

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

United States Court of Appeals
Fifth Circuit

FILED

December 17, 2012

No. 12-10300
Conference Calendar

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

HUGO REYES-MENDOZA, also known as Ricardo Martinez Perez, also known as Ricardo Perez Martinez, also known as Pedro Martinez Hernandez,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:10-CR-94-1

Before DAVIS, OWEN, and HIGGINSON, Circuit Judges.

PER CURIAM:*

The Federal Public Defender appointed to represent Hugo Reyes-Mendoza has moved for leave to withdraw and has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967). Reyes-Mendoza has not filed a response and has been removed from the United States.

Following this court's prior opinion in *United States v. Reyes-Mendoza*, 665 F.3d 165 (5th Cir. 2011), and the district court's resentencing of Reyes-Mendoza

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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on remand, the only issue properly before this court is the validity of Reyes-Mendoza's sentence. *See Eason v. Thaler*, 73 F.3d 1322, 1329 (5th Cir. 1996); *Burroughs v. FFP Operating Partners*, 70 F.3d 31, 33 (5th Cir. 1995). However, because Reyes-Mendoza has been removed, any appeal from his sentence is moot. *See United States v. Rosenbaum-Alanis*, 483 F.3d 381, 383 (5th Cir. 2007); *see also Bailey v. Southerland*, 821 F.2d 277, 278 (5th Cir. 1987) (holding that this court must raise the issue of mootness sua sponte when necessary because it is a threshold issue and implicates Article III jurisdiction). Accordingly, this appeal is DISMISSED as moot, and counsel's motion to withdraw is DENIED as unnecessary.