

July 18, 2003

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III
Clerk

No. 02-41238
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MANUEL ALBERTO MARTINEZ, also known as James A. Dupont,
also known as Albert Longoria,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. B-01-CV-199
USDC No. B-98-CR-394-ALL

Before HIGGINBOTHAM, SMITH and CLEMENT, Circuit Judges.

PER CURIAM:*

Jeanette Mercado, court-appointed counsel for Manuel Alberto Martinez, former federal prisoner # 88613-080, has filed a motion for leave to withdraw as counsel pursuant to Anders v. California, 386 U.S. 738 (1967), asserting that Martinez's appeal does not present a nonfrivolous issue. See Dinkins v. Alabama, 526 F.2d 1268, 1269 (5th Cir. 1976). In response to counsel's

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

motion, Martinez moves for the appointment of substitute counsel and, in the alternative, to dismiss his appeal voluntarily.

Our independent review of counsel's Anders brief, Martinez's response, and the record 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. The request for a COA, set forth in counsel's brief, is DENIED. Martinez's motion for the appointment of substitute counsel is DENIED. Martinez's motion to dismiss his appeal voluntarily is DENIED AS MOOT.