

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with Fed. R. App. P. 32.1

United States Court of Appeals**For the Seventh Circuit
Chicago, Illinois 60604**

Submitted September 24, 2009*

Decided October 6, 2009

BeforeWILLIAM J. BAUER, *Circuit Judge*MICHAEL S. KANNE, *Circuit Judge*TERENCE T. EVANS, *Circuit Judge*

No. 08-2430

UNITED STATES OF AMERICA,
*Plaintiff-Appellee,**v.*JAMES SMITH,
*Defendant-Appellant.*Appeal from the United States District
Court for the Northern District
of Illinois, Eastern Division.

No. 1:06-cr-00682-4

Samuel Der-Yeghiayan,
*Judge.***ORDER**

On June 4, 2008, defendant-appellant James Smith ("Smith") filed a notice of direct appeal after pleading guilty to two counts of violating 21 U.S.C. § 843, use of a telephone to commit a controlled substance offense, and being sentenced to a total of 96 months in the custody of the Bureau of Prisons.

* After examining the *Anders* brief and the record, we have concluded that oral argument is unnecessary. Thus, the appeal is submitted on the brief and the record. See Fed. R. App. P. 34(a)(2).

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On February 26, 2009, his appointed counsel moved to withdraw under *Anders v. California*, 386 U.S. 738 (1967), stating that despite thoroughly scrutinizing the record, he was unable to discern a non-frivolous issue to pursue. On February 27, 2009, we informed Smith that he had thirty days to present any argument to demonstrate that his conviction and/or sentence was invalid. Smith presented no such argument.

We have reviewed the brief presented by counsel and agree that there is no non-frivolous issue. According, we affirm Smith's conviction and sentence, and grant the motion to withdraw.