

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 01-3841

United States of America,

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Appellee,

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v.

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Appeal from the United States

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District Court for the

Nicholas Pyeatt,

*

Western District of Missouri

*

Appellant.

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[UNPUBLISHED]

Submitted: May 3, 2002

Filed: May 10, 2002

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

PER CURIAM.

Nicholas Pyeatt appeals from the final judgment entered in the District Court¹ for the Western District of Missouri, revoking his supervised release and sentencing him to 30 months imprisonment. For reversal, Pyeatt argues that the sentence was an upward departure from the Chapter 7 Guidelines and that the district court might have imposed a shorter sentence if the court had realized that Pyeatt might fail to complete

¹The Honorable Ortrie D. Smith, United States District Judge for the Western District of Missouri.

a Bureau of Prisons boot-camp program. For the reasons discussed below, we affirm the judgment of the district court.

As Pyeatt's counsel acknowledges, the court was not bound to impose a sentence within Chapter 7's recommended range. See United States v. Carr, 66 F.3d 981, 983 (8th Cir. 1995) (per curiam). Further, the district court specifically noted that Pyeatt would have to serve the full 30-month sentence in prison if he failed to complete boot camp.

Accordingly, we affirm. We also grant counsel's motion to withdraw.

A true copy.

Attest:

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