where court made individualized assessment based on facts presented).

As to the arguments in Watson's pro se brief, we conclude the plea hearing transcript shows that she knowingly and voluntarily entered into the plea agreement, and that she understood she could be sentenced above the Guidelines range. See United States v. Green, 521 F.3d 929, 931 (8th Cir. 2008) (whether plea was knowing and voluntary is reviewed de novo); United States v. Andis, 333 F.3d 886, 890-91 (8th Cir. 2003) (en banc) (one important way district court can ensure plea agreement is knowing and voluntary is to question defendant about decision to enter into agreement); see also Nguyen v. United States, 114 F.3d 699, 703 (8th Cir. 1997) (defendant's representations during plea-taking carry strong presumption of verity).

We have also independently reviewed the record under Penson v. Ohio, 488 U.S. 75 (1988), and we find no non-frivolous issues for appeal. Accordingly, we affirm the judgment, and we grant counsel's motion to withdraw.

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JUDGMENT

Before SHEPHERD, GRASZ, and KOBES, Circuit Judges.

This appeal from the United States District Court was submitted on the record of the district court and briefs of the parties.

After consideration, it is hereby ordered and adjudged that the judgment of the district court in this cause is affirmed in accordance with the opinion of this Court.

September 02, 2021

Order Entered in Accordance with Opinion:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans