

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-41414
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DAVID CUMMINGS,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:98-CR-26-1
- - - - -

October 22, 1999

Before HIGGINBOTHAM, DeMOSS, and STEWART, Circuit Judges.

PER CURIAM:*

Bert Neal Tucker, Jr., appointed to represent David Cummings, has moved for leave to withdraw and has filed a brief as required by Anders v. California, 386 U.S. 738 (1967). Cummings has filed a response to counsel's motion in which he argues that trial counsel Robert Perkins, Jr., was ineffective for failing to be present during his debriefing and for giving permission for the Government to debrief Cummings without informing him of the charges or the amount of time he could be facing. The record has not been adequately developed for us to

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

consider Cummings' argument on direct appeal. See United States v. Maria-Martinez, 143 F.3d 914, 916 (5th Cir. 1998). Cummings' response also contained three objections relating to the calculation of his sentence, and a motion for the appointment of new counsel.

Our independent review of the brief, Cummings' response, and the record discloses no nonfrivolous appellate issue.

Accordingly, the motion for leave to withdraw is GRANTED, counsel is excused from further responsibilities herein, and the APPEAL Cummings' motion for new counsel is DENIED.

This appeal is DISMISSED as frivolous.