

UNPUBLISHEDUNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-4314

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RANDOLPH KEY, a/k/a Randy,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Aiken. Margaret B. Seymour, District Judge. (1:08-cr-00729-MBS-10)

Submitted: December 23, 2010

Decided: January 12, 2011

Before WILKINSON and DAVIS, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

William W. Watkins, Sr., WILLIAM W. WATKINS, P.A., Columbia, South Carolina, for Appellant. John David Rowell, Assistant United States Attorney, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Randolph Key appeals the 240-month sentence imposed following his guilty plea to conspiracy to possess with intent to distribute and distribution of fifty grams or more of crack cocaine, in violation of 21 U.S.C. § 846 (2006). Counsel for Key filed a brief in this court in accordance with Anders v. California, 386 U.S. 738 (1967), questioning the reasonableness of Key's sentence. Counsel states, however, that he has found no meritorious grounds for appeal. Key received notice of his right to file a pro se supplemental brief, but did not file one. Because we find no meritorious grounds for appeal, we affirm.

Here, Key was sentenced to the statutory mandatory minimum sentence. Counsel questions whether the court could have sentenced below the statutory minimum. Because the Government, exercising its discretion, declined to move for a downward departure pursuant to U.S. Sentencing Guidelines Manual § 5K1.1, p.s. (2008), on the ground that it did not find that Key provided substantial assistance, the court in fact had no discretion to impose a sentence below the mandatory minimum. See United States v. Robinson, 404 F.3d 850, 862 (4th Cir. 2005). Based on our review of the record, we conclude that the district court's sentence is reasonable.

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 Key, in writing, of the right to petition the Supreme Court of the United States for further review. If Key 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 Key.

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