

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

United States Court of Appeals  
Fifth Circuit

**FILED**

September 10, 2012

Lyle W. Cayce  
Clerk

---

No. 12-40272  
Summary Calendar

---

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ERNIE TARANGO,

Defendant-Appellant

---

Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 4:10-CR-248-3

---

Before HIGGINBOTHAM, OWEN, and SOUTHWICK, Circuit Judges.

PER CURIAM:\*

The attorney appointed to represent Ernie Tarango 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). Tarango has filed a response. The record is insufficiently developed to allow consideration at this time of Tarango's claim of ineffective assistance of counsel; such a claim generally "cannot be resolved on direct appeal when the claim has not been raised before the district court since no opportunity existed to develop

---

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 12-40272

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 Tarango’s response. We concur with counsel’s assessment that the appeal presents no nonfrivolous issue for appellate review. Accordingly, 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. Furthermore, Tarango’s motion to have new counsel appointed is DENIED.