

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 02-4711

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

TIMOTHY J. EDENBURN,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Henry Coke Morgan, Jr., District Judge. (CR-02-24)

Submitted: June 6, 2003

Decided: June 26, 2003

Before LUTTIG, MOTZ, and GREGORY, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Frank W. Dunham, Jr., Federal Public Defender, Larry M. Dash, Assistant Federal Public Defender, Norfolk, Virginia, for Appellant. Laura P. Tayman, OFFICE OF THE UNITED STATES ATTORNEY, Norfolk, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Timothy J. Edenburn seeks to appeal his conviction and 64-month sentence imposed pursuant to a guilty plea and written plea agreement to conspiracy to possess with intent to distribute MDMA (ecstasy), in violation of 21 U.S.C. §§ 841(a)(1), 846 (2000). The Government has filed a motion to dismiss the appeal. We grant the Government's motion to dismiss because Edenburn waived his right to appeal his sentence in his written plea agreement, and the only issue raised on appeal is a challenge to Edenburn's sentence. Further, the brief filed on Edenburn's behalf pursuant to Anders v. California, 386 U.S. 738 (1967), acknowledges that Edenburn's guilty plea was knowing and voluntary. Edenburn has failed to file a pro se supplemental brief despite being notified of his opportunity to do so.

In accordance with Anders, we have reviewed the entire record in this case and have found no 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 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 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.

DISMISSED