

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

United States Court of Appeals
Fifth Circuit

FILED

July 5, 2011

Lyle W. Cayce
Clerk

No. 10-20644
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JESUS GILBERTO DELUNA-RODRIGUEZ,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:10-CR-33-1

Before KING, BENAVIDES, and ELROD, Circuit Judges.

PER CURIAM:*

The attorney appointed to represent Jesus Gilberto DeLuna-Rodriguez 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). DeLuna-Rodriguez has not filed a response. We have reviewed counsel's brief, counsel's motion for reconsideration of a previous order denying his Anders motion and ordering him to brief a particular issue, and the relevant portions of the record reflected therein. We concur with counsel's assessment

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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that the appeal presents no nonfrivolous issue for appellate review. Accordingly, counsel's motion for leave to file an out-of-time motion for reconsideration is GRANTED; his motion for reconsideration also is GRANTED. Our order of May 16, 2011, in this case is RESCINDED. 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.