

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 05-4116

United States of America,	*
	*
Appellee,	*
	*
v.	* Appeal from the United States
	* District Court for the
	* Western District of Arkansas.
Christopher Warren George,	*
	*
Appellant.	* [UNPUBLISHED]
	*

Submitted: January 25, 2007
Filed: January 31, 2007

Before RILEY, MAGILL, and MELLOY, Circuit Judges.

PER CURIAM.

Christopher Warren George appeals the sentence the district court¹ imposed after he pleaded guilty to bank robbery, in violation of 18 U.S.C. § 2113(a). His counsel has filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), in which he seeks leave to withdraw, and argues that the district court improperly applied a reckless-endangerment enhancement and erred in not compelling the government to move for a substantial-assistance reduction. We reject these arguments.

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

Based on testimony at sentencing, the district court found that George had been the driver of a speeding vehicle which nearly struck an officer following the instant offense. We conclude that the court did not clearly err in applying the U.S.S.G. § 3C1.2 enhancement. See United States v. Pierce, 388 F.3d 1136, 1138 (8th Cir. 2004) (per curiam) (no clear error in applying § 3C1.2 enhancement where defendant rammed police officer's vehicle with his truck and then collided with parked cars); United States v. Sample, 213 F.3d 1029, 1034 (8th Cir. 2000) (credibility determinations are virtually unreviewable on appeal). Counsel's other argument is also unavailing. See United States v. Romsey, 975 F.2d 556, 557-58 (8th Cir. 1992) (denial of defendant's substantial-assistance downward-departure motion was not error where government did not make motion, even though government did not present its reasons, because plea agreement preserved government's discretion whether to make such motion and defendant made no threshold showing of constitutionally impermissible motive).

After reviewing the record independently under Penon v. Ohio, 488 U.S. 75 (1988), we have found no nonfrivolous issues. Accordingly, we affirm the judgment of the district court. We grant counsel leave to withdraw, subject to counsel advising the defendant of his rights to file a petition for writ of certiorari.
