

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

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No. 04-2270

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United States of America,

Appellee,

v.

Santiago Villagomez-Lopez,

Appellant.

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\* Appeal from the United States  
\* District Court for the  
\* Southern District of Iowa.  
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\* [UNPUBLISHED]  
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Submitted: January 18, 2005

Filed: January 19, 2005

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Before WOLLMAN, MURPHY, and BENTON, Circuit Judges.

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PER CURIAM.

Santiago Villagomez-Lopez appeals from the final judgment entered by the district court<sup>1</sup> upon his guilty plea to an illegal-reentry charge, in violation of 8 U.S.C. § 1326(a). On appeal, his counsel has moved to withdraw and filed a brief under Anders v. California, 386 U.S. 738 (1967), arguing that the district court did not exercise discretion in denying a downward departure for overrepresentation of criminal history. Having reviewed the record, we conclude that the district judge recognized that he had the authority to depart, properly based his decision on the facts

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<sup>1</sup> The Honorable Robert W. Pratt, United States District Judge for the Southern District of Iowa.

of the case, and made a discretionary decision based on those facts. Having found no other nonfrivolous issues after reviewing the record independently under Penson v. Ohio, 488 U.S. 75 (1988), we affirm. We also grant counsel's motion to withdraw.

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