

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-4121

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KENNETH CORTEZ MINOR,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Greenbelt. Deborah K. Chasanow, District Judge. (8:06-cr-00028-DKC-3)

Submitted: June 25, 2009

Decided: July 15, 2009

Before TRAXLER, Chief Judge, and WILKINSON and MOTZ, Circuit Judges.

Dismissed in part; affirmed in part by unpublished per curiam opinion.

Gary E. Proctor, LAW OFFICES OF GARY E. PROCTOR, LLC, Baltimore, Maryland, for Appellant. Barbara Suzanne Skalla, Assistant United States Attorney, Greenbelt, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kenneth Cortez Minor pled guilty to conspiracy to possess with intent to distribute 500 grams of cocaine. He was sentenced to 168 months of imprisonment. On appeal, counsel has filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), asserting there are no meritorious grounds for appeal, but raising the following issues: (1) whether Minor's guilty plea was valid, and (2) whether his sentence was unreasonable. The Government has filed a motion to dismiss the appeal. For the reasons that follow, we dismiss in part and affirm in part.

This court reviews the validity of Minor's plea for plain error, as the issue was not raised below. United States v. Vonn, 535 U.S. 55, 58-59 (2002); United States v. Martinez, 277 F.3d 517, 526-27 (4th Cir. 2002). Review of the record reveals that the district court complied with Fed. R. Crim. P. 11 in conducting Minor's plea hearing and that Minor knowingly and voluntarily pled guilty. United States v. Broughton-Jones, 71 F.3d 1143, 1146 (4th Cir. 1995). Thus, this claim fails.

Because Minor waived his right to appeal any sentence based on a Sentencing Guidelines offense level of 35 or lower, and was so sentenced, we find that he has waived his right to appeal his sentence. This waiver provision was contained in Minor's plea agreement and was specifically reviewed at Minor's plea hearing. Thus, Minor has waived appellate review of his

sentence and we do not further address whether his sentence was unreasonable. Id.; United States v. Wessells, 936 F.2d 165, 167-68 (4th Cir. 1991). Accordingly, we grant the Government's pending motion to dismiss the appeal of Minor's sentence.

In accordance with Anders, we have reviewed the entire record in this case, including the issues raised in Minor's pro se supplemental brief, and have found no meritorious issues for appeal. Accordingly, we affirm the judgment of the district court. 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 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.

DISMISSED IN PART;
AFFIRMED IN PART