

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 09-4407**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSHUA HOLMES,

Defendant - Appellant.

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Appeal from the United States District Court for the District of South Carolina, at Charleston. David C. Norton, Chief District Judge. (2:08-cr-00845-DCN-1)

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Submitted: June 2, 2010

Decided: June 14, 2010

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Before NIEMEYER and GREGORY, Circuit Judges, and HAMILTON, Senior Circuit Judge.

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Affirmed by unpublished per curiam opinion.

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J. Robert Haley, Assistant Federal Public Defender, Charleston, South Carolina, for Appellant. William Walter Wilkins, III, United States Attorney, Columbia, South Carolina, Matthew J. Modica, Assistant United States Attorney, Charleston, South Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Joshua Holmes appeals from his conviction and fifty-seven month sentence imposed after his guilty plea to one count of possession of a firearm after a felony conviction in violation of 18 U.S.C. §§ 922(g)(1), 924(a)(2) (2006). Appellate counsel has filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), in which he asserts there are no meritorious issues for appeal. Holmes was notified of his right to file a pro se supplemental brief, but has not done so.

Upon review of the transcript of the Fed. R. Crim. P. 11 hearing, we conclude that the district court complied with the requirements of Rule 11. Moreover, Holmes did not move to withdraw his plea in the district court, so any error in the Rule 11 hearing is reviewed for plain error. United States v. Martinez, 277 F.3d 517, 525 (4th Cir. 2002). Because the record discloses no such error, Holmes's guilty plea was knowing and voluntary. See United States v. DeFusco, 949 F.2d 114, 116, 119-20 (4th Cir. 1991).

The district court properly calculated the advisory guidelines range and imposed a sentence within that range, rejecting the Government's request for an upward departure. We find that the district court imposed a sentence that is procedurally and substantively reasonable. See Gall v. United

States, 552 U.S. 38, 128 S. Ct. 586, 597 (2007) (review of sentence is for abuse of discretion).

In accordance with Anders, we have reviewed the entire record in this case and have found no meritorious issues for appeal. We therefore affirm the district court's judgment. 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 filing 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