

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-30658
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ORLANDO L. CUSHENBERRY,

Defendant-Appellant.

Appeal from the United States District Court for the
Eastern District of Louisiana
(93 CR 315 "C")

(August 2, 1995)

Before JOLLY, JONES, and STEWART, Circuit Judges.

PER CURIAM:*

Pursuant to a plea bargain, Orlando Cushenberry pleaded guilty to possessing with intent to distribute cocaine base in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2, and using and carrying a firearm during and in relation to a drug trafficking crime in violation of 18 U.S.C. § 924(c)(1). He was sentenced to a 60-month term of imprisonment on count two, a consecutive 60-month term on

*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the court has determined that this opinion should not be published.

count three, a four-year term of supervised release, and a \$100 special assessment. On appeal, Cushenberry's appointed counsel, Assistant Public Defender Gary Schwabe, Jr., has filed a motion to withdraw under Anders v. California, 386 U.S. 738 (1967). Cushenberry has filed a pro se pleading in response to his counsel's Anders brief. However, rather than presenting any legal argument, Cushenberry's "brief" contains only record excerpts and a letter from his counsel explaining that the only possible issues for appeal are those identified in the Anders brief.

In Anders, the Supreme Court established standards for an appointed attorney who seeks to withdraw from a direct criminal appeal on the ground that there are no nonfrivolous issues to be urged. After a "conscientious examination" of the case, the attorney must request permission to withdraw and must submit a "brief referring to anything in the record that might arguably support the appeal." Anders, 386 U.S. at 744. The attorney must isolate "possibly important issues and . . . furnish the court with references to the record and legal authorities to aid it in its appellate function." United States v. Johnson, 527 F.2d 1328, 1329 (5th Cir. 1976). After the defendant has had the opportunity to raise any additional points, the court fully examines the record and decides whether the case is frivolous. Anders, 386 U.S. at 744.

We have reviewed counsel's brief, the "brief" of Cushenberry, and have reviewed the record for obvious error and have found none.

We have thus concluded that this appeal is frivolous and accordingly it is

D I S M I S S E D.¹

¹In accordance with this dismissal, counsel's motion to withdraw is GRANTED.