

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

United States Court of Appeals
Fifth Circuit

FILED

August 30, 2013

Lyle W. Cayce
Clerk

No. 12-51034

Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

TIMOTHY BYRON MURPHY,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 6:11-CR-113-2

Before REAVLEY, JONES, and PRADO, Circuit Judges.

PER CURIAM:*

The attorney appointed to represent Timothy Byron Murphy 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). Murphy has filed responses. The record is insufficiently developed to allow consideration at this time of Murphy'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 no opportunity existed

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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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 Murphy’s response. 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. Murphy’s motion for appointment of substitute counsel is DENIED.