

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

December 8, 2010

Lyle W. Cayce  
Clerk

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No. 09-40878  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

HIGINIO HERNANDEZ, also known as Gino,

Defendant-Appellant

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 4:08-CR-177-1

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Before KING, BENAVIDES, and PRADO, Circuit Judges.

PER CURIAM:\*

The attorney appointed to represent Higinio Hernandez has moved for leave to withdraw and has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967). Hernandez has filed a response. Our independent review of the record, counsel's brief, and Hernandez's response discloses no nonfrivolous issue for appeal. Accordingly, counsel's motion for leave to withdraw is GRANTED, counsel is excused from further responsibilities herein, and the APPEAL IS DISMISSED. *See* 5TH CIR. R. 42.2.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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