

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 07-1313

United States of America,

Appellee,

v.

Raul Ortega Mijares, also known as
Safari, also known as Luis Fernando
Garcia-Rios,

Appellant.

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Appeal from the United States
District Court for the
District of Nebraska.

[UNPUBLISHED]

Submitted: February 13, 2008
Filed: February 19, 2008

Before WOLLMAN, RILEY, and GRUENDER, Circuit Judges.

PER CURIAM.

Raul Ortega Mijares appeals the 120-month prison sentence the district court¹ imposed after he pleaded guilty to a drug offense. On appeal, counsel has filed a brief under Anders v. California, 386 U.S. 738 (1967), in which he moves to withdraw. We affirm.

¹The Honorable Richard G. Kopf, United States District Judge for the District of Nebraska.

For reversal, counsel raises as a possible argument that the district court mishandled this case. Upon careful review of the record, we conclude that this argument has no merit. In particular, we find that the district court's unobjected-to refusal to grant safety-valve relief was not error, plain or otherwise, see United States v. Pirani, 406 F.3d 543, 550 (8th Cir. 2005) (en banc) (describing plain-error review that appellate court uses to correct error not raised at trial), because Mijares admitted that he had refused to provide certain information about his offense that had been requested by the government, see 18 U.S.C. § 3553(f) and U.S.S.G. § 5C1.2(a) (safety-valve relief requirements). Accordingly, the 10-year statutory minimum imposed by the district court was the lowest sentence the court could legally have imposed. See United States v. Gregg, 451 F.3d 930, 937 (8th Cir. 2006) (“Booker² does not relate to statutorily-imposed sentences”); United States v. Chacon, 330 F.3d 1065, 1066 (8th Cir. 2003) (only authority for district court to depart from statutory minimum sentence is found in 18 U.S.C. § 3553(e) and (f), which apply only when government makes motion for substantial assistance or defendant qualifies for safety-valve relief).

Having reviewed the record independently under Penon v. Ohio, 488 U.S. 75, 80 (1988), we find no nonfrivolous issues. Accordingly, we grant counsel leave to withdraw, and we affirm the judgment.

²United States v. Booker, 543 U.S. 220 (2005).