

December 27, 2006

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 04-11261  
Summary Calendar

---

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

FABIAN EMILIO PEREZ,

Defendant-Appellant.

-----  
Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:03-CR-424-2-M  
-----

Before JOLLY, DENNIS, and CLEMENT, Circuit Judges.

PER CURIAM:\*

The attorney appointed to represent Fabian Emilio Perez has moved for leave to withdraw and has filed a brief as required by Anders v. California, 386 U.S. 738 (1967). Perez has responded to counsel's motion, raising a claim of ineffective assistance of counsel. We do not reach the issue of ineffective assistance of counsel because the record has not been adequately developed to address this issue. United States v. Miller, 406 F.3d 323, 335-36 (5th Cir.), cert. denied, 126 S. Ct. 207 (2005).

---

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Our independent review of the brief filed by counsel, Perez's response, and of the record discloses no nonfrivolous issue for appeal. 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.