IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT United States Cou

United States Court of Appeals Fifth Circuit

FILED August 17, 2010

No. 10-40026 Conference Calendar

Lyle W. Cayce Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

AURELIO MARTINEZ, JR.,

Defendant-Appellant

Appeal from the United States District Court for the Southern District of Texas USDC No. 1:09-CR-1058-1

Before DAVIS, SMITH, and WIENER, Circuit Judges.
PER CURIAM:*

The Federal Public Defender appointed to represent Aurelio Martinez, Jr., 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 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 $^{^{*}}$ Pursuant to 5th Cir. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5th Cir. R. 47.5.4.