

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-4908

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

MIGUEL MARTINEZ,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Charleston. Patrick Michael Duffy, District Judge. (2:05-cr-01331-PMD)

Submitted: August 30, 2007

Decided: September 5, 2007

Before MICHAEL, KING, and SHEDD, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Steven Michael Hisker, Duncan, South Carolina, for Appellant.
Carlton R. Bourne, Jr., Assistant United States Attorney,
Charleston, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Miguel Martinez pled guilty to conspiracy to distribute cocaine, in violation of 21 U.S.C. § 841(a)(1), (b)(1)(A) (2000). He was sentenced to 262 months of imprisonment. Martinez' attorney on appeal has filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), concluding there are no meritorious issues for appeal, but questioning whether the district court erred in applying the sentencing guidelines as mandatory in violation of United States v. Booker, 543 U.S. 220 (2005). Because the district court in fact appropriately applied the guidelines as advisory in sentencing Martinez post-Booker, and advised him of the advisory nature of the guidelines at the plea hearing, we find counsel's claim meritless.

Martinez was advised of his right to file a pro se supplemental brief, but has not done so. In accordance with Anders, we have reviewed the entire record in this case and have found no meritorious issues for appeal. We therefore affirm Martinez'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