

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

United States Court of Appeals
Fifth Circuit

FILED

August 17, 2011

Lyle W. Cayce
Clerk

No. 10-40236

Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ROBERT ANDREW QUIROGA,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 1:09-CR-1194-1

Before KING, JOLLY, and GRAVES, Circuit Judges.

PER CURIAM:*

Robert Andrew Quiroga pleaded guilty to one count of possession with intent to distribute more than 500 grams of cocaine and was sentenced to 84 months of imprisonment and five years of supervised release. As his sole issue on appeal, Quiroga complains that the district court reversibly erred in failing to investigate and rule on his pro se written motion to remove appointed counsel.

Quiroga's argument is without factual support in the record and is meritless. During a pre-trial hearing before the magistrate judge and while

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 10-40236

represented by appointed counsel, Quiroga requested that the court appoint him new counsel. The magistrate judge inquired into Quiroga's basis for his dissatisfaction with counsel and ensured that Quiroga was satisfied with the measures his counsel would take to address his concerns. The court then denied the oral motion for appointment of counsel. On the same day, a "motion to remove court appointed attorney," bearing a hand-written date of September 20, 2009, was mailed to the Honorable Hilda Tagle (who was not the presiding judge) from the Raymondville, Texas, facility where Quiroga was imprisoned. While this motion was not filed into the record until approximately two weeks later, the record does not support Quiroga's claim that the written pleading was a renewed motion for the removal of counsel. Rather, the record demonstrates that the written motion is duplicative of Quiroga's oral motion, which the court denied after investigating Quiroga's complaints about his counsel.

Accordingly, Quiroga's conviction and sentence are **AFFIRMED**.