

UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

United States v. Sayasane

No. 20-10565, United States Court of Appeals for the Fifth Circuit (March 12, 2021)

SUMMARY

In this unpublished Fifth Circuit opinion, the court granted counsel's motion to withdraw under **Anders v. California** and dismissed the direct appeal, finding no nonfrivolous issues. The court declined to consider the defendant's ineffective-assistance-of-counsel claim on direct appeal because the record did not permit fair evaluation, noting such claims are generally reserved for collateral review. The court also denied the defendant's pro se motion for appointment of new counsel as untimely.

CASE DETAILS

COURT	United States Court of Appeals for the Fifth Circuit
WRITING FOR THE COURT	Edith H. Jones; Edith Brown Clement; Catharina Haynes
JURISDICTION	Federal
DECIDED	March 12, 2021
DOCKET	20-10565
DISPOSITION	dismissed
PROCEDURAL POSTURE	Direct appeal from criminal conviction
PRECEDENTIAL VALUE	Unpublished
PARTIES	Phouphet Sayasane v. United States of America

TOPICS

- criminal procedure
- appellate procedure
- ineffective assistance
- right to counsel

PRACTICE AREAS

- Criminal

QUESTIONS PRESENTED

- Whether the appeal presents any nonfrivolous issues for direct appellate review.
- Whether the defendant's claim of ineffective assistance of counsel can be considered on direct appeal.

HOLDINGS

1. The appeal presents no nonfrivolous issue for direct appellate review.
2. The claim of ineffective assistance of counsel cannot be considered on direct appeal because this is not a rare case where the record allows fair evaluation.

KEY QUOTATIONS

"We have previously determined that such claims "should not be litigated on direct appeal, unless they were previously presented to the trial court. It is only in rare cases in which the record allows a reviewing court to fairly evaluate the merits of the claim that we will consider such a claim." United States v. Isgar, 739 F.3d 829, 841 (5th Cir. 2014) (internal quotation marks and footnotes omitted)." (2)

"We concur with counsel's remaining assessment that the appeal presents no nonfrivolous issue for direct appellate review." (2)

FACTUAL BACKGROUND

The defendant was convicted in the district court. The Federal Public Defender filed an Anders brief, stating that the appeal presents no nonfrivolous issues. The defendant filed a response alleging ineffective assistance of counsel.

PROCEDURAL HISTORY

Defendant was convicted in the United States District Court for the Northern District of Texas and appealed.

DISPOSITION

dismissed

CASES CITED

- Anders v. California, 386 U.S. 738 (1967)
- United States v. Flores, 632 F.3d 229 (5th Cir. 2011)
- United States v. Isgar, 739 F.3d 829 (5th Cir. 2014)
- United States v. Wagner, 158 F.3d 901 (5th Cir. 1998)