

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

United States Court of Appeals  
Fifth Circuit

**FILED**

February 4, 2013

Lyle W. Cayce  
Clerk

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No. 11-11153

Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

MIGUEL YEPEZ-AGUIRRE,

Defendant-Appellant

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 1:11-CR-34-1

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Before WIENER, ELROD, and GRAVES, Circuit Judges.

PER CURIAM:\*

The Federal Public Defender appointed to represent Miguel Yopez-Aguirre 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). Yopez-Aguirre has filed a response. The record is insufficiently developed to allow consideration at this time of Yopez-Aguirre's claim of ineffective assistance of counsel; such a claim generally "cannot be resolved on direct appeal when the claim has not been raised before the district court since

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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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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. 11-11153

no opportunity existed to develop the record on the merits of the allegations.” *United States v. Cantwell*, 470 F.3d 1087, 1091 (5th Cir. 2006) (internal quotation marks and citation omitted). We have reviewed counsel’s brief and the relevant portions of the record reflected therein, as well as Yopez-Aguirre’s response. 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 GRANTED, counsel is excused from further responsibilities herein, and the APPEAL IS DISMISSED. *See* 5TH CIR. R. 42.2.