

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 08-4822**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ADELL ANDREW WILSON,

Defendant - Appellant.

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Appeal from the United States District Court for the Middle District of North Carolina, at Durham. N. Carlton Tilley, Jr., Senior District Judge. (1:07-cr-00399-NCT-2)

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Submitted: November 17, 2009

Decided: November 19, 2009

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Before WILKINSON, MICHAEL, and KING, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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John J. Korzen, WAKE FOREST UNIVERSITY SCHOOL OF LAW, Winston-Salem, North Carolina, for Appellant. Terry Michael Meinecke, Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Adell Andrew Wilson appeals from his conviction and resulting 240-month sentence, entered pursuant to his guilty plea to distribution of cocaine base. On appeal, Wilson's counsel has filed an Anders\* brief, noting that there are no meritorious issues for appeal but questioning whether the Fed. R. Crim. P. 11 hearing was properly conducted and whether the statutory mandatory minimum sentence imposed in this case was unconstitutional. Although informed of his right to do so, Wilson has not filed a pro se supplemental brief. After a thorough review of the record, we affirm.

As counsel concedes, the Rule 11 hearing was thorough and complete, counsel for both parties agreed on a modification to the plea agreement, and Wilson pled guilty knowingly and voluntarily. Turning to the sentence challenge, Wilson asserts that the statutory mandatory minimum resulted in a sentence that was not individualized, that violated the separation of powers doctrine, and that was based on an unconstitutional disparity between crack and powder cocaine. We conclude that Wilson's claims are meritless and that the district court properly considered itself constrained by the applicable statutory minimum sentence. See Chapman v. United States, 500 U.S. 453,

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\* Anders v. California, 386 U.S. 738 (1967).

467 (1991) (noting that determinate sentences are not unconstitutional); United States v. Gonzalez-Ramirez, 561 F.3d 22, 30 (1st Cir. 2009) (deciding that prosecutor's discretion to seek enhanced minimum sentence does not violate separation of powers doctrine), petition for cert. filed (U.S. Sept. 29, 2009) (No. 09-6745); United States v. Perkins, 108 F.3d 512, 518 (4th Cir. 1997) (holding that sentencing disparity between crack and powder cocaine is constitutional).

In accordance with Anders, we examined the entire record in this case, and we found no meritorious issues for review. 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 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