

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-4828

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

GARY EUGENE WILSON, II,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of Virginia, at Abingdon. James P. Jones, Chief District Judge. (1:07-cr-00003-jpj)

Submitted: May 22, 2008

Decided: May 27, 2008

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

Affirmed by unpublished per curiam opinion.

Larry W. Shelton, Federal Public Defender, Nancy C. Dickenson, Assistant Federal Public Defender, Christine Madeleine Spurell, Research and Writing Attorney, Abingdon, Virginia, for Appellant. Jean Barrett Hudson, Assistant United States Attorney, Charlottesville, Virginia; Dennis H. Lee, COMMONWEALTH'S ATTORNEY'S OFFICE, Tazewell, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Gary Eugene Wilson, II, pled guilty to possession of a firearm by a convicted felon and was sentenced to 200 months in prison. On appeal, his attorney has filed an Anders* brief, concluding that there are no meritorious issues for appeal but questioning whether Wilson's classification as an armed career criminal pursuant to 18 U.S.C.A. § 924(e) (West 2000 & Supp. 2007), was unconstitutional since Wilson's predicate convictions were not charged in the indictment. Although informed of his right to do so, Wilson has not filed a pro se supplemental brief. After a thorough review of the entire record, we affirm.

As counsel notes, Wilson's argument is barred by controlling circuit precedent. We have repeatedly found that the indictment need not reference or list prior convictions used as a basis for an armed career criminal sentence. See, e.g., United States v. Thompson, 421 F.3d 278, 284 n.4 (4th Cir. 2005); United States v. Cheek, 415 F.3d 349, 352-54 (4th Cir. 2005).

In accordance with Anders, we have reviewed the record in this case and have found no meritorious issues for appeal. Accordingly, we affirm Wilson's conviction and sentence. 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

*Anders v. California, 386 U.S. 575 (2000).

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