

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

United States Court of Appeals
Fifth Circuit

FILED

December 8, 2010

Lyle W. Cayce
Clerk

No. 09-40878
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

HIGINIO HERNANDEZ, also known as Gino,

Defendant-Appellant

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 4:08-CR-177-1

Before KING, BENAVIDES, and PRADO, Circuit Judges.

PER CURIAM:*

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

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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