

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

United States Court of Appeals
Fifth Circuit

FILED

March 17, 2015

Lyle W. Cayce
Clerk

No. 14-50926
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

NOE PACHECO-GARCIA,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 6:14-CR-76-1

Before SMITH, WIENER, and ELROD, Circuit Judges.

PER CURIAM:*

The attorney appointed to represent Noe Pacheco-Garcia 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). Pacheco-Garcia has not filed a response. We have reviewed counsel's brief and the relevant parts of the record reflected therein. We concur with counsel's assessment that the appeal presents no nonfrivolous issue for appellate review.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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However, in light of the nonreversible error in categorizing Pacheco-Garcia's Texas sexual assault conviction as an aggravated felony, the judgment of the district court is REFORMED to show that Pacheco-Garcia was convicted and sentenced under 8 U.S.C. § 1326(b)(1). *See United States v. Mondragon-Santiago*, 564 F.3d 357, 367-69 (5th Cir. 2009). 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.