

UNPUBLISHED

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

UNITED STATES OF AMERICA,  
*Plaintiff-Appellee,*

v.

JOEY LAMONT PRYOR,  
*Defendant-Appellant.*

No. 03-4063

Appeal from the United States District Court  
for the Southern District of West Virginia, at Charleston.  
Charles H. Haden II, District Judge.  
(CR-99-12)

Submitted: June 12, 2003

Decided: June 19, 2003

Before WIDENER, LUTTIG, and SHEDD, Circuit Judges.

---

Affirmed by unpublished per curiam opinion.

---

**COUNSEL**

Mary Lou Newberger, Federal Public Defender, David R. Bungard,  
Assistant Federal Public Defender, Charleston, West Virginia, for  
Appellant. Kasey Warner, United States Attorney, Joshua C. Hanks,  
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Unpublished opinions are not binding precedent in this circuit.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:

Joey Lamont Pryor violated the terms of his supervised release. The district court revoked Pryor's supervised release and sentenced him to twenty-four months incarceration. Pryor's attorney has filed a timely appeal under *Anders v. California*, 386 U.S. 738 (1967).

Pryor asserts that his twenty-four month sentence is excessive, and that the district court should have sentenced him in accordance with the policy statements set forth in *U.S. Sentencing Guidelines Manual* § 7B1.4 (1998). In reviewing a district court's application of the sentencing guidelines, we review factual determinations for clear error, legal questions de novo, and mixed questions of law and fact are reviewed under a standard that gives due deference to the district court. *United States v. Nale*, 101 F.3d 1000, 1003 (4th Cir. 1996). Pryor's challenge to his sentence is meritless. The district court was not bound by Chapter 7 of the sentencing guidelines, and Pryor cannot establish his twenty-four month sentence was erroneous. 18 U.S.C. § 2583(e)(3); *United States v. Davis*, 53 F.3d 638, 642 (4th Cir. 1995).

Accordingly, we affirm the revocation of Pryor's supervised release, and his sentence of twenty-four months incarceration. In accordance with *Anders*, we have reviewed the entire record in this case and find no other meritorious issues for appeal. 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 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 in the decisional process.

*AFFIRMED*