

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 06-4162

United States of America,

Appellee,

v.

Delmar Phillips,

Appellant.

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

[UNPUBLISHED]

Submitted: November 21, 2007

Filed: November 29, 2007

Before WOLLMAN, COLLOTON, and BENTON, Circuit Judges.

PER CURIAM.

Delmar Phillips conditionally pleaded guilty to possessing more than 50 grams of actual methamphetamine with intent to distribute, in violation of 21 U.S.C. § 841(a)(1). The district court¹ sentenced him to 120 months in prison, the statutory minimum, and 5 years of supervised release. On appeal, his counsel has filed a brief under Anders v. California, 386 U.S. 738 (1967), and has moved to withdraw. For the reasons discussed below, we affirm, and we grant counsel's withdrawal motion.

¹The Honorable Robert T. Dawson, United States District Judge for the Western District of Arkansas.

First, law enforcement officers' knowledge from a records check that Phillips was driving with a suspended license gave them probable cause to arrest him. The arrest, in turn, gave the officers authority to conduct a search of Phillips's person incident to the arrest. Thus, the district court correctly denied his motion to suppress the drugs seized from his person. See United States v. Jones, 479 F.3d 975, 978 (8th Cir. 2007). Second, the district court lacked authority to sentence Phillips below the 10-year statutory minimum. See United States v. Gregg, 451 F.3d 930, 937 (8th Cir. 2006); United States v. Chacon, 330 F.3d 1065, 1066 (8th Cir. 2003).

Finally, having found no nonfrivolous issues after reviewing the record independently under Penon v. Ohio, 488 U.S. 75 (1988), we affirm the judgment of the district court and grant counsel's motion to withdraw.
