

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-4794

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

RICKY CAMPBELL,

Defendant - Appellant.

Appeal from the United States District Court for the Southern District of West Virginia, at Beckley. David A. Faber, Chief District Judge. (CR-05-13)

Submitted: May 26, 2006

Decided: July 12, 2006

Before NIEMEYER, MOTZ, and SHEDD, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Joan A. Mooney, Morgantown, West Virginia, for Appellant.
Charles T. Miller, United States Attorney, Miller A. Bushong, III, Assistant United States Attorney, Beckley, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Ricky Campbell pled guilty to manufacturing, by growing and cultivating approximately 205 marijuana plants, a Schedule I controlled substance (Count 2) and was sentenced to sixty months of imprisonment. Counsel raises two issues on appeal and Campbell raises one issue pro se. For the reasons that follow, we affirm.

Counsel first argues under the Sentencing Guidelines that the district court improperly enhanced Campbell's sentence because he possessed firearms, under U.S. Sentencing Guidelines Manual § 2D1.1(b)(1) (2004), and for obstruction of justice, under USSG § 3C1.1. We find no reversible error and note that Campbell's sentence was not increased for possession of firearms. United States v. Daughtrey, 874 F.2d 213, 217 (4th Cir. 1989) (stating review standard). Neither do we find that the district court improperly declined to apply the safety valve provision in USSG § 5C1.2.

We grant Campbell's motion to file a pro se supplemental brief wherein he alleges that his trial counsel was ineffective for failing to seek a safety valve reduction. Contrary to Campbell's assertions, however, the record is clear that his trial counsel did seek a safety valve reduction for him at sentencing, which the district court rejected. Thus, Campbell has failed to meet the demanding burden of establishing ineffective assistance of counsel

in his direct appeal. United States v. Richardson, 195 F.3d 192, 198 (4th Cir. 1999).

Accordingly, we affirm. 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