

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

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No. 00-1837

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United States of America,

Appellee,

v.

Mitchell J. Patzner,

Appellant.

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Appeal from the United States  
District Court for the Northern  
District of Iowa.

[UNPUBLISHED]

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Submitted: March 6, 2001

Filed: March 9, 2001

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Before HANSEN, MORRIS SHEPPARD ARNOLD, and BYE, Circuit Judges.

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PER CURIAM.

Pursuant to a written plea agreement, Mitchell J. Patzner pleaded guilty to conspiring to distribute and possess with intent to distribute methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1) and 846. In the agreement, he stipulated that he had methamphetamine shipped from California to various residences in Dubuque, Iowa, and he “would pick up the methamphetamine from those residences, some of which were within 1000 feet of schools or playgrounds”; he also stipulated that a 1-level enhancement for distribution within a protected zone would apply, *see* U.S.S.G. § 2D1.2(a)(2). The Guidelines imprisonment range was 235-293 months with the

enhancement, and (we note) 210-262 months without it. After Mr. Patzner indicated at sentencing that he had no dispute with the presentence report's Guidelines calculations, the government moved for a substantial-assistance downward departure, see U.S.S.G. § 5K1.1, p.s.; the district court<sup>1</sup> granted the motion, and sentenced him to 144 months.

On appeal, Mr. Patzner seeks to challenge the section 2D1.2 enhancement. We conclude, however, that his sentence is unreviewable. See United States v. Baker, 64 F.3d 439, 441 (8th Cir. 1995) (“[W]here the district court departs below the applicable Guideline sentencing range with or without the challenged enhancement, we have held consistently that the sentence is not reviewable.”); United States v. Nguyen, 46 F.3d 781,783 (8th Cir. 1995) (defendant who voluntarily and explicitly acknowledges that specific Guidelines provision applies may not challenge punishment under that provision on appeal).

Accordingly, we affirm.

A true copy.

Attest:

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

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<sup>1</sup>The Honorable Michael J. Melloy, United States District Judge for the Northern District of Iowa.