

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

No. 14-40053
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

September 18, 2014

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JOSE ELVIN CRUZ-GARCIA, also known as Elvin Cruz,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 5:13-CR-567

Before REAVLEY, DENNIS, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

The Federal Public Defender appointed to represent Jose Elvin Cruz-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). Cruz-Garcia has filed a response. Insofar as Cruz-Garcia alleges that his trial counsel provided ineffective assistance with respect to the state court documents concerning his prior California conviction

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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. 14-40053

for assault with a deadly weapon, the record is not sufficiently developed to allow us to make a fair evaluation of the claim; 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), *petition for cert. filed* (June 4, 2014) (No. 13-10484).

We have reviewed counsel's brief and the relevant portions of the record reflected therein, as well as Cruz-Garcia'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.