UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-4800

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

KEITH ANDRE MCALLISTER,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Florence. Terry L. Wooten, District Judge. (4:05-cr-00195-TLW)

Submitted: January 25, 2007 Decided: January 29, 2007

Before WIDENER and MICHAEL, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

William F. Nettles, IV, Assistant Federal Public Defender, Florence, South Carolina, for Appellant. Alfred William Walker Bethea, Jr., Assistant United States Attorney, Florence, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Keith Andre McAllister pled guilty to conspiracy to possess with intent to distribute more than 100 grams of heroin, in violation of 21 U.S.C. § 846 (2000). The district court sentenced McAllister to the statutory mandatory minimum sentence of 120 months, see 21 U.S.C.A. §§ 841(b)(1)(B), 851 (West 2000 & Supp. 2006), and ordered it to run consecutively to the sentence imposed upon the revocation of his supervised release for a prior offense. McAllister's counsel has filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), stating that, in his view, there are no meritorious issues for appeal but challenging the adequacy of the plea colloquy and the consecutive nature of the sentence. McAllister was informed of his right to file a pro se supplemental brief but has not done so. We affirm.

Counsel questions whether the district court complied with Fed. R. Crim. P. 11 in accepting McAllister's guilty plea. Because McAllister did not move to withdraw his guilty plea, we review his challenge to the adequacy of the Rule 11 hearing for plain error. United States v. Martinez, 277 F.3d 517, 525 (4th Cir. 2002). We have carefully reviewed the transcript of the Rule 11 hearing and find no error in the district court's acceptance of McAllister's guilty plea. See United States v. DeFusco, 949 F.2d 114, 119-20 (4th Cir. 1991).

Counsel also raises as a potential issue the consecutive nature of the sentence imposed by the district court. Because counsel failed to object in the district court, we review the claim only for plain error. See United States v. Robinson, 460 F.3d 550, 557 (4th Cir. 2006) (discussing standard of review). We find no error in the district court's decision to run the 120-month sentence consecutively to the sentence imposed upon the revocation of McAllister's supervised release. See U.S. Sentencing Guidelines Manual § 5G1.3(c) & comment. n.3(C) (2005).

In accordance with Anders, we have reviewed the entire record for any meritorious issues and have found none. Accordingly, we affirm McAllister's conviction and sentence. This court requires that counsel inform his client, in writing, of his right to petition the Supreme Court of the United States for further review. If the client 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 the client. 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