

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

United States Court of Appeals
Fifth Circuit

FILED
June 1, 2012

No. 11-10252
c/w No. 11-10278
Summary Calendar

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

FREDRICK ODHIAMBO OPIYO,

Defendant-Appellant

Appeals from the United States District Court
for the Northern District of Texas
USDC Nos. 4:10-CR-168-1 & 4:10-CR-181-1

Before DENNIS, OWEN, and HIGGINSON, Circuit Judges

PER CURIAM:*

The attorney appointed to represent Fredrick Odhiambo Opiyo 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). Opiyo has filed a response. The record is insufficiently developed to allow consideration at this time of Opiyo's claims of ineffective assistance of trial counsel; such claims generally "cannot be resolved on direct appeal when [they

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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have] not been raised before the district 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). We have reviewed counsel’s brief and the relevant portions of the record reflected therein, as well as Opiyo’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.