

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-4132

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

TANISHA M. BAILEY,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. James R. Spencer, District Judge. (CR-03-305)

Submitted: July 8, 2005

Decided: August 4, 2005

Before WILKINSON, MOTZ, and KING, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Neil Kuchinsky, KUCHINSKY & YEAMANS, P.C., Colonial Heights, Virginia, for Appellant. Peter Sinclair Duffey, OFFICE OF THE UNITED STATES ATTORNEY, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Tanisha M. Bailey appeals her conviction and twenty-one month sentence following her guilty plea to aiding and assisting in the preparation of a false tax return, in violation of 26 U.S.C. § 7206 (2000). In her appeal, filed pursuant to Anders v. California, 386 U.S. 738 (1967), counsel for Bailey claims to have found no non-frivolous claims for appeal, but argues that the magistrate judge erred in accepting Bailey's guilty plea. Bailey was notified of her opportunity to file a pro se supplemental brief but has not done so. Finding no error, we affirm.

Bailey did not seek to withdraw her guilty plea in the district court. Accordingly, we review this claim for plain error. See United States v. Martinez, 277 F.3d 517, 525 (4th Cir. 2002) (holding that "plain error analysis is the proper standard for review of forfeited error in the Rule 11 context"). A plea is presumed to be final and binding if the Rule 11 hearing is adequate. United States v. Puckett, 61 F.3d 1092, 1099 (4th Cir. 1995). Our review of the magistrate judge's report and recommendation details a thorough Rule 11 colloquy that assured Bailey's plea was made both knowingly and voluntarily. See United States v. DeFusco, 949 F.2d 114, 117, 120 (4th Cir. 1991). Accordingly, we find Bailey's guilty plea was knowing and voluntary and properly accepted by the magistrate judge.

Finding no meritorious issues upon our review of the record, we affirm Bailey's conviction and sentence. This court requires that counsel inform his 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 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