

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 02-1980

United States of America,

Appellee,

v.

Arden J. Messersmith,

Appellant.

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[UNPUBLISHED]

Submitted: September 5, 2002
Filed: September 11, 2002

Before McMILLIAN, MURPHY, and RILEY, Circuit Judges.

PER CURIAM.

Arden J. Messersmith pleaded guilty to one count of conspiring to possess with intent to distribute methamphetamine, in violation of 21 U.S.C. § 841(a)(1), and was sentenced to 262 months imprisonment and 5 years supervised release. Messersmith did not appeal. Within one year, the government moved to reduce his sentence under Fed. R. Crim. P. 35(b), and the district court¹ reduced the sentence to 131 months imprisonment to be followed by 5 years supervised release. Messersmith now appeals the reduced sentence. His counsel has moved to withdraw, filing a brief

¹The Honorable Warren K. Urbom, United States District Judge for the District of Nebraska.

pursuant to Anders v. California, 386 U.S. 738 (1967). For reversal, counsel argues that Messersmith's sentence should have been reduced more based on his assistance to the government.

This court lacks jurisdiction to review the extent of a departure made by a district court under Rule 35(b). See United States v. Coppedge, 135 F.3d 598, 599 (8th Cir. 1998) (per curiam) (dismissing challenge to extent of Rule 35(b) reduction because appeal is not based on any criteria listed in 18 U.S.C. § 3742(a)). Accordingly, we dismiss this appeal for lack of jurisdiction, and grant counsel's motion to withdraw.

A true copy.

Attest:

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