

NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with Fed. R. App. P. 32.1

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted September 24, 2009*
Decided October 6, 2009

Before

WILLIAM J. BAUER, *Circuit Judge*

MICHAEL S. KANNE, *Circuit Judge*

TERENCE T. EVANS, *Circuit Judge*

No. 08-2430

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

JAMES SMITH,
Defendant-Appellant.

Appeal from the United States District
Court for the Northern District
of Illinois, Eastern Division.

No. 1:06-cr-00682-4

Samuel Der-Yeghiayan,
Judge.

O R D E R

On June 4, 2008, defendant-appellant James Smith (“Smith”) filed a notice of direct appeal after pleading guilty to two counts of violating 21 U.S.C. § 843, use of a telephone to commit a controlled substance offense, and being sentenced to a total of 96 months in the custody of the Bureau of Prisons.

* After examining the *Anders* brief and the record, we have concluded that oral argument is unnecessary. Thus, the appeal is submitted on the brief and the record. See Fed. R. App. P. 34(a)(2).

On February 26, 2009, his appointed counsel moved to withdraw under *Anders v. California*, 386 U.S. 738 (1967), stating that despite thoroughly scrutinizing the record, he was unable to discern a non-frivolous issue to pursue. On February 27, 2009, we informed Smith that he had thirty days to present any argument to demonstrate that his conviction and/or sentence was invalid. Smith presented no such argument.

We have reviewed the brief presented by counsel and agree that there is no non-frivolous issue. Accordingly, we affirm Smith's conviction and sentence, and grant the motion to withdraw.