UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-4883

UNITED STATES OF AMERICA,

Plaintiff – Appellee,

v.

DON CORNELIUS BURGESS,

Defendant – Appellant.

Appeal from the United States District Court for the District of South Carolina, at Florence. Terry L. Wooten, District Judge. (4:07-cr-00481-TLW-9)

Submitted: February 22, 2011 Decided: March 17, 2011

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

Dismissed by unpublished per curiam opinion.

Jonathan Harvey, Columbia, South Carolina, for Appellant. Arthur Bradley Parham, Assistant United States Attorney, Florence, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Don Cornelius Burgess seeks to appeal the district court's amended judgment granting, in part, the Government's Fed. R. Crim. P. 35(b) motion and reducing his sentence from 175 months to 140 months in prison. Burgess's counsel has filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), pointing out that Burgess sought a greater reduction than the one he received, but concluding that 18 U.S.C.A. § 3742 (West 2000 & Supp. 2010) provides no basis for the appeal. Burgess was informed of his right to file a pro se supplemental brief, but has not done so. The Government declined to file a responsive brief.

We lack the authority to review a district court's decision concerning Rule 35(b) motions unless the ultimate sentence was imposed in violation of the law. United States v. Hartwell, 448 F.3d 707, 712-14 (4th Cir. 2006); United States v. Pridgen, 64 F.3d 147, 148-50 (4th Cir. 1995); see 18 U.S.C.A. § 3742. We conclude that the sentence Burgess received was not imposed in violation of the law. Thus, we lack the authority to review the district court's amended judgment.

Because Burgess asserts no ground upon which this court may review the district court's Rule 35 determination, nor has our independent review of the record, in accordance with Anders, revealed any such ground, we dismiss Burgess's appeal.

This court requires that counsel inform Burgess, in writing, of his right to petition the Supreme Court of the United States for further review. If Burgess requests that a petition be filed, but counsel believes that such a petition would be frivolous, counsel may move in this court for leave to withdraw from representation. Counsel's motion must state that a copy thereof was served on Burgess. 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