

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 05-1293

United States of America,

Appellee,

v.

Jose Manuel Mancha-Galvan,

Appellant.

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

[UNPUBLISHED]

Submitted: October 6, 2005
Filed: October 11, 2005

Before **BYE**, **McMILLIAN**, and **RILEY**, Circuit Judges.

PER CURIAM.

Jose Manuel Mancha-Galvan pleaded guilty to conspiring to distribute fifty grams or more of methamphetamine, in violation of 21 U.S.C. § 846, and the district court¹ sentenced him to seventy months in prison and four years of supervised release. On appeal, his counsel moved to withdraw and filed a brief under Anders v. California, 386 U.S. 738 (1967).

¹The Honorable Scott O. Wright, United States District Judge for the Western District of Missouri.

Counsel argues the district court erred under United States v. Booker, 125 S. Ct. 738 (2005), by treating the Guidelines as mandatory at Mancha-Galvan's pre-Booker sentencing. However, Mancha-Galvan did not preserve this issue below and we conclude he is not entitled to plain-error Booker relief because there is no indication in the record the district court would have imposed a lower sentence under advisory Guidelines. See United States v. Pirani, 406 F.3d 543, 552-53 (8th Cir. 2005) (en banc).

Having reviewed the record independently pursuant to Penson v. Ohio, 488 U.S. 75 (1988), we conclude there are no nonfrivolous issues for appeal. Accordingly, we affirm the judgment of the district court and we grant counsel's motion to withdraw.
