

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-4254

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

KOSHON IRVIN MITCHELL,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Charleston. David C. Norton, District Judge. (2:04-cr-00534-DCN-AL)

Submitted: January 26, 2007

Decided: February 26, 2007

Before KING, SHEDD, and DUNCAN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Capers G. Barr, III, BARR, UNGER & MCINTOSH, LLC, Charleston, South Carolina, for Appellant. Kevin Frank McDonald, OFFICE OF THE UNITED STATES ATTORNEY, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Pursuant to a plea agreement, Koshon Irvin Mitchell pled guilty to one count of conspiracy to commit access device fraud and bank fraud, in violation of 18 U.S.C. § 371 (2000). The district court sentenced Mitchell to fifteen months' imprisonment and ordered him to pay \$5783.18 in restitution.

The government subsequently filed a motion to reduce Mitchell's sentence, pursuant to Fed. R. Crim. P. 35(b), based on Mitchell's substantial assistance in a murder investigation. The district court granted the motion and entered an amended criminal judgment, sentencing Mitchell to time served, but leaving all other conditions from the original judgment undisturbed. Mitchell appealed.*

Mitchell's counsel has filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), stating that, in his opinion, there are no meritorious grounds for appeal, but challenging the restitution order. Mitchell was advised of his right to file a pro se supplemental brief, but did not file one.

Mitchell filed no objections in the district court to the restitution order. Therefore, Mitchell's challenge to the restitution order is subject to plain error review. United States v. Olano, 507 U.S. 725, 731-32 (1993). We find that the district court did not plainly err in making the restitution determination.

*Mitchell voluntarily withdrew his appeal from the original criminal judgment pursuant to Fed. R. App. P. 42(b).

In accordance with Anders, we have reviewed the record in this case and have found no meritorious issues for appeal. We therefore affirm the amended criminal judgment. This court requires that counsel inform Mitchell, in writing, of the right to petition the Supreme Court of the United States for further review. If Mitchell 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 Mitchell. 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