

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-4667

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JERRY WAYNE ROSE,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Durham. N. Carlton Tilley, Jr., District Judge. (1:05-cr-00399-NCT)

Submitted: November 15, 2006

Decided: November 20, 2006

Before WIDENER, WILKINSON, and MOTZ, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Louis C. Allen III, Federal Public Defender, William S. Trivette, Assistant Federal Public Defender, Greensboro, North Carolina, for Appellant. Lisa Blue Boggs, Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Jerry Wayne Rose pled guilty without a plea agreement to one count of possession of ammunition by a convicted felon, in violation of 18 U. S. C. § 922(g)(1) (2000) and 18 U. S. C. A. § 924 (e) (West 2000 & Supp. 2006). Under the Armed Career Criminal Act, 18 U. S. C. § 924(e), Rose was sentenced to the statutorily mandated minimum sentence of 180 months of imprisonment plus five years of supervised release.* Rose's appellate counsel has filed a brief in accordance with Anders v. California, 386 U.S. 738 (1967), stating that in counsel's opinion there are no meritorious grounds for appeal, but asserting that the court sentenced Rose to an unreasonable term of confinement. Although informed of his right to file a pro se supplemental brief, Rose has not done so.

Although Rose contends that his fifteen-year sentence is unreasonable considering the circumstances of his offense, the district court had no discretion to depart from the mandatory minimum sentence under 18 U.S.C. § 924(e). See United States v. Robinson, 404 F.3d 850, 862 (4th Cir.), cert. denied, 126 S. Ct. 288 (2005) (except upon motion of the Government on the basis of substantial assistance, a district court has no discretion to depart below a statutory minimum sentence).

*Rose had prior felony convictions for discharging a weapon into occupied property, assault with a deadly weapon on a government official (two counts), eluding arrest by motor vehicle, and breaking and entering.

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

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