

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

September 29, 2008

Charles R. Fulbruge III
Clerk

No. 07-40490
Summary Calendar

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

PABLO PEREZ-GONZALEZ

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 5:06-CR-633-2

Before DAVIS, GARZA, and PRADO, Circuit Judges.

PER CURIAM:*

The attorney appointed to represent Pablo Perez-Gonzalez has moved for leave to withdraw and has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967). Perez-Gonzalez has filed a response, requesting that substitute counsel be appointed or, in the alternative, that counsel be relieved and counsel's brief be stricken. Perez-Gonzalez's requests are DENIED. Our

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

independent review of the record, counsel's brief, and Perez-Gonzalez's response discloses no nonfrivolous issue for appeal.

The record does reveal a clerical error in the judgment. See FED. R. CRIM. P. 36. Count three of the indictment charged Gonzalez with using, carrying, brandishing, and discharging a firearm during and in relation to a drug-trafficking crime in violation of 18 U.S.C. § 924(c)(1). Perez-Gonzalez pleaded guilty to count three as set forth in the indictment. The written judgment reflects, however, that Perez-Gonzalez was convicted of possession of a firearm during the commission of a drug-trafficking crime in violation of § 924(c)(1).

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. This matter is REMANDED for correction of the clerical error pursuant to FED. R. CRIM. P. 36.