

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

United States Court of Appeals  
Fifth Circuit

**FILED**

November 29, 2013

Lyle W. Cayce  
Clerk

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No. 13-40057

Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

RENE OLIVAREZ,

Defendant-Appellant

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 2:12-CR-391-2

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Before KING, DAVIS, and ELROD, Circuit Judges.

PER CURIAM:\*

The attorney appointed to represent Rene Olivarez 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). Olivarez has filed a reply to counsel's *Anders* motion and has moved to strike counsel's *Anders* brief, proceed pro se on appeal, and file a pro se brief.

The record is insufficiently developed to allow consideration at this time of Olivarez's claims of ineffective assistance of counsel; such claims generally

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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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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. 13-40057

“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 have reviewed counsel’s brief and the relevant portions of the record reflected therein, as well as Olivarez’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; Olivarez’s motion to strike counsel’s brief, proceed pro se, and file a pro se brief is DENIED; counsel is excused from further responsibilities herein, and the APPEAL IS DISMISSED. *See* 5TH CIR. R. 42.2.