

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 00-1338

United States of America,

Appellee,

v.

Ismael Allan Munoz,

Appellant.

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Appeal from the United States
District Court for the
District of Nebraska.

[UNPUBLISHED]

Submitted: December 21, 2000

Filed: December 28, 2000

Before McMILLIAN, FAGG, and LOKEN, Circuit Judges.

PER CURIAM.

After Ismael Allan Munoz pleaded guilty to wire fraud, in violation of 18 U.S.C. § 1343, the district court¹ sentenced him to 12 months and 1 day imprisonment, and 2 years supervised release, and to pay \$150,000 in restitution. On appeal, Munoz's counsel moved to withdraw pursuant to Anders v. California, 386 U.S. 738 (1967), challenging the district court's denial of Munoz's motion to depart downward to a

¹The HONORABLE JOSEPH F. BATAILLON, United States District Judge for the District of Nebraska.

sentence akin to that received by another person involved in the fraud. Munoz has not filed a pro se supplemental brief.

The district court's refusal to depart was a discretionary decision, which we do not review. See United States v. Correa, 167 F.3d 414, 417 (8th Cir. 1999). In accordance with Penson v. Ohio, 488 U.S. 75 (1988), we have reviewed the record for any non-frivolous issues. As we have found none, we now affirm and grant counsel's motion to withdraw.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.