

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

August 27, 2026

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RONALD KEITH IRVING,

Defendant - Appellant.

No. 26-7010
(D.C. No. 6:09-CR-00036-RAW-1)
(E.D. Okla.)

ORDER AND JUDGMENT*

Before **HARTZ**, **MATHESON**, and **ROSSMAN**, Circuit Judges.

Ronald Keith Irving seeks to appeal the district court's denial of his motion under 18 U.S.C. § 3582(c)(2) for sentence reduction. His counsel has filed a brief under *Anders v. California*, 386 U.S. 738 (1967), and a motion to withdraw, stating there are no nonfrivolous grounds for this appeal. After receiving the *Anders* brief, Mr. Irving filed his own brief, arguing the district court erred in denying his motion.

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

Exercising jurisdiction under 28 U.S.C. § 1291, we grant counsel’s motion to withdraw and dismiss the appeal.¹

I. BACKGROUND

In July 2009, a jury convicted Mr. Irving of (1) Possession with Intent to Distribute Cocaine Base, also known as Crack Cocaine, in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(B)(iii), and (2) Tampering with a Witness, in violation of 18 U.S.C. §§ 1512(a)(1)(A) and 2. The district court, having considered the sentencing factors under 18 U.S.C. § 3553(a), sentenced Mr. Irving to concurrent 360-month sentences on each offense to be followed by concurrent 8- and 3-year terms of supervised release.

In June 2021, the district court, in response to Mr. Irving’s motion under the Fair Sentencing Act of 2010, the First Step Act of 2018, and Amendment 782 to the U.S. Sentencing Guidelines (“U.S.S.G.”), entered an amended judgment reducing Mr. Irving’s term of supervised release on the first offense from 8 to 6 years.

In October 2025, Mr. Irving moved under § 3582(c)(2) to reduce his sentence based on Guidelines Amendment 821. ROA, Vol. I at 97-100.² The district court

¹ Because Mr. Irving has filed a pro se brief, we construe it “liberally” but “will not act as his advocate.” *James v. Wadas*, 724 F.3d 1312, 1315 (10th Cir. 2013).

² Amendment 821 replaced U.S.S.G. § 4A1.1(d) with § 4A1.1(e). Before the amendment, defendants would receive 2 “status points” to their criminal history points for a convicted offense committed “while under any criminal justice sentence.” After the amendment, defendants do not receive any status points unless they already have 7 or more criminal history points. The former § 4A1.1(d) applied to Mr. Irving because he was under a criminal justice sentence when he committed his convicted offense. Mr. Irving and the Government agree that applying the amendment—the new

found that Mr. Irving was eligible for resentencing but declined to amend his sentence. It said:

The Court finds that the defendant does meet the criteria for a sentence reduction, pursuant to Amendment 821, however, the Court cannot justify a sentence lower than 360 months due to the nature of the case, along with the defendant's involvement in the case. The defendant attempted to kill a law enforcement officer by conspiring to have him shot to prevent his attendance/testimony in court, along with the defendant offering a cash amount for that officer's murder.

ROA, Vol. II at 9.

At Mr. Irving's request, his counsel filed a timely notice of appeal. Defense counsel then filed the *Anders* brief and motion to withdraw, writing that there are no nonfrivolous grounds for appeal because the district court (1) provided sufficient explanation for its decision and (2) did not abuse its discretion by declining to reduce Mr. Irving's sentence. *Anders* Br. at 7-8. Mr. Irving's response argued the district court abused its discretion by (1) issuing a "boilerplate denial" of his § 3582(c)(2) motion and (2) relying on information already considered in previous sentencing proceedings. Irving Br. at 1.

II. DISCUSSION

Anders permits counsel to "request permission to withdraw where counsel conscientiously examines a case and determines that any appeal would be wholly frivolous." *United States v. Calderon*, 428 F.3d 928, 930 (10th Cir. 2005).

§ 4A1.1(e)—to Mr. Irving's Guidelines calculation would change Mr. Irving's criminal history category from III to II, resulting in a Guidelines range adjustment from 360 months to life, to 324 to 405 months.

[C]ounsel must submit a brief to the client and the appellate court indicating any potential appealable issues based on the record. The client may then choose to submit arguments to the court. The [c]ourt must then conduct a full examination of the record to determine whether defendant's claims are wholly frivolous. If the court concludes after such an examination that the appeal is frivolous, it may grant counsel's motion to withdraw and may dismiss the appeal.

Id. (citing *Anders*, 386 U.S. at 744).

Mr. Irving's counsel "concluded that there is no arguable error regarding the district court declining to reduce [Mr. Irving's] sentence." *Anders* Br. at 4. We agree. Mr. Irving's filing does not convince us otherwise.

