

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 10-2917

United States of America,

Appellee,

v.

Michael D. Clemmons,

Appellant.

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

[UNPUBLISHED]

Submitted: November 22, 2010

Filed: March 14, 2011

Before LOKEN, MURPHY, and BENTON, Circuit Judges.

PER CURIAM.

Michael Clemmons appeals the judgment revoking his term of supervised release and sentencing him to eighteen months in prison. He argues that the district court¹ committed procedural error when, during the revocation hearing, the court received a confidential sentencing recommendation from the probation officer. This contention is without merit. *See United States v. Davis*, 151 F.3d 1304, 1306 (10th Cir. 1998); *United States v. Johnson*, 935 F.3d 47, 51 (4th Cir. 1991). Clemmons, who was represented by counsel at the hearing, raised no question whether the court

¹The Honorable Scott O. Wright, United States District Judge for the Western District of Missouri.

had obtained from the probation officer, ex parte, factual evidence that should be disclosed under Rule 32.1 of the Federal Rules of Criminal Procedure.

Accordingly, this court affirms the judgment of the district court. Counsel's motion to withdraw is granted, subject to counsel informing Clemmons about procedures for seeking rehearing or filing a petition for certiorari.
