

June 20, 2003

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 02-41575  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CHRISTOPHER B. HARVEY,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. L-02-CR-402-1  
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Before HIGGINBOTHAM, SMITH, and CLEMENT, Circuit Judges.

PER CURIAM:\*

The Federal Public Defender appointed to represent Christopher B. Harvey has requested leave to withdraw and has filed a brief as required by Anders v. California, 386 U.S. 738 (1967). Harvey has responded to the motion alleging that his defense counsel rendered ineffective assistance and that the probation officer increased his total offense level due to Harvey's failure to report while on pre-trial release. Harvey's ineffective-assistance-of-counsel claim is not cognizable on

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

direct appeal. See United States v. Haese, 162 F.3d 359, 363-64 (5th Cir 1998). His second claim lacks factual merit.

Our independent review of the brief and the record discloses no nonfrivolous issue for appeal. Counsel's motion for leave to withdraw is GRANTED, counsel is excused from further responsibilities, and the appeal is DISMISSED. See 5TH CIR.

R. 42.2.

MOTION GRANTED; APPEAL DISMISSED.