A. The District Court Provided Sufficient Explanation

Mr. Irving argues the district court's order "lacks any independent, individualized analysis" of his "positive" "post-incarceration track record, disciplinary record, or educational achievements during his nearly two decades of incarceration," thereby rendering it a "lopsided explanation." Irving Br. at 4-5. But the Supreme Court "leaves much . . . to the judge's own professional judgment" on providing a statement of reasons. *Chavez-Meza v. United States*, 585 U.S. 109, 113 (2018) (quoting *Rita v. United States*, 551 U.S. 338, 356 (2007)) (quotations omitted). And the *Anders* brief said the district court sufficiently explained its decision. *Anders* Br. at 7.

Contrary to Mr. Irving's argument, *Chavez-Meza*—which upheld our decision affirming a denial of sentence reduction under § 3582(c)(2)—does not require the district court to discuss the "positive" 18 U.S.C. § 3553(a) factors. 585 U.S. at 111, 114-15. Rather, the court must say enough to satisfy the appellate court that it has

considered the parties' arguments and has a reasoned basis. "[I]t may be sufficient for purposes of appellate review that the judge simply relied upon the record, while making clear that he or she has considered the parties' arguments and taken account of the § 3553(a) factors." *Chavez-Meza*, 585 U.S. at 116. In *Chavez-Meza*, it was sufficient for the district judge to state that "he had 'considered' petitioner's 'motion' and had 'tak[en] into account' the relevant Guidelines policy statements and the § 3553(a) factors" when the "record as a whole strongly suggests that the judge originally believed" that the sentence was "an appropriately high sentence." *Id.* at 118.

The *Anders* brief points to our unpublished decision *United States v. McDonald*, No. 24-7038, 2025 WL 1140251 (10th Cir. Apr. 15, 2025), which held that "a shorter sentence was not warranted by the § 3553(a) factors, particularly the nature of [the defendant's] conduct." *McDonald*, 2025 WL 1140251, at *2. *McDonald* noted that, as in *Chavez-Meza*, the district court provided sufficient explanation when it used an AO 247 standard form order that stated it considered the § 3553(a) factors. *Id.* We find this case on-point and persuasive.³

The district court acknowledged Mr. Irving's eligibility for sentence reduction but, using the AO 247 standard form order, declined to do so based on the § 3553(a) factors concerning the nature and circumstances and the seriousness of the offense.

³ See 10th Cir. R. 32.1(A) ("Unpublished decisions are not precedential but may be cited for their persuasive value."); see also Fed. R. App. P. 32.1.

See McDonald, 2025 WL 1140251, at *2. We see no nonfrivolous basis to challenge the court’s ruling based on inadequate explanation.

B. The District Court Properly Considered the § 3553(a) Factors

Mr. Irving appears to argue that the district court improperly considered the “nature of the witness tampering conduct” when that conduct was previously considered in the 2010 and 2021 sentencing proceedings. Irving Br. at 3. He argues the court “abused its discretion by utilizing historical witness tampering allegations as the sole basis for denial.”⁴ Irving Br. at 1. Mr. Irving’s arguments lack merit.

First, the “historical witness tampering allegations” were not the “sole basis for denial” of his motion. Rather, the district court found the witness tampering was one reason among others to deny sentence reduction.

Second, the district court properly relied on the nature and seriousness of Mr. Irving’s conduct under § 3553(a). *See Chavez-Meza*, 585 U.S. at 116; *United States v. Rose*, No. 24-7079, 2025 WL 1291704, at *3 (10th Cir. May 5, 2025) (unpublished) (affirming district court’s denial of § 3582(c)(2) motion based on Amendment 821 where district court emphasized § 3553(a) factors focusing on violent nature of crime and victim’s severe injuries); *United States v. Chenoweth*, No. 24-5051, 2025 WL 350466, at *1 (10th Cir. Jan. 31, 2025) (unpublished)

⁴ The *Anders* brief does not address this point directly but states Amendment 821 did not require the district court to reduce Mr. Irving’s sentence. *Anders* Br. at 8; *see also United States v. Osborn*, 679 F.3d 1193, 1196 (10th Cir. 2012) (“[A]n ameliorative amendment to the Guidelines in no way creates a *right* to sentence reduction.”).

(affirming district court’s denial of § 3582(c)(2) motion because of § 3553(a) factors on nature and circumstances of offenses and their seriousness).

III. CONCLUSION

Having “conduct[ed] a full examination of the record,” we discern no nonfrivolous ground for appealing the denial of Mr. Irving’s motion to reduce his sentence. *See Calderon*, 428 F.3d at 930. We therefore grant counsel’s motion to withdraw and dismiss this appeal.

Entered for the Court

Scott M. Matheson, Jr.
Circuit Judge