

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 17-40294
Conference Calendar

United States Court of Appeals
Fifth Circuit

FILED

October 24, 2017

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JOSE ANTONIO RIVERA-PORRAS,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 5:17-CR-22-1

Before KING, OWEN, and HIGGINSON, Circuit Judges.

PER CURIAM:*

The Federal Public Defender appointed to represent Jose Antonio Rivera-Porras 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). Rivera-Porras has filed a response. The record is not sufficiently developed to allow us to make a fair evaluation of Rivera-Porras's claim of ineffective assistance of counsel. *See United States v.*

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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Isgar, 739 F.3d 829, 841 (5th Cir. 2014). Because that is usually the case, a 28 U.S.C. § 2255 motion is the preferred method for raising claims of ineffective assistance of counsel. *See Massaro v. United States*, 538 U.S. 500, 503-09 (2003). We therefore decline to consider Rivera-Porras’s claim of ineffective assistance of counsel without prejudice to collateral review.

We have reviewed counsel’s brief and the relevant portions of the record reflected therein, as well as Rivera-Porras’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.