

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

No. 00-2445

United States of America,

Appellee,

v.

Isabel Ortiz-Lopez, also known as
Padrino,

Appellant.

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

[UNPUBLISHED]

Submitted: May 30, 2001

Filed: June 4, 2001

Before McMILLIAN, BOWMAN, and MORRIS SHEPPARD ARNOLD, Circuit
Judges.

PER CURIAM.

Isabel Ortiz-Lopez appeals from the final judgment entered in the District Court¹ for the District of Nebraska after he pleaded guilty to possessing methamphetamine with intent to distribute, in violation of 18 U.S.C. § 2 and 21 U.S.C. § 841(a)(1), and did not contest a forfeiture count. The district court sentenced Ortiz-Lopez to seventy

¹The Honorable Thomas M. Shanahan, United States District Judge for the District of Nebraska.

months imprisonment and four years supervised release. Counsel has moved to withdraw under Anders v. California, 386 U.S. 738 (1967), and has filed a brief arguing that the district court erred in denying Ortiz-Lopez's motion for a downward departure. For the reasons discussed below, we affirm the judgment of the district court.

During the sentencing hearing the district court explicitly recognized its authority to depart downward under U.S.S.G. §§ 5H1.6, p.s., and 5K2.0, p.s., the Guidelines specified in Ortiz-Lopez's motion; however, based on the undisputed information contained in the presentence report, the court refused to depart. Thus, the matter is unreviewable on appeal. See United States v. Orozco-Rodriguez, 220 F.3d 940, 942 (8th Cir. 2000).

We have reviewed the record independently pursuant to Penon v. Ohio, 488 U.S. 75 (1988), and have found no nonfrivolous issues. Accordingly, we grant counsel's motion to withdraw and affirm the judgment of the district court.

A true copy.

Attest:

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