

UNPUBLISHED

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

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

HOWARD WESLEY PAGE, JR.,
Defendant-Appellant.

No. 01-4659

Appeal from the United States District Court
for the Middle District of North Carolina, at Durham.
N. Carlton Tilley, Jr., Chief District Judge.
(CR-00-302, CR-00-303)

Submitted: March 14, 2002

Decided: March 26, 2002

Before NIEMEYER and KING, Circuit Judges, and
HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

COUNSEL

Louis C. Allen, III, Federal Public Defender, Eric D. Placke, Assistant Federal Public Defender, Greensboro, North Carolina, for Appellant. Anna Mills Wagoner, United States Attorney, L. Patrick Auld, 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Unpublished opinions are not binding precedent in this circuit.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:

Howard Wesley Page pleaded guilty to two charges of bank robbery, in violation of 18 U.S.C.A. § 2113(a) (West 2000). Page received a consolidated sentence of 151 months incarceration, three years of supervised release, and was ordered to pay \$4233 in restitution and \$200 in special assessment. Page's attorney has filed a timely appeal under *Anders v. California*, 386 U.S. 738 (1967), arguing the district court erred in denying Page's request for downward departure under *U.S. Sentencing Guidelines Manual* § 4A1.3, p.s. (2000), based on Page's contention that his career offender status significantly overstated the seriousness of his prior offenses.

Here, the district court acknowledged its authority to grant Page's motion for downward departure, but chose not to. Consequently, the district court's decision is not appealable. USSG § 4A1.3., p.s.; *United States v. Burgos*, 94 F.3d 849, 876 (4th Cir. 1996); *United States v. Bayerle*, 898 F.2d 28, 31 (4th Cir. 1990).

We affirm Page's conviction and sentence. In accordance with *Anders*, we have reviewed the entire record in this case and find no other meritorious issues for appeal. 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 such a petition be filed, but counsel believes that such a petition would be frivolous, then 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 argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid in the decisional process.

AFFIRMED