

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-40377
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ERNEST MICHAEL MILLER,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:98-CR-154-1

July 5, 2000

Before JOLLY, JONES and BENAVIDES, Circuit Judges.

PER CURIAM:*

The attorney appointed to represent Ernest Michael Miller has moved for leave to withdraw and has filed a brief in accordance with Anders v. California, 386 U.S. 738 (1967). Miller received a copy of counsel's motion and brief but has not filed a response.

Counsel Thomas A. Chambers was previously ordered to file a supplemental brief discussing the voluntariness of Miller's waiver of his right to appeal, except for sentencing guideline issues, and counsel failed to do so. This failure is regrettable and should not happen again. Counsel is admonished to comply in the future with this court's express orders. Nonetheless, our

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

independent review of the record reflects that Miller knowingly and voluntarily waived his right to appeal, except for errors involving the sentencing guidelines.

Additional record review discloses no other nonfrivolous issue. Accordingly, counsel's motion for leave to withdraw is GRANTED, and the APPEAL IS DISMISSED. See 5th Cir. R. 42.2.

MOTION GRANTED; APPEAL DISMISSED; counsel Admonished.