

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

DIARRA JERMAINE BODDY,
Defendant-Appellant.

No. 00-4382

Appeal from the United States District Court
for the Southern District of West Virginia, at Charleston.
John T. Copenhaver, Jr., District Judge.
(CR-95-20-2)

Submitted: October 31, 2000

Decided: November 28, 2000

Before MICHAEL, MOTZ, and TRAXLER, Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

Hunt L. Charach, Federal Public Defender, Mary Lou Newberger,
Assistant Federal Public Defender, Charleston, West Virginia, for
Appellant. Rebecca A. Betts, United States Attorney, Samuel D.
Marsh, Assistant United States Attorney, Charleston, West Virginia,
for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

Diarra Jermaine Boddy appeals the district court's order revoking his term of supervised release and imposing a sentence of twelve months imprisonment after he violated the conditions of his supervised release. Boddy's attorney has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967), raising one issue but stating that, in her view, there are no meritorious issues for appeal. Boddy was advised of his right to file a pro se supplemental brief, but he did not file such a brief. Because we find the assignment of error to lack merit and discern no other error in the record, we affirm.

Raising the issue for the first time on appeal, Boddy argues that the 1994 amendments to 18 U.S.C.A. § 3553 (West 2000) made the Chapter 7 policy statements of the federal sentencing guidelines binding on the sentencing court, and that the court therefore should have sentenced him within the sentencing range of three to nine months applicable in his case. In *United States v. Davis*, 53 F.3d 638 (4th Cir. 1995), this court held that the Chapter 7 "policy statements are now and have always been non-binding, advisory guides to district courts in supervised release revocation proceedings." *Id.* at 642 (footnote omitted); *see also United States v. George*, 184 F.3d 1119, 1121 (9th Cir. 1999) (holding that Chapter 7 policy statements are not binding, rejecting contrary interpretation of *United States v. Plunkett*, 94 F.3d 517, 519 (9th Cir. 1996)).

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 order. This court requires that counsel inform her 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 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 argument would not aid the decisional process.

AFFIRMED