

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 10-12956
Non-Argument Calendar

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT SEPTEMBER 29, 2011 JOHN LEY CLERK

D.C. Docket No. 1:09-cr-20964-PAS-4

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DAWIS GONZALEZ,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Florida

(September 29, 2011)

Before TJOFLAT, WILSON and BLACK, Circuit Judges.

PER CURIAM:

Maria Elena Pérez, appointed counsel for Dawis Gonzalez in this direct criminal appeal, has moved to withdraw from further representation of the

appellant and filed a brief pursuant to *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967). Our independent review of the entire record reveals that counsel has correctly assessed the relative merit of this appeal from the judgment and commitment order entered in June 17, 2010. Because independent examination of the entire record reveals no arguable issues of merit, counsel's motion to withdraw from representing Gonzalez in his direct appeal is **GRANTED**, and the convictions and sentences imposed in the June order are **AFFIRMED**. Nevertheless, because the district court lacked jurisdiction to enter an amended judgment and commitment order on September 8, 2010, while the present appeal was pending, the judgment in this case is **VACATED**. The matter is now **REMANDED** for the limited purpose of allowing the district court to consider the government's motion to reduce Gonzalez's sentences, and to re-enter the amended judgment if it deems that action appropriate. *See United States v. Russell*, 776 F.2d 955, 956 (11th Cir. 1985) (holding that the district court lacked jurisdiction to entertain, during the pendency of an appeal, a motion filed pursuant to a prior version of Rule 35(b)); *see also United States v. Turchen*, 187 F.3d 735, 743 (7th Cir. 1999) (reaching the same conclusion with respect to a motion filed pursuant to the current version of Rule 35(b)).