

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-4987

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

SIDNEY LAWRENCE SIMS,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Durham. William L. Osteen, Jr., District Judge. (1:08-cr-00051-WO-1)

Submitted: April 22, 2009

Decided: May 5, 2009

Before TRAXLER, GREGORY, and SHEDD, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Louis C. Allen, Federal Public Defender, William C. Ingram, First Assistant Federal Public Defender, Greensboro, North Carolina, for Appellant. Robert Albert Jamison Lang, Assistant United States Attorney, Winston-Salem, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Sidney Lawrence Sims pled guilty, pursuant to a plea agreement, to possession of a firearm by a felon in violation of 18 U.S.C. § 922(g)(1) (2006). The conditional plea preserved Sims's right to appeal the district court's denial of his motion to suppress. Sims was sentenced to seventy-five months' imprisonment. Sims's attorney has filed a brief in accordance with Anders v. California, 386 U.S. 738 (1967), certifying that there are no meritorious grounds for appeal, but alleging that the district court erred in denying Sims's motion to suppress. Sims filed a pro se supplemental brief, reiterating the arguments raised in counsel's brief. The Government did not file a reply brief. Finding no reversible error, we affirm.

In reviewing the district court's ruling on a motion to suppress, we review the district court's factual findings for clear error, and its legal determinations de novo. United States v. Cain, 524 F.3d 477, 481 (4th Cir. 2008). The facts are reviewed in the light most favorable to the prevailing party below. United States v. Jamison, 509 F.3d 623, 628 (4th Cir. 2007).

With these standards in mind, and having reviewed the transcript of the suppression hearing, we conclude the district court did not err in denying Sims's motion to suppress. See United States v. Burton, 228 F.3d 524, 528 (4th Cir. 2008)

(finding that officers must have both reasonable suspicion of criminal activity as well as reason to believe suspect armed and dangerous in order to conduct constitutional frisk for weapons). In accordance with Anders, we have reviewed the record in this case and have found no meritorious issues for appeal. We therefore affirm the district court's judgment. This court requires that counsel inform Sims, in writing, of the right to petition the Supreme Court of the United States for further review. If Sims 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 Sims. 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