

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 05-1297

United States of America,

Appellee,

v.

Isidro Terriquez Chavez,
also known as Isidro Terriquez,

Appellant.

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* Appeal from the United States
* District Court for the
* District of Nebraska.
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* [UNPUBLISHED]
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Submitted: December 1, 2005

Filed: December 6, 2005

Before BYE, McMILLIAN, and RILEY, Circuit Judges.

PER CURIAM.

Isidro Terriquez Chavez (Chavez) pled guilty to conspiring to distribute and possess with intent to distribute 500 grams or more of methamphetamine mixture, in violation of 21 U.S.C. § 846. The district court¹ sentenced him to 70 months' imprisonment and 5 years of supervised release. On appeal, counsel has moved to withdraw and filed a brief under Anders v. California, 386 U.S. 738 (1967). In his pro

¹The Honorable Lyle E. Strom, United States District Judge for the District of Nebraska.

se supplemental brief, Chavez argues that the district court violated United States v. Booker, 125 S. Ct. 738 (2005). We reject that argument for the following reasons.

Chavez failed to raise any objection below, limiting our review to plain error. Applying the test we adopted in United States v. Pirani, 406 F.3d 543, 550-53 (8th Cir.) (en banc), cert. denied, 126 S. Ct. 266 (2005), we conclude Chavez cannot satisfy his burden to show the error of sentencing under a mandatory system affected his substantial rights. Although Chavez received a sentence at the bottom of the Guidelines range, we have held this is not by itself a sufficient showing, see id. at 553, and the district court gave no indication at sentencing or elsewhere in the record it would have imposed a more favorable sentence under advisory Guidelines, see United States v. Wunder, 414 F.3d 1019, 1023 (8th Cir. 2005).

Having reviewed the record independently pursuant to Penson v. Ohio, 488 U.S. 75 (1988), we conclude there are no nonfrivolous issues for appeal. Accordingly, we affirm the judgment of the district court, and we grant counsel's motion to withdraw. We deny Chavez's pending motion to compel.
