

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

United States Court of Appeals  
Fifth Circuit

**FILED**

May 7, 2013

Lyle W. Cayce  
Clerk

\_\_\_\_\_  
No. 12-40820

Summary Calendar  
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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

JOHNNY LEE READER,

Defendant-Appellant.

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Appeals from the United States District Court  
for the Eastern District of Texas  
USDC No. 4:10-CR-139-2  
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Before HIGGINBOTHAM, OWEN, and SOUTHWICK, Circuit Judges.

PER CURIAM:\*

The attorney appointed to represent Johnny Lee Reader 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). Reader has filed a response. To the extent that Reader asserts that his trial counsel performed deficiently, the record is insufficiently developed to allow consideration at this time of Reader's claim of ineffective assistance of counsel; such a claim generally "cannot be resolved on direct appeal when the claim has

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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