

January 31, 2007

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-50800
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

NORA E. CRUZ,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 7:03-CR-160-1

Before DAVIS, BARKSDALE and BENAVIDES, Circuit Judges.

PER CURIAM:*

Counsel appointed to represent Nora E. Cruz has moved for leave to withdraw from representation and has filed a brief in accordance with Anders v. California, 386 U.S. 738 (1967). Cruz has filed a response in which she argues, inter alia, that counsel rendered ineffective assistance for not challenging a sentencing adjustment for use of a child during the offense and that the prosecutor engaged in misconduct by supporting application of this adjustment. Cruz also requests the appointment of new counsel. The record is sufficiently developed

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

to allow consideration of Cruz's claim of ineffectiveness. See United States v. Higdon, 832 F.2d 312, 314 (5th Cir. 1987).

Our independent review of the record, counsel's brief, and Cruz's response shows that there are no nonfrivolous issues for appeal. Accordingly, the motion for leave to withdraw is GRANTED, counsel is excused from further responsibilities herein, and this appeal is DISMISSED. See 5TH CIR. R. 42.2. All other outstanding motions are DENIED.