

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-4103

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ADRIAN ANTWON CHAMBERS,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Florence. R. Bryan Harwell, District Judge. (4:09-cr-01272-RBH-9)

Submitted: September 30, 2011

Decided: October 27, 2011

Before NIEMEYER, GREGORY, and DAVIS, Circuit Judges.

Affirmed in part, vacated in part, and remanded by unpublished per curiam opinion.

Tynika Adams Claxton, CLAXTON LAW FIRM, Blythewood, South Carolina, for Appellant. William Norman Nettles, United States Attorney, Columbia, South Carolina; Carrie Fisher Sherard, Assistant United States Attorney, Greenville, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Adrian Chambers pled guilty, pursuant to a written plea agreement, to one count of conspiracy to possess with intent to distribute 50 grams or more of crack cocaine, 21 U.S.C. § 846 (2006), and was sentenced to 135 months imprisonment. Chambers noted a timely appeal. Counsel has 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 erred in failing to apply provisions of the Fair Sentencing Act, Pub. L. No. 111-220, 124 Stat. 2372 (the "FSA"), in determining Chambers' sentence. Although advised of his right to file a pro se supplemental brief, Chambers has not done so.

We have reviewed the transcript of Chambers' guilty plea hearing and find that the district court fully complied with the mandates of Fed. R. Crim. P. 11. The court ensured that Chambers understood the charge against him and the potential sentence he faced, the rights he was giving up by pleading guilty, that he entered his plea knowingly and voluntarily, and that the plea was supported by a sufficient factual basis. See United States v. DeFusco, 949 F.2d at 114, 116, 119-20 (4th Cir. 1991). We have also reviewed the entire record in accordance with Anders and have found no meritorious issues. We therefore affirm Chambers' conviction.

The Government has filed an unopposed motion to vacate Chambers' sentence and remand for resentencing in accordance with the FSA. In light of the Attorney General's revised view on the retroactivity of the FSA, as well as the development of case law on this point in other jurisdictions, we think it appropriate, without indicating any view as to the outcome, to accord the district court an opportunity to consider the matter in the first instance.

We therefore affirm in part as to Chambers' conviction, vacate in part, and remand to the district court for resentencing. This court requires that counsel inform Chambers, in writing, of the right to petition the Supreme Court of the United States for further review. If Chambers 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 Chambers. 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 IN PART,
VACATED IN PART,
AND REMANDED