

APPENDIX A

United States Court of Appeals
For the Eighth Circuit

No. 23-1448

United States of America

Plaintiff - Appellee

v.

Timothy Paul Bush

Defendant - Appellant

Appeal from United States District Court
for the Southern District of Iowa - Eastern

Submitted: October 3, 2023

Filed: October 6, 2023

[Unpublished]

Before LOKEN, SHEPHERD, and GRASZ, Circuit Judges.

PER CURIAM.

Timothy Bush appeals the sentence imposed by the district court¹ after he pleaded guilty to drug and firearm offenses. His counsel has moved to withdraw, and

¹The Honorable Stephen H. Locher, United States District Judge for the Southern District of Iowa.

has filed a brief under Anders v. California, 386 U.S. 738 (1967), challenging Bush's classification as a career offender under the Guidelines and the substantive reasonableness of the sentence. Bush has filed a pro se supplement, also contesting his classification as a career offender.

After careful de novo review, we conclude that Bush's challenge to the career-offender classification is foreclosed by this court's precedent. See United States v. Castellanos Muratella, 956 F.3d 541, 543 (8th Cir. 2020) (standard of review). This court has held that there is no requirement under the Guidelines that the particular substance underlying the state offense is also controlled under a distinct federal law. See United States v. Henderson, 11 F.4th 713, 717-19 (8th Cir. 2021). We further conclude that the sentence is not substantively unreasonable, as the court did not commit a clear error of judgment in weighing the appropriate sentencing factors, see United States v. Feemster, 572 F.3d 455, 461-62 (8th Cir. 2009) (en banc); and the sentence is below the Guidelines range, see United States v. Torres-Ojeda, 829 F.3d 1027, 1030 (8th Cir. 2016).

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

~~APPENDIX B~~
**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 23-1448

United States of America

Appellee

v.

Timothy Paul Bush

Appellant

Appeal from U.S. District Court for the Southern District of Iowa - Eastern
(3:22-cr-00028-SHL-1)

ORDER

The petition for rehearing en banc is denied. The petition for rehearing by the panel is also denied.

November 22, 2023

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

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

No: 23-1448

United States of America

Plaintiff - Appellee

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Timothy Paul Bush

Defendant - Appellant

Appeal from U.S. District Court for the Southern District of Iowa - Eastern
(3:22-cr-00028-SHL-1)

JUDGMENT

Before LOKEN, SHEPHERD, and GRASZ, 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.

October 06, 2023

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

/s/ Michael E. Gans