

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

No. 15-50671
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED
February 23, 2017

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

CARLOS ENRIQUE SAMAYOA-PINEDA,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 2:14-CR-522-1

Before REAVLEY, OWEN, and ELROD, Circuit Judges.

PER CURIAM:*

The attorney appointed to represent Carlos Enrique Samayoa-Pineda again 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). Samayoa-Pineda has filed a response. We have reviewed counsel's brief and the relevant portions of the record reflected therein, as well as Samayoa-Pineda's response. Regardless of several nonfrivolous issues we

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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previously identified, it is dispositive that the Government has declined to waive the untimeliness of the appeal. *See United States v. Pesina-Rodriguez*, 825 F.3d 787, 788 (5th Cir. 2016). Therefore, without prejudice to a future 28 U.S.C. § 2255 motion that Samayoa-Pineda may file, 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.