

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 07-3910

GOVERNMENT OF THE VIRGIN ISLANDS

v.

LEON A. THOMAS,

Appellant

On Appeal from the District Court
of the Virgin Islands
(No. 03-cr-00151)

Panel: Hon. Curtis V. Gomez, Hon. Raymond L. Finch,
and Hon. Patricia D. Steele

Submitted Under Third Circuit LAR 34.1(a)
on May 8, 2008

Before: RENDELL, FUENTES, and CHAGARES, Circuit Judges.

(Filed: June 27, 2008)

OPINION OF THE COURT

CHAGARES, Circuit Judge.

Counsel for Leon A. Thomas petitions this Court for permission to withdraw from representation under Anders v. California, 386 U.S. 738 (1967). For the reasons that follow, we will grant the motion and affirm Thomas' sentence.

I.

As we write mainly for the parties, we only briefly recite the facts. Thomas was charged with unauthorized possession of a firearm and ammunition in violation of 14 V.I. Code Ann. §§ 2253(a) and 2256(a). Subsequently, a jury convicted him on both counts. The Territorial Court of the Virgin Islands¹ sentenced Thomas to fifteen years imprisonment on the firearm charge and seven years imprisonment on the ammunition charge—to be served concurrently. He was also ordered to pay \$35,000 in fines and \$75 in court costs. Thomas appealed his conviction and sentence to the Appellate Division of

¹ At all times relevant to this appeal, the trial court was known as the Territorial Court of the Virgin Islands. Decisions of the Territorial Court were, as illustrated here, reviewed by a panel of the Appellate Division of the District Court of the Virgin Islands. Each panel consisted of two United States District Judges and one Superior Court judge. See VISuperiorCourt.org, Historical Overview of the Superior Court of the Virgin Islands, <http://www.visuperiorcourt.org/about/history.aspx> (last visited May 15, 2008). On October 29, 2004, however, the Virgin Islands Legislature changed the Territorial Court's name to the "Superior Court" and established a "Supreme Court of the Virgin Islands" as the local appellate court with authority to review decisions of the Superior Court. See 2004 V.I. Sess. Law 190. Nevertheless, those decisions by the Appellate Division that are still pending are appealable to the Third Circuit. See Edwards v. HOVENSA, LLC, 497 F.3d 355, 359 n.2 (3d Cir. 2007).

the District Court of the Virgin Islands, which affirmed. Thomas then appealed to this Court.

II.

Thomas' counsel petitions the Court to withdraw as attorney of record. Having already pursued one appeal before the Appellate Division of the District Court, he is unable to identify any non-frivolous issues for this appeal after a conscientious review of the record. Thomas was given notice of his counsel's intent to withdraw on March 4, 2008, and was informed that he may file a brief on his own behalf within thirty days. He has not done so.

Evaluation of an Anders brief requires a twofold inquiry: (1) whether counsel has thoroughly examined the record for appealable issues and has explained why any such issues are frivolous; and (2) whether an independent review of the record presents any nonfrivolous issues. United States v. Youla, 241 F.3d 296, 300 (3d Cir. 2001). Where the Anders brief appears adequate on its face, and the appellant has not submitted a *pro se* brief, our review is limited to the portions of the record identified in the Anders brief. See id. at 301. We conclude that the brief in this case is adequate, and thus, it will guide our independent review of the record.

Thomas' counsel combed through the record and identified various issues which could possibly be raised before us, before concluding that they were all patently without merit. Likewise, our independent review of "those portions of the record identified by

[the] Anders brief” reveals no non-frivolous issues Thomas might profitably raise on appeal. See id. Accordingly, we will grant counsel’s motion and affirm Thomas’ conviction and sentence.