

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-20372
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RICARDO FONTES,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-99-CR-692-1

December 14, 2000

Before DAVIS, STEWART, and PARKER, Circuit Judges.

PER CURIAM:*

The federal public defender appointed to represent Ricardo Fontes on appeal of his drug-trafficking convictions has moved for leave to withdraw by filing a motion and brief as required by Anders v. California, 386 U.S. 738 (1967). In response to the Anders motion, Fontes moved for appointment of substitute counsel due to the following "constitutional harm[s]": (1) he did not understand the language of the interpreter and all the questions at the court proceedings; (2) because he misunderstood the question "How do you feel?," he expressed that he was not in

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

pain, although he suffers from tuberculosis and arthritis; and (3) he received ineffective legal assistance because his counsel failed to challenge, or advise him that he could challenge, the drug-quantity determination. The record has not been adequately developed for us to consider Fontes' ineffective-assistance-of-counsel argument on direct appeal. See United States v. Haese, 162 F.3d 359, 363-64 (5th Cir. 1998), cert. denied, 526 U.S. 1138 (1999).

Fontes has failed to establish incompatibility with his counsel or other most pressing circumstances sufficient to warrant a substitution of counsel. See Fifth Circuit Plan under the CJA, § 3; United States v. Trevino, 992 F.2d 64, 65 (5th Cir. 1993). Furthermore, our independent review of the motion, brief, and record discloses no nonfrivolous issue for appeal. Accordingly, counsel's motion for leave to withdraw is GRANTED, counsel is excused from further responsibilities herein, the appeal is DISMISSED, Fontes' motion for appointment of substitute counsel is DENIED, and Fontes' motion for extension of time is DENIED. See 5TH CIR. R. 42.2.