

**United States Court of Appeals  
FOR THE EIGHTH CIRCUIT**

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No. 05-2867

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United States of America,

Appellee,

v.

Michael L. Jones,

Appellant.

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

[UNPUBLISHED]

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Submitted: October 6, 2006  
Filed: October 18, 2006

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Before SMITH, MAGILL, and BENTON, Circuit Judges.

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PER CURIAM.

Michael Jones appeals the sentence the district court<sup>1</sup> imposed after he pleaded guilty to being a felon in possession of a firearm, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2). His counsel has filed a brief under Anders v. California, 386 U.S. 738 (1967), asserting that the district court should have required the government to file a motion for a downward departure based on Jones's substantial assistance.

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<sup>1</sup>The Honorable Ortrie D. Smith, United States District Judge for the Western District of Missouri.

Counsel's argument is unavailing. See United States v. Romsey, 975 F.2d 556, 557-58 (8th Cir. 1992) (denial of defendant's substantial-assistance downward-departure motion was not error where government did not make motion, even though government did not present its reasons, because plea agreement preserved government's discretion whether to make such motion and defendant made no threshold showing of constitutionally impermissible motive). Having reviewed the record pursuant to Penson v. Ohio, 488 U.S. 75 (1988), we find no nonfrivolous issues. Accordingly, we affirm the district court's judgment.

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