

United States Court of Appeals
For the Eighth Circuit

No. 12-3058

United States of America

Plaintiff - Appellee

v.

Trista Marie Espinoza

Defendant - Appellant

Appeal from United States District Court
for the Northern District of Iowa - Ft. Dodge

Submitted: June 24, 2013

Filed: July 18, 2013

[Unpublished]

Before LOKEN, MELLOY, and BENTON, Circuit Judges.

PER CURIAM.

Trista Espinoza directly appeals the sentence the district court¹ imposed upon granting the government's motion for a downward departure under 18 U.S.C.

¹The Honorable Linda R. Reade, Chief Judge, United States District Court for the Northern District of Iowa.

§ 3553(e) and U.S.S.G. § 5K1.1, based upon Espinoza's substantial assistance. Her counsel has moved to withdraw, and has filed a brief under *Anders v. California*, 386 U.S. 738 (1967), arguing that the district court – after granting the government's downward-departure motion and reducing Espinoza's sentence below the statutory minimum – should have considered 18 U.S.C. § 3553(a) factors unrelated to her substantial assistance, in order to reduce her sentence further. Espinoza also has a pending motion for appointment of new counsel.

Upon careful review, this court concludes that counsel's argument is unavailing. See *United States v. Billue*, 576 F.3d 898, 902-04 (8th Cir. 2009) (in discussing district court's limited authority under § 3553(e) and § 5K1.1 to impose sentence below statutory minimum, emphasizing that, in ruling on government's downward-departure motion based on substantial assistance, court may consider only factors related to defendant's substantial assistance to government, and that, upon reducing sentence below statutory minimum, court may not use § 3553(a) factors to decrease sentence further). Having independently reviewed the record under *Penon v. Ohio*, 488 U.S. 75 (1988), this court finds no nonfrivolous issues for appeal.

Counsel's motion to withdraw is granted, Espinoza's motion for appointment of counsel is denied, and the judgment of the district court is affirmed.
