

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

March 20, 2024

Lyle W. Cayce  
Clerk

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No. 23-20058  
Summary Calendar

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UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

XAVIER JAY REYES,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 4:21-CR-165-1

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Before SMITH, HIGGINSON, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:\*

The Federal Public Defender appointed to represent Xavier Jay Reyes has moved for leave to withdraw and has filed a brief and supplemental brief in accordance with *Anders v. California*, 386 U.S. 738 (1967), and *United States v. Flores*, 632 F.3d 229 (5th Cir. 2011). With the benefit of liberal construction, Reyes's most recent pleading in this court constitutes a motion

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\* This opinion is not designated for publication. See 5TH CIR. R. 47.5.

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to file an out-of-time response to the supplemental *Anders* brief, a response to the supplemental brief, and a motion for an extension of time to file an additional response. To the extent Reyes has raised a claim of ineffective assistance of counsel in his response, the record is not sufficiently developed to allow us to make a fair evaluation of the claim; we therefore decline to consider the claim without prejudice to collateral review. *See United States v. Isgar*, 739 F.3d 829, 841 (5th Cir. 2014).

We have reviewed counsel's brief and the relevant portions of the record reflected therein, as well as Reyes'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. Reyes's motion to file an out-of-time response is GRANTED to the extent he asks to us to consider the arguments in his pro se letter. Reyes's motion for an extension of time to file an additional response is DENIED.