

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 05-4457

United States of America,

Appellee,

v.

Shondo Billie,

Appellant.

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Appeal from the United States
District Court for the
District of North Dakota.

[UNPUBLISHED]

Submitted: April 5, 2007
Filed: April 10, 2007

Before COLLOTON, HANSEN, and BENTON, Circuit Judges.

PER CURIAM.

A jury found Shondo Billie guilty of one count of sexual abuse of a minor, in violation of 18 U.S.C. § 2243(a), and four counts of aggravated sexual abuse of a minor, in violation of 18 U.S.C. § 2241(c). The district court¹ sentenced him to 230 months in prison and 5 years of supervised release. On appeal, counsel has filed a brief under Anders v. California, 386 U.S. 738 (1967), containing a request to withdraw. For the reasons discussed below, we affirm.

¹The Honorable Daniel Hovland, Chief Judge, United States District Court for the District of North Dakota.

Counsel argues that the district court erred by denying the defense's motion in limine to exclude any evidence of additional, similar abuses by Billie against the same victim during the same approximate period of time. We conclude that the district court did not abuse its discretion by admitting this evidence under Federal Rules of Evidence 413 and 414 because, in the circumstances of this case, the probative value of the evidence was not substantially outweighed by the danger of unfair prejudice. See United States v. Benais, 460 F.3d 1059, 1063 (8th Cir. 2006) (upholding admission of evidence of other sexual assaults under Fed. R. Evid. 413 and 414 when applying Fed. R. Evid. 403's balancing test).

Having reviewed the record independently under Penon v. Ohio, 488 U.S. 75 (1988), and having found no non-frivolous issues for appeal, we affirm the judgment of the district court and grant counsel's request to withdraw. We deny Billie's pending motion for substitute counsel.
