

August 6, 2007

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-21002
Summary Calendar

UNITED STATES OF AMERICA

Plaintiff-Appellee,

versus

DAVID WAYNE CAMPBELL

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:03-CR-453-2
USDC No. 4:03-CR-453-1

Before REAVLEY, DENNIS and PRADO, Circuit Judges.

PER CURIAM:*

The attorney appointed to represent David Wayne Campbell has moved for leave to withdraw and has filed a brief in accordance with Anders v. California, 386 U.S. 738 (1967).

According to the Bureau of Prisons (BOP), Campbell was released from prison on March 28, 2006. To date, Campbell has not reported for supervised release and his whereabouts are unknown. Although appellate counsel does not address Campbell's fugitive status, "[i]t is well settled that where a defendant

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

becomes a fugitive from justice during the pendency of his appeal, the appellate court has the authority to dismiss the appeal." United States v. DeValle, 894 F.2d 133, 135 (5th Cir. 1990). Campbell became a fugitive during the pendency of this appeal, and the record reveals that his fugitive status remains ongoing. Accordingly, Campbell's appeal is DISMISSED. See Ortega-Rodriguez v. United States, 507 U.S. 234, 239-42 (1993); see also United States v. Delaquerza-Villarreal, 141 F.3d 133, 136-38 (5th Cir. 1997). Counsel's motion for leave to withdraw pursuant to Anders is DENIED AS MOOT.