UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-4695

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MAKENANNON ALULA NEWSOME, a/k/a John Elvis Hughes,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at New Bern. Louise W. Flanagan, Chief District Judge. (4:09-cr-00104-FL-1)

Submitted: February 24, 2011 Decided: February 28, 2011

Before GREGORY, SHEDD, and KEENAN, Circuit Judges.

Dismissed in part; affirmed in part by unpublished per curiam opinion.

Thomas P. McNamara, Federal Public Defender, Stephen C. Gordon, Assistant Federal Public Defender, Raleigh, North Carolina, for Appellant. Jennifer P. May-Parker, Assistant United States Attorney, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Makenannon Alula Newsome, a/k/a John Elvis Hughes, pled guilty pursuant to a written plea agreement to possession with intent to distribute fifty grams or more of cocaine base ("crack"). Newsome was sentenced to 140 months of imprisonment within his properly-calculated advisory Sentencing Guidelines range of 135 to 168 months established at his sentencing hearing. On appeal, counsel has filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), asserting there are no meritorious grounds for appeal, but raising the following issue: whether the district court imposed an unreasonable sentence when it sentenced Newsome based on a 100:1 crack-powder ratio. The Government has filed a motion to dimiss. For the reasons that follow, we dismiss in part, and affirm in part.

We cannot address counsel's Anders issue or the sentencing issue raised by Newsome in his pro se supplemental brief, however, because Newsome waived his right to appeal from his sentence. The record reveals that Newsome waived his right to appeal his sentence, see United States v. Poindexter, 492 F.3d 263, 270 (4th Cir. 2007), this waiver was reviewed at his plea hearing, see United States v. Broughton-Jones, 71 F.3d 1143, 1146 (4th Cir. 1995), and he knowingly and voluntarily waived his right to appeal his sentence, except for circumstances not raised in this appeal. United States v.

Johnson, 410 F.3d 137, 151 (4th Cir. 2005); United States v. Wessells, 936 F.2d 165, 167-68 (4th Cir. 1991). Thus, despite de novo review, United States v. Blick, 408 F.3d 162, 168 (4th Cir. 2005) (stating review standard), we find that Newsome validly waived his right to appeal. Accordingly, we grant the Government's motion to dismiss the appeal of Newsome's sentence.

In accordance with Anders, we have reviewed the record in this case and have found no meritorious issues for appeal. We therefore affirm Newsome's conviction. This court requires that counsel inform Newsome, in writing, of the right to petition the Supreme Court of the United States for further review. If Newsome 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 Newsome. 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.

DISMISSED IN PART;
AFFIRMED IN PART