

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

United States Court of Appeals  
Fifth Circuit

**FILED**

August 21, 2012

Lyle W. Cayce  
Clerk

\_\_\_\_\_  
No. 12-40047

Conference Calendar  
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UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ASUNCION PENA-FERNANDEZ,

Defendant-Appellant

\_\_\_\_\_  
Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 5:11-CR-1010-1  
\_\_\_\_\_

Before SMITH, ELROD, and SOUTHWICK, Circuit Judges.

PER CURIAM:\*

The Federal Public Defender appointed to represent Asuncion Pena-Fernandez (Pena) 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). Pena has not filed a response. We have reviewed counsel's brief and the relevant portions of the record reflected therein. We concur with counsel's assessment that the appeal presents no nonfrivolous issue for appellate review. Accordingly, counsel's motion for leave to withdraw

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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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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is GRANTED, counsel is excused from further responsibilities herein, and the APPEAL IS DISMISSED. *See* 5TH CIR. R. 42.2.