

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

SEP 29 1998

PATRICK FISHER
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

JONATHAN SEARCY,

Defendant-Appellant.

No. 98-3040
(D.C. No. 96-CR-10054)
(District of Kansas)

ORDER AND JUDGMENT*

Before **PORFILIO, KELLY**, and **HENRY**, Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1.9. The case is therefore ordered submitted without oral argument.

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. This court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

Jonathan W. Searcy appeals his sentence of 97 months. The only issue he raises is that the district court should have made his sentence concurrent with another he is serving on a separate conviction.

We have already held a district court has “broad discretion” to choose between concurrent or consecutive sentences. *United States v. McCarty*, 82 F.3d 943, 950 (10th Cir. 1996). This discretion is guided by the provisions of 18 U.S.C. § 3584(a) and (b) and U.S.S.G. § 5G1.3 setting forth applicable factors to be considered in choosing a sentence. Appellant points to no abuse of the district court’s discretion or violation of the statutory and guideline principles committed by the court in sentencing. Indeed, in his *Anders* brief (*Anders v. California*, 386 U.S. 738 (1967)) counsel candidly admits the district court did not err. We agree.

AFFIRMED.

ENTERED FOR THE COURT

John C. Porfilio
Circuit Judge