

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

April 12, 2006

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

BRAULIO OLGUIN ORDUNO,

Defendant-Appellant.

No. 05-5101

(D.C. No. 04-CR-175-CVE)

(N. D. Okla.)

ORDER AND JUDGMENT*

Before **KELLY, McKAY, and LUCERO**, Circuit Judges.

After examining the appellate record in this case, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. *See* Fed. R. App. P. 34(a)(2). The case is therefore ordered submitted without oral argument.

Defendant pleaded guilty to one count of possession of 500 grams of cocaine with an intent to distribute, which carries a sentencing range of ten years to life imprisonment; to another count of possession of fifty grams of

*This order and judgment is not binding precedent, except under the doctrines of law of the case, *res judicata*, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

methamphetamine with intent to distribute, which carries a sentencing range of five to forty years' imprisonment; and to a third count of possession of a firearm in furtherance of a drug trafficking crime, which carries a sentencing range of five years to life imprisonment and requires that the sentence be served consecutively to any other sentences. The district court sentenced him to the minimum 180 months' imprisonment, the minimum allowed by statute—120 months' imprisonment for the first two counts to be served concurrently, and sixty months' imprisonment for the gun charge to be served consecutive to the 120 months. Defendant filed a timely notice of appeal. Defendant's counsel then filed a motion to withdraw as counsel, and, in compliance with *Anders v. California*, 386 U.S. 738 (1967), filed a brief in support of that motion. In his brief, Defendant's counsel asserted that Defendant's case raises no arguably appealable issues.

We have reviewed the record on appeal and conclude that counsel is correct. Nothing in the record indicates that Defendant did not knowingly and voluntarily enter into the plea agreement or that the district court incorrectly calculated Defendant's sentence. Counsel's Brief in Support of Motion to Withdraw as Counsel for Defendant Orduno contains a certificate of service certifying that he furnished Defendant with a copy of counsel's brief, but Defendant has not filed a brief indicating disagreement with his counsel's

position. We therefore **GRANT** counsel leave to withdraw and **AFFIRM** the district court's decision.

Entered for the Court

Monroe G. McKay
Circuit Judge