

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 05-2234

United States of America,

Appellee,

v.

Gary Sembler,

Appellant.

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

[UNPUBLISHED]

Submitted: May 5, 2006
Filed: May 11, 2006

Before WOLLMAN, MURPHY, and COLLOTON, Circuit Judges.

PER CURIAM.

Gary Sembler appeals the sentence the district court¹ imposed after he pleaded guilty to conspiring to defraud the United States, see 18 U.S.C. § 286, and presenting false claims against the United States, see 18 U.S.C. § 287. On appeal, counsel has moved to withdraw and filed a brief under Anders v. California, 386 U.S. 738 (1967), noting Sembler's belief that he should have been sentenced as a minor participant.

¹The Honorable Fernando J. Gaitan, Jr., United States District Judge for the Western District of Missouri.

We conclude that it was not clear error for the district court to deny a minor-role reduction under U.S.S.G. § 3B1.2 upon finding that the conspiracy could not have taken place without Sembler’s involvement. See United States v. Casares-Cardenas, 14 F.3d 1283, 1289 (8th Cir.) (decision whether to accord minor-role status is factual finding reviewed for clear error; denial of minor-role reduction was not clear error where defendant’s role was “integral to the advancement of the purpose of the conspiracy”), cert. denied, 513 U.S. 849 (1994).

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