

UNPUBLISHED

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

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

TOMMY HENDERSON, a/k/a Tommie
Henderson, a/k/a Thomas A.
Henderson, a/k/a Tom Lamont
Henderson, a/k/a Tommy Lemont
Henderson, a/k/a Tommy Lamont
Henderson,

Defendant-Appellant.

No. 03-4501

Appeal from the United States District Court
for the District of South Carolina, at Charleston.
Patrick Michael Duffy, District Judge.
(CR-02-826)

Submitted: November 19, 2003

Decided: December 8, 2003

Before WILKINSON and GREGORY, Circuit Judges, and
HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

COUNSEL

Ann Briks Walsh, Assistant Federal Public Defender, Charleston,
South Carolina, for Appellant. Lee Ellis Berlinsky, OFFICE OF THE

UNITED STATES ATTORNEY, Charleston, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

Tommy Henderson pled guilty to one count of possession with intent to distribute and distribution of five grams or more of crack cocaine, 21 U.S.C. § 841(b)(1)(B) (2000), and was sentenced to 254 months imprisonment. Henderson's attorney has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967), addressing whether the district court properly accepted Henderson's guilty plea and properly calculated his sentence. Counsel concedes, however, that there are no meritorious issues for appeal. Although advised of his right to file a pro se supplemental brief, Henderson has not done so.

Neither claim presented by counsel was preserved in the district court. Therefore, they are reviewed for plain error. *See United States v. Martinez*, 277 F.3d 517, 526-27 (4th Cir.), *cert. denied*, 123 S. Ct. 200 (2002). First, Henderson asserts that the district court failed to comply with Fed. R. Crim. P. 11 in accepting his guilty plea. Our review of the transcript of Henderson's guilty plea hearing discloses that the district court fully complied with Rule 11. Therefore, we deny relief on this claim.

Next, Henderson asserts that the district court erred in calculating his sentence. However, our review of the district court's application of the sentencing guidelines discloses no error. Henderson's sentence did not exceed the statutory maximum and was within a properly calculated guideline range. Accordingly, we deny relief on this claim as well.

Pursuant to *Anders*, this court has reviewed the record for reversible error and found none. We therefore affirm Henderson'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 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