

December 5, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-20223
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOHN HARVEY JOHNSON,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-02-CR-37-ALL

Before HIGGINBOTHAM, DAVIS and PRADO, Circuit Judges.

PER CURIAM:*

Counsel appointed for defendant John Harvey Johnson has moved for leave to withdraw and has filed a brief as required by Anders v. California, 386 U.S. 738 (1967). Johnson has filed a response in which he argues that his guilty plea was involuntary, his trial counsel was ineffective, and the district court abused its discretion. We decline to address the ineffective assistance

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

claims raised by Johnson in this proceeding. See United States v. Brewster, 137 F.3d 853, 859 (5th Cir. 1998).

Our independent review of counsel's brief, Johnson's response, and the record discloses no nonfrivolous issues 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. Because there is no nonfrivolous issue for appeal, Johnson's motion for the appointment of counsel is DENIED. Cf. United States v. Wagner, 158 F.3d 901, 902-03 (5th Cir. 1998).

ANDERS MOTION GRANTED; APPEAL DISMISSED; MOTION FOR THE APPOINTMENT OF COUNSEL DENIED.