

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-4127

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JAMES DONALD MATHES,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. James R. Spencer, Chief District Judge. (3:06-cr-00062-JRS)

Submitted: October 11, 2007

Decided: October 15, 2007

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

Affirmed by unpublished per curiam opinion.

Debra D. Corcoran, Richmond, Virginia, for Appellant. Brian Ronald Hood, Assistant United States Attorney, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Following a jury trial, James Donald Mathes was found guilty of possession of child pornography. He was sentenced to fifty months in prison. On appeal, counsel has filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), asserting that there were no meritorious grounds for appeal, but questioning whether trial counsel provided effective assistance of counsel. Mathes has filed a supplemental brief, providing further details and allegations concerning the alleged ineffective assistance. The Government elected not to file a responsive brief. Finding no error, we affirm.

An ineffective assistance of counsel claim is generally not cognizable on direct appeal, but should instead be asserted in a post-conviction motion under 28 U.S.C. § 2255 (2000). See United States v. Richardson, 195 F.3d 192, 198 (4th Cir. 1999). However, we have recognized an exception to the general rule when "it 'conclusively appears' from the record that defense counsel did not provide effective representation." Id. Because the record does not conclusively establish that counsel was ineffective, we conclude that Mathes' claim is not cognizable on appeal.

In accordance with Anders, we have reviewed the entire record in this case and have found no meritorious issues for appeal. Accordingly, we affirm the judgment of the district court. This court requires that counsel inform her 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 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