

REVISED JULY 20, 2009
IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

July 16, 2009

No. 08-30648
Summary Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

JOHN MARTINEZ, also known as Eudipepe Benavides-Martinez, also known as Jose Antonio Riveria Echevarria,

Defendant-Appellant

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 2:07-CR-230-1

Before JOLLY, WIENER, and ELROD, Circuit Judges.

PER CURIAM:^{*}

The attorney appointed to represent John Martinez has moved for leave to withdraw and has filed a brief in accordance with Anders v. California, 386 U.S. 738 (1967). Martinez has not filed a response. Our independent review of the record and counsel's brief discloses no nonfrivolous issue for appeal. Accordingly, counsel's motion for leave to withdraw is GRANTED, counsel is

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

excused from further responsibilities herein, and the APPEAL IS DISMISSED. See 5TH CIR. R. 42.2.

The record does reveal a clerical error in the judgment. See FED. R. CRIM. P. 36. Although the district court's docket sheet indicates that the district court dismissed Count 2 of the indictment against Martinez, that dismissal is not reflected in the written judgment. This matter is REMANDED for correction of the clerical error pursuant to FED. R. CRIM. P. 36.