

**June 10, 2005**

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 04-41188  
Summary Calendar

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UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

VICENTE GONZALEZ-BAUTISTA

Defendant - Appellant

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 7:04-CR-14-ALL  
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Before KING, Chief Judge, and JOLLY and CLEMENT, Circuit Judges.

PER CURIAM:\*

The attorney appointed to represent Vicente Gonzales-Bautista on appeal has requested leave to withdraw and has filed a brief as required by Anders v. California, 386 U.S. 738 (1967). Gonzales, who pleaded guilty to unlawfully reentering the United States following a prior deportation, received a copy of counsel's motion and filed a response, asserting that (1) his counsel was ineffective for failing to seek a downward departure based on cultural assimilation; (2) the district court erred in

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

informing him of the maximum penalty for unlawful reentry when he pleaded guilty; and (3) his sentence is unlawful in light of United States v. Booker, 125 S. Ct. 738 (2005).

Our independent review of the brief, the response and the record discloses no non-frivolous issues for appeal. Counsel's motion for leave to withdraw is granted, counsel is excused from further responsibilities, and the appeal is dismissed.

MOTION TO WITHDRAW GRANTED; APPEAL DISMISSED.