

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

U.S. COURT OF APPEALS

**FILED**

DEC 6 2005

**UNITED STATES OF AMERICA,**  
*Respondent,*

**VS.**

**KENNY J. DAVIS,**  
*Appellant.*

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CHARLES R. FULBRIDGE III  
CLERK

**Case No. 05-11048**

**APPELLANT'S UNOPPOSED MOTION TO WITHDRAW APPEAL**

**TO THE HONORABLE COURT OF APPEALS:**

Comes now the Appellant, Kenny J. Davis, by and through his court-appointed attorney, and files this Motion to Withdraw Appeal, and he would respectfully show the Court:

I.

On September 12, 2005, Davis was sentenced to 14 months confinement in case No. 3:03-CR-270-N, In the United States District Court for the Northern District of Texas-Dallas Division. Davis timely filed notice of appeal.

II.

After speaking directly with Davis, appellate counsel has learned that Davis wishes to withdraw this appeal.

III.

Attached as Exhibit "A" is Appellant's Notification of Intent to Withdraw Appeal.

IV.

Appellant makes this decision freely and voluntarily after considering all of his options and consequences. Appellant understands that if this Motion is granted, his appeal will be dismissed.

For these reasons, Appellant requests the Court allow Appellant to withdraw his appeal and that the Court dismiss this cause.

IRA R. KIRKENDOLL  
Federal Public Defender  
Northern District of Texas

Respectfully submitted,



JERRY V. BEARD  
Assistant Federal Public Defender  
1205 Texas Ave., Ste 506  
Lubbock, Texas 79401  
Phone (806) 472-7236  
Fax (806) 472-7241  
Texas Bar No. 01973515

ATTORNEY FOR APPELLANT

**CERTIFICATE OF CONFERENCE**

I have not consulted with Jeffrey Ansley, Assistant U.S. Attorney, regarding this Motion to Withdraw Appeal, but I cannot imagine any rational reason why the government would oppose the motion.

  
JERRY V. BEARD

**CERTIFICATE OF SERVICE**

Service of the foregoing Motion to Withdraw Appeal was made by hand-delivering a copy to Jeffrey J. Ansley, Assistant U.S. Attorney, 1100 Commerce St., Third Floor, Dallas, Texas 75242-1699, on this the 22<sup>nd</sup> day of November, 2005.

  
JERRY V. BEARD

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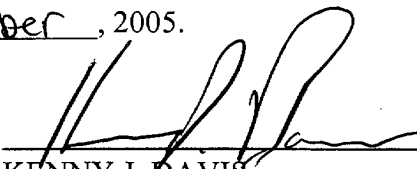
**Case No. 05-11048**

**NOTIFICATION OF INTENT TO WITHDRAW APPEAL**

I wish to withdraw my pending appeal before this Court. I pleaded guilty in Case No. 3:03-CR-270-N in U.S. District Court for the Northern District of Texas, Dallas Division, to Misprision of a Felony. I have decided it is in my best interest to withdraw the appeal in this case.

I file this Notification freely and voluntarily after considering all of my options and with full understanding of the consequences of my actions. I understand that if the Motion to Withdraw Appeal is granted, the appeal herein will be dismissed and that I will serve the sentence imposed.

SIGNED this 30 day of November, 2005.

  
\_\_\_\_\_  
KENNY J. DAVIS  
Appellant