

UNPUBLISHED

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

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

TIMOTHY ARAZIL CLEVELAND,
Defendant-Appellant.

No. 02-4820

Appeal from the United States District Court
for the District of South Carolina, at Spartanburg.
William W. Wilkins, Chief Circuit Judge, sitting by designation;
G. Ross Anderson, Jr., District Judge.
(CR-02-262)

Submitted: May 7, 2003

Decided: June 13, 2003

Before WIDENER, WILKINSON, and TRAXLER, Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

Benjamin T. Stepp, Assistant Federal Public Defender, Greenville,
South Carolina, for Appellant. Elizabeth Jean Howard, OFFICE OF
THE UNITED STATES ATTORNEY, Greenville, South Carolina,
for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

Timothy A. Cleveland appeals his convictions and 154-month sentence imposed by the district court following his guilty pleas to bank robbery (three counts), obstructing interstate commerce (one count), and brandishing a firearm during a crime of violence (one count), in violation of 18 U.S.C. §§ 924(c), 1951, 2113(a) (2000). In his appeal, filed pursuant to *Anders v. California*, 386 U.S. 738 (1967), counsel for Cleveland claims to have found no non-frivolous grounds for appeal, but challenges the district court's acceptance of Cleveland's guilty plea and calculation of his sentence. Cleveland has been advised of his right to file a pro se supplemental brief but has not done so.

Neither of the claims presented by counsel were preserved before the district court. Accordingly, they are reviewed for plain error. *See United States v. Martinez*, 277 F.3d 517, 525 (4th Cir.), *cert. denied*, 123 S.Ct. 200 (2002); *United States v. Ford*, 88 F.3d 1350, 1355 (4th Cir. 1996). Cleveland first assigns error to the district court's acceptance of his guilty pleas. We have reviewed the transcript of the hearing conducted before the district court and are satisfied that Cleveland was afforded the protections of Fed. R. Crim. P. 11, as well as the Due Process Clause. Accordingly, this claim merits no relief.

Cleveland next claims that the district court erred in calculating his sentence. We have likewise reviewed the district court's application of the sentencing guidelines and find no plain error. Cleveland's sentence was the minimum in the applicable guidelines range, and there was no error in the determination of that range. Moreover, the sentence did not exceed the maximum applicable under the relevant statutes. Accordingly, we deny relief on this claim as well.

Finding no meritorious issues upon our review of the record pursuant to *Anders*, we affirm the judgment of the district court. 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.

AFFIRMED