

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 17-3548

UNITED STATES OF AMERICA

v.

RICHARD JOSEPH
a/k/a Richard Beltre
a/k/a Joseph Richards
a/k/a Aaron Joseph,
Appellant

On Appeal from the United States District Court
for the District of New Jersey
(District Court No. 2-14-cr-00306-001)
District Judge: Hon. Susan D. Wigenton

Submitted Pursuant to Third Circuit L.A.R. 34.1(a)
March 14, 2019

Before: McKEE, ROTH and FUENTES, *Circuit Judges*

(Opinion Filed: August 19, 2019)

OPINION*

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

McKEE, *Circuit Judge*.

Richard Joseph appeals the District Court’s revocation of supervised release and the sentence that the court imposed based upon his violations of the terms of his release. For the following reasons, we will affirm the judgment of sentence.

I.¹

Counsel has filed a brief pursuant to *Anders v. California*,² and accompanying Motion to Withdraw. In that brief, counsel represents that, “after a conscientious examination of the record,” he informed Joseph “that there are no non-frivolous issues for appeal.”³ When counsel files an *Anders* brief, we must determine “(1) whether counsel[’s] [brief] adequately fulfill[s] [Third Circuit Local Appellate Rule 109.2(a)’s] requirements; and (2) whether an independent review of the record presents any nonfrivolous issues.”⁴ Counsel’s brief must first “satisfy the court that counsel has thoroughly examined the record in search of appealable issues,” and second, must “explain why the issues are frivolous.”⁵ On review, “[t]his Court’s role is then to decide whether the case is wholly frivolous. If so, the Court can grant counsel’s motion to withdraw and dismiss the appeal under federal law....”⁶

¹ The District Court had jurisdiction pursuant to 18 U.S.C. § 3231. We have jurisdiction pursuant to 28 U.S.C. § 1291.

² See *Anders v. California*, 386 U.S. 738 (1967).

³ Appellant’s Br. at 10.

⁴ *United States v. Youla*, 241 F.3d 296, 300 (3d Cir. 2001).

⁵ *Id.*

⁶ *Id.* at 299

Counsel's brief satisfies Rule 109.2(a). Counsel represents that he reviewed the record for non-frivolous issues for appeal and identified a potentially appealable issue—whether Joseph not being provided with a preliminary hearing before the final revocation of supervised release hearing warrants reversal. Counsel determined that the issue would be frivolous in the absence of demonstrable prejudice and there is no such prejudice on this record. The Brief adequately discusses our precedent and any relevant cases from the Supreme Court, and it applies the law to the facts of this case.

Our examination of the record confirms that there are no non-frivolous issues for appeal and we will therefore confirm the judgment of the District Court. We will also grant counsel's Motion to Withdraw.