

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

United States Court of Appeals  
Fifth Circuit

**FILED**

August 16, 2011

Lyle W. Cayce  
Clerk

\_\_\_\_\_  
No. 10-41110  
Conference Calendar  
\_\_\_\_\_

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

DIOGENES ASCENCIO-LEMUS,

Defendant-Appellant

\_\_\_\_\_  
Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 7:10-CR-426-1  
\_\_\_\_\_

Before HIGGINBOTHAM, CLEMENT, and ELROD, Circuit Judges.

PER CURIAM:\*

The Federal Public Defender appointed to represent Diogenes Ascencio-Lemus 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). Ascencio-Lemus has not filed a response. We have reviewed counsel’s brief and the relevant portions of the record reflected therein. We concur with counsel’s assessment that the appeal presents no nonfrivolous issue for appellate review. Accordingly, counsel’s motion for leave to withdraw is

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\* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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. 10-41110

GRANTED, counsel is excused from further responsibilities herein, and the APPEAL IS DISMISSED. *See* 5TH CIR. R. 42.2.