

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 99-4143

United States of America,

Appellee,

v.

Nathan J. Jarvis,

Appellant.

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Appeal from the United States
District Court for the
District of Nebraska.
[UNPUBLISHED]

Submitted: September 7, 2001

Filed: September 17, 2001

Before MURPHY, RICHARD S. ARNOLD, and BEAM, Circuit Judges.

PER CURIAM.

Nathan J. Jarvis pleaded guilty to distributing methamphetamine, in violation of 21 U.S.C. § 841(a)(1), and the district court¹ sentenced him to 108 months imprisonment and 5 years supervised release. On appeal, Jarvis's counsel has filed a brief--arguing that the court should have granted Jarvis a downward departure--and has moved to withdraw under Anders v. California, 386 U.S. 738 (1967). Jarvis has not filed a pro se supplemental brief.

¹The Honorable William G. Cambridge, United States District Judge for the District of Nebraska, now retired.

As counsel acknowledges, because the district court was aware of its authority to grant a downward departure, its discretionary decision not to depart is unreviewable. See United States v. Lim, 235 F.3d 382, 385 (8th Cir. 2000). After reviewing the record independently pursuant to Penson v. Ohio, 488 U.S. 75 (1988), we have found no nonfrivolous issues for appeal. Accordingly, we affirm the judgment of the district court, and we grant counsel's motion to withdraw.

A true copy.

Attest:

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