

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

August 19, 2005

PATRICK FISHER
Clerk

UNITED STATES OF AMERICA,
Plaintiff-Appellee.

v.

JOSE JUAN AYON ROMERO,
Defendant-Appellant.

No. 04-7137

(D.C. No. CR-04-68-01-WH)

(E.D. Okla.)

ORDER AND JUDGMENT*

Before **EBEL, McKAY**, and **HENRY**, Circuit Judges.

After examining the briefs and the appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

Defendant pled guilty to possession of cocaine with intent to distribute in violation of 21 U.S.C. § 841(a)(1). The district court sentenced him to ninety-six months' incarceration followed by a sixty-month term of supervised release.

*This order and judgment is not binding precedent, except under the doctrines of law of the case, *res judicata*, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

Defendant filed a timely notice of appeal. Rec., Vol. 1, Tab. 17. Thereafter, Defendant's counsel filed a brief following the mandate of *Anders v. California*, 386 U.S. 738 (1967), accompanied by a Motion to Withdraw. Defendant also filed a brief articulating the bases he believes entitle him to relief.

According to Defendant's counsel, there are no arguable appealable issues. Aplt. *Anders* Br. at 6-9. We have reviewed the record on appeal, as well as Defendant's brief, and conclude that counsel is correct in determining that there are no non-frivolous issues that can be raised; nothing indicates that the district court erred under *United States v. Booker*, __U.S.__, 125 S. Ct. 738 (2005), when it imposed Defendant's sentence. Counsel's brief contains a certificate of service indicating that Defendant was furnished with a copy of counsel's brief on April 21, 2005. *Id.* at 11. Accordingly, we GRANT counsel's Motion to Withdraw and AFFIRM the decision of the trial court.

Entered for the Court

Monroe G. McKay
Circuit Judge