

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

No. 16-41136
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

June 14, 2017

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JUAN RODRIGUEZ-AGUIRRE,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 2:16-CR-203-1

Before HIGGINBOTHAM, PRADO, and HAYNES, Circuit Judges.

PER CURIAM:*

The Federal Public Defender appointed to represent Juan Rodriguez-Aguirre 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). Rodriguez-Aguirre has filed a response.

We have reviewed counsel's brief and the relevant portions of the record reflected therein, as well as Rodriguez-Aguirre's response. We concur with

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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counsel's assessment that the appeal presents no nonfrivolous issue for appellate review before our panel. In his response, Rodriguez-Aguirre challenges, *inter alia*, the enhancement applied pursuant to U.S.S.G. § 2L1.1(b)(7)(D) (2015) due to the death of an undocumented alien. He argues that while this circuit applies a but-for causation requirement to determine whether an offense caused a death, other circuits apply a proximate cause standard, which he contends is the proper standard. This contention is foreclosed, *see United States v. Ramos-Delgado*, 763 F.3d 398, 401-02 (5th Cir. 2014), but by raising the issue, Rodriguez-Aguirre has preserved it for further review.

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.