

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 07-1268

United States of America,

Appellee,

v.

Jessica Martinez,

Appellant.

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Appeal from the United States
District Court for the
District of Nebraska.

[UNPUBLISHED]

Submitted: December 4, 2007
Filed: December 20, 2007

Before WOLLMAN, COLLOTON, and BENTON, Circuit Judges.

PER CURIAM.

Jessica Martinez pleaded guilty to conspiring to distribute and possess with intent to distribute at least 500 grams of a methamphetamine mixture in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A)(viii), 846, which subjected her to a 10-year minimum prison term. At sentencing, the district court¹ determined an advisory Guidelines imprisonment range of 120-121 months (because of the mandatory minimum sentence), granted the government's motion to reduce her sentence based on substantial assistance pursuant to USSG § 5K1.1 and 18 U.S.C. § 3553(e), and

¹The Honorable Laurie Smith Camp, United States District Judge for the District of Nebraska.

sentenced Martinez to 90 months in prison. On appeal, Martinez's counsel has filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), arguing that, in light of the assistance Martinez provided, the reduction under the departure motion should have been greater. Absent evidence of an unconstitutional motive, however, Martinez's displeasure with the extent of the district court's reduction under § 3553(e) is not reviewable. United States v. Dalton, 478 F.3d 879, 881-82 (8th Cir. 2007). Further, after reviewing the record independently under Penson v. Ohio, 488 U.S. 75, 80 (1988), we have found no nonfrivolous issues for appeal. Accordingly, we grant counsel's motion to withdraw, and we affirm.
