

October 25, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-40866
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

PETE PENA,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 5:02-CR-384-1

Before JOLLY, DeMOSS, and STEWART, Circuit Judges.

PER CURIAM:*

Counsel appointed for Pete Pena has filed a motion for leave to withdraw and briefs as required by Anders v. California, 386 U.S. 738 (1967). Pena has not filed a response. Our independent review of counsel's briefs and the record discloses no nonfrivolous issue. Accordingly, counsel's motion to withdraw is GRANTED, counsel is excused from further responsibilities herein, and the APPEAL IS DISMISSED. See 5TH CIR. R. 42.2.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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