

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 01-3357

United States of America,

Appellee,

v.

Michael D. Simmons,

Appellant.

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* Appeal from the United States
* District Court for the
* Western District of Missouri.
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* [UNPUBLISHED]
*

Submitted: April 3, 2002

Filed: April 8, 2002

Before BOWMAN, MORRIS SHEPPARD ARNOLD, and RILEY, Circuit Judges.

PER CURIAM.

Michael D. Simmons pleaded guilty to being a felon in possession of a firearm, see 18 U.S.C. §§ 922(g)(1), 924(a)(2) (1994). The District Court¹ sentenced him to twenty-seven months of imprisonment and three years of supervised release. On appeal, counsel has moved to withdraw under Anders v. California, 386 U.S. 738 (1967), and has filed a brief arguing that the District Court should have granted a downward departure under § 5H1.4 of the United States Sentencing Guidelines because of Simmons's artificial leg.

¹The Honorable Nanette K. Laughrey, United States District Judge for the Western District of Missouri.

We conclude that the District Court did not plainly err by not departing downward sua sponte. Counsel acknowledged at sentencing that Simmons did not qualify for departure, and Simmons received the sentence he requested. See United States v. Carrasco, 271 F.3d 765, 767-68 (8th Cir. 2001); United States v. Murphy, 248 F.3d 777, 779-80 (8th Cir. 2001).

Accordingly, we affirm the judgment, grant counsel's motion to withdraw, and deny all other pending motions.

A true copy.

Attest:

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