

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-4028

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

TONY ANDWOANE GRIER,

Defendant - Appellant.

Appeal from the United States District Court for the Western
District of North Carolina, at Charlotte. Robert J. Conrad,
Jr., Chief District Judge. (3:06-cr-00387-RJC-1)

Submitted: December 11, 2008

Decided: December 15, 2008

Before NIEMEYER, DUNCAN, and AGEE, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Janna D. Allison, JANNA D. ALLISON, P.C., Waynesville, North
Carolina, for Appellant. Amy Elizabeth Ray, Assistant United
States Attorney, Asheville, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Tony Andwoane Grier pled guilty pursuant to a plea agreement to conspiracy to possess with intent to distribute cocaine, in violation of 21 U.S.C. § 841 (2006), and was sentenced to 188 months in prison. Counsel for Grier has filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), alleging that she has found no meritorious issues for appeal but asserting that trial counsel may have been ineffective. Grier was notified of his right to file a pro se supplemental brief but has not done so. The Government has declined to file a responding brief. Finding no error, we affirm the district court's judgment.

The magistrate judge conducted a thorough Fed. R. Crim. P. 11 hearing,* ensuring that Grier entered his plea agreement knowingly and voluntarily, and that he committed the crime to which he pled guilty. At sentencing, the district court calculated the appropriate advisory Guidelines range, considered it in conjunction with the factors set forth in 18 U.S.C. § 3553(a) (2006), and sentenced Grier to the bottom of his Guidelines range. Because sentences within the applicable

* In accordance with 28 U.S.C. § 636(b)(3) (2000) and United States v. Osborne, 345 F.3d 281, 288 (4th Cir. 2003), the record establishes that the magistrate judge was properly authorized to conduct the Rule 11 hearing.

Guidelines range may be presumed reasonable by the appellate court, we find that the district court did not err in sentencing Grier to 188 months in prison. See Gall v. United States, 128 S. Ct. 586, 596 (2007); United States v. Pauley, 511 F.3d 468, 473 (4th Cir. 2007). Moreover, we find that ineffective assistance of counsel does not "conclusively appear[]" on the record. See United States v. James, 337 F.3d 387, 391 (4th Cir. 2003).

In accordance with Anders, we have reviewed the entire record in this case and have found no meritorious issues for review. Accordingly, we affirm the judgment of the district court. This court requires that counsel inform Grier in writing of his right to petition the Supreme Court of the United States for further review. If Grier requests that a petition be filed, but counsel believes that such a petition would be frivolous, then counsel may motion this court for leave to withdraw from representation. Counsel's motion must state that a copy thereof was served on Grier. 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