

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 05-3719

United States of America,

Appellee,

v.

Miguel Barrajas-Magana,

Appellant.

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Appeal from the United States
District Court for the
District of Nebraska.

[UNPUBLISHED]

Submitted: October 3, 2006

Filed: October 6, 2006

Before RILEY, COLLOTON, and GRUENDER, Circuit Judges.

PER CURIAM.

Miguel Barrajas-Magana (Magana) pled guilty to possessing with intent to distribute 50 grams or more of methamphetamine, in violation of 21 U.S.C. § 841(a)(1) and (b)(1). At sentencing, the district court¹ sentenced Magana to the statutory minimum sentence of 120 months in prison and 5 years of supervised release. On appeal, counsel has moved to withdraw and has filed a brief under Anders v. California, 386 U.S. 738 (1967), arguing Magana's sentence is unreasonable.

¹The Honorable Laurie Smith Camp, United States District Judge for the District of Nebraska.

The district court had no authority to sentence Magana below the statutory minimum. See United States v. Chacon, 330 F.3d 1065, 1066 (8th Cir. 2003) (stating “the only authority for the district court to depart below the statutorily mandated minimum sentence is found in 18 U.S.C. §§ 3553(e) and (f), which apply only when the government makes a motion for substantial assistance or when the defendant qualifies under the safety valve provision”). Consequently, we cannot say that the district court’s sentence was unreasonable.

Having reviewed the record under Penson v. Ohio, 488 U.S. 75, 80 (1988), we find no nonfrivolous issues. Accordingly, we affirm, and we grant counsel’s motion to withdraw.
