

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-6266

UNITED STATES OF AMERICA,

Petitioner - Appellee,

v.

GABRIEL OSHEL LEWIS,

Respondent - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. W. Earl Britt, Senior District Judge. (5:16-hc-02209-BR)

Submitted: December 29, 2017

Decided: January 24, 2018

Before NIEMEYER and SHEDD, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Seth A. Neyhart, STARK LAW GROUP, PLLC, Chapel Hill, North Carolina, for Appellant. Robert J. Dodson, Genna Danelle Petre, Special Assistant United States Attorneys, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Gabriel Oshel Lewis appeals the district court's order committing him to the custody and care of the Attorney General pursuant to 18 U.S.C. § 4246 (2012). On appeal, counsel has filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), stating that there are no meritorious issues for appeal but questioning whether the district court's findings in hospitalizing Lewis under 18 U.S.C. § 4246 were clearly erroneous. Although advised of his right to file a supplemental pro se brief, Lewis has not done so. The Government declined to file a response brief. We affirm.

After a hearing, the district court found by clear and convincing evidence that Lewis "is presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to the property of another" and ordered that Lewis be committed to the custody and care of the Attorney General. A district court's finding of dangerousness under 18 U.S.C. § 4246 is a factual determination this court will not overturn unless it is clearly erroneous. *United States v. Cox*, 964 F.2d 1431, 1433 (4th Cir. 1992). Our review of the record leads us to conclude that the district court did not clearly err in its finding.

In accordance with *Anders*, we also have reviewed the entire record in this case and have found no meritorious issues for appeal. We therefore affirm the district court's order that Lewis be civilly committed pursuant to 18 U.S.C. § 4246. This court requires that counsel inform Lewis, in writing, of the right to petition the Supreme Court of the United States for further review. If Lewis 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 Lewis. 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