

United States Court of Appeals
For the Eighth Circuit

No. 12-1296

United States of America

Plaintiff - Appellee

v.

Alejandro Lopez-Placencia

Defendant - Appellant

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

Submitted: July 13, 2012

Filed: November 2, 2012

[Unpublished]

Before WOLLMAN, MELLOY, and SHEPHERD, Circuit Judges.

PER CURIAM.

Alejandro Lopez-Placencia pleaded guilty to possessing methamphetamine with intent to distribute. See 21 U.S.C. § 841(a)(1), (b)(1)(A)(viii); 18 U.S.C. § 2.

Varying downward from the applicable advisory Guidelines range, the district court¹ sentenced him to 120 months in prison (the statutory minimum). On appeal, his counsel has moved to withdraw and filed a brief under Anders v. California, 386 U.S. 738 (1967).

We conclude that the district court committed no significant procedural error in sentencing Lopez-Placencia, and that the sentence was substantively reasonable. See United States v. Farmer, 647 F.3d 1175, 1178 (8th Cir. 2011) (describing appellate review); United States v. Chacon, 330 F.3d 1065, 1066 (8th Cir. 2003) (only authority to depart from statutory minimum sentence is in 18 U.S.C. § 3553(e) and (f), which apply when government moves for substantial-assistance departure or defendant qualifies for safety-valve relief); see also United States v. Barrera, 562 F.3d 899, 902-03 (8th Cir. 2009) (district court may not adjust defendant's criminal-history score to provide § 3553(f) relief).

Having independently reviewed the record under Penon v. Ohio, 488 U.S. 75 (1988), we find no nonfrivolous issue. Accordingly, we affirm the judgment of the district court and grant counsel's motion to withdraw, subject to counsel informing appellant about procedures for seeking rehearing or filing a petition for certiorari.

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