

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-4258

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ERIC LAMONTE DAVIS, a/k/a Eric Davis,

Defendant - Appellant.

Appeal from the United States District Court for the Northern District of West Virginia, at Martinsburg. Gina M. Groh, District Judge. (3:12-cr-00058-GMG-DJJ-3)

Submitted: September 25, 2013

Decided: November 6, 2013

Before KEENAN, DIAZ, and THACKER, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Nicholas Forrest Colvin, THE LAW OFFICE OF NICHOLAS COLVIN, ESQ., PLLC, Martinsburg, West Virginia, for Appellant. Stephen Donald Warner, Assistant United States Attorney, Elkins, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Eric Lamonte Davis appeals his conviction and ninety-two month sentence imposed following his guilty plea to possession with intent to distribute cocaine base, in violation of 21 U.S.C. § 841(a)(1). Davis' counsel has filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), concluding that there are no meritorious issues for appeal. Davis was notified of his right to file a supplemental pro se brief but has not done so. Following careful review of the record, we affirm.

Before accepting Davis' guilty plea, the district court conducted a thorough plea colloquy, fully complying with Fed. R. Crim. P. 11 and ensuring that Davis' plea was knowing and voluntary and supported by an independent factual basis. See United States v. DeFusco, 949 F.2d 114, 116, 119-20 (4th Cir. 1991). The court subsequently followed all necessary procedural steps in sentencing Davis, properly calculating his Guidelines range, considering the 18 U.S.C. § 3553(a) factors and the parties' arguments, and providing an individualized assessment based on the facts presented. See Gall v. United States, 552 U.S. 38, 51 (2007). Davis' within-Guidelines sentence is presumed substantively reasonable on appeal, and he has not met his burden to rebut this presumption. See United States v. Montes-Pineda, 445 F.3d 375, 379 (4th Cir. 2006).

In accordance with Anders, we have reviewed the record and have found no meritorious issues. We therefore affirm the district court's judgment and deny counsel's request to withdraw from representation. This court requires that counsel inform Davis, in writing, of the right to petition the Supreme Court of the United States for further review. If Davis 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 Davis.

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED