

June 22, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-11038
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSE ANTONIO COVARRUBIAS,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 1:03-CR-66-1

Before WIENER, BENAVIDES, and DENNIS, Circuit Judges.

PER CURIAM:*

The attorney appointed to represent Jose Antonio Covarrubias has moved for leave to withdraw and has filed a brief in accordance with Anders v. California, 386 U.S. 738 (1967). Our independent review of the record, counsel's brief and supplemental brief, and Covarrubias's response and supplemental response shows that there are no nonfrivolous issues for appeal. The record is insufficiently developed to allow consideration on direct appeal of Covarrubias's claim of ineffective assistance of counsel. See United States v. Higdon, 832 F.2d 312, 314 (5th

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Cir. 1987). Accordingly, without prejudice to Covarrubias's right to file a motion pursuant to 28 U.S.C. § 2255, 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.