

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 05-2360

United States of America,

Appellee,

v.

Khounxai Phimvongsa,

Appellant.

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

[UNPUBLISHED]

Submitted: February 3, 2006

Filed: February 8, 2006

Before ARNOLD, BYE, and SMITH, Circuit Judges.

PER CURIAM.

Khounxai Phimvongsa pleaded guilty to being a felon and an unlawful user of controlled substances in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1) and (g)(3), and possessing marijuana with intent to distribute, in violation of 21 U.S.C. § 841(a)(1). The district court¹ sentenced him to 46 months in prison and 3 years of supervised release. On appeal, Phimvongsa's counsel has moved to withdraw and filed a brief under Anders v. California, 386 U.S. 738 (1967).

¹The Honorable Gary A. Fenner, United States District Judge for the Western District of Missouri.

Phimvongsa's plea agreement contains a valid appeal waiver. See United States v. Andis, 333 F.3d 886, 889-90 (8th Cir.) (en banc), cert. denied, 540 U.S. 997 (2003). Having reviewed the record independently pursuant to Penson v. Ohio, 488 U.S. 75 (1988), for any nonfrivolous issues not covered by the appeal waiver, we enforce the waiver, dismiss this appeal, and grant counsel's motion to withdraw.
