IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit
FILED
October 19, 2012

Lyle W. Cayce
Clerk

No. 11-50460
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOEL RIOS-VILLANUEVA,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
No. 2:09-CR-485-2

Before SMITH, OWEN, and HIGGINSON, Circuit Judges.

PER CURIAM:[*]

The attorney appointed to represent Joel Rios-Villanueva has moved for

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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). Rios-Villanueva has filed a response and has moved for the appointment of new counsel.

We have reviewed counsel's brief and the relevant portions of the record reflected therein, and Rios-Villanueva's response. The record is insufficiently developed to allow consideration of the claim of ineffective assistance of counsel, which generally "cannot be resolved on direct appeal when the claim has not been raised before the district court since 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 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. The motion for the appointment of new counsel is DENIED.