

**FILED**

February 14, 2007

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 04-50589  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

WAYNE EARL WITCHER,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 4:03-CR-321-1  
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Before BARKSDALE, GARZA, and CLEMENT, Circuit Judges.

PER CURIAM:\*

Counsel appointed to represent Wayne Earl Witcher has moved for leave to withdraw and has filed a brief in accordance with Anders v. California, 386 U.S. 738 (1967). Witcher has filed a response to counsel's motion. Our independent review of counsel's brief, the record, and Witcher's response discloses no nonfrivolous issues for appeal. The record is insufficiently developed to allow consideration of Witcher's claim of ineffective assistance of counsel in this direct appeal. See United States v. McElhaney, 469 F.3d 382, 383 n.1 (5th Cir.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

2006). Accordingly, counsel's 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.