

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

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No. 00-1507NE

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United States of America,

Appellee,

v.

Daniel Drayer,

Appellant.

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\* On Appeal from the United  
\* States District Court  
\* for the District of  
\* Nebraska.

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\* [Not To Be Published]

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Submitted: July 5, 2000

Filed: July 19, 2000

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Before RICHARD S. ARNOLD, BOWMAN, and BEAM, Circuit Judges.

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PER CURIAM.

Dan Drayer<sup>1</sup> appeals the sentence the District Court<sup>2</sup> imposed on him following his guilty plea to distributing methamphetamine in violation of 21 U.S.C. § 841(a)(1). He argues that the Court erred in not departing downward sua sponte based on, among other things, his rehabilitative conduct. Having carefully reviewed the record, we

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<sup>1</sup>The presentence report indicates that the defendant's legal name is Dan Duane Drayer.

<sup>2</sup>The Honorable Lyle E. Strom, United States District Judge for the District of Nebraska.

conclude that the District Court did not plainly err in not granting an unrequested downward departure. See United States v. Montanye, 996 F.2d 190, 192 (8th Cir. 1993) (en banc) (plain-error standard of review for issues not raised below); United States v. Tapia, No. 99-2412, 2000 WL 146374, at \*1 (8th Cir. Feb. 8, 2000) (unpublished per curiam) (no plain error in not granting unrequested downward departure). Accordingly, we affirm.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.