

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-10268
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RALPH WHITE, JR.,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:98-CR-305-ALL-T

August 22, 2000

Before KING, Chief Judge, and POLITZ and WIENER, Circuit Judges.

PER CURIAM:*

Counsel appointed to represent Ralph White, Jr., moves for leave to withdraw and has filed a brief as required by Anders v. California, 386 U.S. 738 (1967). White received a copy of counsel's motion and brief and, as part of his response, moves to strike counsel's Anders brief and seeks to proceed on appeal pro se.

Our independent review of counsel's brief and the record discloses no nonfrivolous issue. White identifies one claim of ineffective assistance of counsel at sentencing and asserts that

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

he could identify other ineffective-assistance claims if given more time. A claim of ineffective assistance ordinarily may not be made for the first time on appeal as the district court must develop an adequate record so that this court may evaluate the merits of the claim. See United States v. Bounds, 943 F.2d 541, 544 (5th Cir. 1991). The record in this case is not sufficient for review; therefore, we dismiss White's identified ineffective-assistance claim without prejudice to his ability to bring such a claim in a motion pursuant to 28 U.S.C. § 2255. See id.

White's motion to strike counsel's Anders brief is DENIED. 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.

Because the record reveals no nonfrivolous issues that White could argue on appeal, his motion to proceed pro se on appeal is DENIED.