

UNITED STATES COURT OF APPEALS August 4, 2008

TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ANNETTE LEWIS,

Defendant - Appellant.

No. 07-3324
(D. Ct. No. 06-CR-20129-JWL)
(D. Kan.)

ORDER AND JUDGMENT*

Before **TACHA, KELLY**, and **McCONNELL**, Circuit Judges.

Defendant-Appellant Annette Lewis pleaded guilty to one count of conspiracy to distribute and possession with intent to distribute more than 100 kilograms of marijuana in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(B)(vii), 846, and 18 U.S.C. § 2. The district court sentenced Ms. Lewis to a term of 120 months' imprisonment. Ms. Lewis appealed her conviction and sentence. Her counsel filed an *Anders* brief and moved to withdraw as counsel. *See Anders v. California*, 386 U.S. 738 (1967). Ms. Lewis filed a response, conceding that her appeal does not raise a non-frivolous issue, and the government declined to submit a brief.

*This order and judgment is not binding precedent except under the doctrines of law of the case, res judicata and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

Having examined the record, including the plea and sentencing transcripts, we agree that counsel has not raised any non-frivolous issues on appeal. In particular, Ms. Lewis's guilty plea was knowing and voluntary and was consistent with Fed. R. Crim. P. 11. Although Ms. Lewis expressed concerns regarding the prosecutor's motives during her plea colloquy, she has not raised—and the record does not reveal—a non-frivolous issue concerning the prosecutor's conduct. As for her sentence, because Ms. Lewis had a prior conviction for a felony drug offense, she received a ten-year sentence, which is the minimum term of imprisonment mandated by statute. *See* 21 U.S.C. § 841(b)(1)(B)(vii).

We therefore GRANT counsel's motion to withdraw and DISMISS the appeal.

ENTERED FOR THE COURT,

Deanell Reece Tacha
Circuit Judge