

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-50234
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

TONY EARL McGREW,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. P-98-CR-81-1-F

January 11, 2001

Before EMILIO M. GARZA, STEWART and PARKER, Circuit Judges.

PER CURIAM:*

Court-appointed counsel for Tony Earl McGrew has moved for leave to withdraw and has filed a brief as required by Anders v. California, 386 U.S. 738 (1967). McGrew has received a copy of counsel's motion and brief, but has filed no response. Our independent review of the briefs and the record discloses no nonfrivolous issue for appeal with respect to the revocation of McGrew's probation. The appeal of the revocation is therefore dismissed. However, the record shows that McGrew was not issued a personal invitation by the court to exercise his right to allocution prior to sentencing as required by Fed. R. Crim. P. 32(c)(3)(C). See United States v. Echegollen-Barrueta, 195 F. 3d 786, 789 (5th Cir. 1999). Therefore, McGrew's sentence must be vacated and the case remanded for resentencing after allocution. Echegollen, 195 F. 3d at 790.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

The appeal of the probation revocation is DISMISSED; counsel's motion for leave to withdraw is DENIED; the defendant's sentence is VACATED; and the case is REMANDED for the defendant to be resentenced after he has been afforded his right of allocution.