

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-4737

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

ROBERT MCDONALD PARRIS,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Asheville. Lacy H. Thornburg, District Judge. (CR-04-15)

Submitted: January 25, 2006

Decided: March 1, 2006

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

Affirmed by unpublished per curiam opinion.

Randolph Marshall Lee, Charlotte, North Carolina, for Appellant.
Donald David Gast, Assistant United States Attorney, Asheville, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Robert McDonald Parris appeals his conviction and ninety-four month sentence imposed after he pleaded guilty to one count of conspiracy to possess with intent to distribute more than 500 grams of cocaine, in violation of 21 U.S.C. §§ 841, 846 (2000). Counsel has filed an Anders* brief in which he states that there are no meritorious issues for appeal, but suggests that defense counsel provided ineffective assistance at sentencing when he argued for a sentence at the bottom of the Guideline range rather than a more lenient sentence pursuant to 18 U.S.C.A. § 3553(a) (West 2000 & Supp. 2005). Parris was notified of his right to file a pro se supplemental brief, but has not filed a brief.

Claims of ineffective assistance of counsel are generally not cognizable on direct appeal. See United States v. King, 119 F.3d 290, 295 (4th Cir. 1997). Rather, to allow for adequate development of the record, a defendant must bring his claim in a motion under 28 U.S.C. § 2255 (2000). See id.; United States v. Hoyle, 33 F.3d 415, 418 (4th Cir. 1994). An exception exists when the record conclusively establishes ineffective assistance. United States v. Richardson, 195 F.3d 192, 198 (4th Cir. 1999). Our review of the record leads us to conclude that any deficiencies in counsel's performance are not conclusively demonstrated.

*Anders v. California, 386 U.S. 738 (1967).

In accordance with Anders, we have reviewed the entire record in this case and have found no meritorious issues for appeal. We therefore affirm Parris's conviction and sentence. This court requires that counsel inform Parris, in writing, of the right to petition the Supreme Court of the United States for further review. If Parris 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 Parris.

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