

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 10-1973

United States of America,

Appellee,

v.

Thomas Dean Appleby,

Appellant.

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Appeal from the United States
District Court for the
Northern District of Iowa.

[UNPUBLISHED]

Submitted: September 7, 2010

Filed: September 9, 2010

Before LOKEN, MURPHY, and BENTON, Circuit Judges.

PER CURIAM.

Thomas Dean Appleby pleaded guilty to distributing cocaine base, in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(B). The district court¹ determined that Appleby was entitled to safety-valve relief from the statutory minimum sentence, see 18 U.S.C. § 3553(f); explained the sentencing factors it had considered; and imposed a below-Guidelines-range sentence of 33 months in prison. On appeal, Appleby's counsel has moved to withdraw and filed a brief under Anders v. California, 386 U.S. 738 (1967), maintaining that the sentence imposed was unreasonable because it was longer than

¹The HONORABLE LINDA R. READE, Chief Judge, United States District Court for the Northern District of Iowa.

necessary to achieve the goals of 18 U.S.C. § 3553(a), and because the disparity between sentences for cocaine base and powder cocaine offenses was inadequately considered.

Having carefully reviewed the record, we conclude that the sentence imposed was not an abuse of the district court's substantial sentencing discretion. See United States v. Stults, 575 F.3d 834, 849 (8th Cir. 2009); United States v. Feemster, 572 F.3d 455, 461 (8th Cir. 2009) (en banc). Finding no nonfrivolous issue for appeal, see Penson v. Ohio, 488 U.S. 75, 80 (1988), we affirm the judgment and grant counsel's motion to withdraw conditioned on counsel informing Appleby about the procedures for seeking rehearing or filing a petition for a writ of certiorari.
