

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 12-4812**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ANDREW JULIAN ATKINSON,

Defendant - Appellant.

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Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. N. Carlton Tilley, Jr., Senior District Judge. (1:11-cr-00063-NCT-2)

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Submitted: March 19, 2013

Decided: March 27, 2013

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Before KING, GREGORY, and AGEE, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Stacey D. Rubain, QUANDER & RUBAIN, P.A., Winston-Salem, North Carolina, for Appellant. Graham Tod Green, Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

In accordance with a written plea agreement, Andrew Julian Atkinson pled guilty to attempted armed bank robbery, 18 U.S.C. § 2113(d) (2006), and carrying and using, by brandishing, a firearm during and in relation to a crime of violence, 18 U.S.C. § 924(c)(1)(A)(ii) (2006). He received an aggregate sentence of sixty months in prison. Atkinson now appeals. His attorney has filed a brief in accordance with Anders v. California, 386 U.S. 738 (1967), stating that there are no meritorious issues for appeal. Atkinson was notified of his right to file a pro se brief, but has not filed such a brief. Finding no error, we affirm.

Our review of the transcript of Atkinson's Fed. R. Crim. P. 11 hearing discloses that the district court substantially complied with the Rule. Further, the transcript establishes that Atkinson entered his plea knowingly and voluntarily and that there was a factual basis for the plea. We therefore affirm the convictions.

Further, we conclude that the district court did not abuse its discretion in imposing sentence. See Gall v. United States, 552 U.S. 38, 51 (2007). First, the sentence is procedurally reasonable. In this regard, the court correctly calculated Atkinson's Guidelines range, considered the relevant 18 U.S.C. § 3553(a) (2006) factors, and sufficiently explained

the sentence, which encompassed both a downward departure and the court's grant of the Government's 18 U.S.C. § 3553(e) (2006) motion based on Atkinson's substantial assistance. Second, our review of the sentencing transcript establishes that, based on the totality of the circumstances, the sentence is free of substantive error.

In accordance with Anders, we have reviewed the entire record in this case and have found no meritorious issues for appeal. We therefore affirm Atkinson's convictions and sentence. This court requires that counsel inform Atkinson, in writing, of the right to petition the Supreme Court of the United States for further review. If Atkinson 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 of the motion was served on Atkinson.

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