

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

June 6, 2008

No. 07-51292
Summary Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

JOSEPH LUNARES

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:06-CR-2509-ALL

Before WIENER, GARZA, and BENAVIDES, Circuit Judges.

PER CURIAM:*

The attorney appointed to represent Joseph Lunares has moved for leave to withdraw and has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967). Lunares has not filed a response. Our independent review of the record and counsel's brief discloses no nonfrivolous issue for appeal.

The record does reveal a clerical error in the judgment. The judgment reflects the offense of conviction for Count 1 of the indictment as importing 100 kilograms or more of marijuana, violations of 21 U.S.C. §§ 952 and 960.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

However, Lunares was charged in Count 1 of the indictment and pleaded guilty to conspiracy to possess with intent to distribute 100 kilograms or more of marijuana, violations of 21 U.S.C. §§ 846, 841(a)(1), and (b)(1)(B)(vii).

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.