

May 26, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-50773
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

GERARDO RAMIREZ-LEIJA,
also known as Jerry Ramirez,
also known as Geraldo Ramirez,

Defendant-Appellant,

Appeal from the United States District Court
for the Western District of Texas
USDC No. EP-02-CR-214-ALL-DB

Before HIGGINBOTHAM, DAVIS and PRADO, Circuit Judges.

PER CURIAM:*

Court appointed counsel for Gerardo Ramirez-Leija has moved for leave to withdraw in accordance with Anders v. California, 386 U.S. 738 (1967). Ramirez has responded to counsel's motion and brief, asking the court to consider the issue raised by counsel, challenging the prior deportation upon which his 8 U.S.C. § 1326 conviction is based, challenging the district

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

court's use of U.S.S.G. § 2L1.2(b)(1)(A) in calculating his sentence, and arguing that he had ineffective assistance of counsel. Ramirez' ineffective assistance of counsel claim is not cognizable on direct appeal. See United States v. Brewster, 137 F.3d 853, 859 (5th Cir. 1998).

Our independent review of the record, counsel's brief, and the issues raised by Ramirez discloses no nonfrivolous appellate issue. 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.