IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

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No. 95-11087
Summary Calendar
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UNITED STATES OF AMERICA,

                                        Plaintiff-Appellee,

versus

ZOSIMO REYES SAENZ,

                                        Defendant-Appellant.

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Appeal from the United States District Court
for the Northern District of Texas
USDC No. 2:95-CR-18(1)
- - - - - - - - - -
May 30, 1996

Before DAVIS, BARKSDALE and DeMOSS, Circuit Judges.

PER CURIAM:[*]

     Court-appointed counsel for Zosimo Reyes Saenz has filed a

brief as required by <u>Anders v. California</u>, 386 U.S. 738, 744

(1967). As Saenz preserved the insufficiency-of-the-evidence

claim by timely filing a written motion for a judgment of

acquittal following the verdict pursuant to Fed. R. Crim.

P. 29(c), counsel incorrectly states that the insufficiency-of-

the-evidence issue should be reviewed for "manifest miscarriage

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     [*] Pursuant to Local 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that this opinion should not be published and is not precedent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 Local Rule
47.5.4.

of justice." However, even under the correct standard of review,

the evidence was sufficient for a reasonable trier of fact to find that the evidence established Saenz's guilt beyond a reasonable doubt. See <u>United States v. Martinez</u>, 975 F.2d 159, 160-61 (5th Cir. 1992).

Saenz filed a response to the <u>Anders</u> motion, alleging that his trial counsel was ineffective in that he failed to object to portions of the officers' testimony; he failed to ask certain questions proposed by Saenz; and he allowed the jury to accept the district attorney's speculations as fact. Because the record is undeveloped on the allegations of ineffective assistance of counsel and Saenz's trial counsel has not had an opportunity to respond to Saenz's allegations, we decline to address the issue without prejudice to Saenz's right to raise it in a proper proceeding under 28 U.S.C. § 2255. See <u>United States v. Rinard</u>, 956 F.2d 85, 87 (5th Cir. 1992).

We have independently reviewed the brief, Saenz's response, and the record, and found no nonfrivolous issue. Accordingly, counsel is excused from further responsibilities herein and the APPEAL IS DISMISSED.