

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

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No. 01-3798

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United States of America,

Appellee,

v.

Antonio Pizano-Cornego, also known  
as Javier Vega, also known as Diablo,

Appellant.

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\* Appeal from the United States  
\* District Court for the  
\* Northern District of Iowa.  
\* [UNPUBLISHED]  
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Submitted: August 7, 2002  
Filed: August 16, 2002

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Before HANSEN, Chief Judge, McMILLIAN, and RICHARD S. ARNOLD, Circuit  
Judges.

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PER CURIAM.

Antonio Pizano-Cornego appeals from the final judgment entered in the District Court<sup>1</sup> for the Northern District of Iowa after he pleaded guilty to two counts of distributing methamphetamine within 1000 feet of a school, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(B), (b)(1)(C) and 860(a), and one count of brandishing a firearm in relation to a drug-trafficking crime, in violation of 18 U.S.C.

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<sup>1</sup>The Honorable Donald E. O'Brien, United States District Judge for the Northern District of Iowa.

§ 924(c)(1)(A)(ii). The district court sentenced appellant to concurrent 108-month prison terms on the distribution counts and a consecutive 84-month term on the firearm count, followed by 8 years supervised release. Counsel has moved to withdraw and filed a brief under Anders v. California, 386 U.S. 738 (1967), arguing for reversal that the district court erred in sentencing appellant for brandishing--rather than merely possessing--the firearm.

We conclude that, based on the testimony of an undercover agent at sentencing, the district court correctly sentenced Pizano-Cornego for brandishing a firearm. See United States v. Carlson, 217 F.3d 986, 987-89 (8th Cir. 2000), cert. denied, 531 U.S. 1095 (2001). We have also reviewed the record independently under Penson v. Ohio, 488 U.S. 75 (1988), and have found no nonfrivolous issues.

Accordingly, we grant counsel's motion to withdraw, and we affirm the judgment of the district court.

A true copy.

Attest:

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