

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-10187
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

BOBBY ERVIN, a/k/a Luv, a/k/a Little Bobby,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:95-CR-252-X
- - - - -

December 10, 1996

Before WIENER, BARKSDALE, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Court-appointed counsel for Bobby Ervin has filed a brief as required by *Anders v. California*, 386 U.S. 738 (1967). Our independent review of the brief, Ervin's response to the brief, and the record discloses no nonfrivolous issue. Accordingly, counsel is excused from further responsibilities herein and the APPEAL IS DISMISSED. Ervin's contention that counsel was

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

ineffective for failing to object to a two-level upward adjustment to his offense level is not sufficiently developed in the record before us; as to that contention only, Ervin's appeal is DISMISSED without prejudice to Ervin's ability to raise that contention in a motion pursuant to 28 U.S.C. § 2255. See *United States v. Higdon*, 832 F.2d 312, 313-14 (5th Cir. 1987), cert. denied, 484 U.S. 1075 (1988).