

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

United States Court of Appeals
Fifth Circuit

FILED

December 1, 2011

Lyle W. Cayce
Clerk

No. 10-10896
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

RAMON RODARTE-MENDOZA,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:10-CR-6-2

Before GARZA, SOUTHWICK, and HAYNES, Circuit Judges.

PER CURIAM:*

The attorney appointed to represent Ramon Rodarte-Mendoza 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). Rodarte-Mendoza has filed a response. The record is insufficiently developed to allow consideration at this time of Rodarte-Mendoza's claims of ineffective assistance of counsel; such claims generally "cannot be resolved on direct appeal when the claim[s] [have] 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

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since no opportunity existed to develop the record on the merits of the allegations.” *United States v. Gulley*, 526 F.3d 809, 821 (5th Cir. 2008) (internal quotation marks and citation omitted); *United States v. Cantwell*, 470 F.3d 1087, 1091 (5th Cir. 2006). We have reviewed counsel’s brief and the relevant portions of the record reflected therein, as well as Rodarte-Mendoza’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. Rodarte-Mendoza’s request for the appointment of new counsel is DENIED. *Cf. United States v. Wagner*, 158 F.3d 901, 902-03 (5th Cir. 1998).