

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

October 4, 2021

Lyle W. Cayce
Clerk

No. 21-50236
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JEREMY ATKINSON,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
No. 1:20-CR-217-1

Before SMITH, STEWART, and GRAVES, *Circuit Judges.*

PER CURIAM:*

The Federal Public Defender appointed to represent Jeremy Atkinson has moved to withdraw and has filed a brief per *Anders v. California*, 386 U.S. 738 (1967), and *United States v. Flores*, 632 F.3d 229 (5th Cir. 2011). Atkinson has not filed a response. We have reviewed counsel's brief and relevant

* Per 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.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. 21-50236

portions of the record. We concur with counsel's assessment that the appeal presents no nonfrivolous issue for appellate review.

The district court was without jurisdiction, however, to enter the amended judgments during the pendency of this appeal. *See United States v. Lucero*, 755 F. App'x 384, 386–87 (5th Cir. 2018) (citing *Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58 (1982)). Thus, the original judgment stands. It contains a clerical error regarding the date on which the offense ended. *See* FED. R. CRIM. P. 36. After the conclusion of this appeal, the district court regains jurisdiction to amend the judgment to correct clerical errors under Federal Rule of Criminal Procedure 36.

The motion for leave to withdraw is GRANTED, counsel is excused from further responsibilities herein, the appeal is DISMISSED as frivolous, the first and second amended judgments are VACATED for want of jurisdiction, and the case is REMANDED for correction of the original judgments' clerical error regarding the offense date. *See* 5TH CIR. R. 42.2; *Lucero*, 755 F. App'x at 386–87.