

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee.

v.

No. 98-4850

MARION AIKEN,

Defendant-Appellant.

Appeal from the United States District Court
for the District of South Carolina, at Orangeburg.
Charles E. Simons, Jr., Senior District Judge.
(CR-97-1058-CES)

Submitted: June 15, 1999

Decided: July 13, 1999

Before ERVIN, HAMILTON, and KING,
Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

Douglas N. Truslow, DOUGLAS N. TRUSLOW, P.A., Columbia,
South Carolina, for Appellant. Scarlett Anne Wilson, OFFICE OF
THE UNITED STATES ATTORNEY, Columbia, South Carolina, for
Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

OPINION

PER CURIAM:

Marion Aiken pled guilty to conspiracy to possess with intent to distribute cocaine base, in violation of 21 U.S.C.A. § 846 (West Supp. 1999); and distribution of cocaine base, in violation of 21 U.S.C.A. § 841 (West 1981 & Supp. 1999). He was sentenced to 360 months imprisonment followed by five years of supervised release. Aiken appeals. His attorney has filed a brief in accordance with Anders v. California, 386 U.S. 738 (1967), raising two claims but stating that there are no meritorious issues for appeal. Aiken has filed a pro se supplemental brief raising one other issue. After a thorough review of the record, we affirm Aiken's conviction and sentence.

Counsel presents as a potentially meritorious issue the adequacy of the district court's compliance with Fed. R. Crim. P. 11 in accepting Aiken's guilty plea. Our review of the transcript discloses that the district court fully complied with the Rule. See United States v. DeFusco, 949 F.2d 114, 116 (4th Cir. 1991). Counsel also raises the district court's compliance with the sentencing guidelines in sentencing Aiken. We accept the district court's findings of fact unless they are clearly erroneous and give due deference to the district court's application of the guidelines to the facts. United States v. Cutler, 36 F.3d 406, 407 (4th Cir. 1994). Legal issues are reviewed de novo. United States v. Blake, 81 F.3d 498, 503 (4th Cir. 1996). Here, the district court's factual findings are not clearly erroneous and we perceive no error in its application of the guidelines to these facts. Therefore, this allegation is without merit, as well. In his pro se submission, Aiken challenges the district court's computation of the amount of drugs for which Aiken should be held liable at sentencing. Again, we perceive no error in the court's findings.

As required by Anders, we have independently reviewed the entire record in this case and find no reversible error. We therefore affirm

the 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 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 oral argument would not aid the decisional process.

AFFIRMED