

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

United States Court of Appeals
Fifth Circuit

FILED

October 13, 2009

Charles R. Fulbruge III
Clerk

No. 08-50560
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

EARTIS EAGLIN,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 5:01-CR-527-1

Before HIGGINBOTHAM, CLEMENT, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Eartis Eaglin has appealed the denial of his motion under 18 U.S.C. § 3582(c)(2) for a reduction of his federal sentence pursuant to recent amendments to the crack cocaine guidelines. The district court determined that the appeal is frivolous and denied Eaglin's pro se motion for leave to proceed in forma pauperis (IFP) on appeal. Eaglin's appointed counsel, the federal public defender, asserts that there is no nonfrivolous issue that would support the filing of a motion for leave to proceed IFP in this court and has moved for leave to

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

withdraw. Eaglin has filed a response to the motion requesting appointment of substitute counsel. We have analyzed counsel's motion under the rubric of *Anders v. California*, 386 U.S. 738 (1967).

Our independent review of the record, counsel's brief, and Eaglin'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. Eaglin's motion for appointment of substitute counsel is DENIED.