

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-4762

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

ALEXANDER JAMES HARDNETT,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. James R. Spencer, Chief District Judge. (CR-03-212)

Submitted: May 10, 2006

Decided: May 24, 2006

Before TRAXLER and DUNCAN, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

William J. Dinkin, DINKIN, PURNELL & JOHNSON, PLLC, Richmond, Virginia, for Appellant. Sara Elizabeth Flannery, 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Unpublished opinions are not binding precedent in this circuit.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:

Alexander James Hardnett was convicted after a bench trial of one count of conspiracy to possess with intent to distribute fifty grams or more of cocaine base and one count of distribution of cocaine and aiding and abetting such distribution. This court originally affirmed the convictions. It also found there was no reversible error with respect to the sentencing enhancements. However, the sentence was vacated and remanded to the district court for resentencing consistent with the rules announced in United States v. Booker, 543 U.S. 220 (2005), and United States v. Hughes, 396 F.3d 374, amended on rehearing, 401 F.3d 540 (4th Cir. 2005). On remand, the district court considered the sentencing guidelines and the factors under 18 U.S.C. § 3553(a) and sentenced Hardnett to 392 months' imprisonment on the conspiracy charge instead of the original life sentence. The court preserved the original sentence of 360 months' imprisonment on the distribution charge. Counsel filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), asserting there are no meritorious issues for review; however, raising whether the sentence was reasonable and in accordance with the rules announced in Booker and Hughes. Hardnett has filed a pro se supplemental brief raising several issues. We affirm the sentence.

Consistent with the our mandate, the sole issue on appeal is whether the district court complied with the requirements of

Booker and Hughes in resentencing Hardnett and whether the sentence is reasonable. We find no reversible error with respect to the sentence. While the district court could have been more specific in citing its reasons for a variance, we find any error harmless as it applies to Hardnett. See United States v. Hampton, 441 F.3d 284, 287 (4th Cir. 2006).

Because our remand was limited to the issue of resentencing in accordance with Booker and Hughes, the issues raised by Hardnett in his pro se supplemental brief are not before us.

Accordingly, we affirm the sentence. In accordance with the requirements of Anders, we have reviewed that portion of the record relevant to the resentencing. This court requires 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 a petition be filed, but counsel believes 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