

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-4275

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

DWAYNE MARCELLUS ODOM,

Defendant - Appellant.

Appeal from the United States District Court for the Middle
District of North Carolina, at Durham. James A. Beaty, Jr.,
District Judge. (CR-03-352)

Submitted: October 1, 2004

Decided: October 21, 2004

Before WILLIAMS, TRAXLER, and GREGORY, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Thomas N. Cochran, Assistant Federal Public Defender, Greensboro,
North Carolina, for Appellant. Angela Hewlett Miller, OFFICE OF THE
UNITED STATES ATTORNEY, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Dwayne Marcellus Odom appeals the judgment order of the district court sentencing him to sixty-four months of imprisonment following his guilty plea to possession of a firearm as a convicted felon, in violation of 18 U.S.C. §§ 922(g)(1), 924(a)(2) (2000). In his appeal, filed pursuant to Anders v. California, 386 U.S. 738 (1967), counsel claims to have found no non-frivolous issues for appeal but questions whether Odom's sentence is unduly harsh. Odom has been advised of his right to file a pro se supplemental brief but has elected not to do so.

We have performed an independent review of the record and likewise find no meritorious issues. The district court complied with the mandates of Fed. R. Crim. P. 11 in accepting Odom's guilty plea, and Odom's challenge to a sentence within the properly calculated guideline range is not reviewable on appeal. See United States v. Jones, 18 F.3d 1145, 1151 (4th Cir. 1994). Accordingly, we affirm the judgment of the district court. We also deny counsel's motion to withdraw. 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 the decisional process.

AFFIRMED