

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-4225

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RIGOBERTO TEJEDA HERNANDEZ, a/k/a Chuckie,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Robert J. Conrad, Jr., Chief District Judge. (3:06-cr-00353-RJC-7)

Submitted: December 16, 2008

Decided: December 22, 2008

Before WILKINSON, MICHAEL, and KING, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Scott Gsell, LAW OFFICE OF SCOTT GSELL, Charlotte, North Carolina, for Appellant. Amy Elizabeth Ray, Assistant United States Attorney, Asheville, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Rigoberto Tejeda Hernandez pled guilty to conspiracy to possess with intent to distribute heroin, in violation of 21 U.S.C. § 846 (2006) and was sentenced to 87 months imprisonment. Hernandez's counsel has filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), raising one issue but stating that, in his view, there are no meritorious issues for appeal. Although informed of his right to file a pro se supplemental brief, Hernandez has not done so.

Counsel questions whether the district court erred in its assessment of a three-level enhancement under U.S. Sentencing Guidelines Manual § 3B1.1(c) (2002), for Hernandez's leadership role in the conspiracy. Our review of the record leads us to conclude that the district court did not err in applying the enhancement. In accordance with Anders, we have reviewed the entire record in this case and have found no meritorious issues for appeal. We therefore affirm Hernandez's conviction and sentence. This court requires that counsel inform Hernandez, in writing, of his right to petition the Supreme Court of the United States for further review. If Hernandez 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 Hernandez.

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