

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 02-2954

United States of America,

Appellee,

v.

Jose Jaime Lopez,

Appellant.

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Appeal from the United States
District Court for the Eastern
District of Missouri.

[Unpublished]

Submitted: April 4, 2003
Filed: April 18, 2003

Before HANSEN, MURPHY and MELLOY, Circuit Judges.

PER CURIAM.

After Jose Jaime Lopez pleaded guilty to possession with intent to distribute in excess of 100 kilograms of marijuana in violation of 21 U.S.C. § 841(a)(1), (b)(1)(B)(vii), the district court¹ departed downward from the applicable Guidelines range and sentenced Lopez to 120 months imprisonment and 5 years supervised release. On appeal, counsel has moved to withdraw and has filed a brief under Anders v. California, 386 U.S. 738 (1967), arguing that the district court erred in not departing further. After careful review of the record, we affirm.

¹The Honorable Catherine D. Perry, United States District Judge for the Eastern District of Missouri.

The extent of the district court's departure is unreviewable, see United States v. McFarlane, 309 F.3d 510, 516 (8th Cir. 2002), and upon reviewing the record independently under Penson v. Ohio, 488 U.S. 75 (1988), we find no nonfrivolous issues for appeal. Accordingly, we affirm the judgment of the district court. We also grant counsel's motion to withdraw.

A true copy.

Attest:

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