

UNPUBLISHED

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

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

ANTONIO MARTINEZ-CRUZ,
Defendant-Appellant.

No. 01-4593

Appeal from the United States District Court
for the Middle District of North Carolina, at Durham.
James A. Beaty, Jr., District Judge.
(CR-01-72)

Submitted: January 17, 2002

Decided: January 30, 2002

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

Affirmed by unpublished per curiam opinion.

COUNSEL

Louis C. Allen, III, Federal Public Defender, William S. Trivette, Assistant Federal Public Defender, Greensboro, North Carolina, for Appellant. Benjamin H. White, Jr., United States Attorney, Arnold L. Husser, Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

Antonio Martinez-Cruz appeals his conviction and sentence for illegal reentry after deportation for an aggravated felony in violation of 8 U.S.C.A. §§ 1326(a) and (b)(2) (West 1999). Counsel has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967). Counsel states there are no meritorious issues for appeal, but contends on Martinez-Cruz's behalf that the district court abused its discretion in sentencing him to forty-eight months of imprisonment, which was within the guideline range of forty-six to fifty-seven months. Although notified of his right to do so, Martinez-Cruz has not filed a pro se supplemental brief.

As Martinez-Cruz presents no challenge to the calculation of the guideline range but merely contends his sentence was too high within the correct range, we find he is not entitled to appellate review of his claim. See *United States v. Jones*, 18 F.3d 1145, 1150-51 (4th Cir. 1994); *United States v. Porter*, 909 F.2d 789, 794 (4th Cir. 1990). 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 Martinez-Cruz's conviction and sentence.

We deny counsel's motion to withdraw at this time. 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 requested by the client to do so, counsel should prepare a timely petition for writ of certiorari, unless counsel believes that such a petition would be frivolous. In that case, 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