

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 01-1670

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United States of America,

Appellee,

v.

Andre Lamar Plummer,

Appellant.

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Appeal from the United States  
District Court for the  
Northern District of Iowa

[UNPUBLISHED]

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Submitted: November 7, 2001

Filed: December 4, 2001

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Before McMILLIAN, RICHARD S. ARNOLD, and BYE, Circuit Judges.

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PER CURIAM.

Andre Lamar Plummer appeals from the final judgment entered in the District Court<sup>1</sup> for the Northern District of Iowa after he pleaded guilty to possessing cocaine with intent to distribute, in violation of 21 U.S.C. § 841(a)(1). The district court sentenced appellant to 180 months imprisonment and three years supervised release. On appeal, Plummer's counsel has filed a brief--noting that the court departed upward under U.S.S.G. § 4A1.3--and has moved to withdraw under Anders v. California, 386

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<sup>1</sup>The Honorable Mark W. Bennett, Chief Judge, United States District Court for the Northern District of Iowa.

U.S. 738 (1967). Plummer has not filed a pro se supplemental brief. For the reasons discussed below, we affirm the judgment of the district court.

Plummer expressly and voluntarily agreed in open court to the district court's upward departure and the resulting 180-month sentence, foreclosing an appellate challenge to these matters. See United States v. Nguyen, 46 F.3d 781, 783 (8th Cir. 1995). We have found no nonfrivolous issues for appeal after reviewing the record independently pursuant to Penson v. Ohio, 488 U.S. 75 (1988).

Accordingly, we affirm the judgment of the district court, and we grant counsel's motion to withdraw.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.