United States Court of Appeals for the Fifth Circuit

United States Court of Appeals Fifth Circuit FILED September 29, 2020

No. 20-10153 Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

DAVID BURNEY, also known as DAVID FRANCIS,

Defendant—Appellant.

Appeal from the United States District Court for the Northern District of Texas USDC No. 4:19-CR-304-3

Before GRAVES, WILLETT, and DUNCAN, *Circuit Judges*. PER CURIAM:*

The attorney appointed to represent David Burney has moved for leave to withdraw and has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967), and *United States v. Flores*, 632 F.3d 229 (5th Cir. 2011). Burney has filed a response. The record is not sufficiently developed to allow

Lyle W. Cayce Clerk

^{*} Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

No. 20-10153

us to make a fair evaluation of Burney's claims of ineffective assistance of counsel; we therefore decline to consider the claims without prejudice to collateral review. *See United States v. Isgar*, 739 F.3d 829, 841 (5th Cir. 2014).

We have reviewed counsel's brief and the relevant portions of the record reflected therein, as well as Burney's response. We concur with counsel's assessment that the appeal presents no nonfrivolous issue for appellate review. Accordingly, the 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.