

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

February 18, 2009

Charles R. Fulbruge III  
Clerk

\_\_\_\_\_  
No. 05-30859

Conference Calendar  
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UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

CHARLES GILLESPIE

Defendant-Appellant

\_\_\_\_\_  
Appeal from the United States District Court  
for the Western District of Louisiana  
USDC No. 5:04-CR-50170-5  
\_\_\_\_\_

Before HIGGINBOTHAM, DENNIS, and PRADO, Circuit Judges.

PER CURIAM:\*

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

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

court 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 and counsel’s brief discloses no nonfrivolous issue for appeal. Accordingly, counsel’s 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.