

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

No. 14-40288
Conference Calendar

United States Court of Appeals
Fifth Circuit

FILED

December 16, 2014

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

CARLOS ENRIQUE LEIVA,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 2:13-CR-968-1

Before KING, DENNIS, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

The Federal Public Defender (FPD) appointed to represent Carlos Enrique Leiva 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). Leiva has filed a response and moves to have his sentence vacated. The record is not sufficiently developed to allow us to make a fair evaluation of Leiva's claim of ineffective assistance of counsel;

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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we therefore decline to consider the claim without prejudice to Leiva's ability to raise the claim on collateral review. *See United States v. Isgar*, 739 F.3d 829, 841 (5th Cir.), *cert. denied*, 135 S. Ct. 123 (2014).

We have reviewed counsel's brief and the relevant portions of the record reflected therein, as well as Leiva's response. We concur with counsel's assessment that the appeal presents no nonfrivolous issue for appellate review. Accordingly, Leiva's pro se motions to vacate his sentence and to have his case remanded for resentencing are DENIED, the FPD'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.*