

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

United States Court of Appeals
Fifth Circuit

FILED

October 1, 2010

Lyle W. Cayce
Clerk

No. 09-11229

Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

DAVID ZACARIAS,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:07-CR-92-1

Before JOLLY, GARZA, and STEWART, Circuit Judges.

PER CURIAM:*

The Federal Public Defender appointed to represent David Zacarias has moved for leave to withdraw and has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967). Zacarias has filed a response. To the extent that he raises a claim of ineffective assistance of counsel, the record is insufficiently developed to allow consideration of the claim at this time; such a claim generally “cannot be resolved on direct appeal when the claim has not been raised before the district court since no opportunity existed to develop the record

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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, counsel’s brief, and Zacarias’s response 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.