

**UNITED STATES COURT OF APPEALS**  
**TENTH CIRCUIT**

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**July 25, 2007**

**Elisabeth A. Shumaker**  
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

JOSE DE JESUS ROMERO-ACOSTA,

Defendant-Appellant.

No. 06-2243

(D. of N.M.)

(D.C. No. CR-06-155-WJ)

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**ORDER AND JUDGMENT\***

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Before **HENRY, TYMKOVICH, and HOLMES**, Circuit Judges.\*\*

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Jose Romero-Acosta pleaded guilty to being in possession with intent to distribute 100 grams or more of a mixture or substance containing heroin, in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(B). This crime carries a statutory minimum of five years and a maximum of forty years. 21 U.S.C. § 841(b)(1)(B). As part of his plea agreement, Romero-Acosta acknowledged that

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\* This order and judgment is not binding precedent except under the doctrines of law of the case, res judicata and collateral estoppel.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.

\*\* After examining the briefs and the appellate record, this three-judge panel has determined unanimously that oral argument would not be of material assistance in the determination of this appeal. *See* Fed. R. App. P. 34(a); 10th Cir. R. 34.1(G). The cause is therefore ordered submitted without oral argument.

the district court may impose a sentence within the five to forty-year range. At sentencing, the district court sentenced him to the statutory minimum of five years. Romero-Acosta filed a Notice of Appeal in the matter.

On appeal, Romero-Acosta's counsel filed an *Anders*<sup>1</sup> brief after concluding that there was no meritorious issue on appeal. We have independently reviewed the record, and agree. Romero-Acosta's plea agreement and sentencing transcript support beyond any doubt the conclusion that he knowingly and voluntarily entered into a plea of guilty with a statutory minimum sentence of five years.

Finding that his plea agreement was knowingly and voluntarily made and that his sentence within the statutorily-required range was reasonable, we find no merit in Romero-Acosta's appeal. We hereby DENY this appeal. We also GRANT Romero-Acosta's counsel's motion to withdraw from the case.

Entered for the Court,

Timothy M. Tymkovich  
Circuit Judge

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<sup>1</sup> *Anders v. California*, 386 U.S. 738 (1967) (authorizing counsel to request permission to withdraw where counsel conscientiously examines a case and determines that an appeal would be wholly frivolous).