

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 00-50487  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

EPIFANIO GONZALES-HERNANDEZ,  
also known as Epifanio  
Hernandez Gonzalez,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. A-99-CR-214-1-JN  
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August 15, 2001

Before JONES, SMITH, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:\*

Court-appointed counsel for Epifanio Gonzales-Hernandez has filed a motion to withdraw and a brief pursuant to Anders v. California, 386 U.S. 738 (1967). Gonzales-Hernandez has received a copy of counsel's brief. He requests permission to proceed pro se, and he has filed a brief.

Gonzales-Hernandez's request for permission to proceed pro se, filed after counsel filed the Anders brief, is DENIED as

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

untimely to invoke the statutory right of self-representation. United States v. Wagner, 158 F.3d 901, 902-03 (5th Cir. 1998).

In his brief, Gonzales-Hernandez argues that the district court erred in refusing to grant him a reduction for acceptance of responsibility. Gonzales-Hernandez knowingly and voluntarily waived his right to appeal his sentence except in certain limited circumstances not applicable here. See United States v. Portillo, 18 F.3d 290, 292 (5th Cir. 1994). This argument is therefore foreclosed.

Gonzales-Hernandez also argues that he did not waive his right to effective assistance of counsel and that his trial counsel was ineffective for failing to object to the managerial role adjustment. The record has not been adequately developed for us to consider this argument on direct appeal. See United States v. Haese, 162 F.3d 359, 363 (5th Cir. 1998).

Our independent review of the brief, the record, and Gonzales-Hernandez's response discloses no nonfrivolous issue in this direct 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.