

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-4605

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JAMES EDWARD STREATER, a/k/a Slim,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Florence. Terry L. Wooten, District Judge. (4:11-cr-02161-TLW-10)

Submitted: January 8, 2013

Decided: January 17, 2013

Before NIEMEYER and THACKER, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

J. Thomas McBratney, III, MCBRATNEY LAW FIRM, P.A., Florence, South Carolina, for Appellant. Alfred William Walker Bethea, Jr., Assistant United States Attorney, Florence, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

James Edward Streater appeals his conviction and 100-month sentence imposed following his guilty plea to conspiracy to possess with intent to distribute cocaine and cocaine base, in violation of 21 U.S.C. § 846 (2006). On appeal, Streater's counsel filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), asserting that there are no meritorious grounds for appeal but questioning whether the district court complied with Federal Rule of Criminal Procedure 11 ("Rule 11") during the plea hearing and whether the court erred in denying Streater's motion for a downward departure. Streater was advised of his right to file a pro se supplemental brief but did not file one. Finding no error, we affirm.

Counsel questions whether the district court fully complied with Rule 11 in accepting Streater's guilty plea. Our review of the plea hearing reveals that the district court substantially complied with Rule 11 in conducting the plea colloquy, and committed no error warranting correction on plain error review. See United States v. General, 278 F.3d 389, 393 (4th Cir. 2002) (providing standard of review); United States v. Olano, 507 U.S. 725, 732 (1993) (detailing plain error standard). Thus, the district court did not err in finding Streater's guilty plea knowing and voluntary.

Counsel also questions the district court's denial of his motion for a downward departure. It is clear, however, that the district court understood its power to depart downward but made a reasoned decision not to do so. We thus lack authority to review the court's decision. See United States v. Brewer, 520 F.3d 367, 371 (4th Cir. 2008) ("We lack the authority to review a sentencing court's denial of a downward departure unless the court failed to understand its authority to do so.").

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 Streater, in writing, of his right to petition the Supreme Court of the United States for further review. If Streater requests that a petition be filed, but counsel believes that such a petition would be frivolous, counsel may move in this court for leave to withdraw from representation. Counsel's motion must state that a copy thereof was served on Streater. We dispense with oral argument because the facts and legal conclusions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED