

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

United States Court of Appeals  
Fifth Circuit

**F I L E D**  
January 26, 2011

No. 09-50826  
Summary Calendar

**Lyle W. Cayce**  
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSE DE JESUS GARCIA,  
Also Known as Jose Jesus Garcia, Also Known as Jose Garcia,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
No. 5:08-CR-325-1

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Before DAVIS, SMITH, and SOUTHWICK, Circuit Judges.

PER CURIAM:<sup>\*</sup>

The attorney appointed to represent Jose de Jesus Garcia has moved for

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<sup>\*</sup> 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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. 09-50826

leave to withdraw and has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967). Garcia has not filed a response.

We do not enforce Garcia's appeal waiver in light of the district court's failure to admonish him adequately of its consequences. Nevertheless, our independent review of the record and counsel's brief 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.