

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

No. 17-10412
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

May 16, 2018

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff–Appellee,

versus

ADALBERTO PRIETO-GARCIA,

Defendant–Appellant.

Appeal from the United States District Court
for the Northern District of Texas
No. 3:16-CR-372-2

Before HIGGINBOTHAM, JONES, and SMITH, Circuit Judges.

PER CURIAM:*

The attorney appointed to represent Adalberto Prieto-Garcia has moved

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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. 17-10412

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). Prieto-Garcia has not filed a response. We have reviewed counsel's brief and the relevant portions of the record.

We question whether counsel's certification that the government will enforce the appellate waiver is sufficiently specific to the waiver in this case. *See United States v. Davis*, 530 F.3d 318, 320 (5th Cir. 2008). But we need not reach that issue, because it is not jurisdictional and because counsel examines all potential appellate claims, even those covered by the waiver, in the brief. *See United States v. Story*, 439 F.3d 226, 230–31 (5th Cir. 2006).

We concur with counsel's assessment that the appeal presents no non-frivolous issue for appellate review. Accordingly, the motion to withdraw is GRANTED, counsel is excused from further responsibilities herein, and the appeal is DISMISSED. *See* 5TH CIR. R. 42.2.