

February 18, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-20388
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ROBERT GREEN, JR.,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-01-CR-512-1

Before HIGGINBOTHAM, EMILIO M. GARZA, and PRADO, Circuit Judges.

PER CURIAM:*

Court-appointed counsel for Robert Green, Jr., has moved for leave to withdraw from this appeal and has filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967). Green was advised of the motion and served with a copy of counsel's brief, but has not filed a response to the motion. Our independent review of the brief and the record discloses no nonfrivolous issue for appeal. Green waived the right to appeal his conviction and sentence, except for an upward departure from the guideline

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

sentencing range. The record reflects that Green's guilty plea and waiver were knowing and voluntary, and the district court did not depart upward in sentencing Green.

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.