

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-4468

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JUAN MARTINEZ, JR., a/k/a El Indio, a/k/a Indio,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Columbia. Joseph F. Anderson, Jr., District Judge. (3:11-cr-02062-JFA-1)

Submitted: February 11, 2013

Decided: February 21, 2013

Before GREGORY, DUNCAN, and KEENAN, Circuit Judges.

Dismissed in part; affirmed in part by unpublished per curiam opinion.

Nicole N. Mace, THE MACE FIRM, Myrtle Beach, South Carolina, for Appellant. Mark C. Moore, Assistant United States Attorney, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Juan Martinez, Jr., pled guilty in accordance with a written plea agreement to: conspiracy to distribute and to possess with intent to distribute 1000 kg. or more of marijuana and five kg. or more of cocaine, 21 U.S.C. §§ 841(a)(1), 846 (2006); and engaging in a monetary transaction in criminally derived property of a value greater than \$10,000, 18 U.S.C. § 1957 (2006). Martinez was sentenced to 168 months in prison. He now appeals. His attorney has filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), asserting that there are no meritorious issues for appeal. Martinez was advised of his right to file a pro se brief but has not filed such a brief.

The United States has moved to dismiss the appeal based on Martinez's waiver of his right to appeal, which is included in the plea agreement. Upon review of the plea agreement and the transcript of the Fed. R. Crim. P. 11 proceeding, we conclude that Martinez knowingly and voluntarily waived his right to appeal his conviction and sentence and that the issues he seeks to raise on appeal fall squarely within the scope of the waiver. Accordingly, we grant the motion to dismiss as to all issues that a defendant may lawfully waive.

In accordance with Anders, we have reviewed the entire record for non-waivable meritorious issues and have found none.

Accordingly, we affirm the district court's judgment as to all issues not encompassed by Martinez's waiver of appellate rights.

This court requires that counsel inform Martinez, in writing, of his right to petition the Supreme Court of the United States for further review. If Martinez requests that such a petition be filed, but counsel believes that the 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 of the motion was served on Martinez. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED IN PART;
AFFIRMED IN PART