

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 11-1257

United States of America,

Appellee,

v.

Lance Dewayne Cummings,

Appellant.

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

[UNPUBLISHED]

Submitted: July 6, 2011
Filed: July 15, 2011

Before LOKEN, MURPHY, and COLLOTON, Circuit Judges.

PER CURIAM.

Lance Cummings pleaded guilty to possessing with intent to distribute more than 50 grams but less than 500 grams of a methamphetamine mixture, in violation of 21 U.S.C. § 841(a)(1). The district court¹ sentenced him to the statutory minimum of 60 months in prison and 4 years of supervised release. Cummings appeals. His counsel has moved to withdraw and filed a brief under Anders v. California, 386 U.S. 738 (1967), arguing that the court erred denying safety-valve relief under 18 U.S.C.

¹The Honorable Brian S. Miller, United States District Judge for the Eastern District of Arkansas.

§ 3553(f)(5) and USSG § 5C1.2(a)(5), and in declining to decrease his offense level based on a mitigating role in the offense, pursuant to USSG § 3B1.2.

We conclude that the district court did not clearly err by finding that Cummings had not truthfully provided all information he had concerning the offense, and thus did not satisfy the safety-valve requirements. See United States v. Alvarado-Rivera, 412 F.3d 942, 947 (8th Cir. 2005) (en banc). Because Cummings was subject to a statutory minimum penalty of 60 months' imprisonment, his challenge to the district court's decision on a minor-role reduction is moot. United States v. Bolanos, 409 F.3d 1045, 1049 (8th Cir. 2005).

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