

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

United States Court of Appeals
Fifth Circuit

FILED

April 25, 2012

Lyle W. Cayce
Clerk

No. 11-50731
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DOUGLAS CRAIG TYLER,

Defendant-Appellant.

Appeals from the United States District Court
for the Western District of Texas
USDC No. 6:10-CR-298-1

Before REAVLEY, SMITH, and PRADO, Circuit Judges.

PER CURIAM:*

The attorney appointed to represent Douglas Tyler has moved for leave to

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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withdraw and has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967), and *United States v. Flores*, 632 F.3d 229 (5th Cir. 2011). Tyler has filed a response.

The record is insufficiently developed to allow consideration of Tyler's claim of ineffective assistance of counsel; 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 on the merits of the allegations." *United States v. Cantwell*, 470 F.3d 1087, 1091 (5th Cir. 2006) (internal quotation marks and citation omitted). We have reviewed counsel's brief and the relevant portions of the record reflected therein and Tyler's response. We concur with counsel's assessment that the appeal presents no nonfrivolous issue for appellate review.

Accordingly, the 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. Tyler's request for appointment of substitute counsel is DENIED. Cf. *United States v. Wagner*, 158 F.3d 901, 902-03 (5th Cir. 1998). His motion for leave to file a supplemental response is GRANTED.