

United States Court of Appeals
For the Eighth Circuit

No. 21-1106

United States of America

Plaintiff - Appellee

v.

Eric Allen Rhine

Defendant - Appellant

Appeal from United States District Court
for the Southern District of Iowa - Eastern

Submitted: September 29, 2021

Filed: October 6, 2021

[Unpublished]

Before ERICKSON, GRASZ, and STRAS, Circuit Judges.

PER CURIAM.

Eric Rhine pleaded guilty to conspiring to manufacture, distribute, and possess with intent to distribute heroin. 21 U.S.C. §§ 841(a)(1), 841(b)(1)(A), 846.

In an *Anders* brief, Rhine's counsel suggests that the district court¹ should have imposed a sentence below the mandatory minimum of 120 months under the so-called safety valve in 18 U.S.C. § 3553(f). *See Anders v. California*, 386 U.S. 738 (1967).

Upon careful review, we conclude that the district court did not clearly err in determining that the safety-valve reduction was unavailable on these facts. *See United States v. Soto*, 448 F.3d 993, 995–96 (8th Cir. 2006) (reviewing the district court's findings on the availability of a safety-valve reduction for clear error). As the court found, Rhine failed to provide complete and truthful information to investigators. *See* 18 U.S.C. § 3553(f)(5); *see also United States v. Sanchez-Gonzalez*, 643 F.3d 626, 630 (8th Cir. 2011) (stating that a district court may assess truthfulness by considering how a defendant's statements have changed).

We have also independently reviewed the record and conclude that no other non-frivolous issues exist. *See Penson v. Ohio*, 488 U.S. 75, 82–83 (1988). We accordingly affirm the judgment of the district court and grant counsel permission to withdraw.

¹The Honorable John A. Jarvey, Chief Judge, United States District Court for the Southern District of Iowa.