

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 10-3719

United States of America,

Appellee,

v.

Timothy J. Griess, also known as
Towtruck, also known as TJ,

Appellant.

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* Appeal from the United States
* District Court for the
* District of Nebraska.
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* [UNPUBLISHED]
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Submitted: April 08, 2011
Filed: April 13, 2011

Before LOKEN, MURPHY, and COLLOTON, Circuit Judges.

PER CURIAM.

Timothy Griess pleaded guilty to conspiring to distribute 500 grams or more of a methamphetamine mixture, in violation of 21 U.S.C. § 846, and subject to sentencing under 21 U.S.C. § 841(b)(1). The district court¹ sentenced him to the statutory minimum of 120 months in prison and 5 years of supervised release. Griess appeals. His counsel has filed a brief under Anders v. California, 386 U.S. 738

¹The Honorable Richard G. Kopf, United States District Judge for the District of Nebraska.

(1967), in which he seeks to withdraw and argues that the sentence was greater than necessary to accomplish the statutory sentencing goals.

Counsel's challenge to the sentence is unavailing. The record reflects that Griess understood the statutory minimum penalties when he entered his guilty plea. The district court had no discretion to impose a sentence below the statutory minimum where there was neither a departure motion by the government nor eligibility for safety-valve relief. See United States v. Chacon, 330 F.3d 1065, 1066 (8th Cir. 2003).

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