

UNPUBLISHED  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

UNITED STATES OF AMERICA, <i>Plaintiff-Appellee,</i>  v.  PISCES MADDEN, <i>Defendant-Appellant.</i>
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No. 01-4151

Appeal from the United States District Court  
for the Western District of Virginia, at Charlottesville.  
James H. Michael, Jr., Senior District Judge.  
(CR-97-85)

Submitted: August 17, 2001

Decided: October 3, 2001

Before WILKINS, MOTZ, and GREGORY, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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**COUNSEL**

Leslie Lee Robinson, Norfolk, Virginia, for Appellant. Bruce A. Pagel, OFFICE OF THE UNITED STATES ATTORNEY, Charlottesville, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

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**OPINION**

## PER CURIAM:

Pisces Gemini Madden appeals the sentence imposed following his guilty plea to conspiracy to distribute cocaine base. Though his sentencing guideline range was 151 to 188 months, Madden received a sentence of sixty months incarceration as a result of the Government's motion for a downward departure based on substantial assistance. Madden's attorney has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967). Counsel states that there are no meritorious issues for appeal, but advances several contentions on Madden's behalf. Madden was informed of his right to file a pro se supplemental brief but has not done so.

Madden first contends that his right to equal protection was violated because he received a stiffer sentence than a similarly situated codefendant. An appeals court lacks jurisdiction to review the extent of a downward departure in the Appellant's favor unless the departure results in a sentence in violation of law or results from an incorrect application of the sentencing guidelines. *United States v. Hill*, 70 F.3d 321, 324 (4th Cir. 1995). As neither exception applies here, we find that Madden is not entitled to appellate review on this claim.

Madden next claims that the Government breached the plea agreement because it agreed not to recommend a specific sentence and then objected to Madden's request that he be sentenced to time served. We reject this claim because the plea agreement specifically states that the Government would likely recommend a substantial sentence. Finally, we find meritless Madden's general contention that he was deprived of due process of law by violations of common law.

In addition, we have examined the entire record in this case in accordance with the requirements of *Anders* and find no meritorious issues for appeal. We therefore affirm Madden's 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 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

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that a copy thereof was served on the client. Finally, 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*