

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 05-5026**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

AALIYAH C. JOHNSON,

Defendant - Appellant.

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Appeal from the United States District Court for the Southern District of West Virginia, at Beckley. David A. Faber, Chief District Judge. (CR-05-93)

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Submitted: May 18, 2006

Decided: May 25, 2006

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Before WIDENER and WILKINSON, Circuit Judges, and HAMILTON, Senior Circuit Judge.

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Affirmed by unpublished per curiam opinion.

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G. Ernest Skaggs, SKAGGS & SKAGGS, Fayetteville, West Virginia, for Appellant. Miller A. Bushong, III, Assistant United States Attorney, Beckley, West Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Pursuant to her guilty plea, Aaliyah C. Johnson was convicted of one count of possession with intent to distribute five or more grams of cocaine base, in violation of 21 U.S.C. § 841(a)(1) (2000). The district court sentenced Johnson to fifty-one months' imprisonment. Johnson's counsel filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), stating that there were no meritorious issues for appeal, but raising one issue for review: whether the district court erred by denying Johnson a sentence reduction under U. S. Sentencing Guidelines Manual § 3E1.1 (2004) for acceptance of responsibility. Johnson was given the opportunity to file a pro se supplemental brief, but did not do so. After thoroughly reviewing the record, we affirm.

The district court determined that Johnson had not accepted responsibility because she was arrested for driving under the influence of alcohol after signing the plea agreement and two days before pleading guilty, while she was on bond. Johnson admitted to the conduct at the plea hearing. We find no clear error in this ruling. See USSG § 3E1.1, comment. (n.1(b)); United States v. Kise, 369 F.3d 766, 771 (4th Cir. 2004) (providing standard); United States v. Ceccarani, 98 F.3d 126, 130-31 (3d Cir. 1996) (upholding the denial of acceptance of responsibility based on new unrelated criminal conduct).

In accordance with Anders, we have reviewed the entire record in this case for any other meritorious issue and have found none. Accordingly, we affirm Johnson'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