

August 17, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-60842
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

WILLIE EARL CULLEY,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 3:00-CR-4-ALL

Before BENAVIDES, CLEMENT, and PRADO, Circuit Judges.

PER CURIAM:*

On appeal from the denial of a motion for modification of sentence pursuant to 18 U.S.C. § 3582(c)(2), the Federal Public Defender, appointed appellate counsel for Willie Earl Culley (federal prisoner No. 02481-043), has filed a motion to withdraw pursuant to Anders v. California, 386 U.S. 738 (1967). Culley has filed responses to counsel's motion.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

There is no right to appointed counsel in an appeal from the denial of relief under 18 U.S.C. § 3582(c)(2). United States v. Whitebird, 55 F.3d 1007, 1010-11 (5th Cir. 1995). Nevertheless, as the district court appointed counsel to represent Culley, we apply the principles enunciated in Anders to determine whether counsel should be permitted to withdraw. See Dinkins v. Alabama, 526 F.2d 1268, 1269 (5th Cir. 1976).

The instant appeal is limited to the district court's denial of the motion for modification of sentence. Our independent review of counsel's brief, Culley's responses, and the record discloses no nonfrivolous issue for 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.