

UNPUBLISHED

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

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

JAMES BARTHOLOMEW BROOKS,
Defendant-Appellant.

No. 01-4134

Appeal from the United States District Court
for the Eastern District of Virginia, at Norfolk.
Henry C. Morgan, Jr., District Judge.
(CR-00-103)

Submitted: August 24, 2001

Decided: September 10, 2001

Before WIDENER and TRAXLER, Circuit Judges, and
HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

COUNSEL

Rodolfo Cejas, II, HAMPTON ROADS LEGAL CENTER, P.L.C.,
Norfolk, Virginia, for Appellant. Kenneth E. Melson, United States
Attorney, Ian K. Thornhill, Special Assistant United States Attorney,
Norfolk, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

James Bartholomew Brooks appeals his jury convictions and resulting six-month sentence for two counts of aiding and abetting the submission of a fraudulent claim for payment from the Navy and two counts of aiding and abetting the theft of public money in violation of 18 U.S.C. §§ 2, 287, 641 (1994). Brooks' attorney has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967), asserting the evidence was insufficient to support his convictions. Though aware of his opportunity to file a pro se supplemental brief, Brooks has not done so. Finding no error, we affirm.

We must sustain a jury verdict if there is substantial evidence, taking the view most favorable to the government, to support it. *Glasser v. United States*, 315 U.S. 60, 80 (1942). We must consider circumstantial as well as direct evidence and allow the government the benefit of all reasonable inferences from facts proven to facts sought to be established. *United States v. Tresvant*, 677 F.2d 1018, 1021 (4th Cir. 1982). The credibility of witnesses is within the sole province of the jury and is generally not susceptible to review on appeal. *United States v. Saunders*, 886 F.2d 56, 60 (4th Cir. 1989).

The Government presented evidence at trial that two separate false moving claims were submitted to the Navy in Brooks' name despite Brooks' knowledge that he was not entitled to such funds. Testimony and other evidence at trial also disclosed Brooks received and cashed two federal checks after providing his name and social security number to a third person who informed him he had friends at the Navy's Personnel Support Detachment who could help get him some money. Construing this evidence and all permissible inferences therefrom in the light most favorable to the Government, we conclude it is sufficient to sustain the jury convictions.

As required by *Anders*, we have examined the entire record and find no other meritorious issues for appeal. Accordingly, we affirm Brooks' convictions and sentence. We deny Brooks' pro se motion for substitution of counsel. This court requires that counsel inform his client, in writing, of his right to petition the Supreme Court of the United States for further review. If the client requests that a petition be filed, but counsel believes such a petition would be frivolous, then counsel may move in this court for leave to withdraw from representation. Counsel's motion must state a copy thereof was served on the client. 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