

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 00-4742

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

KEVIN CONWAY, JR.,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at New Bern. Malcolm J. Howard, District Judge. (CR-00-19)

Submitted: May 31, 2001

Decided: July 10, 2001

Before MICHAEL, KING, and GREGORY, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Thomas P. McNamara, Federal Public Defender, G. Alan DuBois, Assistant Federal Public Defender, Raleigh, North Carolina, for Appellant. Janice McKenzie Cole, United States Attorney, Anne M. Hayes, Assistant United States Attorney, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Pursuant to a plea agreement, Kevin Conway, Jr., pled guilty to one count of aggravated sexual abuse of a child, in violation of 18 U.S.C.A. § 2242(2) (West 2000), and one count of theft of personal property of a value greater than \$1000, in violation of 18 U.S.C.A. § 661 (West 2000). The district court sentenced Conway to 218 months in prison. Conway appeals,* challenging his sentence on that ground that the district court erred in determining his criminal history category by relying on information in the presentence investigation report concerning his juvenile adjudications.

We find that Conway has had a fair opportunity to challenge the information concerning his juvenile record in the presentence report and has failed to show that the information was incorrect. Consequently, we affirm his sentence. United States v. Inglesi, 988 F.2d 500, 502 (4th Cir. 1993). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED

* Conway's plea agreement included an appeal waiver provision. However, because this provision was not discussed at his Federal Rule of Criminal Procedure 11 hearing and there is no other indication in the record that Conway understood the full significance of the waiver, we find that he did not waive his right to appeal. United States v. Marin, 961 F.2d 493, 496 (4th Cir. 1992).