

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

March 22, 2010

No. 09-20303

Summary Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JULIO CESAR RODRIGUEZ-DUBERNEY, also known as Julio Cesar Duverney-Rodriguez, also known as Homereo Carmanno Rodriguez, also known as Julio Cesar Rodriguez, also known as Julio Cesar Rodriguez-Duberny,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:07-CR-283-1

Before BENAVIDES, PRADO and SOUTHWICK, Circuit Judges.

PER CURIAM:*

The attorney appointed to represent Julio Cesar Rodriguez-Duberney has moved for leave to withdraw and has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967). Rodriguez-Duberney has filed a response. Our independent review of the record, counsel's brief, and Rodriguez-Duberney's response discloses no nonfrivolous issue for appeal. This court has previously

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

issued decisions holding that Rodriguez-Duberney's prior conviction under the Travel Act constituted a drug trafficking offense for purposes of the Sentencing Guidelines. Rodriguez-Duberney has not shown that these decisions should be revisited despite the law of the case doctrine because "the earlier decision[s are] clearly erroneous and would work a manifest injustice." *United States v. Lee*, 358 F.3d 315, 320 and n.3 (5th Cir. 2004) (internal quotation marks omitted). 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.