

UNPUBLISHED

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

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

JEFFREY EDWARD DICK,
Defendant-Appellant.

No. 01-4355

Appeal from the United States District Court
for the Middle District of North Carolina, at Durham.
Frank W. Bullock, Jr., District Judge.
(CR-00-348, CR-00-349, CR-00-350, CR-00-351, CR-00-352)

Submitted: January 18, 2002

Decided: February 7, 2002

Before NIEMEYER, MOTZ, and GREGORY, Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

Louis C. Allen, III, Federal Public Defender, William S. Trivette, Assistant Federal Public Defender, Greensboro, North Carolina, for Appellant. Benjamin H. White, Jr., United States Attorney, Harry L. Hobgood, Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

Jeffrey Edward Dick appeals his conviction and sentence imposed pursuant to a guilty plea to bank robbery, 18 U.S.C.A. § 2113(a) (West 2001), armed bank robbery, 18 U.S.C.A. § 2113(d) (West 2001), and use of and brandishing a firearm in a crime of violence, 18 U.S.C.A. § 924(c)(1)(A)(ii) (West 2001). Dick's counsel has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967), raising one issue but representing that, in his view, there are no meritorious issues for appeal. Dick has filed a pro se supplemental brief contending he received ineffective assistance of counsel in several respects. Finding the issues raised are without merit and discerning no other error in the record below, we affirm.

Counsel contends the district court abused its discretion by sentencing Dick to 204 months of imprisonment. Because the district court set Dick's sentence within his properly calculated guidelines range, the district court's exercise of discretion in setting his sentence is not reviewable. *United States v. Porter*, 909 F.2d 789, 794-95 (4th Cir. 1990); *United States v. Jones*, 18 F.3d 1145, 1151 (4th Cir. 1994).

In his pro se supplemental brief, Dick argues that his counsel was ineffective in several respects. Claims of ineffective assistance are not cognizable on direct appeal unless counsel's ineffectiveness plainly appears on the face of the record. *United States v. DeFusco*, 949 F.2d 114, 120-21 (4th Cir. 1991). We decline to consider Dick's ineffective assistance claims because we find the record does not conclusively show counsel was ineffective.

Pursuant to *Anders*, this court has reviewed the record for reversible error and found none. We therefore affirm Dick's conviction and sentence. We deny counsel's motion to withdraw at this time. 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 a petition be filed, but counsel believes such a petition would be frivolous, then counsel may move this court for leave to withdraw from representation. Counsel's motion must state that 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