

July 14, 2004

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 03-50401  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RAMON ARMENDARIZ, also known as Sleepy,

Defendant-Appellant.

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Appeals from the United States District Court  
for the Western District of Texas  
USDC No. EP-01-CR-1437-9-DB  
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Before HIGGINBOTHAM, DAVIS and PRADO, Circuit Judges.

PER CURIAM:\*

The attorney appointed to represent Ramon Armendariz on direct appeal has filed a motion to withdraw and a brief pursuant to Anders v. California, 386 U.S. 738, 744 (1967). Armendariz filed a response in which he asserts that he did not waive his right to the preparation of a presentence report (PSR) and that a PSR would have indicated that his 180-month sentence constituted an upward departure from the Sentencing Guidelines range. Our independent review of the brief, Armendariz's response, and the

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

record discloses no nonfrivolous issue in this direct appeal.

Accordingly, 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.