

UNPUBLISHED

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

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

MARIA LUISA MARTIN, a/k/a Luisa
Maria Martin, a/k/a Maria Martin
Sanchez,

Defendant-Appellant.

No. 02-4543

Appeal from the United States District Court
for the Eastern District of North Carolina, at New Bern.
Malcolm J. Howard, District Judge.
(CR-01-48-H)

Submitted: December 20, 2002

Decided: January 31, 2003

Before LUTTIG and TRAXLER, Circuit Judges, and
HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

COUNSEL

Thomas P. McNamara, Federal Public Defender, Stephen C. Gordon,
Assistant Federal Public Defender, Raleigh, North Carolina, for
Appellant. Scott L. Wilkinson, OFFICE OF THE UNITED STATES
ATTORNEY, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

Maria Luisa Martin appeals her conviction and sentence pursuant to a violation of 8 U.S.C. §§ 1326(a) and (b)(2) (2000). Martin's counsel has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967). Although counsel states that there are no meritorious issues for appeal, he argues that § 1326 is unconstitutional in light of the Supreme Court's holding in *Apprendi v. New Jersey*, 530 U.S. 466 (2000). Neither Martin nor the United States filed a brief. In accordance with *Anders*, we have considered counsel's brief and have examined the entire record for meritorious issues. We find no error and affirm.

On appeal, Martin's counsel argues that § 1326 is unconstitutional under the holding in *Apprendi*. We have reviewed the record and find this appeal foreclosed by *Almendarez-Torres v. United States*, 523 U.S. 224 (1998), and by our decision in *United States v. Sterling*, 283 F.3d 216 (4th Cir.), *cert. denied*, 122 S. Ct. 2606 (2002).

In accordance with *Anders*, we have reviewed the entire record in this case and have found no meritorious issues for appeal. We therefore affirm Martin's conviction and sentence. This court requires that counsel inform his client, in writing, of her 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