

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-4812

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

STACY TYREE NICHOLS,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Durham. N. Carlton Tilley, Jr., Chief District Judge. (CR-04-501)

Submitted: May 17, 2006

Decided: June 13, 2006

Before MICHAEL, TRAXLER, and KING, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Romallus O. Murphy, LAW OFFICE OF ROMALLUS O. MURPHY, Greensboro, North Carolina, for Appellant. Michael Augustus DeFranco, Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Stacy Tyree Nichols pled guilty to possession with intent to distribute 34.6 grams of cocaine base "crack" (Count 1) and to being a felon in possession of a weapon (Count 4) and was sentenced to 190 months of imprisonment. On appeal, counsel has filed a brief under Anders v. California, 386 U.S. 738 (1967), alleging that there are no meritorious claims on appeal but raising one issue: whether Nichols was properly sentenced to 190 months of imprisonment. We affirm.

We find that Nichols was properly sentenced, under 18 U.S.C.A. § 924(e) (West 2000 & Supp. 2005), as an armed career criminal based on his prior North Carolina convictions for breaking and entering. Nichols was sentenced within his properly calculated Sentencing Guidelines range of 188 to 235 months. We conclude that his ultimate sentence, which fell at the low end of this range, is reasonable under Booker. United States v. Booker, 543 U.S. 220, 261 (2005) (stating review standard); see United States v. Green, 436 F.3d 449, 457 (4th Cir. 2006) ("[A] sentence imposed within the properly calculated Guidelines range . . . is presumptively reasonable.") (internal quotation marks and citation omitted).

We have examined the entire record in this case, in accordance with the requirements of Anders, and find no meritorious issues for appeal. Accordingly, we affirm. We deny Nichols' motion for abeyance. 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