

UNPUBLISHEDUNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-5222

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LAWRENCE LEE HARRIS, II,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Durham. William L. Osteen, Jr., District Judge. (1:07-cr-00429-WO-5)

Submitted: August 26, 2009

Decided: October 2, 2009

Before WILKINSON, MICHAEL, and MOTZ, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Todd A. Smith, LAW FIRM OF TODD A. SMITH, Graham, North Carolina, for Appellant. Angela Hewlett Miller, Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Lawrence Lee Harris, II, appeals the district court's judgment imposing his conviction and sentence of 262 months' imprisonment for distribution of 22.7 grams of cocaine base in violation of 21 U.S.C. § 841(a)(1), (b)(1)(A) (2006), following his guilty plea.

On appeal, counsel filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), noting no meritorious issues for appeal, but questioning whether the sentence imposed was reasonable. Harris filed a pro se supplemental brief, contending that the district court erred in sentencing him as a career offender and imposed an unreasonable sentence, and that counsel was ineffective in failing to address the sentencing issues. Specifically, Harris argued that the district court erroneously calculated his guidelines range by holding him accountable for 22.7 grams of cocaine base and 22.7 grams of methylenedioxymethamphetamine, when he had only pled guilty to charges involving cocaine base. Furthermore, Harris contended that his criminal history category was miscalculated because his predicate felony drug convictions were minor, some misdemeanor charges were concurrent and consolidated, and his felony conviction for solicitation to commit arson was not a violent felony. Finding no error, we affirm.

We have reviewed the record and conclude that the district court fully complied with the requirements of Fed. R. Crim. P. 11. We further find that the district court did not abuse its discretion in sentencing Harris as a career offender, and imposed a sentence that is procedurally and substantively reasonable. See Gall v. United States, 552 U.S. 38, 128 S. Ct. 586, 597 (2007) (review of sentence is for abuse of discretion). The record supports the imposition of a sentence based upon a finding that Harris was responsible for 22.7 grams of cocaine base and 22.7 grams of methylenedioxymethamphetamine. Furthermore, we find Harris' predicate felony drug convictions were not related and were sufficient without consideration of any other convictions to support the criminal history category as calculated by the district court. Because we find no sentencing error, Harris' argument that counsel rendered ineffective assistance regarding sentencing necessarily fails.

In accordance with Anders, we have reviewed the entire record in this case and have found no meritorious issues for appeal. We therefore affirm the district court's judgment. We further deny Harris' motion for stay of the appeal/hold in abeyance. 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 filing 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