

February 11, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-51081
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

GERARDO TAPIA-CARRILLO,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. SA-00-CR-569-3

Before JONES, BENAVIDES, and CLEMENT, Circuit Judges.

PER CURIAM:*

Patrick M. Stayton, the appointed appellate attorney for defendant-appellant Gerardo Tapia-Carrillo ("Tapia"), has moved for leave to withdraw and has filed a brief in accordance with Anders v. California, 386 U.S. 738 (1967). Tapia has filed a response brief to counsel's motion but he fails to identify any nonfrivolous issues for appeal. Although counsel's brief fails to address several variances from FED. R. CRIM. P. 11 during

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

rearraignment, our independent review of the record reflects that those variances were not plain error and that there are no nonfrivolous issues for appeal. Accordingly, Stayton's motion for leave to withdraw is GRANTED, Stayton is excused from further responsibilities herein, and this appeal is DISMISSED. See 5TH CIR. R. 42.2.