

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

United States Court of Appeals
Fifth Circuit

FILED

February 12, 2010

Charles R. Fulbruge III
Clerk

No. 09-50056

Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JORGE ARMANDO CAVAZOS, also known as Jorge Armando Cavazos-
Almanza,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 4:08-CR-219-ALL

Before GARZA, DENNIS, and ELROD, Circuit Judges.

PER CURIAM:*

The attorney appointed to represent Jorge Armando Cavazos has moved for leave to withdraw and has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967). Cavazos has filed a response. The record is insufficiently developed to allow consideration at this time of Cavazos's claim of ineffective assistance of appellate counsel; such a claim generally "cannot be resolved on direct appeal when [it] has not been raised before the district court

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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). Our independent review of the record, counsel’s brief, and Cavazos’s response discloses no nonfrivolous issue for appeal. 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.