

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 07-50954  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**  
July 30, 2008

Charles R. Fulbruge III  
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

ARNULFO HERNANDEZ-MOLINA

Defendant-Appellant

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 3:06-CR-1012-2

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Before JOLLY, BENAVIDES, and HAYNES, Circuit Judges.

PER CURIAM:\*

The attorney appointed to represent Arnulfo Hernandez-Molina has moved for leave to withdraw and has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967). Following the filing of counsel's *Anders* motion, Hernandez-Molina filed a motion seeking appointment of counsel. The record is insufficiently developed to allow consideration at this time of Hernandez-Molina's claim of ineffective assistance of counsel; such claims generally "cannot

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

be resolved on direct appeal when [they have] not been raised before the district court since no opportunity existed to develop the record on the merits of the allegations.” *United States v. Cantwell*, 470 F.3d 1087, 1091 (5th Cir. 2006) (internal quotation marks and citation omitted).

Our independent review of the record and counsel’s brief discloses no nonfrivolous issue for appeal. Accordingly, counsel’s motion for leave to withdraw is GRANTED, counsel is excused from further responsibilities herein, and the APPEAL IS DISMISSED. See 5TH CIR. R. 42.2. Hernandez-Molina’s motion for appointment of counsel is DENIED. See *United States v. Wagner*, 158 F.3d 901, 902-03 (5th Cir. 1998).