

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

May 23, 2008

No. 06-51619
Summary Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

JOSE GONZALEZ-VARGAS

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 2:05-CR-859-ALL

Before WIENER, GARZA, and BENAVIDES, Circuit Judges.

PER CURIAM:*

The attorney appointed to represent Jose Gonzalez-Vargas (Gonzalez) has moved for leave to withdraw and has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967). Gonzalez has filed a response wherein he suggests that his trial counsel was ineffective. Because Gonzalez did not raise this claim in the district court, the record is not sufficiently developed to permit consideration of this claim on direct appeal. See *United States v. Cantwell*, 470 F.3d 1087, 1091 (5th Cir. 2006). Gonzalez also suggests that his appellate

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

counsel has been ineffective for failing to raise certain sentencing arguments on appeal. Gonzalez's argument is without merit, however, because the claims are barred by the appeal waiver provision of the plea agreement. Counsel is not required to raise meritless arguments on appeal. See *Koch v. Puckett*, 907 F.3d 524, 527 (5th Cir. 1990). Our independent review of the record, counsel's brief, and Gonzalez's response discloses no nonfrivolous issue for appeal. 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.