

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

United States Court of Appeals  
Fifth Circuit

**FILED**

April 17, 2012

Lyle W. Cayce  
Clerk

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No. 11-41049  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ROSALIO GONZALEZ-HERNANDEZ,

Defendant-Appellant

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 2:11-CR-711-1

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Before JONES, Chief Judge, and JOLLY and SMITH, Circuit Judges.

PER CURIAM:\*

The Federal Public Defender appointed to represent Rosalio Gonzalez-Hernandez 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). Gonzalez-Hernandez has filed a response. The record is insufficiently developed to allow consideration at this time of Gonzalez-Hernandez's claims of ineffective assistance of counsel; such claims generally "cannot be resolved on direct appeal when the claim[s] [have] not been raised

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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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 Gonzalez-Hernandez’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.