

UNPUBLISHED

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

UNITED STATES OF AMERICA, <i>Plaintiff-Appellee,</i>
v.
BILLY HICKS WILLIAMS, <i>Defendant-Appellant.</i>

No. 01-4373

Appeal from the United States District Court
for the Eastern District of North Carolina, at Raleigh.
W. Earl Britt, Senior District Judge.
(CR-00-164)

Submitted: December 21, 2001

Decided: January 14, 2002

Before WIDENER, LUTTIG, and MICHAEL, Circuit Judges.

Dismissed by unpublished per curiam opinion.

COUNSEL

Thomas P. McNamara, Federal Public Defender, Stephen C. Gordon,
Assistant Federal Public Defender, Raleigh, North Carolina, for
Appellant. Felice McConnell Corpening, OFFICE OF THE UNITED
STATES ATTORNEY, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

Billy Hicks Williams appeals his conviction and sentence for his escape from custody in violation of 18 U.S.C. § 751(a) (1994). Williams' attorney noted a timely appeal and filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967), in which he represents that there are no arguable issues of merit presented by this appeal. Nonetheless, in his brief, counsel addressed the possibility that the district court erred in declining to depart downward pursuant to § 5K2.13 of the U.S. Sentencing Guidelines Manual ("USSG"). The time for filing a supplemental brief has passed and Williams has not responded, despite being advised of his right to do so. The Government moves to dismiss the appeal based on a waiver provision in Williams' plea agreement. Finding the waiver valid and enforceable, we grant the motion and dismiss this appeal.

We have reviewed Williams' plea agreement and the Rule 11 colloquy and find that Williams knowingly and intelligently waived his right to appeal "whatever sentence imposed." See *United States v. Broughton-Jones*, 71 F.3d 1143, 1146 (4th Cir. 1995). We therefore find that Williams waived his right to appeal the district court's denial of a downward departure under USSG § 2B3.1(b)(2)(C). This is the only issue presented by counsel through this appeal. Accordingly, we grant the Government's motion to dismiss the appeal.

As required by *Anders*, we have independently reviewed the entire record and all pertinent documents. We have considered all possible issues presented by this record and conclude that there are no non-frivolous grounds for this appeal. Pursuant to the plan adopted by the Fourth Circuit Judicial Council in implementation of the Criminal Justice Act of 1964, 18 U.S.C. § 3006A (1994), 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 requested by the client to do so, counsel should prepare a timely petition for writ of certiorari, unless counsel believes that such a petition would be frivolous. In that case, counsel may move in 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 argu-

ment because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED