

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

No. 15-20002
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

February 19, 2016

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

OCTAVIUS PAUL SMITH,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:12-CR-88-3

Before HIGGINBOTHAM, ELROD, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

The attorney appointed to represent Octavius Paul Smith on appeal has filed a motion to withdraw and a brief that relies on *Anders v. California*, 386 U.S. 738 (1967). Smith has not filed a response.

The “fugitive disentitlement doctrine” is an equitable doctrine that “limits a criminal defendant’s access to the judicial system whose authority he evades.” *Bagwell v. Dretke*, 376 F.3d 408, 410-13 (5th Cir. 2004) (internal

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 15-20002

citation omitted). Smith failed to report to begin serving his sentence on January 2, 2015, and has not returned to custody since he became a fugitive. It is unlikely that Smith will return, under his own volition or otherwise, in the foreseeable future. Under the circumstances, dismissal of Smith's appeal is appropriate. Dismissal of the appeal is further supported by enforceability concerns, serves an important deterrent function, and "advances an interest in efficient, dignified appellate practice." *Ortega-Rodriguez v. United States*, 507 U.S. 234, 240-42 (1993); *Bagwell*, 376 F.3d at 410-13.

Accordingly, the appeal is DISMISSED. Counsel's motion to withdraw is DENIED as moot.