

UNPUBLISHED

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

UNITED STATES OF AMERICA,  
*Plaintiff-Appellee,*

v.

PETER LLOYD COLEY,  
*Defendant-Appellant.*

No. 02-4096

Appeal from the United States District Court  
for the Western District of Virginia, at Roanoke.  
Jackson L. Kiser, Senior District Judge.  
(CR-96-13)

Submitted: June 20, 2002

Decided: July 11, 2002

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

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Dismissed by unpublished per curiam opinion.

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**COUNSEL**

Richard L. Derrico, COPENHAVER, ELLETT, CORNELISON &  
DERRICO, Roanoke, Virginia, for Appellant. John W. Brownlee,  
United States Attorney, Donald R. Wolthuis, Assistant United States  
Attorney, Roanoke, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

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### OPINION

#### PER CURIAM:

Peter Lloyd Coley appeals the district court's order reducing his sentence to 240 months pursuant to the Government's Fed. R. Crim. P. 35(b) motion. Coley's counsel has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967), raising one sentencing issue on appeal but recognizing that Coley waived his appellate rights in his agreement with the Government. Coley filed a pro se supplemental brief asserting the terms of his 1996 plea agreement with the Government were violated.

Coley and the Government entered into an agreement prior to the filing of the Government's "Conditional Motion Pursuant to Rule 35(b)." Specifically, the parties agreed that Coley's sentence would be reduced to 240 months and he would not appeal his sentence. Coley contends that this agreement denies his Fifth Amendment right to due process. A sentence that does not violate the law or incorrectly apply the Sentencing Guidelines cannot be appealed. 18 U.S.C. § 3742(a)(1994). This court lacks jurisdiction to review a sentence properly reduced pursuant to a Rule 35 motion. *See United States v. Hill*, 70 F.3d 321 (4th Cir. 1995); *United States v. Pridgen*, 64 F.3d 147, 150 (4th Cir. 1995).

In accordance with *Anders*, we have reviewed the entire record in this case and have found no meritorious issues for appeal. We therefore dismiss this 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 that 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 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.

*DISMISSED*