

December 14, 2005

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 04-41383  
Conference Calendar

---

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ANTONIO LOPEZ, also known as  
Jose Perez-Perez, also known as  
Marco Antonio Perez,

Defendant-Appellant.

-----  
Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 1:01-CR-334-ALL  
-----

Before KING, Chief Judge, and HIGGINBOTHAM and SMITH, Circuit Judges.

PER CURIAM:\*

The Federal Public Defender appointed to represent Antonio Lopez has moved to withdraw and has filed a brief as required by Anders v. California, 386 U.S. 738 (1967). Lopez has filed a response to counsel's motion to withdraw wherein he raises issues including an allegation of ineffective assistance of counsel.

Our independent review of the brief, Lopez's response, and the record discloses no nonfrivolous issues for appeal. We

---

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

decline to address Lopez's allegations of ineffective assistance of counsel, without prejudice to Lopez's right to assert such claims in a motion pursuant to 28 U.S.C. § 2255. See United States v. Higdon, 832 F.2d 312, 313-14 (5th Cir. 1987).

Accordingly, counsel's motion for leave to withdraw is GRANTED, counsel is excused from further responsibilities herein, and the appeal is DISMISSED. See 5TH CIR. R. 42.2.