

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-30328
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ROGER VEZIA,

Defendant-Appellant.

- - - - -

No. 00-30792

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

FREDDIE FRANCIS, JR.,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 99-CR-20028-8

April 12, 2001

Before JOLLY, HIGGINBOTHAM, and JONES, Circuit Judges.

PER CURIAM:*

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Counsel appointed to represent Roger Vezia has moved for leave to withdraw and has filed a brief as required by Anders v. California, 386 U.S. 738 (1967). Vezia has filed a response arguing that his sentence should be vacated in view of Apprendi v. New Jersey, 120 S. Ct. 2348 (2000). Because Vezia's 126-month sentence did not exceed the 20-year statutory maximum penalty for possession with intent to distribute an unspecified amount of cocaine base under 21 U.S.C. § 841(b)(1)(C), Apprendi does not require that Vezia's sentence be vacated. See United States v. Keith, 230 F.3d 784, 787 (5th Cir. 2000), cert. denied, 121 S. Ct. 1163 (2001). Our independent review of the brief and the record discloses no nonfrivolous issue in this direct appeal. Accordingly, the 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. The order consolidating Vezia's appeal with United States v. Francis, No. 00-30792 and United States v. Milburne, No. 00-30372 is RESCINDED.