

August 9, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-40247
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

FRANCISCO PRADO-MARTINEZ,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 1:03-CR-326-8

Before JOLLY, DAVIS, and OWEN, Circuit Judges.

PER CURIAM:*

Court-appointed counsel for Francisco Prado-Martinez has moved for leave to withdraw and has filed a brief as required by Anders v. California, 386 U.S. 738 (1967). Prado-Martinez responds that his guilty plea was unknowing and involuntary because of the alleged ineffective assistance of counsel.

Our independent review of the brief and the record discloses no nonfrivolous issues for appeal. Counsel's motion

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

for leave to withdraw is GRANTED, counsel is excused from further responsibilities, and the appeal is DISMISSED. See 5TH CIR.

R. 42.2.

We decline to address the ineffective assistance claims raised by Prado-Martinez in this proceeding. See United States v. Brewster, 137 F.3d 853, 859 (5th Cir. 1998). Our decision is without prejudice to Prado-Martinez's right to assert such claims in a motion pursuant to 28 U.S.C. § 2255. See Massaro v. United States, 538 U.S. 500, 508 (2003); see also United States v. Wilkes, 20 F.3d 651, 653 (5th Cir. 1994).

ANDERS MOTION GRANTED; APPEAL DISMISSED.