

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

United States Court of Appeals  
Fifth Circuit

**FILED**

December 15, 2009

\_\_\_\_\_  
No. 09-30306  
Conference Calendar  
\_\_\_\_\_

Charles R. Fulbruge III  
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

PHILLIP J. MESSINA,

Defendant-Appellant

\_\_\_\_\_  
Appeal from the United States District Court  
for the Middle District of Louisiana  
USDC No. 3:06-CR-178-1  
\_\_\_\_\_

Before KING, JOLLY, and SOUTHWICK, Circuit Judges.

PER CURIAM:\*

The Federal Public Defender appointed to represent Phillip J. Messina in an appeal from the denial of his motion for a sentence reduction under 18 U.S.C. § 3582 has moved for leave to withdraw and has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967). Messina 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

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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