

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

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No. 01-3967

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United States of America,

Appellee,

v.

Michael Coonce,

Appellant.

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

[UNPUBLISHED]

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Submitted: April 30, 2002

Filed: May 6, 2002

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Before MURPHY, BYE, and RILEY, Circuit Judges.

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PER CURIAM.

Michael Coonce pleaded guilty to conspiring to distribute and to possess with intent to distribute in excess of 500 grams of a mixture or substance containing methamphetamine, in violation of 21 U.S.C. § 846. The district court,<sup>1</sup> after granting motions for downward departure under U.S.S.G. § 4A1.3 and 18 U.S.C. § 3553(e), sentenced Coonce to 60 months imprisonment and 5 years supervised release. On appeal, counsel has moved to withdraw under Anders v. California, 386 U.S. 738

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<sup>1</sup>The Honorable Joseph F. Bataillon, United States District Judge for the District of Nebraska.

(1967), and has filed a brief arguing that the district court erred in giving Coonce a 2-level firearm enhancement and in denying him a minor-participant reduction.

These arguments are unreviewable because Coonce's 60-month sentence is still a downward departure from the Guidelines range that would have resulted if he had prevailed on the arguments. See United States v. Wyatt, 26 F.3d 863, 864 (8th Cir. 1994) (per curiam). Further, even if the arguments were reviewable, we would not find that the district court clearly erred either in giving Coonce the firearm enhancement or in denying him a minor-participant reduction. See U.S.S.G. § 2D1.1 comment. (n.3); United States v. Calderin-Rodriguez, 244 F.3d 977, 987-88 (8th Cir. 2001); United States v. O'Dell, 204 F.3d 829, 837-38 (8th Cir. 2000). Moreover, following our independent review, see Penson v. Ohio, 488 U.S. 75 (1988), we find no nonfrivolous issues.

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

A true copy.

Attest:

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