

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-10041
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

VICTOR TREVINO-VENEGAS,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 6:99-CR-42-2-C

July 27, 2000

Before SMITH, BENAVIDES and DENNIS, Circuit Judges.

PER CURIAM:*

Court-appointed counsel for Victor Trevino-Venegas has moved for leave to withdraw and filed a brief as required by Anders v. California, 386 U.S. 738 (1967). Trevino-Venegas has filed a pro se response to the instant motion, arguing that: (1) he was denied the right to testify on his own behalf; (2) his counsel was ineffective in failing to conduct legal research and in failing to make objections during key stages of the trial; (3) the evidence is insufficient to support his conviction for possession with intent to distribute 427 pounds of marijuana; and

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

(4) the evidence was insufficient to support his conviction for conspiracy to import marijuana. The record does not indicate that Trevino-Venegas attempted to assert his right to testify and the district court denied that right. It is reasonable to infer that Trevino-Venegas is arguing that his counsel was ineffective in advising him not to testify at his trial. The record has not been adequately developed for us to consider Trevino-Venegas' ineffective-assistance-of-counsel claims on direct appeal. See United States v. Haese, 162 F.3d 359, 363-64 (5th Cir. 1998), cert. denied, 119 S. Ct. 1795 (1999). A review of the record indicates that the record is not devoid of evidence of Trevino-Venegas' guilt of possession of 100 or more kilograms of marijuana with intent to distribute, conspiracy to import marijuana, and illegal reentry into the United States after deportation. See United States v. Laury, 49 F.3d 145, 151 (5th Cir. 1995). Our independent review of counsel's brief, Trevino-Venegas' brief, and the record discloses no nonfrivolous issue for appeal. Accordingly, the 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.