

May 20, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-40951
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-

Appellee,

versus

TERESA ANN BRACK,

Defendant-

Appellant.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 5:02-CR-20-1

Before SMITH, DeMOSS AND STEWART, Circuit Judges:

PER CURIAM:*

Counsel appointed to represent Teresa Ann Brack in this direct criminal appeal has moved for leave to withdraw and has filed a brief in accordance with Anders v. California, 386 U.S. 738 (1967). Brack responded to counsel's motion, arguing that the Government breached the plea agreement by failing to move for a downward departure at sentencing in order that she would receive

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

a 40-month sentence, as she was promised. She also maintains that she has a valid ineffective assistance of counsel claim. Accordingly, Brack requests the appointment of substitute appellate counsel.

This court generally does not review ineffective-assistance-of-counsel claims on direct appeal; this case presents no exception. See United States v. Valuck, 286 F.3d 221, 229 (5th Cir.), cert. denied, 537 U.S. 1000 (2002). Brack's motion for appointment of substitute counsel is DENIED.

Our independent review of the record, counsel's brief, and Brack's response shows that there are no nonfrivolous issues for appeal. Accordingly, counsel's motion for leave to withdraw is GRANTED, counsel is excused from further responsibilities herein, and this appeal is DISMISSED. See 5TH CIR. R. 42.2.