

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-5102

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JAMES EDWARDS,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Greenbelt. Peter J. Messitte, Senior District Judge. (8:05-cr-00179-PJM-5)

Submitted: June 5, 2009

Decided: June 23, 2009

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

Affirmed by unpublished per curiam opinion.

Gary E. Proctor, Baltimore, Maryland, for Appellant. Rod J. Rosenstein, United States Attorney, David I. Salem, Assistant United States Attorney, Greenbelt, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

James Edwards appeals the district court's criminal judgment entered pursuant to his guilty plea to conspiracy to possess with the intent to distribute five kilograms or more of a mixture or substance containing a detectable amount of cocaine in violation of 21 U.S.C. § 846 (2006). Edwards challenges the district court's denial of his motion to withdraw his guilty plea and asserts that he received ineffective assistance of counsel in connection with his decision to enter a plea. Finding no reversible error, we affirm.

The record does not conclusively establish that Edwards' trial counsel's performance was deficient and that but for counsel's deficient performance, Edwards would not have pled guilty and would have proceeded to trial. Thus, Edwards' claim of ineffective assistance of counsel is not cognizable in this direct appeal. United States v. King, 119 F.3d 290, 295 (4th Cir. 1997).

Review of the signed written plea agreement, the transcript from the thorough Fed. R. Crim. P. 11 hearing, the transcript from the motion to withdraw the guilty plea and sentencing, and application of the criteria set forth in United States v. Moore, 931 F.2d 245, 248 (4th Cir. 1991), indicate Edwards' plea was knowing and voluntary, and thus is final and binding. Consequently, we find that the district court did not

abuse its discretion by denying Edwards' motion to withdraw his guilty plea.

We accordingly affirm. 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