

Vacated by Supreme Court, March 21, 2005

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 03-4121**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

ANDRE RICE,

Defendant - Appellant.

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**No. 03-4233**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

ANDRE RICE,

Defendant - Appellant.

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Appeals from the United States District Court for the District of South Carolina, at Spartanburg. G. Ross Anderson, Jr., District Judge. (CR-01-886)

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Submitted: December 18, 2003

Decided: January 15, 2004

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Before LUTTIG, SHEDD, and DUNCAN, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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James Barlow Loggins, Assistant Federal Public Defender, Greenville, South Carolina, for Appellant. James Strom Thurmond, Jr., United States Attorney, Columbia, South Carolina; Elizabeth Jean Howard, OFFICE OF THE UNITED STATES ATTORNEY, Greenville, South Carolina.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Andre Rice pled guilty to conspiracy to possess with intent to distribute cocaine base, in violation of 21 U.S.C. § 846 (2000). He was sentenced to 210 months imprisonment and five years of supervised release. Rice's attorney has filed a brief in accordance with Anders v. California, 386 U.S. 738 (1967), stating that, in his view, there are no meritorious grounds for appeal, but raising the issue as to whether the district court erred in denying Rice's motion to withdraw his guilty plea. Rice has filed a pro se supplemental brief.

On appeal, Rice asserts that the district court erred in denying his motion to withdraw his guilty plea. We review this claim for abuse of discretion. United States v. Ubakanma, 215 F.3d 421, 424 (4th Cir. 2000). Because we find that the Rule 11 proceeding was adequate, and Rice failed to provide a fair and just reason to withdraw his guilty plea, we find no abuse of discretion by the district court in its failure to allow the withdrawal. United States v. Lambey, 974 F.2d 1389, 1394 (4th Cir. 1992); United States v. Moore, 931 F.2d 245, 248 (4th Cir. 1991).

In accordance with the requirements of Anders, we have reviewed the record for potential error and have found none. We further find no merit to the claims raised in Rice's pro se supplemental brief. Therefore, we affirm Rice's conviction and sentence. 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 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