

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

No. 15-41715
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

January 4, 2017

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff–Appellee,

versus

MACARIO FERNANDEZ-HERNANDEZ,

Defendant–Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 1:15-CR-702-1

Before JOLLY, SMITH, and CLEMENT, Circuit Judges.

PER CURIAM:*

The Federal Public Defender appointed to represent Macario Fernandez-

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 15-41715

Hernandez has moved for leave to 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). Fernandez-Hernandez has filed a response. The record is not sufficiently developed to allow us to make a fair evaluation of Fernandez-Hernandez's claim of ineffective assistance of counsel, so we decline to consider it on the present state of the record. *See United States v. Isgar*, 739 F.3d 829, 841 (5th Cir. 2014).

We have reviewed counsel's brief, relevant portions of the record, and Fernandez-Hernandez'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.*