

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-4025

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

CURTIS ARNOLD,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Robert J. Conrad, Jr., District Judge. (3:05-cr-00046-2)

Submitted: April 16, 2007

Decided: May 7, 2007

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

Affirmed by unpublished per curiam opinion.

Claire J. Rauscher, FEDERAL DEFENDERS OF WESTERN NORTH CAROLINA, INC., Charlotte, North Carolina, for Appellant. Thomas A. O'Malley, OFFICE OF THE UNITED STATES ATTORNEY, Charlotte, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Pursuant to a plea agreement, Curtis Arnold pled guilty to conspiracy to possess with intent to distribute at least five kilograms of cocaine, in violation of 21 U.S.C.A. §§ 841, 846 (West 1999 & Supp. 2006). The district court sentenced him to 262 months in prison. Arnold timely appealed.

Arnold's counsel has filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), stating that in her opinion there are no meritorious issues for appeal, but asserting that but for Arnold's trial counsel's ineffective assistance, Arnold would not have pled guilty and would have proceeded to trial. Arnold was advised of his right to file a pro se supplemental brief, but he did not file one. We affirm Arnold's conviction and sentence.

We find that the ineffective assistance of counsel claims that Arnold seeks to raise are not cognizable on direct appeal. To allow for adequate development of the record, a defendant must bring such claims in a 28 U.S.C. § 2255 (2000) motion unless the record conclusively establishes ineffective assistance of counsel. United States v. Richardson, 195 F.3d 192, 198 (4th Cir. 1999); United States v. King, 119 F.3d 290, 295 (4th Cir. 1997). Here, the record does not conclusively establish that Arnold's trial counsel was ineffective.

In accordance with Anders, we have reviewed the record in this case and have found no meritorious issues for appeal. We

therefore affirm Arnold's conviction and sentence. This court requires that counsel inform Arnold, in writing, of the right to petition the Supreme Court of the United States for further review. If Arnold 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 Arnold. 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