

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-4604

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

UNA DANIELLE PORTER,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Richard L. Voorhees, District Judge. (CR-01-87)

Submitted: September 24, 2004

Decided: October 19, 2004

Before NIEMEYER, MOTZ, and SHEDD, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Danielle B. Obiorah, MASON-WATSON, OBIORAH & SINGLETARY, P.C., Charlotte, North Carolina, for Appellant. Robert James Conrad, Jr., United States Attorney, Robert John Gleason, Assistant United States Attorney, Charlotte, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Una Danielle Porter pled guilty to conspiracy to commit armed bank robbery, 18 U.S.C. § 371 (2000) (Count One); armed bank robbery and aiding and abetting, 18 U.S.C. §§ 2113, 2 (2000) (Count Two); using or carrying a firearm during and in relation to a crime of violence, 18 U.S.C. § 924(c) (2000) (Count Three); and two carjackings, 18 U.S.C. § 2119 (2000) (Counts Four and Five). Porter was sentenced to fifty-one months imprisonment and a consecutive eighty-four-month sentence for the § 924(c) offense. Porter's attorney has filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), raising as a potentially meritorious issue the district court's refusal to depart downward based on Porter's assertion that she participated in the offenses in an attempt to avoid a greater harm, U.S. Sentencing Guidelines Manual § 5K2.11, p.s. (2002), and coercion and duress, USSG § 2K2.12, p.s., but asserting that in her view there are no meritorious issues for appeal. Porter has been informed of her right to file a pro se supplemental brief, but has not filed a brief. We affirm the conviction and sentence.

We find that the issue presented in the Anders brief is without merit. United States v. Shaw, 313 F.3d 219, 222 (4th Cir. 2002) (appellate court lacks jurisdiction to review district court's refusal to depart unless the decision was based on a mistaken belief that the court lacked legal authority to depart).

Pursuant to Anders, we have reviewed the record for reversible error and found none. We therefore affirm the conviction and sentence. We deny counsel's motion to withdraw at this time. This court requires that counsel inform her client, in writing, of her 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 the decisional process.

AFFIRMED