

November 9, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-51419
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ROBERT HUGO SUL,

Defendant-Appellant.

Appeals from the United States District Court
for the Western District of Texas
USDC No. 5:03-CR-410-ALL

Before SMITH, GARZA, and PRADO, Circuit Judges.

PER CURIAM:*

Counsel appointed to represent Robert Hugo Sul ("Sul") on appeal has moved for leave to withdraw from this direct appeal and has filed a brief as required by Anders v. California, 386 U.S. 738 (1967). Sul has filed a response wherein he raises issues including an allegation of ineffective assistance of trial counsel. We conclude that the record is insufficiently developed to allow consideration on direct appeal of Sul's claims of

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

ineffective assistance of counsel. See United States v. Brewster, 137 F.3d 853, 859 (5th Cir. 1998).

Our independent review of counsel's brief, the record, and Sul's response discloses no nonfrivolous issues for appeal. Accordingly, the motion for leave to withdraw is GRANTED, counsel is excused from further responsibilities herein, and the appeal is DISMISSED without prejudice to Sul's right to raise his ineffective assistance of counsel claims in a 28 U.S.C. § 2255 proceeding. See 5TH CIR. R. 42.2.