

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-4983

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DARREN L. ROBINSON,

Defendant - Appellant.

Appeal from the United States District Court for the Southern District of West Virginia, at Beckley. Thomas E. Johnston, District Judge. (5:07-cr-00012)

Submitted: May 29, 2008

Decided: June 3, 2008

Before TRAXLER, GREGORY, and SHEDD, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Jason D. Parmer, PARMER LAW OFFICE, Hinton, West Virginia, for Appellant. Miller A. Bushong, III, OFFICE OF THE UNITED STATES ATTORNEY, Beckley, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Darren L. Robinson appeals the 168-month career offender sentence imposed by the district court after he pled guilty to distribution of cocaine, in violation of 21 U.S.C. § 841(a)(1) (2000). Counsel has filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), suggesting that the district court erred by denying Robinson's motion for a downward departure from the advisory guideline range. Counsel states, however, that there are no meritorious issues before the court. Robinson was informed of his right to file a pro se supplemental brief, but he has not done so. We affirm.

Counsel questions whether the district court erred by denying the motion for downward departure. A district court's failure to grant a downward departure is not reviewable unless the district court was under the mistaken impression that it lacked the authority to depart. United States v. Brewer, 520 F.3d 367, 371 (4th Cir. 2008). Here, there is no evidence that the district court misunderstood its authority to depart. Thus, we decline to review this claim.

In accordance with Anders, we have thoroughly reviewed the record and have found no meritorious issues for appeal. Accordingly, we affirm the district court's judgment. 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