

CASE No. ____

In The Supreme Court of the United States

MICHAEL SARTIN,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

On Petition for Writ of Certiorari
to the
United States Court of Appeals
for the Eighth Circuit

PETITIONER'S APPENDIX

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(December 7, 2021, Order Denying Motion to
Recall the Mandate)

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(July 02, 2020, Appeals Court Opinion & Judgment)

APPENDIX A

**DECEMBER 7, 2021 ORDER
DENYING MOTION TO RECALL THE MANDATE**

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 19-2131

United States of America

Appellee

v.

Michael Charles Sartin

Appellant

Appeal from U.S. District Court for the Western District of Arkansas - Fayetteville
(5:18-cr-50004-TLB-1)

ORDER

The motion to recall the mandate is denied.

December 07, 2021

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

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APPENDIX B

JULY 2, 2020 ORDER & JUDGMENT

United States Court of Appeals

For The Eighth Circuit

Thomas F. Eagleton U.S. Courthouse
111 South 10th Street, Room 24.329

St. Louis, Missouri 63102

Michael E. Gans
Clerk of Court

VOICE (314) 244-2400

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July 02, 2020

Mr. Michael Charles Sartin
U.S. PENITENTIARY
14916-010
P.O. Box 1000
Leavenworth, KS 66048-0000

RE: 19-2131 United States v. Michael Sartin

Dear Sir:

The court has issued an opinion in this case. Judgment has been entered in accordance with the opinion. The opinion will be released to the public at 10:00 a.m. today. Please hold the opinion in confidence until that time.

Your attorney has been granted leave to withdraw. Please review Federal Rules of Appellate Procedure and the Eighth Circuit Rules on post-submission procedure to ensure that any contemplated filing is timely and in compliance with the rules. A notice is attached to this letter, notifying you of the procedures.

Michael E. Gans
Clerk of Court

AMT

Enclosure(s)

cc: Mr. David A. Harris
Mr. Steven R. Morrison
Mr. Lloyd Vance Stone
Mr. Douglas F. Young

District Court/Agency Case Number(s): 5:18-cr-50004-TLB-1

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Notice to Pro Se Litigants in Anders Cases

The court has issued its opinion in your appeal and has permitted your attorney to withdraw from the case. The court treated this appeal as an Anders case. Section V of the Eighth Circuit's Plan to Implement the Criminal Justice Act of 1964, effective August 1, 2015, provides as follows:

Where counsel is granted leave to withdraw pursuant to the procedures of Anders v. California, 386 U.S. 738 (1967), and Penson v. Ohio, 488 U.S. 75 (1988), counsel's duty of representation is completed, and the clerk's letter transmitting the decision of the court will notify the defendant of the procedures for filing pro se a timely petition for panel rehearing, a timely petition for rehearing en banc, and a timely petition for writ of certiorari.

This notice will provide you with information about these procedures.

Under Federal Rule of Appellate Procedure 40(a)(1) and Federal Rule of Appellate Procedure 35(c), a petition for rehearing and/or petition for rehearing en banc must be filed within 14 days of the date of the court's judgment. Please note that your petition for rehearing/and or petition for rehearing en banc must be received in the clerk's office within that 14-day period. No grace period is allowed for mailing, and the date of the post-mark is irrelevant. Any petition for rehearing and/or petition for rehearing en banc which is not received within that 14-day period for filing may be denied as untimely. Under Federal Rule of Appellate Procedure 35(b) (2) petitions for rehearing are limited to 15 pages. Only one copy is required.

If you ask for an extension of time to file the petition for rehearing, your motion for extension of time must be received within the clerk's office within the 14 days allowed for filing the petition for rehearing. Under Eighth Circuit Rule 27A(15), the clerk may grant an extension of time not to exceed 14 days.

You may seek a writ of certiorari from the Supreme Court of the United States without filing for rehearing in the court of appeals. You may also seek rehearing in the court of appeals and then seek certiorari if the court of appeals denies your petition for rehearing. Under Supreme Court Rule 13, a petition for a writ of certiorari in a criminal case is timely if it is filed with the Clerk of the Supreme Court within 90 days after the entry of the court of appeals' judgment. The rule also provides that if a timely petition for rehearing is filed with the court of appeals, the 90-day period begins to run from the date the court of appeals denies the petition for rehearing.

The petition for the writ of certiorari is filed directly with the Clerk of the Supreme Court of the United States. You may contact the Clerk at the following address:

Clerk's Office
Supreme Court Building
1 First Street, N.E.
Washington, D.C. 20543
202-479-3000

APPENDIX B - 3 A

United States Court of Appeals
For the Eighth Circuit

No. 19-2131

United States of America

Plaintiff - Appellee

v.

Michael Charles Sartin

Defendant - Appellant

Appeal from United States District Court
for the Western District of Arkansas - Fayetteville

Submitted: June 29, 2020
Filed: July 2, 2020
[Unpublished]

Before ERICKSON, WOLLMAN, and STRAS, Circuit Judges.

PER CURIAM.

Michael Sartin pleaded guilty to distributing methamphetamine, *see* 21 U.S.C. §§ 841(a)(1), 841(b)(1)(A)(viii), and received a within-Guidelines-range prison sentence. In an *Anders* brief, Sartin's counsel asks to withdraw and raises four issues. *See Anders v. California*, 386 U.S. 738 (1967). Two arise out of statements

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the district court¹ made at sentencing, the first a remark about a hand grenade in Sartin’s possession and the second a reference to the seriousness of his drug-distribution offense. The third and fourth claims are that the court deprived him of the right to speak at sentencing and that trial counsel was ineffective. After considering each issue, we conclude that none entitles him to relief.

The district court did not plainly err when, relying on an uncontested fact from the presentence investigation report, it stated that Sartin possessed a hand grenade. *See United States v. Lee*, 570 F.3d 979, 982 (8th Cir. 2009). Nor did the court somehow “double count” his drug distribution by characterizing the offense as “serious.” *See* 18 U.S.C. § 3553(a)(1) (requiring district courts to consider the nature and circumstances of the offense).

Sartin also had an opportunity to speak in his own defense. *See* Fed. R. Crim. P. 32(i)(4)(A)(ii); *United States v. Hoffman*, 707 F.3d 929, 937 (8th Cir. 2013). And to the extent he argues that he received ineffective assistance of counsel, we will not consider this issue now. *See United States v. Ramirez-Hernandez*, 449 F.3d 824, 826–27 (8th Cir. 2006) (explaining that ineffective-assistance-of-counsel claims “are usually best litigated in collateral proceedings”).

Finally, we have independently reviewed the record under *Penson v. Ohio*, 488 U.S. 75, 82–83 (1988), and conclude that there are no other non-frivolous issues for appeal. Accordingly, we affirm the judgment and grant counsel permission to withdraw.

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¹The Honorable Timothy L. Brooks, United States District Judge for the Western District of Arkansas.

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 19-2131

United States of America

Plaintiff - Appellee

v.

Michael Charles Sartin

Defendant - Appellant

Appeal from U.S. District Court for the Western District of Arkansas - Fayetteville
(5:18-cr-50004-TLB-1)

JUDGMENT

Before ERICKSON, WOLLMAN, and STRAS, Circuit Judges.

This appeal from the United States District Court was submitted on the record of the district court and briefs of the parties.

After consideration, it is hereby ordered and adjudged that the judgment of the district court in this cause is affirmed in accordance with the opinion of this Court.

July 02, 2020

Order Entered in Accordance with Opinion:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

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