

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 00-3691

United States of America,

Appellee,

v.

Clay Victor Miller,

Appellant.

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Appeal from the United States
District Court for the Western
District of Missouri.

[UNPUBLISHED]

Submitted: April 27, 2001

Filed: May 2, 2001

Before MORRIS SHEPPARD ARNOLD, BEAM, and BYE, Circuit Judges.

PER CURIAM.

Clay Victor Miller pleaded guilty to conspiring to manufacture and distribute methamphetamine, in violation of 21 U.S.C. § 846, and the district court¹ sentenced him to 151 months imprisonment and 5 years supervised release. On appeal, his counsel has filed a brief and moved to withdraw under Anders v. California, 386 U.S. 738 (1967), and Miller has filed a pro se supplemental brief.

¹The Honorable Dean Whipple, Chief Judge, United States District Court for the Western District of Missouri.

As to the issue raised in both the counseled and pro se briefs, because Miller's 151-month sentence does not exceed the 20-year maximum prison term allowed by 21 U.S.C. § 841(b)(1)(C) for drug-trafficking offenses regardless of quantity, his sentence does not violate Apprendi v. New Jersey, 530 U.S. 466 (2000). See United States v. Aguayo-Delgado, 220 F.3d 926, 934 (8th Cir.), cert. denied, 121 S. Ct. 600 (2000). We find no merit to the argument advanced only in the pro se brief, a multiplicity challenge to certain counts of the indictment which were dismissed after Miller pleaded guilty to another count.

Having reviewed the record independently pursuant to Penon v. Ohio, 488 U.S. 75 (1988), we have found no nonfrivolous issues for appeal. Accordingly, we affirm the judgment of the district court, and we grant counsel's motion to withdraw.

A true copy.

Attest:

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