

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 06-1819

United States of America,

Appellee,

v.

April D. Abbott,

Appellant.

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* Appeal from the United States

* District Court for the

* Western District of Missouri.

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* [UNPUBLISHED]

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Submitted: May 30, 2007

Filed: June 29, 2007

Before RILEY, MAGILL, and MELLOY, Circuit Judges.

PER CURIAM.

April D. Abbott pleaded guilty to conspiring to distribute 50 grams or more of methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A), and 846. On appeal, Abbott's counsel has moved to withdraw and filed a brief under Anders v. California, 386 U.S. 738 (1967), arguing that Abbott's guilty plea was not knowingly and voluntarily made because of her extensive history of substance abuse.

The attack on the voluntariness of Abbott's plea is not properly before us, however, because she failed to first raise the issue to the district court¹ by seeking to withdraw her guilty plea. See United States v. Murphy, 899 F.2d 714, 716 (8th Cir. 1990) (claim of involuntary guilty plea "first must be presented to the district court and [is] not cognizable on direct appeal").

Having reviewed the record independently under Penson v. Ohio, 488 U.S. 75, 80 (1988), we find no nonfrivolous issues. Accordingly, we allow counsel to withdraw, and we affirm, on condition that he show that he has informed Abbott of the procedures for petitioning the Supreme Court for certiorari, in compliance with Part V of our plan to implement the Criminal Justice Act.

¹The Honorable Garry A. Fenner, United States District Judge for the Western District of Missouri.