

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 03-4038

United States of America,

Plaintiff-Appellee,

v.

Micah E. Tyson,

Defendant-Appellant.

*
*
*
*
*
*
*
*

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

[UNPUBLISHED]

Submitted: July 22, 2004
Filed: August 12, 2004

Before MELLOY, LAY, and COLLOTON, Circuit Judges.

PER CURIAM.

This matter comes before the court for review on the ground that the district court, in revoking Defendant's probation, imposed a sentence above that recommended by the Guidelines. See United States Sentencing Commission, Guidelines Manual, § 7B1.4(a) (Nov. 2002). Defendant's counsel has sought permission to withdraw and filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), alleging the ground upon which the Defendant appeals.

The district court articulated the reasons for imposing a sentence above the recommended Guidelines range, and we find no abuse of discretion in this regard. See United States v. Brown, 203 F.3d 557, 558-59 (8th Cir. 2000). This court has also reviewed the record of the district court in accordance with Penson v. Ohio, 488 U.S. 75 (1988), and finds no nonfrivolous issues. The district court is affirmed. See 8th Cir. R. 47B.

We also grant defense counsel's motion to withdraw. Counsel is reminded of the obligations under Part V of this Court's Amended Criminal Justice Act Plan. Specifically, counsel is to advise the defendant of the right to file a petition for writ of certiorari in the Supreme Court of the United States, and to inform the defendant as to the merits and likelihood of success in the filing of such a petition. If counsel determines there are meritorious issues, defense counsel shall assist the defendant in filing a petition for writ of certiorari. If counsel determines there are no meritorious issues warranting the filing of a petition for writ of certiorari, counsel shall advise the defendant of the procedures for filing a petition pro se, and the time limits for the filing of such a petition. Counsel shall file a certification with the clerk within 30 days certifying that he has complied with his obligations under Part V.
