

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 05-4328

United States of America,

Appellee,

v.

Jorge A. Fernandez,

Appellant.

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

[UNPUBLISHED]

Submitted: December 7, 2006
Filed: December 14, 2006

Before RILEY, COLLOTON and GRUENDER, Circuit Judges.

PER CURIAM.

Jorge Fernandez appeals the sentence the district court¹ imposed after he pleaded guilty to conspiring to distribute 50 grams or more of methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A), and 846. His counsel has moved to withdraw, filing a brief under Anders v. California, 386 U.S. 738 (1967).

On appeal, Fernandez's counsel argues the district court erred in sentencing Fernandez to 120 months in prison. We disagree, because in the circumstances here,

¹The Honorable Dean Whipple, Chief Judge, United States District Court for the Western District of Missouri.

the district court had no authority to sentence Fernandez below the statutory mandatory minimum. See United States v. Chacon, 330 F.3d 1065, 1066 (8th Cir. 2003) (only authority for district court to depart from statutory minimum sentence is found in 18 U.S.C. § 3553(e) and (f), which apply only when government makes motion for substantial assistance or defendant qualifies for safety-valve relief).

Having carefully reviewed the record in accordance with Penon v. Ohio, 488 U.S. 75 (1988), we find no nonfrivolous issues for appeal. Accordingly, we affirm the judgment, and we grant counsel leave to withdraw.
