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

United States Court of Appeals
Fifth Circuit
**FILED**
April 23, 2010
Lyle W. Cayce
Clerk

No. 09-50647
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

FRANCISCO TORRES-LOPEZ, also known as Francisco Javier Torres-Lopez,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 2:08-CR-928-1

Before SMITH, PRADO, and HAYNES, Circuit Judges.

PER CURIAM:[*]

The attorney appointed to represent Francisco Torres-Lopez has moved for leave to withdraw and has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967). Torres-Lopez has filed a response. The record is insufficiently developed to allow consideration at this time of Torres-Lopez's claims of ineffective assistance of counsel; such claims generally "cannot 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

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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 Torres-Lopez'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. Torres-Lopez's motion to strike counsel's brief and for the appointment of new 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 brief is GRANTED.