

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 03-2748

United States of America,	*	
	*	
Appellee,	*	Appeal from the United States
	*	District Court for the Western
v.	*	District of Missouri.
	*	
Shawn M. Simmer,	*	[UNPUBLISHED]
	*	
Appellant.	*	

Submitted: November 21, 2003

Filed: December 1, 2003

Before **BYE**, **FAGG**, and **BOWMAN**, Circuit Judges.

PER CURIAM.

Shawn M. Simmer appeals the sentence the district court* imposed after Simmer pleaded guilty to one count of bank robbery, in violation of 18 U.S.C. § 2113(a). Simmer's counsel has moved to withdraw and filed a brief under Anders v. California, 386 U.S. 738 (1967), contesting a 3-level increase under U.S.S.G. § 2B3.1(b)(2)(E) for brandishing or possessing a dangerous weapon. The record shows Simmer possessed a pellet gun or BB gun when he robbed the bank, and the teller

*The Honorable Nanette K. Laughrey, United States District Judge for the Western District of Missouri.

believed Simmer was carrying a gun; thus, we conclude the district court properly applied the increase. See U.S.S.G. § 1B1.1, comment. (n.1(d)(ii)). Having independently reviewed the record under Penson v. Ohio, 488 U.S. 75, 80 (1988), we find no nonfrivolous issues.

We affirm the district court and grant counsel's motion to withdraw.
