

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

June 16, 2009

\_\_\_\_\_  
No. 08-40956  
Conference Calendar  
\_\_\_\_\_

Charles R. Fulbruge III  
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

WALLACE MCDONALD ASCENCIO

Defendant-Appellant

\_\_\_\_\_  
Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 7:08-CR-302-ALL  
\_\_\_\_\_

Before SMITH, BENAVIDES, and HAYNES, Circuit Judges.

PER CURIAM:\*

The Federal Public Defender appointed to represent Wallace McDonald Ascencio has moved for leave to withdraw and has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967). Ascencio has filed a response.

Our independent review of the record, counsel's brief, and Ascencio's response discloses no nonfrivolous issue for appeal. 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.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Ascencio's motions to proceed pro se on appeal and for the appointment of substitute counsel are DENIED. *See United States v. Wagner*, 158 F.3d 901, 902-03 (5th Cir. 1998).