

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

No. 15-41108
Conference Calendar

United States Court of Appeals
Fifth Circuit

FILED

June 21, 2016

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

EMERICO DE LUNA-MAGALLON, also known as Jorge Trevino-Gonzalez,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 5:12-CR-435-1

Before JONES, CLEMENT, and OWEN, Circuit Judges.

PER CURIAM:*

The Federal Public Defender appointed to represent Emerico De Luna-Magallon 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). De Luna-Magallon has filed a response and a motion for the appointment of new counsel on appeal. The record is not sufficiently developed to allow us to make a fair evaluation of De Luna-Magallon's claim of

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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. 15-41108

ineffective assistance of counsel; we therefore decline to consider the claim without prejudice to collateral review. *See United States v. Isgar*, 739 F.3d 829, 841 (5th Cir. 2014).

We have reviewed counsel's brief and the relevant portions of the record reflected therein, as well as De Luna-Magallon's response. We concur with counsel's assessment that the appeal presents no nonfrivolous issue for appellate review. Accordingly, De Luna-Magallon's motion for the appointment of new counsel is DENIED, 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.