

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 11-2170

United States of America,

Appellee,

v.

William De Jesus, Jr.,

Appellant.

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* Appeal from the United States
* District Court for the Northern
* District of Iowa.
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* [UNPUBLISHED]
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Submitted: March 30, 2012

Filed: April 4, 2012

Before MURPHY, ARNOLD, and SHEPHERD, Circuit Judges.

PER CURIAM.

William De Jesus pleaded guilty to possessing with intent to distribute and aiding the possession with intent to distribute of 500 grams or more of a methamphetamine mixture, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(A). After granting the government's motion for a downward departure under U.S.S.G. § 5K1.1 (substantial assistance), the district court¹ sentenced Mr. De Jesus to 97 months in prison and three years of supervised release. Mr. De Jesus then filed this appeal, in

¹The Honorable Linda R. Reade, Chief Judge, United States District Court for the Northern District of Iowa.

which his counsel has moved to withdraw and has submitted a brief pursuant to Anders v. California, 386 U.S. 738 (1967), challenging the extent of the downward departure.

Because Mr. De Jesus does not allege that the district court was motivated by an unconstitutional motive in arriving at its downward-departure decision, we cannot review the extent of the departure, see United States v. Billue, 576 F.3d 898, 905 (8th Cir. 2009); and after reviewing the record independently under Penson v. Ohio, 488 U.S. 75, 80 (1988), we find no non-frivolous issues. Accordingly, we affirm the judgment of the district court, and we grant counsel's motion to withdraw conditioned on counsel informing Mr. De Jesus about the procedures for seeking rehearing from this court and filing a petition for a writ of certiorari from the Supreme Court of the United States.
