

February 18, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-40076
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RIGOBERTO QUINTANILLA, also known as Rigo Quintanilla,
also known as Bert Quintanilla,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. C-02-CR-208-1

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

PER CURIAM:*

Court-appointed counsel for appellant Rigoberto Quintanilla has moved for leave to withdraw and has filed a brief as required by Anders v. California, 386 U.S. 738 (1967). Quintanilla has filed a response and a motion for appointment of new counsel.

Our independent review of the brief and the 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, Quintanilla's motion for

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

appointment of counsel is DENIED, and the APPEAL IS DISMISSED.

See 5TH CIR. R. 42.2.

Quintanilla's contention that his previous counsel was ineffective for not advising him to withdraw his guilty plea is not sufficiently developed in the record before us. Therefore, as to that contention only, Quintanilla's appeal is DISMISSED without prejudice to his ability to raise that contention in a motion pursuant to 28 U.S.C. § 2255. See United States v. Higdon, 832 F.2d 312, 313-14 (5th Cir. 1987).