UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-4644

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

MICHAEL HORVATH,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. James C. Cacheris, Senior District Judge. (CR-03-232)

Submitted: March 25, 2004 Decided: March 30, 2004

Before TRAXLER, KING, and DUNCAN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Gregory B. English, ENGLISH & SMITH, Alexandria, Virginia, for Appellant. Paul Joseph McNulty, United States Attorney, Gerald J. Smagala, OFFICE OF THE UNITED STATES ATTORNEY, Alexandria, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Michael Horvath appeals from the district court's order dismissing as untimely his appeal from the magistrate judge's order finding him guilty of failing to pay child support and imposing a five year term of probation. Horvath's attorney has filed a brief pursuant to Anders v. California, 386 U.S. 738, 744 (1967), stating that there are no meritorious issues for appeal. Horvath was informed of his right to file a pro se brief but has not done so. Finding no reversible error, we affirm.

As required by Anders, we have reviewed the entire record and have found no meritorious issues for appeal. The magistrate judge's judgment of conviction was entered in February 2001; Horvath noted his appeal to the district court in May 2003—well beyond the ten-day appeal period. See Fed. R. Crim. P. 58(g)(2)(B). Because the appeal was untimely, the district court lacked jurisdiction and properly dismissed the appeal. We therefore affirm the district court's order dismissing Horvath's 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.

AFFIRMED